



State of California – The Natural Resources Agency
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EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director



February 7, 2018

Mr. Steve Monowitz, Director
Planning and Building Department
County of San Mateo
455 County Center, 2nd Floor
Redwood City, CA 94063

Dear Mr. Monowitz:

Subject: Four Residences on Vallemar at Julianna, Moss Beach, Initial Study/Mitigated Negative Declaration, San Mateo County Case No. PLN2015-00380

The California Department of Fish and Wildlife (CDFW) reviewed the Initial Study/Mitigated Negative Declaration (IS/MND) provided for the Four Residences on Vallemar at Julianna, Moss Beach (Project) located at Vallemar Street at Julianna Avenue, in unincorporated Moss Beach, San Mateo County. The IS/MND was received in our office on January 17, 2018.

CDFW is a Trustee Agency under the California Environmental Quality Act (CEQA) section 15386 for projects that could impact fish, plant and wildlife resources. CDFW is also considered a Responsible Agency if a project would require discretionary approval under the California Endangered Species Act (CESA; Fish and Game Code, § 2050 *et seq.*), the Native Plant Protection Act, the Lake and Streambed Alteration (LSA) Program or other provisions of Fish and Game Code that afford protection to the State's fish and wildlife trust resources. Pursuant to our jurisdiction, CDFW has the following concerns, comments, and recommendations regarding the Project and potential impacts to coast yellow leptosiphon, a CESA candidate species.

PROJECT DESCRIPTION AND LOCATION

The Project includes construction of four new residences, with a total building footprint of 15,985 square feet on a 2.48-acre parcel. Construction of the residences would require a Coastal Development Permit (CDP), Resource Management-Coastal Zone Permit, Grading Permit, and Lot Line Adjustment (LLA). The residences are proposed on what would be four reconfigured parcels (via the LLA) from the seven legal parcels that currently exist. The Project involves the removal of 30 Monterey cypress trees, as well as a total grading of 600 cubic yards (cy) of cut and 3,100 cy of fill. The CDP is appealable to the California Coastal Commission.

The property is bordered to the north by residentially zoned and developed parcels, to the east by Vallemar Street, to the south by Julianna Avenue, and to the west by the coastal bluffs along the Pacific Ocean. The Project site slopes to the southwest at an average slope of approximately 10% and ranges from about 26% near Vallemar to about 3% closer to the bluffs.

COAST YELLOW LEPTOSIPHON – LEGAL STATUS AND THREATS

A petition to list coast yellow leptosiphon as an endangered species pursuant to CESA was submitted to the Fish and Game Commission (Commission) on May 25, 2016 by

Ms. Toni Corelli and the California Native Plant Society (CNPS). On December 23, 2016, the Commission published its Notice of Findings for coast yellow leptosiphon in the California Regulatory Notice Register, designating coast yellow leptosiphon as a candidate species. (Cal. Reg. Notice Register 2016, No. 52-Z, p. 2197). A candidate species is afforded the same protections as a CESA-listed threatened or endangered species. (Fish and Game Code, § 2085). CDFW promptly commenced its review of the status of the species as required by Fish and Game Code section 2074.6, which concluded with a peer-reviewed status review report that was submitted to the Commission. The Commission will receive the report at its February 7-8, 2018 meeting in Sacramento and will determine at a future meeting whether to list coast yellow leptosiphon as endangered. The status review report and its listed references are incorporated into this letter and provided as Exhibit A.

As further described in the status review report, coast yellow leptosiphon (*Leptosiphon croceus*) is a low-growing annual plant in the Phlox family (Polemoniaceae) that was first described in 1904. The sole population of this plant is limited to approximately 167 square meters (1,800 square feet) located in coastal prairie habitat atop Vallemar Bluff at the edge of the coastline and adjacent to the Project site. The population of coast yellow leptosiphon occurs in close proximity to urban land use, and has been either directly or indirectly impacted by modification or destruction of habitat. Coast yellow leptosiphon is threatened, both directly and indirectly, by development and other land-use changes; impacts from invasive plant species; and impacts from human activities such as trampling. Bluff-top erosion is also a serious threat to this species, and climate change may accelerate this process. In addition, coast yellow leptosiphon is highly vulnerable to extinction due to its extremely limited distribution and restriction to only one small population. Because of the rarity of coast yellow leptosiphon, the loss of any occupied habitat or any portion of the population would represent the loss of a significant portion of its total range, and would likely lead to extinction of the species.

CEQA CONSULTATION, NOTIFICATION AND REVIEW REQUIREMENTS

CEQA and the CEQA Guidelines define a trustee agency as a state agency with jurisdiction by law over natural resources affected by a proposed project. CEQA's circulation, notice, and consultation requirements play a critical role in CDFW's trustee mandate to conserve the State's fish and wildlife resources for all the people of California (Fish and Game Code, §§ 711.7, 1802). Public agencies are required to consult with CDFW in its capacity as a trustee agency for fish and wildlife resources. [CEQA Guidelines,¹ §§ 15072, subd. (a) and 15073, subd. (c)]. To the extent CDFW exercises discretionary approval power over a project for CESA purposes, CDFW is considered a CEQA responsible agency. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). The consultation process provides a public agency with the opportunity to ask CDFW whether a proposed action may have a significant effect on or cause jeopardy to a species protected under CESA.

CEQA specifies minimum notice requirements for Mitigated Negative Declarations. (Pub. Resources Code, § 21091; CEQA Guidelines, §§ 15072 and 15205). A lead agency must submit a draft Mitigated Negative Declaration to the State Clearinghouse for a 30-day review period if a state agency would be a CEQA responsible agency or if a project is of statewide,

¹ Cal. Code of Regs., tit. 14, § 15000 et seq.

regional, or areawide significance. [CEQA Guidelines, §§ 15073, 15105 and 15205, subd. (b)]. A project that would substantially affect sensitive wildlife habitats, including habitat for a rare or CESA-protected species, is one of statewide, regional, or areawide significance. [CEQA Guidelines, § 15206, subd. (b)(5)]. A public agency's failure to give the notice required by law may constitute a prejudicial abuse of discretion resulting in an adopted Mitigated Negative Declaration being set aside. (*Fall River Wild Trout Foundation v. County of Shasta* (1999) 70 Cal.App.4th 482, 491-93).

A Mitigated Negative Declaration may be appropriate when an Initial Study identifies potentially significant effects on the environment, but the project is revised to avoid or mitigate the effects and there is no substantial evidence that the revised project may have a significant effect on the environment. (Pub. Resources Code, § 21064.5). If there is substantial evidence in the record to support a fair argument that mitigation measures for the revised project may not mitigate impacts to a level of insignificance, then a Mitigated Negative Declaration is not appropriate. (*San Bernardino Valley Audubon Society v. Metropolitan Water District* (1999) 71 Cal.App.4th 382, 391-92). Further, if there is substantial evidence that a project has the potential to "cause a fish or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; [or] substantially reduce the number or restrict the range of an endangered, rare or threatened species," then a lead agency is required to prepare an EIR. (CEQA Guidelines, § 15065, subd. (a); see also Pub. Resources Code, §§ 21001, subd. (c) and 21083; CEQA Guidelines, §§ 15064 and 15380).

PROCEDURAL BACKGROUND

A pre-application public meeting for an earlier version of the Project was conducted in December 2015. The Project was redesigned in October 2016 and again in July 2017. The County Design Review Committee reviewed the plans in October 2017, recommending approval. The County did not consult with CDFW after redesigning the Project. A consultation may have occurred prior to 2015; however, we have no records of such an occurrence, and the Project has evolved significantly since that time.

On June 6, 2017, CDFW sent a letter to the County Planning and Building Department informing the County of the presence of coast yellow leptosiphon on a County property adjacent to the Project site, informing the County of the petition to list the plant as endangered, and asking the County for its help in protecting the plant from possible extinction. The letter provided an overview of CESA candidacy and informed the County that CDFW would be preparing a status review report, to include detailed information about the species, best management practices, threats, and CDFW's recommendation to the Fish and Game Commission as to whether species listing is warranted. The letter requested that the County consult with CDFW prior to making any changes to its property.

In response, County staff emailed Cheryl Burton, Senior Environmental Scientist Specialist on November 7, 2017 to inquire about the status of CDFW's decision to list coast yellow leptosiphon under CESA. Ms. Burton works in CDFW's Native Plant Program, which provides technical guidance to the public and CDFW regional staff on issues pertaining to special-status plants. The Native Plant Program does not typically provide review of CEQA documents, which is handled by regional offices. Ms. Burton informed the County that CDFW was finalizing a status review report and that the status review report was estimated to be complete by the end

of December. The County did not request further consultation with CDFW staff regarding the Project and how it might affect the plant population on the adjacent site. Instead, the County proceeded with preparation of the IS/MND.

Ms. Randi Adair, a Senior Environmental Scientist (Supervisory) in CDFW's Bay Delta Region, the regional office responsible for reviewing the Project, contacted the County via email on December 5, 2017, inquiring about the status of the Project and CEQA document, offering to provide technical assistance, and asking to consult with the County on the Project as described in CEQA consultation requirements [Pub. Resources Code, §§ 21080.3, 21104.2; CEQA Guidelines §§ 15006, subd. (g), 15022, 15060.5 and 15063, subd. (g)]. Ms. Adair informed the County that CDFW had received comments from the public regarding this Project and expressed concern that mitigation measures described by the County in the email exchange - fencing, signage and other similar measures - would not be effective in addressing all Project impacts, resulting in significant and unavoidable effects to the coast yellow leptosiphon. Ms. Adair also advised the County that preparation of an EIR might be warranted. Ms. Adair offered to provide a detailed comment letter prior to preparation of the environmental document to assist County staff in evaluating and mitigating the Project's potential impacts and determining whether an EIR should be prepared. County staff responded that an IS/MND was in preparation and that CDFW would be provided with a copy to review during the public comment period.

Initially, the County adopted a review period of 20 calendar days for this Project. The County did not submit the IS/MND to the State Clearinghouse for a 30-day review period. As previously noted, CDFW had emailed the County to express concerns regarding the impacts of the Project, also indicating that the Project was likely to be controversial. The County emailed a copy of the IS/MND to CDFW staff on January 17, 2018. On January 18, 2018, CDFW emailed the County to request that the review period be extended to cover, at a minimum, the standard 30 days. The County accordingly extended the review period by ten days. County staff indicated that they would email interested parties about the change.

CDFW is concerned that it was not consulted with regarding potential impacts to the CESA-candidate species coast yellow leptosiphon, that the Project was not appropriately noticed, and that the Project may not mitigate potential impacts to coast yellow leptosiphon to a level of insignificance. CDFW has prepared the below comments on the Project's impacts and proposed mitigation approach to highlight our concerns. We ask that our comments be immediately posted on the County's website for public review and maintained as part of the Project file, and that this letter be made available to any member of the public requesting information on the Project.

GENERAL ISSUES

Substantial Evidence: Coast Yellow Leptosiphon Status Review

As described above, CDFW staff informed the County that a status review for the coast yellow leptosiphon would be completed in late December. The status review is a detailed report prepared by CDFW staff and reviewed by a panel of external experts that compiles the best available science on a candidate species' habitat and life history needs, best management practices, threats, and CDFW's recommendation to the Fish and Game Commission as to whether CESA listing is warranted. The status review was received by the Fish and Game Commission at its public meeting on February 7-8, 2018.

The status review report represents substantial evidence, as defined in CEQA Guidelines section 15064, subdivision (a)(1), necessary to fully evaluate the Project's effects on the environment. The County was informed of the timing of release of this document and could expect this document would be part of the record for the IS/MND. Although the status review report was not yet available to the public, the County was aware of the coast yellow leptosiphon's candidacy under CESA and ongoing status review.

Project Description

The IS/MND describes the footprint of the proposed new residences and some accessory features but does not provide a description of features such as landscaping, stormwater management features, outbuildings, utilities, ingress and egress roads, fencing, etc. Such features would result in permanent conversion of undeveloped areas and could have a number of other effects (see Impact Analysis and Mitigation Measures section below). Impacts may also result during construction or as a result of foreseeable future maintenance. The IS/MND does not provide detail on Project construction, including staging, earth-moving, or handling of spoils and groundwater (although the document does attempt to address some impacts through non-location-specific mitigation). Without this information, CDFW is unable to evaluate the adequacy of the impact analysis or proposed mitigation measures. Impacts may occur that have not been fully disclosed.

IMPACT ANALYSIS AND MITIGATION MEASURES

California Endangered Species Act Status: Coast Yellow Leptosiphon

The IS/MND does not reference the correct CESA listing status for the coast yellow leptosiphon, referring to the plant only as "rare". This species is a candidate for listing, which affords the plant the full protections of CESA. This omission may lead the public to draw inaccurate conclusions about the gravity of potential impacts to this species. Any harm to this small, isolated population – including habitat loss – is likely to put the plant in jeopardy of extinction.

Notice of Intent States "No Effect" on Biological Resources

The Notice of Intent to Adopt a Mitigated Negative Declaration (Notice of Intent) states that the Project would have no effect on biological resources. The "Environmental Factors Potentially Affected" checklist on page 3 of the IS/MND does not indicate any potential effects on biological resources. However, the Biological Resources analysis beginning on page 14 indicates that several impacts would be either less-than-significant or potentially significant if not mitigated. It may be that the "no effect" statement for biological resources in the Notice of Intent and checklist was included in error. Please clarify.

Analysis of Project Impacts

Due to the coast yellow leptosiphon's limited distribution and small population size, any impact to this species or its habitat, regardless of magnitude, should be considered significant under CEQA. Effects that might be considered less-than-significant in other contexts may directly or indirectly threaten the plant's continued existence.

CDFW has identified the following significant concerns regarding the IS/MND Biological Resources analysis:

- The IS/MND states that the coast yellow leptosiphon “does not extend onto any portion of the project site”. The document does not clearly indicate the basis of this finding; however, it appears that this conclusion may have been drawn from a botanical report (Zander 2015) referenced in the analysis. CDFW has two concerns regarding the use of this document in the IS/MND analysis:
 - First, this document was not circulated for public review. CDFW obtained a copy of this report when preparing the status review and has included a copy as an exhibit to this letter (Exhibit B). This report should be included in the public record, and the public should be given adequate time for review.
 - Secondly, the IS/MND uses the Zander 2015 biological report beyond its intended use. The methods described in the Zander 2015 biological report are not adequate to conclusively establish the absence of the coast yellow leptosiphon and/or other special-status species from the Project site. The biologists mapped the extent of the coast yellow leptosiphon population on the adjacent property, but efforts on the Project site appear to have been focused primarily on habitat mapping. Systematic survey methodologies, including duration of survey, level of effort and approach (e.g. transects, plots), are not specified in the report. The findings documented in the report consist solely of a list of plants observed. Adverse conditions and other confounding factors are not discussed. Please refer to CDFW’s “Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Natural Communities” (CDFW, 2009) on our website at: <http://wildlife.ca.gov/Conservation/Plants>
- Based on our review of the available evidence, the IS/MND has not ruled out the possibility that the coast yellow leptosiphon and/or other special-status species may be present on the Project site. In fact, one individual coast yellow leptosiphon plant was observed growing on the Project site during botanical surveys conducted on May 16, 2016 (T. Corelli pers. comm. 2016, also described in the status review). Habitat conditions are currently suitable on several parts of the site. The site supports a number of coastal prairie plants, including low-growing forbs and bunch grasses, which are known to grow in association with this species. Vegetative cover conditions are similar to those on the adjacent property, where presence has been confirmed. Although little is known about the life history of coast yellow leptosiphon, evidence suggests that it may be wind-pollinated, and the Project site is within reasonable dispersal distance for airborne pollen. Plant populations, particularly annuals, may shift spatially from year to year. Since annual plants reproduce by seed, identification of coast yellow leptosiphon on the Project site indicates that the plants have distributed seed beyond the currently-mapped occurrence, and that a seed bank is potentially present in the area where this plant was identified. A seed bank constitutes a living plant population, even when above-ground plants are not visible. As described above, reconnaissance-level survey techniques have a high potential to miss individual plants. The coast yellow leptosiphon is a tiny plant, only 2 to 7 centimeters in height. Since the species has been found in one area of the Project site and may be found in others, the Project could result in take, a significant impact and potential violation of CESA. Conclusions that rely on the assumption that the species is absent from the site should be revisited.

- Native plant species may utilize disturbed habitats depending on the nature and magnitude of the disturbance. The IS/MND should explain why areas proposed for development are unsuitable for the coast yellow leptosiphon and native plant communities. In other words, the IS/MND should describe why on-site conditions permanently preclude the species' future use of the site, with recognition that the coast yellow leptosiphon is an annual plant whose distribution is likely to shift from year to year. Development of areas that are currently suitable or could be restored would reduce the overall habitat available to the species. Other effects could occur, such as a net loss of pollinator habitat.
- The IS/MND indicates that the Project would minimize direct effects to coastal prairie grassland by siting development within disturbed/ruderal areas. The IS/MND does not describe the thresholds and characteristics used to distinguish between "disturbed" habitat and coastal prairie grassland habitat that merits Environmentally Sensitive Habitat Area (ESHA) protection under the California Coastal Act. The text under the heading "Transitional Area" may have been intended to answer this question; however, the text cuts off in mid-sentence.
- The California Coastal Act defines an ESHA as "any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments" (CA Coastal Act § 30107.5). In areas adjacent to ESHAs, the California Coastal Act states that "[e]nvironmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas." As described in this section, it is not clear from the IS/MND analysis that implementation of the Project would be consistent with these requirements.
- The IS/MND states that the Project plans would minimize direct effects on coastal prairie grassland. This word "minimize" implies that an unspecified amount of coastal prairie grassland would be impacted, potentially in conflict with ESHA protection requirements. As stated above, the only remaining habitat for the coast yellow leptosiphon is within the immediate Project vicinity. Any habitat loss, regardless of acreage, could affect this species' survival and should be considered significant.
- IS/MNDs do not typically provide a large amount of detail regarding stormwater, landscaping, irrigation, fencing, site occupancy and use, construction staging and access, etc.; however, for this Project, such details may have potential to adversely impact the coast yellow leptosiphon. Incorporation of Project plans is not adequate; the IS/MND should also include a narrative analysis reviewing the effects of these features.
- It is unclear from the Project Description whether ground-disturbing activities, such as construction staging or spoils storage, would occur in sensitive habitat areas. Please note that ground-disturbing activities should not be considered "temporary" or "less-than-significant" if they could affect a special-status plant population or its seedbank, regardless of whether the site would be restored to pre-project contours.

- As described in the status review (Exhibit A), there are a number of serious threats to the coast yellow leptosiphon associated with coastal bluff erosion and noxious weed encroachment. A coastal bluff recession study was prepared by Haro, Kasunich & Associates, Inc., Consulting Geotechnical and Coastal Engineers in 2015 (HKA 2015, Appendix P). Based on results of this study, the coast yellow leptosiphon population is located on a portion of the bluff that is highly susceptible to erosion, and most of the population could be lost to erosion by 2065. A subsequent report prepared by Environmental Science Associates (ESA 2016, Appendix Q) found that the erosion rate is actually projected to be greater than found in the 2015 report (HKA 2015), indicating an even greater threat to coast yellow leptosiphon. The coast yellow leptosiphon population is also threatened by encroachment of the highly invasive freeway iceplant growing on the edge of the bluff. Freeway iceplant forms nearly impenetrable mats that dominate the landscape, and it competes aggressively with native plant species for light, nutrients, water, and space (D'Antonio and Haubensak 1998). Iceplant has shallow roots that are ineffective for erosion control, and the weight of the plant itself may actually accelerate erosive processes (Spitzer 2002). While such conditions as erosion and noxious weed encroachment are not directly related to the Project, the Project would contribute to habitat stresses on the coast yellow leptosiphon associated with these conditions. The amount of available habitat on Vallemar Bluff is rapidly diminishing. By developing areas adjacent to the current population, the Project would prevent recolonization of previously occupied habitat areas, precluding habitat and species recovery.
- In addition to impacts associated with habitat loss, the Project would intensify current recreational usage in the immediate vicinity of the coast yellow leptosiphon population. People or pets venturing off trail may damage the plant or its habitat. The IS/MND claims that disturbance would not be any higher than under current circumstances but does not provide any evidence to substantiate this claim. Pass-through trail users and stationary residents are likely to utilize the bluff area in different ways. For example, residents are more likely to utilize the area regularly than visitors due to proximity. Residents may also increase the use of pets in the area, which would cause further disturbance to the habitat. Development of the area would modify the aesthetics and accessibility of the bluff, potentially resulting in alterations of walking patterns in the area. People may create new paths through the remaining portions of the habitat accessible on Vallemar Bluff, potentially through the coast yellow leptosiphon population. These concerns also apply to the easement areas proposed by the IS/MND. As described in the Mitigation Measures subsection, the proposed easement appears to be an unenforceable and ineffective method of protecting coastal prairie habitat from foot traffic.
- All claims made in the analysis should rely on the best available scientific literature. Documents cited in the Biological Resources analysis were supplied by the applicant. There is no indication that these documents were independently reviewed and field verified by a qualified botanist. As previously mentioned, the coast yellow leptosiphon status review prepared by CDFW and reviewed by a panel of outside experts provides a comprehensive review and summary of the best available scientific literature pertaining to this species. The status review has been included in this letter as Exhibit A.

- The IS/MND references a number of studies and plans that purportedly incorporate, or will incorporate, protective measures (e.g., County Parks protection plan, conservation strategy, landscaping and irrigation plan, adaptive management and monitoring plan, drainage plan). Most of these plans are preliminary, have not yet been prepared, are not included for public review, and/or depend on implementation by a third party. Funding, monitoring and enforcement mechanisms are largely unspecified. Given the imperiled nature of the adjacent coast yellow leptosiphon population, this level of uncertainty and deferral is not appropriate and does not satisfy the requirements of CEQA.
- The analysis includes a discussion of site hydrology and indicates that the project will include infiltration and detention features (not described) to prevent a net increase in surface runoff from the Project site. Other hydrological effects, including soil saturation and effects of increased subsurface flows on erosive processes, are not addressed. As indicated in the geotechnical analysis (Appendix P), test bore holes encountered groundwater at a depth of 4 to 5 meters. Additional seepage at the bluff face may increase the rate of erosion.
- The site plan avoids impacts to Monterey cypress, a species that generally provides aesthetic rather than high ecological value, while impacting restorable open grassland. Monterey cypress is known from only two native occurrences, which are in the Monterey area. It is considered invasive in other parts of California, and it has been widely planted and naturalized in other areas along the coast (Cal-IPC 2017; CNPS 2017). The Monterey cypress trees on the Project site likely represent planted specimens.
- No protective measures are provided to avoid impacts to the coast yellow leptosiphon during construction.
- Special-status species that are known to occur on the Project site and vicinity, including Blasdale's bent grass (*Agrostis blasdalei*), Johnny nip (*Castilleja ambigua* ssp. *ambigua*) and harlequin lotus (*Hosackia gracilis*), were not disclosed in the IS/MND and impacts were not evaluated.

Adequacy of Proposed Mitigation Measures

The bar for success of mitigation measures protecting the coast yellow leptosiphon and its habitat is high. Any residual impact to this species or its habitat could lead to the species' extinction. Residual impacts should therefore not be considered "less-than-significant" even if all feasible mitigation has been applied.

CDFW has several concerns about the clarity, enforceability and effectiveness of mitigation measures proposed in the Biological Resources section, as described below.

Mitigation Measure 3: This mitigation measure tasks the County Parks Department with preparing a plan responding to the potential impacts of the Project. The scope of the plan is unclear; the measure only indicates that it will likely include fencing and signage and that such features will "ideally be implemented" prior to the final construction inspection of the new residences.

This measure defers mitigation to a future date and places the burden of mitigation on a public agency. This mitigation measure does not outline clear performance standards or Project applicant responsibilities, and as such, is largely unenforceable. No funding or monitoring mechanisms are specified. It is not certain that the measure will be in place before anticipated impacts occur.

As written, this mitigation measure would not offset potential impacts to coast yellow leptosiphon or its habitat. CDFW recommends that this mitigation measure be significantly revised, in consultation with our agency.

Mitigation Measure 4: This mitigation measure indicates that the applicant shall implement a conservation strategy developed by one of the applicant's consultants (McGraw 2017). The measure also implies that an easement will be granted to a non-profit conservation or governmental agency to protect coastal grassland habitat.

The draft conservation strategy (an appendix to Appendix S) provides conceptual conservation measures, but does not provide details on how to implement measures or how the measures would offset impacts. The strategy refers to an adaptive management and monitoring plan that will be prepared for "the preserve" that will follow a draft outline that was prepared in 2016 (McGraw 2016). The draft outline for the plan was not provided to CDFW for review. In addition, it is unclear what is meant by "the preserve", as it is not described or defined.

CDFW is concerned that the easement requirement, a measure that is heavily relied upon to support a less-than-significant finding for habitat loss and degradation, has not been fully fleshed out or vetted. The IS/MND indicates that the easement will describe restricted and allowable uses; however, such uses are not incorporated into the mitigation measure itself. The measure alludes to restrictions on pesticide, fertilizers and pet access, but does not explain what the restrictions would entail. It is unclear how the effectiveness of the easement will be monitored or enforced or what long-term funding mechanisms would be put in place for management, monitoring, and enforcement. Elsewhere in the IS/MND, the text posits that homeowners' association (HOA) fee might be an appropriate source of funding. HOA fees are a non-binding funding mechanism; therefore, CDFW recommends a non-wasting endowment based on a long-term management plan. The endowment should also fund any off-site costs incurred by the County Parks Department to protect the coast yellow leptosiphon population against potential Project impacts.

CDFW has a long history of reviewing, managing and enforcing easements. We recommend that the County consult with our agency to discuss revision of this measure to provide clearer, more enforceable protections. The easement terms, easement holder, long-term management plan, management responsibilities, permanent funding mechanisms, monitoring, and enforcement should be agreed upon prior to approval of the Project. The easement should be recorded and funding should be in place before any construction occurs.

Mandatory Findings of Significance

Please review our comments on the Impact Analysis and Mitigation Measures to determine whether mandatory findings of significance under the Public Resources Code section 15065

apply to the Project given the vulnerability of coast yellow leptosiphon to extinction as described above and in the status review report.

OTHER CONSIDERATIONS

Appropriateness of a Mitigated Negative Declaration

Comments regarding substantial evidence and the significance of potential effects are provided above. After reviewing CDFW comments on the potential effects of the Project, please consider the standards identified in CEQA Guidelines section 15073.5, which describe the process for adding and expanding mitigation measures, and as necessary, recirculation of an MND or preparation of an EIR.

Use Of IS/MND as CEQA Document for Discretionary Permits

As described in this letter, CDFW has identified a number of inadequacies in the IS/MND, both in procedure and content. As such, responsible agencies expected to issue discretionary permits for the Project may need to conduct additional environmental review prior to finalization of such permits.

Filing Fees

CDFW anticipates that the Project will have an impact on fish or wildlife and assessment of filing fees is necessary (Fish and Game Code, § 711.4; Pub. Resources Code, § 21089). Fees are payable upon filing of the Notice of Determination by the lead agency and serve to help defray the cost of environmental review by CDFW.

RECOMMENDATIONS

We urge the County to address the concerns described above regarding resources within our jurisdiction. CDFW strongly encourages a meeting between CDFW, County Planning and Parks staff, the California Coastal Commission, and any other agencies expected to issue discretionary permits for the Project to address and resolve concerns. If the County chooses not to consult with responsible and trustee agencies, we recommend that the County provide a written response to our concerns, posting the letter on the County website for public review and maintaining a copy with the Project file.

It may be necessary to revise and recirculate the IS/MND or prepare an EIR to address procedural or content deficiencies addressed above. Some of the Project's impacts may be unavoidable. If you have any questions, please contact Ms. Randi Adair, Senior Environmental Scientist (Supervisory), at (707) 576-2786 or randi.adair@wildlife.ca.gov; or Mr. Craig Weightman, Environmental Program Manager, at (707) 944-5577 or craig.weightman@wildlife.ca.gov.

Sincerely,



Gregg Erickson
Acting Regional Manager
Bay Delta Region

Mr. Steve Monowitz
February 7, 2018
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cc:

State Clearinghouse

San Francisco Bay Area Regional Water Quality Control Board

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Lt. James Ober, CDFW Law Enforcement Division

REFERENCES

Cal-IPC (California Invasive Plant Council). 2017. California Invasive Plant Inventory Database. Available online at: <http://www.cal-ipc.org/paf/>. [accessed 2017 August 2].

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Mr. Steve Monowitz
February 7, 2018
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EXHIBITS (via email only)

Exhibit A. Status Review

California Department of Fish and Wildlife, 2017. Report to the Fish and Game Commission, Status Review of Coast Yellow Leptosiphon (*Leptosiphon croceus*).

Exhibit B. Biological Report

Zander Associates, 2015. Vegetation Characterization and Mapping, Moss Beach Lots. Provided to Owen Lawlor, Manager, Moss Beach Associates, LLC on May 21, 2015.