

Michael R. Lozeau
LOZEAU DRURY LLP
1939 Harrison Street, Suite 150
Oakland, California 94612
Tel: (510) 836-4200
Fax: (510) 836-4205
E-mail: michael@lozeaudrury.com

Attorneys for Appellants
Friends of the North Coast,
Davenport North Coast Association, and
Rural Bonny Doon Association

**UNITED STATES DEPARTMENT OF THE INTERIOR
OFFICE OF HEARINGS AND APPEALS
BOARD OF LAND APPEALS**

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)	IBLA Docket No. IBLA-2021-0313
FRIENDS OF THE NORTH COAST, DAVENPORT)	
NORTH COAST ASSOCIATION, and RURAL BONNY)	
DOON ASSOCIATION,)	APPELLANTS FRIENDS OF THE
)	NORTH COAST, ET AL.'S
Appellants.)	STATEMENT OF REASONS
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1 is proposed. In addition, the EA fails to address adequately the impacts of its expanded Warrenella Gate
2 parking lot, announced in the final EA on September 25, 2020, which requires substantial grading, as well
3 as several other impacts for which substantial questions exist requiring the preparation of an EIS for the
4 parking area implementation actions. Appellants' northern entrance alternative eliminates those issues.

5 Lastly, BLM refused to review in detail in the EA two feasible alternative parking areas proposed
6 by Appellants which would eliminate many of the impacts of the adopted parking areas. For the reasons
7 set forth in this statement, the Interior Board of Land Appeals ("IBLA") should uphold this appeal and
8 remand the implementation actions and the accompanying EA to BLM to cure each of the defects
9 described below or, initially refer the matter to Alternative Dispute Resolution.

10 **II. FACTUAL BACKGROUND.**

11 In 1998, TPL acquired Coast Dairies and Land Company ("CDLC") and thereby its primary
12 asset, all of certain land known as Coast Dairies, covering over 6,800 acres of land and extending along
13 approximately 7.5 miles of shoreline and up to approximately 2.5 miles inland, surrounding the town of
14 Davenport in the unincorporated north coast area of Santa Cruz County. In 2006, TPL/CDLC transferred
15 the land on the seaward side of Highway 1 to the State of California Department of Parks and Recreation.
16 For the remaining portion of the Coast Dairies property inland of Highway 1, TPL/CDLC had initially
17 planned to convey its entire interest in these parcels to BLM. However, BLM subsequently determined
18 that managing land used for agricultural purposes and/or land that currently has residential tenants on it
19 conflicted with its public land management duties and mission. Thus, under 2012 Coastal Development
20 Permit 3-11-035, the property's agricultural lands were removed from, or carved out of, the existing
21 parcels so as to allow TPL/CDLC to transfer and BLM to take title to the remainder of the land. Thus, the
22 existing parcels were divided to create Agricultural Parcels 1, 2, and 3 and Upland Parcels 1, 2, and 3. In
23 2014 the Upland Parcels were transferred to BLM and the Agricultural Parcels continued to be owned and
24 managed by TPL/CDLC for lease to farmers.

25 TPL's 1998 effective acquisition of the Coast Dairies property included a requirement that "[t]he
26 Coast Dairies Property will be preserved and used in perpetuity [] as open space" for maximum protection

1 of agricultural row crop production, and for maximum public access for recreation and enjoyment “to the
2 extent consistent with protection and preservation of the natural resources, agricultural uses and the rights
3 and interest of the Property’s current lessees or their successors in interest.” FONC Apr. 1, 2020
4 Comments, Ex. G, Attachment 1 (excerpt of Assignment of Stock Option). That same year, BLM entered
5 into a memorandum of understanding with TPL/CDLC to work towards transferring the upland areas of
6 the property to BLM subject to the foregoing provisions.

7 Also in 1998, an agricultural conservation easement was dedicated over nearly all of the Coast
8 Dairies property.² Since that date, the agricultural conservation easement purpose has been:

9 to enable the Property to remain in agricultural use for the production of food, fiber, or other
10 animal or plant products by preserving and protecting in perpetuity its agricultural values, use and
11 utility, and to prevent any use of the Property that would materially impair or interfere with its
12 agricultural values, use or utility.

13 Deed of Agricultural Conservation Easement, ¶ 1 (Dec. 17, 2014) (attached as Exhibit G). The easements
14 also make clear that “other uses which are described in this Easement” were not precluded, including
15 conveyance to a governmental entity for public access purposes so long as TPL/CDLC, as Grantor,
16 determined that such use was not inconsistent with the conservation purposes of the agricultural
17 conservation easements.

18 TPL/CDLC’s 2014 grant deed transfer of the Upland Parcels to BLM, in addition to prohibiting
19 any commercial timber harvest activities and the use of motorized off-road vehicles, provides that:

20 The Subject Property shall be used and managed for open space and public recreation in a
21 manner consistent with the protection and preservation of natural resources, restoration of
22 endangered species and their associated natural habitats, adjacent sustainable agricultural
23 uses, and the rights and interests of the Subject Property’s current lessees or their
24 successors in interest;...

25 See EA, § 1.2.2, p. 3. In 2016, TPL merged with CDLC and, as a result, TPL now owns Agricultural
26 Parcels 1, 2, and 3 – generally inland of Highway 1 and closer to the Highway than the Upland Parcels
27 owned by BLM.

28 ² The most recent TPL/CDLC agricultural conservation easement (attached Exhibit G) was conveyed to
the County and recorded in December 2014. That easement governs Agricultural Parcels 1, 2, and 3.

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1 The entire C-CD is designated as critical habitat for the California red-legged frog (*Rana*
2 *draytonii*). 75 Fed.Reg. 12835. *Id.* at 12835-36. Creeks within the Monument also are critical habitat for
3 coho salmon (*Oncorhynchus kisutch*). EA, § 3.5, p. 20. The area also is very important habitat for
4 mountain lions (*Puma concolor*), a candidate species under the California Endangered Species Act
5 (CESA). EA, § 3.4, p. 14.

6 **C. The Resource Management Plan Amendment and Environmental Assessment.**

7 On September 25, 2020, the California State Director released BLM's Preferred Alternative and
8 recommended the approval of the RMPA. The RMPA selected newly created Alternative D as the
9 Preferred Alternative.

10 Alternative D establishes four Recreation Management Zones ("RMZs") within the C-CD
11 roughly based on the watersheds of the creeks flowing east to west through the Monument. RMZ 1
12 encompasses 1,464 acres on the north end of the C-CD in the Molino Creek and Agua Puerca watersheds.
13 EA, App. A, Figure 5D; *Id.*, p. 37 (Table 2.19-1). Although it is difficult to discern the precise boundaries
14 of the RMZs from the maps provided in the RMPA, it appears that Warranella Road, an existing
15 administrative route on (and beyond) the property runs inland from Cement Plant Road just north of
16 Davenport near the southern end of RMZ 1. EA, App. A, Figure 5D. Immediately south of RMZ 1, RMZ
17 2 encompasses 2,568 acres that include portions of the San Vicente Creek and Liddell Creek watersheds.
18 EA, App. A, Figure 5D; *Id.*, p. 37 (Table 2.19-1). RMZ 2 is bifurcated by Bonny Doon Road. Moving
19 south, RMZ 3 includes 1,147 acres of the Yellow Bank Creek watershed. *Id.* Along the southern edge of
20 the Monument, RMZ 4 includes 619 acres within the Laguna Creek watershed, which creek forms a
21 portion of the C-CD's southern boundary. *Id.*

22 Alternative D includes a total of 26.6 miles of trails to be developed in two phases in RMZ 1 and
23 RMZ 3. EA, p. 37. Phase 1 envisions constructing 17.5 miles of trail. *Id.* If BLM's management is
24 resulting in predicted outcomes, another 9.1 miles of trail would be added in Phase 2, subject to a separate
25 Coastal Commission Federal Consistency Concurrence process. All of the trails would be accessible for
26 hiking. *Id.*, p. 64. A total of 12.5 miles of those trails within RMZ 3 would also allow for equestrian use.

1 *Id.*, pp. 37, 64. 18.6 miles of trails in RMZ 1 would be open to mountain bikes and e-bikes. *Id.* pp. 38, 64.
2 Public camping would be prohibited, subject to case-by-case exemptions for researchers, educators and
3 traditional cultural practices. *Id.* pp. 25, 44, 64. On-leash dogs would be allowed on designated trails. *Id.*,
4 pp. 25, 65. Limited archery hunting would be allowed in RMZ 2 in Phase 2. *Id.*, pp. 11, 66.

5 Alternative D calls for two permanent parking areas/day use sites in Phase 1 and one additional
6 seasonal parking/day use area in Phase 2 from which visitors would access the C-CD's trail system. Each
7 parking area would include concrete vault toilets, waste receptacles, picnic shelters, kiosks, signage,
8 fencing and gates. EA, p. 69.

9 A year-round northern entrance in RMZ 1 is proposed to be constructed at Warrenella Road Gate
10 at the intersection of Warrenella Road and Cement Plant Road. EA, App. A, Figure 5D. The Warrenella
11 Road Gate parking area would be about 1.62 acres in size and would accommodate 69 standard vehicles.
12 EA, §2.19, p. 39 (Table 2.19-2); §4.11.6, p. 66. The Agua Puerca and Warrenella Loop trails would be
13 directly accessed from the Warrenella Road Gate parking area. *Id.*, App. A, Figure 5D. In addition, a
14 second seasonal, weekends-only day use parking area would be constructed at Warrenella Road Top at
15 the highest elevation point of the Warrenella Loop trail. *Id.* The Warrenella Road Top parking area would
16 be accessed by Warrenella Road. *Id.*, App. B, Warrenella Road Top Parking Concept B. Fencing would
17 be added to both sides of Warrenella Road between the two parking areas, a distance of approximately 1.0
18 miles. *Id.*, § 4.12.4, p. 69. Proposed for Phase 2, the Warrenella Road Top would provide a second direct
19 access point to the Warrenella Loop trail. *Id.*, App. A, Figure 5D. The Warrenella Road Top parking site
20 would be about 1.66 acres in size and would be large enough for 48 standard vehicles and two RV spaces.
21 EA, §2.19, p. 39 (Table 2.19-2); EA, App. B, Warrenella Road Top Parking, Concept B.

22 In order to implement the Warrenella Road Top parking area, BLM would have to "[o]btain
23 easement for public access across small portion of Warrenella Road...." EA, § 2.15.2, pp. 32 (MA-TTM-
24 5); 71. The easement would need to be obtained from the current owner, TPL. *Id.*, § 4.13.4, p. 71. The
25 existing Warrenella Road easement does not allow for public access and is limited to administrative use.
26 *Id.* The easement would be needed to widen the easement to 45-feet to accommodate the roadway,

1 drainage and fencing and to “grant public access over the lower portion of Warrenella Road for managed
2 public access....” *Id.* Alternative D proposes to expand the current “administrative use only” status of
3 Warrenella Road to allow visitors to access the Warrenella Road Top parking area. The required
4 easement has not been granted to date.

5 A permanent parking/day use area also would be constructed at the southern end of the C-CD in
6 RMZ 3. *Id.*, App. A, Figure 5D. The parking area would be located at Marina Ranch Gate, inland from
7 the western edge of the Monument on the top of one of the upper marine terraces. *Id.* The Marina Ranch
8 Gate parking lot would be accessed via a newly constructed Marina Ranch Road. EA, § 4.13.4, p. 71.
9 BLM would fence both sides of the road to separate the park users from the adjacent agricultural uses
10 (grazing and row crops). *Id.* (“Fencing, gates, etc. will separate agricultural uses from public use”); *See*
11 EA, App. B, Marina Ranch Gate Parking Concepts C and D. The Marina Ranch Gate parking lot would
12 require grading of 4.57 acres. *Id.* The parking and day use site would be 1.82 acres in size and would
13 accommodate 42 vehicles and 4 equestrian trailers. EA, App. B, Marina Ranch Gate Parking Concept D.
14 The Marina Ranch Gate parking lot would provide direct access to the Yellow Bank South Loop and
15 southern end of the Cotoni Trail. The trailhead for these and other Yellow Bank Creek area trails is on the
16 lower marine terrace near Highway 1.

17 In order to implement the Marina Ranch Gate parking site, BLM must “[o]btain easement for
18 public access across agricultural area adjacent to Marina Ranch Road and make capital improvements
19 necessary to support increased vehicle traffic and meet public safety standards.” EA, § 2.15.2, p. 32 (MA-
20 TTM-5). In addition to widening the easement to 45-feet to accommodate drainage and fencing and to
21 allow for public access, the Marina Ranch Road easement also is necessary to “grant public access over
22 the agricultural parcel in the Marina Ranch Road area....” *Id.*, § 4.13.4, pp. 71-72.

23 **D. New Evidence that Marina Ranch Gate Parking Area is Not a Feasible Access Location.**

24 On June 16, 2021, TPL sent a letter to the Field Manager of BLM’s Central Coast Field Office in
25 furtherance of discussions regarding an alternative parking area and access gate for the southern portion
26 of C-CD which had been under discussion for some time. *See* TPL Letter (attached as Exhibit B). TPL’s
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1 letter was responding to an e-mail from BLM dated April 23, 2021, and subsequent discussions in which
2 BLM had proposed a compromise of limiting the Marina Ranch Gate parking area to dry season use (May
3 through October) and adding in the parking area proposal championed by Appellants and TPL on TPL
4 land at Yellow Bank near to Highway 1. *Id.* Of importance here, in its letter, TPL formalized its
5 conclusion that it had decided it could not grant an easement for BLM to create a public access road
6 bisecting its conserved agricultural field or to include the proposed widening and fencing of the road. TPL
7 states, we have “concluded that even a reduced-scope project which includes splitting the Marina Gate
8 agricultural field would not resolve a number of our principal concerns....” *Id. See id.*, p. 2 (“we regret
9 that we cannot accommodate a plan that facilitates the upper parking location [Marina Ranch Gate]”).
10 TPL explains that granting an easement that would bifurcate the field through which the Marina Gate
11 public access would run “materially impair and interfere with the use, utility and viability of the field” in
12 violation of the agricultural conservation easement that applies to TPL’s property. *Id.* TPL explains that:

13 The dry season, which we understand to be BLM’s proposed season of use by the public,
14 is also the main growing season, and the road placement, heavy public use and associated
15 fencing would impact cultivation and irrigation activities. A seasonal gravel or dirt road
16 through the field with significant traffic levels would also potentially create food safety
17 and other concerns during the season of use, while in the wet season, changes to drainage
18 upslope of the field could impact early-season planting and soil conditions.

19 *Id.*, p. 2. TPL also notes its concern about the placement of Marina Ranch Gate parking on a marine
20 terrace in view of large areas of the C-CD, stating that “a reasonable argument could be made that
21 placement of a parking lot and road in this area is not consistent with protection of key Objects of the C-
22 CD, as well as deed restrictions placed on the BLM property in 2014 to protect wildlife and other
23 sensitive resources.” *Id.* In an effort to resolve the impasse, TPL champions Appellants’ Yellow Bank
24 South Gate option by proposing to make TPL land available closer to Highway 1, adjacent to BLM’s
25 Trailhead, and in alignment with the planned overpass connecting to the Rail Trail’s Panther Beach
26 parking lot being formalized but reduced in size on the other side of Highway 1. *Id.*, pp. 2-3.

27 Because the grant of an easement is a mandatory prerequisite to BLM proceeding with the Marina
28 Ranch Gate parking area and TPL has confirmed that it will not grant an easement allowing for public

access to that site, this new evidence demonstrates that the Marina Ranch Gate alternative is not feasible.

Furthermore, a critical feature of the RMPA was to disperse visitor use to both RMZ 1 and RMZ 3. EA, p. 13. The purpose of having two dispersed parking areas is to “reduce potential for concentration of impacts at a singular parking area and/or trailhead.” *Id.* In addition, the RMPA’s plan to provide for equestrian uses (to be concentrated in RMZ 3) also will not be realized because of BLM’s selection of an infeasible parking area location and because Alternative D removes all equestrian parking spaces from RMZ 1. *Id.*, §4.11.6, p. 64. If implementation of the Warrenella Road parking areas in RMZ 1 is allowed to proceed without a feasible implementation action for a parking area and access location for the southern entrance in RMZ 3, visitor use would not be dispersed and instead would be concentrated at the northern parking area. The EA does not evaluate any impacts of opening the C-CD with only one northern entrance so as to concentrate the impacts at a singular parking area or trailhead. *See* EA, §1.8, pp. 10-13; § 2.20, pp. 42-43.

E. Evidence of Visual Impacts of Proposed Parking Areas.

BLM states that “[t]he broad view of the Pacific Ocean and *sweeping marine terraces are the key scenic features* of C-CD.” RMPA/EA p.37 (emphasis added). These “marine coastal terraces overlooking the Pacific Ocean” are expressly highlighted by the Proclamation as a significant reason for adding the C-CD to the California Coastal National Monument. Indeed, BLM’s photographs of the monument featured in a number of its publications show the beautiful views of the terraces at the southern entrance. FONC Letter to BLM, Ex. 8, pp. 4a–4b [pdf pp. 137-138] (dated June 4, 2021, submitted June 7, 2021) (“FONC June 7, 2021 Letter”).

Despite the importance of these unique scenic vistas, Alternative D proposes to locate the Marina Ranch Gate parking area right on top and in the middle of the viewshed looking down on the second marine terrace. EA, App. B. Marina Ranch Gate Parking Concept D. *See*, FONC June 7, 2021 Letter, Ex. 8, pp. 4 – 8 [pdf pp. 136-143]. The Marina Ranch Gate parking area and day use will be located in an area where it is visible from vast portions of the 2nd and 3rd marine terraces within the C-CD. *See, Id.*

The proposed Warrenella Road Gate parking area would be located on a rise that will be highly

1 visible from Highway 1. FONC June 7, 2021 Letter, Ex. 5, p. 4 [pdf pp. 124]. The access facilities for
2 Warrenella Road Gate will be visible from the north bound lane of state Highway 1, as well as from the
3 County's Cement Plant Road. *Id.*, p. 29 [pdf p. 71]. The Warrenella Road Gate site also would be visible
4 to residents of the New Town area in Davenport. *Id.*, Ex. 5, p. 1 [pdf pp. 121].

5 Both the Warrenella Road and Marina Ranch Gate parking areas and access roads are located in
6 areas currently with a Visual Resource Inventory ("VRI") rating of Class II. EA, App. A, Figure 10. This
7 rating indicates that the visual character of the landscape is retained and that management activities do not
8 attract the attention of the casual observer. *See id.*, §2.13.1, p.22. The EA states that construction of the
9 Warrenella Road and Marina Ranch Gate parking areas "would have short-term (moderate) adverse
10 impacts on scenic quality, but PDF's [project design features] to retain the contours and contrast of the
11 surrounding landscape and provide visual screening would mitigate these effects within a few years." EA,
12 §4.10.6, p. 57. The EA states that there will be "a minor long-term adverse impact to scenic quality with
13 proximity of the proposed parking areas...." *Id.* It then suggests that this is acceptable because the
14 proposed "management of the Marina Ranch Road, Warrenella Road, and Yellow Bank access points
15 *would be consistent* with a VRM Class III objective with the implementation of PDF's." *Id.* Thus, where
16 the parking areas are visible, the VRI rating will be reduced from VRI Class II to VRI Class III. *Id.*

17 The EA suggests that Warrenella Road Top parking area would only have a minor impact on
18 scenic quality because of its "proximity to the existing [power] substation." *Id.* The EA claims this
19 "means that the addition of a parking area will cause a low change to the characteristic landscape." *Id.*
20 The substation covers 0.011 acre and is located about 250 feet to the northeast of the proposed Warranella
21 Road Top parking. *Id.*, p. 72. The substation is visible from Warrenella Road, but the Warrenella Road
22 Top parking area with RVs, picnic shelters and a restroom building would be closer to Warrenella Road
23 and more visually obtrusive. EA, App. B, Warrenella Road Top Parking Concept B,

24 The EA does not directly address the visual impacts of widening and fencing both sides of the
25 access roads to the Marina Ranch Gate or Warrenella Top parking areas.

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The record contains expert evidence of impacts to special status species, including mountain lions and Monarch butterflies, from the proposed placement of each of the parking areas.

Currently, “[m]ountain lions are expected in every habitat at C-CD and can be considered an ‘umbrella species’ for the Property.” EA, § 3.4, p. 14. Mountain lions are a “specially protected species” which the California Fish & Game Commission has formally determined is a candidate species under the California Endangered Species Act (“CESA”) and may be warranted for listing as threatened or endangered. EA, §3.4, p. 15. The EA acknowledges that mountain lions fear people. *Id.*, p. 15. *See also id.*, § 4.4.2, p. 19. People approaching the area of a mountain lion kill will result in the lion abandoning their kill, increasing the number of deer that must be killed by mountain lions each year to compensate for those losses, and increasing the energy expenditure of the lions. *Id.* Mountain lions also generally “require a buffer of at [sic] 600 meters from human activity to site nurseries to raise their kittens....” *Id.*, § 3.4, p. 15. Of the 5,843 acres in the C-CD, 3,106 acres or 51.6 percent of the Cotoni Dairies will include land within 500 meters of human activity. EA, § 4.42, p. 19 (Table 4.2.2-1). As a result, over half of the C-CD will be unsuitable rearing habitat for mountain lions.

Professor Chris Wilmers, Ph.D., a preeminent mountain lion expert, submitted comments on the EA. *See* EA, § 3.4, p. 14. Dr. Wilmers' states that "[o]ur research has shown that local carnivore species such as ... the ... mountain lion are negatively impacted by human voices." FONC Protest, Ex. G. Dr. Wilmers also directly addresses the impacts of the proposed parking areas, stating:

Our research also shows that *the placement of parking lots* directly impacts the number of people present in the forest with human activity falling off the further you are from a parking lot (Nickel et al 2020). As such, I would recommend that parking lots be placed adjacent to highway 1, so that natural areas in the core parts of mountain lion habitat are not impacted by an overabundance of people.

Id. Dr. Jacob Pollock also provides his expert opinion that, “in addition to trails, the proposed parking lots, picnic tables, ... will have the same buffer zone avoidance effects” and that their adverse effects on habitat could be greater than the trail impacts. FONC Apr. 1, 2020 Comment, Ex. A [Pollock Comments], p. 5]. He describes the “landscape of fear” that human presence creates for carnivores:

1 Suraci et al, 2019 also note that fear of humans can suppress the movement and activities
2 of large and medium-sized carnivores and have other effects such as decreased activity
3 level and decreased foraging efficiency. They term this effect a, “landscape of fear.” All
4 these effects can significantly and negatively impact the wildlife populations.

5 *Id.*, p. 3. In addition to those disturbances, the location of the Marina Ranch Gate and Warrenella
6 Top parking areas will result in physical barriers to mountain lions and their prey. The required
7 fencing is shown along both sides of the access roads leading up to Marina Ranch Gate and
8 Warrenella Road Top parking. *See* EA, App. B, Marina Ranch Gate Parking Concepts C and D;
9 App. B Warrenella Road Top Parking Concept B.

10 **G. Evidence of Impacts to Newly-Designated Candidate Species Monarch Butterfly**
11 **Habitat.**

12 There is no mention of the Monarch Butterfly (*Danaus plexippus plexippus*) in the EA. On
13 December 17, 2020, the U.S. Fish and Wildlife Service (“USFWS”) issued its finding that listing of the
14 Monarch Butterfly as either endangered or threatened was warranted under the Federal Endangered
15 Species Act (“ESA”). 85 Fed. Reg. 81813, pp. 19-22 (Dec. 17, 2020). However, its immediate inclusion
16 on the lists was precluded by other higher priority amendments to the lists. *Id.* As the EA states, “Special
17 status species include those plant and animal species federally listed as Threatened, Endangered,
18 Proposed, or Candidate.....” EA, §3.5, p. 19.

19 The Monarch’s overwintering area includes C-CD as shown in the “Monarch (*Danaus plexippus*)
20 Species Status Assessment Report, version 2.1,” September 2020, prepared by USFWS. (FONC June 7,
21 2021 Letter, Ex. B, pp. 9–10 [pdf pp. 15-18]. Eucalyptus trees are a favored habitat of Monarchs. *Id.* The
22 EA acknowledges the presence of a woodland stand of eucalyptus trees within C-CD. EA, §3.2.2, p. 7
23 (Table 3.2.1-1). Figure 3.1-1 of the Existing Conditions Report prepared by ESA shows eucalyptus in the
24 vicinity of BLM’s proposed Warrenella Gate parking lot. Coast Dairies Existing Conditions Report,
25 Figure 3.1-1 (ESA, 2001) (incorporated by reference EA, §4.1.5, p. 3). Indeed, a woodland stand of
26 eucalyptus trees runs along Cement Plant Road and encompasses the entrance to the proposed Warrenella
27 Gate Parking Lot. FONC June 7, 2021 Letter, Ex. D (photos) [pdf pp. 21-23]. A local resident provided
28 evidence of sightings of Monarchs at this location:

1 I have seen monarchs along Cement Plant Road at the side of the Proposed
2 Warrenella Gate Parking Lot in the eucalyptus trees. During a couple of winters
we were hopeful they would congregate as they were somewhat numerous.

3 FONC June 7, 2021 Letter, p. 2 [pdf p. 2] (Statement of Brian McElroy).

4 **H. Evidence of New Grading Impacts of Proposed Warrenella Road Gate Parking Area**

5 Design changes to the Warrenella Road Gate parking area made in the final EA and RMPA
6 significantly implicated grading and drainage for the area. The original version of the Warrenella Road
7 Gate parking area released with the draft RMPA proposed a parking area for 44 vehicles with access onto
8 Cement Plant Road and a separate horse trailer parking area off of Warrenella Road. The two parking
9 areas were separated from each other by a swath of land, through which runs a significant depression or
10 swale roughly 25 feet deep and roughly 100 feet across with side slopes of between 25 and 33 percent.

11 FONC June 7, 2021 Letter, p. 3 [pdf p. 3](Statement of John Barnes, Architect) (“Barnes Statement”). *See*
12 EA, App. B, Warrenella Road Gate Parking Concept A.2. This feature is plainly evident in a Google-earth
13 image of the site. FONC June 7, 2021 Letter, Ex. H (Google Earth aerials) [pdf p. 34-35]. *See also* Aug.
14 5, 2021 Google Earth Image (attached as Exhibit C). In the final version, the parking area is reconfigured
15 into a single parking area for 69 vehicles. EA, App. B, Warrenella Road Gate Parking Concept A. The
16 combined parking area covers the swale. *Id.* In order to construct the Warrenella Road Gate parking area,
17 this entire land depression will have to be graded and filled. Barnes Statement.

18 **I. Evidence of Safety Impacts If Warrenella Road is Open to Public Use.**

19 BLM has not addressed how it would bring Warrenella Road into compliance with the minimum
20 standards of BLM MS 9113 Public Roads, particularly for the Warrenella Top parking area. For a
21 “mountainous area” with less than 100 average daily trips, the maximum grade is 15 percent. BLM, MS
22 9113 Public Roads, p. 3-2 (“Geometric Standards For Bureau Roads”). The grade above the first cattle
23 guard is 19 percent with no easy remedy. DNCA Comment Letter, p. 19 (April 2, 2020, authored by John
24 Barnes, Architect).

25 **J. Evidence of Fire Risks Due to Proposed Parking Area Locations.**

26 The greater Davenport and Bonny Doon areas suffered greatly in the 2020 CZU Lightning Fires
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1 and fire risks are not just theoretical. The EA does not address the increased fire risks posed by inviting
2 visitors to park and linger in access areas located within Critical Fire Hazard Areas. The only mention of
3 wildfire ignition risks from additional visitors is in reference to Alternative B, where the EA
4 acknowledges that “[d]ue to increased number of visitors compared to Alternative A, risk of wildfires is
5 higher under Alternative B.” EA, §4.14.4, p. 75.

6 “BLM estimates that 50,000 people” will visit the C-CD under Alternative A. EA, App. G, p. 4.
7 BLM expects the number of visits to increase to 150,000 people under Alternative B. *Id.*, p. 4. “BLM
8 estimates that up to 250,000 people will visit C-CD annually under [Alternative D].” EA, App. G, p. 4.
9 Given the significant increase in visitors expected under Alternative D, a risk of wildfires is higher under
10 Alternative D as compared to either Alternatives A or B, and certainly higher than the status quo of
11 effectively zero visitors. Despite this increase in wildfire risk, the EA does not mention or discuss this
12 topic for Alternative D. EA, §4.14.6, p. 76.

13 The risk associated with Alternative D also is exacerbated by the location of the Marina Ranch
14 Gate and Warrenella Road Top parking areas in or adjacent to Critical Fire Hazard Areas identified by the
15 County. Generalized Critical Fire Hazard Areas, County of Santa Cruz (Nov. 2009) (attached as Exhibit
16 D). *See* FONC June 7, 2021 Letter, Ex. 1, [pdf p. 76]. Alternative parking areas located closer to Highway
17 1 are not located in mapped Critical Fire Hazard Areas. The County’s General Plan codifies the risk
18 reduction effort of avoiding locating public facilities within Critical Fire Hazard Areas. General Plan
19 section 6.5.8 states:

20 *Discourage location of public facilities and critical utilities in Critical Fire Hazard*
21 *Areas. When unavoidable, special precautions shall be taken to ensure the safety and*
uninterrupted operation of these facilities.

22 County Zoning Regulations at Section 13.10.362(B) includes parking areas, for both on and offsite uses,
23 as well as local public parks, as public facilities.

24 **K. Appellants’ Yellow Bank South Gate Alternative.**

25 Appellant FONC proposed a Preferred Alternative in the vicinity of Yellow Bank Creek in
26 Attachment 1 to its April 1, 2020 Comment Letter and that concept has been refined in subsequent
27

1 iterations to BLM to the point that it is supported in concept by BLM and includes a donation of several
2 acres of land by TPL at the north end of the agricultural field adjoining the BLM trailhead at the terminus
3 of the pedestrian/bicycle overpass from the Panther Beach parking lot. *See* TPL Letter (attached as
4 Exhibit B).

5 In the final EA, BLM indicated that it elected not to consider in detail FONC's proposed Yellow
6 Bank South Gate alternative. EA, §2.20.3, p. 42. The BLM stated that the site "would result in adverse
7 impacts to sensitive resources, including Federally listed species habitat (California red-legged frog)." *Id.*,
8 p. 43. BLM also stated that, because the site was across from the Panther Beach parking which would be
9 connected with the RTC's proposed Highway 1 overpass, "it was determined that the BLM's proposed
10 Panther Gap/Yellowbank Overpass access point would accomplish many of the same goals as parking
11 adjacent to Yellow Bank Creek, with fewer resource impacts." *Id.* There is no evidence indicating that the
12 proposed Yellow Bank South Gate parking lot would impose additional threats to sensitive species
13 compared to the Marina Ranch Gate site. Nor would TPL's site, which is not in the monument, involve
14 any impacts to objects in the monument or resource impacts and, by obviating the need for the Marina
15 Ranch Gate site, would eliminate the impacts of that site (assuming it was ever feasible in the first place).

16 **L. Appellants' Mocettini Barn Alternative.**

17 DNCA developed an alternative to both the proposed Warrenella Road Gate and Warrenella Road
18 Top parking areas. Beginning in conversations with BLM in November 2018, DNCA identified an area
19 adjacent to the Mocettini Barn about 200 feet north of the proposed Warrenella Road Gate parking area.
20 DNCA Protest, pp. 3-9 (Oct. 23, 2020); DNCA Comments, pp. 16-17 (April 2, 2020). The Mocettini Barn
21 alternative was presented in writing to BLM's Central Coast Field Manager on June 10, 2020. E-mail
22 from John Barnes to Ben Blom (June 10, 2020) (DNCA Protest Supplement, Attachment (Oct. 26, 2020)).
23 *See also* E-mail from John Barnes to Ben Blom (June 15, 2020). *Id.* This would be a single parking area
24 that would include 60-80 parking spaces and would replace both the Warrenella Road Gate and
25 Warrenella Road Top parking areas. The Mocettini Barn location cannot be seen from Highway 1 or from
26 trails or residences to the south. *Id.* This is a result of locating this alternative parking area behind an

1 intervening hill to its south. *Id.*, p. 5.

2 **III. LEGAL BACKGROUND.**

3 **A. Federal Land Policy and Management Act.**

4 FLPMA requires BLM to conduct all management and implementation activities “in accordance
5 with” governing resource management plans (“RMP”). 43 U.S.C. § 1732(a); *see also* 43 CFR § 1610.5-
6 3(a) (“All future resource management authorizations and actions . . . shall conform to the
7 approved plan”). Once an RMP is adopted, “[a]ll future resource management authorizations and actions
8 . . . and subsequent more detailed or specific planning, shall conform to the approved plan.” 43 C.F.R. §
9 1610.5-3. This is known as the FLPMA “conformity requirement.” *See id.*

10 **B. The National Environmental Policy Act.**

11 NEPA “is our basic national charter for protection of the environment.” *Ctr. for Biological*
12 *Diversity v. Nat’l Highway Traffic Safety Admin.*, 538 F.3d 1172, 1185 (9th Cir. 2008). NEPA “is a
13 procedural statute intended to ensure environmentally informed decision-making by federal agencies.”
14 *Cal. ex rel. Lockyer v. U.S. Dep’t of Agric.*, 575 F.3d 999, 1012 (9th Cir. 2009). NEPA “does not
15 ‘mandate particular results, but simply provides the necessary process to ensure that federal agencies take
16 a hard look at the environmental consequences of their actions.’” *Id.* “The ‘hard look’ ‘must be taken
17 objectively and in good faith, not as an exercise in form over substance, and not as a subterfuge designed
18 to rationalize a decision already made.” *W. Watersheds Project v. Kraayenbrink*, 632 F.3d 472, 491 (9th
19 Cir. 2011). Nor can an EA’s impact discussion “improperly minimize negative side effects.” *Id.* at 491.

20 NEPA requires that an EIS be prepared for all “major Federal actions significantly affecting the
21 quality of the human environment.” 42 U.S.C. § 4332(C). The “threshold question in a NEPA case is
22 whether a proposed project will ‘significantly affect’ the environment, thereby triggering the requirement
23 for an EIS.” *Blue Mountains Biodiversity Project v. Blackmore*, 161 F.3d 1208, 1212 (9th Cir. 1998). As
24 a preliminary step, an agency may prepare an EA to decide whether the environmental impact of a
25 proposed action is significant enough to warrant preparation of an EIS. 40 C.F.R. § 1501.5. Where an
26 agency decides it does not need to prepare an EIS, “it must supply a ‘convincing statement of reasons’ to

1 explain why a project's impacts are insignificant." 161 F.3d at 1212. "Whether an action may
2 'significantly affect' the environment requires consideration of 'context' and 'intensity.'" *Ctr. for*
3 *Biological Diversity v. Nat'l Highway Traffic Safety Admin.*, 538 F.3d 1172, 1185 (9th Cir. 2008).

4 Intensity refers to the "severity of impact," which includes both beneficial and adverse
5 impacts, "[t]he degree to which the proposed action affects public health or safety,"
6 "[t]he degree to which the effects on the quality of the human environment are likely to
7 be highly controversial," "[t]he degree to which the possible effects on the human
environment are highly uncertain or involve unique or unknown risks," and "[w]hether
the action is related to other actions with individually insignificant but cumulatively
significant impacts."

8 538 F.3d at 1185-1186. "An action may be 'significant' if one of these factors is met." *Id.* at 1220.

9 "An EIS must be prepared if 'substantial questions are raised as to whether a project . . . may
10 cause significant degradation of some human environmental factor.'" *Ocean Advocates v. U. S. Army*
11 *Corps of Eng'rs*, 402 F.3d 846, 864-865 (9th Cir. 2005). To trigger an EIS, "a plaintiff need not show
12 that significant effects will in fact occur, but raising substantial questions whether a project may have a
13 significant effect is sufficient." *Id.* at 865. "This is a low standard." *Klamath Siskiyou Wildlands Ctr. v.*
14 *Boody*, 468 F.3d 549, 562 (9th Cir. 2006).

15 NEPA requires federal agencies to "study, develop, and describe appropriate alternatives to
16 recommended courses of action." 42 U.S.C. § 4332(2)(E). This provision applies whether an agency is
17 preparing an EIS or an EA. *Ctr. for Biological Diversity v. Salazar*, 695 F.3d 893, 915 (9th Cir. 2012).
18 The EA must include discussions of alternatives as required by section 102(2)(E) of NEPA. 40 C.F.R. §
19 1508.9(b). As the Ninth Circuit explains, "the agency must consider 'appropriate' alternatives to
20 recommended courses of action, [and] an EIS must "[r]igorously explore and objectively evaluate
21 all *reasonable* alternatives" and must explain why it has eliminated an alternative from detailed
22 study...." *Native Ecosystems Council v. U.S. Forest Serv.*, 428 F.3d 1233, 1245-46 (9th Cir. 2005)
23 (citations omitted). "NEPA requires that in the EA an agency must evaluate a reasonable range of
24 alternatives to the agency's proposed action, to allow decision-makers and the public to evaluate
25 different ways of accomplishing an agency goal." *Pac. Marine Conservation Council, Inc. v. Evans*, 200
26 F.Supp.2d 1194, 1206 (N.D. Cal. 2002), citing 42 U.S.C. § 4332(2)(E); 40 C.F.R. §1508.9(b). The

1 touchstone of whether an EIS's or EA's selection and discussion of alternatives is reasonable is whether
2 the range and content of the alternatives "fosters informed decision-making and informed public
3 participation." *Headwaters, Inc. v. BLMt*, 914 F.2d 1174, 1180-81 (9th Cir.1990). "***Alternatives that do***
4 ***not advance the purpose of the [Project] will not be considered reasonable or appropriate.***" *Native*
5 *Ecosystems Council.*, 428 F.3d at 1247 (emphasis added). In addition, "an unreasonable failure to
6 consider a viable alternative renders an alternatives analysis inadequate. *Surfrider Found. v. Dalton*, 989
7 F.Supp. 1309, 1326–27 (S.D. Cal. 1998), *aff'd sub nom. San Diego Chapter of the Surfrider Found. v.*
8 *Dalton*, 196 F.3d 1057 (9th Cir. 1999), quoting *Idaho Conservation League v. Mumma*, 956 F.2d 1508,
9 1519 (9th Cir.1992). *See also Pac. Marine Conservation Council*, 200 F.Supp.2d at 1207. In the context
10 of implementation decisions, such as the parking areas at issue in this appeal, "[a]n implementation
11 strategy lists prioritized decisions that (1) will help achieve the desired outcomes of one or more land use
12 plans and (2) ***can be implemented*** given existing or anticipated resources." BLM Land Use Planning
13 Handbook (H-1601-1), p. 31 (March 11, 2005) ("BLM Land Use Handbook") (emphasis added).

14 "Once an agency has prepared an EA and issued a FONSI, an agency must supplement its
15 analysis if there are "significant new circumstances or information relevant to environmental concerns
16 and bearing on the proposed action or its impacts." *Oregon Nat. Res. Council Action v. U.S. Forest Serv.*,
17 445 F.Supp.2d 1211, 1219 (D. Or. 2006); 40 C.F.R. § 1502.9(c)(1)(ii); *Idaho Sporting Congress v.*
18 *Thomas*, 137 F.3d 1146, 1152 (9th Cir.1998) (holding that an EA must be supplemented in the same
19 manner as an EIS). "New data or information can include, but is not limited to: 1. Changes in status, new
20 listings or new critical habitat designations for endangered, threatened, and other special status or
21 sensitive species (see Appendix C, Section (I)(G))..." BLM Land Use Handbook, p. 37. *See also*
22 *National Environmental Policy Act Handbook* (H-1790-1), p. 30 (Jan. 2008).

23 **C. Standard of Review by IBLA.**

24 In an appeal to the IBLA, the appellant has the burden:

25 of demonstrating by a preponderance of the evidence that BLM committed a material error
26 in its factual analysis, that BLM failed to give due consideration to all relevant factors, or
that no rational connection exists between the facts found and the choices made.

1 *Colorado Off-Highway Vehicle Coal., et al.*, 194 IBLA 382, 396 (Sept. 23, 2019). Where compliance
2 with NEPA is involved, appellant bears the burden:

3 of demonstrating, by a preponderance of the evidence and with objective proof, that BLM's
4 decision (1) is based on a clear error of law or demonstrable error of fact, (2) failed to
5 consider a substantial environmental question of material significance to the proposed
6 action, or (3) otherwise failed to comply with Section 102(2)(C) of NEPA or its regulations.

7 *Wildlands Def.*, 188 IBLA 68, 69 (June 30, 2016). "To establish the preponderance of the evidence means
8 to prove that something is more likely so than not so...." *Harry Ptasynski*, 107 IBLA 197, 201 (Feb. 15,
9 1989).

10 **IV. APPELLANTS' RIGHT TO APPEAL.**

11 Friends of the North Coast is a non-profit public benefit corporation based in Santa Cruz,
12 California. Until incorporating in 2020, FONC was an association protecting the North Coast for over 30
13 years and contributed funds toward the acquisition of C-CD in 1998. FONC worked with the County to
14 obtain a Board of Supervisors resolution regarding conditions necessary for the County to support the
15 Obama Administration's designation of the Cotoni Dairies as part of the California Coast National
16 Monument and has tracked the subsequent steps leading to BLM's management plan decisions. FONC's
17 members reside throughout Santa Cruz County, as well as in the vicinity of the Coast Dairies. The
18 Davenport North Coast Association ("DNCA") is an association of residents living in and near
19 Davenport, California. The town of Davenport is bordered on three sides by the C-CD. The Rural Bonny
20 Doon Association ("RBDA") is a non-profit corporation organized under Internal Revenue Code
21 §501(c)(4) whose members are residents or property owners in Bonny Doon, immediately east of the C-
22 CD and accessible through the C-CD via Highway 1 and Bonny Doon Road.

23 Appellants will be adversely affected by the State Director's approval of the implementation
24 decisions for the C-CD. Appellants' members include individuals who have visited the Coast Dairies
25 property and look forward to taking advantage of the facilities and trails that will be implemented by
26 BLM. Their use and enjoyment of the C-CD will be detrimentally affected by BLM's proposed parking
27 area implementation actions. The proposed locations of the Marina Ranch Gate parking area and the
28

Warrenella Road Top parking area will adversely affect (1) their safety from fire hazards by being located in or adjacent to the County's Mapped Critical Fire Hazard Area; (2) their use and enjoyment of the C-CD by degrading the views of the C-CD's marine terraces; and (3) their efforts to preserve the "[n]atural fauna at the C-CD [and the Bonny Doon area which] can include any and all elements of a fairly intact ecological interdependent model" (EA, §3.4, p. 14) as well as its special flora. The proposed location of the Warrenella Road Top parking area will also result in safety hazards as visitors in vehicles traversing this narrow, steep road will confront vehicles using the road as the main private legal access road through C-CD, San Vicente Redwoods, and Molino Creek Farms. This impact is exacerbated by the Warrenella Road's 19 percent grade above the first cattle guard, which exceeds the 15 percent grade maximum limit established in BLM MS 9113 Public Roads. Similar visual impacts will result from the proposed location of the parking area at Warrenella Road Gate due to its placement on a rise that will be highly visible, especially to members of Appellants residing in Davenport or returning from a hike with views of the ocean. Appellants' members also engage in scientific study and wildlife protection and viewing. The fencing and intrusion of noise and other impacts of the Marina Ranch Gate Road and Warrenella Road Top parking areas and access roads will result in adverse impacts to wildlife using the C-CD and reduce Appellants' member's ability to view and study wildlife.

Appellants are each a party to this action, having actively participated in the decision-making process. *See* 43 C.F.R. § 4.410(b). FONC, DNCA and RBDA each submitted comments on the RMPA and implementation actions both on the draft and final versions of the EA and RMPA. EA, pp. 39-43 (DNCA); 44-47 (FONC); 51-52 (RBDA). On October 23, 2020, both DNCA and FONC submitted timely protests of the RMPA, and RBDA timely joined and adopted by reference the Protest filed by FONC. On November 9, 2020 and December 4, 2020, all three appellants provided additional comments to the BLM Field Manager relating to the California Coastal Commission's consideration of a federal consistency determination. On June 7, 2021, FONC submitted additional comments regarding new information relevant to the RMPA and implementation actions. Lastly, on July 1, 2021, appellants FONC and RBDA and five other organizations, including TPL, submitted a Joint Proposal to the BLM Field Manager

1 detailing the absence of viability of the proposed southern access location on the upper marine terrace at
2 Marina Ranch Gate and the feasibility of the Yellow Bank South Gate location.

3 **V. ARGUMENT.**

4 **A. Adoption of Implementation Action: MA-REC-24 Establishing a Day Use Site (Parking)**
5 **at Marina Ranch Gate is Inconsistent with BLM's Guidelines Because It is Infeasible**
6 **and, as a Result, Inconsistent with the RMPA.**

7 TPL has unequivocally denied BLM's request for an easement authorizing public access via a to
8 be constructed formal roadway bisecting its 30-acre plus agricultural field necessary to accessing the
9 proposed Marina Ranch Gate parking area (Implementation Action: MA-REC-24). *Supra.*, § II.D.
10 Because the BLM cannot obtain an easement from TPL authorizing access, there is no evidence that the
11 proposed parking and day use area is feasible. As one of the alternatives actually considered in the EA,
12 the Marina Ranch Gate had to be both appropriate and reasonable. "*Alternatives that do not advance the*
13 *purpose of the [Project] will not be considered reasonable or appropriate.*" *Native Ecosystems Council*,
14 428 F.3d at 1247. Likewise, BLM's Land Use Planning Handbook requires that an implementation action
15 "can be implemented...." BLM Land Use Handbook, p. 31. Because the Marina Ranch Gate parking area
16 is infeasible and cannot advance the purpose of providing an access location for the C-CD, it was an
17 abuse of discretion for BLM to select that location for a parking and day use area. For the same reason,
18 the EA is an abuse of discretion for including an alternative that was not feasible.

19 The adoption of Implementation Action MA-REC-24 also is inconsistent with the RMPA. "BLM
20 properly may approve new activities so long as they are consistent with the Proclamation and the
21 governing resource management plan." *Meg Scherch Peterson*, GFS(MISC) 17(2018) (193 IBLA 255)
22 (Oct. 29, 2018). Because BLM has selected an infeasible access site for RMZ 3 and the southern portion
23 of the C-CD, it necessarily fails to provide for a southern parking area and the dispersed visitor use called
24 for by the RMPA. *Supra*, p. 9. Without a feasible southern entrance, visitor impacts will be concentrated
25 in the northern part of the C-CD, contrary to the RMPA. Likewise, without a feasible southern entrance to
26 RMZ 3, the equestrian access to be concentrated in RMZ 3 called for by the RMPA will not be realized
27 (EA, App. A, Figure 6D, as described in the BLM Coastal Consistency Determination at pp. 3, 17). All

equestrian parking spaces have been removed from parking areas in RMZ 1 under BLM's Preferred Alternative D. Because an infeasible parking area is inconsistent with the RMPA, its selection by BLM is contrary to FLPMA. *See Norton v. S. Utah Wilderness Alliance*, 542 U.S. 55, 69 (2004) (actions inconsistent with governing RMP are properly set aside under the APA).

B. BLM's Approval of the Parking Areas Violated NEPA by Failing to Prepare a Supplemental EA.

1. The EA must be supplemented in order to take into account significant new information that Marina Ranch Gate Day Use parking site and its access road are infeasible.

The infeasibility of the Marina Ranch Gate implementation action also constitutes significant new information relevant to environmental concerns of the C-CR's parking areas. In the EA, BLM suggests that it already had secured an agreement from TPL to grant the easements. EA, p. 71 ("the BLM entered into an agreement with the Trust for Public Lands (TPL) on June 3, 2020 to grant two 45-foot roadway easements (to accommodate the roadway, drainage and fencing) along existing easements are currently for administrative use and do not allow for public access"). As of TPL's letter to BLM of June 16, 2021, that statement in the EA is demonstrably not correct. *See Exhibit B attached.* New information that BLM's selected southern access location is infeasible is highly relevant to the environmental concerns bearing on that proposed implementation action. *See Oregon Nat. Res. Council Action*, 445 F.Supp.2d at 1219. The EA had to be recirculated to address a feasible access location, which in the case of the Yellow Bank Gate South alternative, would be less adversely impactful than the impacts for the Marina Ranch Gate location. *Supra*, § II.K. Likewise, TPL's offer of land to accommodate the Yellow Bank South Gate alternative also is significant new information requiring supplemental analysis. *Supra*, § II.D.

Moreover, a single northern access location also was not considered in the EA. By selecting an infeasible southern access location, BLM has effectively adopted an implementation scheme concentrated on the town of Davenport, the impacts of which were not addressed in the EA. The EA acknowledges that dispersal of visitors and separation of equestrian and bicycle uses were important parts of avoiding user conflicts and visitor impacts. *Supra*, p. 9. As a result, in addition to relying on an infeasible alternative,

the EA is deficient by failing to identify and address the impacts of its actual, effective decision which only provides for a single northern entrance. This new information also obligates BLM to prepare a supplemental EA either addressing the impacts of a singular northern entrance or properly approving another feasible alternative consistent with the RMPA.

2. The EA must be supplemented in order to take into account significant new information relevant to the Warrenella Road Gate parking area.

a. Removal of, and potential impacts on eucalyptus trees that are habitat for the Monarch Butterfly, a newly identified candidate species under ESA.

On December 17, 2020, the USFWS made its determination that the Monarch Butterfly was warranted for listing as either an endangered or threatened species. 85 Fed. Reg. 81813. A preferred roosting habitat for the butterfly – eucalyptus trees – is present all along the west side of the Warrenella Road Gate parking and day use site. *Supra*, § II.G. The access road into the proposed parking area would likely remove one or more trees in order to construct the driveway into the parking area and vehicles would drive and park adjacent to eucalyptus trees. *Id.* See EA, App. A, Figure 5D. Written comments confirming local DNCA board member and resident Brian McElroy’s observation of Monarch’s in those trees also were provided to BLM. *Supra*, § II.G.

BLM’s Land Use Handbook specifically identifies changes in status of special status species as new significant information. BLM Land Use Handbook, p. 37. This new information is highly relevant to the potential impacts of Implementation Action: MA-REC-23, the Warrenella Road Gate parking and day use area, because that area will require disturbing the adjacent roosting habitat. There is no mention at all of Monarch butterflies in the EA. As a result, BLM is obligated to supplement the EA to address this significant new information relevant to Implementation Action: MA-REC-23.

b. The new configuration of Warrenella Road Gate parking area added to final EA fails to address additional fill and grading necessary for that location.

In its September 25, 2020 Preferred Alternative D, BLM changed the design of Implementation Action: MA-REC-23, the Warrenella Road Gate parking area. See *supra*, § II.H. In the draft EA, BLM had configured two parking areas at the site – one for cars and one for equestrian trailers separated by an

existing roughly 50 foot wide drainage swale. *Id.* However, in the final proposed EA, the bifurcated parking was combined into a single large parking area that includes filling in the swale running between the two higher parking areas or shaving off the top of the sides. *Id.* However the grading is done, it will constitute alteration of natural landforms of a coastal resource, which is precluded by the California Coastal Act (Pub. Res. C. §30251) and was not addressed in the EA. *See, e.g.*, FONC June, 7 2021 Letter, Ex. 5 by DNCA, p. 4 [pdf p.124]. Furthermore, expert comments provided to BLM on the draft EA indicate there is a substantial question that ephemeral wetlands or drainages are present at the Warrenella Road Gate site. FONC April 4, 2020 Comments, pp. 31-32; *Id.*, Ex. B, p. 7 (pdf p. 85). This question is heightened by the absence of any baseline information delineating the flora or drainage features within or adjacent to the Warrenella Gate Road site. *Id.*, Ex. B. The proposal to fill a potential drainage feature which, for all BLM knows, may also qualify as a wetland is a significant change to the project obligating BLM to prepare a supplemental EA addressing the Warrenella Gate Road site's potential drainage and wetlands impacts, as well as the truck traffic, air quality, and other impacts associated with transporting fill or grading the site.

C. The EA Fails to Examine a Reasonable Range of Alternatives and Failed to Adequately Consider the Yellow Bank Gate South and the Mocettini Barn Alternatives.

BLM erred in electing not to analyze in detail the proposed Yellow Bank South Gate or the Mocettini Barn alternative to the proposed north gate. EA, §2.20.3, pp. 42-43. In order to be consistent with the RMPA, BLM's implementation actions must include a north and south entrance and vehicle parking area. *Supra*, p. 9. Both the Yellow Bank South Gate alternative and the Mocettini Barn alternative are reasonable alternatives. *See supra*, §§ II.K, II.L. Rather than inform the public by evaluating these alternatives in detail, the EA does not address the Mocettini Barn alternative at all and cursorily rejects any detailed evaluation of the Yellow Bank South Gate. EA, p. 43.

As for the Yellow Bank South Gate alternative, there is no evidence to support the concern articulated in the EA for this site that it would result in adverse impacts to the California red-legged frog. Expert comments indicate that the Marina Ranch Gate parking area and cars accessing it would also have

1 impacts on red-legged frogs. *See* FONC April 4, 2020 Comments, Ex. A, p. 7, p. 8 [pdf page 65]. There is
2 no site-specific information regarding surveys of red-legged frogs at or near either site. The Yellow Bank
3 South Gate is adjacent to Highway 1, the noise levels of which would encompass this area. Red-legged
4 frogs are sensitive to noise. *See* CRLF Recovery Plan, p. 22. Furthermore, the USF&WS Biological
5 Opinion on the RMPA re Red-Legged Frogs states that:

6 However, most California red-legged frogs are non-migrating individuals and typically
7 remain within 250 feet of their aquatic site of residence.

8 USF&WS Opinion, p. 10. Two studies of radio-tracked red-legged frogs showed them straying a
9 maximum of 30 and 85 feet from their stream or other aquatic residence. *Id.* The Yellow Bank South Gate
10 alternative site is approximately 550 feet from the Yellow Bank Creek stream and 850 feet from the off-
11 channel ponds constructed by BLM in 2018. Google Earth measurements by Jonathan Wittwer, FONC
12 President. Furthermore, proposed Yellow Bank South Gate site is regularly disked and is already
13 ineffective as habitat. *See, e.g.* Exhibit F, Attachment B(2)(a).

14 BLM also suggests that the proposed overcrossing from Panther Beach would make the Yellow
15 Bank South Gate parking area superfluous. EA, p. 43. This rationale acknowledges that the Yellow Bank
16 location would provide links to the proposed trail system. Indeed, the BLM trailhead is at the inland end
17 of the pedestrian/bicycle overpass where the Yellow Bank South Gate parking lot is proposed. From there
18 a visitor can choose which side of Yellow Bank Creek to visit by a planned trail. By comparison, Marina
19 Ranch Gate parking lot is convenient only to trails on the south side of Yellow Bank Creek.

20 Nothing in the record rebuts the reduced impacts and increased benefits of the proposed Yellow
21 Bank South Gate alternative. First, unlike the Marina Ranch Gate area, Yellow Bank South Gate is
22 feasible. Recently, the Central Coast Field Manager's letter responding to a Joint Proposal by Seven
23 Organizations³, although identifying some potential challenges and issues that would have to be addressed
24 to implement the Yellow Bank South Gate access location, did indicate that "[w]e [BLM] support the

25 ³ The seven organizations making the Joint Proposal are Trust for Public Land, Sempervirens, Santa Cruz
26 County Farm Bureau, Santa Cruz Puma Project, Big Creek Lumber, and Appellants Friends of the North
27 Coast and Rural Bonny Doon Association. The Joint Proposal is attached hereto as Exhibit F.

concept of the ‘Yellow Bank South Gate’ proposal and your efforts to make this a reality.” July 30, 2021 BLM Letter (attached as Exhibit E). This recent correspondence underscores the reasonableness of the Yellow Bank South Gate alternative.⁴

Even assuming Marina Ranch Gate was feasible, the Yellow Bank Gate South would also lessen impacts compared to Marina Ranch Gate. The Yellow Bank Gate South location would not be positioned conspicuously at the top of one of the marine terraces and visible from trails. *Supra*, §II.E. Yellow Bank South Gate and its access road would not intrude into mountain lion habitat or create barriers to lions or their prey. *Supra*, § II.F. Lastly, a location near the highway and away from Critical Fire Hazard Areas would reduce fire risks posed by locating parking and day use in the interior of the monument. *Supra*, § II.J. Rather than create a redundancy with the Highway 1 pedestrian/bicycle overpass, Yellow Bank Gate South would complement that project by collocating parking and day use with the project’s east side and allow for a coordinated linkage to the proposed trails on each side of Yellow Bank Creek. *Supra*, § II.K.

Similarly, despite being brought to its attention during the EA process, BLM arbitrarily refused to evaluate the Mocettini Barn site. Although nearby to the Warrenella Road Gate area, its location behind a rise in the land would eliminate or reduce the visual impacts to Highway 1, trail users, and residents of the New Town area in Davenport to the south. *Supra*, § II.L. By replacing both Warrenella Road Gate and Warrenella Road Top, the Mocettini Barn location maintains those areas in VRI Class II. *Supra*, § II.E. By its location in an area where the adjacent eucalyptus grove does not border the east side of Cement Plant Road, the Mocettini Barn site would avoid removing Monarch butterfly habitat. *Supra*, § II.G. By eliminating the need for Warrenella Road Top, Mocettini Barn would eliminate that site’s impacts on mountain lion habitat and eliminate the proposed fencing barriers that would adversely affect mountain

⁴ It also puts to rest BLM’s position in the Record of Decision that, merely because an alternative parking area may involve a parcel outside of the RMPA, it cannot be considered by BLM. *See* ROD, p. 7 (“The BLM does not have the authority to make decisions regarding private lands. Therefore, a decision to relocate the access point to this location is outside the scope of this RMPA”). As Mr. Blom points out, BLM does have authority to consider acquisitions or other arrangements outside of the RMPA that further the goals of Proclamation No. 9563. *See also* EA, §4.13.4, p. 71. Likewise, FONC already has provided information addressing one of the identified areas where due diligence was requested. *See* attached Exhibit H.

lions and their prey. *Supra*, § II.F. Likewise, the increased fire risks of a Warrenella Road Top site within the County's Critical Fire Hazard Areas would be reduced by relocating this parking and uses to Mocettini Barn site. *Supra*, § II.J. The Mocettini Barn site also would eliminate the extensive grading necessary for the Warrenella Road Gate site which BLM has failed to assess environmentally and avoid potential grading issues that may be present at the Warrenella Road Gate site. *Supra*, § II.H. Lastly, locating the parking area at the Mocettini Barn would be located to the south of the barn structure and would not infringe on any historic significance of that structure. *Supra*, § II.L. Providing parking in closer proximity to the barn would however facilitate opportunities for educational signage and the barn's adaptive reuse.

For all of these reasons, both the Yellow Bank Gate South and Mocettini Barn alternatives are reasonable and, had they been evaluated in detail, would have provided the public and BLM important information about the relative impacts of BLM's preferred sites and were necessary to foster informed decision-making and public participation. *See Headwaters*, 914 F.2d at 1180-81.

D. BLM Abused Its Discretion by Failing to Prepare an EIS Despite Evidence Raising Numerous Substantial Questions That the Implementation Decisions May Cause Significant Degradation of the Environment.

In the EA, BLM fails to provide a convincing statement of reasons why the impacts of the parking area implementation actions would be insignificant.

1. The EA fails to adequately address and there is a substantial question that Marina Ranch Gate and Warrenella Road parking areas will significantly degrade scenic and visual resources.

Despite acknowledging the key scenic feature of the C-CD's marine terraces, BLM opts to place two of its three proposed parking areas on the 2nd marine terrace, perched in plain sight to visitors using the trails and denying them the currently untrammeled vistas encompassing the terraces and the Pacific Ocean. *See FONC Protest*, Att. 1, pdf p. 95. *Supra*, § II.F. The EA perfunctorily dismisses any visual impacts from the Warrenella Road and Marina Ranch Gate parking areas. EA, §4.10.6, p. 57. However, the main rationale employed by BLM to justify this conclusion is that it will manage the area to a VRI Class III rating, rather than the rating the marine terraces currently achieve, VRI Class II. *Id.*

1 A substantial question is raised that locating parking areas on the top of marine terraces in the C-
2 CD “may cause significant degradation” of the monument’s spectacular scenic vistas. *Ocean Advocates*,
3 402 F.3d at 864-865. Of all the features at the C-CD to highlight, BLM itself chose to picture the vista
4 overlooking the marine terraces as worthy of the web site drawing the public into the RMPA process for
5 the C-CD. FONC April 1, 2020 Comments, Attachment 1, p. 6. That very photo depicts the second
6 marine terrace where the Marina Ranch Gate parking and use area is proposed. *Id.*, pp. 6-7. *See also*
7 FONC Aug. 3, 2020 Supp. Comments Letter, Ex. A, pdf p. 12-14. FONC has provided an illustration
8 showing the extent the parking area as well as its access road will mar that currently unobstructed view.
9 *Id.*, Ex. A, pp. 6-8 [pdf pp. 16-19]. FONC also provided evidence demonstrating that the Marina Ranch
10 Gate parking area would be visible from other portions of the C-CD. *Id.* The context of the Marina Ranch
11 Gate and Warrenella Road Top parking areas on these upper marine terraces also raises a substantial
12 question of visual impacts. Proclamation No. 9563 specially highlights the “marine coastal terraces
13 overlooking the Pacific Ocean.” Proclamation No. 9563, p. 6. Likewise, the view over the terraces appear
14 to qualify as a “sensitive coastal resource area” under California law, Pub. Res. Code §30116. FONC June
15 7, 2021 Letter, Ex. 8, p. 9.

16 BLM suggests additional visual screening would mitigate visual impacts of the Marina Ranch
17 Gate area. EA, §4.10.6, p. 57. There is no natural screening in the area of the proposed Marina Ranch
18 Gate parking. *See id.*, p. 5. Adding more visual impacts like trees or other screening, will not address
19 impacts to an otherwise unaltered marine terrace meadow.

20 In addition to masking the Warrenella Road Top impacts by reducing the VRI rating goal to VRI
21 Class III, the EA reasons that because .011 acre nearby is disturbed by PG&E’s existing substation, no
22 visual impacts would result from constructing a circular parking area encompassing 1.44 acres of parking
23 lot. EA, §4.10.4, p. 57; *See id.*, App. B, Warrenella Road Top Parking Concept B. The parking area is a
24 dramatic expansion of development at this location. Even assuming there was evidence that the existing
25 substation has any visual impacts from proposed trails, an assumption that adding additional, greater
26 visual impacts in a national monument is insignificant makes little logical sense and does not eliminate

1 the substantial question of visual impacts at this location.

2 For all of these reasons, there is a substantial question that the Marina Ranch Gate and Warrenella
3 Road Top parking areas may have significant visual impacts requiring the preparation of an EIS before
4 proceeding with those implementation actions.

5 **2. The EA fails to adequately address and there is a substantial question that**
6 **Marina Ranch Gate and Warrenella Road Top parking areas and their access**
7 **roads will significantly affect mountain lions.**

8 BLM fails in the EA to eliminate the substantial questions that the proposed parking areas on the
9 marine terraces may have significant impacts to mountain lions. Instead, the EA acknowledges the
10 sensitivity of lions to the presence of humans and the resulting impacts from abandoning its kill when
11 disturbed. EA, § 3.4, p. 15; *id.*, § 4.4.2, p. 19. The EA notes the need for a 600-meter buffer to avoid
12 disturbing nursery locations. *Id.* The EA discusses the effects of trail-based uses on mountain lions based
13 on a single study. EA, § 4.4.2, p. 20. The EA does not address the expert comments indicating that
14 inserting parking areas, moving vehicles, and concentrations of people in the two parking areas in the
15 interior of the C-CD will have significant impacts on mountain lions. *Supra*, § II.F (citing expert
16 comments of Drs. Wilmers and Pollock). Nor does the EA address the impacts to lions of fencing the
17 access roads to these parking areas. Given the expert testimony received by BLM, BLM's
18 acknowledgement of the sensitivity of mountain lions to people, and the absence of any discussion of
19 impacts to lions resulting from the locations of parking lots or access roads, there is a substantial question
20 that the Marina Ranch Gate and Warrenella Road Top parking area implementation actions may have
21 significant impacts on the specially protected mountain lion.

22 **3. The EA fails to adequately address wildfire risk impacts of the Marina Ranch**
23 **Gate and Warrenella Road Top parking and day use areas.**

24 The EA addresses the impacts of fire risks in a single sentence and only to compare the RMPA's
25 Alternative A with Alternative B, noting that "[d]ue to increased number of visitors compared to
26 Alternative A, risk of wildfires is higher under Alternative B." EA, § 4.14.4, p. 75. That reasoning
27 indicates that Alternative D will have even greater fire risks by anticipating more visitors, but no
28

1 discussion of fire risks of Alternative D is found in the EA. *See id.*, § 4.14.6, p. 76. The EA also notes that
2 “[t]he most likely fire ignition sources are caused by humans” (EA, § 3.2.2, p. 10) and that “[t]he primary
3 source for fire in the area has been human caused.” 3.2.2, p. 9. The EA also states that “[i]nfrastructure
4 has two main ignition sources including powerlines and *roadways*.” *Id.* (emphasis added). Despite the
5 threat posed by humans and roadways, no mention is made of the fire risks posed by locating parking
6 areas in or amongst Critical Fire Hazard Areas mapped within the C-CD by the County. *Supra*, § II.J. The
7 extent and number of fire hazard areas increases as one moves away from Highway 1. The long access
8 road to Marina Ranch Gate and the concentration of people in that large parking area, coupled with the
9 proximity of that area to Critical Fire Hazard Areas raises a substantial question that this implementation
10 action may have significant impacts on fire risk in the C-CD. The same is true of the Warrenella Road
11 Top parking area which also extends well into the midst of the fire risk areas mapped by the County.

12 **4. The EA fails to evaluate safety impacts from opening Warrenella Road to the**
13 **public in list of noncompliance with BLM steepness standards for Public Roads.**

14 The EA makes no mention that the maximum grade for use of Warrenella Road as a public road
15 in a mountainous area is limited to 15 percent and the fact that the grade above the first cattle guard is 19
16 percent. BLM has not addressed whether it is feasible to bring Warrenella Road into compliance with
17 BLM MS 9113 Public Roads. *See supra*, § II.I.

18 **VI. CONCLUSION.**

19 For the reasons discussed above, Appellants respectfully request the IBLA to overturn the BLM
20 California State Director’s approval of Implementation Actions MA-REC-23 and MA-REC-24 and
21 remand the matter to BLM for further proceedings. Alternatively, the IBLA should refer this matter for
22 Alternative Dispute Resolution.

23 Respectfully submitted this 20th day of August, 2021.

24 

25 Michael R. Lozeau

26 LOZEAU DRURY LLP

27 Attorneys for Appellants Friends of the North Coast, Davenport North
28 Coast Association, and Rural Bonny Doon Association

PROOF OF SERVICE

I, Toyer Grear, declare as follows:

I am a resident of the State of California, and employed in Oakland, California. I am over the age of 18 years and am not a party to the above-entitled action. My business address is 1939 Harrison Street, Suite 150 Oakland, CA 94612. On August 20, 2021, I served a copy of the following documents:

• **APPELLANTS' STATEMENT OF REASONS**

- ☒ By enclosing the documents in an envelope provided by an overnight delivery carrier and addressed to the persons listed below and placing the envelope for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier
- ☒ By electronically e-mailing a true and correct copy to the e-mail addresses set forth below.
- ☐ By personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.

E-mail only: United States Department of the Interior Office of Hearings and Appeals Interior Board of Land Appeals 801 N. Quincy St., Suite 300 Arlington, VA 22203 ibla@oha.doi.gov	Office of the Regional Solicitor Pacific Southwest Region U.S. Department of the Interior 2800 Cottage Way, Room E-1712 Sacramento, CA 95825-1890 erica.anderson@sol.doi.gov
	BLM California State Director 2800 Cottage Way, W1623 Sacramento, CA 95825

I declare under penalty of perjury (under the laws of the State of California) that the foregoing is true and correct, and that this declaration was executed August 20, 2021 at Oakland, California.



Toyer Grear

EXHIBIT A

Administration of Barack Obama, 2017

**Proclamation 9563—Boundary Enlargement of the California Coastal
National Monument**

January 12, 2017

By the President of the United States of America

A Proclamation

Through Proclamation 7264 of January 11, 2000, President Clinton established the California Coastal National Monument (monument) to protect the biological treasures situated on thousands of unappropriated or unreserved islands, rocks, exposed reefs, and pinnacles owned or controlled by the Government of the United States within 12 nautical miles of the shoreline of the State of California. Presidential Proclamation 9089, issued on March 11, 2014, expanded the monument to include the Point Arena-Stornetta Public Lands, a landscape of coastal bluffs and shelves, tide pools, onshore dunes, coastal prairies, and riverbanks, and the mouth and estuary of the Garcia River. In addition to providing vital habitat for wildlife, these coastal lands were critical for the native peoples who first lived along the California Coast, and they continue to be treasured by modern generations.

Six other spectacular areas along the California Coast contain significant scientific or historic resources that are closely tied to the values of the monument. Like the protections afforded by prior proclamations, protection of Trinidad Head, Waluplh-Lighthouse Ranch, Lost Coast Headlands, Cotoni-Coast Dairies, Piedras Blancas, and Orange County Rocks and Islands would protect and preserve objects of historic or scientific interest on the California Coast.

Trinidad Head

About 30 miles north of Eureka lies the majestic and culturally important promontory known as Trinidad Head. The tip of Trinidad Head encompasses several prominent historic sites along with the rocky ledges that provide their setting, such as the Trinidad Head Light Station, which first operated in 1871 and is still active today. Accompanied by a small wooden bell house, it sits atop sheer cliffs overlooking crashing waves and rugged sea stacks. The importance of this location predated its first use as a lighthouse. Nearly 100 years earlier, on June 9, 1775, representatives of the local Yurok community first made contact with two Spanish ships there. A granite cross installed in 1913 sits in a clearing above the lighthouse, commemorating the spot where the Spanish erected a wooden cross two days later to claim the area for King Charles III. Today, the area is culturally and spiritually significant to the Cher-Ae Heights Indian Community of the Trinidad Rancheria, the Yurok Tribe, and the Tsurai Ancestral Society.

Coastal bluff scrub vegetation, including coyote brush, California wax myrtle, salal, blue blossom, ocean spray, and evergreen huckleberry, surrounds these historic features. Scattered stands of Sitka spruce, Douglas fir, and red alder stand out among these native shrubs and herbs. Coast Indian paintbrush grows in rocky outcroppings near the bell house, adding splashes of crimson to the landscape. Visitors to Trinidad Head enjoy observing the Trinidad seabird colony, which makes its home on the rocks and islands off the coast of Trinidad Head and contains over 75,000 birds, including several species of cormorant, the common murre, and occasionally tufted puffins.

Waluplh-Lighthouse Ranch

Perched on the edge of Table Bluff, 12 miles south of Eureka, Waluplh-Lighthouse Ranch has spectacular panoramic views of the Pacific Ocean, Eel River Delta, and the south spit of Humboldt Bay. In addition to outstanding scenery, visitors to Waluplh-Lighthouse Ranch can view migratory raptors, songbirds, and the endangered marbled murrelet.

Waluplh-Lighthouse Ranch is part of the ancestral home and current cultural traditions of the Wiyot Tribe, who gave it the name Waluplh. With its expansive views, the area served as a lookout point for the Tribe, as well as a crossroads for trails connecting inland areas with Humboldt Bay to the north and the bottomlands surrounding the mouth of the Eel River to the south. Beginning in the late 1800s, Waluplh-Lighthouse Ranch was developed as a Coast Guard facility, and during World War II, it served as a coastal lookout post and the base for a mounted beach patrol. There are no longer any buildings on the property, so visitors now enjoy its panoramic views surrounded by open space.

Lost Coast Headlands

Thirteen miles south of Waluplh-Lighthouse Ranch, the Lost Coast Headlands present a majestic coastline, encompassing rolling hills and dramatically eroding bluffs, punctuated by freshwater creeks, ponds, and pockets of forests. Underlying the Lost Coast Headlands are layers of highly erodible sedimentary rock known as the Wildcat Group. This geology has weathered over the years, leading to deeply carved and incised bluffs along the beach made up of multi-hued layers of gray clay, golden sandstone, and brown siltstone. The eroding of the bluffs over time exposes fossils of scallops, clams, and snails, providing a glimpse of the marine fauna that lived in the area during the Pleistocene Epoch 2.6 million to 11,700 years ago.

Coastal scrub vegetation and open grasslands blanket the area's rolling hills. Coyote brush and California blackberry dominate, and in the grasslands, small patches of native Pacific reed grass meadow remain. Pockets of Douglas fir, Sitka spruce, and grand fir shadow the eroded draws. These diverse habitats support an array of wildlife species, including black-tailed deer, bobcat, brush rabbit, and Douglas squirrel. While more elusive, gray fox, coyote, and mountain lion also pass through the area, and a careful observer may notice signs of their presence. A variety of small birds dart about its grasslands and scrub, while raptors such as American kestrels, northern harriers, peregrine falcons, and Cooper's hawks scan for prey overhead. Quiet visitors may hear hairy woodpeckers in the forested draws. Foraging shorebirds and gulls, along with the occasional harbor seal, can be observed on the narrow beaches.

Buffered by red alder and willow, Guthrie and Fleener creeks wind their way through the Lost Coast Headlands on their way to the sea. Both perennial streams provide habitat for three-spined stickleback, a small native fish. Sculpin, Pacific lamprey, and the threatened Northern California steelhead have also been observed in Guthrie Creek, and both creeks are potential habitat for the threatened coho salmon. During the summer, the mouth of Guthrie Creek widens into a lagoon that can provide shelter for estuary-dependent fish and invertebrates. The area also features three small, freshwater ponds that provide habitat for the threatened California red-legged frog and a variety of waterfowl, including green-winged teals.

While few signs of it remain, the northernmost point of the Lost Coast Headlands was once the site of the Centerville Beach Naval Facility, established in 1958 to monitor Soviet submarines during the Cold War. For more than 100 years, several families who settled nearby grazed livestock in the area.

Cotoni-Coast Dairies

Near Davenport in Santa Cruz County, Cotoni-Coast Dairies extends from the steep slopes of the Santa Cruz Mountains to the marine coastal terraces overlooking the Pacific Ocean. Sitting atop the soft Santa Cruz Mudstone Formation and the hard, silica-rich Monterey Formation, the area's bedrock supports a diversity of soils and vegetation that have sustained wildlife and people alike for millennia.

Dating back at least 10,000 years, an ancestral group known to archaeologists as the Costanoan or Coastal People (also called the Ohlone) lived in this region, and the Cotoni, a tribelet of this group, lived in the Cotoni-Coast Dairies area. Lithic scatter sites and shell middens demonstrate that inhabitants moved between the coastal ecological zones and upland environments, making use of the landscape's diverse resources. Europeans first made contact with the Cotoni in the 1600s and 1700s. Most of the Costanoan people were converted to Christianity, many forcibly, during California's Mission period in the late 1700s and 1800s, and by the early 1900s, much of the ancient cultural heritage of the Coastal People was left only to memory.

Six perennial streams form the heart of Cotoni-Coast Dairies' ecosystem, flowing from the coastal mountains down to the Pacific Ocean. Molino Creek, Ferrari Creek, San Vicente Creek, Liddell Creek, Yellow Bank Creek, and Laguna Creek have each carved steep canyons on their path to the sea. Vibrant riparian areas follow along the six stream corridors, with red alder and arroyo willow forests dominating the vegetative community. A seventh stream, Scott Creek, flows along a small portion of the area's northern boundary. Most of the area's wetlands can be found within these riparian corridors, though others exist in meadows and floodplains.

Beyond supporting riparian and wetland communities, Cotoni-Coast Dairies' waterways provide important habitat for anadromous and freshwater fish. All of the streams are thought to have historically supported salmon populations. Today, the threatened steelhead and coho salmon can be found on spawning runs in San Vicente Creek, while steelhead are also found in Liddell Creek and Laguna Creek. The endangered tidewater goby may also be found in the tidally influenced portion of Laguna Creek. The threatened California red-legged frog uses many of the waterways and water sources here, along with a wide range of other amphibians and reptiles.

Grasslands, scrublands, woodlands, and forests surround the riparian corridors in Cotoni-Coast Dairies. Purple needlegrass and other native species, such as California oatgrass and blue wildrye, characterize the coastal prairie grassland community. The intermixed wildflowers in the community provide visitors a colorful display in the spring and early summer. Occasional freshwater seeps amid the grasslands support sedges, California buttercup, brown-headed rush, and other species.

California sagebrush and coyote brush scrub communities blanket the area's bluffs and hillside slopes. Native trees, including Douglas fir and coast live oak, dominate forests, which also include stands of coastal trees such as madrone, California bay, Monterey pine, and knobcone pine. Visitors are drawn to stands of coast redwood, which thrive on the north-facing slopes in some watersheds, accompanied by redwood sorrel, elk clover, and other understory species.

The diversity of the uplands vegetation in Cotoni-Coast Dairies supports a rich wildlife community including a vast and varied mammalian population. Among the many species inhabiting Cotoni-Coast Dairies are California voles, dusky-footed woodrats, black-tailed

jackrabbits, mule deer, and gray fox. Evidence also suggests that both bobcats and mountain lions hunt here.

Visitors to Cotoni-Coast Dairies may be able to catch a glimpse of a variety of avian species, including black swifts, orange crowned warblers, American kestrels, Cooper's hawks, white-tailed kites, and peregrine falcons. In the riparian areas, one may encounter Wilson's warblers, downy woodpeckers, and tree swallows, among others. Various bat species, including the Townsend's big-eared bat, can be seen darting overhead at dusk.

Piedras Blancas

Only 40 miles north of San Luis Obispo, the large white coastal rocks for which Piedras Blancas was named have served as a landmark for centuries to explorers and traders along the central coast of California. Sitting at a cultural interface between Northern Chumash and Playanos Salinan peoples, Piedras Blancas was and still remains important to Native Americans. The human history of the area stretches back at least 3,000 years, and archaeologists have found stone tools, debris from tool knapping, discrete quarrying locations, and shell midden deposits that help tell that history. Native peoples largely used the area as a source of raw stone and for the manufacture of stone tools.

In 1542, the Spanish explorer Juan Rodriguez Cabrillo noted the value of this area as a maritime guidepost, and the land he sighted from his ship was later claimed by the Spanish, followed by the Governor of Mexico, and subsequently became part of the United States. A lighthouse built in the 1870s still stands today, albeit without the three upper levels that were removed after being damaged by an earthquake in 1948. The lighthouse, with its ornate brick and cast-iron structure, is listed in the National Register of Historic Places along with its surrounding buildings, such as the 1906 fog-signal and oil house. Visitors to Piedras Blancas today are treated to unmatched scenic vistas of the rugged mountain peaks of the Santa Lucia Range and the deep blue waters of the Pacific Ocean. Dramatic geologic features, such as the namesake white rocks, along with the area's characteristic fog, contribute to a dynamic visual landscape.

The bedrock in the area consists of both sedimentary and volcanic rocks of the Franciscan Formation. This Formation represents Jurassic age material from the Pacific Plate that scraped off and attached to the continental margin of North America. Atop the bedrock lie Monterey Formation rocks, topped with marine terrace deposits. Rain percolates through the rock surface and sub-surface and emerges dramatically as ephemeral springs from cliff faces.

California sea lions, harbor seals, and northern elephant seals all spend time on the shores and within the waters of this area. Visitors may observe colonies of massive elephant seals loafing in the sun at Piedras Blancas, where females can be seen nursing their pups, and males occasionally battle for dominance. For decades, scientists have used this land to conduct annual censuses of the threatened southern sea otter and other marine mammals. From the mainland of Piedras Blancas, visitors can also be treated to regular visits by migrating gray and humpback whales, and occasionally blue, minke, and killer whales as well, in addition to bottlenose dolphins.

Marine birds perched on or soaring over the Piedras Blancas rocks include Brandt's cormorants, black oystercatchers, peregrine falcons, and brown pelicans. In a remarkable spring display, Pacific loons can be seen migrating offshore of Piedras Blancas by the tens of thousands. In the rocky intertidal zone found along these shores, scientists have documented mussels, ochre starfish, barnacles, sea anemones, and black and red abalones.

The lighthouse's windswept onshore point is also a sanctuary for plants and wildlife. Over 70 types of native plants, including members from the agave, cashew, sunflower, carnation, morning glory, gourd, iris, and poppy families, establish a foothold in the fine sand and fine sandy loam soils. Together this diversity of vegetation can be characterized as northern coastal bluff scrub. If visitors time their visit, they will be treated to a dazzling array of blooms from species such as seaside poppy, seaside daisy, coastal bush lupine, hedge nettle, dune buckwheat, and compact cobwebby thistle. This native vegetation supports many wildlife species, including brush rabbits, California voles, dusky-footed woodrats, and bobcats. Black-bellied slender salamanders, threatened red-legged frogs, western terrestrial garter snakes, and other reptiles and amphibians thrive in the Piedras Blancas area.

Orange County Rocks and Islands

This area consists of a series of offshore rocks, pinnacles, exposed reefs, and small islands off the Orange County coastline, where visitors onshore are treated to dramatic crashing waves, unique geology, and an abundance of marine-dependent wildlife. These rocks and islands lie within the current monument boundary but were not previously reserved as part of the monument. These offshore rocks, many in pocket coves, contribute to the rugged beauty of the Orange County coastline and themselves include objects of scientific and historic interest. The features also provide important connectivity from south to north for shore birds and sea birds, as well as for California sea lions and harbor seals.

Cormorants, brown pelicans, gulls, and a variety of other shore birds and sea birds can be seen roosting, resting, and feeding on the jagged rocks and small islands. These rocks and islands are also haul-out areas for marine mammals, including California sea lions, harbor seals, and the occasional northern elephant seal.

Rich in vital nutrients, this offshore zone of swirling currents supports a variety of habitats and organisms. The tide pools around these rocks and islands are home to a diversity of hardy intertidal seaweeds and animal species uniquely adapted for survival within the alternating and equally harsh environs of pounding surf and baking sun.

The protection of Trinidad Head, Waluplh-Lighthouse Ranch, Lost Coast Headlands, Cotoni-Coast Dairies, Piedras Blancas, and Orange County Rocks and Islands as part of the California Coastal National Monument will preserve their cultural, prehistoric, and historic legacy and maintain their diverse array of natural and scientific resources, ensuring that the historic and scientific value of these areas, and their numerous objects of historic or scientific interest, remain for the benefit of all Americans.

Whereas, section 320301 of title 54, United States Code (known as the "Antiquities Act"), authorizes the President, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Federal Government to be national monuments, and to reserve as a part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected;

Whereas, it is in the public interest to preserve the objects of scientific and historic interest on the public lands of Trinidad Head, Waluplh-Lighthouse Ranch, Lost Coast Headlands, Cotoni-Coast Dairies, Piedras Blancas, and Orange County Rocks and Islands;

Now, Therefore, I, Barack Obama, President of the United States of America, by the authority vested in me by section 320301 of title 54, United States Code, hereby proclaim the

objects identified above that are situated upon lands and interests in lands owned or controlled by the Federal Government to be part of the California Coastal National Monument and, for the purpose of protecting those objects, reserve as part thereof all lands and interests in lands owned or controlled by the Federal Government within the boundaries described on the accompanying maps, which are attached hereto and form a part of this proclamation. The Orange County Rocks and Islands shall be managed as part of the original offshore area of the monument, and the remainder of the lands shall be known as the Trinidad Head, Waluplh-Lighthouse Ranch, Lost Coast Headlands, Cotoni-Coast Dairies, and Piedras Blancas units of the monument, respectively. These reserved Federal lands and interests in lands encompass approximately 6,230 acres. The boundaries described on the accompanying maps are confined to the smallest area compatible with the proper care and management of the objects to be protected.

All Federal lands and interests in lands within the boundaries described on the accompanying maps are hereby appropriated and withdrawn from all forms of entry, location, selection, sale, or other disposition under the public land laws, from location, entry, and patent under the mining laws, and from disposition under all laws relating to mineral and geothermal leasing, other than by exchange that furthers the protective purposes of the monument.

The enlargement of the boundary is subject to valid existing rights. If the Federal Government subsequently acquires any lands or interests in lands not owned or controlled by the Federal Government within the boundaries described on the accompanying maps, such lands and interests in lands shall be reserved as a part of the monument, and objects identified above that are situated upon those lands and interests in lands shall be part of the monument, upon acquisition of ownership or control by the Federal Government.

The Secretary of the Interior (Secretary) shall manage the area being added to the monument through the Bureau of Land Management (BLM) as a unit of the National Landscape Conservation System, pursuant to applicable legal authorities, to protect the objects identified above.

The Cotoni-Coast Dairies unit of the monument shall become available for public access upon completion of a management plan by the BLM, consistent with the care and management of the objects identified above.

Consistent with the care and management of the objects identified above, and except for emergency or authorized administrative purposes, motorized vehicle use in areas being added to the monument shall be permitted only on designated roads, and non-motorized mechanized vehicle use shall be permitted only on designated roads and trails.

Nothing in this proclamation shall be construed to interfere with the operation or maintenance, or the replacement or modification within the existing authorization boundary, of existing weather station, navigation, transportation, utility, pipeline, or telecommunications facilities located on the lands added to the monument in a manner consistent with the care and management of the objects to be protected. Other rights-of-way shall be authorized only if they are necessary for the care and management of the objects to be protected.

Nothing in this proclamation shall be deemed to enlarge or diminish the rights or jurisdiction of any Indian tribe. The Secretary shall, to the maximum extent permitted by law and in consultation with Indian tribes, ensure the protection of Indian sacred sites and traditional cultural properties in the monument and provide access by members of Indian tribes for traditional cultural and customary uses, consistent with the American Indian

Religious Freedom Act (42 U.S.C. 1996) and Executive Order 13007 of May 24, 1996 (Indian Sacred Sites).

Laws, regulations, and policies followed by the BLM in issuing and administering grazing permits or leases on lands under its jurisdiction shall continue to apply with regard to the lands added to the monument, consistent with the care and management of the objects identified above.

Nothing in this proclamation shall be deemed to enlarge or diminish the jurisdiction of the State of California or the United States over submerged or other lands within the territorial waters off the coast of California, nor shall it otherwise enlarge or diminish the jurisdiction or authority of the State of California, including its jurisdiction and authority with respect to fish and wildlife management.

Nothing in this proclamation shall affect the rights or obligations of any State or Federal oil or gas lessee within the territorial waters off the California Coast.

Nothing in this proclamation shall be construed to alter the authority or responsibility of any party with respect to emergency response activities within the monument, including wildland fire response.

Nothing in this proclamation shall be deemed to revoke any existing withdrawal, reservation, or appropriation; however, the monument shall be the dominant reservation.

Warning is hereby given to all unauthorized persons not to appropriate, injure, destroy, or remove any feature of the monument and not to locate or settle upon any of the lands thereof.

In Witness Whereof, I have hereunto set my hand this twelfth day of January, in the year of our Lord two thousand seventeen, and of the Independence of the United States of America the two hundred and forty-first.

BARACK OBAMA

[Filed with the Office of the Federal Register, 11:15 a.m., January 17, 2017]

NOTE: This proclamation and its attached annex were published in the *Federal Register* on January 18.

Categories: Proclamations : California Coastal National Monument, boundary enlargement.

Subjects: California : California Coastal National Monument; Interior, Department of the : California Coastal National Monument, boundary enlargement.

DCPD Number: DCPD201700013.

EXHIBIT B



101 Montgomery St.
Suite 900
San Francisco, CA
94104
t: 415.495.4014
f: 415.495.4103

tpl.org

Ben Blom, Field Manager
BLM Central Coast Field Office
Attn: Cotoni-Coast Dairies RMPA/EA
940 2nd Ave., Marina, CA 93933-6009
blm_ca_cotoni_coast_dairies@blm.gov

June 16, 2021

Dear Ben,

Thank you for the opportunity earlier this month to talk through BLM's proposal for a 'hybrid alternative' to the southern access to Cotoni-Coast Dairies National Monument. We appreciate your willingness to explore alternative configurations for providing access, and we remain committed to continuing to work together towards this goal, and more broadly to providing both northern and southern access points in pursuit of fully and inclusively opening the Monument to the public.

As we discussed on June 4, TPL has looked closely at the proposed 'hybrid approach' you shared in an email dated April 23, 2021, and has unfortunately concluded that even a reduced-scope project which includes splitting the Marina Gate agricultural field would not resolve a number of our principal concerns, as briefly summarized below:

Impacts to the agricultural viability of the TPL property: As we have shared in several previous discussions, the purpose of the agricultural conservation easement recorded on TPL's property in 2014 and which TPL is committed to honor, reads as follows:

"It is the purpose of this Easement to enable the Property to remain in agricultural use for the production of food, fiber, or other animal or plant products by preserving and protecting in perpetuity its agricultural values, use and utility, and to prevent any use of the Property that would materially impair or interfere with its agricultural values, use or utility."

We appreciate BLM's efforts to scale back impacts to future agricultural uses of the field. However, we believe that bifurcating the field, even seasonally and at the existing grade, would place a heavy burden on the agricultural operator and would

materially impair and interfere with the use, utility and viability of the field. The dry season, which we understand to be BLM's proposed season of use by the public, is also the main growing season, and the road placement, heavy public use and associated fencing would impact cultivation and irrigation activities. A seasonal gravel or dirt road through the field with significant traffic levels would also potentially create food safety and other concerns during the season of use, while in the wet season, changes to drainage upslope of the field could impact early-season planting and soil conditions.

Facilitating impacts to natural and scenic resources on the upper terrace: The hybrid approach also does not fully resolve issues raised by conservation and community advocates regarding impacts to sensitive resources, making this approach susceptible to certain opposition, future dispute and litigation, raising costs and making implementation design and timing uncertain. In addition, we are concerned that a reasonable argument could be made that placement of a parking lot and road in this area is not consistent with protection of key Objects of the Monument, as well as deed restrictions placed on the BLM property in 2014 to protect wildlife and other sensitive resources.

Risk of litigation: Given these continued concerns, we have concluded that a hybrid approach would not significantly reduce the risk of litigation if TPL were to provide the requested access easement. We appreciate your offer to explore providing indemnification for TPL's potential litigation costs if we were prepared to proceed. However, it is TPL's understanding based on extensive experience with federal agencies that indemnification would not be feasible in this circumstance.

Legal/fiduciary responsibility and reputational risk: As noted above, TPL takes its legal and fiduciary responsibilities very seriously. In accepting deed restrictions on the TPL property through the coastal development process facilitating our gift of land to BLM, TPL made a binding commitment to uphold them. We also appreciate that these deed restrictions are important to BLM, and look forward to finding a path forward that is consistent with these restrictions while meeting our shared goal of providing public access to the southern portion of the Monument.

TPL remains a willing partner in finding a path forward that will address these issues and provide for a southern access point. Consistent with this shared goal, we have offered to make land available to BLM at the north end of the Marina Gate field for a "Yellow Bank South Gate" public access location, for the purpose of creating Monument parking that we believe reasonably abates each of these concerns.

Based on initial discussions with the design team that has been assisting BLM in the RMPA process, we believe that public safety and blended beach/monument access considerations can be addressed through appropriate design at this location, even prior to construction of the proposed overpass. Properly designed, parking in this

location would allow the core area of TPL's agricultural field to be buffered from and relatively unaffected by this use, would tie into the existing trailhead proposed in the RMPA for this location to access trails on the middle and upper terraces, and may provide opportunities for universal access to the middle terrace through a low-gradient trail connecting the lot to the proposed trail system above. It would also provide opportunities to integrate the design with the rail trail parking improvements at Panther Beach, including the proposed overpass and restroom facilities in the future, and existing potable water lines in the area could be used to provide water for visitors. A simple illustration of what that could look like is attached.

While we regret that we cannot accommodate a plan that facilitates the upper parking location, we remain committed to working together with BLM and potentially other partners to advance the Yellow Bank South Gate alternative, including partnering with BLM and other partners on securing permitting approvals and potentially helping raise funds for design and implementation.

Recognizing the important role a southern access location plays in opening the Monument, we propose moving this process forward this year (which would of course begin with identifying objectives, roles, funding and timeline) in the hopes that parking could be provided as soon as possible. We look forward to working with you on this, in partnership.

Sincerely,

A handwritten signature in black ink, appearing to read 'Christy Fischer', with a long horizontal line extending to the right.

Christy Fischer
Bay Area and Central Coast Conservation Director

cc: Chris Heppe, BLM District Manager
Guillermo Rodriguez, TPL State Director
Tily Shue, Legal Director
Bryan Largay, Land Trust of Santa Cruz County

Attachments:

Email from Ben Blom dated April 23, 2021
Conceptual illustration of Yellow Bank South Gate alternative



Blom, Benjamin Z. <bblom@blm.gov>

Bryan Langley; Sara Barth; Rachel Darr; Christy Fischer; Andy Schiffer; Hopper; Christopher M; Tilly Shue; Dave Sutton

4/23/

Re: [EXTERNAL] RE: Cotoni-Coast Dairies Southern Access

You forwarded this message on 5/20/2021 12:14 PM.

This message is part of a tracked conversation. Click here to find all related messages or to open the original flagged message.

Hello All,

Thank you all for joining the call this morning. Based on the call and my thinking on this project over the last several weeks, I'd like to propose a hybrid alternative. Maybe this could form the basis of our next call? All three components described below are part of the same hybrid approach:

1. Indemnification: I am committed to exploring what it would take for the BLM/DOI to indemnify TPL from their decision regarding our proposed Marina Ranch Gate Easement. I have never done this before, so it will take some exploration with our Solicitor's Office to see if this is feasible. If we are statutorily prevented from doing this, we would explore if there is a third party that could take this role on.
2. We would propose a reduced-scope Marina Ranch Gate parking (BLM proposal): this would entail limiting access to this access point to seasonal use only (dry season: May through October). This would mean the road and parking area could be improved and maintained with a smaller footprint/width (e.g. not raised above grade). Sub-components of this:
 - a. We would ban trailers on the road and work with equestrian partners to develop an alternative area for them through a Special Recreation Permit.
 - b. We would install a turnaround and gate within or immediately adjacent to Highway One to allow vehicles to turn around and leave when the gate is closed during the wet season (this would be a requirement from Caltrans of any option along Highway One).
 - c. When the road is open, we would install temporary post-and-cable fencing along the road that could be removed at the end of the dry season (or whenever else the road needs to be traversed by farming equipment).
3. If we can get agreement on 1 and 2, we would happily support efforts to permit and approve the TPL parking proposal as a year-round access point. Ideally, we would time the construction of this parking area to coincide with construction of the pedestrian access point over Highway One to reduce potential public safety concerns associated with this parking area.

Have a great weekend, all!

Ben Blom
Field Manager
BLM Central Coast Field Office
U.S. Department of the Interior Region 10
Office: (831) 582-2210
Mobile: (831) 277-6295



EXHIBIT C



The northwest corner of Cement Plant Road and Warrenella Road – image from Google Earth download on August 5, 2021

EXHIBIT D

Generalized Critical Fire Hazard Mapping is based on data developed by Santa Cruz County GIS and the California Department of Forestry and Fire Protection. Critical areas are based on slope, vegetation, ability to respond, and specific weather conditions. For more information on the data development process refer to "2004 Generalized Fire Hazard Area" map or contact Santa Cruz County GIS staff at (831) 454-3101.

9,326 Parcels
10,393 Structures
2 Schools
1 Fire Station
Value of improvements
based on Assessment
Roll 10/13/2009
\$ 1,513,206,367



EXHIBIT E



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Central Coast Field Office
940 2nd Avenue
Marina, CA 93933
www.blm.gov/california



In Reply Refer to:
2100 (Acquisitions)
CACA 45508

July 30, 2021

Christy Fischer
Bay Area and Central Coast Conservation Director
Trust for Public Land
101 Montgomery Street, Suite 101
San Francisco, CA 94104

Dear Director Fischer,

Thank you for your letter dated June 29, 2021, which describes a proposal for a southern entrance to the Cotoni-Coast Dairies unit of the California Coastal National Monument. We support the concept of the “Yellow Bank South Gate” proposal and your efforts to make this a reality. Additional due diligence would be needed to assess the feasibility of this proposal before the BLM could consider accepting donated lands or an easement in this area.

First, Attachment B(2)a, included with your letter, shows an image of the Wilder Ranch State Park parking area overlaying a Google Earth image of the “Yellow Bank South Gate” area. It is not clear if this screenshot is to scale, nor is it clear whether the proposal has been assessed in consideration of the topography or hydrology of the area. On initial review, the proposed frontage road does not appear feasible as a public roadway. The map inaccurately depicts the proposed trails on BLM property, the Santa Cruz Regional Transportation Commission’s proposed pedestrian overpass on State Highway One, and the alignment of the turning lanes into the Commission’s proposed North Coast Rail Trail parking area. The “ADA compliant” trail displayed for the BLM property traverses areas with steep grades that are unsuitable for ADA access and other uses.

Second, the proposal presents significant challenges from a permitting and regulatory perspective. While your proposal suggests donation is consistent with the property’s underlying Agricultural Conservation Easement and Coastal Development Permit (3-11-035), it is not clear if that view is shared by the agencies responsible for enforcement. Preliminary discussions with Santa Cruz County and the California Coastal Commission indicate your donation proposal may require a new Coastal Development Permit, an amendment to your conservation easement, and a

change to Santa Cruz County ordinance to allow for repurposing of agricultural lands. As such, it is unclear if these significant steps have been considered or contemplated.

Third, we are unclear under what Federal authority the BLM could process a lot-line adjustment as described in your proposal. While lot-line adjustments have occurred in association with land acquisitions by the BLM in the past, these adjustments have been done prior to the donation of a parcel when the land is still under private ownership. A lot-line adjustment is further complicated by the fact that this Federal property is a National Monument with boundaries that were established through Presidential Proclamation 9563. As such, a lot-line adjustment to alter the boundary may require an Act of Congress. An alternative to a lot-line adjustment could be for TPL to subdivide its agricultural parcel to establish a new parcel to be donated to the BLM. Under this scenario, the subdivided parcel would be donated to the BLM to become public lands outside of the National Monument. However, we are aware that this subdivision process is time-consuming and could be difficult from a local and state permitting perspective.

In light of the considerations described above, donation of an easement may be the most feasible path forward for establishing a Federal interest in this land. However, prior to considering an agreement with TPL regarding such a donation, the following steps would be necessary:

- An engineering study demonstrating the feasibility of the parking area and access road with an accurate representation of how this project would connect to proposed recreation developments on the North Coast Rail Trail and Cotoni-Coast Dairies;
- A completed Coastal Development Permit authorizing the donation of an easement, or documentation from the California Coastal Commission that such a permit is not required;
- Documentation of California Environmental Quality Act (CEQA) compliance for the donation of an easement, or clarification as to why CEQA compliance is not required;
- Concurrence from Santa Cruz County that issuance of an easement to the BLM for the proposed parking lot is consistent with county ordinance and the property's underlying Agricultural Conservation Easement. If this concurrence is not attainable, the BLM would require completion of an easement modification and/or a change to county ordinance; and
- Written support from CalTrans for any proposed development that would occur within their highway right-of-way.

Given the challenges described above, we believe it would be worth considering alternative approaches. One consideration would be for TPL to donate the entirety of Agricultural Parcel 3 to a third party with the resources to manage the parcel for both recreational and agricultural purposes in partnership with the BLM. This would simplify this process in that subdivision or an easement for a portion of the property would not be necessary. In this scenario, the BLM would work with this third party to establish a trail connection from Cotoni-Coast Dairies to the "Yellow Bank South Gate" parking area, but the responsibility for management and oversight of the parking lot would be shared between the BLM and the third party.

We would also like to point out that should the procedural hurdles described above be insurmountable, we believe the Marina Ranch Gate Access Point remains a viable and straightforward option. This proposal has already received concurrence/approval from a wide

variety of relevant Federal, State and local agencies: the California Coastal Commission, California Governor's Office of Planning and Research, NOAA National Marine Fisheries Service, Santa Cruz County, and US Fish and Wildlife Service. National Environmental Policy Act compliance has also been completed for this proposal. We believe that approval of this access point would be consistent with TPL's underlying Agricultural Conservation Easement and Coastal Development Permit and this view is shared by staff at Santa Cruz County and the California Coastal Commission. Our offer remains on the table to facilitate this proposal by further exploring opportunities to mitigate and avoid impacts to the environment and agricultural uses. For example, we believe there are opportunities to improve the existing road on TPL property without rendering a 15-acre portion of the property as "Unsuitable for agriculture".

In conclusion, we are supportive of your efforts to pursue this proposal. In the meantime, the BLM is considering opportunities for interim public access in the area. We look forward to working with TPL and partners throughout the implementation of the RMPA to ensure that the public has access to the spectacular Cotoni-Coast Dairies property.

Sincerely,

Ben Blom
Central Coast Field Manager
Bureau of Land Management

Enclosure: Joint Proposal Cotoni-Coast Dairies South Entrance 6.29.2021 w Attachments
Final.pdf

EXHIBIT F

June 29, 2021

Ben Blom, Field Manager
BLM Central Coast Field Office
940 2nd Avenue
Marina, CA 93933-6009
bblom@blm.gov

Attn: Cotoni-Coast Dairies RMPA/EA

Re: Proposal to Work Together to Solve the Impasse Preventing a Southern Entrance for
Cotoni-Coast Dairies, a unit of the California Coastal National Monument

Dear Field Manager Blom:

Congratulations on the recent release of the Record of Decision for the Resource Management Plan Amendment (RMPA) that will govern the management of Cotoni-Coast Dairies. It is a momentous accomplishment for you and your colleagues and marks a critical step forward in the future of this special landscape.

We recognize the immense complexity of developing a management plan that seeks to balance the preservation of natural and cultural resources while opening the landscape to outdoor recreation. Long before The Trust for Public Land (TPL) donated a significant portion of the historic Coast Dairies & Land Company property to the Bureau of Land Management (BLM) or President Barack Obama proclaimed the property's national significance, there has been debate about how best to accomplish this goal. Our seven organizations (The Trust for Public Land, Santa Cruz Puma Project, Friends of the North Coast, Rural Bonny Doon Association, Big Creek Lumber Company, Santa Cruz County Farm Bureau and Sempervirens Fund) have not always agreed with each other on these matters. However, we all recognize that this is a pivotal moment in the history of the property. The future of Cotoni-Coast Dairies will be determined not only by the ideas memorialized in the management plan, but also by our collective ability to work with each other – community representatives, conservation organizations, and public agencies, including BLM.

In that spirit, the signatories to this letter have come together to produce a Proposal regarding the southern entrance. By approaching you with a unified voice, we hope to spur speedy resolution and timely implementation of well-designed public access on the southern portion of the Monument. We share with BLM and other resource agencies the goal of fully and responsibly opening Cotoni-Coast Dairies to the public as soon as possible, and offer this Proposal with the expectation that it will expedite implementation of the RMPA.

THE ISSUE - Absence of a Viable Southern Entrance

Problem: There is broad agreement that the Monument would be benefit from having two entrances to help distribute, and dilute, the recreational impacts. See Attachment B(1). Yet,

the southern entrance that is included in the RMPA (on the upper, or 2nd, Marine Terrace at "Marina Gate") is not viable. The RMPA acknowledges that there is no right of access from Highway 1 bisecting TPL's Agricultural Field to the Marina Gate. TPL has provided formal communication to BLM that it cannot grant this easement. The access easement bisecting the agricultural land would significantly impair the agricultural viability of the Field, potentially rendering approximately half of it unusable for agriculture. Furthermore, placement of a parking lot and associated infrastructure on the 2nd Marine Terrace as envisioned in the RMPA would irrevocably spoil a key scenic resource of the Monument, damage valuable wildlife habitat, place a high volume of public users in a relatively remote and sensitive portion of the property increasing wildfire risk and wildlife impacts, and could undermine the continued grazing uses of coastal grasslands in that area, reducing management options and placing grasslands at risk of further impairment by weeds and brush. As a result of these issues and concerns, the Marina Gate location proposed in the RMPA does not represent a path forward for a southern access point.

Proposed Solution and Next Steps: To provide for a viable second entrance at a location near Highway 1, TPL is prepared to draft and convey a formal Offer to Dedicate additional land to BLM *at no cost* (the Yellow Bank South Gate Alternative, see Attachment B(2)), for review and approval by both parties. Access in this alternative location represents the most viable path forward in the short term, and will also provide superior public access in the long term, as noted below. Based on initial discussions with the design team that has been assisting BLM in the RMPA process and other experts, TPL has completed an initial assessment of this option and informed BLM of its belief that public safety and blended beach/monument access considerations can be addressed through appropriate design at this location, even prior to construction of the proposed overpass.

BLM's Decision Record on the RMPA identifies only one objection to what it describes as "a proposal to relocate the Marina Ranch Gate access point to a new site on private lands managed by the Trust for Public Lands (TPL) adjacent to the BLM managed property. That objection is:

"The BLM does not have the authority to make decisions regarding private lands. Therefore, a decision to relocate the access point to this location is outside the scope of this RMPA."

In light of the fact that TPL owns the adjacent land and is willing to convey to BLM a draft formal Offer to Dedicate 2-3 acres of 1st Terrace farmland for this purpose to BLM at no cost, BLM could readily gain the authority to "relocate the Marina Ranch Gate access point" to the "Yellow Bank South Gate alternative" as TPL proposes.

The RMPA process is not final as to a challenged Implementation Action such as the Marina Ranch Gate Parking Lot until all appeals and any litigation are final. Hence it would appear that if Friends of the North Coast files an appeal to the Interior Board of Land Appeals and, for example, invokes the ADR process, the solution contained in in this Proposal could occur within the scope of the current RMPA.

We note that the proposed Yellow Bank South Gate alternative would address concerns raised by both agricultural and environmental experts. The Santa Cruz County Farm Bureau has applied its expertise to this situation and provides the following reasons why BLM's proposed access road to a proposed parking lot on the 2nd Terrace is unacceptable, followed by a willingness to work together to enable access and parking on the 1st Terrace.

In its Comment Letter of March 23, 2020, the Santa Cruz County Farm Bureau informed BLM that the original recorded "Stipulations" under which TPL acquired the entirety of the Coast Dairies Property by Assignment of the Corporate Stock of the Coast Dairies and Land Company contained the following restriction requiring (in pertinent part) that the Coast Dairies Property will be "preserved and used in perpetuity" as follows:

"The land currently in agricultural row crop production will be managed in such a way that continued agricultural use is feasible to the maximum extent possible, unless and until it is determined that conversion to other uses to enhance the Property's natural resource and biodiversity values would be desirable, feasible and beneficial..."

In the same Comment Letter, the Farm Bureau also noted that Coastal Development Permit 3-11-035, which enabled the land division which allowed the transfer of what is now the Monument land to BLM, concludes that agriculture also has priority over public recreation uses.

"[t]he Coastal Act also requires that public recreational uses take precedence over private residential and general industrial or commercial development, but not at the expense of agriculture or coastal-dependent industry (Section 30222)." (See page 11 of ADOPTED CDP (last sentence preceding "Analysis" heading)).

This spring, the Farm Bureau made a site visit to TPL's agricultural land between Yellow Bank and Laguna Road and informed TPL that the access easement sought by BLM bisecting that agricultural land would effectively render the southern half of that land unusable for agriculture (approximately 15 acres or more). This would not comply with the recorded restriction requiring that the land currently in agricultural row crop production will be managed in such a way that continued agricultural use is feasible to the maximum extent possible. Instead it would qualify as public recreational uses being at the expense of agriculture, a violation of Coastal Development Permit 3-11-035.

Since the Farm Bureau does not support development on farmland, but recognizes that that the Agricultural Conservation Easement allows "voluntary conveyance to a governmental agency for public access purposes," it is willing to find a southern entrance utilizing TPL's agricultural land, access along the Highway 1 frontage to a parking lot at the northern end of that agricultural land impacting ~2-3 acres to be acceptable, as long as the Farm Bureau is given notice of the specific design in time to be able to request agriculture-protective modifications.

The Santa Cruz Puma Project has also applied its expertise to the situation. Last October Dr. Chris Wilmers, leader of the Santa Cruz Puma Project, recommended in relation to the Marina Ranch Gate parking lot “that parking lots be placed adjacent to highway 1, so that natural areas in the core parts of mountain lion habitat are not impacted by an overabundance of people.”

The Yellow Bank South Gate location reduces impacts to agricultural uses on both the 1st and 2nd Marine Terraces, avoids impacts to sensitive scenic and natural resources, and provides opportunities to coordinate facility management with future rail-trail improvements. It would also avoid a circumstance in which all visitorship to the Monument is focused on a northern location, a primary concern of the Davenport North Coast Association.

The proffered TPL access road and parking lot opportunity could be accomplished (among other ways) by:

- (1) a minor lot line adjustment conveying TPL land to BLM; or
- (2) TPL providing an access easement to BLM’s benefit for this purpose.

Either approach would provide a superior amount of parking in a location that avoids the adverse impacts referenced above, preserves a southern access point, and provides other benefits, as noted in Attachment A. We believe all the key elements of a southern access point, including preserving the currently proposed trail system and equestrian access, providing universal access options and balancing access between the northern and southern areas of the Monument can be attained at this location. It is certainly preferable to having no southern entrance as is the result under the just-approved version of the RMPA.

TPL is also willing to explore providing interim parking at a southern entrance if safe access/egress and relevant permits can be secured. As an interim measure, this would likely be a dirt lot in the area proposed for the permanent/paved parking area at the northern end of its field, with access along the existing farm/frontage road.

We therefore propose that BLM and TPL, within the next 90 days, enter into an agreement to work together to secure funds, process permits, develop a plan as to timeframe, shared cost and long-term management of both short term and permanent parking at the proposed Yellow Bank South Gate location, and implement this alternative, with a goal of moving this effort forward with all reasonable speed to secure parking in this location.

Requested Action. We request that within 30 days of receipt of this letter, the BLM meet with the signatories to this letter to resolve the core concerns we have identified herein – either through the adoption of our proposed solution or acceptable alternative approaches that would successfully address these issues. If desired, these discussions could perhaps be facilitated by Senator Laird or Assemblymember Stone to assist in ensuring timely and productive efforts to secure an agreement and speed its implementation. Supervisor Coonerty could also be a potential facilitator, but the County’s decision-making role on this issue make this difficult. In closing, let us say again that each of the signatories to this letter are united in our desire for high-quality, timely public access in the southern portion of the Monument, and believe that the proposal outlined in this letter is the best path forward to this goal. We look forward to working

together with BLM, the resource agencies, and each other in implementation of this critical element of the RMPA.

Sincerely,
The Trust for Public Land

By: Christy Fischer, Bay Area and Central Coast Conservation Director

Santa Cruz Puma Project

By: Chris Wilmers

Friends of the North Coast

By: Jonathan Wittwer, President

Rural Bonny Doon Association

By: Kendra Turk-Kubo, authorized Director

Big Creek Lumber Company

DocuSigned by:
Janet M. Webb

9AD1828AA55F4C1...
By Janet Webb, President

Santa Cruz County Farm Bureau

By Arnett Young, President
(agriculture issues only)

Sempervirens Fund

DocuSigned by:
Sara Barth

1840BD2CCC4A484...
By Sara Barth, Executive Director


Attachments: A. ADDITIONAL PROPOSAL BENEFITS

together with BLM, the resource agencies, and each other in implementation of this critical element of the RMPA.

Sincerely,
The Trust for Public Land


By: Christy Fischer, Bay Area and Central Coast Conservation Director

Santa Cruz Puma Project


By: Chris Wilmers

Friends of the North Coast


By: Jonathan Wittwer, President

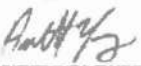
Rural Bonny Doon Association


By: Kendra Turk-Kubo, authorized Director

Big Creek Lumber Company


By Janet Webb, President

Santa Cruz County Farm Bureau


By Arnett Young, President
(agriculture issues only)

B. VISUALS

(1) Overview Map

(2) Southern Entrance visuals

- a. Yellow Bank South Gate Aerial with overlay
- b. BLM's Proposed RMPA Map of Marina Ranch Gate 2nd Terrace Parking Lot

Cc:

Karen Mouritsen, California State BLM Director
2800 Cottage Way Suite W1623
Sacramento, CA 95825
BLM_CA_Web_SO@blm.gov

Chris Heppe, District Manager
Central California District
5152 Hillsdale Circle
El Dorado Hills, CA 95762
cheppe@blm.gov

Nada Wolff Culver, Acting Director
Deputy Director of Policy and Programs
Bureau of Land Management
760 Horizon Drive
Grand Junction, CO 81506
nculver@blm.gov

California Coastal Commission
Attn. Dr. Kate Huckelbridge.
Deputy Director of Energy, Ocean Resources, & Federal Consistency
Kate.Huckelbridge@coastal.ca.gov

Santa Cruz County Regional Transportation Commission
Attn. Grace Blakeslee
info@sccrtc.org

County Supervisor Ryan Coonerty
Ryan.Coonerty@santacruzcounty.us

Congresswoman Anna Eshoo
c/o karen.chapman@mail.house.gov

Senator John Laird
c/o Angela.Chesnut@sen.ca.gov

Assemblymember Mark Stone

c/o Maureen.McCarty@asm.ca.gov

State Parks District Director Chris Spohrer
chris.spohrer@parks.ca.gov

CalTrans Senior Transportation Planner John Olejnik
john.olejnik@dot.ca.gov

Davenport North Coast Association
c/o johncbarnes@comcast.net

ATTACHMENT A

ADDITIONAL PROPOSAL BENEFITS

Attachment A

ADDITIONAL PROPOSAL BENEFITS

The specifics of the Proposal and its additional benefits are summarized below.

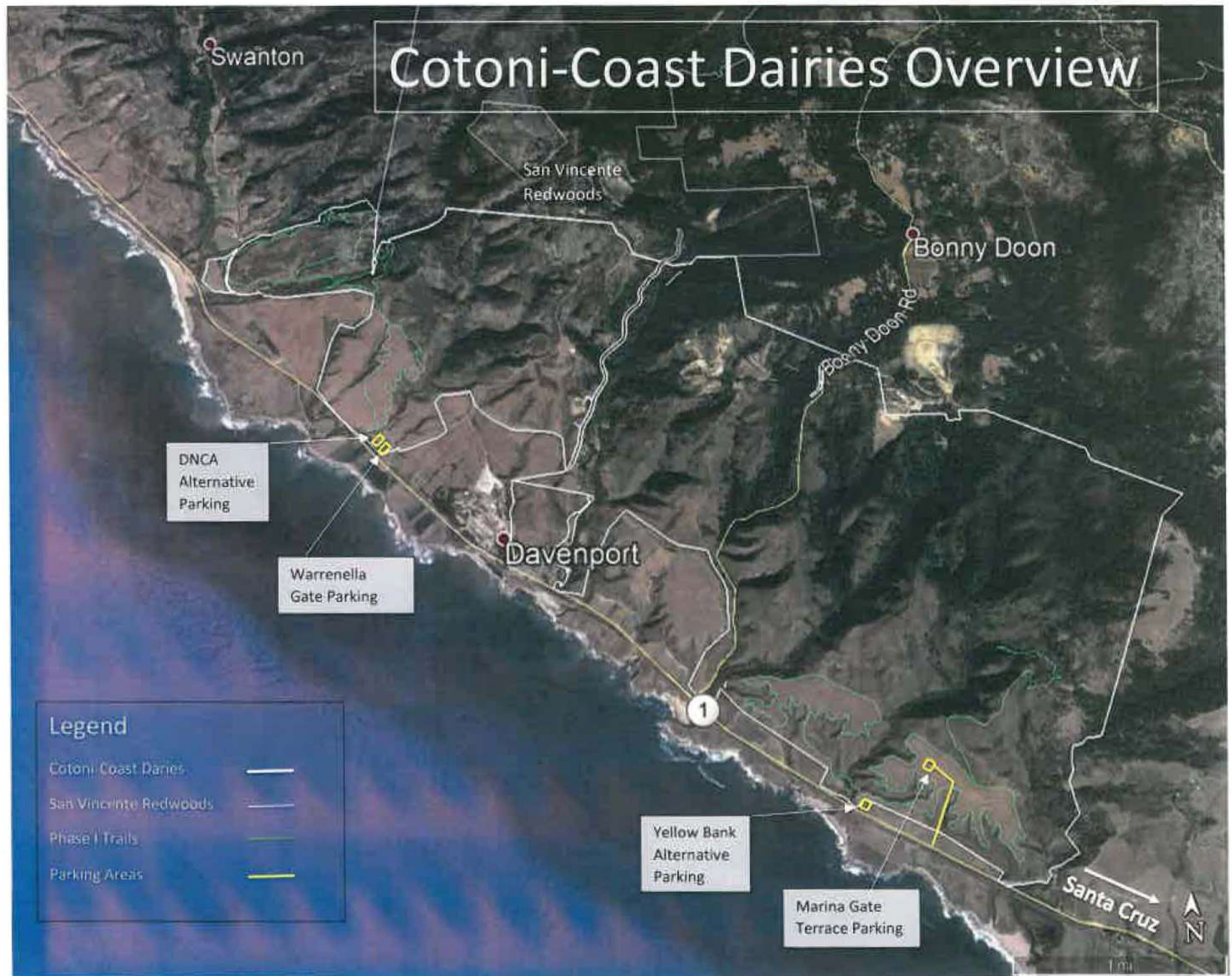
Southern Entrance parking lot - replace Marina Ranch Gate with Yellow Bank South Gate (creation enabled by TPL). ***Problems solved/benefits resulting:***

- a. provides increased parking (~75 spaces including 4 equestrian) compared to BLM's proposed Marina Gate lot (42 spaces including 4 equestrian), with blended uses between State Beach and Monument parking and potential room for future expansion if needed.
- b. avoids 2nd Terrace Parking Lot in critical fire hazard area which also adversely affects wildlife and spoils "key scenic features" of the Monument;
- c. clusters access facility near existing and proposed development along highway, at proposed BLM Trailhead;
- d. potential access to potable water/electricity for visitor serving facilities;
- e. enables overpass connectivity with rail trail facilities;
- f. enables mutual channelized intersection servicing both C-CD and Rail-Trail parking lots;
- g. avoids bisecting farm land compromising parcel's economic viability;
- h. avoids access road implicating traffic hazard at intersection with Highway 1 identified by Peer Review;
- i. avoids access road disrupting ephemeral stream; and
- j. potential for universal access via paved trail proposed by BLM from the Trailhead to the 2nd Terrace.

ATTACHMENT B(1)

Overview Map

Cotoni-Coast Dairies Overview



ATTACHMENT B(2)a

Yellow Bank South Gate Aerial with overlay



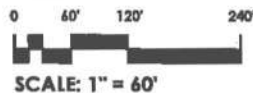
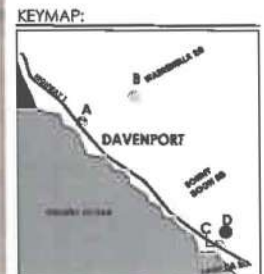
ATTACHMENT B(2)a

**BLM's Proposed RMPA Map
of Marina Ranch Gate 2nd Terrace Parking Lot**

COTONI-COAST DAIRIES DRAFT CONCEPTS



- LEGEND:**
- GRAVEL BASE
 - TRAIL OPPORTUNITY
 - RESTROOM
 - PICNIC SHELTER
 - OVERLOOK
 - CONTOUR LINES
 - CREEK ALIGNMENT
 - FENCING**
TOTAL: 4.21 ACRES (183,949 SF)
BREAKDOWN:
AGRICULTURAL ZONE: .20 AC (8,765 SF)
ROUNDABOUT TO TRAILHEAD: 1.71 AC (74,395 SF)
TRAILHEAD PARKING: 1.82 AC (79,440 SF)
 - GRADED AREA (PARKING & ENTRY DRIVE)**
4.57 ACRES (199,204 SF)
 - CONTOUR INTERVAL: 5'
 - PARKING CAPACITY:
42 STANDARD SPACES
4 EQUESTRIAN SPACES



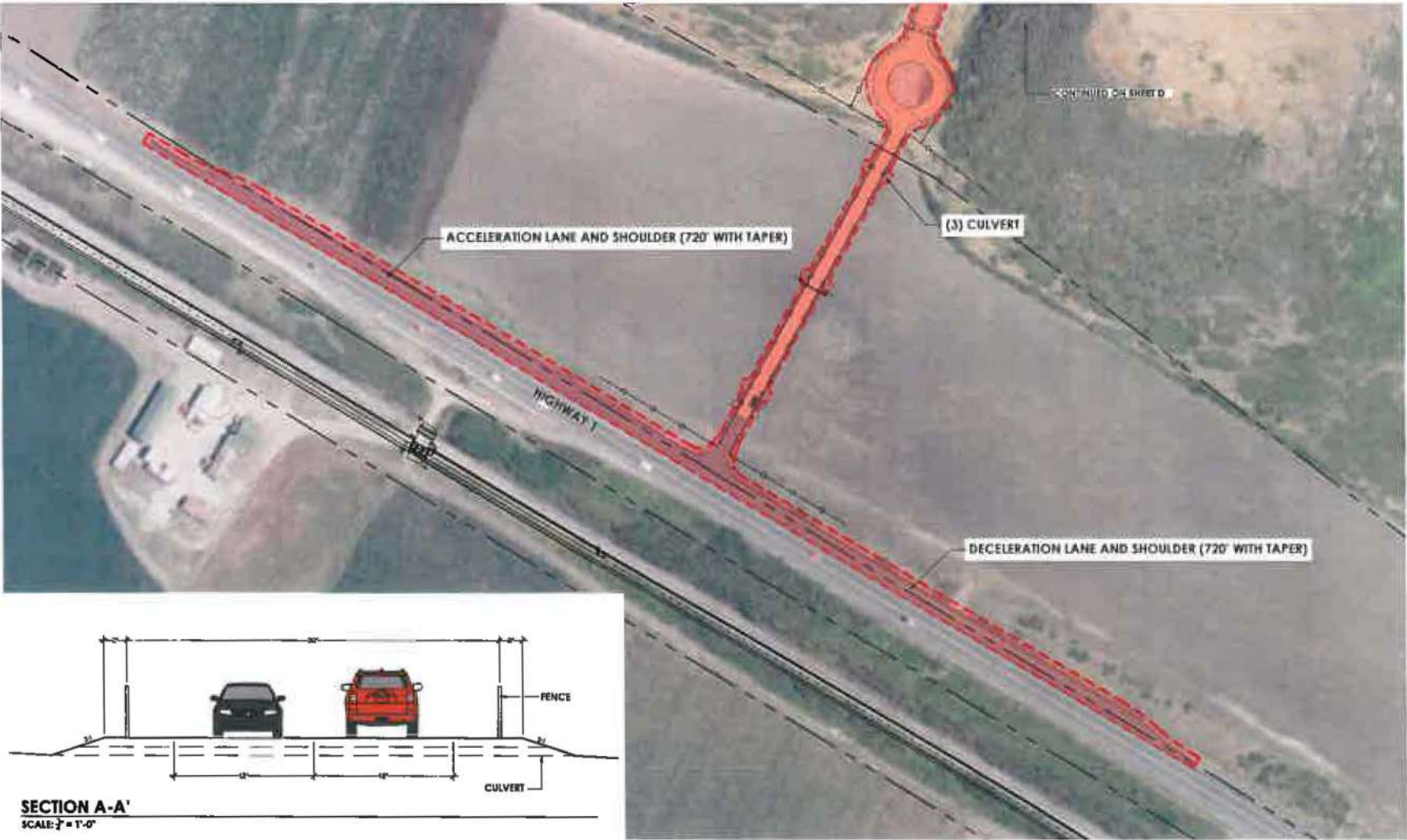
DRAFT CONCEPT: MARINA RANCH GATE

Cotoni-Coast Dairies Trailhead Feasibility Refinements

NOVEMBER 2019

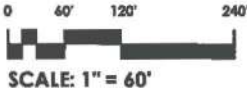
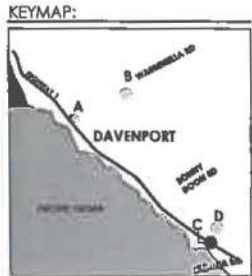
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COTONI-COAST DAIRIES DRAFT CONCEPTS



LEGEND:

- GRAVEL BASE
- ASPHALT
- TRAIL OPPORTUNITY
- RESTROOM
- PICNIC SHELTER
- OVERLOOK
- CONTOUR LINES
- CREEK ALIGNMENT
- FENCING
TOTAL: 4.21 ACRES (183,343 SF)
BREAKDOWN:
AGRICULTURAL ZONE: .20 AC (8,765 SF)
ROUNDBOUT TO TRAILHEAD: 1.71 AC (74,395 SF)
TRAILHEAD PARKING: 1.82 AC (79,440 SF)
- GRADED AREA (PARKING & ENTRY DRIVE)
4.67 ACRES (199,204 SF)
- CONTOUR INTERVAL: 5'



DRAFT CONCEPT: MARINA RANCH GATE

Cotoni-Coast Dairies Trailhead Feasibility Refinements

NOVEMBER 2019

C

EXHIBIT G

RECORDED AT THE REQUEST OF

County of Santa Cruz

WHEN RECORDED MAIL TO:

County of Santa Cruz Planning Dept.

Attention: **Todd Sexauer**

701 Ocean Street

Santa Cruz, CA 95060

Exempt from Recording Fees pursuant to Government Code 27383



2014-0044298 12/29/2014 01:48:40 PM

OFFICIAL RECORDS OF Santa Cruz County

Sean Saldavia Recorder

RECORDING FEE: \$0.00

COUNTY TAX: \$0.00

CITY TAX: \$0.00



EASE

28 PGS

RCD157

(Space above this line for recorder's use only)

Documentary Transfer Tax -\$0.00 per R&T 11922

Conservation Easement Deed

(Document title)

This page added to provide adequate space for recording information (Cal. Gov. Code §27361.6)

RECORDED AT THE REQUEST OF:
County of Santa Cruz

WHEN RECORDED MAIL TO:
County of Santa Cruz Government Center
701 Ocean Street, Room 4068
Santa Cruz, CA 95060
Attn: Planning Department

DEED OF AGRICULTURAL CONSERVATION EASEMENT
AND DEVELOPMENT RIGHTS

THIS DEED OF AGRICULTURAL CONSERVATION EASEMENT AND DEVELOPMENT RIGHTS (this "**Easement**") is dated (for reference purposes) as of December 17 2014 and is made by COAST DAIRIES & LAND CO., a California nonprofit public benefit corporation, ("**Grantor**") to the COUNTY OF SANTA CRUZ, a political subdivision of the State of California ("**Grantee**").

WITNESS THAT:

WHEREAS, Grantor is the owner in fee simple of certain real property in Santa Cruz County, California, more particularly described in Exhibit A attached hereto and incorporated herein by this reference (the "**Property**"), and generally shown on the map attached hereto as Exhibit A-1; and

WHEREAS, the Property possesses agricultural values as herein described of great importance to Grantor, the people of Santa Cruz County, the people of the State of California, and the public; and

WHEREAS, it is the intent of the County of Santa Cruz to further the agricultural land preservation policies established in the Santa Cruz County General Plan, Local Coastal Plan and County Code through the execution of this agreement; and

WHEREAS, Grantor and Grantee have prepared a "**Present Property Conditions Report**", dated as of that date indicated at the end of this instrument, on file with the Planning Department of Santa Cruz County, describing the Property and its improvements as of the date of this instrument, and hereby agree and acknowledge that said document accurately represents the condition of the Property for purposes of determining compliance with the covenants contained herein; and

WHEREAS, Grantor intends that the agricultural values of the Property be protected; and

WHEREAS, the County of Santa Cruz (the "**County**") has established an Agricultural Conservation Easement Program to help preserve Santa Cruz County's agricultural lands by accepting agricultural conservation easements; and

WHEREAS, Grantor and Grantee have entered into that certain Deed of Agricultural Conservation Easement and Development Rights recorded in Official Records of the County on May 13, 1999 as instrument No. 1999-0033958 ("**Existing Ag Easement**"), which covers a portion of the Property; and

WHEREAS, the County has approved the acquisition of the herein described easement; and

WHEREAS, Grantor intends, as owner of the Property, to convey to Grantee the right to ensure that the agricultural values of the Property are protected and preserved in perpetuity; and

WHEREAS, Grantee intends, by acceptance of the grant made hereby, forever to honor the intentions of Grantor to preserve and protect in perpetuity the agricultural values of the Property; and

WHEREAS, both Grantor and Grantee intend for the restrictions imposed by this Easement to be binding on Grantor and all Grantor's heirs, assigns, and successors in interest; and

WHEREAS, it is intended that this Easement is irrevocable and shall constitute enforceable restrictions within the meaning of Article XIII, Section 8 of the California Constitution and that said Easement shall thereby qualify as an enforceable restriction under the provisions of the California Revenue and Taxation Code Section 402.1;

NOW, THEREFORE, for good and valuable consideration, and in consideration of the mutual covenants, terms, conditions, and restrictions contained herein, and pursuant to the laws of the State of California including, inter alia, Sections 815-816 of the California Civil Code, Grantor does hereby voluntarily grant to Grantee an Agricultural Conservation Easement and Development Rights in gross in perpetuity over the Property of the nature and character and to the extent hereinafter set forth.

AGREEMENT

1. Purpose. It is the purpose of this Easement to enable the Property to remain in agricultural use for the production of food, fiber, or other animal or plant products by preserving and protecting in perpetuity its agricultural values, use and utility, and to prevent any use of the Property that would materially impair or interfere with its agricultural values, use or utility.
2. Affirmative Rights and Interests Conveyed. To accomplish the purpose of the Easement, the following rights and interests are conveyed to Grantee by this Easement:

(a) To identify, to preserve and to protect in perpetuity the agricultural value, use and utility, including the soil and water quality, of the Property. (The agricultural value, use and utility of the Property are hereinafter referred to collectively as the **"protected values"**.)

(b) To enter upon, inspect, observe, and study the Property for the purposes of (1) identifying the current uses and practices thereon and the baseline condition thereof, and (2) monitoring the uses and practices regarding the Property to determine whether they are consistent with this Easement. Such entry shall be permitted upon reasonable prior notice to Grantor, and shall be made in a manner that will not unreasonably interfere with Grantor's use and quiet enjoyment of the Property.

(c) To prevent any activity on or use of the Property that is inconsistent with the purpose of this Easement and to require, at Grantor's expense, the reasonable restoration of such areas or features of the Property that may be materially damaged by any inconsistent activity or use. However, it is the intention that this Easement not limit Grantor's discretion to employ the choice of farm and ranch uses and management practices so long as those uses and practices are consistent with federal, state and local laws and with the purpose of this Easement.

(d) To erect and maintain, with the consent of Grantor, a sign or other appropriate marker on the Property, visible from a public road, bearing information indicating that the Property is protected by an agricultural conservation easement owned by Grantee and donated by CDLC. As used herein, the term **"CDLC"** shall refer to Coast Dairies & Land Co., a California nonprofit public benefit corporation, and not any of its successors in interest to the fee title to the Property. The wording of the information and the location of the sign shall be determined by mutual consent of Grantor and Grantee. Grantee shall be responsible for the costs of erecting and maintaining such sign or marker.

3. Uses and Practices. The uses of the Property are confined to agriculture, ranching, limited farmer and farmworker housing associated with the agricultural use of the Property, and the other uses which are described in this Easement. Examples of permitted uses and practices are provided in Exhibit B, which is attached hereto and incorporated herein by reference. Examples of prohibited uses and practices are provided in Exhibit C, which is attached hereto and incorporated herein by reference. Exhibits B and C are not necessarily exhaustive recitals of consistent and inconsistent activities, respectively. Instead, they are intended to establish specific permitted and prohibited activities and to provide guidance in determining the consistency of other activities with the conservation purpose of the Easement.

3.1 Housing. Farmworker housing shall comply with current county farmworker housing ordinances.

3.2 Organic Agriculture. Organic agriculture shall be given preference on the Property, which shall mean that if, when Grantor is leasing all or a portion of the Property

there are multiple prospective tenants who are willing to rent such land on identical economic terms, credit history and farm and land management history and the only difference between such prospective tenants is that one tenant would use the land for organic agriculture and the other would not, Grantor shall lease the land to the organic grower. As used herein, the term “**organic agriculture**” shall mean agriculture practices established as “organic” by the USDA. This Section 3.2 shall not apply in the case of a renewal or extension of a lease involving a then-existing tenant of the Property.

3.3 Pesticides. Grantor agrees to limit any agricultural use of pesticide on the Property within a distance of not less than two hundred seventy five (275) feet from currently existing residences and schools within the town of Davenport.

4. Current Practices and Conditions. Grantee acknowledges by acceptance of this Easement that Grantor's present uses of the Property are compatible with the purpose of the Easement. In order to establish the present condition of the Property's protected values, Grantor and Grantee have prepared the Present Property Conditions Report. Grantor and Grantee recognize that changes in economic conditions, in agricultural technologies, in accepted farm and ranch management practices, and in the situation of Grantor may result in an evolution of agricultural uses of the Property. Any change in agricultural use of the Property shall be consistent with the purpose of this Easement.

5. Reserved Rights. Grantor reserves to itself, and to its personal representatives, heirs, successors, and assigns, all rights accruing from their ownership of the Property, including the right to engage in or permit or invite others, including members of the general public, to engage in all uses of the Property that are not expressly prohibited herein and are not inconsistent with the purpose of this Easement. Without limiting the generality of the foregoing, the following rights are expressly reserved: (a) all right, title, and interest in and to all tributary and non-tributary water, water rights (including all groundwater rights, be they appropriative, prescriptive, or contractual), and related interests in, on, under, or appurtenant to the Property, provided that such water rights are used on the Property or other areas of Grantor's adjacent property in a manner consistent with the purpose of this Easement; and (b) all right, title, and interest in and to subsurface oil, gas and minerals; provided that the manner of exploration for, and extraction of any oil, gas or minerals shall be only by a subsurface method, and shall not damage, impair or endanger the protected values of the Property. Existing third party rights in the Property shall not be affected by any limitations on use set forth in this Easement.

6. Grantee's Remedies. If Grantee determines that Grantor is in material violation of the terms of this Easement or that a material violation is threatened, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation. Where said violation involves injury to the Property resulting from any use or activity inconsistent with the purpose of this Easement, Grantee may require reasonable restoration of the portion of the Property so injured. If Grantor fails to cure said violation within thirty (30) days after receipt of written notice thereof from Grantee, or, if the violation cannot reasonably be cured within a thirty (30) day period and Grantor

fails to begin curing such violation within the thirty (30) day period, or fails to continue diligently to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, by temporary or permanent injunction, to recover any damages for any loss of the protected values, and/or may require the reasonable restoration of the Property to the condition that existed prior to any such injury. If Grantee, in its reasonable discretion, determines that circumstances require immediate action to prevent or mitigate significant and material damage to the protected values of the Property, Grantee may pursue its remedies under this paragraph without waiting for the period provided for cure to expire, provided that prior written notice is given to Grantor. Grantee's rights under this paragraph apply equally in the event of either actual or threatened material violations of the terms of the Easement. Grantor agrees that Grantee's remedies at law for any violation of the terms of the Easement may be inadequate and that Grantee may be entitled to the injunctive relief described in this paragraph, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement. Grantee's remedies described in this paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

6.1 Costs of Enforcement. In any action respecting enforcement of the terms of this Easement, the prevailing party shall receive from the other party costs of suit, including, without limitation, attorneys' fees, and, in such actions in which Grantee is the prevailing party, any costs or restoration necessitated by Grantor's material violation of the terms of the Easement, shall be borne by Grantor, all as allowed by the court.

6.2 Grantee's Discretion. Enforcement of the terms of the Easement shall be at the discretion of Grantee, and any forbearance by Grantee to exercise its rights under the Easement in the event of any breach of any terms of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of the Easement or of any Grantee's rights under the Easement. Reasonable delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall not impair such right or remedy or be construed as a waiver.

6.3 Acts Beyond Grantor's Control. Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from causes beyond Grantor's control, including, without limitation, fire, flood, storm, pest infestation, and earth movement, or from any reasonable action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes.

7. Costs and Taxes. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Property. Grantor shall pay any and all taxes, assessments, fees and charges levied by competent authority on the Property or on this Easement. It is intended that this Easement constitute an enforceable restriction within the meaning of Article XIII, Section 8 the

California Constitution and that this Easement qualify as an enforceable restriction under the provisions of California Revenue and Taxation Code Section 402.1.

8. Hold Harmless. Grantor shall hold harmless, indemnify, and defend Grantee and its officers, employees, agents, and contractors and the heirs, personal representatives, successors, and assigns of each of them (collectively "**Grantee's Indemnified Parties**") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of actions, claims, demands, or judgments, including, without limitation, reasonable attorneys' fees, arising from or in any way connected with: (a) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, unless arising out of or related to the negligence, gross negligence or intentional misconduct of any of Grantee's Indemnified Parties; and (b) the obligations specified in Section 7.

Grantee shall hold harmless, indemnify, and defend Grantor and its officers, employees, agents, and contractors and the heirs, personal representatives, successors, and assigns of each of them (collectively "**Grantor's Indemnified Parties**") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of actions, claims, demands, or judgments, including, without limitation, reasonable attorneys' fees, arising from or in any way connected with injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, arising out of or related to the negligence, gross negligence or intentional misconduct of any of Grantee's Indemnified Parties.

9. Access. No right of access by the general public to any portion of the Property is conveyed by this Easement. Nothing in this Easement shall be construed to preclude Grantor's right to grant access across the Property to third parties or the general public provided that access is allowed in a reasonable manner and is not inconsistent with the conservation purposes of this Easement.

10. Extinguishment. If circumstances arise in the future such as render the purpose of this Easement impossible to accomplish (such as if agriculture on the Property becomes no longer feasible), this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction, and the amount of the compensation to which Grantee shall be entitled from any sale, exchange, or involuntary conversion of all or any portion of the Property subsequent to such termination or extinguishment, shall be determined, unless otherwise provided by California law at the time, in accordance with Section 11; provided, however, because CDLC donated the Easement to Grantee, Grantee hereby assigns and pledges to CDLC any rights it has to any compensation under this Section 10, and agrees that any sums payable to Grantee under this Section 10 shall be paid directly to CDLC. CDLC shall not transfer CDLC's right to receive funds pursuant to this Section 10 to the fee owner of the Property.

11. Compensation. This Easement constitutes a real property interest immediately vested in Grantee. For the purposes of Sections 10 and 12, the parties stipulate that this Easement has a fair market value determined by multiplying (a) the fair market value of the Property unencumbered by the Easement (minus any increase in value attributable to improvements made after the date of this grant) by (b) the ratio of the value of the Easement at the time of this grant to the value of the Property, unencumbered by the Easement, at the time of this grant.

12. Condemnation. If the Property is taken, in whole or in part, by exercise of the power of eminent domain, Grantee shall be entitled to compensation in accordance with applicable law, and in accordance with Section 11 above, for the value of the Easement taken; provided, however, because CDLC donated the Easement to Grantee, Grantee hereby assigns and pledges to CDLC any rights it has to any compensation under this Section 12 in the event of eminent domain, and agrees that any sums payable to Grantee under this Section 12 in connection with a taking shall be paid directly to CDLC; and the Grantor shall be entitled to compensation in accordance with applicable law for the value of the underlying fee title taken. CDLC shall not transfer CDLC's right to receive funds pursuant to this Section 12 to the fee owner of the Property.

13. Assignment of Interest. Grantee may assign its interest in this Easement only to a "qualified organization", within the meaning of Section 170(h) of the Internal Revenue Code of 1954, as amended, or any successor provision, and which is authorized to acquire and hold conservation easements under California law upon obtaining the prior written consent of Grantor. Any assignment without such consent shall be void and of no effect. Such consent shall not be unreasonably withheld by Grantor.

14. General Provisions.

(a) Controlling Law. The interpretation and performance of this Easement shall be governed by the laws of the State of California. The Property and the terms and provisions herein shall be subject to all applicable laws, rules, codes and ordinances, including but not limited to the land use regulations of the County and the State of California. Nothing herein shall be deemed to diminish restrictions, rules or regulations set forth in the Santa Cruz County Code or any other applicable law.

(b) Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purpose of the Easement and the policy and purpose of the California Conservation Easement Act of 1979, as amended. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

(c) Severability. If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than

those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

(d) Entire Agreement. This instrument and the Present Property Conditions Report on file with the Planning Department of Santa Cruz County sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged herein.

(e) No Forfeiture. Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

(f) Successors. The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of the parties hereto and their respective heirs, successors, transferees and assigns and shall continue as a servitude running in perpetuity with the Property.

(g) Termination of Rights and Obligations. Upon transfer of a party's interest in the Easement or Property, the transferring party's rights and obligations under this instrument shall terminate, except that the transferring party's liability for acts or omissions accruing prior to transfer shall survive said transfer.

(h) Future Conveyance. Grantor agrees that reference to this Easement will be made in any subsequent deed or other legal instrument by means of which Grantor conveys any interest in the Property (including but not limited to a leasehold interest).

(i) Existing Ag Easement. If there is any conflict between the provisions herein and the Existing Ag Easement, the provisions herein shall control.

IN WITNESS WHEREOF, Grantor has executed this DEED OF AGRICULTURAL CONSERVATION EASEMENT AND DEVELOPMENT RIGHTS this 17th day of December 2014.

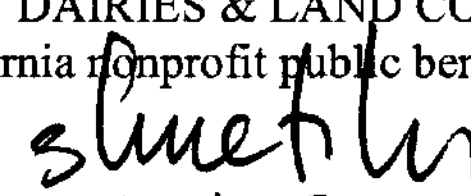
GRANTOR:

COAST DAIRIES & LAND CO.,
a California nonprofit public benefit corporation

By:

Name:

Title:


TILY SHUE
PRESIDENT

ACKNOWLEDGMENT

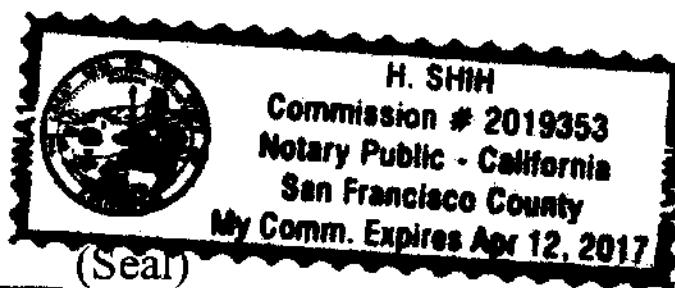
State of California
County of San Francisco

On December 17, 2014 before me, H. Shih,
Notary Public, personally appeared Tily Shue, who proved
to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to
the within instrument and acknowledged to me that ~~he~~/she/~~they~~ executed the same in ~~his~~/her/~~their~~
authorized capacity(ies), and that by ~~his~~/her/~~their~~ signature(s) on the instrument the person(s), or
the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

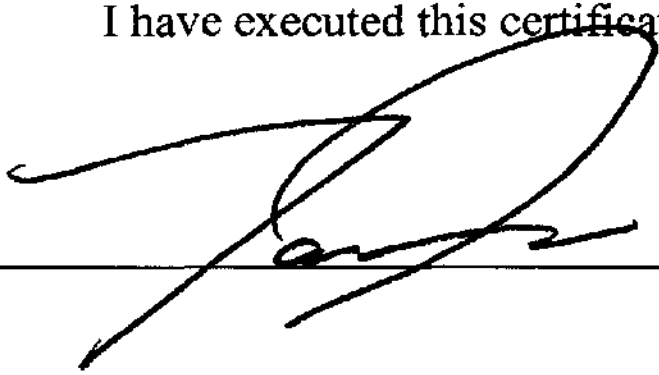
Signature H. Shih



CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the foregoing Deed of Agricultural Conservation Easement and Development Rights from Coast Dairies & Land Co., as Grantor, to the County of Santa Cruz, as Grantee, is hereby accepted by the undersigned officer on behalf of the County of Santa Cruz, and the Grantee consents to the recording of the Deed of Agricultural Conservation Easement and Development Rights by the County's duly authorized officer.

I have executed this certificate on Dec. 24, 2014

By:  _____

Name: Zach Friend
Chair of the Board of Supervisors,
County of Santa Cruz

EXHIBIT A
LEGAL DESCRIPTION

AGRICULTURAL PARCEL ONE

SITUATE in Sections 29 and 30, in Township 10 South, Range 3 West, Mount Diablo Base and Meridian, as projected into the Rancho Agua Puerca Y Las Trancas, in the County of Santa Cruz, State of California; and

BEING a portion of the lands of Coast Dairies and Land Company, as said lands are described in that certain Grant Deed recorded August 4, 1905 in Volume 165 of Deeds, at Page 422, Santa Cruz County Records; and being more particularly described as follows:

BEGINNING at a 6" x 6" concrete monument found at an angle point in the Northeasterly line of State Highway One easterly of the intersection of Swanton Road with State Highway One, as said angle point is shown on that certain map entitled "Right of Way Record Map" by the Department of Transportation, State of California, Sheet No. R-508.16 last revised on September 28, 1961, available from the office of the County Surveyor of Santa Cruz County, also being the Southwesterly line of the lands conveyed by the State of California to Coast Dairies and Land Company on June 2, 1941 by Grant Deed recorded in Volume 408 of Official Records, at Page 386, Santa Cruz County Records; thence from said point of beginning along said Northeasterly line of State Highway One

1. North 28° 13' 51" West, a distance of 155.02 feet, to an angle point; thence
2. North 51° 02' 59" West, a distance of 83.86 feet, to an angle point that is the intersection of the centerline of Swanton Road with the Northeasterly line of said State Highway One, thence continuing
3. North 51° 02' 59" West, a distance of 73.86 feet, to an angle point; thence
4. Along a non-tangent curve to the right, of radius 575 feet, from a tangent bearing of South 20° 40' 59" East, through a central angle of 10° 18' 20", for an arc length of 103.42 feet, to an angle point; thence
5. North 51° 02' 59" West, a distance of 2666.30 feet, to an angle point; thence
6. North 38° 57' 01" East, a distance of 60.00 feet, to the most Northerly corner of said lands conveyed to Coast Dairies per Grant Deed, Volume 408 of Official Records, at Page 386, Santa Cruz County Records; thence continuing along the Northeasterly line of State Highway One
7. North 51° 02' 59" West, a distance of 422.14 feet, to an angle point; thence
8. North 20° 28' 58" West, a distance of 139.18 feet, to an angle point; thence

9. Along a non-tangent curve to the right having a radius of 1246.69 feet, from a tangent bearing of North 42° 22' 28" West, through a central angle of 13° 48' 38", for an arc length of 300.50 feet, to an angle point; thence
10. North 18° 22' 33" West, a distance of 338.72 feet, to an angle point; thence
11. North 01° 11' 37" East, a distance of 301.24 feet, to an angle point; thence
12. North 30° 26' 28" West, a distance of 122.42 feet, to an angle point, from which a set ½-inch iron pipe tagged RCE 20919 bears South 84° 08' 21" East, 4.47 feet distant, thence leaving the Northeasterly line of said State Highway One
13. South 84° 08' 21" East, a distance of 2160.65 feet, (at 4.47 feet, a set ½-inch iron pipe tagged RCE 20919), to a set ½-inch iron pipe tagged RCE 20919 set at an angle point, thence
14. North 81° 53' 42" East, a distance of 2245.99 feet, to a set ½-inch iron pipe tagged RCE 20919 at an angle point, thence
15. South 70° 26' 56" East, a distance of 605.65 feet, to a set ½-inch iron pipe tagged RCE 20919 at an angle point; thence
16. South 08° 26' 07" West, a distance of 766.31 feet, to a set ½-inch iron pipe tagged RCE 20919 at an angle point; thence
17. South 48° 33' 09" West, a distance of 683.70 feet, to a set ½-inch iron pipe tagged RCE 20919 at an angle point; thence
18. North 73° 13' 09" West, a distance of 448.74 feet, to a set ½-inch iron pipe tagged RCE 20919 at an angle point; thence
19. South 22° 37' 22" West, a distance of 638.61 feet, to a set ½-inch iron pipe tagged RCE 20919 at an angle point; thence
20. South 13° 36' 38" West, a distance of 1728.14 feet, to an angle point on the Northeasterly line of said State Highway One, also being the Southwesterly line of the lands conveyed by the State of California to Coast Dairies and Land Company on June 2, 1941 by Grant Deed recorded in Volume 408 of Official Records, at Page 386, Santa Cruz County Records; from which a set ½-inch iron pipe tagged RCE 20919 bears North 13° 36' 38" East, 8.61 feet distant; thence continuing along said Northeasterly line of said State Highway One
21. North 54° 15' 54" West, a distance of 393.19 feet, to the POINT OF BEGINNING.

SUBJECT TO an Easement for ingress and egress and utility purposes, as said Easement is described in that certain EXHIBIT "EASE-A", attached hereto and made a part hereof; and also

SUBJECT TO an Easement, a strip of land 40 feet in width, known as Swanton Road, a County road.

The BASIS of BEARINGS for this description is based upon the California Coordinate System, NAD 83 (1991.35), Zone 3.

Contains 208.3 Acres, a little more or less.

Description prepared by Robert L. DeWitt & Associates, Inc., Civil Engineers and Land Surveyors, from field survey and Official Records, in November, 2012.

APN 058-022-11 (portion)

AGRICULTURAL PARCEL TWO

SITUATE in Sections 28, 32 and 33, in Township 10 South, Range 3 West, Mount Diablo Base and Meridian, as projected into the Rancho San Vicente, in the County of Santa Cruz, State of California; and

BEING a portion of the lands of Coast Dairies and Land Company, as said lands are described in that certain Grant Deed recorded April 10, 1901, in Volume 136 of Deeds, at Page 453, Santa Cruz County Records; and being more particularly described as follows:

BEGINNING at the most Westerly corner of the lands shown on the map entitled "Davenport Subdivision No. 1" recorded in Volume 18 of Maps, at Page 27, Santa Cruz County Records, said point of beginning also being an angle point of a Southeasterly boundary of said lands of Coast Dairies and Land Company and being a point on the Northeasterly line of Old Coast Road, now known as Cement Plant Road, from which point a 2-inch iron pipe, tagged LS 5513, found at the most Southerly corner of said Subdivision No. 1, bears South $41^{\circ} 08' 14''$ East 519.82 feet distant; thence from said point of beginning along said Northeasterly line of said Cement Plant Road

1. North $41^{\circ} 08' 14''$ West, a distance of 759.17 feet, to an angle point; thence leaving said Northeasterly line and continuing along the boundary of said lands of Coast Dairies and Land Company,
2. Along a curve to the right, having a radius of 328.39 feet, from a tangent bearing of North $03^{\circ} 42' 32''$ East, through a central angle of $00^{\circ} 52' 21''$, for an arc distance of 5.00 feet, to a set ½-inch iron pipe, tagged RCE 20,919, thence continuing
3. Along said curve to the right through a central angle of $46^{\circ} 23' 53''$, for an arc distance of 265.93 feet to a set ½-inch iron pipe, tagged RCE 20,919 at the point of tangency; thence
4. North $50^{\circ} 58' 46''$ East, a distance of 201.00 feet, to a set ½-inch iron pipe, tagged RCE 20,919 at an angle point; thence
5. North $78^{\circ} 29' 14''$ West, a distance of 38.90 feet, to a set ½-inch iron pipe, tagged RCE 20,919 at an angle point; thence
6. North $76^{\circ} 40' 16''$ East, a distance of 382.05 feet, to a set ½-inch iron pipe, tagged RCE 20,919 at an angle point; thence
7. North $66^{\circ} 24' 48''$ East, a distance of 597.48 feet, to a set ½-inch iron pipe, tagged RCE 20,919 at an angle point, thence
8. North $71^{\circ} 36' 08''$ East, a distance of 258.84 feet, to a set ½-inch iron pipe, tagged RCE 20,919 at an angle point; thence
9. North $52^{\circ} 06' 57''$ East, a distance of 339.00 feet, to a set ½-inch iron pipe, tagged RCE 20,919 at an angle point; thence

10. North 16° 33' 18" West, a distance of 93.02 feet, to a set ½-inch iron pipe, tagged RCE 20,919 at an angle point; thence
11. North 16° 12' 31" West, a distance of 935.81 feet, to a set ½-inch iron pipe, tagged RCE 20,919 at an angle point; thence
12. North 46° 29' 23" East, a distance of 319.73 feet, to a set ½-inch iron pipe, tagged RCE 20,919 at an angle point; thence
13. North 88° 36' 25" East, a distance of 444.11 feet, to a set ½-inch iron pipe, tagged RCE 20,919 at an angle point; thence
14. North 78° 38' 24" East, a distance of 396.50 feet, to a set ½-inch iron pipe, tagged RCE 20,919 at an angle point; thence
15. South 13° 39' 17" East, a distance of 489.86 feet, to a set ½-inch iron pipe, tagged RCE 20,919 at an angle point; thence
16. South 41° 47' 15" East, a distance of 418.56 feet, to a set ½-inch iron pipe, tagged RCE 20,919 at an angle point; thence
17. South 46° 51' 48" East, a distance of 290.28 feet, to a set ½-inch iron pipe, tagged RCE 20,919 at an angle point; thence
18. South 58° 29' 16" East, a distance of 642.42 feet, to a set ½-inch iron pipe, tagged RCE 20,919 at an angle point; thence
19. South 84° 15' 42" East, a distance of 1128.02 feet, to a set ½-inch iron pipe, tagged RCE 20,919 at an angle point; thence
20. South 57° 38' 43" East, a distance of 351.57 feet, to a set ½-inch iron pipe, tagged RCE 20,919 at an angle point; thence
21. South 14° 04' 15" West, a distance of 1105.98 feet, to a set ½-inch iron pipe, tagged RCE 20,919 at an angle point; thence
22. South 14° 04' 15" West, a distance of 64.45 feet, a little more or less, to an angle point on the Northwesterly line of a right of way 100 feet in width, lands of CEMEX USA, as described in Volume 167 of Deeds at Page 443, Official Records of the County of Santa Cruz; thence along said Northwesterly line
23. South 82° 15' 19" West, a distance of 1401.52 feet, to an angle point on the Northern boundary of the lands of LONESTAR CALIFORNIA, INC., as said lands are described in that certain Grant Deed recorded April 3, 2000, as Document No. 2000-0015806; thence along said Northerly line
24. North 69° 29' 41" West, a distance of 729.36 feet, to an angle point; thence
25. South 30° 30' 19" West, a distance of 454.33 feet, to an angle point; thence

26. North 45° 41' 41" West, a distance of 1100.74 feet, to a 6" x 6" concrete monument, marked S.C.P.C.Co. No. 3 at an angle point; thence

27. South 40° 52' 44" West, a distance of 686.70 feet, to an angle point at the most Easterly corner of said Davenport Subdivision No. 1; thence along the Northeasterly boundary of said Subdivision No. 1

28. North 49° 02' 16" West, a distance of 514.78 feet, to the most Northerly corner of said Subdivision No. 1, from which corner a ½-inch iron pipe bears South 40° 52' 44" West, 1.83 feet distant; thence along the Northwesterly boundary of said Subdivision No. 1

29. South 40° 52' 44" West, a distance of 472.76 feet, to the POINT OF BEGINNING.

TOGETHER WITH an Easement for ingress, egress, and utility purposes, being a strip of land 25 feet in width, known as Warnella Road, as described in EXHIBIT "EASE-A1", attached hereto and made a part hereof.

SUBJECT TO an Easement for ingress, egress, and utility purposes, being a strip of land 25 feet in width, known as Warnella Road, as described in EXHIBIT "EASE-A2", attached hereto and made a part hereof.

The BASIS of BEARINGS for this description is based upon the California Coordinate System, NAD 83 (1991.35), Zone 3.

Contains 179.9 Acres, a little more or less.

Description prepared by Robert L. DeWitt & Associates, Inc., Civil Engineers and Land Surveyors, from field survey and Official Records, in November, 2012.

APN 058-022-11 (portion)

AGRICULTURAL PARCEL THREE

SITUATE in Sections 33 and 34, Township 10 South, Range 3 West, and Sections 3, 4, 10, and 11, Township 11 South, Range 3 West, Mount Diablo Base and Meridian, as projected into the Rancho Arroyo De La Laguna, in the County of Santa Cruz, State of California; and

BEING a portion of the lands of Coast Dairies and Land Company, as said lands are described in that certain Grant Deed recorded April 10, 1901, in Volume 136 of Deeds, at Page 453, Santa Cruz County Records; and

BEING more particularly described as follows:

BEGINNING for reference at a point of intersection of the Northeasterly sideline of State Highway One with the Westerly boundary of the Rancho Arroyo De La Laguna; thence from said reference POINT OF BEGINNING along said Northeasterly sideline South 61° 44' 45" East 153.56 feet, more or less, and South 50° 14' 00" East 15.64 feet to a point on said Northeasterly sideline, and being the TRUE POINT OF BEGINNING, from which point a ½-inch iron pipe tagged RCE 20919 bears North 16° 34' 42" East, 5.34 feet distant; thence leaving said Northeasterly sideline of State Highway One

1. North 16° 34' 42" East, a distance of 5.34 feet, to a set ½-inch iron pipe tagged RCE 20919;
thence continuing

2. North 16° 34' 42" East, a distance of 1214.45 feet, to a set ½-inch iron pipe tagged RCE 20919 set at an angle point; thence

3. North 44° 36' 38" East, a distance of 473.35 feet, to a set ½-inch iron pipe tagged RCE 20919 set at an angle point; thence

4. North 25° 52' 26" East, a distance of 618.92 feet, to a set ½-inch iron pipe tagged RCE 20919 set at an angle point; thence

5. North 44° 53' 41" East, a distance of 764.46 feet, to a set ½-inch iron pipe tagged RCE 20919 set at an angle point; thence

6. South 49° 01' 58" East, a distance of 1482.10 feet, to a set ½-inch iron pipe tagged RCE 20919 set at an angle point; thence

7. South 58° 17' 33" East, a distance of 284.95 feet, to a set ½-inch iron pipe tagged RCE 20919 set at an angle point; thence

8. South 75° 50' 38" East, a distance of 808.27 feet, to a set ½-inch iron pipe tagged RCE 20919 set at an angle point; thence

9. South 09° 11' 32" East, a distance of 396.70 feet, to a set ½-inch iron pipe tagged RCE 20919 set at an angle point; thence

10. South 24° 10' 29" East, a distance of 577.55 feet, to a set ½-inch iron pipe tagged RCE 20919 set at an angle point; thence

11. South 13° 18' 02" East, a distance of 299.99 feet, to a set ½-inch iron pipe tagged RCE 20919 set at an angle point; thence
12. South 05° 26' 05" West, a distance of 1162.49 feet, to a set ½-inch iron pipe tagged RCE 20919 set at an angle point; thence
13. South 50° 59' 36" West, a distance of 949.36 feet, to a set ½-inch iron pipe tagged RCE 20919 set at an angle point; thence
14. South 31° 22' 54" West, a distance of 1087.60 feet, to a set ½-inch iron pipe tagged RCE 20919 set at an angle point; thence continuing
15. South 31° 22' 54" West, a distance of 36.84 feet, to an angle point, which point is 10.00 feet, measured at right angles, from the Northeasterly side line of State Highway One; thence continuing on a line parallel to and 10.00 feet distant, measured at right angles, from said Northeasterly side line
16. South 40° 32' 45" East, a distance of 301.60 feet, thence
17. North 50° 44' 45" East, a distance of 124.79 feet, to the beginning of a non-tangent curve to the left; thence
18. Along said curve, of radius 410.00 feet, from a tangent bearing of South 86° 40' 21" East, through a central angle of 30° 44' 24" for an arc distance of 219.79 feet; thence
19. North 62° 35' 15" East, a distance of 62.82 feet, thence
20. South 33° 20' 00" East, a distance of 17.82 feet, thence
21. South 50° 44' 45" West, a distance of 367.58 feet, thence continuing on a line parallel to and 10.00 feet distant, measured at right angles, from said Northeasterly side line of State Highway One
22. South 39° 15' 56" East, a distance of 385.06 feet, to an angle point; thence leaving said parallel line
23. North 30° 11' 00" East, a distance of 46.26 feet, to a set ½-inch iron pipe tagged RCE 20919; thence continuing
24. North 30° 11' 00" East, a distance of 588.60 feet, to a set ½-inch iron pipe tagged RCE 20919 set at an angle point; thence
25. South 36° 30' 51" East, a distance of 777.37 feet, to a set ½-inch iron pipe tagged RCE 20919 set at an angle point; thence
26. South 51° 24' 02" East, a distance of 2600.03 feet, to a set ½-inch iron pipe tagged RCE 20919 set at an angle point; thence
27. South 33° 12' 48" West, a distance of 515.20 feet, to a set ½-inch iron pipe tagged RCE 20919; thence continuing

28. South 33° 12' 48" West, a distance of 15.46 feet, to an angle point, which point is 10.00 feet, measured at right angles, from the Northeasterly side line of State Highway One; thence continuing on a line parallel to and 10.00 feet distant, measured at right angles, from said Northeasterly side line
29. South 53° 53' 56" East, a distance of 96.05 feet, to an angle point; thence
30. North 36° 06' 04" East, a distance of 20.00 feet, to an angle point; thence
31. South 53° 53' 56" East, a distance of 354.45 feet, to an angle point; thence
32. South 74° 56' 11" East, a distance of 139.28 feet, to an angle point; thence
33. South 53° 53' 56" East, a distance of 206.00 feet, to an angle point; thence
34. South 08° 53' 56" East, a distance of 70.71 feet, to an angle point; thence
35. South 53° 53' 56" East, a distance of 79.24 feet, to an angle point; thence
36. South 36° 06' 04" West, a distance of 19.99 feet, to the beginning of a non-tangent curve to the left; thence
37. Along said curve, of radius 9932.14 feet, from a tangent bearing of South 53° 58' 16" East, through a central angle of 00° 35' 21" for an arc distance of 102.15 feet, to a point of non-tangency; thence
38. North 68° 58' 28" East, a distance of 67.71 feet, to an angle point; thence leaving said parallel line
39. North 43° 51' 19" East, a distance of 32.91 feet, to a set ½-inch iron pipe tagged RCE 20919; thence continuing
40. North 43° 51' 19" East, a distance of 252.44 feet, to a set ½-inch iron pipe tagged RCE 20919; thence
41. South 61° 31' 15" East, a distance of 2076.73 feet, to a set ½-inch iron pipe tagged RCE 20919 set at an angle point; thence
42. South 53° 07' 07" East, a distance of 1673.15 feet, to a set ½-inch iron pipe tagged RCE 20919 set at an angle point; thence
43. South 39° 39' 07" West, a distance of 238.51 feet, to a set ½-inch iron pipe tagged RCE 20919; thence continuing
44. South 39° 39' 07" West, a distance of 40.46 feet, to an angle point on the Northeasterly side line of State Highway One; thence along said Northeasterly side line
45. North 59° 10' 47" West, a distance of 323.02 feet, to an angle point; thence
46. South 30° 49' 13" West, a distance of 16.57 feet, to an angle point; thence

47. North 60° 47' 36" West, a distance of 122.07 feet, to an angle point; thence
48. North 59° 10' 47" West, a distance of 1205.25 feet, to a point of intersection of EASEMENT G, as said easement is described in EXHIBIT "EASE-G", attached hereto and made a part hereof: thence continuing along said Northeasterly side line
49. North 59° 10' 47" West, a distance of 815.64 feet, to an angle point; thence
50. North 57° 56' 04" West, a distance of 705.15 feet, to an angle point; thence
51. North 55° 31' 32" West, a distance of 341.60 feet, to an angle point; thence
52. North 53° 04' 12" West, a distance of 178.47 feet, to an angle point; thence
53. North 34° 30' 52" West, a distance of 81.11 feet, to an angle point; thence
54. South 68° 58' 28" West, a distance of 56.04 feet, to the beginning of a non-tangent curve to the right; thence
55. Along said curve of Radius 9942.14 feet, from a tangent bearing of North 54° 35' 29" West, through a central angle of 0° 40' 40" for an arc length of 117.63 feet, to a point of non-tangency; thence
56. North 36° 06' 04" East, a distance of 20.00 feet, to a found 6" x 6" concrete CALTRANS monument at an angle point; thence
57. North 53° 53' 56" West, a distance of 28.29 feet, to a point of intersection of EASEMENT F, as said easement is described in EXHIBIT "EASE-F", attached hereto and made a part hereof: thence continuing along said Northeasterly side line
58. North 53° 53' 56" West, a distance of 45.09 feet, to a found 6" x 6" concrete CALTRANS monument at an angle point; thence
59. North 08° 53' 56" West, a distance of 70.71 feet, to an angle point; thence
60. North 53° 53' 56" West, a distance of 200.00 feet, to an angle point; thence
61. North 74° 56' 11" West, a distance of 139.28 feet, to an angle point; thence
62. North 53° 53' 56" West, a distance of 346.31 feet, to an angle point; thence
63. South 36° 06' 04" West, a distance of 20.00 feet, to an angle point; thence
64. North 53° 53' 56" West, a distance of 783.45 feet, to an angle point; thence
65. North 33° 20' 36" West, a distance of 85.42 feet, to an angle point; thence
66. North 64° 31' 06" West, a distance of 79.35 feet, to a point of intersection of EASEMENT E, as said easement is described in EXHIBIT "EASE-E", attached hereto and made a part hereof: thence continuing along said Northeasterly side line

67. North 64° 31' 06" West, a distance of 83.40 feet, to an angle point; thence
68. North 53° 53' 56" West, a distance of 799.83 feet, to an angle point; thence
69. North 47° 18' 06" West, a distance of 758.76 feet, to a point of intersection of EASEMENT D, as said easement is described in EXHIBIT "EASE-D", attached hereto and made a part hereof; thence continuing along said Northeasterly side line
70. North 47° 18' 06" West, a distance of 415.67 feet, to an angle point; thence
71. North 39° 15' 56" West, a distance of 828.50 feet, to an angle point; thence
72. North 50° 44' 45" East, a distance of 367.53 feet, to an angle point; thence
73. South 62° 35' 15" West, a distance of 52.77 feet, to the beginning of a tangent curve to the right; thence
74. Along said curve of Radius 420.00 feet, through a central angle of 30° 12' 20", for an arc length of 221.42, to a 6" X 6" concrete Caltrans monument; thence
75. South 50° 44' 45" West, a distance of 130.70 feet, to an angle point; also being the Northeasterly side line of State Highway One; thence continuing on said Northeasterly side line
76. North 40° 32' 45" West, a distance of 467.20 feet, to a point of intersection of EASEMENT C, as said easement is described in EXHIBIT "EASE-C", attached hereto and made a part hereof; thence continuing along said Northeasterly side line
77. North 40° 32' 45" West, a distance of 1158.29 feet, to an angle point; thence
78. North 05° 21' 15" West, a distance of 25.81 feet, to the beginning of a tangent curve to the left; thence
79. Along said curve of Radius 220.00 feet, through a central angle of 31° 06' 00" for an arc length of 119.42 feet, to a point of non-tangency; thence
80. North 33° 33' 15" West, a distance of 252.79 feet, to an angle point; thence
81. North 47° 47' 25" West, a distance of 671.28 feet, to an angle point; thence
82. North 50° 35' 45" West, a distance of 53.32, to a point of intersection of EASEMENT B, as said easement is described in EXHIBIT "EASE-B", attached hereto and made a part hereof; thence continuing along said Northeasterly side line
83. North 50° 35' 45" West, a distance of 546.68 feet, to an angle point; thence
84. North 50° 14' 00" West, a distance of 733.80 feet, to the TRUE POINT OF BEGINNING.

SUBJECT TO an Easement for ingress, egress, and utility purposes, being a strip of land 20 feet in width, designated EASEMENT B, as described in EXHIBIT "EASE-B", attached hereto and made a part hereof, and

SUBJECT TO an Easement for ingress, egress, and utility purposes, being a strip of land 20 feet in width, designated EASEMENT C, as described in EXHIBIT "EASE-C", attached hereto and made a part hereof, and

SUBJECT TO an Easement for ingress, egress, and utility purposes, being a strip of land 20 feet in width, designated EASEMENT D, as described in EXHIBIT "EASE-D", attached hereto and made a part hereof, and

SUBJECT TO an Easement for ingress, egress, and utility purposes, being a strip of land 20 feet in width, designated EASEMENT E, as described in EXHIBIT "EASE-E", attached hereto and made a part hereof, and

SUBJECT TO an Easement for ingress, egress, and utility purposes, being a strip of land 20 feet in width, designated EASEMENT F, as described in EXHIBIT "EASE-F", attached hereto and made a part hereof, and

SUBJECT TO an Easement for ingress, egress, and utility purposes, being a strip of land 20 feet in width, designated EASEMENT G, as described in EXHIBIT "EASE-G", attached hereto and made a part hereof.

The BASIS of BEARINGS for this description is based upon the California Coordinate System, NAD 83 (1991.35), Zone 3.

Contains 352 Acres, a little more or less.

Description prepared by Robert L. DeWitt & Associates, Inc., Civil Engineers and Land Surveyors, from field survey and Official Records, in March, 2013.

APN 058-122-13 (portion)

APN 059-011-04, -10, -11, and -13 (portions)

EXHIBIT A - 1

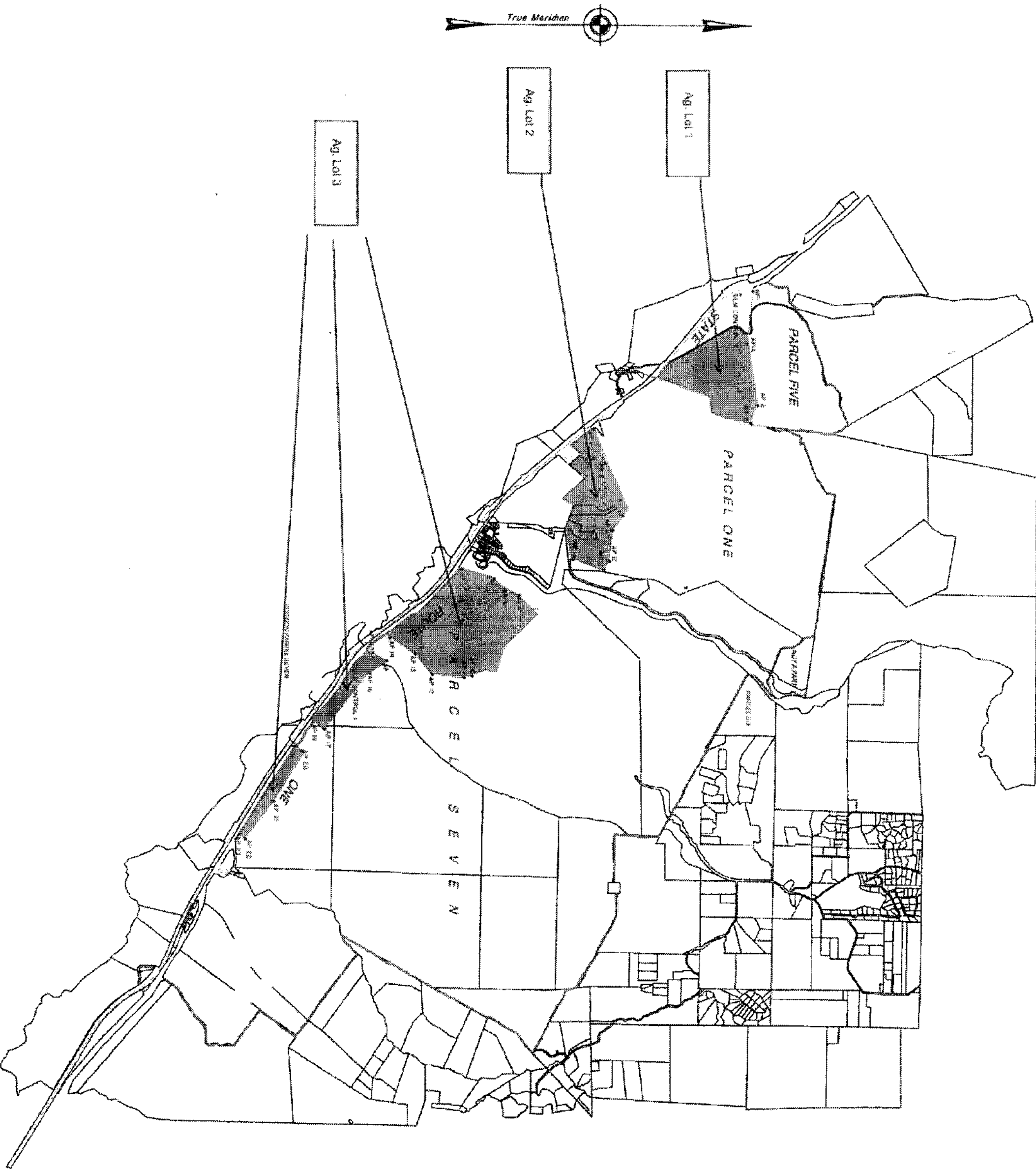


EXHIBIT B

PERMITTED USES AND PRACTICES

The following uses and practices are not necessarily an exhaustive recital of uses and practices consistent with the Easement. However, these uses and practices are permitted under this Easement, provided that they are undertaken in accordance with the agricultural conservation purposes of this Easement and that all applicable governmental approvals and permits are properly obtained.

1. Residing of farmers and farmworkers on the Property consistent with the agricultural conservation purpose of this Easement.
2. Engaging in any and all agricultural uses of the Property in accordance with sound, generally accepted agricultural practices and consistent with the Present Property Conditions Report on file with the County. For the purpose of this Easement, "agricultural uses" means: breeding, raising, pasturing, and grazing, harvesting, and producing agricultural, aquacultural, horticultural, and forestry crops and products of every nature and description (provided, timber may only be harvested to the extent allowed in Section 7 of Exhibit C below); and the processing, storage, and sale, including direct retail sale to the public, of crops and products harvested and produced principally on the Property.
3. Maintaining or repairing existing structures, houses, barns, packing sheds, cooling facilities, roadside marketing stands, water-pollution-control facilities, water impoundments, fences, corrals, roads, ditches, sloughs, pumps, levees, and other improvements on the Property. The Grantor may replace any such structures, whether existing at the date of this writing or constructed later, pursuant to this paragraph, with facilities of similar size, function, capacity, and location, in the event of destruction, deterioration, or obsolescence.

Additional structures, facilities, water impoundments, greenhouses, fencing reasonably necessary to ranching and agricultural activities, and roads reasonably necessary to, and not inconsistent with, the agricultural uses of the Property, shall be permitted, provided that the Grantor obtains the Grantee's express written approval of the size, function, capacity, and location.

4. Developing and maintaining water resources on the Property, including but not limited to wastewater storage and use, necessary or convenient for ranching, agricultural, irrigation, and farmer and farmworker residential uses on the Property or Grantor's adjacent property in a manner consistent with the conservation purpose of this Easement.
5. Controlling problem animals by the use of selective control techniques consistent with policies promulgated by the Santa Cruz County Agricultural Commissioner.

6. Utilizing the Property for public or private recreational or educational (including, without limitation, hiking, horseback riding, fishing and nature study) uses that require neither surface alteration subject to the County grading ordinance nor other development of the land. Construction of trails in accordance with the law shall not be deemed to be prohibited by this paragraph, provided such trails shall be constructed and located to reasonably minimize impact on the agricultural operations of the Property.
7. Utilizing the Property for protecting or enhancing wildlife habitat or the natural, scenic or open-space values of the Property.
8. Boarding and pasturing horses on the Property, subject to Grantee's consent.

EXHIBIT C

PROHIBITED USES AND PRACTICES

The following uses and practices, though not necessarily an exhaustive list, are inconsistent with the purposes of this Easement and are prohibited on the Property, except as permitted by existing third party rights in the Property or except with Grantee's consent.

1. The material impairment of the protected values, except as otherwise expressly provided in this Easement.
2. The establishment of any nonagricultural commercial or industrial uses, (except commercial horse boarding is permitted, as provided in paragraph 8 of Exhibit B, but horse shows or other similar activities and facilities therefor are prohibited).
3. The construction, placement, or erection of any sign or billboards; however, the placement or erection of the following signs/billboards is not prohibited:
 - a) A sign or signs reasonably necessary for the identification of the Property or to advertise its sale or lease or the sale of its agricultural products.
 - b) Signs necessary to control unauthorized or dangerous activities.
 - c) Other signs approved by Grantee.
 - d) Signs indicating CDLC's and Grantee's involvement in the protection of the Property as provided in the Easement.
4. The construction, reconstruction, or replacement of any structure, except as provided in Exhibit B or elsewhere in the Easement.
5. The division, subdivision, partition, issuance of a certificate of compliance for additional parcels or de facto subdivision of the Property. However, this paragraph does not prohibit the lease of a portion of the Property for agricultural use, or a voluntary conveyance to a governmental or nonprofit entity for conservation or public access purposes.
6. The use of motorized vehicles, except by the Grantor or others under the Grantor's control for agricultural, ranching, emergency, or attendant farmer or farm worker residential use of the Property, or for access to Grantor's adjacent property. Any use of motorized vehicles off roadways is prohibited except when necessary for agricultural, ranching or emergency purposes or for access to Grantor's adjacent property for use consistent with the purpose of this Easement.
7. Tree cutting, pruning, cutting down, or other destruction or removal of live trees except (i) when required for safety, fire protection, environmental conservation purposes, (ii) in the case of non-native trees that shade crops, or (iii) when the particular trees were

planted as a Christmas tree or fuelwood crop to be harvested or to be used by Grantor or the residents of the Property.

8. The relocation or new placement of any roadway or levee, unless the Grantee consents, which consent shall not be unreasonably withheld.

9. The dumping or accumulation of trash, ashes, garbage, or waste on the Property. However, agricultural products and by-products may be temporarily placed or stored on the land, if consistent with law, public health, and sound agricultural and conservation practices.

10. Any operations which would require registration as a "research facility" under the Federal Animal Welfare Act or qualify as a "registered animal research facility" with the United States Department of Agriculture or, the establishment or maintenance of any commercial greenhouse or commercial feedlot, except in association with existing agricultural structures or as expressly consented to by Grantee.

11. Material alteration of land forms by grading or excavation of topsoil, earth, or rock.

EXHIBIT H



Permitting and Regulatory Aspects of 7 Organization Joint Proposal - There is precedent and an expedited process is very feasible

1 message

Jonathan Wittwer <jonwitt@cruzio.com>

Thu, Aug 12, 2021 at 8:42 AM

To: "Blom, Benjamin Z" <bblom@blm.gov>

Cc: Sara Barth <sbarth@sempervirens.org>, Chris Wilmers <cwilmers@ucsc.edu>, Jonathan Wittwer <jonwitt@cruzio.com>, Kendra Turk-Kubo <katurk@gmail.com>, Janet Webb <JanetW@big-creek.com>, Bob Berlage <BobB@big-creek.com>, Jess Brown <jessbrown@sbcglobal.net>, "Heppe, Christopher M" <cheppe@blm.gov>, "Culver, Nada L" <nculver@blm.gov>, Kate.Huckelbridge@coastal.ca.gov, info@scrtc.org, gblakeslee@scrtc.org, Ryan.Coonerty@santacruzcounty.us, c/o <karen.chapman@mail.house.gov>, Angela.Chesnut@sen.ca.gov, Maureen.McCarty@asm.ca.gov, Brian McElroy <briancareymcelroy@gmail.com>, chris.spohrer@parks.ca.gov, John.olejnik@dot.ca.gov, johncbarnes@comcast.net, Noel Bock <ngbock@att.net>, "Chapman, Trish@SCC" <Trish.Chapman@scc.ca.gov>, Guillermo Rodriguez <guillermo.rodriguez@tpl.org>, "Mouritsen, Karen E" <KMourits@blm.gov>, "Stout, Joseph R" <j2stout@blm.gov>, "St Michel, Erica E" <estmichel@blm.gov>, Marty <marty@got.net>, Christy Fischer <christy.fischer@tpl.org>, "Carl, Dan@Coastal" <Dan.Carl@coastal.ca.gov>, Rachel Dann <Rachel.Dann@santacruzcounty.us>, Andy Schiffrin <Andy.Schiffrin@santacruzcounty.us>, Kathy.Molloy@santacruzcounty.us, "Cousart, Amanda@Coastal" <amanda.cousart@coastal.ca.gov>, "Graeven, Rainey@Coastal" <Rainey.Graeven@coastal.ca.gov>

Dear Ben – Your letter of July 30, 2021 in response to the 7 Organization Joint Proposal indicated that BLM needed more due diligence regarding BLM's perception that the Joint Proposal "presents significant challenges from a permitting and regulatory perspective," specifically that the donation described in the Joint Proposal may require the following:

- (1) a new Coastal Development Permit;
- (2) an amendment to the conservation easement; and
- (3) a change to Santa Cruz County ordinance to allow for repurposing of agricultural lands.

Your letter stated that "it is unclear if these significant steps have been considered or contemplated."

By email to you on Monday August 2, 2021, I responded to that by clarifying that FONC has considered and contemplated the permitting and regulatory issues related to the Yellow Bank Gate South proposal and FONC representatives have had preliminary discussions with a number of the relevant agencies and believes that the process we will lay out in more detail with you and others is feasible.

Because BLM and FONC share the same goal of expediting the opening of both a southern and northern entrance to Cotoni-Coast Dairies, and BLM supports making the concept of the Yellow Bank Gate South proposal a reality, I have taken the liberty of laying out the envisioned process in more detail now, rather than waiting for a facilitated Zoom meeting of stakeholders. **The bottom line is that there is precedent and that an expedited process is very feasible.** I believe that this process can be completed within months, not years, and certainly prior to the typical year to

year-and-a-half needed for BLM to obtain the requisite Encroachment Permit from Caltrans, not yet applied for as of 6/23/2021.

The conveyance by donation can be accomplished by a Lot Line Adjustment. Attached is very pertinent precedent, specifically the County Agenda Staff Report resulting in Approval on February 3, 2009 of a Lot Line Adjustment for the transfer of 6.75 acres to CEMEX of TPL land in what is now Cotoni-Coast Dairies held then under Agricultural Conservation Easement. Under this precedent, taking the three potential requirements in your letter listed above, we learn that:

- (1) No new Coastal Development Permit was required because "Lot Line Adjustments are exempt from the requirement for a Coastal Development Permit" (technically "excluded," see, County Code §13.20.076);
- (2) an amendment (actually a new contract) for the conservation easement was required because the area covered by it was changed (but here the area covered will remain the same as further explained below); and
- (3) no change to Santa Cruz County ordinance to allow for repurposing of agricultural lands was required.

Additional expediting features of the attached precedent which can be gleaned are that:

- (4) no approval as to the Lot Line Adjustment was required from the County Agricultural Policy Advisory Committee (APAC) (see, in the 2009 attachment, APAC Staff Report Staff Recommendation with strikeover of the first bullet point, leaving APAC's only function being making a Recommendation to the Board of Supervisors as to the rescission and simultaneous re-adoption of the Agricultural Conservation Easement with reduced area covered (not the case as to TPL's donation); and
- (5) the process was treated as exempt from CEQA.

The 2009 Lot Line Adjustment was required to satisfy the findings required by Government Code Section 51257 since the parties needed to rescind the Agricultural Conservation Easement contract and simultaneously enter into a new contract. Those findings are not required for the lot line adjustment proposed under the Joint Proposal. However County Code Section 14.01.107.4 requires specified findings for the Minor Lot Line Adjustment proposed for the TPL donation to BLM under the Joint Proposal and these Findings can be made (see, Findings in Attachment A).

Furthermore, the process for the Joint Proposal's TPL donation to BLM of approximately 2-3 acres of its land under Agricultural Conservation Easement would be even more streamlined than the process for the 2009 Lot Line Adjustment Approval for the following reasons.

- (1) The conveyance is authorized by the Agricultural Conservation Easement which expressly **"does not prohibit voluntary conveyance to a governmental ... entity for ... public access purposes."**

(2) The conveyance qualifies as a minor lot line adjustment under the County Code §14.01.107.4, processed via a Level III (County staff planner approval after field visit, no public hearing required, and not appealable. See, Findings in Attachment B.

(3) The Lot Line Adjustment qualifies for an exemption from CEQA pursuant to CEQA Guideline Section 15305, "minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density, including but not limited to: (a) Minor lot line adjustments.

(4) As to the small amount of agricultural land which will be owned by BLM after the adjustment, the Agricultural Conservation Easement will still apply and its use as a public access easement will be consistent as an "other[] use... described in this Easement" pursuant to Section 3 "Uses and Practices;" hence the area covered will remain the same and it will not be necessary to rescind and readopt the Agricultural Conservation Easement as was done in 2009 because the industrial waste and cement kiln dust landfill created by CEMEX on the TPL land was not an "other use described in [the Agricultural Conservation] Easement."

The inclusion of the authorization for conveyance to a governmental entity or a nonprofit entity for public access purposes in the Agricultural Conservation Easement would have appeared essential, and became particularly necessary in light of Agricultural Parcel 3 being created to run from Laguna Creek to San Vicente Creek by virtue of connecting strips to avoid having the 2012 land division constitute a major subdivision. The effect was to potentially preclude public access for BLM's Cotoni-Coast Dairies from Highway 1 unless the Agricultural Conservation Easement contained such a provision. The Coastal Commission Staff Report for the 2012 CDP enabling the creation of these parcels identified, discussed briefly, and attached several of the versions of the Agricultural Conservation Easement and had no problem with the provisions in them. In fact the potential to have an adverse impact on public access was described as "minimized in this case through already proposed restrictions."

BLM can accept the conveyance. The RMPA supports BLM's acceptance of the TPL proposed conveyance at Section 4.13.4:

"In rare instances, the *BLM may consider acquisition of neighboring lands*, or easements, from willing sellers that support C-CD objects and values or *provide opportunities for public access to C-CD*, consistent with resource management goals and objectives. However, lands acquired outside of the C-CD boundary would not become part of the CCNM and they would not be subject to this RMPA."

Once the conveyance occurs, the County and the Coastal Commission no longer have permitting authority over the land held by BLM. The Coastal Commission will have Federal Consistency Concurrence jurisdiction over the modification BLM makes to the RMPA to address the entry road and parking for public access. The County has contractual authority to approve the "the size, function, capacity, and location" of the public access" on BLM's land under the Agricultural Conservation Easement.

NEPA Compliance. Based on April 1, 2020 comments to its Draft RMPA/EA, at Section 2.20.3 BLM's September 25, 2020 Proposed RMPA considered an alternative Access Point which it describes as "adjacent to Yellow Bank Creek" and finds that BLM's proposed Panther Gap/Yellowbank Overpass access point would accomplish many of the same goals, with fewer resource impacts. BLM did determine that the potential impacts (beneficial or adverse) of development at this location is substantially the same as other access points analyzed in the original range of alternatives. Starting with an August 3, 2020 detailed addendum, the Yellow Bank Gate South alternative evolved by a series of redesigns to its current status in which the Parking Lot would be placed on approximately 2-3 acres of TPL's land near BLM's Trailhead at the inland end of the BLM's proposed Panther Gap/Yellowbank Bicycle/Pedestrian Overpass. Instead of bisecting TPL's currently viable agricultural land, the access road would travel north along the highway frontage to the new Parking Lot location. A good case can be made that the Joint Proposal's Yellow Bank Gate South will result in less adverse environmental impact than the Marina Ranch Gate and Access Road.

Per the FONC attorney, under these circumstances it is likely that no Supplemental EA would be required in order to implement the Yellow Bank Gate South alternative. By addressing any impacts caused by and unique to the redesign in a written "reevaluation," BLM can take the requisite "hard look" at the environmental consequences of selecting the Yellow Bank South Gate alternative. See *Bitterroot Ridge Runners Snowmobile Club v. United States Forest Serv.*, 833 F. App'x 89, 91 (9th Cir. 2020) (no supplemental EIS or EA required for a "minor variation of one of the alternatives discussed" which is "qualitatively within the spectrum of alternatives").

Hence, in approximately 90 days BLM could reasonably write up a reevaluation of the redesigned Yellow Bank South Gate Alternative, confirm its prior determination that the potential impacts (beneficial or adverse) of development at this location is substantially the same as or less than other access points analyzed in the original range of alternatives, and describe how instead those impacts which were adverse have been eliminated or reduced. Even if the Supplemental EA route was chosen by BLM out of an abundance of caution, and a 45-day comment period allowed, the process could well be completed in approximately 90 days. FONC's attorney provided the following additional cites: *Russell Country Sportsmen v. U.S. Forest Serv.*, 668 F.3d 1037, 1045 (9th Cir. 2011) (same); See also *Price Rd. Neighborhood Ass'n, Inc. v. U.S. Dep't of Transp.*, 113 F.3d 1505, 1510 (9th Cir. 1997) ("If reevaluation reveals that an EA/FONSI remains valid, no additional documentation is required; a supplemental EA is only necessary if an EA/FONSI is no longer valid"); *id.* ("when faced with a project change, the FHWA may conduct a reevaluation to determine the significance of the new design's environmental impacts and the continuing validity of its initial EA").

Minor Amendment to Coastal Commission Concurrence. As to the Yellow Bank South Gate, the Coastal Commission Staff Report re Concurrence quoted some verbiage from BLM which is no longer relevant in light of TPL's willingness to allow creation of a larger parking lot on its agricultural land which is regularly disked. Under these circumstances, the Coastal Commission can amend or supplement its Conditional Concurrence. No public hearing appears to be legally required and even if the Commission decides to hold one, it appears that it could be processed in less than 90 days.

County Approvals. Both BLM's currently proposed access road to Marina Ranch Gate on the 2nd Terrace bisecting TPL's viable agricultural field and the Yellow Bank South Gate Alternative require County Approvals (as well as notice to the California Department of Conservation). Unless it

somehow qualifies for the Federal Consistency process, the former may require other more procedurally difficult and time consuming County Approvals and is subject to administrative appeals. The Yellow Bank South Gate Alternative on the other hand could be carried out by means of a County staff approved Minor Lot Line Adjustment (described above) with no public hearing or appeal and eliminate the requirement for County and Coastal Permits for the roadway and parking lot construction.

The County has a contractual review role to play under the Agricultural Conservation Easement in both cases. The County's review is for protection of agriculture with regard to the size, function, capacity, and location" of the public access.

Consistency with USF&WS Biological Opinion re Red-Legged Frogs. This Biological Opinion states that:

"However, most California red-legged frogs are non-migrating individuals and typically remain within 250 feet of their aquatic site of residence."

Two studies of radio-tracked red-legged frogs showed them straying a maximum of 30 and 85 feet from their stream or other aquatic residence. The compromise Yellow Bank Gate South alternative site is approximately 550 feet from the Yellow Bank Creek stream and 850 feet from the off-channel ponds constructed by BLM in 2018. Furthermore, since the compromise site is regularly disked it is already ineffective as habitat.

Consistency with NOAA NMFS Letter of Concurrence re Salmonids. This letter states at page 8 that "ESA-listed salmonids or critical habitat do not occur in Yellowbank Creek."

Please let me know if you have questions or would like to discuss this analysis further. Thank you for your consideration of it.

Jonathan Wittwer, FONC President

c/o 1927 Smith Grade

Santa Cruz, CA 95060

T: 831.423.8265

Email: jonwitt@cruzio.com

2 attachments

2009 01 21 Staff Report for LLA of TPL land under ACE.pdf



11066K



Attachment A - County Code Section 14.01.107.4 Findings.docx
19K



COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

701 OCEAN STREET, 4TH FLOOR, SANTA CRUZ, CA 95060
 (831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123
 TOM BURNS, PLANNING DIRECTOR

January 21, 2008⁹

AGENDA DATE: February 3, 2009

Board of Supervisors
 County of Santa Cruz
 701 Ocean Street
 Santa Cruz, CA 95060

Public Hearing to consider Application Number 07-0646: Coast Dairies/ CEMEX Lot Line Adjustment and Agricultural Land Conservation (Williamson Act) Contract Rescission/ Adoption of New Contract

Members of the Board:

Government Code Section 51257 regulates minor lot line adjustments for properties under Williamson Act contract. APN 058-122-12 and APN 058-125 2-13 were entered into a Williamson Act contract on December 28, 1998 with 21 other parcels, and the contract was recorded May 13, 1999. The contract has automatically renewed and remains in effect. However, because the proposed Lot Line Adjustment will change the area of APN 058-122-12 and APN 058-122-13 described in the existing contract, a new contract is needed, which requires approval by your Board.

Background

In 1998, the Coast Dairies and Land Company, Inc. was purchased by the Trust for Public Land (TPL), in order to preserve the Coast Dairies property as open space and transfer the property into public ownership. On December 28, 1998, a Williamson Act Agricultural Conservation Contract for 5,205 acres of Coast Dairies/TPL land, including APN 058-122-12, APN 058-122-13 and other parcels, was recorded with the County of Santa Cruz.

Coast Dairies/TPL is now in the process of transferring some of its property to the Federal Bureau of Land Management (BLM) for continued management as public open space. Before this transfer occurs, there is one area that BLM does not wish to acquire. This area is a 6.75-acre piece of property located along the eastern perimeter of the CEMEX USA cement plant in Davenport, directly adjacent to APN 058-071-04, which is owned by CEMEX. The area proposed for transfer is part of a landfill (additional landfill acreage is already on CEMEX property), and is currently under license to the cement plant, which controls the access to this area. The landfill received industrial waste and cement kiln dust related to cement plant operations from 1906 until 1984. A closure and post-closure maintenance plan was put in place in 1994 under the authority of the Central Coast Regional Water Quality Control Board and with assistance from the California Integrated Waste Management Board. The landfill cap is to remain in place in perpetuity.

The 6.75-acre area to be transferred consists of APN 058-071-02 (4.81-acres) and portions of APN 058-122-12 (1.91-acres) and APN 058-122-13 (0.03-acres). The latter two pieces of property are part of the Williamson Act contract for the Coast Dairies property. In order to complete the lot line adjustment, the Williamson Act contract for the two properties must be amended to re-describe the areas subject to the contract, deleting the small areas to be transferred to GEMEX.

Analysis

Lot Line Adjustment

The purpose of the proposed Lot Line Adjustment is to ensure that a landfill area, now owned by Coast Dairies but already under the control and management of the CEMEX USA cement plant, will continue to be managed in accordance with the 1994 post-closure maintenance plan, and will not become a public lands management burden when the subject parcels owned by Coast Dairies are transferred to the United States Bureau of Land Management (BLM) for continued stewardship as public lands.

The CEMEX-owned APN 058-071-04 already has split zoning (CA-P and M-2-L) and a split General Plan designation (AG and R-M) so the proposed addition to that parcel of 1.91 acres of land from 058-122-12 and 0.03 acres from APN 058-122-13 (which both have CA and AG designations) will not create a newly split-zoned parcel. Further, no changes of use are anticipated, so the owners have elected to not apply for a rezoning and General Plan Amendment with the current proposal. The project is conditioned such that any future proposed change of use would require Planning Department review to determine the need to consolidate the zoning and GP designations on APN 058-071-04. Lot line adjustments are exempt from the requirement for a Coastal Development Permit.

Agricultural Conservation (Williamson Act) Contract

Government Code Section 51257 regulates minor lot line adjustments for properties under Williamson Act contract. APN 058-122-12 and APN 058-122-13 were entered into a Williamson Act contract on December 28, 1998 with 21 other parcels, and the contract was recorded May 13, 1999. The contract has automatically renewed and remains in effect. However, because the proposed Lot Line Adjustment will change the area of APN 058-122-12 and APN 058-122-13 described in the existing contract, a new contract is required.

Your Board has final approval of the new contract. The Board must make the following findings, specified in Government Code 51257:

- that the new contract would restrict the property for at least 10 years;
- that there would be no net decrease in the amount of agricultural acreage restricted;
- that at least 90 percent of the land under the former contract must remain in the new contract;

- that after the lot line adjustment, the parcel of land under the Williamson Act contract must be large enough to sustain the agricultural use and shall not compromise the long-term agricultural productivity of the parcel;
- that the lot line adjustment shall not result in the removal of adjacent land from agricultural use;
- that the lot line adjustment shall not result in a greater number of developable parcels than existed prior to the adjustment; and
- the adjusted lot must remain consistent with the General Plan.

All of these findings can be made to approve the change to the Williamson Act contract and to approve the lot line adjustment. (Attachment 2).

On October 16 and December 17, 2008, the Agricultural Policy Advisory Commission (APAC) considered this application and recommended its approval to your Board (see APAC Minutes – Attachment 4 and APAC staff report – Attachment 5).

To revise the Williamson Act contract requires that the existing contract be rescinded and, simultaneously, a new contract recorded that includes the revised description of the properties after the lot line adjustment.

Recommendation

The approval of this lot line adjustment and amendment to the Williamson Act contract is necessary for Coast Dairies/TPL to complete the transfer of the property to the final property managers. All requirements of state and local regulations have been met and APAC has recommended approval of the proposal.

It is therefore **RECOMMENDED** that your Board take the following actions:

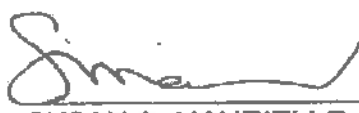
1. Approve the rescission of the existing Land Conservation Contract (Williamson Act) between Coast Dairies and the County (Attachment 7) and simultaneously approve a new Land Conservation Contract describing the newly adjusted lot line for APN 058-122-12 and 058-122-13, along with the other lands in the original contract as previously described, and direct the Planning Director to sign the contract (Attachment 6) on behalf of the Board of Supervisors and take appropriate actions to have the rescission and new contract recorded with the County Recorder; and
2. Approve the Lot Line Adjustment (Application 07-0646), based on the attached findings and conditions (Attachments 2 and 3).

Sincerely,



Tom Burns
Planning Director

RECOMMENDED:



SUSAN A. MAURIELLO
County Administrative Officer

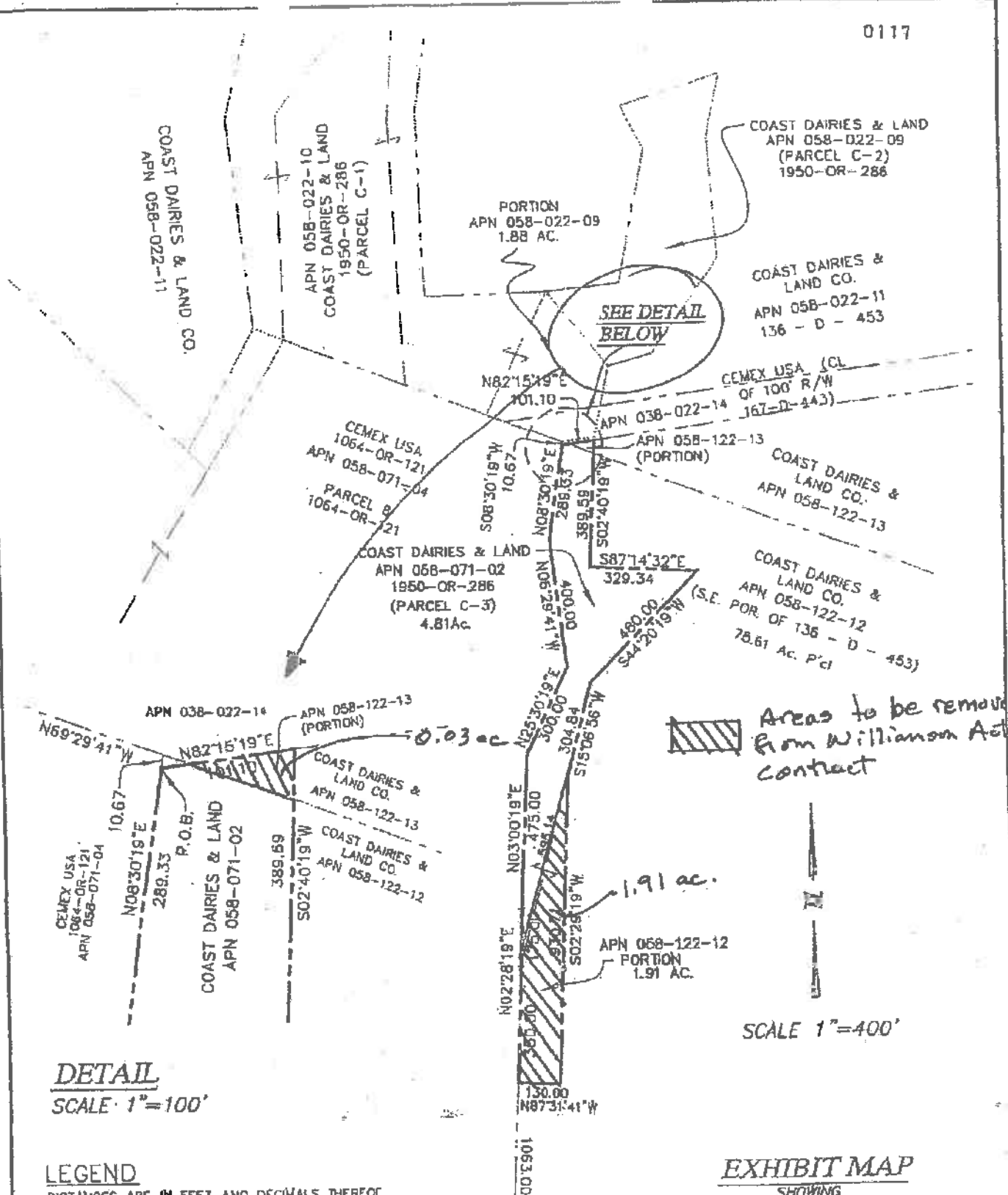
Coast Dairies LLA # 07-0648
Board of Supervisors Agenda 2/03/09
Page No. 4

TB: MD:ad\G:\Board Letters\Pending\

Attachments:

1. Lot Line Adjustment Exhibit
2. Findings
3. Conditions of Approval for Lot Line Adjustment
4. APAC Minutes, 12/18/08 Public Hearing
5. APAC Staff Report, 12/17/08 Agenda Date
6. New Land Conservation Contract
7. Existing Land Conservation Contract

cc: Coast Dairies & Land Company, 116 New Montgomery St, Suite 300, San Francisco, CA 94105
Attn: Tily Shue
CEMEX USA, 840 Gessner, Suite 1400, Houston, TX 77024 Attn: Kirk Toups
Darcy Pruitt, 60 South Market St. Suite 1400, San Jose, CA 95113



Robert L. DeWitt
& Associates, Inc.
Civil Engineers & Land Surveyors

1607 Ocean Street, Suite 1
Santa Cruz, California 95060.
(831) 426-1617 TEL
(831) 426-0224 FAX

**Required Findings for a Rescission for a Lot Line Adjustment on Parcel(s) Under
Agricultural Preserve Contract
(CA Government Code Section 51257)**

1. The new contract or contracts would enforceably restrict the adjusted boundaries of the parcel for an initial term for at least as long as the unexpired term of the rescinded contract or contracts, but for not less than 10 years.

This finding can be made, in that the new contract would have the very same terms as the existing one that is proposed to be rescinded, with the only change being a new parcel description to reflect the adjusted lot line. Thus, the new contract would have a minimum term of 10 years, subject to any future notice of non-renewal.

2. There is no net decrease in the amount of acreage restricted.

This finding can be made, in that while the new contract will describe a parcel that is 73.7 acres rather than 75.6 acres (APN 058-122-12), and a parcel that is 1468.92 acres rather than 1468.95 acres (APN 058-122-13) the 1.9 acres to be transferred out of the contract acreage is capped landfill that is not currently, nor in the foreseeable future, suitable for agricultural uses. No new development or use is proposed for this landfill area, which will remain open and undisturbed regardless of whether or not it is under agricultural preserve contract due to the landfill management requirements. Thus, there is no net decrease in the amount of acreage restricted.

3. At least 90 percent of the land under the former contract or contracts remains under the new contract or contracts.

This finding can be made, in that the new contract will contain more than 97% of the land that is in the existing contract.

4. After the Lot Line Adjustment, the parcels of land subject to contract will be large enough to sustain their agricultural use, as defined in Section 51222.

This finding can be made, as the parcel under contract will be 73.7 acres, which is well above the 40-acre minimum for less-than-prime agricultural land specified under Section 51222.

5. The Lot Line Adjustment would not compromise the long-term agricultural productivity of the parcel or other agricultural lands subject to a contract or contracts.

This finding can be made, as the Lot Line Adjustment only involves 1.9 acres of capped landfill that is not presently agriculturally productive, and the landfill must remain capped in perpetuity under the postclosure plan administered by the Central Coast Regional Water Quality Board.

6. The Lot Line Adjustment is not likely to result in the removal of adjacent land from agricultural use.

This finding can be made, in that no new uses or development are proposed for the adjusted area, nor

Application #: 07-0646
 APN: 058-071-04, 058-122-12
 Owner: Coast Dairies and Land

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on any adjacent parcels. Most of the adjacent land that is not part of the ongoing cement plant operations is under the ownership of Coast Dairies/ TPL or in the process of being transferred to the Federal Bureau of Land Management for continued stewardship as open space/ agricultural use.

7. The Lot Line Adjustment does not result in a greater number of developable parcels than existed prior to the adjustment, or an adjusted lot that is inconsistent with the General Plan.

This finding can be made, as no new developable parcels would be created as a result of this minor Lot Line Adjustment. Further, the adjusted lots are consistent with all applicable land use policies specified in Chapter 2 of the General Plan.

Lot Line Adjustment Conditions of Approval

Exhibit A: Lot Line Adjustment Map, 1 sheet, prepared by Robert L. DeWitt & Associates, Inc, Civil Engineers and Land Surveyors, dated 7/1/08 and revised 11/13/08.

- I. No parcel map is required. File deed(s) of conveyance (which must result in parcel configurations that match the approved Exhibit "A" for this permit) with the County Recorder to exercise this approval. Parcels or portions of parcels to be combined must be in identical ownership.
- II. The deed(s) of conveyance must contain the following statement after the description of the properties or portion(s) of property to be transferred:
 - A. "The purpose of the deed is to adjust the boundary between Assessor's Parcel Number 058-071-04, and Assessor's Parcel Numbers 058-071-02, 058-122-12 and APN 058-122-13 as approved by the County of Santa Cruz under Application 07-0646. This conveyance may not create a separate parcel, and is null and void unless the boundary is adjusted as stated."
- III. Return a conformed copy of the deed(s) to the Planning Department.
- IV. If a map is also to be recorded with the County Surveyor's office (which is not required to implement this approval), you must include a copy of these Conditions of Approval to the County Surveyor with the map to be recorded.
- V. Operational Conditions:
 - A. In the event that future County inspections of the subject property disclose noncompliance with any Conditions of this approval or any violation of the County Code, the owner shall pay to the County the full cost of such County inspections, including any follow-up inspections and/or necessary enforcement actions, up to and including permit revocation.
 - B. Any future proposed change of use on APN 058-071-04 shall be reviewed by the Planning Department, and may require an application for a General Plan Amendment and re-zone.

Application #: 07-0646
APN: 058-071-04, 058-122-12
Owner: Coast Dairies and Land

Williamson Act Rescission/ Simultaneous Adoption of New Contract Conditions of Approval

- I. All conditions of the original Land Conservation Contract between the County of Santa Cruz and Coast Dairies as recorded on December 28, 1998 shall remain in effect and shall be included in the new contract for APN 058-122-12, and APN 058-122-13 and other lands.

Minor Variations to this permit that do not affect the overall concept or density may be approved by the Planning Director at the request of the applicant or staff in accordance with Chapter 18.10 of the County Code.

Please note: This permit expires two years from the effective date listed below unless the conditions of approval are complied with and the use commences before the expiration date.

Approval Date: _____

Effective Date: _____

Expiration Date: _____

Appeals: Any property owner, or other person aggrieved, or any other person whose interests are adversely affected by any act or determination of the Agricultural Policy Advisory Commission under the provisions of County Code Chapter 16.50, may appeal the act or determination to the Board of Supervisors in accordance with chapter 18.10 of the Santa Cruz County Code.



AGRICULTURAL POLICY ADVISORY COMMISSION

County of Santa Cruz

0122

BRUCE DAU, Chairperson
KEN KIMES, Vice Chairperson
Ken Corbishley, Executive Secretary

SANTA CRUZ COUNTY AGRICULTURAL POLICY
ADVISORY COMMISSION
REGULAR MEETING

MINUTES - December 18, 2008

Members Present

Bruce Dau
Sam Earnshaw
Ken Kimes
Ken Corbishley (ex-officio)

Staff Present

Samantha Haschert
Neil Sulborski

Others Present

1. The meeting was called to order by Bruce Dau at 1:35 p.m.
2. (a) Approval of October 16, 2008 Minutes:

M/S/P to approve the minutes.

- (b) Additions/Corrections to Agenda:

None.

3. Review of APAC correspondence:

Memorandum regarding revisions to 07-0646.

4. Commissioner's Presentations:

None.



5. Oral Communications:

None.

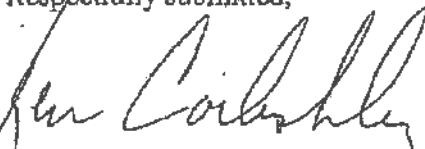
CONSENT AGENDA:

6. **07-0646 700 HIGHWAY 1, DAVENPORT APN(S): 058-071-02, -04; 058-122-12, -13**
Proposal to transfer 1.91 acres from Assessor's Parcel Number 058-122-12 to Assessor's Parcel Number 058-071-04 and the related rescission and simultaneous adoption of a new Williamson Act contract for APN 058-122-12 to reflect the adjusted parcel boundary; and also to combine APN 058-071-02 with APN 058-071-04, to result in one 73.7 acre parcel (APN 058-122-12) and one 116 acre parcel (APN 058-071-04). This requires a review by the Agricultural Policy Advisory Commission and a recommendation to the County Board of Supervisors. The subject parcels are located on the northeast side of Highway 1 between the CEMEX cement plant and the Town of Davenport at 700 Highway 1.
OWNER: CEMEX USA
APPLICANT: COAST DAIRIES & LAND CO.
SUPERVISORIAL DISTRICT: 3
PROJECT PLANNER: ALICE DALY, 454-3259
EMAIL: pln050@co.santa-cruz.ca.us

M/S/P to adopt the consent agenda.

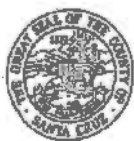
There being no further business, the meeting was adjourned.

Respectfully submitted,



Ken Corbishley, Agricultural Commissioner, Executive Secretary

KC:ll



**Staff Report to the
Agricultural Policy
Advisory Commission**

Application Number: 07-0646

Applicant: Coast Dairies and Land Co /
Tily Shue

Date: December 18, 2008

Owner: Coast Dairies and Land

Agenda Item #:

APN: 058-071-04, 058-122-12, 058-122-13

Time: 1:30 p.m.

Project Description:

Proposal to transfer 1.91 acres from APN 058-122-12 and 0.03 acres from APN 058-122-13 to APN 058-071-04, and the related rescission and simultaneous adoption of a new Williamson Act contract for APN 058-122-12 and 058-122-13 to reflect the adjusted parcel boundary; and also to combine APN 058-071-02 with APN 058-071-04, to result in one 73.7 acre parcel (APN 058-122-12) under Agricultural Preservation (Williamson Act) contract and one 116 acre parcel (APN 058-071-04). Requires a Lot Line Adjustment, Agricultural Policy Advisory Commission (APAC) review and County Board of Supervisors adoption of a resolution to rescind a Williamson Act contract and adopt a new Williamson Act contract.

Location:

The subject parcels are located on the northeast side of Highway 1 between the CEMEX cement plant and the Town of Davenport at 700 Highway 1.

Permits Required: Lot Line Adjustment and Amendment (rescission and simultaneous adoption of a new contract) to the Williamson Act contract for APN 058-122-12 and 058-122-13.

Staff Recommendation:

- ~~Approval of Application 07-0646, based on the attached findings and conditions.~~
- Recommend to the Board of Supervisors the rescission of the Land Conservation Contract (Williamson Act) recorded on December 28, 1998 that includes APN 058-122-12, APN 058-122-13 and other lands, and the simultaneous adoption of a new contract describing the newly adjusted lot line for APN 058-122-12 and 058-122-13, along with the other lands in the original contract as previously described.

Application #: 07-0646
APN: 058-071-04, 058-122-12
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Exhibits

- | | | |
|----|---|-------------------------------------|
| A. | Lot Line Adjustment plan | 12/28/98 for APN 058-122-12 and |
| B. | Findings | 058-122-13 and other lands |
| C. | Conditions | H. Deed description and Map of area |
| D. | Categorical Exemption (CEQA determination) | proposed to be transferred to |
| E. | Assessor's parcel map | CEMEX (APN 058-071-04, 1.9 acre |
| F. | Zoning map | portion of APN 058-122-12 and 0.03 |
| G. | Land Conservation Contract (Williamson Act contract) recorded | acre portion of APN 058-122-13) |

Parcel Information

Parcel Sizes:	Existing: 75.6 acres (APN 058-122-12) 1468.95 acres (APN 058-122-13) 109.3 acres (APN 058-071-04) 4.8 acres (APN 058-071-02, to be combined with APN 058-071-04)
	Proposed: 73.7 acres (APN 058-122-12) 1468.92 acres (APN 058-122-13) 116 acres (APN 058-071-04)
Existing Land Use - Parcels:	Heavy Industrial (APNs 058-071-04 and 058-07102) Agriculture and Open Space (APN 058-122-12, -13)
Existing Land Use - Surrounding:	Agricultural, Residential, Industrial
Project Access:	From CEMEX Cement Plant northeast of the Town of Davenport at 700 Hwy 1.
Planning Area:	North Coast
Land Use Designation:	R-M, Mountain Residential (APN 058-071-02) CA, Commercial Agriculture (APNs 058-071-04 and 058-122-12, -13)
Zone District:	M-2-L (Commercial Agriculture, Multi-Family Residential, Industrial Overlay), CA-P (Commercial Agriculture, Agricultural Preserve Contract)
Supervisory District:	Third (District Supervisor: Neal Coonerty)
Within Coastal Zone:	<input checked="" type="checkbox"/> Inside <input type="checkbox"/> Outside
Appealable to Calif. Coastal Comm.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Environmental Information

Geologic Hazards:	Not mapped/no physical evidence on site
Soils:	N/A
Fire Hazard:	Not a mapped constraint
Slopes:	N/A
Env. Sen. Habitat:	Not mapped/no physical evidence on site
Grading:	No grading proposed
Tree Removal:	No trees proposed to be removed
Scenic:	Not a mapped resource
Drainage:	Existing drainage adequate
Archeology:	Mapped as potential resource site- no new site disturbance proposed

Services Information

Inside Urban/Rural Services Line: ☐ Yes ☒ No
Water Supply: Private well
Sewage Disposal: Private septic
Fire District: County Fire
Drainage District: N/a

Analysis and Discussion

In 1998, the Coast Dairies and Land Company, Inc. was purchased by the Trust for Public Land (TPL), in order to preserve the Coast Dairies property as open space and transfer the property into public ownership. On December 28, 1998, a Williamson Act Land Conservation Contract for 5,205 acres of Coast Dairies/ TPL land, including APN 058-112-12 and APN 058-122-13, was recorded with the County of Santa Cruz.

Coast Dairies/ TPL is now in the process of transferring some of its property to the Federal Bureau of Land Management (BLM) for continued management as public open space. Coast Dairies/ TPL property includes APNs 058-122-12 and APN 058-122-13 (the subject parcels under Williamson Act contract) and APN 058-071-02 (not under Williamson Act contract) along the eastern perimeter of the CEMEX USA cement plant in Davenport; both are directly adjacent to APN 058-071-04, which is on the CEMEX property.

One component of the proposed Lot Line Adjustment is a request to transfer 1.9 acres of APN 058-122-12 and 0.03 acres of APN 058-122-13 to CEMEX-owned APN 058-071-04, as this area is part of a 5.8-acre landfill (the rest of the landfill acreage is already on CEMEX property) and is currently under license to the cement plant, whose personnel control the access to this area. The landfill received industrial waste and cement kiln dust related to cement plant operations from 1906 until 1984. A closure and post-closure maintenance plan was put in place in 1994 under the authority of the Central Coast Regional Water Quality Control Board and with assistance from the California Integrated Waste Management Board. The landfill cap is to remain in place in perpetuity, so the 1.9 acres to be transferred out of Williamson Act contract are not suitable for agricultural uses either now or in the future, and there is no proposed change of use.

As the other part of the proposed Lot Line Adjustment, the applicants are proposing to merge 4.8-acre APN 058-071-02 with the CEMEX-owned parcel APN 058-071-04 in order to avoid safety issues involved in public management of a steep-walled canyon area adjacent to a pond that is on the CEMEX property. The CEMEX-owned 109-acre APN 058-071-04 that is being adjusted to include additional acreage is zoned M-2-L (Commercial Agriculture, Multi-Family Residential, Industrial Overlay) and is not under Williamson Act contract. APN 058-071-02 is also not under Williamson Act contract.

Williamson Act Considerations

Government Code Section 51257 regulates minor lot line adjustments for properties under Williamson Act contract. APN 058-122-12 and APN 058-122-13 were entered into a Williamson Act contract on December 28, 1998 with 21 other parcels, and the contract was recorded May 13, 1999 (Exhibit G). The contract has automatically renewed and remains in effect. However, because the proposed Lot Line Adjustment will change the area of APN 058-122-12 and APN 058-122-13 described in the existing contract, a new contract is required.

The Board of Supervisors has final approval of the new contract. The Board must make the findings (specified in Government Code 51257) that the new contract would restrict the property for at least 10 years and that there would be no net decrease in the amount of acreage restricted. At least 90 percent of the land under the former contract must remain in the new contract. After the lot line adjustment, the parcel of land under the Williamson Act contract must be large enough to sustain the agricultural use and shall not compromise the long-term agricultural productivity of the parcel. The lot line adjustment shall not result in the removal of adjacent land from agricultural use. The lot line adjustment shall not result in a greater number of developable parcels than existed prior to the adjustment and the adjusted lot must remain consistent with the General Plan.

Findings are on file in the County Planning Department.

Recommendation

~~Approval of Application 07-0646, based on the attached findings and conditions:~~

- Recommend to the Board of Supervisors the approval of the rescission of the Land Conservation Contract (Williamson Act) recorded on December 28, 1998 that includes APN 058-122-12 and other lands, and the simultaneous adoption of a new contract describing the newly adjusted lot line for APN 058-122-12 and APN 058-122-13, along with all the lands in the original contract as previously described.

Supplementary reports and information referred to in this report are on file and available for viewing at the Santa Cruz County Planning Department, and are hereby made a part of the administrative record for the proposed project.

The County Code and General Plan, as well as hearing agendas and additional information are available online at: www.co.santa-cruz.ca.us

Report Prepared By: Alice Daly
Santa Cruz County Planning Department
701 Ocean Street, 4th Floor
Santa Cruz CA 95060
Phone Number: (831) 454-3259
E-mail: alice.daly@co.santa-cruz.ca.us

Report Reviewed By: Paia Levine
Principal Planner
Development Review

CALIFORNIA ENVIRONMENTAL QUALITY ACT NOTICE OF EXEMPTION

0128

The Santa Cruz County Planning Department has reviewed the project described below and has determined that it is exempt from the provisions of CEQA as specified in Sections 15061 - 15332 of CEQA for the reason(s) which have been specified in this document.

Application Number: 07-0646

Assessor Parcel Number: 058-071-04, 058-122-12, and 058-122-13

Project Location: 700 Hwy 1, Davenport

Project Description: Lot Line Adjustment requiring rescission of Williamson Act contract and simultaneous adoption of new Williamson Act contract

Person or Agency Proposing Project: Coast Dairies and Land Co attn Tily Shue

Contact Phone Number: 415-495-5660

- A. ☐ The proposed activity is not a project under CEQA Guidelines Section 15378.
- B. ☐ The proposed activity is not subject to CEQA as specified under CEQA Guidelines Section 15060 (c).
- C. ☐ Ministerial Project involving only the use of fixed standards or objective measurements without personal judgment.
- D. ☐ Statutory Exemption other than a Ministerial Project (CEQA Guidelines Section 15260 to 15285).

Specify type:

E. ☒ Categorical Exemptions

Specify type: Class 17- Open Space Contracts or Easements (Section 15317)

F. **Reasons why the project is exempt:**

The making and renewal of an Agricultural Conservation Easement contract under the Williamson Act will designate and preserve, in perpetuity, the indicated land for agricultural purposes, a type of open space use.

In addition, none of the conditions described in Section 15300.2 apply to this project.



Alice Daly, Project Planner

Date: 12/18/08

Attachment A
Findings for Minor Lot Line Adjustment (County Code Section 14.01.107.4)

County Code Section 14.01.107.4

(A) For the purposes of this section the term "minimum parcel size required by the zoning designation" shall mean the minimum parcel size allowed by any of the following:

- (1) The zoning ordinance adopting a designation for the parcel in question;
- (2) If the zoning is inconsistent with the General Plan, the lowest density end of the density range allowed by the General Plan density designation; or
- (3) If the zoning density is required to be determined pursuant to the rural matrix calculation under Chapter 13.14 SCCC, the highest density end of the density range allowed by the General Plan density designation. No matrix calculation shall be required for this purpose.

(B) Processing Levels. Minor lot line adjustment applications shall be processed at Level III pursuant to SCCC 18.10.112(A)(3).

[**18.10.112(A) Administrative Permits and Approvals.**] The following reviews shall be conducted and permits shall be acted upon by the Planning Director or his or her authorized designee charged with the administration of this chapter.

- (1) ***
- (2) ***
- (3) Processing Level III (field visit required) includes planning review that involves one or more visits to the site by staff planners in conjunction with review of the project description and plans prior to administrative action on permits.

All other lot line adjustment applications outside the Coastal Zone shall be processed at Level IV pursuant to SCCC 18.10.112(A)(4) and all other lot line adjustment applications within the Coastal Zone shall be processed at Level V pursuant to SCCC 13.20.100(A). Notwithstanding the foregoing, SCCC 18.10.123(B) shall apply.

(C) The following findings shall be required for approval of a lot line adjustment application:

- (1) The lot line adjustment will not result in a greater number of parcels than originally existed.
Finding: No additional parcels will result. The adjusted land conveyed will become a part of existing Upland Parcel 3.
- (2) The lot line adjustment conforms with the County zoning ordinance (including, without limitation, SCCC 13.10.673) and the County building ordinance (including, without limitation, SCCC 12.01.070). *Finding: Adjusted Agricultural Parcel 3 exceeds 230 acres and easily remains consistent with the County General Plan*

[**13.10.673** Lot line adjustment applications regarding additional building sites and parcel size.

- (A) No additional building sites shall be created as a result of a lot line adjustment.
Finding: No additional building sites will result. The adjusted land conveyed will be a part of existing Upland Parcel 3.

(B) No parcel subject to General Plan designation as agriculture and agricultural resource may be reduced in size by a lot line adjustment, unless it can be demonstrated that the proposed adjustment will not adversely affect continued and/or future agricultural use of economically viable agricultural land which is located on the parcels which are the subject of the lot line adjustment, or adjacent to such parcels.

***]Finding: The proposed adjustment will not adversely affect continued and/or future agricultural use of economically viable agricultural land which is located on the parcels which are the subject of the lot line adjustment, or adjacent to such parcels in that The remaining agricultural field owned by Trust for Public Land is only a small portion of the Agricultural Parcel 3 which exceeds 230 acres and runs from Laguna Creek to San Vicente Creek, being connected by a series of strips to avoid having the 2012 land division to enable conveyance of the Upland Parcels of Coast Dairies to BLM constitute a major subdivision. In any event the remaining agricultural field from which the adjustment will be made will exceed 25 acres in size and hence is large enough to sustain agricultural use and the portion to be conveyed to BLM will be used for public access purposes, a use described under the Agricultural Conservation Easement contract. This adjustment will instead prevent the planned bisection of contiguous agricultural row crop land by a newly constructed raised fenced roadway to a parking lot in the middle of grazing land on the 2nd terrace. The adjustment will also facilitate preventing visitor parking on the existing farm road and or along adjoining Highway 1.*

(3) No affected parcel may be reduced or further reduced below the minimum parcel size required by the zoning designation, absent the grant of a variance pursuant to SCCC 13.10.230.
Finding: No affected parcel will be reduced or further reduced below the minimum parcel size required by the zoning designation in that Agricultural Parcel 3 will exceed 230 acres even after the adjustment and, though not necessary to make this Finding, the remaining agricultural field from which the adjustment will be made will exceed 25 acres in size. The lowest density end of the density range allowed by the General Plan density designation here for Type 3 – Viable Agricultural Land Within the Coastal Zone is a 20 acre minimum per General Plan Section 5.13.14.

(D) The following additional finding shall be required for approval of a minor lot line adjustment application: the lot line adjustment conforms to the definition for a minor lot line adjustment set forth in SCCC 14.01.105-L.

14.01.105-L "Lot line adjustment, minor" means a relocation of a property line meeting any one of the following sets of criteria:

(1) ***

(2) ***

(3) Relocation of lot lines among four or fewer parcels which meet in at least one point or share common boundaries where each parcel involved is a separate legal parcel, each meets the minimum parcel size required by the zoning designation, and each has obtained a determination of buildability, both currently and as adjusted. The term "minimum parcel size required by the zoning designation" shall mean the minimum parcel size allowed by any of the following:

(a) ***

(b) If the zoning is inconsistent with the General Plan, the lowest density end of the density range allowed by the General Plan density designation.

Finding: This relocation of lot lines is between two parcels which share common boundaries, each is a separate legal parcel (having been created by virtue of 2012 Coastal Development Permit 3-11-035), each meets the minimum parcel size by exceeding the lowest end of the General Plan density designation in that in that Agricultural Parcel 3 will exceed 230 acres even after the adjustment and the Upland Parcel 3 receiving the adjusted land will be increased beyond the size established the 2012 CDP. Buildability is irrelevant to this situation since Upland Parcel 3 is part of a National Monument and Agricultural Parcel 3 is owned and managed by the Trust for Public Land for agricultural purposes rather than residential, commercial, or industrial purposes.

(E) Conditions of Approval for Lot Line Adjustment Applications. The approval of a lot line adjustment application shall be conditioned as necessary to require conformity with the County zoning ordinance and County building ordinance, or to facilitate the relocation of existing utilities, infrastructure, or easements. The lot line adjustment shall be accomplished by a grant deed which shall be recorded. No record of survey shall be required for a lot line adjustment unless required by Section 8762 of the Business and Professions Code. [Ord. 4281 § 3, 1993; Ord. 4132 § 5, 1991].