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) IBLA Docket No. IBLA-2021-0313
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FRIENDS OF THE NORTH COAST,)
DAVENPORT NORTH COAST ASSOCIATION,)
and RURAL BONNY DOON ASSOCIATION,) DECLARATION OF CHRISTINA
) FISCHER
)
Appellants.)
)
)
)

1. I serve as the Bay Area and Central Coast Conservation Director at The Trust for Public Land (“TPL”). I have been provided with a copy of BLM’s Answer in the above-captioned Appeal, which I have shared with TPL’s California State Director, among others. I have personal knowledge that certain statements made about, and interpretations of, TPL’s actions are materially erroneous or create misimpressions. The primary purpose of this Declaration is to correct specified errors or misimpressions, particularly the two summarized below and addressed in more detail subsequently in this Declaration.

TPL's June 16, 2021 letter expressly stated as follows:

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:

1 "It is the purpose of this Easement to ... to prevent any use of the Property that
2 would materially impair or interfere with its agricultural values, use or utility."

3 [B]ifurcating the field ... would materially impair and interfere with the use, utility
4 and viability of the field."

5 The foregoing was a conclusive determination by TPL that granting an expanded access
6 easement splitting or bifurcating the TPL agricultural field would be inconsistent with the
7 Agricultural Conservation Easement which TPL has contractually "committed to honor."

8 TPL's June 29, 2021 letter to BLM further confirmed that:

9 "The RMPA acknowledges that there is no right of access from Highway 1 bisecting
10 TPL's Agricultural Field to the Marina Gate. TPL has provided formal communication to
11 BLM that it cannot grant this easement. As a result of these issues and concerns, the
12 Marina Gate location proposed in the RMPA does not represent a path forward for a
13 southern access point."

14 Negotiations regarding the Marina Ranch Gate access point easement bifurcating TPL's
15 agricultural field ceased to be "ongoing" as of TPL's June 16, 2021 letter. The only ongoing
16 negotiations are about features and processes related to the Yellow Bank South Gate alternative.

17 **b. BLM's claims that in the June 3, 2020 MOU TPL had "originally agreed to"**
18 **BLM's proposed Marina Ranch Gate Road bifurcating TPL's agricultural**
19 **field.**

20 As part of the negotiations regarding the non-binding MOU, TPL sought and obtained the
21 inclusion of subsection 1.1(D) which expressly reserves TPL's ultimate right as landowner to
22 deny approval of the location then being proposed by BLM for the Marina Ranch Gate Access
23 Area over a portion of Agricultural Parcel 3, based on TPL's reasonable determination of
24 inconsistency with the Agricultural Conservation Easement, Deed Restrictions or the Grant
25 Deed. As explained above, in its June 16, 2021 letter to BLM TPL provided written
26 confirmation that it had determined that splitting the Marina Gate agricultural field is
27 inconsistent with the Agricultural Conservation Easement.
28

1 2. My responsibilities include overseeing TPL's property interests in the Central
2 Coast area of California, including property in the unincorporated area of Santa Cruz County
3 adjacent to the Cotoni-Coast Dairies portion of the California Coast National Monument in Santa
4 Cruz County. In my capacity as the Bay Area and Central Coast Conservation Director for TPL,
5 I am authorized to make decisions related to the operation and management of Agricultural
6 Parcels 1, 2, and 3, including decisions in determining feasibility of advancing proposed uses of
7 the land.
8

9 3. TPL remains the owner in fee simple of Agricultural Parcel 3, a parcel
10 approximately 363 acres in size consisting of three large agricultural fields connected by a series
11 of ten-foot-wide strips located immediately east/upland of Highway 1 and extending generally
12 from Laguna Creek north to San Vicente Creek just south of Davenport, California. Consistent
13 with the Agricultural Conservation Easement that applies to Agricultural Parcel 3, TPL leases
14 portions of the parcel to third-party farmers.
15

16 4. On January 12, 2017, President Barack Obama issued Proclamation No. 9563
17 adding all 5,843 acres TPL donated to BLM to the California Coastal National Monument and
18 renaming the property the Cotoni-Coast Dairies National Monument. The Proclamation further
19 provides that the Secretary of the Interior shall manage the area being added to the monument
20 through the Bureau of Land Management as a unit of the National Landscape Conservation
21 System.
22

23 5. On or about February 14, 2020 BLM issued its Draft Resource Management
24 Plan Amendment and Environmental Assessment ("RMPA") for the California Coastal National
25 Monument ("CCNM") endeavoring to establish a management plan for the Cotoni-Coast Dairies
26 portion of the CCNM.
27
28

1 6. On June 3, 2020 BLM and TPL (along with the Land Trust of Santa Cruz County
2 which manages public access on the adjoining San Vicente Redwood Preserve) executed a non-
3 binding Memorandum of Understanding ("MOU") which described one of the collective parties'
4 mutual interests as

5 "[i]dentifying and authorizing the specific areas where public access across the
6 Agricultural Parcels is appropriate, and identifying the Management Requirements
7 designed to preserve and protect agricultural interests consistent with the Conservation
8 Easement, the CDP and the Grant Deed."

9 As part of the negotiations regarding the MOU, TPL sought and obtained the inclusion of
10 subsection 1.1(D) which expressly reserved TPL's right to deny approval of any provision of
11 expanded access on or across TPL's property, including in the location then being proposed by
12 BLM for the Marina Ranch Gate Access Area over a portion of Agricultural Parcel 3, based on
13 TPL's reasonable determination of inconsistency with the Agricultural Conservation Easement,
14 Deed Restrictions or the Grant Deed. In response to BLM's initial approach to TPL, TPL had
15 already voiced reservations to BLM staff about feasibility, and raised concerns about potential
16 inconsistency with the Agricultural Conservation Easement apart from other constraints during
17 the negotiations, and continued to express its increasing concerns after the MOU was signed as
18 TPL sought and gradually obtained more detailed information from BLM about BLM's proposed
19 Marina Ranch Gate public access road bifurcating TPL's agricultural field. In early spring of
20 2021, TPL consulted with the Santa Cruz County Farm Bureau about its concerns. As part of a
21 site visit, the Farm Bureau informed TPL that the access easement sought by BLM bisecting that
22 agricultural land would effectively render the southern half of that land unusable for agriculture
23 (approximately 15 acres or more). This would materially impair and interfere with the use,
24 utility, and viability of the agricultural field. Communications between BLM and TPL continued
25 and included TPL suggesting an alternative on the northern end of TPL's agricultural field where
26
27
28

1 a parking lot could be placed and bifurcation of the agricultural field avoided (the "Yellow Bank
2 South Gate alternative").

3 7. On April 23, 2021, BLM followed up a phone meeting with TPL, the County
4 Supervisor's staff, and Sempervirens Fund by providing an email with a written "hybrid
5 alternative" counter-proposal entailing a bifurcating road at the existing grade with temporary
6 post and cable fencing to access an upper terrace parking lot and only open May through
7 October, exploration of indemnification of TPL for any litigation objecting to its violation of the
8 Agricultural Conservation Easement, and support for TPL's Yellow Bank South Gate alternative
9 as the year-round access area.
10

11 8. On June 16, 2021, on behalf of TPL, I sent a letter to Ben Blom, Field Manager
12 for BLM's Central Coast Field Office regarding BLM's intent to seek an easement for public
13 vehicular access splitting or bifurcating the Marina Gate agricultural field. A true and correct
14 copy of my June 16, 2021 letter, which attached a true and correct copy of BLM's April 23, 2021
15 email with a "hybrid" counter-proposal, is attached hereto at Exhibit A. My June 16, 2021
16 correspondence formalized TPL's discussion with BLM on June 4, 2021 concluding that TPL
17 could not grant an easement to BLM for its proposed access road bifurcating TPL's agricultural
18 field, which is subject to an Agricultural Conservation Easement. The June 4, 2021 discussion
19 and the June 16, 2021 letter were in response to BLM's April 23, 2021 "hybrid alternative."
20
21

22 9. My June 16, 2021 correspondence also proposed a feasible alternative to the
23 Marina Ranch Gate parking and public access road. Referred to as the "Yellow Bank South Gate
24 alternative," TPL's proposal refines an alternative advanced by several local organizations,
25 including Friends of the North Coast, and includes the donation or use of TPL land within
26
27
28

1 Agricultural Parcel 3 for a public access area (including parking area) to Cotoni-Coast Dairies
2 that would maintain the agricultural values and utility of the remainder of the property.

3 10. On June 23, 2021, BLM's California State Director issued her record of decision
4 (DR) approving a Resource Management Plan Amendment ("RMPA") for the California
5 Coastal National Monument ("CCNM") establishing a management plan for the Cotoni-Coast
6 Dairies portion of the CCNM.
7

8 11. In the DR, the State Director approved a number of implementation actions for
9 the Cotoni-Coast Dairies, including Implementation Action: MA-REC-24 establishing a Day
10 Use Site (parking) at Marina Ranch Road. The Marina Ranch Gate parking area was selected by
11 BLM as the southern public access point to the Cotoni-Coast Dairies. In order to provide public
12 vehicular access to the upper marine terrace Marina Ranch Gate parking area from Highway 1,
13 BLM kept its proposed Marina Ranch Gate access point in the RMPA.
14

15 12. Notwithstanding TPL's June 16, 2021 letter concluding that a road splitting or
16 bifurcating the TPL agricultural field would materially impair and interfere with the use, utility
17 and viability of the field, an express violation of the Agricultural Conservation Easement, the
18 June 23, 2021 DR continued to include the Marina Ranch Gate Road as originally proposed,
19 stating:
20

21 The BLM's proposed Marina Ranch Gate access point requires approval of TPL
22 for improvements to a 0.10-mile section of road that traverses their privately-
23 owned agricultural parcel. This access point was included in the Proposed RMPA
24 because **TPL had committed to working with the BLM to allow for these**
25 **improvements under a Memorandum of Understanding (MOU) signed on**
26 **June 3, 2020.** In December 2020, the BLM learned that TPL was reconsidering
27 their support for this road improvement project. **Discussions are ongoing with**
28 **TPL.** Therefore, the BLM has kept the Proposed Marina Ranch Gate access point
in the RMPA should TPL authorize this road improvement project at a later date.
(Emphasis added).

1 The BLM Answer goes even further and states that “in the June 3, 2020 MOU TPL “**originally**
2 **agreed to**” the public easement sought by BLM bifurcating TPL’s agricultural field.

3 13. BLM’s **bolded** statements in Paragraph 12 above are materially inaccurate and
4 create a false impression, based on the following facts.

5 14. In the June 3, 2020 MOU, TPL did not “originally agree to” or “commit to allow”
6 the expanded access easement sought by BLM bifurcating TPL’s agricultural field. Instead TPL
7 communicated its concern that the expanded access easement and its intended uses could be
8 inconsistent with the Agricultural Conservation Easement and TPL required the addition of
9 specific language in the non-binding MOU which expressly reserved TPL’s right to deny
10 approval of any provision of expanded access on or across TPL’s property, including in the
11 location then being proposed by BLM for the Marina Ranch Gate Access Area over a portion of
12 Agricultural Parcel 3, based on TPL’s reasonable determination of inconsistency with the
13 Agricultural Conservation Easement, Deed Restrictions or the Grant Deed.

14 15. As to its claim that “discussions are ongoing,” at the bottom of p.6/top of p.7
15 BLM’s Answer makes the below indented statement attempting to buttress its claim that it can
16 interpret TPL’s June 16, 2021 letter to mean that negotiations regarding the Marina Ranch Gate
17 access point easement are ongoing and that such interpretation is not proven false or
18 unreasonable.

19
20 In a letter dated June 16, 2021, TPL informed BLM that it could not
21 ‘accommodate a plan that facilitates the upper parking location’ but that it
22 ‘remains a willing partner in finding a path forward that will address these
23 issues and provide for a southern access point.’

24 This BLM-created statement also creates a completely false impression. It does so by taking two
25 statements in TPL’s letter which are separated by two full paragraphs, reverses their order, and
26 omits the fact that each of those statements is immediately followed in each case by a clear
27 statement that the “path forward” TPL is referring to is the Yellow Bank South Gate alternative.
28

1 16. As explained in Paragraph 1 above, TPL's June 16, 2021 letter concluded that
2 even a reduced-scope project which includes splitting the Marina Gate agricultural field for
3 public vehicular access would violate the below-quoted express purpose of the Agricultural
4 Conservation Easement which TPL is committed to honor:

5 It is the purpose of this Easement ... to prevent any use of the Property that
6 would materially impair or interfere with its agricultural values, use or utility.

7 17. TPL's June 16, 2021 letter then explained that bifurcating the agricultural field for
8 public vehicular access would materially impair and interfere with the use, utility and viability of
9 the field. The letter further explains that such bifurcation would place a heavy burden on the
10 agricultural operator, and that BLM's proposed season of use by the public is also the main
11 growing season. The letter further explains that the road placement, projected heavy public use
12 and associated fencing would impact cultivation and irrigation activities and that even a seasonal
13 gravel or dirt road through the field with significant traffic levels would also potentially create
14 food safety and other concerns during the season of use, while in the wet season, changes to
15 drainage upslope of the field could impact early-season planting and soil conditions.


16 18. By letter dated June 29, 2021 [and emailed 2 days later], TPL helped draft and
17 then signed and delivered the "7 Organizations Proposal" letter to BLM, a true and correct copy
18 of which is attached hereto as Exhibit B, by which TPL further confirmed that:

19 The RMPA acknowledges that there is no right of access from Highway 1
20 bisecting TPL's Agricultural Field to the Marina Gate. TPL has provided formal
21 communication to BLM that it cannot grant this easement. As a result of these
22 issues and concerns, the Marina Gate location proposed in the RMPA does not
23 represent a path forward for a southern access point.

24 Negotiations regarding the Marina Ranch Gate access point easement bifurcating TPL's
25 agricultural field ceased to be "ongoing" as of TPL's June 16, 2021 letter.
26
27
28

1 19. TPL instead offered to make land available to BLM at the north end of the Marina
2 Gate field for a "Yellow Bank South Gate" public access location (with parking). The only
3 ongoing negotiations are about features and processes related to the Yellow Bank South Gate
4 alternative. TPL is committed to working with BLM to facilitate approval as soon as possible of
5 the Yellow Bank South Gate alternative.
6

7 I declare under penalty of perjury that the foregoing is true and correct. Executed on
8 February 1, 2022.

9
10 
Christina Fisher

1 **PROOF OF SERVICE**

2 I, Michael R. Lozeau, declare as follows:

3 I am a resident of the State of California, and employed in Oakland, California. I am over the age
4 of 18 years and am not a party to the above-entitled action. My business address is 1939 Harrison Street,
5 Suite 150 Oakland, CA 94612. On February 3, 2022, I served a copy of the following documents:

6 • **DECLARATION OF CHRISTINA FISCHER**

- 7 ☐ By enclosing the documents in an envelope provided by an overnight delivery carrier and
8 addressed to the persons listed below and placing the envelope for collection and overnight
9 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.
10 ☐ By personally delivering the document(s) listed above to the person(s) at the address(es) set forth
11 below.

12 United States Department of the Interior
13 Office of Hearings and Appeals
14 Interior Board of Land Appeals
15 801 N. Quincy St., Suite 300
Arlington, VA 22203
ibla@oha.doi.gov

Erica Anderson, Attorney-Advisor
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

16 I declare under penalty of perjury (under the laws of the State of California) that the foregoing
17 is true and correct, and that this declaration was executed February 3, 2022 at Oakland, California.

18
19 

20 Michael R. Lozeau

EXHIBIT A

**June 16, 2021 Letter
from TPL to BLM**



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,



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>

Bruen Lergau; Tara Barth; Rachel Davis; Christy Fischer; Andy Schaffers; Haggie; Christopher M; Taly Shue; David Sutton

4/23/

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

You forwarded this message on 3/20/2021 12:14 PM.

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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-rail 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 B

June 29, 2021

"7 Organizations" Proposal Letter to BLM

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 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

By: Big Creek Lumber Company

Janet M. Webb

By Janet Webb, President

Santa Cruz County Farm Bureau

By Arnett Young, President
(agriculture issues only)

By: Sempervirens Fund

Sara Barth

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

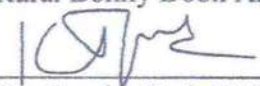
Santa Cruz Puma Project


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:

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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

Swanton

Cotoni-Coast Dairies Overview

San Vincente
Redwoods

Bonny Doon

Bonny Doon Rd

DNCA
Alternative
Parking

Warrenella
Gate Parking

Davenport

1

Yellow Bank
Alternative
Parking

Marina Gate
Terrace Parking

Santa Cruz

1 mi



Legend

Cotoni-Coast Dairies



San Vincente Redwoods



Phase I Trails



Parking Areas



ATTACHMENT B(2)a

Yellow Bank South Gate Aerial with overlay



YELLOW BANK SOUTH GATE ALTERNATIVE
SIZE: 2 ACRES
MINIMUM 75 STANDARD PARKING SPACES
AND 4 EQUESTRIAN SPACES

ADA COMPLIANT, MIXED-USE TRAIL
UP TO SECOND TERRACE TRAILS
AND VISTA POINT

NEW FRONTAGE ROAD
TO ACCESS PARKING LOT

Caltrans ROW

PEDESTRIAN
BRIDGE OVER
HIGHWAY 1

LEFT HAND TURN LANE
TO RTC PROPOSED
PANTHER BEACH PARKING LOT

LEFT HAND TURN LANE
TO PARKING LOT

New Access Road

Pedestrian Bridge

ADA, Mixed-Use Trail

Cal-trans Right of Way

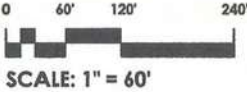
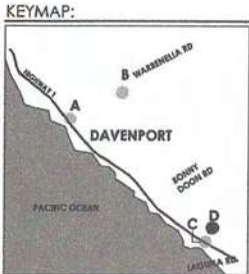
ATTACHMENT B(2)a

**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 (183,343 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



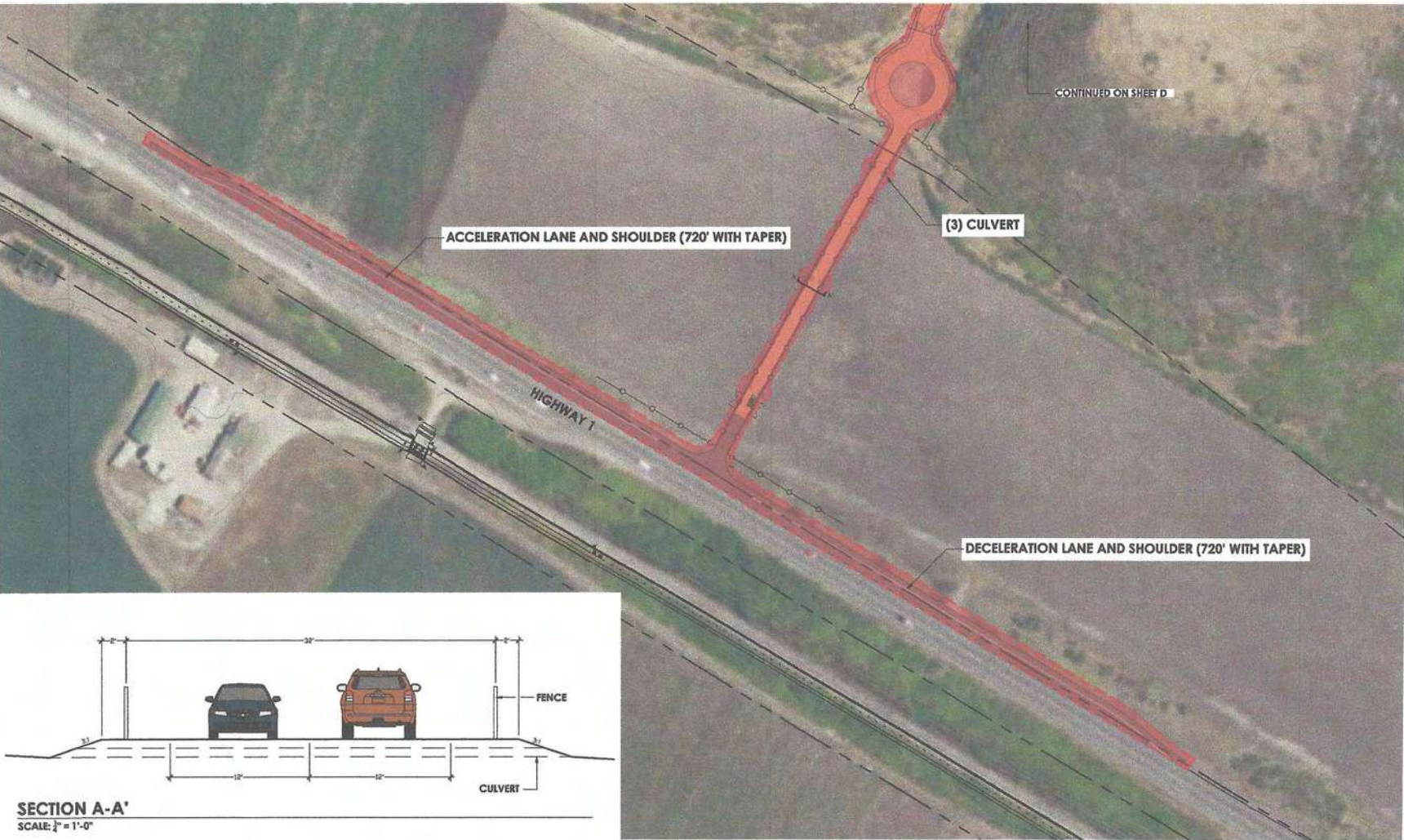
DRAFT CONCEPT: MARINA RANCH GATE

Cotoni-Coast Dairies Trailhead Feasibility Refinements

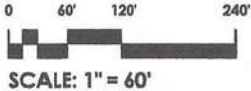
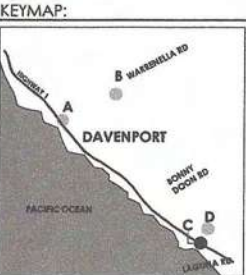
NOVEMBER 2019

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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)
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Cotoni-Coast Dairies Trailhead Feasibility Refinements

NOVEMBER 2019

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