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Ben Blom, Field Manager
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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>

Bryan Larey; Sara Barth; Rachel Dann; Christy Fischer; Andy Schiffrin; Heppie, Christopher M; Tily Shue; Dave Sutton

4/23/

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

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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-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!

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