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**Subject:** Comments on Sonoma County Local Coastal Plan Update (PLP13-0014) – June 2021 Revised Public Review Draft  
**Date:** April 29, 2022 3:45:16 PM  
**Attachments:** [00633219.pdf](#)

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Good Afternoon,

Attached, please find correspondence, from Ms. Leisy on behalf of Joe and Al Bordessa.

Sincerely,

**Kathryn A. Ramirez**  
Paralegal



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Andrea K. Leisy  
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April 29, 2022

VIA ELECTRONIC MAIL ONLY  
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Planning Agency Secretary  
Permit Sonoma  
2550 Ventura Avenue  
Santa Rosa, California 95403

Re: Comments on Sonoma County Local Coastal Plan Update (PLP13-0014) – June 2021 Revised Public Review Draft

Dear Planning Agency Secretary:

We submit this letter on behalf of our clients, Joe and Al Bordessa, as successor trustees,<sup>1</sup> regarding the ongoing proposed Sonoma County Local Coastal Plan (LCP) Update. The Bordessa family owns the Bordessa Ranch located at 17000 Valley Ford Cutoff (Highway 1) (the Ranch or Property) on which Sonoma County Agricultural Preservation and Open Space District have a recorded trail easement allowing limited public access subject to the terms and limitations of the easement. The Bordessa Ranch is currently used for grazing and breeding cattle. The property possesses an abundance of biological resources including providing habitat for a number of special-status plant and wildlife species that constitute environmentally sensitive habitat areas (ESHA) under the Coastal Act. (See Exhibit 1 [Letter dated July 14, 2020], Exhibits E-F.)

Despite the extensive sensitive ESHA and numerous protected plant and animal species which are present within the Property, the LCP Update identifies the Ranch as a proposed public access area to be developed by Sonoma County Regional Parks. (Public Access Plan, p. 91 [(J-5) Estero Trail].) Maximizing public access over the Bordessa property to the Sonoma County Coast, as proposed in the Public Access and Open Space Elements of the LCP Update, will significantly degrade the existing ESHA and is inconsistent with the Coastal Act. The proposed public access will also result in significant and unavoidable public safety impacts, as conceded by the County in the Draft EIR prepared for the proposed trail easement, and will preclude the Ranch from continuing to be used for cattle grazing and breeding, also in violation of the Coastal Act. (See Public Access Element, Goal C-PA-1.)

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<sup>1</sup> / All references herein are to the Bordessas as Trustees.

Our clients request that the LCP Update eliminate all references to public access over the Bordessa Ranch. The County should, instead, seek a LCP amendment and Coastal Development Permit (CDP) from the Coastal Commission if and when the County ever completes the environmental review process for the proposed Estero Trail project which it started in 2014-2015 and for which a Draft EIR was issued in December 2019.<sup>2</sup>

Our additional comments on the LCP Update are as follows:

- I. Allowing public access over the Bordessa Ranch is inconsistent with the Legislature's intent under the Coastal Act.

Under the Coastal Act (Pub. Resources Code, § 30000 et seq.), the “intent of the Legislature [is] that public access policies be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access.” (Pub. Resources Code, § 30214, subd. (b).)

The Bordessa Ranch is privately-owned and functions as a cattle ranch, an agricultural use which takes priority over public access. (Pub. Resources Code, § 30222 [agriculture has priority over public access]; LCP Update Land Use Element, p. LU-5 [agricultural uses are among the highest priority uses within the Coastal Zone].) The conservation easement over the Ranch also prioritizes agricultural use over recreation and educational uses, e.g., public trails. (Exhibit 1, Attachment B, Conservation Easement, § 3).

Any proposed public access to the property as identified in the LCP Update is subject to the terms and conditions of the trail easement which obligates the Open Space District to consult with the Bordessas regarding the precise locations of the trail corridors on the property. It further required the Open Space District to designate the trail corridors within two years of May 8, 2012, the effective date of the trail easement. (See Exhibit 1, Attachment C, Trail Easement, § 3.) Because the Open Space District failed to designate the trail corridors within the mandated timeframe (on or before May 25, 2014), the District was found in breach by the Sonoma County Superior Court.

Completion of the Final EIR, required prior to adoption of the precise trail location(s) remains ongoing despite the County releasing the Draft EIR in December 2019.<sup>3</sup> CEQA requires EIRs to be completed within one year. (Pub. Resources Code, § 21151.5, subd. (a)(1)(A).) Yet, over two years later, the County has failed to make available a Final EIR or a revised and recirculated Draft EIR.

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<sup>2</sup> <https://permitsonoma.org/Microsites/Permit%20Sonoma/Documents/Pre-2022/Planning/Comprehensive%20Planning/Project%20Review/EIRs/Estero-Trail-Draft-EIR.pdf>

<sup>3</sup> / <https://sonomacounty.ca.gov/PRMD/Planning/Significant-EIRs/>

The Open Space District's failure to act has resulted in a cloud over the Bordessa Property and the family's desired uses, thereby compromising their property rights. The trail corridors proposed in the Draft EIR impede the development of the proposed horse arena, which may be constructed as of right subject to the conservation easement. (DEIR, Figure 2-4; Exhibit 1, Attachment B, Conservation Easement, § 5.5.5.) The Bordessas cannot move forward with development on their property due to the uncertainty created by the County in proposing broad public access over the Ranch. Moreover, the uncertainty of the trail locations clouds the title of the Bordessa Property which potentially impedes their right to convey the property should they so desire.

## II. Public access to the Bordessa Ranch will significantly degrade ESHA.

The LCP Update expands the definition of what constitutes ESHA, making it consistent with the statutory definition found in the Coastal Act. (Pub. Resources Code, § 30240; cf. LCP Update Glossary.) The public access propose through the Ranch would significantly degrade the ESHA found within the Ranch.

As documented in the Draft EIR and our client's comments on the EIR, included herein for the LCP Update record, the Bordessa Ranch possesses an abundance of biological resources including not only the Estero, but also sensitive communities, special-status plant species, and habitat for a number of protected wildlife species. (Draft EIR, pp. 3.4-5 to 3.4-42 [Environmental Setting]; see also Exhibit 1, Attachments E-F.) Substantial evidence fails to support the Draft EIR's conclusion that "[n]either the [proposed Estero Trail] or the Estero in which the access trail is proposed is within an identified ESHA." (Draft EIR, p. 3.4-78.) In fact, the Draft EIR fails to identify the habitat areas onsite that may be considered ESHA by the Coastal Commission as required by CEQA. (See *Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918, 936 [invalidating EIR for failure to identify what may potentially be considered ESHA].) The proposed LCP Update, however, identifies ESHA on the Bordessa property. <sup>4</sup>

The Draft EIR analyzing public access to the Bordessa Ranch discloses that increased human activity due to trail use, including the inevitable off-trail use, by visitors would disturb special-status wildlife species or habitat and destroy special-status plant populations. (Draft EIR, pp. 3.4-53 to 3.4-60.) As explained by expert biologist, Mr. Ted Winfield, allowing visitors to access the Estero would result in perturbations to the vegetation, such as trampling, which in turn would allow non-native plants to invade the area. This effect could be long lasting due to the periodic reduction/elimination of tidal action in the Estero. (Exhibit 1, Attachment E, Winfield Memo, pp. 3-4.) As proposed, there are no safeguards to ensure that users of public access trails on the Bordessa Ranch would not venture off the trail to pursue a frog, photograph flowers, or explore nearby areas. Self-policing measures such as exclusionary fencing and potential fines for non-

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<sup>4</sup> / <https://sonomacounty.ca.gov/a/110472>

compliance are insufficient to preserve the natural resources the Conservation Easement and the Coastal Act are designed to protect. (See Exhibit 1, Attachment E, Winfield Memo, pp. 2-3.)

The LCP Update does not acknowledge these ESHA impacts or attempt to reconcile them with the Coastal Act policies requiring protection and enhancement of environmental resources, rather than their disruption. (See Pub. Resources Code, §§ 30230, 30231, 30240, subd. (a).) While a goal of the LCP Update's Public Access Element is purportedly to minimize the adverse impacts from public access to the environment, several policies in the Open Space and Resource Conservation Element serve to undermine that goal by allowing impacts to ESHA and other riparian and wetland habitat. For example, while there are a number of policies that require specific buffer widths to protect ESHA and wetlands, those same policies allow the County to approve reduced buffer widths. (See, e.g., Policy C-OSRC-5b(5), Policy C-OSRC-5b(7); LCP Update, Appendix E, pp. 5-7.)

The provisions for public access through the Bordessa Ranch must therefore be eliminated, especially since completion of the Final EIR remains outstanding. The Coastal Commission, moreover, as the steward of the Coastal Act, should carefully consider the public access being proposed over the Ranch as part of an LCP Amendment and CDP.

With respect to the Estero Trail, the Open Space District failed to purchase, through either the conservation easement or the trail easement, the amount of additional land that would be required for buffers or on-site compensatory mitigation under the LCP Update (and as identified in the Draft EIR); much of which would impede the property's existing agricultural use by adding additional fencing and other impediments to the Property which are inconsistent with existing agricultural uses. Conveniently, the LCP Update, if approved, would identify the Estero Trail as Development Priority II and would provide the County with discretion to reduce buffer widths and approve off-site compensatory mitigation. The Coastal Commission must scrutinize these new provisions in the proposed LCP Update.

Public Resources Code section 30240 governs allowable uses in ESHA and limits development inside habitat areas to coastal dependent uses that do not significantly disrupt habitat values. (*McCallister v. Cal. Coastal Comm.* (2008) 169 Cal.App.4th 912) Curiously, the LCP Update includes a new policy which provides that public access-ways and trails are considered resource dependent uses, which would allow development of the Estero Trail at the expense of potentially adverse impacts to ESHA. (Policy C-OSRC-5b(6).) This is inconsistent with the goal to minimize adverse impacts from public access to the environment – including ESHA. (See Public Access Element, Goal C-PA-1.) When there is a conflict between the Coastal Act's environmental-protection policies and any other policies, including public-access policies, the Coastal Act requires that the conflict be resolved "in a manner which on balance is the most protective of significant coastal resources." (Pub. Resources Code, § 30007.5.) The County cannot use the LCP

Update to make an end run around the constraints otherwise presented by the trail easement and current LCP policies.

III. Trails are not a permitted or conditionally permitted use in the Land Extensive Agriculture zoning district.

The Bordessa Ranch is zoned Land Extensive Agriculture (LEA). The purpose of this designation is to “enhance and protect land best suited for non-intensive agriculture of relatively low production on relatively large parcels, by establishing densities and parcel sizes that are conducive to continued agricultural production.” (Land Use Element, p. LU-6.) The principally permitted use in this district is “[p]roduction of food or fiber, including, but not limited to, grazing, farm animal husbandry, outdoor row crop production with essential support uses including incidental preparation, and limited farm-related residential development.” (*Ibid.* [emphasis added].)

The County Zoning Code further identifies a list of permitted and conditionally permitted uses allowable in the LEA District, only if compatible with the principally permitted land use. (Land Use Element, p. LU-5.) Notably, trails or recreational use are not a permitted or conditionally permitted use in the LEA District. (See County Code, §§ 26C-31, 26C-32.) Accordingly, allowing public access trails on the Bordessa Ranch is inconsistent with the LCP Update and the County Zoning Code.

IV. Public access to the Bordessa Ranch will exacerbate the existing traffic safety hazard on Highway 1.

The LCP Update acknowledges that due to narrow shoulders, inadequate sight lines, narrow travel lanes, and limited opportunity for safe passing, roads in the coastal zone such as Highway 1 create unsafe conditions for all road users, especially bicyclists and pedestrians. (Circulation and Transit Element, p. CT-3.) It further provides that “[p]roviding turning lanes at intersections and parking areas is the most effective approach to improving safety along Highway 1[.]” (*Id.* at p. CT-4.)

Annual average daily traffic on Valley Ford Road increased 31 percent with a peak hour increase of 150 percent between 2007 and 2017. (Circulation and Transit Element, p. CT-3 [Table C-CT-1].) The increase in traffic and congestion along Highway 1 is especially acute on the weekends near the Estero Trail project area. (*Ibid.*) Traffic has increased even more during the COVID-19 pandemic, with fatal car crashes continuing to occur.<sup>5</sup>

The Draft EIR prepared for the Estero Trail identifies a significant cumulative traffic impact due, in part, to the increase in traffic resulting from allowing public access to the Bordessa Ranch and concludes that a left-turn lane into the property is warranted.

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<sup>5</sup> See <https://www.audacy.com/kcbsradio/news/local/1-dead-1-injured-after-head-on-crash-on-bodega-bay-highway>

(Draft EIR, p. 3.13-21.) Because, however, the County allegedly lacks the funding mechanism to construct a left-turn lane on Highway 1, the Draft EIR concludes that this impact is significant and unavoidable. (*Ibid.*)

Failure to require a left-turn lane as part of the EIR contravenes the goals and policies of the LCP Update, one of which is to minimize adverse impacts from public access to public safety. (Public Access Element, Goal C-PA-1.) Circulation and Transit Element Policy C-CT-4h expressly provides that “[w]hen a nexus is identified between a project and the need for safety improvements, require the safety improvements as a condition of approval.” (Circulation and Transit Element, p. CT-15.) Safety improvements serving coastal access areas are to be given the highest funding priority. (*Ibid.* [Policy C-CT-4i].)

In fact, Policy C-CT-4q specifically provides that turning lanes should be constructed at parking areas listed in the Public Access Plan. (Circulation and Transit Element, p. CT-17.) The Draft EIR, however, found a significant and unavoidable traffic safety impact to the Bordessa Ranch and that construction of a left turn lane was infeasible. The proposed LCP Update nevertheless requires a turn lane to the Bordessa Ranch regardless of anticipated traffic volumes and without mitigation for ESHA impacts that would otherwise occur from construction. This must be removed from the LCP Update given the Draft EIR’s significant and unavoidable impact finding for the same improvement, and the conflict with the Circulation and Transit Element that would ensue should the turn-lane remain.

#### V. Public access would adversely impact existing agricultural use.

In prioritizing coastal access, the Coastal Act dictates that “development designed to enhance public opportunities for coastal recreation shall have priority” ... “*but not over agriculture.*” (Pub. Resources Code, § 30222, emphasis added.) As set forth above and in our prior comment letters, the Bordessa Ranch is an active cattle ranch. The trail corridors proposed in the Draft EIR do not consider a description of existing pastures and grazing/breeding use.

The safety of trail users must be considered due to the potential interaction between humans and cattle, some of which are bulls that can be aggressive during breeding season and cows who are very protective of their calves. Given this, allowing unfettered public access to the Bordessa Ranch is infeasible considering potential impacts to public safety and interference with existing agriculture use. The LCP Update should therefore eliminate the public access contemplated over the Bordessa property.

#### VI. Conclusion and Request for Notice

Future revisions to the LCP Update must delete the public access proposed to, and over, the Bordessa Ranch as inconsistent with the Coastal Act, including the priorities to protect agricultural uses and ESHA. Such wholesale public access, as

Planning Agency Secretary  
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contemplated in the Update, also cannot be implemented consistent with the terms of the executed trail and conservation easements, and therefore it is infeasible as a matter of law, a problem that should not be circumvented by relaxing buffer and mitigation requirements designed to protect ESHA and other sensitive biological resources.

Finally, we reiterate our request to be provided with copies of any and all future public notices and hearings issued in connection with the LCP Update, including by email. Thank you for the opportunity to comment on the LCP Update and for your consideration of our clients' comments and concerns.

Very truly yours,



Andrea K. Leisy

Encl.

Exhibit 1 w/attachments - Letter to Richard Stabler, dated July 14, 2020

Cc: Stephanie Rexing, California Coastal Commission (via email  
[stephanie.rexing@coastal.ca.gov](mailto:stephanie.rexing@coastal.ca.gov))

Sara Pfeifer, California Coastal Commission (via email  
[sara.pfeifer@coastal.ca.gov](mailto:sara.pfeifer@coastal.ca.gov))

April 29, 2022 RMM Correspondence re  
Comments on Sonoma County Local Coastal  
Plan Update (PLP13-0014) – June 2021 Revised  
Public Review Draft

# **EXHIBIT 1**



R E M Y | M O O S E | M A N L E Y  
LLP

Andrea K. Leisy  
aleisy@rmmenvirolaw.com

July 14, 2020

**VIA ELECTRONIC MAIL ONLY**

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Richard Stabler, Senior Environmental Specialist  
Permit Sonoma  
Natural Resources Section  
2550 Ventura Avenue  
Santa Rosa, CA 95403

**Re: Comments on the Estero Trail Easement Draft Environmental Impact Report (SCH No. 2017112054) & Proposed Project**

Dear Mr. Stabler:

We submit this letter and related attachments regarding the adequacy of the Draft Environmental Impact Report (DEIR) on behalf of our clients, Joe and Al Bordessa, as Trustees of the Bordessa Ranch located at 17000 Valley Ford Cutoff (Highway 1), and Protect the Estero Americano, an unincorporated association of landowners and residents who live and work in the surrounding area and who remain concerned with the significant impacts of the proposed Estero Trail Easement Project, including on traffic safety, biological resources and the existing agricultural uses of the property, including for cattle, under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).

Most disturbingly, the Draft EIR fails to impose feasible mitigation, in the form of a left turn lane and bypass lane for the otherwise significant and unavoidable traffic safety hazard that the proposed Project would exacerbate on Highway 1. CEQA requires lead agencies to mitigate all significant adverse impacts of a project to the extent feasible and to provide substantial evidence of alleged infeasibility as part of the record. The DEIR fails to do this.

Instead, the DEIR finds the potentially life-saving left turn lane and bypass lane infeasible. This is troubling when the Sonoma County Agricultural Preservation and Open Space District (District) has over \$66 million dollars in cash and investments as of May 2020, including from sales tax generated by Measure F which will continue for at least 5-6 more years. (See Attachment J [Fiscal Oversight Commission information].) In light of this evidence and the severity of the traffic/safety hazard, the County must require the left turn lane as a mitigation measure or run afoul of CEQA.

If, moreover, as the DEIR suggests, the Project is approved and one or more people seeking to access the property is killed or injured while attempting to turn left into the site, the District must indemnify our clients for any liability and damages that may be sought by the victims pursuant to the terms of the Trail Easement. (Attachment C, §§ 4, 8.2.)

As explained below, our clients also have substantial ongoing concerns regarding the legality of: (1) allowing members of the public unfettered access to the property, including by kayak or canoe from the Estero Americano, a scenario which is reasonably foreseeable under the Project as currently proposed; and (2) requiring additional on-site, rather than off-site, mitigation under the guise of CEQA which exceeds the scope of the rights negotiated and purchased under the 2012 Trail and Conservation Easements and which would constitute an unlawful taking of additional Bordessa land. Several of the biological mitigation measures would also impede the future agricultural use of the site as required under the Coastal Act and Local Coastal Program.

## I. Background

For those decisionmakers who are unaware of the history of the proposed Project, our clients offer the following brief summary to augment that provided in the July 16, 2020 Planning Commission staff report.

First, the Project as proposed exceeds the scope of what was originally contemplated when executing the Trail and Conservation Easements. In 2012, for example, Supervisor Rabbitt stated that if the Project site is going to be open to the public, it would need to “*have some sort of guided tours.*” (See Attachment D, p.16 [emphasis added].) At that time neither the Board of Supervisors nor the District contemplated allowing unfettered public access from dawn to dusk every day of the week as now proposed and considered in the DEIR as part of the proposed Project.<sup>1</sup> The Trail Easement states the “Uses *may* include . . .”. (Attachment C, p. 2, §2.) Unconstrained and unregulated public access is not required and is not what was contemplated.

Second, in 2012, the District failed to purchase, through either the Conservation Easement or the Trail Easement, the amount of additional land that would be encumbered as now required by the DEIR under the guise of CEQA mitigation; much of which would impede the property’s existing agricultural use by adding additional fencing and other impediments to the property, or removing fencing, that was never contemplated or agreed to. The final 2012 appraisal did not include compensation for mitigation and buffer areas needed to implement the proposed Project and the District lacks ability to acquire this additional property by eminent domain.

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<sup>1/</sup> The Project if approved would provide the only authorized public access to the Estero, which has been heralded as a hidden treasure of Sonoma County.

In 2012, **the Board acknowledged that the acquisition of mitigation rights on the Project site could be costly.** (See Attachment D [Excerpts from Board of Supervisors Meeting, March 13 and 27, 2012, p., 15].) The Trail Easement and appraisal was nevertheless silent on this point. (See Attachments C [void of any grant of right to implement on-site mitigation].)<sup>2</sup> As explained below, several of the on-site mitigation measures are therefore legally infeasible absent agreement from the Bordessas.

## **II. The Project as Proposed is Legally Infeasible because it exceeds the scope of rights granted in the Executed Trail and Conservation Easements.**

The DEIR notes that the Project is subject to a Trail Easement granted to the District by the Bordessas. The language of the grant, not the Project as proposed in the EIR, determines the scope of the easement over our clients' private property. (See *Pacific Gas & Elec. Co. v. Hacienda Mobile Home Park* (1975) 45 Cal.App.3d 519, 525.) Here, the scope of the Trail Easement is limited to the following:

“two trail corridors, each fifty (50) feet in width (“Trail Corridors”), two staging areas, (“Staging Areas”), and use of the main access road, or replacement road in a similar location (“Access Road”), the existing bridge, or a replacement bridge in the same or similar location (“Access Bridge”), and the entrance to the Property, or a replacement gate in the same or similar location (“Access Gate”).

(Attachment C, Trail Easement, § 3.)

The Trail Easement does not grant the District (or the County) the right to “relocate some agricultural fencing or install gates.” (DEIR, p. 2-8.) It further does not allow the construction of “exclusionary fencing and associated gates” for purposes of mitigating impacts to special-status species as described in BIO-2 or the right to implement any on-site compensatory mitigation to offset the loss of wetland or other riparian habitat on the property.<sup>3</sup> Nor does it grant the right to construct a fire safe road or other improvements required of the Project, as now proposed by the District, that are outside the scope of the easements. (See DEIR, pp. 3.4-61-3.4-62 [BIO-2], 3.4-72 [BIO-12], 3.4-75 [BIO-13].)

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<sup>2/</sup> A Sonoma County jury unanimously (12-0) found that the District had breached the 2012 Trail Easement for failing to dedicate the trail corridors by May 25, 2014, and awarded damages to the Bordessas. (See, e.g., *Bordessa et al., v. Sonoma County Agricultural Preservation and Open Space District* (Sonoma County Superior Court Case No. SCV-256943; see also Attachment C, § 3.)

<sup>3/</sup> Compare Attachment D, p. 15 [excerpts from Board hearings], with Attachment C [Trail Easement silence regarding mitigation or buffer areas].)

A clear and specific grant of a particular use, like the one here, is decisive. (See *Wilson v. Abrams* (1969) 1 Cal.App.3d 1030 [easement to use parcel of land as an auto parking lot could not be expanded to include an auto service station]; *Red Mountain, LLC v. Fallbrook Public Utility Dist.* (2006) 143 Cal.App.4th 333, 344 [trial court erred in interpreting access easement by utility district as being for subdivision use, rather than simply for grantee's personal ingress and egress]; *Schmidt v. Bank of America* (2014) 223 Cal.App.4th 1489 [easement for "ingress and egress for public road purposes" did not create public right-of-way].)

The Project, as proposed, also exceeds the rights granted to the District by the Conservation Easement, which prioritizes agricultural resources over recreation and education uses, such as this Project. (Attachment B, Conservation Easement, § 3 [Conservation Purpose].) The DEIR acknowledges that the trail use is allowable under the Conservation Easement provided it does "not adversely affect sensitive natural resources or *agricultural uses* on the property." (DEIR, p. 2-9, emphasis added.)

The proposed East Trail Corridor would, however, adversely affect agricultural use because it would allow unrestricted public access and would impede development of the proposed horse arena, which may be constructed as of right subject to the Conservation Easement. (DEIR, Figure 2-4; Attachment B, Conservation Easement, § 5.5.5.) Approval of the Project as proposed and mitigated in the DEIR would trigger an unlawful taking of portions of the Bordessa property for public use without just compensation. (U.S. Const., 5<sup>th</sup> amendment; California Const., article 1, § 19.)

### **III. Comments Relating to the Inadequacies of the Draft EIR under CEQA**

#### **A. The DEIR fails to Adequately Analyze and Mitigate the Significant Traffic Safety impact of the Project.**

##### **1. The Project trip generation estimates are invalid.**

As a preliminary matter, this comment letter incorporates by reference each comment made by Mr. Liddicoat P.E. of Griffin Cove Transportation Consulting, on the inadequacy of the DEIR's traffic and safety analysis. As such, the Final EIR must provide responses to each of his comments provided in Attachment H, in addition to responses to this comment letter.

First, the DEIR is misleading in that it states the "anticipated daily usage would range from an average of five people to up to a maximum of 20 people during holiday weekends." (DEIR, p. 2-10.) This statement is inconsistent with the Project's trip generation estimates which assume 26 trips during the weekday PM peak hour and 43 trips during the weekend midday peak hour. (DEIR, p. 3.13-12.) 26 vehicle trips, even assuming only one person per car, amounts to more than five people per day.

Second, as more fully explained by Mr. Liddicoat in Attachment H, the DEIR's traffic analysis lacks substantial evidence because the collection of traffic data does not conform to the Institute of Transportation Engineers ("ITE") generally accepted sample size and data collection requirements. Here, the trip generation rates for the Project were developed based on counts conducted at only three existing parks. (DEIR, p. 3.13-11.)

The ITE Trip Generation Manual indicates that additional data is needed if the number of data points is one or two—and encourages collection of additional data where the number of data points is between three and five. The DEIR's use of only three data points is insufficient to provide a substantiated trip generation for any land use. This deficiency is particularly relevant to the DEIR's findings regarding the potential need for a left-turn lane to serve traffic entering the Project site, as discussed below. The County should collect additional traffic data during the peak season for parks in this area and revise the DEIR to include trip generation estimates that more accurately reflect the proposed Project. As presented, the trip generation rates are understated.

## **2. The DEIR fails to require all feasible traffic mitigation measures.**

The DEIR concludes that under future plus Project conditions, a left-turn lane is warranted due to increases in Project related traffic. (DEIR, p. 3.13-21.) Because, however, the County allegedly lacks the funding mechanism to construct a left-turn lane on SR 1, the DEIR concludes that this impact is significant and unavoidable. (*Ibid.*) This conclusion is contradicted by the over \$66 million dollars in cash and assets available to mitigate the Project's otherwise life-threatening impact. (See Attachment J.)

A significant and unavoidable impact conclusion does not, moreover, relieve the County of disclosing the true extent or severity of the safety impacts on SR 1. (See *Sierra Club, supra*, 6 Cal.4th 502, 523-524; *Berkeley Keep Jets Over the Bay Committee v. Bd. of Port Commissioners* (91 Cal.App.4th 1344, 1370-1371 [EIR inadequate where agency declared health effects significant and unavoidable without determining extent of harm]; *Galante Vineyards v. Monterey Peninsula Water Management Dist.* (1997) 60 Cal.App.4th 1109, 1123 [EIR inadequate for concluding impacts of fugitive dust on vineyards significant without disclosing how significant those impacts would be]; *Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 5 Cal.5th 497, 514 ["an EIR's designation of a particular adverse environmental effect as 'significant' does not excuse the EIR's failure to reasonably describe the nature and magnitude of the adverse effect"].)

The DEIR discloses that under future plus Project conditions the 14 peak hour left-turns are just three (3) left-turns shy of triggering the threshold for the left-turn lane warrant. (DEIR, p. 3.13-21.) As noted above, the trip generation estimates presented for the Project lack credibility due to the inadequate sample size from which they were derived. It is therefore reasonable to conclude that higher trip rates will result in more left turns and the need for the turn lane. The DEIR cannot hide behind its failure to collect adequate trip generation data.

In fact, the DEIR acknowledges the deficiencies in its analysis for a left-turn lane. (See DEIR, pp. 3.3-21 [noting that if the evaluation had addressed conditions using the 95<sup>th</sup> percentile the warrant would have been satisfied even using the projected 14 left turns], 3.13-18 [acknowledging that *if traffic counts were collected in the summer they would likely to be high enough to warrant the left-turn lane*].) Why wouldn't the DEIR consider the maximum peak use under the proposed Project given the severity of this impact? Substantial evidence exists to require the left-turn lane as mitigation.

Additionally, the DEIR's claim of fiscal infeasibility lacks evidentiary support. (See *City of San Diego, supra*, 61 Cal.4th at p. 967 ["CEQA does not authorize an agency to proceed with a project that will have significant benefits, unless the measures necessary to mitigate those effects are truly infeasible"]; *Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal.App.4th 587, 599 [the fact that a project may be more expensive is not sufficient to show that the alternative is financially infeasible]; *Maintain Our Desert Environment v. Town of Apple Valley* (2004) 124 Cal.App.4th 430, 449 ["economic unfeasibility is not measured by increased cost ... but upon whether the effect of the proposed mitigation is such that the project is rendered impractical"].) Evidence of alleged infeasibility must be disclosed prior to a decision on the Project so it may be considered by County decisionmakers and the public.

Finally, CEQA contains a substantive mandate prohibiting agencies from approving projects that would result in significant environmental effects until they first adopt all feasible mitigation measures to avoid or substantially reduce those effects. (Pub. Resources Code, § 21002, CEQA Guidelines, §§ 15126.4, 15364; *San Diego, supra*, 61 Cal.4th at p. 945; *City of Marina, supra*, 39 Cal.4th at p. 351.) Although the DEIR found the left-turn lane infeasible, there are other alternatives that exist to increase the safety of visitors and travelers on SR 1.

For example, a left-turn bypass lane added to the outside edge of the roadway would allow through vehicles traveling toward Bodega Bay to pass left-turning vehicles on the right. A left-bypass lane is warranted where daily roadway volume exceeds 6,000 vehicles/day and peak-hour left-turns are between 5-30. The Project meets that criteria.

On weekends SR 1 carries 7,350 vehicles per day – many of which exceed the posted speed limit on the way to Bodega. Although understated, the number of entering left turns is projected to be 14 in the weekend midday peak hour. (DEIR, p. 3.13-4.) Construction of a left-turn bypass lane would substantially reduce the potential for serious collisions at the Project access intersection, particularly rear-end collisions associated with queues of vehicles waiting to enter the site, as well as T-bone accidents when drivers become frustrated and attempt to pass on the left. The DEIR should be revised and recirculated to analyze construction of a left-turn and bypass lane as a feasible mitigation measure.

### 3. The DEIR's safety analysis is deficient.

The DEIR purports to analyze the existing traffic safety and collision history by conveniently considering only “the section of SR 1 within 200 feet of the project access point.” (DEIR, p. 3.13-5.) In doing so, it effectively analyzes only the collision activity on a straight 400-foot section of SR 1 where there is no reason to expect any collisions.

Considering that the site operates as a private ranch the existing level of activity is minimal compared to that which would occur with autonomous public access. Therefore, the DEIR's conclusion that the accident rate at the Project site is lower than the statewide average for similar roads is unsurprising. By selecting such a limited study section, the DEIR ignores the existing driveway intersection at the Sonoma Coast Village Resort & Spa, which is only 350 feet away from the Project driveway. Collisions are much more likely to occur at driveways, as vehicles entering and exiting driveways are often associated with rear-end and broadside collisions.<sup>4</sup> Given the restricted geographic study area, the safety analysis is of little value to inform decisionmakers of the true impacts of the Project on vehicle safety.

The DEIR should be revised and recirculated to include a safety analysis that accounts for nearby driveways and which takes a holistic view of the geographic area and the totality of the circumstances therein. Doing so would provide much more meaningful information in terms of what has recently occurred in the vicinity of the Project, and more importantly, what is reasonably foreseeable to occur at the proposed point of access if the Project is approved as proposed.

An appropriate study area would include SR 1 from Bodega Highway to Freestone Valley Ford Road, which is a nearly three-mile long segment. Collision data from the California Highway Patrol reveals that for the most recent available five-year period (January 2014-December 2018) 32 collisions occurred in the expanded study area. Using the Caltrans ADT value of 4,650 vehicles/per day (see DEIR, p. 3.13-4) produces an accident rate of 1.27 acc/mvm, which is higher than that reported in the DEIR.

Moreover, using the one accident reported in the DEIR and the truncated study segment, our traffic expert was unable to replicate the accident rate of 0.89 acc/mvm presented in the DEIR. (See Attachment H, Liddicoat Memo, p. 6; DEIR, p. 3.13-5.) Please clarify and explain how that accident rate was derived.

Our traffic expert was also unable to confirm the statewide average collision rate of 1.40 acc/mvm presented in the DEIR. (See Attachment H, Liddicoat Memo, p. 6; DEIR, p. 3.13-5.) According to 2016 collision data prepared by Caltrans, the statewide accident

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<sup>4</sup> / In fact, the Sonoma Coast Village Resort & Spa warns visitors driving to the property “Caution! Put your blinker on early” as they descend down the steep hill to the entrance to the property. (<http://www.scvilla.com/contact/> ; Attachment I.)

rate for conventional two- and three-lane facilities, such as SR 1, is 1.15 acc/mvm. (Attachment H, Liddicoat Memo, p. 6.)

In fact, data for Sonoma County reveals a county-specific accident rate of 1.11 acc/mvm for roads similar to SR 1 at the Project site. Both rates are substantially different from the value identified in the DEIR. This suggests that the DEIR understates the severity of the existing accident conditions in the vicinity of the Project site as they relate to safety. Substantial evidence reflects that the actual existing accident rate is higher than the value disclosed in the DEIR and is at or above the historical average value for similar roads throughout California and Sonoma County. (See CEQA Guidelines, § 15125 [EIR is required to use actual existing conditions as the baseline]; *Save Our Peninsula Committee v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 125 [the significance of a project's impacts cannot be measured unless the environmental document "first establishes the actual physical conditions on the property"].)

Relevant personal observations are further consistent with the DEIR's inadequate safety analysis. It is common on weekends to have 10 or more cars backed up behind a vehicle waiting to make a left turn onto the property. In a letter submitted to the County by Mr. Al Bordessa (dated November 21, 2014) in response to the Notice of Preparation, Mr. Bordessa stated that on the weekend of November 15, 2014, there were 14 cars backed up behind him while he waited to turn left onto his property. The Bordessas have had near accidents turning into and out of the property due to speeding or inattentive drivers—and their grandparents were also involved in a serious collision entering their property as a result of an inattentive driver. (See *Protect Niles v. City of Fremont* (2018) 25 Cal.App.5th 1129, 1152 [residents' personal observation of traffic conditions where they live and commute considered substantial evidence even if they contradict the conclusions of a professional traffic study]; *Keep Our Mountains Quiet v. County of Santa Clara* (2015) 236 Cal.App.4th 714, 735.)

Finally, the DEIR makes no effort to analyze whether additional collisions will occur upon implementation of the Project. Substantial evidence supports that with the additional trips generated by the Project there is a potential for additional collisions, and this must be considered a significant impact. (Attachment H, Liddicoat Memo, p. 7; see Pub. Resources Code, § 21082.2, subd. (c) [substantial evidence includes "facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts"].) The DEIR must be revised and recirculated to analyze the potential for additional collisions as a result of the Project.

In doing so, the County should consider revising the DEIR's analysis to incorporate guidance recently issued on July 1, 2020 in a memorandum from the Chief Safety Officer at CalTrans entitled "Interim Local Development Intergovernmental Review Safety Review Practitioners Guidance," the purpose of which is to establish safety impact review expectations for Caltrans and lead agencies to comply with CEQA. (See <https://dot.ca.gov/-/media/dot-media/programs/transportation-planning/documents/sb-743/2020-07-01-interim-ldigr-safety-guidance-a11y.pdf>.) The DEIR should be revised

and recirculated with this additional safety information. It should also consider how this significant impact could be compounded when cattle trucks are also attempting to enter and exit the property. (See CEQA Guidelines Appendix G, XVII, subd. (c).)

In summary, the DEIR must be revised and recirculated to fully analyze the safety impacts of the Project. Absent the collection of additional relevant collision data, the EIR lacks substantial evidence of the true extent of the Project's traffic safety impacts.

#### **4. Parking Impacts and Emergency Access**

The DEIR concludes that "the 30 parking spaces provided ... should serve the anticipated parking demand." (DEIR, p. 3.13-16.) Substantial evidence fails to support this conclusion. No estimate of the anticipated peak parking demand was developed. Moreover, the DEIR provides no certainty that County park rangers would be on-site to turn away visitors if no parking is available. How will park rangers divine when their services will be needed at any given time? The DEIR must be revised and recirculated to include substantial evidence supporting that on-site parking is sufficient and to provide feasible mitigation measures to remedy any deficiency.

The DEIR also concludes that emergency access is a less than significant impact but ignores that the access gates will be locked after hours. (DEIR, p. 2-18.) How will first responders access the Project site expediently if a fire were to occur during those off-hours? Particularly when the DEIR admits additional illegal campfires could occur. (DEIR, p. 3.11-10.)

Also, how will the County comply with the applicable minimum fire safety and access requirements of CalFire considering the site is located in a State Responsibility Area (SRA)? Particularly if a fire were to break out during the summer while approximately 30 cars are onsite? Will there be sufficient fire truck access while people are attempting to evacuate? What about the foreseeable backlog and evacuation times if Highway-1 is also impacted? (See Cal. Code Regs., tit. 14, § 1270.00 et seq.) The DEIR must be revised to include this information.

#### **B. The DEIR fails to adequately analyze and mitigate the Project's impacts to biological resources.**

The Bordessa Ranch possesses an abundance of biological resources including not only the Estero, but also sensitive communities, special-status plant species, and habitat for a number of protected wildlife species. (See DEIR, pp. 3.4-5 to 3.4-42 [Environmental Setting].) As explained herein, including as explained in Attachment E, the DEIR omits critical information and fails to adequately analyze and mitigate the Project's significant impacts to biological resources.

As with the traffic and safety analysis, the biological resource analysis prepared and attached herein as Attachment E, by Mr. Winfield, is incorporated by reference as if

fully set forth herein and which the Final EIR should include specific responses to each of the comments contained therein.

**1. Regulatory Setting**

The DEIR lacks any mention of Section 10 of the Rivers and Harbors Act (33 U.S.C. § 403). Section 10 of the Rivers and Harbors Act applies to structures and/or work affecting navigable waters of the United States. As a tidal water, the Estero is a navigable water subject to Section 10 of the Rivers and Harbors Act. Placement of matting to allow access to/from the Estero may require a permit from the U.S. Army Corps of Engineers (“Corps”). (DEIR, pp. 3.4-37 to 3.4-38 [Estero Access]; see Attachment E, Winfield Memo, p. 1.) It also appears to fail to consider whether a 2081 (incidental take permit) would be required for protected plant species. The DEIR should be revised to reflect whether any permits or approvals are required of the Corps and/or DFW for these components of the proposed Project.

**2. The DEIR fails to adequately describe and mitigate the Project’s operational impacts on special-status plant and wildlife species.**

An EIR must identify and discuss the “significant environmental effects” of the proposed project, which are defined as the direct, and reasonably foreseeable indirect, physical changes in the environment. (Pub. Resources Code, § 21084; CEQA Guidelines, § 15064.) Here, the DEIR discusses impacts related to Project construction and trail usage but altogether ignores operational impacts related to maintenance and repair of the trails. As a result, there is no substantial evidence to show that the Project’s operational impacts on biological resources would be less than significant with mitigation. Without such information “[a]fter reading the EIR[], the public [and decisionmakers] would have no idea of” the extent of the Project’s operational impacts to special-status species or habitat. (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1220.) The DEIR must be revised and recirculated to analyze these impacts.

At a minimum, Mitigation Measure (“MM”) BIO-1 should be modified to include training for those workers responsible for maintaining and repairing the trails. (Attachment E, Winfield Memo, p. 2.) MM BIO-1 should be further revised to require pre-construction surveys prior to maintenance and repair activities, particularly where such activities occur when sensitive biological resources, such as ground-nesting birds, may be present near the trail. (*Ibid.*)

An EIR must propose and describe mitigation measures to minimize the significant environmental effects identified in the EIR. (Pub. Resources Code, §§ 21002.1, subd. (a), 21100, subd. (b)(3); CEQA Guidelines, § 15126.4.) The DEIR discloses that construction and implementation of the Project would result in a significant impact to special-status plant and wildlife species—but concludes that with mitigation

this impact would be less-than-significant. (DEIR, p. 3.4-60.) The proposed mitigation, however, is inadequate to reduce the Project's impacts to a less-than-significant level.

With respect to trail usage, the DEIR states that increased human activity due to trail use or off-trail use by visitors could disturb special-status wildlife species or habitat and destroy special-status plant populations—resulting in a significant impact. (DEIR, pp. 3.4-53 to 3.4-60.) To minimize this impact, the DEIR proposes the construction of exclusionary fencing in strategic areas and interpretative signage to protect natural resources. (DEIR, pp. 3.4-61 to 3.4-62 [MM BIO-2].)

The DEIR, however, lacks substantial evidence that MM BIO-2 would reduce impacts from trail users to a less-than-significant level. As a passive mitigation measure, MM BIO-2 relies entirely on users to self-police. There are no safeguards to *ensure* that users of the trail would not venture off the trail to pursue a frog, photograph flowers, or explore nearby areas. Similarly, while dogs and bicycles are not allowed, there is no way to ensure that such uses would not occur. It is not uncommon for dog owners or bicyclists to flout such restrictions. With respect to dogs, horses and other pets, the DEIR states that “[i]f users are found to be in non-compliance with this measure a fine may be imposed by the ranger at any time.” (DEIR, p. 3.4-53.) This is why limited docent led tours should be the only vehicle allowing public access – particularly on a working cattle ranch.

Nowhere in the Project Description, or elsewhere, does the DEIR describe when, where, or how often a ranger may be patrolling or otherwise be present to enforce such restrictions. How many daily ranger patrols are guaranteed and when would they occur? What would the fines be to ensure indirect effects and disruption to bird/wildlife species does not occur from off trail use? As proposed, there is insufficient evidence supporting the EIR's conclusions on this point. The DEIR should be revised and recirculated to include active mitigation measures, such as modifying usage of the trail should wildlife occur in close proximity and specifying how/when the Property would be inspected by one or more rangers as part of a binding and enforceable measure. (See Attachment E, Winfield Memo, pp. 2-3.)

Along those same lines, MM BIO-2 should be modified to include seasonal surveys along the trail corridor for possible occurrence of ground-nesting birds, nesting raptors, possible burrowing owls, migrating California red-legged frogs, western pond turtles, or other sensitive wildlife species. MMs BIO-3, BIO-5, BIO-6, BIO-7, BIO-8, BIO-9, BIO-10, BIO-11, and BIO-12 require pre-construction surveys only. The DEIR therefore assumes—without substantial evidence—that once the trails and associated exclusionary fencing are constructed there would be no change to the sensitive biological resources present in the area. This is an extremely short-sighted approach for a property that the District has acquired for the purpose of “preserv[ing] and protect[ing] the conservation values of the property” of which protection of natural resources is the value of highest priority. (Attachment B, Conservation Easement, § 3.)

MMs BIO-5, BIO-6, and BIO-7 should also be modified to require surveys prior to any trail maintenance or repair activities. (Attachment E, Winfield Memo, p. 3.) Seasonal surveys for species of special concern, such as grasshopper sparrow and Bryant's savannah sparrow are of particular importance because the expanded definition of an Environmentally Sensitive Habitat Area ("ESHA") will include species of special concern designated by the California Department of Fish and Wildlife ("CDFW"). The EIR must identify all potential ESHA areas. (*Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918, 937 [invalidating EIR, finding the regulatory limitations imposed by the Coastal Act's ESHA provisions should have been central to the analysis of feasible alternatives and EIR was required to identify and consider potential effects to ESHA from the proposed project].)

*California Native Plant Soc. v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 971–972, which also involved a proposed trail-construction project, provides an example that trails like those proposed as part of the Project can result in significant impacts to biological resources. The EIR in that case included a chapter that described the Project sites biological resources (including the Santa Cruz tarplant), summarized the anticipated biological impact of the project on the tarplant habitat, along with proposed mitigation measures.

In terms of impacts, the DEIR notes that some of the trails proposed in the master plan "would pass through, or near the boundary of" four areas of Arana Gulch identified as historic tarplant habitat (Areas A, B, C, and D). The DEIR states: "**Any routing of trail segments through historic Santa Cruz tarplant habitat would represent a direct loss of habitat for the species.**" In recent years, only small numbers of plants were observed in Areas B, C, and D. "It is assumed, however, that a seed bank may still be present throughout these historic areas of tarplant occurrence. Thus, with appropriate management measures, the species could potentially be restored to those areas from the dormant seed bank." The DEIR continues: "Loss of tarplant habitat would be relatively greater with the multi-use trails ... because these trails would be 8 feet wide, as compared to the pedestrian-only trails which would be 18 to 24 inches wide. **To the extent that these trails cannot be routed to avoid the tarplant habitat ..., this would be an impact that cannot be fully mitigated.**"

To lessen these impacts, the DEIR identifies five mitigation measures, including these two: (a) "To the maximum extent feasible, all trail segments shall be aligned to avoid the mapped historic extent of the four Santa Cruz tarplant areas." (b) "The Santa Cruz Tarplant Management Program ... shall be fully implemented." But the report nevertheless observes: "**The combination of the above measures would reduce this impact, but the impact would remain significant and unavoidable because it cannot be fully ensured that all tarplant habitat would be protected.**"

(*Ibid.*) Given the EIR’s conclusion in that case as to the habitat for one rare plant, it is remarkable that the DEIR here concludes the Project’s impacts to special-status plant and wildlife species and the habitat for all these species as well as impacts to wetlands—are mitigated to less than significant. This conclusion is not supported by substantial evidence in the DEIR and must be revisited.

The DEIR must be revised and recirculated to include mitigation that would adequately address significant impacts resulting from trail usage, including maintenance and repair activities.

### **3. Impacts to riparian habitat and sensitive plant communities**

The discussion of potential impacts associated with public access to the Estero fails to adequately address possible impact to the tidal flats and the pickleweed plant community. (See Attachment E, Winfield Memo, pp. 3-4.)

The DEIR discloses that the Project would require installation of trail matting over patches of pickleweed within the trail corridor—but summarily dismisses the impact as not likely to “result in destruction or other substantial adverse impacts to the vegetation.” (DEIR, p. 3.4-71.) The DEIR lacks substantial evidence to support such a conclusion. Allowing visitors to access the Estero would result in perturbations to the vegetation, such as trampling, which in turn would allow non-native plants to invade the area. This effect could be long lasting due to the periodic reduction/elimination of tidal action in the Estero. The DEIR should be revised to include discussion of impacts of Estero access to the pickleweed plant community and potential mitigation measures to minimize or avoid the occurrence of those impacts. (Attachment E, Winfield Memo, pp. 3-4.)

The DEIR states that “[o]ff-trail use by visitors could result in trampling and degradation of [sensitive natural] communities associated with the Estero access trail (East Trail), reducing their overall ecological functions and values.” (DEIR, p. 3.4-71.) The DEIR concludes that while this is a significant impact—with implementation of mitigation the impact would be less than significant. (DEIR, p. 3.4-72.) Substantial evidence fails to support this conclusion.

None of the mitigation measures identified in Impact 3.4-2 (i.e., MM BIO-12, BIO-1, or BIO-2) mitigate for impacts of trail users or maintenance activities, such as the seasonal laying down or removal of the matting. MM BIO-12 only applies to construction. MM BIO-2, as discussed above, is inadequate to ensure that trail users remain on the trail—and construction of exclusionary fencing or signage would be subject to approval by the Greater Farallones National Marine Sanctuary (“GFNMS”), which oversees construction activity adjacent to the Estero.

Similarly, MM BIO-12 ignores that the final placement of the Estero access would be subject to GFNMS approval, as well. (See Attachment E, Winfield Memo, p. 4.) The

County Regional Parks Department cannot independently designate the final placement of the Estero access trail, as suggested in MM BIO-12(4). (DEIR, p. 3.4-73.) In fact, GNFMS specifically commented as part of the Initial Study/Mitigated Negative Declaration (“IS/MND”) that “trail routing and signage should not be placed within riparian or wetland habitat or within the Estero.” (DEIR, p. 3.4-2.) Nothing has changed.

MM BIO-12(3) requires that impacts to slough sedge swards or purple needlegrass plant be propagated and planted outside of the trail corridor at a 1:1 ratio. (DEIR, pp. 3.4-72 to 3.4-73.) The Trail Easement does not grant the right to mitigate for impacts by planting outside the trail corridor. Any on-site compensatory mitigation would not be permitted without approval by the Bordessas.

Regardless, a 1:1 compensatory mitigation ratio is insufficient. Due to the size of the trail corridor, the area of native riparian habitat anticipated to be impacted would likely be relatively small. A 1:1 mitigation ratio may not be sufficiently large enough to ameliorate potential edge effects that could compromise the long-term success of the planted mitigation site, especially if the mitigation site is isolated from similar plant communities. Alternatively, if planting occurs off-site, the local loss of the impacted native plant community, especially purples needlegrass, would remain significant as it would reduce the extent of the affected plant community along the trail corridor. To minimize this loss, any off-site planting should be completed at a ratio greater than 1:1. (See Attachment E, Winfield Memo, p. 4.) The DEIR should be revised to modify MM BIO-12(3) to require a higher compensatory mitigation ratio for both on-site and off-site mitigation.

Because the Estero is a federally-regulated resource, changes in access permitted by a federal agency, e.g., National Oceanic and Atmospheric Administration or the Office of National Marine Sanctuaries, may be subject to the National Environmental Policy Act (“NEPA”) (42 U.S.C. § 4321, et seq.) The DEIR fails to address this. For projects also subject to NEPA, CEQA requires the local agency to cooperate with the relevant federal agency to the fullest extent possible to reduce duplication between CEQA and NEPA. (CEQA Guidelines, § 15226 [such cooperation includes joint environmental documents to the fullest extent possible].) The County must consult the Office of National Marine Sanctuaries and other Federal Agencies that may be required to issue permits for the Project, to determine if a joint CEQA/NEPA document is possible. Has the County attempted to coordinate its environmental review with any of the federal agencies listed in the DEIR? (See DEIR, pp. 2-27 to 2-28.) What coordination or consultation efforts did the County make prior to circulating the DEIR?

**4. The DEIR fails to meaningfully discuss the Project’s wetland impacts.**

The DEIR identifies 3.705 acres of wetlands and 2,971.814 linear feet of other waters anticipated to meet the definition of jurisdictional waters of the United States

pursuant to Section 404 of the Clean Water Act (33 U.S.C. § 1344). (DEIR, p. 3.4-73.) The DEIR states that “[a]t least one crossing over the northern portion of the central drainage on the project site is proposed.” (DEIR, p. 3.4-74, emphasis added.) If others are contemplated, the DEIR is required to disclose those elements of the Project.

Without further quantifying or even describing the extent or magnitude of the impact, the DEIR concludes that with implementation of compensatory mitigation, the significant impact to wetlands would be reduced to less than significant. (DEIR, p. 3.4-75.) This approach fails to comply with CEQA. (See *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 514 (“*Sierra Club*”) “[a]n adequate description of adverse environmental effects is necessary to inform the critical discussion of mitigation measures and project alternatives at the core of the EIR”]; CEQA Guidelines, § 15151 [“EIR should be prepared with a sufficient degree of analysis to provide decisionmakers with information which enables them to make a decision which intelligently takes account of environmental consequences”].) Without knowing the extent of the impact, decisionmakers cannot possibly know whether the proposed mitigation would reduce that unknown impact to a less-than-significant level.

MM BIO-13 is inadequate as it fails to address impacts to wetlands along the trail corridors. Rather, it assumes—without substantial evidence—that the trail can be constructed to avoid all wetlands outside of the identified drainage crossings. (Attachment E, Winfield Memo, pp. 4-5.)

In fact, a 2014 study conducted by the District and testimony provided by District staff, Richard Stabler, directly refute this assumption. The District’s Plant Wetland Assessment preliminarily identifies extensive wetlands within the Project area indicating that seasonal wet meadows and upland seeps are present within both the West Trail and East Trail preliminary alignments, and “at least some of these will have to be traversed by the trail alignment (i.e., they can’t all be avoided).” (Attachment F, Plant Wetland Assessment, p. 10.) It expressly indicates “[t]rail construction could result in a physical loss of wetland acreage within the trail footprint.” (*Id.* at p. 12.) Finally, the assessment contemplates that if the Project is extended into the Estero, as currently proposed, impacts to coastal salt marsh wetland may also occur. (*Id.* at p. 10.)

As Mr. Stabler testified, as the Project is located within a coastal zone he was not surprised that the proposed trail alignments are located where there are wetlands because “[t]here’s wetlands everywhere in the coastal zone.” (Attachment G, Stabler Deposition Excerpts, pp. 105-107.) The DEIR is wholly inconsistent with this preliminary assessment. The jurisdictional delineation underlying the DEIR identifies only three acres of wetlands on the Project site that are not proximal to the trails, themselves. (DEIR, p. 3.4-73.)

MM BIO-13 further ignores that if a Section 404 permit is required, the Project would also require authorization by the Regional Water Quality Control Board (“RWQCB”) pursuant to Section 401 of the Clean Water Act. The RWQCB would

need to approve any mitigation and monitoring plan prepared as part of the Section 404 permitting process.

Moreover, because these areas are also considered ESHAs, especially the meadows and crossing to the north end of the main north-south drainage across the Project site, the Coastal Commission would also need to approve any mitigation and monitoring plan affecting wetlands or any other ESHA. (Attachment E, Winfield Memo, pp. 4-5.) Finally, due to the limitations of implementing mitigation outside of the trail corridors, the DEIR should identify alternative means of mitigating impacts to jurisdictional waters. If mitigation needs to occur offsite, the mitigation ratio would likely need to be greater than for onsite mitigation. (*Ibid.*)

The DEIR must be revised and recirculated to analyze impacts to wetlands resulting from construction of the Project—as well as impacts due to operation and maintenance of the Project.

#### **5. Fully-protected species cannot be mitigated under CEQA.**

The DEIR proposes mitigation for the potential “take” of White-tailed kite, a fully-protected species. (DEIR, pp. 3.4-66 [MM BIO-7], 3.4-28.) Take of fully-protected species, however, cannot be mitigated to a less-than-significant level under CEQA—it must be “fully” avoided. (Fish and G. Code, § 3511; see also *Center for Biological Diversity v. California Dept. of Fish and Wildlife* (2015) 62 Cal.4th 204, 233, as modified on denial of reh'g (Feb. 17, 2016) (“*CBD v. DFW*”) [addressing identical prohibition for fully protected fish species].) As the California Supreme Court recently explained an agency cannot propose mitigation that would authorize the take of fully protected species:

We must reject the claim DFW may authorize, as CEQA mitigation, actions to protect a fully protected species from harm when, as here, those actions are otherwise prohibited as takings. The Legislature has expressly precluded this interpretation of the statutes by providing, in Fish and Game Code section 5515, subdivision (a), that permitted taking of a fully protected species for “scientific research” may include “efforts to recover” the species but that such “scientific research” does not include “any actions taken as part of specified mitigation for a project” as defined in CEQA.

The DEIR must be revised to clarify how any “take” of fully-protected species will be avoided. Additionally, in response to the Notice of Preparation, CDFW commented that California clapper rail and California black rail, which are both fully-protected species, may be present in the Project vicinity—yet the DEIR makes no mention of either species. (DEIR, p. 3.4-1.)

**6. The DEIR fails to adequately discuss all feasible mitigation measures.**

CEQA contains a substantive mandate prohibiting agencies from approving projects that would result in significant adverse environmental effects until they first adopt all feasible mitigation measures to avoid or substantially reduce the effects. (Pub. Resources Code, § 21002, CEQA Guidelines, §§ 15126.4, 15364; *City of San Diego v. Bd. of Trustees v. Cal. State Univ.* (2015) 61 Cal.4th 945 (“*City of San Diego*”); *City of Marina v. Bd. of Trustees of Cal. State Univ.* (2006) 39 Cal.4th 341, 351 (“*City of Marina*”). “[A]n EIR is required to provide the information needed to alert the public and decision makers of the significant problems a project would create and *to discuss currently feasible mitigation measures.*” (*King & Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814 (“*King and Gardiner*”), quoting *Sierra Club, supra*, 6 Cal.5th at p. 523.) “Feasible” means “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, *legal*, social and technological factors.” (CEQA Guidelines, § 15364, emphasis added.)

Recently, in *King & Gardiner Farms, LLC, supra*, the Fifth District Court of Appeal held that the county failed to comply with CEQA’s information disclosure requirements thereby prejudicially abusing its discretion because the EIR did not adequately identify and explain the uncertainty and effectiveness of proposed mitigation. Here, the DEIR fails to address the uncertainty of MM BIO-2 (trail alignment fencing and interpretive signage) and MMs BIO-12 and BIO-13 (requiring on-site compensatory mitigation).

As set forth above, neither the Trail Easement nor the Conservation Easement grant the District the right to construct such mitigation. These mitigation measures are, by definition, infeasible. (See CEQA Guidelines, § 15365 [feasible includes consideration of legal factors].) Moreover, as these mitigation measures are infeasible, the impacts they are designed to address cannot be minimized to a less-than-significant level. Approval of a project that does not include feasible mitigation measures amounts to an abuse of discretion. (*CBD v. DFW, supra*, 62 Cal.4th at p. 526.) Nor does adoption of a statement of overriding considerations negate the County’s statutory obligation to implement feasible mitigation measures.

The DEIR must be revised and recirculated to adequately discuss the current infeasibility and uncertainty of mitigation measures that exceed the scope and terms of the Trail and Conservation Easements. If the District wishes to pursue such mitigation, it must do so with approval from the Bordessas as the underlying private property owners and grantors of the Trail Easement.

**7. Related Environmental Review and Consultation Requirements**

CEQA Guidelines section 15124, subdivision (d)(1)(C) requires that the EIR project description include a “list of related environmental review and consultation

requirements required by federal, state, or local laws, regulations or policies.” The second sentence in that subsection requires that “[t]o the fullest extent possible, the lead agency should integrate CEQA review with these related environmental review and consultation requirements.” (*Ibid.*; see CEQA Guidelines, § 15080 [“[t]o the extent possible, the EIR should be combined with the existing planning, review, and project approval process used by each public agency”].) CEQA’s policy is to conduct integrated review. (*Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918, 939, 942 (“*Banning Ranch*”). Moreover, “[l]ead agencies in particular must take a comprehensive view in an EIR.” (*Id.* at p. 939, citing Public Resources Code, § 21002.1, subd. (d).)

Agencies are therefore encouraged to consult with responsible agencies before and during preparation of an EIR so that the document will meet the needs of agencies that will rely on it. (CEQA Guidelines, § 15006, subd. (g); *Banning Ranch, supra*, 2 Cal.5th at p. 937.) Failing to discuss the regulatory and permitting regimes with authority over the project violates the information disclosure requirements (See *Banning Ranch, supra*, 2 Cal.5th at p. 942.) The coordination between lead agencies and other permitting authorities “serves the laudable purpose of minimizing the chance the [lead agency] will approve the Project, only to have later permits for the project denied[.]” (*Cal. Native Plant Society v. City of Ranch Cordova* (2009) 172 Cal.App.4th 603, 642.

Here, the DEIR all but ignores the role of state and federal agencies, e.g., United States Fish and Wildlife Service (“USFWS”), National Marine Fisheries. (“NMFS”), and the California Coastal Commission. The DEIR nevertheless discloses potentially significant impacts on federally-listed species, including California red-legged frog and Myrtle’s Silverspot Butterfly. (DEIR, pp. 3.4-60.) The Federal Endangered Species Act (“ESA”) requires that each federal agency (“action agency”) insure that any action authorized, funded, or carried out by such agency does not jeopardize the continued existence of a threatened or endangered species or result in the destruction or adverse modification of habitat determined to be critical for such species. (16 U.S.C. § 1536(a)(2).)

To assist federal agencies in complying with their substantive duty to avoid jeopardizing listed species, ESA section 7(a)(2) establishes an interagency consultation requirement. (16 U.S.C. § 1536(a)(2).) The threshold for triggering consultation under the ESA is similar to the threshold for requiring an EIR; the ESA requires federal agencies to consult with the appropriate wildlife service (“service”) whenever their actions “may affect” a listed species or its critical habitat. (16 U.S.C. § 1536(a)(2).)

The DEIR states that “[p]rojects that would result in “take” of any federally-listed threatened or endangered species are required to obtain authorization from NMFS and/or USFWS through either Section 7 (interagency consultation) or Section 10(a) (incidental take permit), depending on whether the federal government is involved in permitting or funding the project. The DEIR must be revised to include what consultation between NMFS and USFWS has been completed prior to certification of

the EIR. As noted above, CEQA requires joint preparation of CEQA/NEPA documents to the fullest extent possible.

The DEIR also states that “[n]either the project site nor the portion of the Estero in which the access trail is proposed is within an identified ESHA” under its Local Coastal Program. (DEIR, p. 3.4-78.) Where is the evidence of this?

Nevertheless, the DEIR discloses that “components of the project may be within the [California Coastal Commission’s] retained permit jurisdiction” and that a Coastal Development Permit issued by the Coastal Commission would be required. (DEIR, p. 3.9-6, 3.9-15.) CEQA sets out a fundamental policy requiring local agencies to “integrate the requirements of this division with planning and environmental review procedures otherwise required by law or by local practice so that all those procedures, to the maximum feasible extent, run concurrently, rather than consecutively.” (*Banning Ranch, supra*, 2 Cal.5th at p. 936, citing Pub. Resources Code, § 21003, subd. (a).) Here, the DEIR does not identify what may potentially be considered ESHA by the Coastal Commission. The Supreme Court in *Banning Ranch* invalidated an EIR for similar errors.

This is of particular importance given that the Sonoma County Local Coastal Plan is currently undergoing review. According to the timeline on the County’s website, the Local Coastal Plan Update may be certified as soon as this Summer 2020. Because the timing for construction and implementation of the Project is uncertain—the Project would likely be subject to the provisions of the Local Coastal Plan Update.

The Local Coastal Plan Update expands the definition of what constitutes ESHA. Under the Local Coastal Plan Update, habitat for state species of special concern, including American badger, burrowing owl, and western pond turtle—all of which are present on the Project site—is considered ESHA. (See Attachment E, Winfield Memo, p. 2; see also <https://sonomacounty.ca.gov/PRMD/Long-Range-Plans/Local-Coastal-Program/Public-Review-Draft/> [update incorporated by reference].) The DEIR should be revised and recirculated to disclose the habitat areas onsite that may be considered ESHA by the Coastal Commission, particularly in light of the Local Coastal Plan Update and CEQA’s requirements as articulated in *Banning Ranch*.

**C. The DEIR fails to adequately analyze the operational greenhouse gas emissions of the Project.**

The DEIR’s discussion of greenhouse gas (“GHG”) emissions suffers a panoply of deficiencies. As a general matter, the DEIR lacks a discussion of the existing climate and meteorological setting of the Project area, as well as other known GHGs, such as hydrochlorofluorocarbons, trichloroethane, and chlorofluorocarbons. (See DEIR, pp. 3.7-1 to 3.7-5.) The DEIR should be revised and recirculated to adequately discuss these topics.

The DEIR's conclusion that GHG emissions associated with operation of the Project is a less than significant impact is unsupported by substantial evidence. To analyze the significance of GHG emissions, the DEIR relies on the quantitative threshold of 1,100 MT CO<sub>2</sub>e adopted by the Bay Area Air Quality Management District for non-stationary sources. (DEIR, p. 3.17-15.) The DEIR discloses that the main source of emissions from operation would include motor vehicle emissions generated by visitors and County maintenance vehicles. (DEIR, p. 3.7-16.)

Yet, the DEIR wholly neglects to quantify the Project's operational emissions—and instead simply concludes that the Project's GHG emissions would result in a less-than-significant impact because “the volume of project trips would be minimal.” (DEIR, p. 3.7-16.) Notably, this conclusion fails to consider operational emissions associated with maintenance activities. While the lead agency has the discretion to determine whether to quantify GHGs or rely on a qualitative analysis or performance-based standard (CEQA Guidelines, § 15064.4)—if the County chooses a quantitative threshold to determine significance, it must quantify the Project's operational GHG emissions. The DEIR should be revised and recirculated to quantify GHG emissions associated with the operation of the Project.

With respect to GHG emissions associated with Project construction, the DEIR states that Appendix B includes a “detailed depiction of the construction schedule—including information regarding phasing, equipment utilized during each phase, trucks, and worker vehicles[.]” (DEIR, p. 3.7-15.) Appendix B, however, is nothing more than the output files from the CalEEMOD modeling. CEQA requires full disclosure of reasonably foreseeable and potentially significant adverse impacts and requires that public agencies use “plain language” which enable comprehension by the public of the information in CEQA documents. (See CEQA Guidelines, § 15140; *San Franciscans for Reasonable Growth v. City and County of San Francisco* (1987) 193 Cal.App.3d 1544, 1548.) Moreover, the data in an EIR must be “presented in a manner calculated to adequately inform the public and decisionmakers, who may not be previously familiar with the details of the project.” (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 442.) Information buried in a technical appendix is not a substitute for the good-faith reasoned analysis required under CEQA. (*Ibid.*) The DEIR should be revised to distill and present technical air quality modeling results in a manner that meets CEQA's public participation and information disclosure objectives.

**D. Alternative 4 would substantially lessen the Project's significant effects and meet all of the Project objectives.**

Although the DEIR acknowledges that Alternative 4 is “consistent with the objectives of preserving natural resources and habitat connectivity; open space and scenic views; and existing agricultural resources,” it rejects the alternative because it would “not meet the intent of the first objective because it would limit public access as set forth in the agreement with the California Coastal Conservancy.” (DEIR, p. 5-20.) This is a

policy determination for the decisionmakers to consider and is an insufficient basis for deeming the alternative infeasible. It is also intellectually dishonest as the agreement with the Coastal Conservancy did not require wholesale public access as contemplated by the proposed Project.

CEQA requires an EIR to “describe a range of reasonable alternatives to the project ... which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects ... and evaluate the comparative merits of the alternatives.” (Guidelines, §§ 15126.6, subd. (a), 15002, subd. (a)(3).) CEQA does not allow an agency to define the project objectives in an “artificially narrow manner.” (See *North Coast Rivers Alliance v. Kawamura* (2015) 243 Cal.App.4th 647, 668; *San Diego Citizenry Group v. County of San Diego* (2013) 219 Cal.App.4th 1, 15-16.)

Agreement No. 11-063, upon which the DEIR relies in its Project objectives (DEIR, p. 5-1) provided the District with funds to purchase the Conservation Easement. That agreement states only that the “conservation easement is being acquired for natural resource and habitat conservation, open space preservation, and public access.” (Attachment A, Coastal Conservancy Agreement No. 11-063.) Alternative 4 would meet this purpose by providing public access via the West Trail Corridor.

More importantly, Alternative 4 would substantially reduce the significant environmental effects of the Project by eliminating access to the Estero Americano (“Estero”) thereby reducing impacts to riparian habitat associated with the Estero and eliminating the need for the “grate-like plastic mats” to allow access through the mud flats. (See DEIR, p. 3.8-14.) Eliminating access to the Estero would also prevent the public from using canoes and kayaks to access the property from the Estero when otherwise not allowed, potentially for purposes of illegal camping and campfires.

Alternative 4, combined with limited docent tours, would further the purpose of the Conservation Easement to “preserve and protect forever the Conservation Values” of the property—consistent with the identified value of protection of natural resources, which also happens to be the value of highest priority. (Attachment B, Conservation Easement, § 3.) It would, in fact, further minimize the impacts to the Bordessa’s existing agricultural use consistent with the Conservation Easement, which prioritizes agricultural use over recreation and educational uses. (*Ibid.*)

Finally, Alternative 4 would meet the purpose of the Trail Easement, which as recorded, is to establish and make available to the public low-intensity public outdoor recreational and educational purposes that do not adversely impact the natural resources or agriculture on the property. (Attachment C, Trail Easement, § 2.) Alternative 4 would therefore avoid and substantially reduce the significant impacts of the Project on biological and agricultural resources while meeting *all* Project objectives, including providing access consistent with the District’s agreement with the Coastal Conservancy.

### **III. The Project is inconsistent with the Local Coastal Plan and the Greater Farrallones National Marine Sanctuary Management Plan**

The Project is inconsistent with the management recommendations identified in the Sonoma County Local Coastal Plan. For riparian areas, the plan recommends that “[t]rails and access may be permitted if studies determine no long-term adverse impacts would result from their construction, maintenance, and public use.” (LCP, at p. 28.) In this case, there is evidence of significant environmental impacts that would result from the Project. The DEIR fails to adequately mitigate for these impacts.

With respect to rare or endangered plants and wildlife species, the LCP recommends protection of designated sites of rare or endangered plants, stating that “[p]rior to any development in or adjacent to designated sites, conduct precise botanical surveys to determine the distribution of any rare or endangered plants.” (*Id.* at p. 32.) “Development should be sited and designed and constructed to prevent impacts of grading, paving, construction of roads or structures, runoff, and erosion from significantly degrading rare and endangered plant habitats, and shall be compatible with the continuance of such habitat areas.” (*Ibid.*) In order to adequately protect these resources, the DEIR needs to be revised to include mitigation measures that mitigate operational impacts to a less-than-significant level.

The DEIR states that the Project is consistent with the GFNMS Management Plan because it includes “informational and educational signage ... informing people about the fragile environment.” (DEIR, p. 3.9-22.) The GFNMS Management Plan includes a Resource Protection Action Plan, the goal of which is to “maintain and, where necessary, restore the natural biological and ecological processes in the GFNMS.” (GFNMS Management Plan, p. 186.) The goal of the Wildlife Disturbance Action Plan is to “[l]essen or eliminate future impacts, and remedy existing impacts on sanctuary marine wildlife and their habitats by encouraging responsible human behavior.” (GFNMS Management Plan, p. 74.) The DEIR fails to address how the Project, specifically with walk-in kayak/canoe access to the Estero, will be consistent with the goals of restoring ecological processes or lessening or eliminating future impacts.

### **IV. COVID-19 – Potential Human Health and Environmental Impacts**

Since March 2020, the World Health Organization, the United States Centers for Disease Control and Prevention, and the State of California have recognized that the world faces a life-threatening pandemic caused by the COVID-19 virus. As of this date, there is no known cure or vaccination. Moreover, there is very little research about how the COVID-19 virus may affect humans via aerosolized transmission and livestock like the cattle which inhabit the Bordessa ranch—and ultimately whether livestock, or their owners can infect each other or be transmitted via food. There is, however, reported

cases of animals, including domesticated animals such as cats and dogs, as well as zoo animals, e.g., tigers and lions at the Bronx Zoo, testing positive for COVID-19.<sup>5,6</sup>

The livestock grazing on the Project is shipped nationwide for slaughter and breeding purposes. Moreover, the Project may result in visitors coming into direct contact with grazing cattle, given the fact that only passive (rather than active) restrictions are proposed for visitor use.

The world is navigating uncharted waters. The County and the District should consider the role the Project plays in the potential spread of this highly infectious disease and the steps required to be taken by the County to ensure public safety.

## V. Conclusion and Request for Notice

Our clients sincerely hope the members of the Planning Commission and the Board of Supervisors consider the original intent and scope of the Conservation and Trail Easements when considering whether to certify the EIR and adopt the proposed Project or an alternative thereto. Including the recognized need for limited docent led tours and prohibiting access to the fragile Estero.

In approving the Conservation Easement, the Board was expressly informed that the environmental sensitivity of the Bordessa property may “preclude getting access to the Estero.” (Attachment D [Sonoma County Board of Supervisors Hearing Excerpts, p. 7].) Similarly, a Supervisor expressed concern about the effect of the easements on the agricultural value of the Bordessa property as a result of de-privatizing the property and allowing public access. (*Id.* at p. 11 [“you’re limiting agricultural uses once we’re opening it up to the public”].)

Because the proposed Project cannot be implemented consistent with the terms of the executed easements, the Project is infeasible as a matter of law, a problem that cannot be circumvented through alleged compliance with CEQA. Precluding public access to the Estero and restricting public access to include only docent lead tours is in the interest of preserving the property’s sensitive biological resources and preventing inconsistent and potentially dangerous human/cattle interactions.

Lastly, we once again request that the County provide our office with copies of any and all future public notices issued in connection with the Project and EIR, including

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<sup>5</sup>/ Confirmation of COVID-19 in Two Pet Cats in New York, <https://www.cdc.gov/media/releases/2020/s0422-covid-19-cats-NYC.html> (last accessed on April 28, 2020). Please include this article in the record of proceedings.

<sup>6</sup>/ A tiger at the Bronx Zoo tests positive for coronavirus, <https://www.cnn.com/2020/04/05/us/tiger-coronavirus-new-york-trnd/index.html> (last accessed on April 28, 2020). Please include this article in the record of proceedings.

Richard Stabler  
Sonoma County Permit and Resource Management Department  
July 14, 2020  
Page 24

the Notice of Availability of the Final EIR or revised and recirculated EIR. If the County decides to approve the proposed Project or an alternative, please send us a copy of the Notice of Determination immediately upon filing. (Pub. Resources Code, §§ 21152, 21167, subd. (f).) Thank you for the opportunity to comment on the Draft EIR and for your consideration of our clients' comments and concerns.

Very truly yours,  
  
Andrea K. Leisy

Attached:

- Attachment A - Coastal Conservancy Agreement No. 11-063
- Attachment B - Conservation Easement
- Attachment C - Trail Easement
- Attachment D - Excerpts From the Meetings of the Sonoma County Board of Supervisors
- Attachment E - Memorandum from Ted P. Winfield, Ph.D
- Attachment F - District Plant Wetland Assessment
- Attachment G - Excerpts of Stabler Deposition
- Attachment H - Memorandum from Griffin Cove Transportation Consulting, PLLC
- Attachment I - Excerpt from Sonoma Coast Villa website  
(<http://www.scvilla.com/directions.htm>)
- Attachment J - Excerpts of Open Space Fiscal Oversight Commission Agenda/ Staff Report; Consolidated Balance Sheet of District and OSSTA Funds

BORDESSA COMMENTS RE ESTERO TRAIL EASEMENT  
DRAFT ENVIRONMENTAL IMPACT REPORT  
**ATTACHMENT A**

**STANDARD AGREEMENT**

Std. 2 (Grant - Rev 08/08)

AGREEMENT NUMBER 11-063	AM. NO.
TAXPAYERS FEDERAL EMPLOYER IDENTIFICATION NO. 94-6000539	

THIS AGREEMENT, made and entered into this 3rd day of May, 2012, in the State of California, by and between State of California, through its duly elected or appointed, qualified and acting

TITLE OF OFFICER ACTING FOR STATE Executive Officer	AGENCY State Coastal Conservancy	, hereafter called the Conservancy, and
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GRANTEE'S NAME Sonoma County Agricultural Preservation and Open Space District	, hereafter called the Grantee.
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The Grantee, for and in consideration of the covenants, conditions, agreements, and stipulations of the Conservancy hereinafter expressed, does hereby agree as follows:

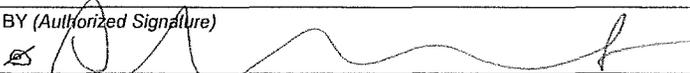
**SCOPE OF AGREEMENT**

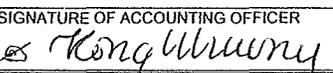
Pursuant to Chapter 4.5 of Division 21 of the California Public Resources Code, the State Coastal Conservancy ("the Conservancy") hereby grants to the Sonoma County Agricultural Preservation and Open Space District ("the grantee") a sum not to exceed \$650,000 (six hundred fifty thousand dollars), subject to the terms and conditions of this agreement. The grantee shall use these funds to acquire a conservation easement ("the easement") over real property ("the real property") known as Bordessa Ranch, located in the County of Sonoma, State of California (County Assessor's Parcel No. 026-030-011) and depicted in Exhibit A, which is incorporated by reference and attached.

(Continued on following pages)

The provisions on the following pages constitute a part of this agreement.

IN WITNESS WHEREOF, this agreement has been executed by the parties hereto, upon the date first above written.

STATE OF CALIFORNIA		GRANTEE	
AGENCY State Coastal Conservancy	GRANTEE (If other than an individual, state whether a corporation, partnership, etc.) Sonoma County Agricultural Preservation and Open Space District		
BY (Authorized Signature) 	BY (Authorized Signature) 		
PRINTED NAME AND TITLE OF PERSON SIGNING Samuel Schuchat, Executive Officer	PRINTED NAME AND TITLE OF PERSON SIGNING Bill Keene, General Manager		
ADDRESS & PHONE NUMBER 1330 Broadway, 13 <sup>th</sup> Floor Oakland, CA 94612 Phone: (510) 286-1015	ADDRESS 747 Mendocino Avenue, Suite 100 Santa Rosa, CA 95401 Phone: (707) 565-7360		

AMOUNT ENCUMBERED BY THIS DOCUMENT \$650,000.00	PROGRAM/CATEGORY (CODE AND TITLE) Capital Outlay (OPTIONAL USE) Bordessa Ranch Property Interest Acquisition and Access Plan	FUND TITLE Safe Drinking Water, Water Quality and Supply,...
PRIOR AMOUNT ENCUMBERED FOR THIS AGREEMENT \$-0-	ITEM 3760-301-6051(1)(G)	CHAPTER 1XXX
TOTAL AMOUNT ENCUMBERED TO DATE \$650,000.00	OBJECT OF EXPENDITURE (CODE AND TITLE) San Francisco Bay Conservancy	STATUTE 2009
SIGNATURE OF ACCOUNTING OFFICER 		FISCAL YEAR 09/10
DATE 05/03/12		

I certify that this agreement is exempt from Department of General Services' approval.

  
Erinda Corpuz  
Contracts Manager

GRANTEE  ACCOUNTING  PROJECT MANAGER  CONTROLLER  STATE AGENCY

**SCOPE OF AGREEMENT** (Continued)

The conservation easement is being acquired for natural resource and habitat conservation, open space preservation, and public access, collectively referred to as “the acquisition purposes.”

The grantee shall provide any funds beyond those granted under this agreement which are needed to complete the acquisition of the conservation easement.

**CONDITIONS PRECEDENT TO ACQUISITION AND DISBURSEMENT**

The grantee shall not acquire the easement and the Conservancy shall not be obligated to disburse any funds under this agreement until the following conditions precedent have been met:

1. The Board of Director of the grantee has adopted a resolution designating positions whose incumbents are authorized to negotiate and execute this agreement and amendments to it on behalf of the grantee.
2. The Executive Officer of the Conservancy (“the Executive Officer”) has reviewed and approved in writing:
  - a. All title and acquisition documents pertaining to acquisition of the conservation easement, including, without limitation, an appraisal, a preliminary title report, agreement for purchase and sale, escrow instructions, environmental documentation or hazardous materials assessment, baseline conditions report, monitoring program, and conservation easement.
  - b. A provision within the deed of the conservation easement that serves to ensure that the property is permanently dedicated to and managed and operated consistent with the acquisition purposes.
  - c. A baseline report identifying the conditions and circumstances of the real property as relevant to the acquisition purposes as of the date of acquisition.
  - d. A monitoring and reporting program, that, at a minimum, details a monitoring protocol, and requires the grantee to inspect and document the condition and circumstances of the easement every year in order to demonstrate ongoing compliance with the acquisition purposes and to submit a monitoring report to the Conservancy.
  - e. A trail easement to be acquired by the grantee that meets the following criteria:
    - A. The trail easement would be acquired simultaneously with the conservation easement.

**CONDITIONS PRECEDENT TO ACQUISITION AND DISBURSEMENT** (Continued)

- B. The purpose of the trail easement (hereinafter referred to as the “public access purpose”) is to assure that the Staging Areas and Trail Corridors, as defined below, will be established and made available to the public in perpetuity for low-intensity public outdoor recreational and educational purposes defined as dispersed, nonexclusive, and non-motorized activities that do not adversely impact the natural resources or agriculture on the real property. Uses may include non-commercial activities such as hiking, nature study, bird watching, sightseeing, picnicking, outdoor education, docent-led tours, scientific research and observation, limited seasonal access to the Estero Americano for recreational uses such as kayaking and canoeing and enjoyment of open space and other such uses similar in nature and intensity.
- C. The deed of the trail easement contains a provision that serves to ensure that the property is permanently dedicated to and managed and operated consistent with the public access purpose.
- D. The trail easement shall include up to two trail corridors, each up to fifty (50) feet in width (“Trail Corridors”), and up to two staging areas, each up to one-half acre in size (“Staging Areas”), all within the boundaries of the real property. Each Trail Corridor shall begin at a Staging Area adjacent to or near Highway 1. Each Staging Area shall be suitable for use by pedestrians, bicyclists, and motor vehicles. Cumulatively, the Trail Corridors may extend up to five miles in length. The precise location and length of the Trail Corridors and Staging Areas need not be defined in the trail easement itself, but the trail easement should make clear that following process will occur. The grantee shall, after reasonable consultation with grantor and the Conservancy, designate and survey the precise locations of the Trail Corridors and Staging Areas. These decisions shall be memorialized within two years of the recording of the trail easement through the recordation of an exhibit to the trail easement.
- E. Grantee shall have the following rights: (1) the right to preserve and protect the Staging Areas and Trail Corridors to ensure that the public access purpose of the trail easement is realized; (2) the right to develop, maintain, operate, and use the Staging Areas and Trail Corridors for public access purposes; (3) the right to enter the real property to construct, install, operate, and maintain trails, parking areas, small unlighted signs, footbridges, stairs, fences, toilets, trash cans, picnic tables, benches, vegetation, landscaping, and other facilities within the Staging Areas and Trail Corridors as necessary for the safe and convenient use of the Staging Areas and Trail Corridors by the public; (4) the right to use the real property for service vehicle, and pedestrian access when necessary for construction, operation, and maintenance of the Staging Areas and Trail Corridors, or for law enforcement, medical or other emergencies, or rescue; (5) the right to allow and provide for public use, access,

**CONDITIONS PRECEDENT TO ACQUISITION AND DISBURSEMENT** (Continued)

ingress and egress to the Staging Areas and Trail Corridors in a manner consistent with the trail easement; (6) the right to enter upon the real property and to inspect, observe, and study the real property for the purposes of (i) identifying the current activities and uses thereon and the condition thereof, (ii) monitoring the activities and uses thereon to determine whether they are consistent with the terms and public access purpose of the trail easement, (iii) enforcing the terms of the trail easement, and (iv) exercising its other rights under the trail easement. Such right of entering the property shall be permitted at least once a year at reasonable times, upon twenty-four hours' prior notice to grantor, and shall be made in a manner that will not unreasonably interfere with grantor's use and quiet enjoyment of the real property. Should grantee have a reasonable belief that grantor is in breach of the trail easement, grantee shall have the right at any time, to enter upon the real property for the purpose of determining whether such a breach has occurred. These rights of entry shall extend to the officers, agents, consultants, and volunteers of grantee, and to the Conservancy. The grantee shall provide notice to the Conservancy of any periodic or other monitoring of the real property and copies of any written findings or reports; on request of the Conservancy, Conservancy staff shall be permitted to accompany the grantee on any monitoring visit; (7) the right to enforce the rights granted by the trail easement and to prevent or stop, by any legal means, any activity or use on the real property that is inconsistent with the terms, conditions or public access purpose and to require restoration of such areas or features as may be damaged by such activities or uses.

- F. If circumstances arise under which an amendment or modification of the trail easement would be appropriate, the parties to the trail easement shall be free to jointly amend it, provided that any amendment shall be consistent with the public access purpose of the trail easement, and shall not affect the trail easement's perpetual duration and further provided that the Conservancy provides its prior written consent to the amendment. Any such amendment shall be recorded in the Office of the Sonoma County Recorder.
- G. The grantee may assign the trail easement in whole or in part, but only to an entity that is a qualified entity at the time of transfer under Section 170(h) of the Internal Revenue Code, as amended (or any successor provision then applicable), and the applicable regulations promulgated thereunder, and is authorized to acquire and hold conservation easements under Section 815.3 of the California Civil Code (or any successor provision then applicable). As a condition of such transfer, grantee shall require the transferee to expressly agree in writing to assume grantee's obligations under the trail easement in order that the purposes of the trail easement shall continue to be carried out.

**CONDITIONS PRECEDENT TO ACQUISITION AND DISBURSEMENT** (Continued)

- H. The grantee shall manage, operate and maintain the trail easement in a manner consistent with the public access purpose. The grantee further assumes all monitoring, management, operation and maintenance costs associated with the trail easement, including the cost of ordinary repairs and replacements of a recurring nature, and costs of enforcement. The grantee shall refrain from developing or otherwise using any other property it owns or controls near the real property in a manner that interferes with or inconveniences the use, management, operation or maintenance of the trail easement or detracts from the public access purpose. Grantee may designate a public agency or nonprofit organization with sufficient assets, management capability, resources, and liability insurance to carry out grantee's obligations under this paragraph.
3. The purchase price of any interest in land purchased under this agreement may not exceed fair market value as established by the approved appraisal.

**ADDITIONAL GRANT CONDITION**

The grantee shall also meet the following condition:

The grantee shall develop a signage plan acknowledging Conservancy funding of the project as provided in the "SIGNS" section, below.

**COSTS AND DISBURSEMENTS**

When the Conservancy determines that all "CONDITIONS PRECEDENT TO ACQUISITION AND DISBURSEMENT" have been fully met, the Conservancy shall disburse funds, not to exceed the amount of this grant, directly into an escrow account established for the acquisition.

The grantee shall request disbursement for the acquisition by sending a letter to the Conservancy. The grantee shall include in the letter the name and address of the grantee, the number of this agreement, the date, the amount to be disbursed, and a description of the items for which disbursement is requested. Additionally, the letter shall include the name, address and telephone number of the title company or escrow holder and the escrow account number to which the funds will be disbursed. The letter shall be signed by an authorized representative of the grantee. Failure to send the required letter will relieve the Conservancy of its obligation to disburse funds.

**TERM OF AGREEMENT**

This agreement shall be deemed executed and effective when signed by both parties and received in the offices of the Conservancy together with the resolution described in "CONDITIONS PRECEDENT TO ACQUISITION AND DISBURSEMENT" section of this agreement. An authorized representative of the grantee shall sign the first page of the originals of this agreement in ink.

The term of this agreement shall run from its effective date through September 30, 2032 ("the termination date").

**COMPLETION DATE**

The grantee shall complete acquisition of the easement no later than September 30, 2012 ("the completion date").

Prior to the completion date, either party may terminate this agreement for any reason by providing the other party with seven days notice in writing.

If the Conservancy terminates prior to the completion date, the grantee shall take all reasonable measures to prevent further costs to the Conservancy. The Conservancy shall be responsible for any reasonable and non-cancelable obligations incurred by the grantee in the performance of this agreement prior to the date of the notice to terminate, but only up to the unpaid balance of funding authorized in this agreement.

**AUTHORIZATION**

The signature of the Executive Officer on the first page of this agreement certifies that at its November 10, 2011 and January 19, 2012 meeting, the Conservancy adopted the resolution included in the staff recommendation attached as Exhibit B. This agreement is executed under that authorization.

Standard Provisions

**ESSENTIAL PROVISIONS OF CONSERVATION EASEMENT**

The conservation easement shall include the following irrevocable and essential provisions:

1. The grantee acquired the conservation easement in part with a grant of funds from the State Coastal Conservancy, an agency of the State of California, for purposes of natural resource and habitat conservation, and open space preservation. No use of the real property inconsistent with those purposes is permitted.

*Mitigation.* Without the written permission of the Executive Officer, the grantee shall not use or allow the use of any portion of the real property for mitigation (in other words, to compensate for adverse changes to the environment elsewhere. In providing permission, the Executive Officer may require that all funds generated in connection with any authorized or allowable mitigation on the real property shall be remitted promptly to the Conservancy. As used in this section, mitigation includes, but is not limited to, any use of the real property in connection with the sale, trade, transfer or other transaction involving carbon sequestration credit or carbon mitigation.

2. The conservation easement (including any portion of it) may not be used as security for any debt without the written approval of the State of California, acting through the Executive Officer of the Conservancy, or its successor.
3. The conservation easement (including any portion of it) may not be amended or transferred without the approval of the State of California, through the Executive Officer of the Conservancy, or its successor.
4. The grantee is obligated to use, manage, operate and maintain the real property as described in the "USE, MANAGEMENT, OPERATION AND MAINTENANCE" section of California State Coastal Conservancy Grant Agreement No. 11-063, as it may be amended from time to time.
5. The conservation easement references a "baseline report" that details, as of the date of the conveyance of the easement, the conservation values on the real property protected by the easements.
6. If, for any reason, the grantee ceases to exist, or if any of the essential easement provisions stated above are violated, the conservation easement shall vest in the State of California for the benefit of the Conservancy or its successor automatically, upon recordation of a certificate of acceptance of the easement, following approval by the Conservancy and the California Department of General Services and/or the State Public Works Board, if required

**ESSENTIAL PROVISIONS OF CONSERVATION AND TRAIL EASEMENT** (Continued)

by law. However, the State, through the Executive Officer of the Conservancy, or its successor, may designate another public agency or a nonprofit organization to accept the conservation easement, in which case vesting shall be in that agency or organization rather than in the State.

7. The grantee shall promptly notify the Conservancy of any eminent domain (public taking) proceeding affecting the real property, or any portion of it, and shall continuously provide the Conservancy with copies of all relevant documents. If the grantee receives any "just compensation" payment for the conservation easement as a result of the proceeding, whether by agreement of the parties or by court order, then the grantee shall promptly pay to the Conservancy a share of the proceeds proportionate to the Conservancy's contribution towards the purchase price of the easement.
8. The conservation easement shall continue as a servitude running in perpetuity with the real property.

**SIGNS**

The grantee shall install and maintain one or more signs visible from the nearest public roadway identifying the real property, acknowledging Conservancy assistance and displaying the Conservancy's logo and directing the public to the real property. The Conservancy shall provide to the grantee specifications for the signs. The grantee may incorporate the required information into other signs as approved by the Executive Officer. In special circumstances, where the placement of signs or the general specifications are inappropriate, the Executive Officer may approve alternative, more appropriate methods for acknowledging the sources of funding. The grantee shall submit plans describing the number, design, placement and wording of the signs, or the specifications of a proposed, alternative method.

**USE, MANAGEMENT, OPERATION AND MAINTENANCE**

The grantee shall use, monitor, manage, operate and maintain the conservation easement in a manner consistent with the acquisition purposes. The grantee further assumes all monitoring, management, operation and maintenance costs associated with the easement, including the cost of ordinary repairs and replacements of a recurring nature, and costs of enforcement. The Conservancy shall not be liable for any costs of monitoring, management, operation or maintenance. The grantee shall refrain from developing or otherwise using any other property it owns or controls near the real property in a manner that interferes with or inconveniences the use, management, operation or maintenance of the easement or detracts from the acquisition purposes. The grantee may be excused from its obligations for management, operation and

**USE, MANAGEMENT, OPERATION AND MAINTENANCE** (Continued)

maintenance only upon the written approval of the Executive Officer of the Conservancy or its successor.

At least once per year, the grantee shall monitor the real property and the conservation values protected by the conservation easement, and shall prepare and provide to the Conservancy a written report of the results.

*Mitigation.* Without the written permission of the Executive Officer, the grantee shall not use or allow the use of any portion of the real property for mitigation (in other words, to compensate for adverse changes to the environment elsewhere). In providing permission, the Executive Officer may require that all funds generated in connection with any authorized or allowable mitigation on the real property shall be remitted promptly to the Conservancy.

**LIABILITY**

The grantee shall be responsible for, indemnify and save harmless the Conservancy, its officers, agents and employees from any and all liabilities, claims, demands, damages or costs, including, without limitation litigation costs and attorneys fees resulting from, growing out of, or in any way connected with or incident to this agreement, except for active negligence of the Conservancy, its officers, agents or employees. The duty of the grantee to indemnify and save harmless includes the duty to defend as provided in Civil Code Section 2778. This agreement supersedes the grantee's right as a public entity to indemnity (see Gov. Code Section 895.2) and contribution (see Gov. Code Section 895.6) as set forth in Gov. Code Section 895.4.

The grantee waives any and all rights to any type of express or implied indemnity or right of contribution from the State, its officers, agents or employees, for any liability resulting from, growing out of, or in any way connected with or incident to this agreement.

**AUDITS/ACCOUNTING/RECORDS**

The grantee shall maintain financial accounts, documents, and records (collectively, "records") relating to this agreement, in accordance with the guidelines of "Generally Accepted Accounting Principles" ("GAAP") published by the American Institute of Certified Public Accountants. The records shall include, without limitation, evidence sufficient to reflect properly the amount, receipt, deposit, and disbursement of all funds related to the acquisition, use, management, operation and maintenance of the conservation easement and trail easement. The grantee shall maintain adequate supporting records in a manner that permits tracing of transactions from the request for disbursement forms to the accounting records and to the supporting documentation.

**AUDITS/ACCOUNTING/RECORDS** (Continued)

Additionally, the Conservancy or its agents may review, obtain, and copy all records relating to performance of the agreement. The grantee shall provide the Conservancy or its agents with any relevant information requested and shall permit the Conservancy or its agents access to the grantee's premises upon reasonable notice, during normal business hours, to interview employees and inspect and copy books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this agreement and any applicable laws and regulations.

The grantee shall retain the records related to the acquisition for three years following the date of final disbursement for the acquisition by the Conservancy. All other records shall be retained by the grantee for three years following the later of final payment and the final year to which the records pertain. The records shall be subject to examination and audit by the Conservancy and the Bureau of State Audits during the retention periods.

If the grantee retains any contractors to accomplish any of the work of this agreement, the grantee shall first enter into an agreement with each contractor requiring the contractor to meet the terms of this section and to make the terms applicable to all subcontractors.

The Conservancy may disallow all or part of the cost of any activity or action that it determines to be not in compliance with the requirements of this agreement.

**NONDISCRIMINATION CLAUSE**

During the performance of this agreement, the grantee and its contractors shall not unlawfully discriminate against, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, ethnic group identification, physical disability (including HIV and AIDS), mental disability, medical condition, marital status, age (over 40) or sexual orientation (Government Code section 12940). The grantee and its contractors also shall not unlawfully deny a request for or take unlawful action against any individual because of the exercise of rights related to family-care leave (Government Code sections 12945.1 and 12945.2). The grantee and its contractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination, harassment and unlawful acts.

Consistent with Government Code section 11135, the grantee shall ensure that no one, on the basis of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability, is unlawfully denied full and equal access to the benefits of, or is unlawfully subjected to discrimination under, the work funded by the Conservancy under this agreement.

**NONDISCRIMINATION CLAUSE** (Continued)

Pursuant to Government Code section 12990, the grantee and its contractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900 et seq.) and the applicable regulations (California Code of Regulations Title 2, section 7285.0 et seq.). The regulations of the Fair Employment and Housing Commission regarding Contractor Nondiscrimination and Compliance (Chapter 5 of Division 4 of Title 2 of the California Code of Regulations) are incorporated into this agreement by this reference.

The grantee and its contractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. This nondiscrimination clause shall be included in all contracts and subcontracts entered into to perform work provided for under this agreement.

**INDEPENDENT CAPACITY**

The grantee, and the agents and employees of the grantee, in the performance of this agreement, shall act in an independent capacity and not as officers or employees or agents of the State of California.

**ASSIGNMENT**

Without the written consent of the Executive Officer, the grantee may not assign this agreement in whole or in part.

**TIMELINESS**

Time is of the essence in this agreement.

**EXECUTIVE OFFICER'S DESIGNEE**

The Executive Officer shall designate a Conservancy project manager who shall have authority to act on behalf of the Executive Officer with respect to this agreement. The Executive Officer shall notify the grantee of the designation in writing.

**AMENDMENT**

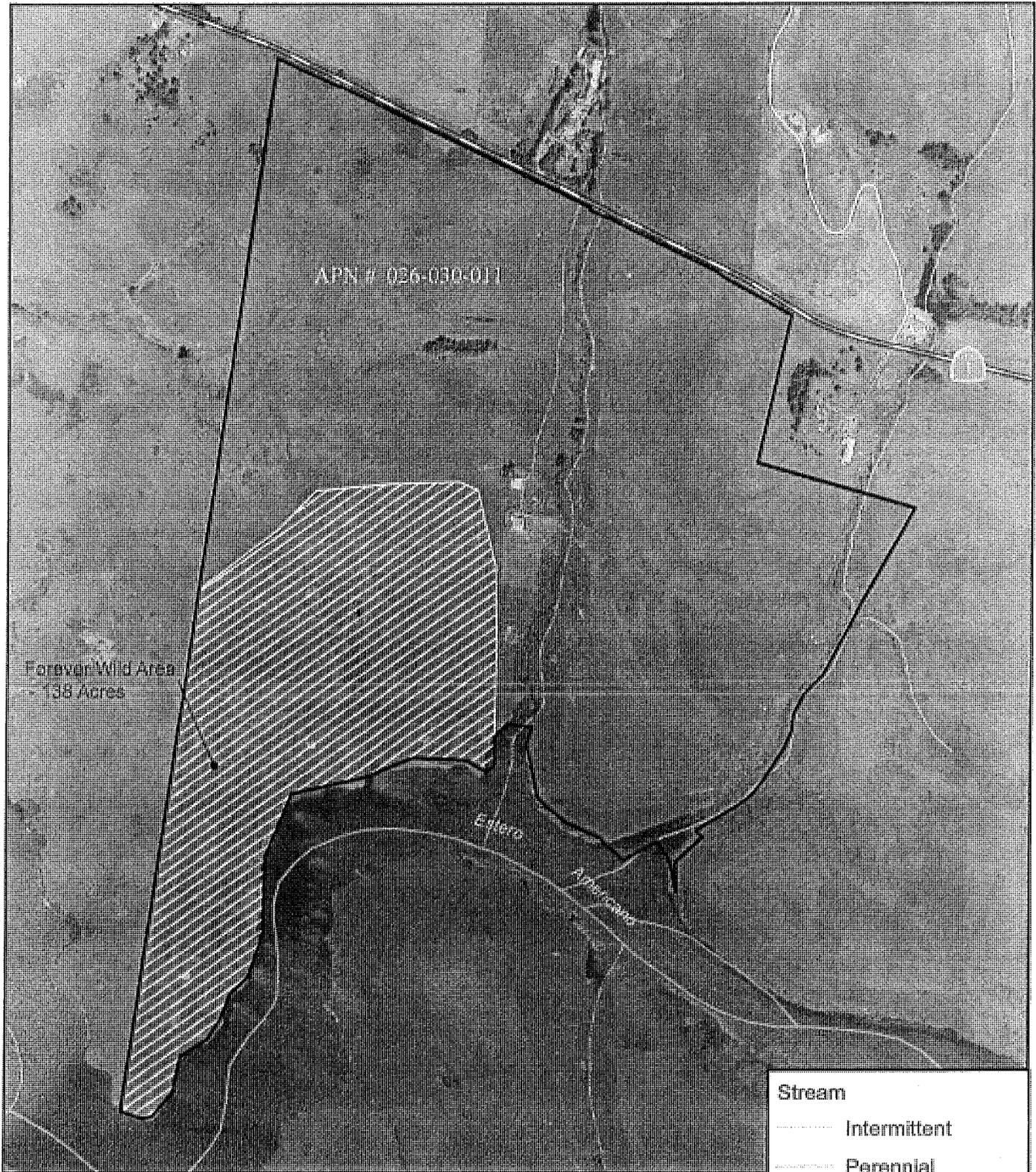
No change in this agreement shall be valid unless made in writing and signed by the parties to

**AMENDMENT** (Continued)

the agreement. No oral understanding or agreement not incorporated in this agreement shall be binding on any of the parties.

**LOCUS**

This agreement is deemed to be entered into in the County of Alameda.



## Bordessa Ranch Site-Scale Map



**SONOMA COUNTY**  
 AGRICULTURAL PRESERVATION  
 AND OPEN SPACE DISTRICT



Map Date: 09/2011  
 Sources: GISdata (SCWA); Aerial Photo (Digital Globe 2009); Property Boundary, Streets (County GIS)  
 This map is for illustrative purposes only and is not intended to be a definitive property description.

<b>Stream</b>	
	Intermittent
	Perennial
<b>Street</b>	
	Road
	Highway
	Forever Wild Area
	Property Boundary

COASTAL CONSERVANCY

Staff Recommendation  
November 10, 2011

**BORDESSA RANCH  
CONSERVATION AND PUBLIC ACCESS  
EASEMENT ACQUISITION AND ACCESS PLAN**

Project No. 11-026  
Project Manager: Lisa Ames

**RECOMMENDED ACTION:** Authorization to disburse up to \$650,000 to the Sonoma County Agricultural Preservation and Open Space District to acquire conservation and public access easements over the 495-acre Bordessa Ranch property on the Estero Americano in western Sonoma County, and authorization to disburse up to \$50,000 to Sonoma County Regional Parks Department to develop a public access plan for the property.

**LOCATION:** Three miles northwest of the town of Valley Ford, Sonoma County (Exhibit 1)

**PROGRAM CATEGORY:** San Francisco Bay Area Conservancy

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**EXHIBITS**

- Exhibit 1: Project Location and Site Map
- Exhibit 2: Project Photos
- Exhibit 3: Upland Habitat Goals Biodiversity Portfolio Report
- Exhibit 4: Project Letters

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**RESOLUTION AND FINDINGS:**

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31160 *et seq.* of the Public Resources Code:

“The State Coastal Conservancy hereby authorizes disbursement of an amount not to exceed \$650,000 (six hundred fifty thousand dollars) to Sonoma County Agricultural Preservation and Open Space District (“SCAPOS D”) for the purpose of acquiring conservation and public access easements over the 495-acre Bordessa Ranch Property (Sonoma County Assessor’s Parcel No. 026-030-011). The State Coastal Conservancy further authorizes disbursement of an amount not to exceed \$50,000 (fifty thousand dollars) to Sonoma County Regional Parks Department (“SCRPD”) to conduct resource assessment studies and prepare a public access plan for the Bordessa Ranch Property. This authorization is subject to the following conditions:

1. Prior to the disbursement of any Conservancy funds for acquisition, SCAPOS D shall submit

for review and approval of the Executive Officer of the Conservancy (the "Executive Officer"):

- a. All relevant acquisition documents, including, without limitation, appraisals, environmental assessments, title reports, purchase agreements, conservation easement, public access easement, escrow instructions and documents of title.
  - b. A Baseline Conditions Report and a Monitoring and Reporting Plan.
  - c. Documentation that all other funds necessary to the acquisition have been obtained.
2. The purchase price of the conservation and public access easements shall not exceed fair market value, as established in appraisals approved by the Executive Officer.
  3. The easement interests acquired under this authorization shall be managed and operated in a manner consistent with the purposes of natural resource protection, public access, open space preservation and limited agricultural use.
  4. SCRPD shall develop a public access plan within two years of SCAPOSD acquiring the conservation and access easements. Prior to the disbursement of funds to the SCRPD for planning and resource assessment, the Executive Officer shall approve in writing a work plan, including budget and schedule, and any contractors proposed to be used.
  5. Conservancy funding shall be acknowledged by erecting and maintaining on the property a sign, the design and placement of which has been reviewed and approved by the Executive Officer."

Staff further recommends that the Conservancy adopt the following findings:

"Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed project is consistent with the current Project Selection Criteria and Guidelines, updated by the Conservancy on June 4, 2009.
2. The proposed project is consistent with the purposes and objectives of the San Francisco Bay Area Conservancy Program, Chapter 4.5 of Division 21 of the Public Resources Code, Sections 31160-31165."

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**PROJECT SUMMARY:**

Staff recommends the Conservancy authorize the disbursement of up to \$650,000 to the Sonoma County Agricultural Preservation and Open Space District ("SCAPOSD") to acquire conservation and public access easements over the 495-acre Bordessa Ranch, located adjacent to the Estero Americano in southern Sonoma County. In addition, staff recommends the Conservancy authorize the disbursement of up to \$50,000 to the Sonoma County Regional Parks Department ("SCRPD") to conduct resource assessment studies and develop a public access plan for the property. By acquiring easements and developing an access plan, this project will preserve and enhance habitats for sensitive and endangered species, allow controlled grazing,

and provide opportunities for appropriate public access and recreation. Bordessa Ranch borders the Estero Americano, a scenic and biologically diverse coastal estuary in Sonoma County. The Estero Americano is designated critical habitat for steelhead trout by NOAA Fisheries Service, is identified by the California Department of Fish and Game as containing some of the most significant habitat areas in the state, and is listed as an impaired water body by the State Water Resources Control Board due to historic land uses. While longstanding land use patterns of continuous agricultural operations in the watershed have preserved large tracts of open space and critical habitat for wildlife, erosion and agricultural runoff are impacting the natural resources values of the Estero and its tributaries. This historic land use pattern has also provided very limited public access and recreational opportunities to experience the estuary.

Current ownership of the Bordessa Ranch is divided between the Bordessa brothers and their cousins. The Bordessa brothers would like to preserve the open space, agricultural and natural resource values of the property and open up the area for public access consistent with protecting the sensitive resources on the site. The SCAPOSD's purchase of the conservation and access easements will enable the Bordessa brothers to buy out their cousins' interests in full and prevent the ranch from being developed into three private estates, the maximum density allowable by local zoning laws.

With the acquisition of conservation and public access easements over the 495-acre Bordessa property the SCAPOSD will immediately prevent inappropriate development of the parcel. The conservation easement will include provisions to permanently protect the conservation values of the property including the sensitive natural resources, habitat connectivity between the Estero and adjacent open grasslands, open space and scenic views, and agricultural resources. The conservation easement will designate as "Forever Wild" a 138-acre area that includes sensitive habitat for American badger and burrowing owls, to protect it in perpetuity from potential disturbances caused by grazing, recreation or allowable building on the property. The conservation easement will require the landowners to complete a rangeland management plan (RMP) that integrates natural resources protection goals with cattle grazing for the remainder of the property. The RMP will be prepared in consultation with a certified rangeland manager, the SCAPOSD and Conservancy staff and will govern the landowners' management of the property. The landowner will retain the right to repair the existing residence and the right to improve the agriculture-related outbuildings on the property in accordance with the conservation values defined in the conservation easement. The public access easement will include provisions to allow for recreation and education opportunities on the ranch while protecting the natural resource values of the property. While still in draft form, the proposed easements will comply with the easement standards adopted by the Conservancy on May 24, 2007 (the "easement standards"). In particular, the easements will require that a baseline report and monitoring plan that are consistent with the easement standards be prepared and approved by the Conservancy prior to close of escrow, and the easements will contain all essential provisions required by the easement standards. SCAPOSD will provide copies of all management and monitoring plans and monitoring reports to the Conservancy.

The SCRPD intends to develop a public access plan that will include revegetation of native shrubs and trees in the riparian zones and appropriate recreational and educational uses such as docent-led tours, hiking, nature study, bird watching, picnicking, outdoor education, scientific

research and observation. The plan will evaluate seasonal access based to the Estero Americano for kayaking and canoeing. SCRPD's planning effort will include resource assessment studies to determine trail alignment with the least impact on the site's sensitive resources.

SCAPOSD has partnered with the Conservancy on a number of Sonoma County resource conservation and public access projects and is uniquely qualified to carry out this easement acquisition. SCAPOSD has a respected working relationship with the farming and resource conservation communities in the Estero Americano watershed and maintains ongoing stewardship obligations for over 140 conservation and agricultural easements in Sonoma County. SCAPOSD receives significant annual funds from a ¼ percent county sales tax to ensure it carries out these long-term stewardship obligations. Joint projects the SCAPOSD has done with the Conservancy include: fee title acquisition of Sonoma Mountain, Poff (Wright Hill Ranch), Montini, Roche Ranch, Skiles, Willow Creek, Saddle Mountain, and Tolay Lake; the North Slope and the Laguna de Santa Rosa trail projects; and helping to fund the Sonoma Land Trust's acquisition of both the Estero Americano Preserve and the Jenner Headlands.

SCRPD operates a vast network of parks and public access trails throughout the county of Sonoma and hosts over 2 million visitors along its spectacular coast each year. SCRPD has worked on a number of coastal planning and implementation projects with Conservancy support, including the Bodega Bay Pedestrian and Bike Trail and the Timber Cove Coastal Trail Feasibility Study. SCRPD has collaborated with SCAPOSD on several acquisition and trail projects including Tolay Lake.

**Site Description:**

Bordessa Ranch lies between a rural stretch of Scenic Highway 1 and the Estero Americano estuary (Exhibits 1 and 2). The Estero Americano is a coastal estuary at the base of Americano Creek; the watershed area is approximately 49 square miles. Land use within the watershed is primarily dairy operations, beef and sheep grazing, and rural residences. The estuary extends from approximately one mile east of the town of Valley Ford westward to the Pacific Ocean where it empties into Bodega Bay at the north end of the Gulf of the Farallones National Marine Sanctuary.

Estero Americano is also located in the heart of the Pacific Flyway. The mudflats, open water and extensive marsh area of the estuary provide seasonally important foraging habitat for migratory waterfowl and shorebirds, and resident long-legged wading birds. It provides potential rearing habitat for two federally-listed endangered fish species, the tidewater goby and winter-run steelhead trout. Other special-status species include the Northwestern pond turtle, Myrtle's silverspot butterfly, the California red-legged frog, and the tricolored blackbird. The California Department of Fish and Game has identified the Estero Americano as containing some of the most significant habitat areas in the State because of these special-status species inhabitants (CDFG 2005 California Natural Diversity Database). The estuary also received critical habitat designation for steelhead trout by NOAA Fisheries Service (NOAA, 2005 "Endangered and Threatened Species; Designation of Critical Habitat for Seven Evolutionarily Significant Units of Pacific Salmon and Steelhead in California; Final Rule" (50 Code of Federal Regulations Part 226; Federal Register v. 70 no.170). The 2002 California Water Quality Assessment Report

published by the State Water Resources Control Board listed the estuary and its main tributary, Americano creek, as impaired water bodies due to nutrient pollution and sedimentation/siltation from agricultural uses.

Bordessa Ranch is located on the segment of the estuary extending from Valley Ford to the ocean that is virtually without public access or visibility from public roads. The property affords spectacular views of the unique, fjord-like Estero Americano (Exhibit 2). It is currently used for occasional, uncontrolled cattle grazing. Habitats on Bordessa Ranch comprise coastal prairie, coastal scrub and riparian, including habitat for the threatened California red-legged frog. Two creeks with sensitive riparian habitat and no fencing flow south through the property to the estuary. There are numerous active American badger burrows, which provide habitat for burrowing owls; both are species of special concern. The owls occupy the burrows from early fall through the end of January. The property provides foraging resources for other species of birds, including raptors and sea birds.

The Bay Area Upland Habitat Goals project rates the property as highly suitable for conservation in the coastal grassland region and designates Estero Americano as a priority stream conservation target (Exhibit 3).

**Project History:**

The Bordessa brothers contacted SCAPOSD in the fall of 2010 seeking assistance to resolve a long-standing dispute over the future use of the family ranch. Ownership of the ranch is divided between the Bordessa brothers who would like to keep the ranch in open space and agricultural use and their cousins who would like to sell the property for development into three private estates, the maximum density allowed under current zoning for the site. With the proceeds from the sale of the conservation and public access easements, the Bordessa brothers will be able to buy the 495-acre ranch in its entirety and realize their conservation goals. The SCAPOSD accepted the project into its acquisition program in October 2010 and has since conducted a site assessment and has also funded an on-going, detailed bird survey of the property. Based on the site assessment and preliminary surveys, the SCAPOSD recommended uses for the property that have been incorporated into the proposed conservation and public access easements. The easements will prevent inappropriate development, allow the landowners to conduct controlled cattle grazing, and open the land for public access use appropriate to the sensitive resources on the site. For financial reasons, both the Bordessa brothers and their cousins require that the easement sale be completed by the end of 2011, or they will pursue marketing the property as three private estate parcels.

The SCAPOSD and Conservancy staff approached the SCRPD in September 2011 to gauge their interest in developing the public access component of the project. The SCRPD agreed to participate immediately. SCAPOSD's experience with acquisition and property management combined with SCRPD's experience with developing and managing trail systems throughout Sonoma County promises to result in a successful collaboration.

The Coastal Conservancy has been involved in planning and restoration efforts in the Estero Americano estuary and watershed since 1987. The Conservancy's involvement has included funding the Sonoma County Coastal Wetland Enhancement Plan in 1987, the Estero Americano

Ranch Implementation Projects, Phases I & II in 2004-2006, the Estero Americano Preserve Enhancement Project in 2005, the Estero Americano Watershed Management Plan in 2007, and the Estero Americano Dairy Enhancement Project in 2008. Because historic land use activities throughout the watershed have contributed excessive amounts of sediment and pathogens to the Estero Americano thereby degrading its water quality and sensitive habitats, these projects have focused on identifying and treating the sources of these pollutants.

In addition to integrated management planning and implementation, the Conservancy has participated in land conservation efforts in the Estero Americano watershed. In 1997 and 2001, the Conservancy partnered with the SCAPOSD and the Sonoma Land Trust (SLT) to purchase the 127-acre Estero Americano Preserve, now owned and managed by the SLT. SLT conducts guided educational tours of the Preserve which is located west of the Bordessa property. Along with kayakers entering the estuary at Valley Ford during high tides, these educational tours are the only existing opportunities available to the public to experience the estuary.

**PROJECT FINANCING**

<b>Coastal Conservancy</b>	\$700,000
SCAPOSD	<u>\$700,000</u>
 <b>Total Project Costs</b>	 \$1,400,000

In addition to the purchase price contribution from SCAPOSD, SCAPOSD has provided or will provide in-kind services that include: staff and attorney time; appraisal services by an independent state- certified appraiser; a comprehensive baseline document for the property completed by a qualified consultant; and a bird survey which will be completed during five site visits throughout the coming year by a qualified licensed biologist with extensive knowledge of avian species. These services are estimated to be a minimum of \$85,000. Additionally, SCAPOSD will pay all escrow closing costs, which run between \$5,000 to \$10,000. Finally, SCAPOSD will have an obligation to monitor the property annually and enforce the terms of the conservation easement.

Staff expects to use funds appropriated to the San Francisco Bay Conservancy Program in fiscal year 2009/10 from the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84). This funding source may be used to carry out projects, like this one, pursuant to Chapter 4.5 of the Conservancy's enabling legislation, Division 21 of the Public Resources Code section 75060(c).

Proposition 84 requires that for acquisition projects that protect natural resources, the Conservancy assess whether the project meets criteria specified in Section 75071. The proposed acquisition satisfies three of the specified criteria: the project will contribute to long-term protection of and improvement to the water and biological quality of a stream within a "priority watershed," the project supports a relatively large area of under-protected coastal prairie habitat; and the project is supported by matching funds. Finally, as required by Section 75071(f), Conservancy staff has submitted to the Resources Agency and has posted on the Conservancy's website an explanation as to how the proposed acquisition meets the criteria of that section.

**CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:**

The proposed project is consistent with the provisions of Chapter 4.5 of Division 21 of the Public Resources Code, Sections 31160-31165, which authorizes the Conservancy to award grants in the nine-county San Francisco Bay Area to help achieve stated goals. Specifically, the proposed project, located in coastal Sonoma County, supports the achievement of the goals as stated in more detail below.

Section 31162(a) authorizes the Conservancy to improve public access in a manner that is consistent with the rights of private property owners and will not have a significant adverse impact on agricultural operations and environmentally sensitive areas and wildlife. The proposed project will improve public access, has a willing seller, and will be sited and designed to avoid adverse impacts to agricultural operations and environmentally sensitive areas and wildlife (see "Project Description" section for additional information).

Section 31162(b) authorizes the Conservancy to award grants to protect, restore, and enhance natural habitats and connecting corridors, watersheds, scenic areas and other open space resources of regional importance. The proposed project will protect and restore the regionally important natural resources and habitat through the acquisition of an easement over the Bordessa Ranch for permanent conservation and the subsequent fencing of riparian areas and revegetation measures.

In addition, the project satisfies all of the five criteria for determining project priority under Section 31163(c), as follows: 1) the project is fully consistent with and supported by adopted local plans, including the *Sonoma County Local Coastal Plan and the 2020 Sonoma County General Plan* as described in the Consistency with Local Coastal Program Policies below; 2) the project serves a multi-jurisdictional constituency, since it will preserve open space and scenic areas for the enjoyment of both local residents and visitors who come from across the region and the nation to the project area; 3) the project can be implemented in a timely fashion: once funded, the easement acquisition is expected to occur within six months, and the access plan completed within two years; 4) in the event the project is not implemented promptly, the opportunity for completion of the purchase of the property and the associated grant of the easement may be lost and potential development could occur; and 5) the Conservancy funding for the easement acquisition is matched by SCAPOSD.

**CONSISTENCY WITH CONSERVANCY'S 2007  
STRATEGIC PLAN GOAL(S) & OBJECTIVE(S):**

Consistent with **Goal 4, Objective A**, the proposed project will protect up to 495 acres of a significant coastal and watershed resource area thereby contributing to landscape-level conservation of the sensitive species communities and the scenic and low impact recreational resources of the property.

Consistent with **Goal 10, Objective D**, the proposed project will protect uplands wildlife habitat, a connecting corridor, a scenic area, and other open-space resources of regional significance in western Sonoma County, one of the nine Bay area counties.

Consistent with **Goal 11, Objective C**, the proposed project will increase the amount of land accessible to the public by developing up to two trail corridors across 495 acres of privately

owned property adjacent to the Estero Americano.

Consistent with **Goal 12, Objective B**, the proposed project will increase by approximately 350 acres the acreage of rangeland protected in the nine Bay Area counties.

**CONSISTENCY WITH CONSERVANCY'S  
PROJECT SELECTION CRITERIA & GUIDELINES:**

The proposed project is consistent with the Conservancy's Project Selection Criteria and Guidelines, last updated on June 4, 2009, in the following respects:

**Required Criteria**

1. **Promotion of the Conservancy's statutory programs and purposes:** See the "Consistency with Conservancy's Enabling Legislation" section above.
2. **Consistency with purposes of the funding source:** See the "Project Financing" section above.
3. **Support of the public:** This project is supported by organizations and elected officials including the Sonoma Land Trust, the Goldridge Resource Conservation District, the local Audubon Society, and elected officials, including Congresswoman Lynn Woolsey, State Senator Noreen Evans, Assemblyman Jared Huffman, and the County Board of Supervisors, which act as the SCAPOSD's Board of Directors.
4. **Location:** The proposed project is located in Sonoma County, one of the nine Bay Area counties.
5. **Need:** If the SCAPOSD is not successful in protecting the Bordessa property, it could be developed into three estate lots and the opportunity to provide public access would be lost. Residences, guest houses, swimming pools, tennis courts and other residential improvements could detrimentally impact the sensitive natural resources of the property. The high grade salt marsh wetlands on the property could be degraded and the burrowing owl habitat could be destroyed by development. Private landowners could establish permanent docks on the Estero, which could adversely disrupt the mudflats and salt marsh wetlands on the property. Without Conservancy funds, SCAPOSD will not be able to complete the conservation easement acquisition for the Bordessa Ranch.
6. **Greater-than-local interest:** The Bordessa project is regionally significant because of its size, its natural resource values, and the public access potential it will provide for the greater community. The Bordessa Ranch contains 495 acres of coastal grasslands, coastal scrub and riparian habitats that host many sensitive and threatened species. The project will include appropriate recreational and educational uses such as docent-led tours, hiking, nature study, bird watching, picnicking, outdoor education, scientific research and observation. Seasonal access will be allowed to the Estero Americano for kayaking and canoeing. These recreational and educational activities will be enjoyed by local citizens as well as visitors to Sonoma County.
7. **Sea level rise vulnerability:** Sea level rise is expected to be 10 to 17 inches by 2050 and 31 to 69 inches by 2100 (Resolution of the Ocean Protection Council on Sea Level Rise, March 2011) although new models continue to refine these estimates. Potential impacts to the site

due to sea level rise and storm surge include inundations of estuarine and tidal habitats -- with a resultant change in the diversity and abundance of key species, loss of estuarine and tidal habitat and erosion. However, the proposed project will help to ameliorate these expected impacts in a variety of ways. Expanding existing protected areas is one option outlined by the 2009 California Climate Adaptation Strategy (Strategy 1: Establish a System of Sustainable Habitat Reserves, page 57), allowing for the dispersal of plant and animal species in response to rising sea levels and along climate gradients. The Bordessa property is characterized by a great deal of topographic diversity, with changes in the topography near the estuary being very gradual. This topographic diversity ensures that the landscape can gradually adjust to climate change. The combination of protecting the landscape so that organisms can move (temporally and spatially), combined with the gradual change in coastal topography makes the Bordessa property ideally suited as a refuge landscape under various projected climate change conditions.

**Additional Criteria**

1. **Urgency:** As described in the "Need" and "Project History" sections above, this property will succumb to development pressures unless the SCAPOSD is able to acquire an easement over the property as soon as possible.
2. **Resolution of more than one issue:** The project will preserve and enhance natural habitats for sensitive and endangered species, allow continued appropriate agricultural use, and provide opportunities for public access and recreation.
8. **Leverage:** See the "Project Financing" section above.
9. **Readiness:** The SCAPOSD has completed the appraisals, drafted the easements with the landowners and received approval for funding from their Board of Directors in October 2011. The landowners are eager to sell conservation and access easements to the SCAPOSD.
10. **Cooperation:** The SCAPOSD will have ongoing stewardship obligations to manage and monitor the conservation easement in cooperation with the landowners. The landowners will develop a range management plan that includes fencing and riparian revegetation to enhance and protect the sensitive natural resources on the property.
11. **Vulnerability from climate change impacts other than sea level rise:** The predicted volatility of natural ecosystems associated with projected climate change suggests that increasing the resiliency of these systems is critical. Impacts to the Bordessa property not related to sea level rise, storm surge and coastal erosion include stream system volatility, habitat impacts due to temperature changes, and species shifts due to climate change. The proposed project will implement Coastal Conservancy strategies for adaptation, including protection of areas adjacent to shorelines, sediment management via protection of estuarine processes, planned retreat, conservation and habitat restoration, riparian corridor enhancement, living shoreline projects and the protection of land and open space. Additionally, the project structure will allow for ongoing research on the property related to climate change and habitat enhancement.

**CONSISTENCY WITH LOCAL COASTAL PROGRAM POLICIES:**

The proposed authorization is consistent with the Sonoma County Local Coastal Program (LCP) certified in 1981 and revised on August 3, 2001 in the following respects: In Section III. Environmental Resources: Valley Ford area, the marsh, riparian, and upland areas of the Estero Americano from the mouth to Valley Ford are defined as critical resource areas and are recommended for resource enhancement and protection. The conservation easement will include provisions to protect the wetland areas from inappropriate cattle grazing and from development of the grassland areas as recommended in this section of the LCP.

Protection of the Bordessa Ranch property is consistent with the *2020 Sonoma County General Plan*, adopted in 2008: it is located in a Scenic Landscape Unit for the Sonoma Coast and on the Highway 1 Scenic Corridor (Sections 2.2 and 2.3); and it is also located within a designated Critical Habitat Area of coastal brackish marsh that is designated as Special-Status Species Habitat (Section 3.1).

**COMPLIANCE WITH CEQA:**

Acquisition of a conservation easement and public access easement over the Bordessa Ranch is categorically exempt from the requirements of the California Environmental Quality Act under 14 Cal. Code of Regulations Section 15325 because it involves the transfer of ownership interests in land to preserve open space or enhance natural conditions, including plant or animal habitats, and allow for continued limited agricultural use of the property. The access planning is also categorically exempt under Section 15306, which exempts basic data collection and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. Staff will file a Notice of Exemption upon approval of the project.

BORDESSA COMMENTS RE ESTERO TRAIL EASEMENT  
DRAFT ENVIRONMENTAL IMPACT REPORT  
**ATTACHMENT B**



2012049982

RECORDING REQUESTED BY AND RETURN TO:

Sonoma County Agricultural  
Preservation and Open Space District  
575 Administration Drive, Room 102A  
Santa Rosa, CA 95403

FIDELITY NAT'L TITLE CO. JANICE ATKINSON  
05/25/2012 08:00 TRD  
RECORDING FEE: \$0.00  
PAID

OFFICIAL RECORDS OF  
SONOMA COUNTY

30 PGS



Free Recording per Gov't Code Sec 6103

AP # 026-030-011

DEED AND AGREEMENT  
BY AND BETWEEN  
ALFRED BORDESSA AND JOSEPH BORDESSA,  
AS SUCCESSOR TRUSTEES OF THE BRUNO BORDESSA AND DOROTHY BORDESSA  
REVOCABLE INTERVIVOS TRUST  
AND  
THE SONOMA COUNTY AGRICULTURAL PRESERVATION  
AND OPEN SPACE DISTRICT  
CONVEYING A CONSERVATION EASEMENT AND ASSIGNING DEVELOPMENT  
RIGHTS

Alfred Bordessa and Joseph Bordessa, as Successor Trustees of the Bruno Bordessa and Dorothy Bordessa Revocable Intervivos Trust (created by Declaration of Trust dated June 12, 2000) (hereafter referred to as "GRANTOR") and the Sonoma County Agricultural Preservation and Open Space DISTRICT, a public agency formed pursuant to the provisions of Public Resources Code sections 5500 et seq. ("DISTRICT"), agree as follows:

RECITALS

- A. GRANTOR is the owner in fee simple of that certain real property located in Sonoma County and more particularly described in Exhibit A, attached hereto and incorporated herein by this reference ("the Property").
- B. In 1990 the voters of Sonoma County approved the creation of DISTRICT and the imposition of a transactions and use tax by the Sonoma County Open Space Authority ("the Authority"). The purpose for the creation of DISTRICT and the imposition of the tax by the Authority was to provide for the preservation of agriculture and open space through the acquisition of interests in appropriate properties from willing sellers. The District was created and the tax imposed in order to further the state policy for the preservation of agricultural and open space lands, to meet the mandatory requirements imposed on the County and each of its cities by Government Code sections 65560 et seq. and to advance the implementation of the open space elements of their respective general plans. In order to accomplish those purposes, DISTRICT and the Authority entered into a contract whereby, in consideration of the Authority's financing of DISTRICT's acquisitions, DISTRICT agreed to and did adopt an acquisition program that was in conformance with the Authority's voter approved Expenditure Plan. In 2006, the voters of Sonoma County approved an extension of the transaction and use tax and an update of the Expenditure Plan. The DISTRICT's acquisition program remains in full compliance with that updated voter-approved Expenditure Plan.

C. On March 27, 2012, DISTRICT's Board of Directors, pursuant to Government Code section 65402 and Sonoma County Ordinance No. 5180, determined, by its Resolution No. 12-0129, that the acquisition of a conservation easement in the Property was consistent with the Sonoma County General Plan (specifically the Plan's Open Space and Resource Conservation Element and the Agricultural Resources Element) because the Property is within a Scenic Landscape Unit, borders a scenic corridor and is very visible from the road. The Property has special status species, has sensitive status species habitat, marshes and wetlands, and riparian corridors, and it borders the Estero Americano, a critical habitat area. Under the Agricultural Resources Element the Property is identified for agricultural production, and has characteristics suitable for continued agricultural use. On December 1, 2011, the County's Fiscal Oversight Commission determined that the acquisition was consistent with its Expenditure Plan.

D. DISTRICT has the authority to acquire conservation easements by virtue of Public Resources Code section 5540 and possesses the ability and intent to enforce the terms of this Easement.

E. Concurrent with the recordation of this Conservation Easement, GRANTOR will record a trail easement ("Trail Easement") to DISTRICT to allow for public access to the Property as set forth therein.

F. GRANTOR intends, by selling this Conservation Easement and Trail Easement to DISTRICT at a price substantially less than its fair market value, to make a charitable contribution to DISTRICT in support of DISTRICT's efforts to preserve the Conservation Values of the Property, as defined below. DISTRICT acknowledges GRANTOR's charitable intent.

G. This Conservation Easement was acquired in part with funds provided by the State Coastal Conservancy (the "Conservancy"), an agency of the State of California, for the purposes of preserving the natural resource, open space, scenic, agricultural, and public access, recreation, and education values of the Property in perpetuity. These funds represent a substantial investment by the people of the State of California in the preservation of open space and natural resources, the long-term conservation of agricultural land, and the retention of land for these purposes in perpetuity. The rights vested herein in the State of California arise out of the State's statutory role in fostering the conservation of agricultural land, and the preservation of coastal open space and natural resources in California and its role as a contributor to, and a fiduciary for, the public investment represented here. The purpose of this Conservation Easement is recognized by and will serve the objectives of the Conservancy's enabling legislation, Division 21 (sections 31000, et seq.) of the California Public Resources Code.

THEREFORE, in consideration of the foregoing recitations and of the mutual covenants, terms, conditions, and restrictions herein set forth and other valuable consideration receipt of which is hereby acknowledged, GRANTOR and DISTRICT agree as follows:

EASEMENT

**PART ONE: GRANT OF EASEMENT**

**1. Grant and Acceptance of Conservation Easement and Assignment of Development Rights.** Pursuant to the common and statutory law of the State of California including the provisions of Civil Code sections 815 to 816, inclusive, GRANTOR hereby grants to DISTRICT and DISTRICT accepts a conservation easement in the Property in perpetuity ("the Easement"). GRANTOR hereby irrevocably assigns to DISTRICT all development rights associated with the Property, except those rights which are specifically reserved by GRANTOR through this Easement.

**2. Conservation Values.** The approximate 500-acre Property is located along the State Highway 1 scenic corridor and the Estero Americano west of Valley Ford. The Property is currently used for livestock grazing, and areas of the Property are well suited for continued agricultural use. The Property consists of rolling hills and open pasture land with two streams with native riparian vegetation, draining south into the Estero Americano. Critical resources on the Property (collectively "the Conservation Values"), include:

2.1 Natural Resources. The Property possesses sensitive natural resources, including two streams with native riparian vegetation, which flow south through the Property to the Estero Americano. Habitats on the property include coastal prairie, coastal scrub, and native riparian. The Property contains habitat for American Badger as well as for California red-legged frog. Short-eared Owls and Burrowing Owls use the Property during winter months and periods of migration, from approximately November through April. Although nesting on the Property by these owls has not been directly observed, there is evidence of such nesting on the Property. Protection of the Property as a wintering site is important for conservation of both species of owls. Additionally, the Property and the Estero Americano provide resources for an abundance of other species of birds, including a wide variety of raptors and sea birds.

2.2 Habitat Connectivity. The Property provides a corridor for wildlife movement along the Estero Americano, as well as to other adjacent open grasslands. In particular, the Property provides for connectivity between the Bodega area north of Highway 1 and the Estero Americano.

2.3 Open Space and Scenic Views. The Property is visible from the State Highway 1 corridor, as well as from Marin County, which is directly south of the Property across the Estero Americano, which makes up the Property's southern boundary. The Property is visible to recreational users in kayaks and canoes on the Estero Americano.

2.4 Agricultural Resources. The Property possesses physical and biotic features, including its soils, water and grasslands, that make portions of the Property well-suited for limited livestock grazing for production of food and fiber, and fire and vegetation management.

2.5 Recreation and Education. The Property provides opportunities for passive public outdoor recreational and educational uses, provided that such uses are compatible with the protection of the Property's natural resources.

**3. Conservation Purpose.** It is the purpose of this Easement to preserve and protect forever the Conservation Values of the Property, as described in Section 2. This purpose shall hereinafter be referred to as “the Conservation Purpose of this Easement.” GRANTOR and DISTRICT intend that this Easement will confine the use of the Property to activities that are consistent with the Conservation Purpose of this Easement and will prohibit and prevent any use of the Property that will materially impair or interfere with the Conservation Values of the Property. GRANTOR and DISTRICT intend that all Conservation Values of the Property will be fully preserved and protected in perpetuity. In the event, however, that the preservation and protection of one Conservation Value becomes irreconcilably inconsistent with the preservation and protection of another Conservation Value, the following priorities shall be followed, with the Conservation Values of higher priority listed before the Conservation Values of lower priority: preservation and protection of natural resources shall be the first priority, habitat connectivity shall be the second priority, scenic and open space resources shall be the third priority, agricultural resources shall be the fourth priority, and recreation and education shall be the fifth priority.

## **PART TWO: RESERVED AND RESTRICTED RIGHTS**

**4. Affirmative Rights of DISTRICT.** DISTRICT shall have the following affirmative rights under this Easement:

4.1 Protecting Conservation Values. DISTRICT shall have the right to preserve, protect and document in perpetuity the Conservation Values of the Property.

4.2 Property Inspections. DISTRICT shall have the right to enter upon the Property and to inspect, observe, and study the Property for the purposes of (i) identifying the current activities and uses thereon and the condition thereof, (ii) monitoring the activities and uses thereon to determine whether they are consistent with the terms and Conservation Purpose of this Easement, (iii) enforcing the terms of this Easement, and (iv) exercising its other rights under this Easement. Such entry shall be permitted at least once a year at reasonable times, upon twenty-four hours' prior notice to GRANTOR, and shall be made in a manner that will not unreasonably interfere with GRANTOR's use and quiet enjoyment of the Property pursuant to the terms and conditions of this Easement. Each entry shall be for only so long a duration as is reasonably necessary to achieve the purposes of this Section 4.2, but shall not necessarily be limited to a single physical entry during a single twenty-four hour period. Notwithstanding the foregoing, should DISTRICT's General Manager have a reasonable belief that GRANTOR is in breach of this Easement, DISTRICT shall have the right at any time, upon twenty-four hours' prior notice to GRANTOR, to enter upon the Property for the purpose of determining whether such breach has occurred. The rights of entry provided by this Section 4.2 shall extend to the officers, agents, consultants, and volunteers of DISTRICT, and to the Conservancy. The DISTRICT shall provide notice to the Conservancy of any periodic or other monitoring of the Property and copies of any written findings or reports. On request of the Conservancy, Conservancy staff shall be permitted to accompany the DISTRICT on any monitoring visit.

4.3 Enforcement. DISTRICT shall have the right to enforce the rights herein granted and to prevent or stop, by any legal means, any activity or use on the Property that is inconsistent

with the terms, conditions or Conservation Purpose of this Easement and to require restoration of such areas or features as may be damaged by such activities or uses.

4.4 Approval of Certain Uses. DISTRICT shall have the right to review and approve proposed uses and activities on the Property as more specifically set forth in Section 5, and in accordance with Section 6.

4.5 District Signage. DISTRICT shall have the right to erect and maintain a sign or other appropriate marker in a location on the Property acceptable to GRANTOR, visible from a public road, bearing information indicating that the Property is protected by DISTRICT and acknowledging the sources of DISTRICT funding for the acquisition of this Easement. The wording of the information shall be determined by DISTRICT with consent of GRANTOR. No sign shall exceed thirty-two (32) square feet in size. DISTRICT shall be responsible for all costs relating to approval, erecting and maintaining such sign or marker.

**5. GRANTOR's Reserved and Restricted Rights.** GRANTOR shall confine the use of the Property to activities and uses that are consistent with the Conservation Purpose of this Easement. Any activity or use that is inconsistent with the Conservation Purpose of this Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly reserved, restricted or prohibited as set forth below. GRANTOR and DISTRICT acknowledge that the following list does not constitute an exhaustive recital of consistent and inconsistent activities and uses, but rather (i) establishes specific allowed activities and uses, (ii) establishes specific prohibited activities and uses, and (iii) provides guidance for determining the consistency of similar activities and uses with this Easement, in accordance with the procedure set forth in Section 6.

**5.1 General Requirements for All Uses.**

5.1.1 Compliance with Governmental Regulations. All activities and uses permitted under this Easement shall be subject to and undertaken in accordance with all applicable federal, state, and local statutes, ordinances, rules, and regulations.

5.1.2 Compliance with Terms, Conditions and Conservation Purpose of this Easement. All activities and uses permitted under this Easement shall be undertaken in a manner consistent with the terms, conditions and Conservation Purpose of this Easement.

5.1.3 Protection of Conservation Values. All activities and uses permitted under this Easement shall be undertaken in a manner reasonably designed to minimize adverse impacts to the Conservation Values.

5.1.4 Protection of Soil and Water. No activity or use permitted under this Easement shall be undertaken in a manner that results in significant soil degradation or pollution, or significant degradation or pollution of any surface or subsurface waters.

5.1.5 Prior Approval. Whenever in this Section 5, DISTRICT's prior approval is required, such approval shall be obtained in accordance with Section 6 of this Easement.

**5.2. Rangeland Management Plan.** Within two years of the execution of this Easement GRANTOR shall develop and submit to the DISTRICT and the Conservancy for their review and approval, a long-term comprehensive rangeland management plan for the Property, referred to as a Rangeland Management Plan (the "RMP"), which shall be consistent with the terms, conditions and Conservation Purpose of this Easement. The RMP shall set forth required rangeland best management practices to assure that all grazing practices are conducted in a manner that is beneficial to the conservation values of the Property, and shall include analysis and standards for appropriate levels of grazing within the "Forever Wild Area" and "Natural Areas," as designated on the Baseline Site Map in consideration of sensitive wildlife habitat and associated species. The RMP is subject to review and approval by the DISTRICT and the Conservancy, or their designees. Once the RMP is approved by the DISTRICT and the Conservancy, all of the uses and activities identified in the RMP ("approved RMP") shall be deemed to be consistent with the Conservation Easement, and no further approvals for those uses or activities will be required, provided however, that the DISTRICT may require the approved RMP to be revised periodically, if the DISTRICT determines that the uses provided therein are significantly impacting the Conservation Values of the Property. The DISTRICT and Conservancy shall exercise reasonable diligence in reviewing the RMP, and each shall either approve or disapprove of the RMP within two months of the date the RMP is submitted for review. In the event the RMP is disapproved by either the DISTRICT or the Conservancy, the disapproving agency shall specify the areas of disapproval or requested revision. GRANTOR may then revise and re-submit the RMP to the DISTRICT and the Conservancy, with the same review and comment procedures and timelines identified above to be followed until the RMP is approved. Prior to approval of the RMP, GRANTOR may maintain current grazing levels on the Property.

**5.3 Land Uses.** Use of the Property is restricted solely to residential, agricultural, natural resource protection and enhancement, fire and vegetation management uses, and recreational and educational as defined in this Section 5.3. Commercial or industrial use of or activity on the Property is prohibited except as reserved in Section 5.3.3 and 5.3.5.

**5.3.1 Residential Use.** GRANTOR reserves the right to reside on the Property.

**5.3.2 Natural Resource Protection and Enhancement.** GRANTOR reserves the right to protect, restore and enhance the natural resources on the Property, including within and outside the "Forever Wild Area" and the "Natural Areas." Activities may include, but are not limited to the following: conducting scientific research, bank and soil stabilization practices, enhancement of water quality, native plants and wildlife habitat, vegetation management including grazing, prescriptive burning, thinning, planting and brush removal, and other activities to enhance the natural resources of the Property and to promote biodiversity. All activities shall be conducted in accordance with sound, generally accepted conservation practices and all applicable laws, ordinances and regulations.

**5.3.2.1 Coastal Prairie and Grassland Management Activities.** In addition to the activities described above, GRANTOR reserves the right to conduct grassland management activities on the Property for the purpose of enhancing the coastal prairie and inland grasslands in accordance with the approved RMP. Coastal Prairie and

Grassland Management activities may include grazing, prescriptive burning, and other methodologies as identified and described in the approved RMP.

**5.3.3 Agricultural Use.** GRANTOR reserves the right to engage in limited agricultural uses of the Property in accordance with sound, generally accepted agricultural and soil conservation practices, provided however that no agricultural use shall be conducted in a manner that significantly impairs the long-term agricultural productive capacity or open space character or negatively impacts the natural resources of the Property.

**5.3.3.1** In connection with permitted agricultural uses, GRANTOR reserves the right to use government approved agrichemicals, including but not limited to, fertilizers and biocides, in those amounts and with that frequency of application necessary to accomplish reasonable agricultural purposes and consistent with government regulations and guidelines and GRANTOR's approved RMP. Agrichemicals shall not be used in the "Forever Wild Area" and "Natural Areas" of the Property, as designated on the Baseline Site Map.

**5.3.3.2** For the purposes of this Easement, "limited agricultural use" shall be defined as grazing, breeding, pasturing and raising of livestock of every nature and description for the production of food and fiber, and/or for fire and vegetation management, provided that all such grazing, breeding, pasturing and raising of livestock shall comply with the provisions of Sections 5.6.1 and 5.6.2 and with GRANTOR's approved RMP; breeding and raising bees, poultry and other fowl; storing and selling, including direct retail sale to the public of products harvested and produced on the Property.

**5.3.4 Recreational and Educational Use.** GRANTOR reserves the right to use the Property for non-commercial low-intensity outdoor recreational and environmental educational purposes, such as hiking, nature study and other such uses similar in nature and intensity, which do not adversely impact the Conservation Values of this Easement. GRANTOR reserves the right to engage in personal, non-commercial hunting of non-native animals on the Property as allowed in Section 5.6.7.4.

**5.3.5 Commercial Use.** GRANTOR reserves the right to use the Property for: i) agricultural use as defined in Section 5.3.3; ii) home occupation(s) within permitted residential buildings; and iii) other ancillary commercial uses consistent with the Conservation Purpose of this Easement, subject to prior written approval by the District.

**5.4 Subdivision and Parcels.** GRANTOR and DISTRICT acknowledge and agree that the Property, in its entirety, is now and shall always remain under common ownership, except as provided in Section 5.4.1 below. GRANTOR acknowledges and agrees that, notwithstanding the existence of subordinate legal parcels, assessor's parcels or historic parcels, no portion of the Property may be sold or conveyed separate from the Property as a whole except as expressly provided in subsections 5.4.1 below. "Common ownership" means, each owner shall have an undivided ownership interest in the Property as a whole. This provision does not prohibit more than one individual or entity from having an ownership interest; nor does it restrict leasing or encumbering the Property.

5.4.1. Subdivision. GRANTOR shall not divide the Property, or any of its constituent parcels whether by subdivision, conveyance, lot line adjustment, or any other means, nor shall GRANTOR gain or seek to gain recognition, by certificate of compliance or otherwise, of additional parcels which may have previously been created on the Property by prior patent or deed conveyances, subdivisions, or surveys, nor shall GRANTOR place or convey any portion of the Property into ownership separate from the whole of the Property. This prohibition against division of the Property shall be inapplicable to:

5.4.1.1 Conveyance to Government or Non-Profit Entity. Subject to prior written approval by DISTRICT, GRANTOR may voluntarily convey a portion of the Property to a government or non-profit entity exclusively for conservation or public access purposes.

5.4.1.2 Leases. GRANTOR reserves the right to lease a portion(s) of the Property for the permitted uses described in Section 5.3.

5.4.2. Assessor and Historic Parcels. GRANTOR acknowledges and agrees that the Property currently contains one assessor's parcel as shown on the current Sonoma County Assessment Roll. GRANTOR acknowledges and agrees that assessors parcels are drawn, and assessor's parcel numbers are assigned for tax administrative purposes only and do not constitute separate legal parcels. GRANTOR further acknowledges that one or more additional historic parcels may exist on the Property, previously created by patent or deed conveyances, subdivisions, lot line adjustments, surveys, recorded or unrecorded maps or other documents. GRANTOR waives all rights to recognition of such historic parcels, whether through certificate of compliance under the Subdivision Map Act or otherwise.

**5.5 Structures and Improvements.** Placement, construction and reconstruction of structures or other improvements on the Property are prohibited except as provided for within this Section 5.5. All structures or other improvements allowed by Sections 5.5.1 through 5.5.5, whether existing at the time of this Easement or placed subsequent to this Easement shall be located within two Building Envelopes, the 2-acre Agricultural Building Envelope, as shown on the Baseline Site Map, and a 1-acre Residential Building Envelope, which location will be designated by GRANTOR, subject to prior written approval of DISTRICT. DISTRICT's approval shall be based on its determination that the designated location is consistent with the terms, conditions and Conservation Purpose of this Easement and with the terms, conditions and the Public Access Purpose of the Trail Easement. At no time shall there be more than two Building Envelopes on the Property. No structures or improvements shall be constructed in the "Forever Wild Area" and the "Natural Areas" except as provided for in Section 5.6.1 and 5.6.2 of this Easement and as provided for in the Trail Easement.

5.5.1 Maintenance, Repair or Replacement of Existing Structures and Improvements. GRANTOR may maintain, repair, remove or replace structures and improvements existing at the date hereof or constructed subsequently pursuant to the provisions of Section 5.5, as follows:

5.5.1.1 If the maintenance, repair or replacement does not increase the height of the structure or improvement, increase the land surface area it occupies or change its location or function, no notice to or approval by DISTRICT shall be required.

5.5.1.2 Any maintenance, repair or replacement that increases the height of the structure or improvement, increases the land surface area it occupies, or changes its location or function, shall be treated as new construction and shall be subject to provisions of Sections 5.5.2 through 5.5.10.

5.5.2 Primary Residences. Subject to prior written notice to DISTRICT, GRANTOR may place or construct within the designated 1-acre Residential Building Envelope, one primary residence, provided that such residence shall not exceed 24 feet in height measured from the average of the highest and lowest point of the building footprint to the topmost point of the roof nor be greater than 3,000 square feet in size, exclusive of garage, which garage shall not exceed 1,200 square feet in size and 24 feet in height. In no case shall there be more than one primary residence located on the Property. At such time that a new primary residence is constructed, GRANTOR shall remove any existing primary residence or re-designate and maintain it as a structure accessory to the residential or agricultural use in accordance with Section 5.5.3, 5.5.4 or 5.5.5, as applicable. DISTRICT agrees that the existing 'bunkhouse' on the Property may be removed or re-designated as a structure accessory to the residential or agricultural use, provided that it remains within one of the two Building Envelopes.

5.5.3 Structures Accessory to the Residential Use. Subject to prior written notice to DISTRICT, GRANTOR may place or construct additional accessory structures and improvements reasonably related to the permitted residential use of the Property including, without limitation, guest house, garage, shed, swimming pool and other similar improvements. The total cumulative square footage of the structures accessory to residential use shall not exceed 3,000 square feet. No single structure shall exceed 1,000 square feet. All such structures must be placed or constructed within the 1-acre Residential Building Envelope.

5.5.4 Residential Agricultural Structures. Subject to prior written notice to DISTRICT, GRANTOR may place or construct within the 2-acre designated Agricultural Building Envelope, agricultural residences including farm worker housing, and farm family housing, provided that no such residence shall exceed 24 feet in height measured from the average of the highest and lowest point of the building footprint to the topmost point of the roof nor be greater than 2,000 square feet in size, exclusive of garage, which garage shall not exceed 750 square feet in size.

5.5.5 Structures Accessory to the Agricultural Use. Subject to prior written notice to DISTRICT, GRANTOR may place or construct within the 2-acre designated Agricultural Building Envelope accessory structures and improvements reasonably necessary for the permitted agricultural use of the Property, including, without limitation, barns, corrals, and one lighted horse arena not to exceed 90 feet by 180 feet in size to be used for personal use only. Agricultural structures may not be higher than 40 feet.

5.5.6 Improvements for Recreational and Educational Uses. All recreational and educational improvements shall be located, designed and constructed in a manner to limit (a) soil erosion, (b) impairment of wetlands, streams and water quality, (c) damage to native plant

communities and wildlife habitat, (d) damage to scenic resources, and (e) damage to cultural resources. All such improvements shall require prior written approval of DISTRICT. DISTRICT's approval shall be based on the determination that said recreational and educational improvements comply with this Section 5.5.6 and are compatible with protection of the Conservation Values of this Easement.

5.5.7 Roads. Subject to prior written approval of DISTRICT, GRANTOR may construct new roads and reconstruct, relocate or expand existing roads provided that such roads (i) are directly required for uses and activities allowed herein, and (ii) are the minimum necessary for such uses and activities. The existing access road may be relocated within the "Natural Area" and the "Forever Wild Area," only if resource studies show that such relocation would reduce impacts to or enhance the natural resources of the Property. Roads shall be constructed and maintained so as to minimize erosion and sedimentation and ensure proper drainage, utilizing Best Management Practices for roads as recommended by the California Department of Fish and Game or other similar or successor entity. Roads constructed subsequent to this Easement may not be paved with asphalt, concrete or other impervious surface unless such paving is required by any federal, state or local law, code, ordinance or regulation. Roads that are abandoned, permanently closed and/or decommissioned shall be re-vegetated with native species, stabilized and ensured of proper drainage.

5.5.8 Bridge. Subject to prior written approval of DISTRICT, GRANTOR may maintain, construct, reconstruct or expand the one existing bridge, which crosses the western stream and its' "Natural Area" on the Property, in the same or similar location. The bridge shall be maintained, constructed, reconstructed or expanded in such a manner as to minimize erosion and sedimentation and ensure proper drainage, utilizing Best Management Practices for bridges as recommended by the California Department of Fish and Game or other similar or successor entity.

5.5.9 Fences and Gates. GRANTOR may construct, place and erect fencing and gates only as necessary for agricultural uses, natural resources protection and management or uses accessory to the residential use of the Property. Fencing must be the minimum necessary for such use. All fencing and gates must i) preserve the scenic values of the Property; ii) not impede wildlife movement except in cases where necessary to protect the allowed agricultural and residential uses described in this Easement; and iii) comply with the DISTRICT's then current standards for fences and gates on conservation lands. Notwithstanding the provisions of Section 5.5.1.1, in the event of destruction or deterioration of any fences and gates, whether existing at the date hereof or constructed subsequently pursuant to the provisions of this Easement, GRANTOR may maintain and/or replace such fencing and gates only in accordance with the provisions of this Section 5.5.9. In the event any fence or gate, or portion thereof, becomes obsolete or unnecessary for the uses described in this Section 5.5.9, GRANTOR shall remove such fencing or gate from the Property.

5.5.10 Utilities and Energy Resources. Subject to prior written approval of DISTRICT, GRANTOR may expand existing or develop or construct new utilities outside of the "Natural Areas" and the "Forever Wild Area," including but not limited to electric power, septic or sewer, communication lines, and water storage and delivery systems, including domestic and agricultural wells, provided that such utilities are directly required for permitted uses on the

Property and are reasonably scaled to serve only those uses. No utilities of any kind shall be placed within the "Natural Areas" or the "Forever Wild Area," provided however, that the one existing well and its associated delivery system, consisting of a pump and enclosure, and underground pipes, may remain in its current location within the "Forever Wild Area," pursuant to the provisions of Section 5.6.1. For protection of wildlife on the Property, wind mills and wind turbines are not permitted on the Property. GRANTOR may, without notice to or approval of DISTRICT, place or construct solar panels on the roofs of existing structures or any future additional structures placed on the Property pursuant to Sections 5.5.1 through 5.5.5, provided that such solar panels do not cause the structure or improvement to exceed the height limitations set forth in those sections.

5.5.11 Signs. GRANTOR reserves the right to construct a maximum of two on-site advertising signs in connection with the allowed uses herein. No sign shall exceed thirty-two (32) square feet in size nor be artificially illuminated. GRANTOR reserves the right to construct additional internal directional signs that do not exceed two (2) square feet in size. Signs advocating candidates or issues that will be presented to voters in a public election are allowed, provided that such signs do not exceed then existing state and local regulations for political signs, and that such signs are removed within ten (10) days after the date of election.

## **5.6. Land and Resource Management.**

Management of the Property shall be consistent with the Conservation Purpose of this Easement, and a Rangeland Management Plan, approved by the District and the Conservancy, pursuant to Section 6 and Section 7 of this Easement.

5.6.1 Forever Wild Area. The "Forever Wild Area," on the Property is established to protect habitat for species of special concern, including Burrowing Owls, Short-eared Owls and American Badgers, as shown on the Baseline Site Map. In the future, if other areas on the Property are inhabited by Burrowing Owls, Short-eared Owls and American Badgers, GRANTOR shall take reasonable steps so that these areas will comply with the management prescribed below and these areas may, if agreed to by GRANTOR, also be designated "Forever Wild Areas." GRANTOR shall fence the boundary of the "Forever Wild Area," if necessary to protect the habitat and resources for Burrowing Owls, Short-eared Owls and American Badgers. No structures or improvements of any kind shall be built in the "Forever Wild Area," including recreational trails or uses, except a segment of trail, a viewing area with related appurtenances, and a segment of an associated access road may be located within the "Forever Wild Area" in accordance with the provisions of the Trail Easement, and as designated on its Exhibit B. The one existing well and its associated delivery system may be located in the "Forever Wild Area," pursuant to 5.5.10. No off road vehicle access shall occur during ground nesting season for owls, provided, however, that in case of well failure, whether temporary or permanent, GRANTOR may access the "Forever Wild Area" by vehicle at any time for necessary repair or replacement. Limited livestock grazing may be allowed in the "Forever Wild Area," if necessary and recommended by the approved RMP.

5.6.2 Natural Areas. The "Natural Areas" are established to restore native riparian plants along all streams on the Property, to stabilize bank and soil erosion, and to prevent sedimentation of the streams. GRANTOR shall seek funding and if awarded shall install and maintain native

riparian plantings within the 150 foot setback from top of bank on all streams for restoration of the "Natural Areas." GRANTOR may install riparian fencing along or near the 150 foot setback from top of bank on all streams, if said fencing is necessary and recommended by the approved RMP. All riparian planting and fencing shall be undertaken in consultation with a Resource Conservation District or other similar or successor entity. The approved RMP will stipulate appropriate livestock grazing prescriptions within the 150 foot riparian setback from the streams on the Property, and all grazing shall comply with those stipulations. No structures or improvements shall be constructed in the "Natural Areas," except a segment of trail and a segment of an associated access road may be located within the "Natural Areas" in accordance with the provisions of the Trail Easement, and as designated on its Exhibit B.

5.6.3 Surface Alteration. Alteration of the contour of the Property in any manner whatsoever is prohibited, including, but not limited to, excavation, removal or importation of soil, sand, gravel, rock, peat or sod, except as reasonably necessary in connection with the uses allowed under Section 5 of this Easement. In connection with allowed uses, movement of over 50 cubic yards is subject to prior DISTRICT approval.

5.6.4 Water Resources. Draining, filling, dredging, diking, damming or other alteration, development or manipulation of watercourses, subsurface water, springs, ponds and wetlands is prohibited except as reasonably necessary in connection with (i) the maintenance, replacement, development and expansion of water storage and delivery systems allowed under Section 5, and (ii) the restoration and enhancement of natural resources allowed under Section 5.

5.6.5 Mineral Exploration. Exploration for, or development and extraction of, geothermal resources, minerals and hydrocarbons by any surface or sub-surface mining or any other method is prohibited.

5.6.6 Fire Management. GRANTOR reserves the right to undertake vegetation management activities for the purpose of fire control. The requirement for notice under this Section 5.6.6 may be satisfied by the submission of an annual fire management plan to the District for approval. Fire management methods are limited to:

5.6.6.1 Brush removal and limited grazing of the Property, consistent with the approved RMP pursuant to Section 5.2, or other methods of similar nature and intensity, without need for notice to or approval from DISTRICT.

5.6.6.2 Subject to prior written notice to DISTRICT, prescriptive burning undertaken in a manner consistent with the standards and requirements of the local fire protection agency having jurisdiction.

5.6.6.3 In addition to leasing rights reserved under Section 5.4.1.2, GRANTOR reserves the right to lease a portion of the Property for limited livestock grazing for vegetation and fire management or in connection with native plant restoration and enhancement, in compliance with GRANTOR's approved RMP.

5.6.7 Restoration and Enhancement. GRANTOR reserves the right to undertake conservation and restoration of biotic and natural resources, including, but not limited to, bank

and soil stabilization, practices to reduce erosion, enhancement of water quality and plant and wildlife habitat, and activities which promote biodiversity in accordance with sound, generally accepted conservation practices.

**5.6.7.1 Native Tree Removal.** Harvesting, cutting, removal or destruction of any native trees is prohibited, except as reasonably necessary (i) to control insects and disease, (ii) to prevent personal injury and property damage, (iii) for the purpose of fire management, in accordance with Section 5.6.6; and (iv) for natural resource management, including native seed collection and plant propagation for use on the Property as set forth in Section 5.3.2 of this Easement.

**5.6.7.2 Native Vegetation Removal.** Removal or destruction of any native vegetation is prohibited, except as reasonably necessary (i) within footprint of permitted structures and improvements, (ii) to control insects and disease, (iii) to prevent personal injury and property damage, (iv) for the purpose of fire management, in accordance with Section 5.6.6; and (v) for natural resource management, including native seed collection and plant propagation for use on the Property as set forth in Section 5.3.2 of this Easement.

**5.6.7.3 Native Animal Removal.** Killing, hunting, trapping, injuring or removing native animals is prohibited except (i) under imminent threat to human life or safety; and (ii) as reasonably necessary to promote or sustain biodiversity in accordance with restoration and enhancement activities in connection with Section 5.3.2, using selective control techniques consistent with the policies of the Sonoma County Agricultural Commissioner and other governmental entities having jurisdiction.

**5.6.7.4 Non-Native Plant and Animal Removal.** GRANTOR reserves the right to remove or control invasive, non-native plant and animal species (i) to further the Conservation Purpose of this Easement; (ii) to foster the growth of native species and promote biodiversity; (iii) to control insects and disease; (iv) to prevent personal injury and property damage; (v) for the purpose of fire management, in accordance with Section 5.6.6; (vi) for natural resource management as set forth in Section 5.3.2, 5.6.1 and 5.6.2, and (vii) as reasonably necessary within footprint of permitted structures and improvements. Techniques used shall minimize harm to native wildlife and plants and shall be in accordance with all applicable laws.

**5.7 Off-road Motorized Vehicle Use.** Use of motorized vehicles off roadways is prohibited, except for the minimal use when necessary in connection with allowed agriculture, conservation or wildlife management activities, for emergency and fire control purposes, and as further restricted in Section 5.6.1.

**5.8 Dumping.** Dumping, releasing, burning or other disposal of wastes, refuse, debris, non-operative motorized vehicles or hazardous substances is prohibited except that agricultural products and by-products generated on the Property may be disposed on site, consistent with sound generally accepted agricultural practices.

**5.9 Outdoor Storage.** Outdoor storage of work materials in areas that may be visible from public roadways is prohibited except as follows:

5.9.1 Storage of Materials Related to Allowed Uses. GRANTOR may store vehicles, building materials, machinery or agricultural supplies and products reasonably necessary for permitted uses so long as such storage is consistent with sound generally accepted agricultural practices and provided such storage shall be located so as to minimize visual impacts.

5.9.2 Storage of Construction Materials. GRANTOR may store construction and other work materials needed during construction of permitted structures and improvements on the Property while work is in progress and for a period not to exceed thirty (30) days after completion or abandonment of construction. Construction shall be deemed abandoned if work ceases for a period of 180 days.

**5.10 Easements.** GRANTOR may continue the use of existing easements of record granted prior to this Easement. The granting of new temporary or permanent easements, and the modification or amendment of existing easements is prohibited without the prior approval of the DISTRICT. It is the duty of GRANTOR to prevent the use of the Property by third parties that may result in the creation of prescriptive rights.

**5.11. Public Access to the Property.** The parties acknowledge that the Trail Easement to be recorded concurrent with this Easement will allow for public access to the Property as set forth therein. Nothing contained in this Easement, however, shall be construed as granting, permitting or affording the public access to any portion of the Property or as limiting or precluding GRANTOR's right to exclude the public from the Property. Nothing in this Easement shall be construed to preclude GRANTOR's right to grant access to third parties across the Property, provided that such access is allowed in a reasonable manner and is consistent with the Conservation Purpose of this Easement and so long as such access is undertaken subject to the terms and conditions of this Easement.

### **PART THREE: PROCEDURES AND REMEDIES**

**6. Notice and Approval Procedures.** Some uses permitted by this Easement require that prior written notice be given by GRANTOR to DISTRICT, while other uses permitted by this Easement require the prior written approval of DISTRICT. Unless and until such notice is given or approval is obtained in accordance with this Section 6 and with Section 19, any such activity or use shall be deemed to be prohibited on the Property. GRANTOR shall use the following procedure to provide notice to DISTRICT or to obtain DISTRICT's approval. All notices and requests for approval shall include all necessary information to permit DISTRICT to make an informed judgment as to the consistency of the GRANTOR's request with the terms, conditions and Conservation Purpose of this Easement. Forms for notices and requests for approval shall be available at DISTRICT's offices.

6.1 Uses/Activities Requiring Notice to DISTRICT. For any activity or use that requires prior written notice to DISTRICT, GRANTOR shall deliver such notice to DISTRICT at least forty-five (45) days prior to the commencement of such activity or use. That forty-five (45)

day time period provides DISTRICT an opportunity to evaluate whether the proposed activity or use is consistent with the terms, conditions and Conservation Purpose of this Easement before the activity or use is begun.

6.2 Uses/Activities Requiring Prior Approval from DISTRICT. For any activity or use that requires prior written approval from DISTRICT, GRANTOR shall submit a request for such approval ("GRANTOR's request") at least forty-five (45) days prior to the intended commencement of such activity or use. DISTRICT shall have forty-five (45) days from the receipt of a complete request for approval to review the request and to approve, conditionally approve, disapprove or notify GRANTOR of any objection thereto. Disapproval or objection, if any, shall be based on DISTRICT's determination that the proposed activity or use is inconsistent with the terms, conditions or Conservation Purpose of this Easement or that GRANTOR's request is incomplete or contains material inaccuracies. If, in DISTRICT's judgment, the proposed activity or use would not be consistent with the terms, conditions or Conservation Purpose of this Easement or the request is incomplete or contains material inaccuracies, DISTRICT's notice to GRANTOR shall inform GRANTOR of the reasons for DISTRICT's disapproval or objection. Only upon DISTRICT's express written approval, given by DISTRICT's General Manager, may the proposed activity or use be commenced, and then only in accordance with the terms and conditions of the DISTRICT's approval.

6.3 DISTRICT's Failure to Respond. Should DISTRICT fail to respond as provided in Section 6.2 to GRANTOR's request for approval within forty-five (45) days of the receipt of GRANTOR's request, GRANTOR may, after giving DISTRICT ten (10) days written notice by registered or certified mail, commence an action in a court of competent jurisdiction to compel DISTRICT to respond to GRANTOR's request. In the event that such legal action becomes necessary to compel DISTRICT to respond and GRANTOR prevails in that action, DISTRICT shall reimburse GRANTOR for all reasonable attorney fees incurred in that action. In the alternative, GRANTOR may commence a proceeding in arbitration under Section 13.

6.4 Uses Not Expressly Addressed: DISTRICT's Approval. In the event GRANTOR desires to commence an activity or use on the Property that is neither expressly reserved nor expressly prohibited in Section 5, GRANTOR shall seek DISTRICT's prior written approval of such activity or use in accordance with the procedure set forth in Section 6.2. The exercise of any activity or use not expressly reserved in Section 5 may constitute a breach of this Easement and may be subject to the provisions of Section 11.

7. **Approvals.** Whenever in this Easement the consent or approval of one party is required to an act of the other party, such consent or approval shall not be unreasonably withheld, conditioned or delayed.

8. **Costs and Liabilities Related to the Property.**

8.1 Maintenance of the Property. GRANTOR agrees to bear all costs and liabilities of any kind related to the operation, upkeep, and maintenance of the Property and does hereby indemnify and hold DISTRICT harmless therefrom. Without limiting the foregoing, GRANTOR agrees to pay any and all real property taxes, fees, exactions and assessments levied or imposed by local, state or federal authorities on the Property. GRANTOR shall be solely responsible for

any costs related to the maintenance of general liability insurance covering acts on the Property. Except as specifically set forth in Section 9.2 below, DISTRICT shall have no responsibility whatever for the operation of the Property, the monitoring of hazardous conditions thereon, or the protection of GRANTOR, the public, or any third parties from risks relating to conditions on the Property. Except as otherwise provided in Section 9.1, GRANTOR hereby agrees to indemnify and hold DISTRICT harmless from and against any damage, liability, claim, or expense, including attorneys' fees, relating to such matters.

## 8.2 Hazardous Materials.

8.2.1 No District Obligation or Liability. Notwithstanding any other provision of this Easement to the contrary, the parties do not intend and this Easement shall not be construed such that it creates in DISTRICT or the Conservancy:

- a) The obligations or liabilities of an "owner" or "operator" as those words are defined and used in environmental laws, as defined below, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 United States Code, sections 9601 et seq.) ("CERCLA");
- b) The obligations or liabilities of a person described in 42 United States Code section 9607(a)(3) or any successor statute then in effect;
- c) The right to investigate and remediate any hazardous materials, as defined below, on or associated with the Property; or
- d) Any control over GRANTOR's ability to investigate and remediate any hazardous materials, as defined below, on or associated with the Property.

8.2.2 Warranty of Compliance. GRANTOR represents, warrants, and covenants to DISTRICT that GRANTOR's use of the Property shall comply with all environmental laws, as defined below.

8.2.3 Definitions. For the purposes of this Easement:

- a) The term "hazardous materials" includes, but is not limited to, any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials defined in CERCLA, the Hazardous Materials Transportation Act, as amended (49 United States Code sections 1801 et seq.), the Resource Conservation and Recovery Act of 1976, as amended (42 United States Code sections 6901 et seq.), sections 25117 and 25316 of the California Health & Safety Code, and in the regulations adopted and publications promulgated pursuant to them, or any other federal, state, or local environmental laws, ordinances, rules, or regulations concerning the environment, industrial hygiene or public health or safety now in effect or enacted after this date of this Easement.

b) The term "environmental laws" includes, but is not limited to, any federal, state, local or administrative agency statute, regulation, rule, ordinance, order or requirement relating to environmental conditions or hazardous materials.

**9. Indemnification.**

9.1 GRANTOR's Indemnity. GRANTOR shall hold harmless, indemnify, and defend DISTRICT, its agents, employees, volunteers, successors and assigns, and the State of California from and against all damages, liabilities, claims and expenses, including reasonable attorneys' fees, arising from or in any way connected with (i) injury to or the death of any person, or physical damage to any property resulting from any act, omission, condition or other matter related to or occurring on or about the Property, except to the extent that such damage, liability, claim or expense is the result of the negligence, gross negligence, or intentional misconduct of DISTRICT (it being the intent of this provision to limit GRANTOR's indemnity to the proportionate part of DISTRICT's damage, liability, claim or expense for which GRANTOR is responsible); and (ii) the obligations specified in Section 8. In the event of any claim, demand, or legal complaint against DISTRICT, the right to the indemnification provided by this Section 9.1 shall not apply to any cost, expense, penalty, settlement payment, or judgment, including attorneys' fees, incurred prior to DISTRICT's written notice of such claim, demand, or legal complaint to GRANTOR, unless GRANTOR has acquired knowledge of the matter by other means, nor to any costs, expenses, or settlement payment, including attorneys' fees, incurred subsequent to that notice unless such cost, expense, or settlement payment shall be approved in writing by GRANTOR, which approval shall not be unreasonably withheld.

9.2 DISTRICT's Indemnity. DISTRICT shall hold harmless, indemnify, and defend GRANTOR, its heirs, devisees, successors and assigns, from and against all damages, liabilities, claims and expenses, including reasonable attorneys' fees, arising from or in any way connected with injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property and attributable to DISTRICT, except to the extent that such damage, liability, claim or expense is the result of the negligence, gross negligence, or intentional misconduct of GRANTOR (it being the intent of this provision to limit DISTRICT's indemnity to the proportionate part of GRANTOR's damage, liability, claim or expense for which DISTRICT is responsible). In the event of any claim, demand, or legal complaint against GRANTOR, the right to the indemnification provided by this Section 9.2 shall not apply to any cost, expense, penalty, settlement payment, or judgment, including attorneys' fees, incurred prior to GRANTOR's written notice of such claim, demand, or legal complaint to DISTRICT, nor to any costs, expenses, or settlement payment, including attorneys' fees, incurred subsequent to that notice unless such cost, expense, or settlement payment shall be approved in writing by DISTRICT, which approval shall not be unreasonably withheld. DISTRICT hereby also agrees to hold harmless, indemnify and defend GRANTOR from and against all damages, liabilities, claims and expenses, including attorneys' fees, asserted against GRANTOR by any officer, agent, employee, or volunteer of DISTRICT, for personal injury and/or property damage arising out of any inspection or visit to the Property by any such officer, agent, employee or volunteer acting on behalf of DISTRICT, except to the extent that such injury is attributable to the negligence, intentional act or willful misconduct of GRANTOR.

**10. Baseline Documentation for Enforcement.** In order to establish the present condition of the Property, DISTRICT has prepared a Baseline Documentation Report which will be maintained on file with DISTRICT and which is intended to serve as an objective information baseline for monitoring compliance with the terms of this Easement. A copy of the Baseline Documentation Report has been provided to GRANTOR. The parties agree that the Baseline Documentation Report provides an accurate representation of the Property at the time of the execution of this Easement.

**11. Remedies for Breach.**

**11.1 DISTRICT's Remedies.** In the event of a violation or threatened violation by GRANTOR of any term, condition or restriction contained in this Easement, DISTRICT may, following notice to GRANTOR, institute a suit to enjoin and/or recover damages for such violation and/or to require the restoration of the Property to the condition that existed prior to such violation. The DISTRICT's notice to GRANTOR shall contain a general description of the condition claimed by DISTRICT to be a violation and shall contain a reasonable and specific cure period by which the violation is to cease and the Property is to be restored to the condition that existed prior to the violation. The notice shall be provided in accordance with Section 19. If DISTRICT reasonably determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values protected by this Easement, DISTRICT (a) may pursue any and all remedies available under law without waiting for the cure period to expire, and (b) shall have the right, upon the giving of 24 hours' notice, to enter the Property for the purpose of assessing damage or threat to the Conservation Values protected by this Easement and determining the nature of curative or mitigation actions that should be taken. DISTRICT's rights under this Section 11 shall apply equally in the event of either actual or threatened violations of the terms of this Easement. GRANTOR agrees that DISTRICT's remedies at law for any violation of the terms of this Easement are inadequate and that DISTRICT shall be entitled to the injunctive relief described herein, both prohibitive and mandatory and including specific performance, in addition to such other relief, including damages, to which DISTRICT may be entitled, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies.

**11.2 DISTRICT's Discretion.** Enforcement of the terms of this Easement shall be at the sole discretion of DISTRICT, and any forbearance by DISTRICT to exercise its rights under this Easement in the event of any violation or threatened violation of any term of this Easement shall not be deemed or construed to be a waiver by DISTRICT of such term or of any subsequent violation or threatened violation of the same or any other term of this Easement. Any failure by DISTRICT to act shall not be deemed a waiver or forfeiture of DISTRICT's right to enforce any term, condition, or covenant of this Easement in the future.

**11.3 Liquidated Damages.** Inasmuch as the actual damages that would result from the loss or deprivation of the Conservation Values of the Property caused by a violation or threatened violation by GRANTOR of the terms of this Easement are uncertain and would be impractical or extremely difficult to measure, GRANTOR and DISTRICT agree that the damages allowed by Civil Code section 815.7(c) shall be measured as follows:

a) For an improvement prohibited by this Easement, an amount equal to the product of (i) the market value of the improvement, (ii) the length of time that the improvement exists on the Property (in terms of years or portion thereof), and (iii) the then current annual interest rate for post judgment interest; and

b) For an activity or change in use prohibited by this Easement, whether or not it involves an improvement, an amount equal to any economic gain realized by GRANTOR because of the activity or change in use; and

c) For an activity or change in use prohibited by this Easement, whether or not it involves an improvement and where there is no measurable economic gain realized by GRANTOR, the product of (i) the cost of restoration, as set forth in a written estimate by a qualified person selected by DISTRICT, (ii) the length of time that the prohibited activity or use continues (in terms of years or portion thereof), and (iii) the then current annual interest rate for post judgment interest.

11.4 GRANTOR's Compliance. If DISTRICT, in the notice to GRANTOR, demands that GRANTOR remove an improvement, discontinue a use or both and claims the damages allowed by Civil Code section 815.7(c), then GRANTOR may mitigate damages by fully complying with DISTRICT's notice within the cure period provided therein. If GRANTOR so complies, then in the event of litigation arising out of the notice, brought either by GRANTOR or by DISTRICT, if GRANTOR prevails, then GRANTOR shall be entitled to economic damages, if any, resulting from its compliance with DISTRICT's notice. Neither DISTRICT nor GRANTOR shall be entitled to damages where DISTRICT has not claimed damages in its notice.

11.5 Remedies Nonexclusive. The remedies set forth in this Section 11 are in addition to, and are not intended to displace, any other remedy available to either party as provided by this Easement, Civil Code sections 815 et seq. or any other applicable local, state or federal law.

11.6 Existing Conditions. There are one or more existing Notices of Violation issued by the County of Sonoma relating to structures or improvements on the Property, and fencing, trenching and piping was installed at the Property without permits. GRANTOR shall abate, remedy or legalize these conditions with reasonable diligence after this Easement is recorded.

**12. Acts Beyond GRANTOR's Control.** Nothing contained in this Easement shall be construed to entitle DISTRICT to bring any action against GRANTOR for any injury to or change in the Property resulting from causes beyond GRANTOR's control, including, but not limited to, fire, flood, storm, and earth movement, or a tortious or criminal act of a third party which GRANTOR could not have prevented, or from any prudent action taken by GRANTOR under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes so long as such action, to the extent that GRANTOR has control, is designed and carried out in such a way as to further the Conservation Purpose of this Easement.

**13. Arbitration.** If a dispute arises between the parties concerning the consistency of any activity or use, or any proposed activity or use, with the terms, conditions or Conservation Purpose of this Easement, or any other matter arising under or in connection with this Easement

or its interpretation, either party, with the written consent of the other, may refer the dispute to arbitration by a request made in writing upon the other. Provided that GRANTOR agrees not to proceed with any activity or use that is the subject of the dispute pending resolution of the dispute, the parties shall select a single arbitrator to hear the matter. If the parties are unable to agree on the selection of a single arbitrator, then each party shall name one arbitrator and the two arbitrators thus selected shall select a third arbitrator who shall be a retired United States District Court or California Superior Court judge; provided, however, if either party fails to select an arbitrator within fourteen (14) days of delivery of the request for arbitration, or if the two arbitrators fail to select a third arbitrator within fourteen (14) days after the appointment of the second arbitrator, then in each such instance, a proper court, on petition of any party, shall appoint the second or third arbitrator or both, as the case may be, in accordance with California Code of Civil Procedure sections 1280 et seq., or any successor statutes then in effect. The arbitration shall be conducted in accordance with said statute, including, without limitation, the provisions of Section 1283.05 of the Code of Civil Procedure which are incorporated into, made a part of, and made applicable to any arbitration pursuant to this Section. The Conservation Purpose of this Easement, the terms and conditions of this Easement, and the applicable laws of the State of California shall be the bases for determination and resolution, and a judgment of the arbitration award may be entered in any court having jurisdiction thereof. The prevailing party shall be entitled, in addition to such other relief as may be granted, to a reasonable sum as and for all its costs and expenses related to such arbitration, including, but not limited to, the fees and expenses of the arbitrators, but excluding attorneys' fees, which sum shall be determined by the arbitrators and any court of competent jurisdiction that may be called upon to enforce or review the award. That is, each side shall bear its own attorneys' fees.

#### **14. Extinguishment and Condemnation.**

14.1. Extinguishment. Subject to the requirements and limitations of California Public Resources Code section 5540, or successor statute then in effect, if circumstances arise in the future that render the Conservation Purpose of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction, and the amount of the compensation to which DISTRICT shall be entitled from any sale, exchange or involuntary conversion of all or any portion of the Property after such termination or extinguishment, shall be determined, unless otherwise provided by California law at the time, in accordance with Section 14.2. If, pursuant to this section, the DISTRICT is entitled to receive any proceeds, the District shall provide the Conservancy a share of the proceeds proportionate with its contribution towards the purchase price of this Conservation Easement. The rest of the proceeds paid to DISTRICT shall be used by DISTRICT for the purpose of the preservation of agriculture and open space within Sonoma County.

14.2 Property Interest and Fair Market Values. This Easement constitutes a real property interest immediately vested in DISTRICT. For the purpose of this Section 14, the parties stipulate that the fair market value of the Easement at the time of extinguishment or condemnation (hereinafter "Easement Value") shall be determined by multiplying (i) the fair market value of the Property, unencumbered by the Easement, at the time of extinguishment or condemnation (minus any increase in value attributable to improvements made on the Property after the date of this Easement) (hereinafter "Unencumbered Property Value") by (ii) the ratio of

the value of the Easement at the time of this grant to the value of the Property, unencumbered by the Easement, at the time of this grant. The values at the time of this grant shall be those values established by GRANTOR's qualified appraisal (prepared in accordance with applicable Treasury Regulations) for federal income tax purposes. The ratio of the Easement Value to the Unencumbered Property Value shall remain constant, and on a subsequent sale, exchange, or involuntary conversion of all or any portion of the Property pursuant to the provisions of Sections 14.1 or 14.3, DISTRICT shall be entitled to a portion of the proceeds equal to such proceeds multiplied by the ratio of the Easement Value to the Unencumbered Property Value. For purposes of calculations under this Section, "improvements made on the Property after the date of this Easement" shall not include improvements made or funded by DISTRICT or improvements that constitute a breach of this Easement.

**14.3 Condemnation.** If all or any part of the Property is taken by exercise of the power of eminent domain or acquired by purchase in lieu of condemnation; whether by public, corporate, or other authority, so as to terminate this Easement in whole or in part, either GRANTOR or DISTRICT (or both, on such conditions as they may agree) may commence appropriate actions to recover the full value of the Property (or portion thereof) subject to the condemnation or in-lieu purchase and all direct or incidental damages resulting therefrom. Any expense incurred by GRANTOR or DISTRICT in any such action shall first be reimbursed out of the recovered proceeds; the remainder of such proceeds shall be divided between GRANTOR and DISTRICT in proportion to their interests in the Property, as established by Section 14.2. If, pursuant to this section, the DISTRICT is entitled to receive any proceeds, the District shall provide the Conservancy a share of the proceeds proportionate with its contribution towards the purchase price of this Easement.

#### **PART FOUR: MISCELLANEOUS**

**15. Interpretation and Construction.** To the extent that this Easement may be uncertain or ambiguous such that it requires interpretation or construction, then it shall be interpreted and construed in such a way that best promotes the Conservation Purpose of this Easement.

**16. Easement to Bind Successors.** The Easement herein granted shall be a burden upon and shall continue as a restrictive covenant and equitable servitude running in perpetuity with the Property and shall bind GRANTOR, GRANTOR's heirs, personal representatives, lessees, executors, successors, including but not limited to purchasers at tax sales, assigns, and all persons claiming under them forever. The parties intend that this Easement shall benefit and burden, as the case may be, their respective successors, assigns, heirs, executors, administrators, agents, officers, employees, and all other persons claiming by or through them pursuant to the common and statutory law of the State of California. Further, the parties agree and intend that this Easement creates an easement encompassed within the meaning of the phrase "easements constituting servitudes upon or burdens to the property," as that phrase is used in California Revenue & Taxation Code section 3712(d), or any successor statute then in effect, such that a purchaser at a tax sale will take title to the Property subject to this Easement.

**17. Subsequent Deeds and Leases.** GRANTOR agrees that a clear reference to this Easement will be made in any subsequent deed, or other legal instrument, by means of which any

interest in the Property (including, but not limited to, a leasehold interest) is conveyed and that GRANTOR will attach a copy of this Easement to any such instrument. GRANTOR further agrees to give written notice to DISTRICT of the conveyance of any interest in the Property at least ten (10) days prior to any such conveyance. These obligations of GRANTOR shall not be construed as a waiver or relinquishment by DISTRICT of rights created in favor of DISTRICT by Section 16 of this Easement and the failure of GRANTOR to perform any act required by this Section 17 shall not impair the validity of this Easement or limit its enforceability in any way.

**18. Warranty of Ownership.** GRANTOR warrants that it is the owner in fee simple of the Property, and that on the date it executed this Easement the Property is not, subject to any deeds of trust.

**19. Notices.**

19.1 Method of Delivery. Except as otherwise expressly provided herein, all notices, (including requests, demands, approvals or communications) under this Easement shall be in writing and either served personally or sent by first class mail, postage prepaid, private courier or delivery service or telecopy addressed as follows:

To GRANTOR: Joseph Bordessa and Alfred Bordessa  
PO Box 751254  
Petaluma, CA 94975

To DISTRICT: General Manager  
Sonoma County Agricultural Preservation and Open Space District  
747 Mendocino Avenue, Suite 100  
Santa Rosa, CA 95401

Or to such other address as either party from time to time shall designate by written notice pursuant to this Section 19.

19.2 Effect Date of Notice. Notice shall be deemed given for all purposes as follows:

a) When personally delivered to the recipient, notice is effective on delivery.

b) When mailed first class postage prepaid to the last address designated by the recipient pursuant to Section 19.1, notice is effective one day following the date shown on the postmark of the envelope in which such notice is mailed or, in the event the postmark is not shown or available, then one day following the date of mailing. A written declaration of mailing executed under penalty of perjury by the GRANTOR or DISTRICT or an officer or employee thereof shall be sufficient to constitute proof of mailing.

c) When mailed by certified mail with return receipt requested, notice is effective on receipt as confirmed by the return receipt.

d) When delivered by overnight delivery with charges prepaid or charged to the sender's account, notice is effective on delivery as confirmed by the delivery service.

e) When sent by telex or fax to the last telex or fax number of the recipient known to the party giving notice, notice is effective on receipt as long as (i) a duplicate copy of the notice is promptly given by first-class or certified mail or by overnight delivery or (ii) the receiving party delivers a written confirmation of receipt. Subject to the foregoing requirements, any notice given by telex or fax shall be considered to have been received on the next business day if it is received after 5 p.m. (recipient's time) or on a non-business day.

19.3 Refused or Undeliverable Notices. Any correctly addressed notice that is refused or undeliverable because of an act or omission of the party to be notified shall be considered to be effective as of the first date that the notice was refused, unclaimed, or considered undeliverable by the postal authorities, messenger, or overnight delivery service.

20. **Amendment.** If circumstances arise under which an amendment or modification of this Easement would be appropriate, GRANTOR and DISTRICT shall be free to jointly amend this Easement, provided that any amendment shall be consistent with the Conservation Purpose of this Easement, shall ensure protection of the Conservation Values of the Property, and shall not affect the Easement's perpetual duration and further provided that the Conservancy provides its prior written consent to the amendment. Any such amendment shall be in writing, executed by GRANTOR and DISTRICT, and recorded in the Office of the Sonoma County Recorder.

21. **No Forfeiture.** Nothing contained in this Easement shall result in a forfeiture or reversion of GRANTOR's title in any respect.

22. **Termination of Rights and Obligations.** A party's rights and obligations under this Easement shall terminate upon transfer of the party's interest in the Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

23. **Enforceable Restriction.** This Easement and each and every term contained herein is intended for the benefit of the public and constitutes an enforceable restriction pursuant to the provisions of Article XIII, section 8 of the California Constitution, California Public Resources Code section 5540, and California Revenue and Taxation Code section 420 et seq., or any successor constitutional provisions or statutes then in effect.

24. **Applicable Law and Forum.** This Easement shall be construed and interpreted according to the substantive law of California, excluding the law of conflicts. Any action to enforce the provisions of this Easement or for the breach thereof shall be brought and tried in the County of Sonoma.

25. **Pronoun Number and Gender.** Whenever used herein, unless the provision or context otherwise requires, the singular number shall include the plural and the plural the singular, and the masculine gender shall include the feminine and neuter.

**26. GRANTOR and DISTRICT.** Wherever used herein, the terms GRANTOR, and any pronouns used in place thereof, shall mean and include the above-named GRANTOR and its heirs, lessees, executors, successors, and assigns, including any persons claiming under them. Wherever used herein, the terms DISTRICT, and any pronouns used in place thereof, shall mean and include the above-named DISTRICT, and its successors and assigns.

**27. DISTRICT's General Manager.** Wherever used herein, the term DISTRICT's General Manager, and any pronoun used in place thereof, shall mean and include the General Manager of DISTRICT and his duly authorized representatives.

**28. Fees and Charges.** DISTRICT shall have the right to establish and impose reasonable fees and charges on GRANTOR for inspections, approvals, and other services performed by DISTRICT pursuant to this Easement. Such fees and charges shall not exceed the reasonable costs of providing such services.

**29. Entire Agreement.** This instrument sets forth the entire agreement of the parties with respect to this Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to this Easement, all of which are merged herein. No alteration or variation of this instrument shall be valid or binding unless contained in a written amendment prepared, executed and recorded in accordance with Section 20.

**30. Severability.** In the event any provision of this Easement is determined by the appropriate court to be void and unenforceable, all remaining terms and conditions shall remain valid and binding. If the application of any provision of this Easement is found to be invalid or unenforceable as to any particular person or circumstance, the application of such provisions to persons or circumstances, other than those as to which it is found to be invalid, shall not be affected thereby.

**31. Estoppel Certificates.** DISTRICT shall, at any time during the existence of this Easement, upon not less than thirty (30) days' prior written notice from GRANTOR, execute and deliver to GRANTOR a statement in writing certifying that this Easement is unmodified and in full force and effect (or, if modified, stating the date of execution and date of recording of the respective amendment) and acknowledging that there is not, to DISTRICT's knowledge, any default by GRANTOR hereunder, or, if DISTRICT alleges a default by GRANTOR, specifying such default. DISTRICT's obligation to deliver the statement of certification is conditioned on GRANTOR's reimbursing DISTRICT for all costs and expenses reasonably and necessarily incurred in its preparation as determined by DISTRICT's General Manager.

**32. Execution.** GRANTOR shall execute this Easement, cause the same to be acknowledged, and deliver said executed and acknowledged instrument to DISTRICT in such form as to permit its acceptance by DISTRICT and recordation in the Office of the Sonoma County Recorder.

**33. No Liens, Encumbrances, or Conveyances.** GRANTOR warrants that after it has executed this Easement, it will not record any lien, encumbrance, or otherwise convey any right, title, or interest in and to the Property until such time as this Easement has been accepted and recorded by DISTRICT.

**34. Effective Date.** This Easement shall be effective as of the date of its acceptance by DISTRICT pursuant to California Public Resources Code sections 5500 et seq.

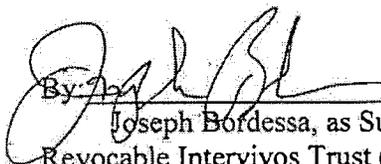
**35. Third Party Beneficiary/Assignment.** The Conservancy is a third party beneficiary of this Easement. This Easement was acquired by District pursuant, in part, to a grant of funds from the Conservancy, for the purpose of preserving the open space, natural resource, scenic, and agricultural values of the Property, and no use of the Property inconsistent with that purpose is permitted, except by specific act of the California Legislature. DISTRICT shall regularly monitor the condition of the Property and the uses and practices on the Property to determine consistency with the purpose and terms of this Easement. DISTRICT shall take all reasonable steps to ensure the safety and health of any persons, whether professionals, staff members, or volunteers, who enter the Property for the purposes of monitoring.

Upon a finding by the Conservancy at a noticed public hearing and supported by clear and convincing evidence, following written notice to the DISTRICT and the GRANTOR and a reasonable opportunity to cure, that any of the essential terms of this Easement have been violated; or that the existence of DISTRICT has terminated for any reason prior to an assignment of DISTRICT's interest in the Easement in compliance with this Easement; then DISTRICT's right, title, and interest in this Easement shall automatically vest in the State of California for the benefit of the Conservancy or its successor, upon acceptance of the Easement and compliance with any legal requirements related to acceptance; provided, however that the State, through the Executive Officer of the Conservancy, or its successor, may designate another public agency or a nonprofit organization to accept the right, title and interest, in which case vesting shall be in that agency or organization rather than in the State. For purposes of this Section 35 the "essential terms of this Easement" are those set forth in Sections 4.2, 5.2, 8.2.1, 9.1, 14.1, 14.3, 20, and 35.

The DISTRICT may not assign this Easement without obtaining the prior written consent of the State of California through the Executive Officer of the Conservancy or its successor. Any assignment without such consent shall be void and of no effect. Such consent shall not be unreasonably withheld. This Easement (including any portion or interest in it) may not be used as security for any debt without the written approval of the DISTRICT and the State of California, acting through the Executive Officer of the Conservancy, or its successor.

IN WITNESS WHEREOF, GRANTOR and DISTRICT have executed this Easement this 8<sup>th</sup> day of May, 2012

GRANTOR:

By 

Joseph Bordessa, as Successor Co-Trustee of the Bruno Bordessa and Dorothy Bordessa Revocable Intervivos Trust (created by Declaration of Trust dated June 12, 2000)

By: Alfred Bordessa

Alfred Bordessa, as Successor Co-Trustee of the Bruno Bordessa and Dorothy Bordessa Revocable Intervivos Trust (created by Declaration of Trust dated June 12, 2000)

DISTRICT:

SONOMA COUNTY AGRICULTURAL PRESERVATION AND OPEN SPACE DISTRICT

By: [Signature]  
President of the Board of Directors

ATTEST:

Veronica A. Ferguson by M. Cellano  
\_\_\_\_\_, County Clerk of the Board of Directors

DEED AND AGREEMENT

State of California )  
County of Sonoma )

On May 8, 2012 before me,  
Kathy Nelsen, Notary Public (here insert name and title of the officer),  
personally appeared Joseph Bordessa and Alfred Bordessa,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within  
instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and  
that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted,  
executed the instrument.

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

WITNESS my hand and official seal.

Signature Kathy Nelsen (Seal)



**CERTIFICATE OF ACCEPTANCE**  
(Government Code Section 27281)  
**OF REAL PROPERTY BY THE**  
**BOARD OF DIRECTORS OF THE**  
**SONOMA COUNTY AGRICULTURAL PRESERVATION**  
**AND OPEN SPACE DISTRICT**

This is to certify that the interests in real property conveyed by the Conservation Easement Agreement dated May 8, 2012, Alfred Bordessa and Joseph Bordessa, as Successor Trustees of the Bruno Bordessa and Dorothy Bordessa Revocable Intervivos Trust, created by Declaration of Trust dated June 12, 2002, to the Sonoma County Agricultural Preservation and Open Space District, a governmental agency formed pursuant to the provisions of Public Resources Code Section 5506.5, is hereby accepted by the President of the Board of Directors on behalf of the District pursuant to the authority conferred by Resolution No. 12-0129 of the Board of Directors, dated March 27, 2012 and the District consents to the recording thereof by its duly authorized officer.

Sonoma County Agricultural Preservation  
and Open Space District

Dated: 5-8-12

  
By: \_\_\_\_\_  
Shirlee Zane, President  
Board of Directors

ATTEST:

Veronica A. Ferguson by M. Mellano  
Clerk of the Board of Directors

# CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of Sonoma

On May 8, 2012 before me, Sandra L. Faus Notary Public  
(Here insert name and title of the officer)

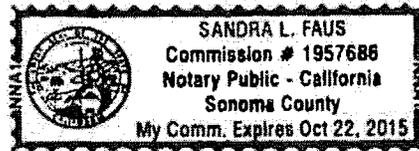
personally appeared Shirlee Zane

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Sandra L. Faus  
Signature of Notary Public



(Notary Seal)

## ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

Deed & Agreement  
(Title or description of attached document)

Bordessa  
(Title or description of attached document continued)

Number of Pages 26 Document Date 5/8/12

SCAPOS D  
(Additional information)

CAPACITY CLAIMED BY THE SIGNER

Individual (s)

Corporate Officer

\_\_\_\_\_  
(Title)

Partner(s)

Attorney-in-Fact

Trustee(s)

Other Board Chair

### INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/they - is/are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - ❖ Indicate title or type of attached document, number of pages and date.
  - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

Escrow No.: 12-490119808Z-KN  
Locate No.: CAFNT0949-0949-0001-490119808Z  
Title No.: 12-490119808Z

## EXHIBIT "A"

The land referred to herein is situated in the State of California, County of Sonoma, Unincorporated Area, and is described as follows:

All of that certain land lying and being in Townships 5 and 6 North, Range 10 West, M.D.M., in the County of Sonoma, State of California, and particularly described as follows:

BEGINNING at a point in the center of the County road leading from Valley Ford to Bodega Bay at the Southwest corner of that certain 634.12 acre tract of land shown and designated upon the plat entitled "Map of survey made for heirs of Hollis Hitchcock in Rancho Estero Americano and Rancho Canada De Pogolimi", said Plat being on file in Book 16 of Maps, page 11, Sonoma County Records, said point of beginning is further described as bearing South 30.0 feet from a granite monument marked "L 12", thence from said point of beginning S. 76° 35'W. along the center line of said County Road 579.4 feet to a point from which an iron pipe monument bears S. 21° 37' W. 30.3 feet; thence S.21° 37'W. 4762.2 feet to a point on the line of high tide of the Estero Americano, and from which an iron pipe monument bears N. 21°37'E.20.0 feet; thence Westerly along the northerly bank of said Estero Americano following the meanderings of the line of high tide to a point from which an iron pipe monument bears N.7° 53'E.23.0 feet; thence leaving the line of high tide N.7°53'E.2589.0 feet; thence N.7° 42'E. 1943.8 feet; thence N. 8° 01'E. 2270.7 feet; thence N.7° 47' E. 974.3 feet to a point in the center of the heretofore mentioned County Road; thence in a southeasterly direction along the center of said County Road to the point of beginning.

EXCEPTING THEREFROM, the following land described as follows:

A tract of land in the Rancho Estero Americano, in Townships 5 and 6 North, Range 10 West, M.D.M., and particularly described as follows:

BEGINNING at a point in the center of the county road leading from Valley Ford to Bodega Bay at the Southwest corner of that certain 634.12 acre tract of land shown and designated upon the plat entitled "Map of survey made for heirs of Hollis Hitchcock in Rancho Estero Americano and Rancho Canada De Pogolimi", said Plat being on file in Book 16 of Maps, page 11, Sonoma County Records, said point of beginning is further described as bearing South 30.0 feet and S36° 35'W.579.40 feet from a granite monument marked "L12"; thence from said point of beginning along the center line of said road, N76°40'40" W.2713.74 feet and N.57°42'W.370.747 feet; thence leaving said roadway, S.12°25'14" W.896.094 feet, S.13°21'39"W.287.985 feet, S.74°32'30"E. 1199.43 feet, S.28°55'17"W.795.94 feet, S.27°20'19"W.177.028 feet, S.28°38'W.419.78 feet, S.44°26'30"W.186.55 feet, S.27°34'30"W.160.87 feet, S.5°04'30"W.124.74 feet, S.23°18'30"W.138.05 feet, S.32°52'W.272.42 feet, S.39°30'30"W.123.80 feet, S.49°56'W.140.54 feet, S.58°22'W.285.09 feet, S73°05'30"W.45.32 feet and S.60°08'W.20.604 feet to a point on the line of high tide of the Estero Americano; thence along said high water line, S.43°34'E.67.399 feet, S.45°23'W.264.4 feet, S.6°04'E.200.0 feet, S.23°16'E.345.0 feet, S.51°17'E.607.1 feet, S.54°19'E.416.4 feet, S.86°56'E.561.0 feet and S.84°35'E.504.8 feet to a point which bears S.21°37'W.4762.2 feet from the point of beginning; thence N.21°37'E.4762.2 feet to the point of beginning.

APN: 026-030-011

BORDESSA COMMENTS RE ESTERO TRAIL EASEMENT  
DRAFT ENVIRONMENTAL IMPACT REPORT  
**ATTACHMENT C**



2012049983

OFFICIAL RECORDS OF SONOMA COUNTY

FIDELITY NAT'L TITLE CO. JANICE ATKINSON  
05/25/2012 08:00 DEED  
RECORDING FEE: \$0.00  
PAID

13 PGS



RECORDING REQUESTED BY AND RETURN TO:

Sonoma County Agricultural  
Preservation and Open Space District  
575 Administration Drive, Room 102A  
Santa Rosa, CA 95403

Free Recording per Gov't Code Sec 6103

*AP# 026-030-011*

TRAIL EASEMENT

Alfred Bordessa and Joseph Bordessa, as Successor Trustees of the Bruno Bordessa and Dorothy Bordessa Revocable Intervivos Trust (created by Declaration of Trust dated June 12, 2000) (hereafter referred to as "GRANTOR") hereby grants a public trail easement to the Sonoma County Agricultural Preservation and Open Space District, a public agency formed pursuant to the provisions of Public Resources Code sections 5500 et seq. ("DISTRICT"), as follows:

RECITALS

- A. GRANTOR is the owner in fee simple of that certain real property located in Sonoma County and more particularly described in Exhibit A, attached hereto and incorporated herein by this reference ("the Property").
- B. The Property possesses significant value as a recreational, educational, public access, open space, and scenic resource for the general public.
- C. When properly managed, public recreational use of the Property is compatible with the sensitive natural resources and agriculture on the Property.
- D. On March 27, 2012, DISTRICT's Board of Directors, pursuant to Government Code section 65402 and Sonoma County Ordinance No. 5180, determined, by its Resolution No. 12-0129, that the acquisition of a trail easement in the Property was consistent with the Sonoma County General Plan (specifically the Plan's Open Space Element) and with the District's voter-approved Expenditure Plan.
- E. DISTRICT has the authority to acquire trail easements by virtue of Public Resources Code section 5540 and possesses the ability and intent to enforce the terms of this trail easement.
- F. Concurrently with the recordation of this trail easement, GRANTOR is conveying a conservation easement and assigning development rights to the DISTRICT with respect to the Property. Design and construction of the trails and staging areas outlined in this public trail easement shall be consistent with the terms, conditions and purpose of the conservation easement.

- G. The parties anticipate that the DISTRICT will either designate an Operating Entity as provided in Section 4, or assign this trail easement in whole to a qualified organization as permitted in Section 12.
- H. The recordation of this trail easement is a condition of Grant No. 11-063 to the DISTRICT from the State Coastal Conservancy ("Conservancy"), an agency of the State of California charged under Division 21 of the Public Resources Code with protecting and enhancing the resources of the coast and the San Francisco Bay area, and providing public access to them. Grant No. 11-063 provides funding for the District's acquisition of the Conservation Easement.

## **EASEMENT**

- 1. Grant and Acceptance of Trail Easement.** Pursuant to the common and statutory law of the State of California, GRANTOR hereby grants to DISTRICT and DISTRICT accepts a trail easement in the Property in perpetuity ("the Trail Easement") under the terms and conditions set forth herein.
- 2. Purpose.** The purpose of this Trail Easement (hereinafter referred to as the "Public Access Purpose") is to assure that the Staging Areas and Trail Corridors, as defined below, will be established and made available to the public in perpetuity for low-intensity public outdoor recreational and educational purposes, defined as dispersed, nonexclusive, and non-motorized activities that do not adversely impact the natural resources or agriculture on the Property. Uses may include hiking, nature study, bird watching, sightseeing, picnicking, outdoor education, docent-led tours, scientific research and observation, limited seasonal access to the Estero Americano for recreational uses such as kayaking and canoeing, and other such uses similar in nature and intensity.
- 3. Staging Areas, Trail Corridors and Access.** The Trail Easement shall include, within the boundaries of the Property, two trail corridors, each fifty (50) feet in width ("Trail Corridors"), two staging areas, ("Staging Areas"), and use of the main access road, or replacement road in a similar location ("Access Road"), the existing bridge, or a replacement bridge in the same or similar location ("Access Bridge"), and the entrance gate to the Property, or a replacement gate in the same or similar location ("Access Gate"), as shown on Exhibit B, attached hereto and incorporated herein by this reference. As of the date of execution of this Trail Easement, the precise length and location of each of the Trail Corridors and the size and locations of the Staging Areas have not yet been determined. The DISTRICT shall, in its sole discretion, after reasonable consultation with GRANTOR and the Conservancy, designate and survey the precise locations of the Trail Corridors and the Staging Areas. The DISTRICT shall, within two years of the effective date of this Trail Easement, execute, acknowledge, and record in Sonoma County a document styled "Bordessa Trail Easement: Designation of Trail Corridors and Staging Areas," in such form as may be required by law at the time of the recordation. The Trail Corridors and Staging Areas shall comply with the following criteria: Each Trail Corridor shall begin at a Staging Area. Each Staging Area shall be suitable for use by pedestrians, bicyclists and motor vehicles. At the sole discretion of DISTRICT, one Staging Area may be located near State Highway 1 and one Staging Area may be located within the interior of the Property, potentially in the pasture directly south of the 2-acre Agricultural Building Envelope, as shown on Exhibit B, with access from State Highway 1 on the Access Road. The combined total acreage of the two Staging Areas shall not exceed one and a half acres in size. Beyond the Staging Areas, each Trail Corridor shall be fifty feet in width and shall be restricted to pedestrian use only, except

as otherwise provided in this Trail Easement. Small bridges used only for public pedestrian use and trail and ranch operations and maintenance use, may be constructed, reconstructed and maintained, within the fifty (50) feet wide Trail Corridor. Cumulatively, the Trail Corridors may extend up to five (5) miles in length. At the DISTRICT's sole discretion, the Trail Corridors may be left unimproved or developed with an impervious surface. The Staging Areas and Trail Corridors shall not be placed within two hundred feet of the Residential Building Envelope on the Property. At a minimum, the Trail Corridors shall provide access from State Highway 1 to portions of the Property with vistas of the Estero Americano and surrounding lands. Walk-in access to the Estero Americano may be provided for pedestrians and hand-carried, non motorized boats, such as kayaks and canoes, if and to the extent that such access is determined by DISTRICT to be compatible with sensitive resources associated with the Estero Americano and the Property. No recreational structures or improvements of any kind shall be built in the "Forever Wild Area" or the "Natural Areas" on the Property, except that, at District's sole discretion, a segment of the Access Road, a segment of trail and a viewing area with related appurtenances, may be placed within the area designated as "Trail Corridor within Forever Wild Area and Natural Areas" on Exhibit B, if resource studies show that such location would minimize impacts to or enhance the resources of the Property. DISTRICT may place limitations on the nature, hours and season of public access to the Access Road, Access Bridge, Access Gate, Staging Areas and Trail Corridors, or portions thereof, as it deems appropriate for natural resource protection.

**4. Opening of Trail Corridors and Staging Areas.** Opening of the Trail Corridors and Staging Areas to public access is subject to the following restriction for the benefit and protection of the Property. Prior to opening any trails for public use, DISTRICT shall ensure that it or another public agency or nonprofit organization (the "Operating Entity") with sufficient assets, management capability, resources, and liability insurance to carry out the obligations hereunder, has accepted full responsibility for the operation and maintenance of the Trail Corridors and Staging Areas. Prior to designating the Operating Entity, the DISTRICT shall consult with and receive the written approval of the Conservancy regarding the choice of Operating Entity.

**5. Maintenance of Access Road, Access Bridge and Access Gate.** For a period of five (5) years after recordation of this Trail Easement, GRANTOR shall be solely responsible for maintenance of the Access Road, Access Bridge and Access Gate in a condition safe and serviceable for use of vehicles and equipment for development and construction of the Staging Areas and Trail Corridors, and for public access to the Staging Areas and Trail Corridors. Thereafter, GRANTOR and DISTRICT, or the Operating Entity, may enter into a maintenance agreement to provide for continued maintenance of the Access Road, the Access Bridge, and the Access Gate, and to allocate the costs of such maintenance, generally in proportion to use of the improvements by GRANTOR and the public.

**6. Trail Easement Inspections.** DISTRICT shall provide notice to the Conservancy of any periodic or other monitoring of the Trail Easement and copies of any written findings or reports; on request of the Conservancy, Conservancy staff shall be permitted to accompany the DISTRICT on any monitoring visit.

**7. Affirmative Rights of DISTRICT.** DISTRICT shall have the following rights under this Trail Easement:

7.1 Preservation. DISTRICT shall have the right to preserve and protect the Staging Areas and Trail Corridors to ensure that the Public Access Purpose of this Trail Easement is realized.

7.2 Trail Uses And Access. DISTRICT shall have the right to develop, maintain, operate, and use the Access Road, the Access Bridge, the Access Gate, Staging Areas, and Trail Corridors for Public Access Purposes. This development and use shall occur in accordance with all required governmental approvals and in strict compliance with this Trail Easement.

7.3 Improvements. DISTRICT may enter the Property to construct, install, operate, and maintain the Access Road, Access Bridge, Access Gate, trails, parking areas, small unlighted signs, footbridges, stairs, fences, toilets, trash cans, picnic tables, benches, vegetation, landscaping, and other facilities as necessary or appropriate for the safe and convenient use of the Staging Areas and Trail Corridors by the public. Any grading required for such improvements must be contained within the Trail Corridors, Staging Areas and Access Road.

7.4 Service Access. DISTRICT may use the Property for service vehicle, equestrian and pedestrian access when necessary for construction, operation, and maintenance of the Staging Areas and Trail Corridors, or for law enforcement, medical or other emergencies, or rescue.

7.5 Public Use. DISTRICT may allow and provide for public use, access, ingress and egress to the Staging Areas and Trail Corridors in a manner consistent with this Trail Easement.

## **8. Indemnification.**

8.1 GRANTOR's Indemnity. GRANTOR shall hold harmless, indemnify, and defend DISTRICT, its agents, employees, volunteers, successors and assigns, and the State of California from and against all damages, liabilities, claims and expenses, including reasonable attorneys' fees, arising from or in any way connected with (i) injury to or the death of any person, or physical damage to any property resulting from any act, omission, condition or other matter related to or occurring on or about the Property, including the Staging Areas and Trail Corridors, except to the extent that such damage, liability, claim or expense is the result of the negligence, gross negligence, or intentional misconduct of DISTRICT (it being the intent of this provision to limit GRANTOR's indemnity to the proportionate part of DISTRICT's damage, liability, claim or expense for which GRANTOR is responsible). In the event of any claim, demand, or legal complaint against DISTRICT, the right to the indemnification provided by this Section 8.1 shall not apply to any cost, expense, penalty, settlement payment, or judgment, including attorneys' fees, incurred prior to DISTRICT's written notice of such claim, demand, or legal complaint to GRANTOR, unless GRANTOR has acquired knowledge of the matter by other means, nor to any costs, expenses, or settlement payment, including attorneys' fees, incurred subsequent to that notice unless such cost, expense, or settlement payment shall be approved in writing by GRANTOR, which approval shall not be unreasonably withheld.

8.2 DISTRICT's Indemnity. DISTRICT shall hold harmless, indemnify, and defend

GRANTOR, its heirs, devisees, successors and assigns, from and against all damages, liabilities, claims and expenses, including reasonable attorneys' fees, arising from or in any way connected with injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, including the Staging Areas and Trail Corridors, and attributable to DISTRICT or to the Operating Entity, except to the extent that such damage, liability, claim or expense is the result of the negligence, gross negligence, or intentional misconduct of GRANTOR (it being the intent of this provision to limit DISTRICT's indemnity to the proportionate part of GRANTOR's damage, liability, claim or expense for which DISTRICT is responsible). In the event of any claim, demand, or legal complaint against GRANTOR, the right to the indemnification provided by this Section 8.2 shall not apply to any cost, expense, penalty, settlement payment, or judgment, including attorneys' fees, incurred prior to GRANTOR's written notice of such claim, demand, or legal complaint to DISTRICT, nor to any costs, expenses, or settlement payment, including attorneys' fees, incurred subsequent to that notice unless such cost, expense, or settlement payment shall be approved in writing by DISTRICT, which approval shall not be unreasonably withheld. DISTRICT hereby also agrees to hold harmless, indemnify and defend GRANTOR from and against all damages, liabilities, claims and expenses, including attorneys' fees, asserted against GRANTOR by any officer, agent, employee, or volunteer of DISTRICT, for personal injury and/or property damage arising out of any inspection or visit to the Property by any such officer, agent, employee or volunteer of DISTRICT, except to the extent that such injury is attributable to the negligence, intentional act or willful misconduct of GRANTOR.

**9. Interpretation and Construction.** To the extent that this Trail Easement may be uncertain or ambiguous such that it requires interpretation or construction, then it shall be interpreted and construed in such a way that best promotes the Public Access Purpose of this Trail Easement.

**10. Notices.**

**10.1 Method of Delivery.** Except as otherwise expressly provided herein, all notices, (including requests, demands, approvals or communications) under this Trail Easement shall be in writing and either served personally or sent by first class mail, postage prepaid, private courier or delivery service addressed as follows:

To GRANTOR: Joseph Bordessa and Alfred Bordessa  
P.O. Box 751254  
Petaluma, CA 94975

To DISTRICT: General Manager  
Sonoma County Agricultural Preservation and Open Space District  
747 Mendocino Avenue, Suite 100  
Santa Rosa, CA 95401

Or to such other address as either party from time to time shall designate by written notice pursuant to this Section 8.

**10.2 Effect Date of Notice.** Notice shall be deemed given for all purposes as follows:

- (a) When personally delivered to the recipient, notice is effective on delivery.

(b) When mailed first class postage prepaid to the last address designated by the recipient pursuant to Section 8.1, notice is effective one day following the date shown on the postmark of the envelope in which such notice is mailed or, in the event the postmark is not shown or available, then one day following the date of mailing. A written declaration of mailing executed under penalty of perjury by the GRANTOR or DISTRICT or an officer or employee thereof shall be sufficient to constitute proof of mailing.

(c) When mailed by certified mail with return receipt requested, notice is effective on receipt as confirmed by the return receipt.

(d) When delivered by overnight delivery with charges prepaid or charged to the sender's account, notice is effective on delivery as confirmed by the delivery service.

(e) When sent by telex or fax to the last telex or fax number of the recipient known to the party giving notice, notice is effective on receipt as long as (i) a duplicate copy of the notice is promptly given by first-class or certified mail or by overnight delivery or (ii) the receiving party delivers a written confirmation of receipt. Subject to the foregoing requirements, any notice given by telex or fax shall be considered to have been received on the next business day if it is received after 5 p.m. (recipient's time) or on a non-business day.

**10.3 Refused or Undeliverable Notices.** Any correctly addressed notice that is refused or undeliverable because of an act or omission of the party to be notified shall be considered to be effective as of the first date that the notice was refused, unclaimed, or considered undeliverable by the postal authorities, messenger, or overnight delivery service.

**11. Amendment.** If circumstances arise under which an amendment or modification of this Trail Easement would be appropriate, GRANTOR and DISTRICT shall be free to jointly amend this Trail Easement, provided that any amendment shall be consistent with the Public Access Purpose of this Trail Easement, and shall not affect the Trail Easement's perpetual duration and further provided that the Conservancy provides its prior written consent to the amendment. Any such amendment shall be in writing, executed by GRANTOR and DISTRICT, and recorded in the Office of the Sonoma County Recorder.

**12. Assignment.** The DISTRICT may assign this Trail Easement in whole or in part, but only to an entity that is a qualified entity at the time of transfer under Section 170(h) of the Internal Revenue Code, as amended (or any successor provision then applicable), and the applicable regulations promulgated thereunder, and is authorized to acquire and hold conservation easements under Section 815.3 of the California Civil Code (or any successor provision then applicable). As a condition of such transfer, DISTRICT shall require the transferee to expressly agree in writing to assume DISTRICT's obligations hereunder in order that the purposes of this Trail Easement shall continue to be carried out. The DISTRICT may not assign this Trail Easement without obtaining the prior written consent of the State of California through the Executive Officer of the Conservancy or its successor. Any assignment without such consent shall be void and of no effect. Such consent shall not be unreasonably withheld.

**13. Third Party Beneficiary.** This Trail Easement was acquired by DISTRICT pursuant, in part, to a grant of funds from the Conservancy, for the purpose of preserving the open space, natural resource, scenic, recreational and educational values of the Property, and no

use of the Property inconsistent with that purpose is permitted, except by specific act of the California Legislature. The DISTRICT is further obligated to use, manage, operate and maintain the Trail Easement as described in the "USE, MANAGEMENT, OPERATION AND MAINTENANCE" section of California State Coastal Conservancy Grant Agreement No. 11-063, an unrecorded agreement, an executed copy of which is on file at the office of DISTRICT and at the office of the Conservancy. DISTRICT shall regularly monitor the condition of the Property and the uses and practices on the Property to determine consistency with the purpose and terms of this Trail Easement. DISTRICT shall take all reasonable steps to ensure the safety and health of any persons, whether professionals, staff members, or volunteers, who enter the Property for the purposes of monitoring.

Upon a finding by the Conservancy at a noticed public hearing, following written notice to the DISTRICT and the GRANTOR and a reasonable opportunity to cure, that any of the essential terms of this Trail Easement have been violated; or that the existence of DISTRICT has terminated for any reason prior to an assignment of DISTRICT's interest in the Trail Easement in compliance with Section 10 of this Trail Easement; DISTRICT's right, title, and interest in this Trail Easement shall automatically vest in the State of California for the benefit of the Conservancy or its successor, upon acceptance of the Trail Easement and compliance with any legal requirements related to acceptance; provided, however that the State, through the Executive Officer of the Conservancy, or its successor, may designate another public agency or a nonprofit organization to accept the right, title and interest, in which case vesting shall be in that agency or organization rather than in the State. For purposes of this section the "essential terms of this Trail Easement" are those set forth in Sections 2, 3, 4, 6, and 9.

This Trail Easement (including any portion or interest in it) may not be used as security for any debt without the written approval of the DISTRICT and the State of California, acting through the Executive Officer of the Conservancy, or its successor.

The Conservancy is an express third-party beneficiary with respect to the provisions of this Trail Easement pertaining to the Conservancy, and may take all steps that it deems necessary to enforce its rights.

**14. Applicable Law and Forum.** This Trail Easement shall be construed and interpreted according to the substantive law of California, excluding the law of conflicts. Any action to enforce the provisions of this Trail Easement or for the breach thereof shall be brought and tried in the County of Sonoma.

**15. Entire Agreement.** This instrument sets forth the entire agreement of the parties with respect to this Trail Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to this Trail Easement, all of which are merged herein. No alteration or variation of this instrument shall be valid or binding unless contained in a written amendment prepared, executed and recorded in accordance with Section 9.

**16. Severability.** In the event any provision of this Trail Easement is determined by the appropriate court to be void and unenforceable, all remaining terms and conditions shall remain valid and binding. If the application of any provision of this Trail Easement is found to be invalid or unenforceable as to any particular person or circumstance, the application of such provisions to persons or circumstances, other than those as to which it is found to be invalid, shall not be affected thereby.

17. **Effective Date.** This Trail Easement shall be effective as of the date of its acceptance by DISTRICT pursuant to California Public Resources Code sections 5500 et seq.

IN WITNESS WHEREOF, GRANTOR and DISTRICT have executed this Trail Easement this 8<sup>th</sup> day of May, 2012

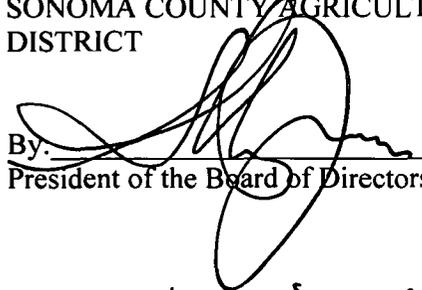
GRANTOR:

By:   
Joseph Bordessa, as Successor Co-Trustee of the Bruno Bordessa and Dorothy Bordessa Revocable Intervivos Trust (created by Declaration of Trust dated June 12, 2000)

By:   
Alfred Bordessa, as Successor Co-Trustee of the Bruno Bordessa and Dorothy Bordessa Revocable Intervivos Trust (created by Declaration of Trust dated June 12, 2000)

DISTRICT:

SONOMA COUNTY AGRICULTURAL PRESERVATION AND OPEN SPACE DISTRICT

By:   
President of the Board of Directors

ATTEST: Veronica L. Figueroa by M. Cullano  
County Clerk of the Board of Directors

TRAIL EASEMENT

State of California )  
County of Sonoma )

On May 8, 2012 before me,  
Kathy Nelsen, Notary Public (here insert name and title of the officer),  
personally appeared Joseph Bordessa and Alfred Bordessa,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within  
instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and  
that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted,  
executed the instrument.

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

WITNESS my hand and official seal.

Signature *Kathy Nelsen* (Seal)



**CERTIFICATE OF ACCEPTANCE**  
(Government Code Section 27281)  
**OF REAL PROPERTY BY THE**  
**BOARD OF DIRECTORS OF THE**  
**SONOMA COUNTY AGRICULTURAL PRESERVATION**  
**AND OPEN SPACE DISTRICT**

This is to certify that the interests in real property conveyed by the Trail Easement Agreement dated May 8, 2012, Alfred Bordessa and Joseph Bordessa, as Successor Trustees of the Bruno Bordessa and Dorothy Bordessa Revocable Intervivos Trust, created by Declaration of Trust dated June 12, 2002, to the Sonoma County Agricultural Preservation and Open Space District, a governmental agency formed pursuant to the provisions of Public Resources Code Section 5506.5, is hereby accepted by the President of the Board of Directors on behalf of the District pursuant to the authority conferred by Resolution No. 12-0129 of the Board of Directors, dated March 27, 2012 and the District consents to the recording thereof by its duly authorized officer.

Sonoma County Agricultural Preservation  
and Open Space District

Dated: 5-8-12

By:   
Shirlee Zane, President  
Board of Directors

ATTEST:

  
Clerk of the Board of Directors

# CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of Sonoma

On May 8, 2012 before me, Sandra L. Faus Notary Public  
(Here insert name and title of the officer)

personally appeared Shirlee Zane

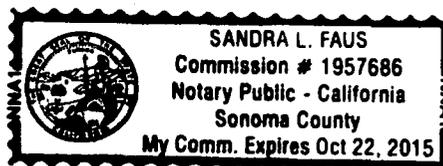
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Sandra L. Faus

Signature of Notary Public



(Notary Seal)

## ADDITIONAL OPTIONAL INFORMATION

### INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he/she/they~~, is /are ) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - ❖ Indicate title or type of attached document, number of pages and date.
  - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

### DESCRIPTION OF THE ATTACHED DOCUMENT

Trail Easement

(Title or description of attached document)

Bordessa

(Title or description of attached document continued)

Number of Pages 8 Document Date 5/8/12

SCAPOSD

(Additional information)

### CAPACITY CLAIMED BY THE SIGNER

- Individual (s)
- Corporate Officer

(Title)

- Partner(s)
- Attorney-in-Fact
- Trustee(s)
- Other Board Chair

**Escrow No.:** 12-490119808Z-KN  
**Locate No.:** CAFNT0949-0949-0001-490119808Z  
**Title No.:** 12-490119808Z

## **EXHIBIT "A"**

The land referred to herein is situated in the State of California, County of Sonoma, Unincorporated Area, and is described as follows:

All of that certain land lying and being in Townships 5 and 6 North, Range 10 West, M.D.M., in the County of Sonoma, State of California, and particularly described as follows:

BEGINNING at a point in the center of the County road leading from Valley Ford to Bodega Bay at the Southwest corner of that certain 634.12 acre tract of land shown and designated upon the plat entitled "Map of survey made for heirs of Hollis Hitchcock in Rancho Estero Americano and Rancho Canada De Pogolimi", said Plat being on file in Book 16 of Maps, page 11, Sonoma County Records, said point of beginning is further described as bearing South 30.0 feet from a granite monument marked "L 12", thence from said point of beginning S. 76° 35'W. along the center line of said County Road 579.4 feet to a point from which an iron pipe monument bears S. 21° 37' W. 30.3 feet; thence S.21° 37'W. 4762.2 feet to a point on the line of high tide of the Estero Americano, and from which an iron pipe monument bears N. 21°37'E.20.0 feet; thence Westerly along the northerly bank of said Estero Americano following the meanderings of the line of high tide to a point from which an iron pipe monument bears N.7° 53'E.23.0 feet; thence leaving the line of high tide N.7°53'E.2589.0 feet; thence N.7° 42'E. 1943.8 feet; thence N. 8° 01'E. 2270.7 feet; thence N.7° 47' E. 974.3 feet to a point in the center of the heretofore mentioned County Road; thence in a southeasterly direction along the center of said County Road to the point of beginning.

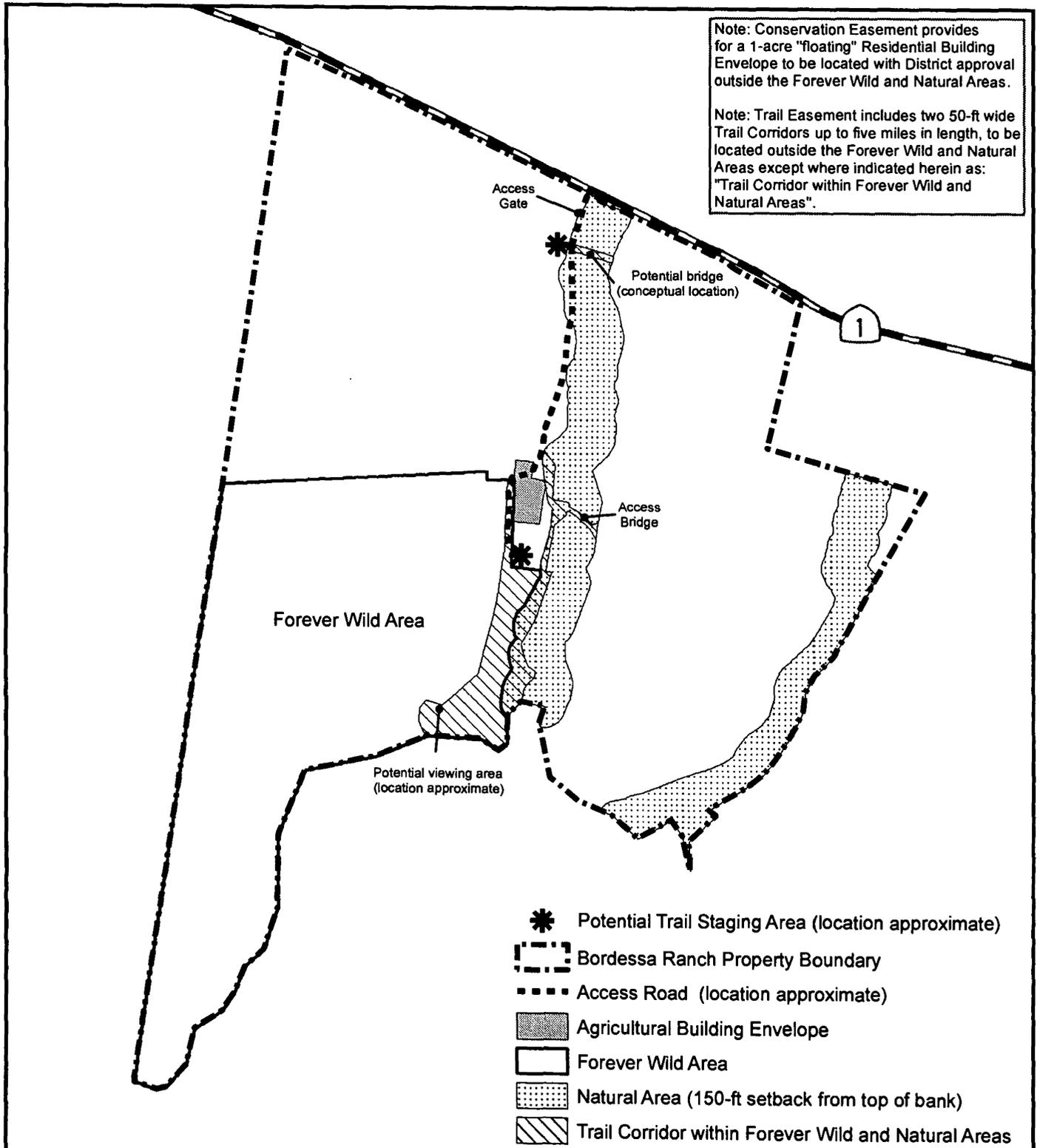
EXCEPTING THEREFROM, the following land described as follows:

A tract of land in the Rancho Estero Americano, in Townships 5 and 6 North, Range 10 West, M.D.M., and particularly described as follows:

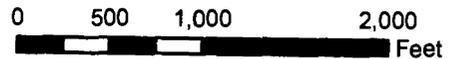
BEGINNING at a point in the center of the county road leading from Valley Ford to Bodega Bay at the Southwest corner of that certain 634.12 acre tract of land shown and designated upon the plat entitled "Map of survey made for heirs of Hollis Hitchcock in Rancho Estero Americano and Rancho Canada De Pogolimi", said Plat being on file in Book 16 of Maps, page 11, Sonoma County Records, said point of beginning is further described as bearing South 30.0 feet and S36° 35'W.579.40 feet from a granite monument marked "L12"; thence from said point of beginning along the center line of said road, N76°40'40" W.2713.74 feet and N.57°42'W.370.747 feet; thence leaving said roadway, S.12°25'14" W.896.094 feet, S.13°21'39"W.287.985 feet, S.74°32'30"E. 1199.43 feet, S.28°55'17"W.795.94 feet, S.27°20'19"W.177.028 feet, S.28°38'W.419.78 feet, S.44°26'30"W.186.55 feet, S.27°34'30"W.160.87 feet, S.5°04'30"W.124.74 feet, S.23°18'30"W.138.05 feet, S.32°52'W.272.42 feet, S.39°30'30"W.123.80 feet, S.49°56'W.140.54 feet, S.58°22'W.285.09 feet, S73°05'30"W.45.32 feet and S.60°08'W.20.604 feet to a point on the line of high tide of the Estero Americano; thence along said high water line, S.43°34'E.67.399 feet, S.45°23'W.264.4 feet, S.6°04'E.200.0 feet, S.23°16'E.345.0 feet, S.51°17'E.607.1 feet, S.54°19'E.416.4 feet, S.86°56'E.561.0 feet and S.84°35'E.504.8 feet to a point which bears S.21°37'W.4762.2 feet from the point of beginning; thence N.21°37'E.4762.2 feet to the point of beginning.

APN: 026-030-011

# Exhibit B



## Bordessa Ranch Trail Easement



**SONOMA COUNTY**  
**AGRICULTURAL PRESERVATION**  
**AND OPEN SPACE DISTRICT**

Map Date: April 2, 2012

Sources: Sonoma County GIS (roads, parcels); Digital Globe 2009 (imagery); SCAPOSD (CE Areas, stream channels).

This map is for illustrative purposes only and is not intended to be a definitive property description. The easement areas shown on this map are generated from digital vector data on file with the District; the vector data itself designates these areas. The southern and western boundaries of the Forever Wild Area extend to the property boundary.



BORDESSA COMMENTS RE ESTERO TRAIL EASEMENT  
DRAFT ENVIRONMENTAL IMPACT REPORT  
**ATTACHMENT D**

1 SUPERIOR COURT, SONOMA COUNTY, CALIFORNIA

2 ---oOo---

3 ALFRED BORDESSA AND JOSEPH  
4 BORDESSA, AS SUCCESSOR  
5 TRUSTEES OF THE BRUNO BORDESSA  
6 AND DOROTHY BORDESSA REVOCABLE  
7 INTERVIVOS TRUST (CREATED BY  
8 DECLARATION OF TRUST DATED  
9 JUNE 12, 2001,

Case No.  
SCV-256943

10 Plaintiff,

11 vs.

12 THE SONOMA COUNTY AGRICULTURAL  
13 PRESERVATION AND OPEN SPACE  
14 DISTRICT; STATE OF CALIFORNIA  
15 COASTAL CONSERVANCY,  
16 PREVIOUSLY NAMED AS DOE 1;  
17 HOWARD LEVY, previously named  
18 as DOE 2;  
19 HOWARD LEVY APPRAISAL GROUP,  
20 INC., previously named as DOE  
21 3;  
22 WARD LEVY APPRAISAL GROUP,  
23 INC., previously named as DOE  
24 4; and DOES 5 through 20,  
25 INCLUSIVE,

Defendants.

EXCERPTS FROM THE MEETINGS OF  
THE SONOMA COUNTY BOARD OF SUPERVISORS,  
MARCH 13 and 27, 2012  
TRANSCRIBED BY THOMAS DAVID BONFIGLI,  
C.S.R. LIC. NO. 5498

1                    MEMBERS OF THE SONOMA COUNTY BOARD OF SUPERVISORS

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REPRESENTING DISTRICT ONE:            Valerie Brown  
REPRESENTING DISTRICT TWO:            David Rabbitt  
REPRESENTING DISTRICT THREE:        Shirlee Zane  
REPRESENTING DISTRICT FOUR:         Mike McGuire  
REPRESENTING DISTRICT FIVE:         Efren Carrillo  
  
COUNTY COUNSEL:                        Bruce Goldstein  
COUNTY ADMINISTRATOR:                Veronica Ferguson

I N D E X

SECTION I - Meeting of 3/13/12

Minute-start/Minute-end

	<u>Page</u>
1:24:00 to 1:24:54	4
1:27:20 to 1:28:00	6
1:33:30 to 1:35:40	7
1:40:50 to 1:43:09	10
2:32:25 to 2:34:18	13
2:49:00 to 2:49:49	15
3:07:10 to 3:08:00	16
3:20:50 to 3:21:00	17

SECTION II - Meeting of 3/27/12

Minute-start/Minute-end

1:28:30 to 1:31:57	18
1:39:00 to 1:40:01	22
2:13:00 to 2:15:20	23



1 California red-legged frog,

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1 1:27:20 to 1:28:00

2 MISTI ARIAS: This is -- we did have an  
3 appraisal done of the value of the conservation easement  
4 and treatment together, and the appraisal was done by  
5 Howard Levy, an independent appraiser. Our fiscal  
6 oversight commission did consider the appraisal and  
7 determined that it was consistent with our guidelines and  
8 standards and that the recommended purchase price did not  
9 exceed fair market value. As you can see here, the  
10 appraised value of the easement -- the two easements  
11 together is one million seven hundred and seventy thousand  
12 dollars. The district negotiated price for purchase of  
13 the easements for landowner is one million five hundred  
14 thousand dollars. The district has an approved Coastal  
15 Conservancy grant towards acquisition of the conservation  
16 easement for \$650,000, and so as you'll see our  
17 contribution towards the acquisition of these easements  
18 would be 850,000.

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1 1:33:30 to 1:35:40

2 SUPERVISOR CARRILLO: An environmental  
3 analysis would be prepared that is appropriate to that  
4 site that specifically stipulates whether trail easement  
5 or whether trail access is viable, not viable. It  
6 would include resource studies. But then at that  
7 point, a different decision would come before the  
8 board.

9 BILL KEENE: Correct.

10 SUPERVISOR CARRILLO: Could actually make that  
11 decision whether --

12 BILL KEENE: Yeah. The board would then have the  
13 opportunity to review the -- the trail-planning that has  
14 been done, what's being proposed by regional parks in  
15 terms of it, you know, potential trails and staging areas.  
16 And keep in mind, we have not done the resource studies  
17 out there to really determine what types of trails would  
18 be appropriate and where and, for that matter, whether or  
19 not it would be appropriate even to go down to the Estero.  
20 At this point, there are some resource issues out there  
21 that we need to -- we still need to investigate related to  
22 Clapper Rail and Black Rail as well as the owls that are  
23 out on the site, so that could potentially preclude  
24 getting access to the Estero, either from a time  
25 standpoint, like times of year that it wouldn't be

1 appropriate, or, for that matter, it could be all year,  
2 all of the year it might not be appropriate for doing  
3 that. So that's something that we still need to -- to  
4 hammer out and work through.

5 SUPERVISOR CARRILLO: One of the other items that  
6 came up during the -- the public forum was whether this  
7 would potentially provide a scenario where the land would  
8 be taken out of agriculture. And I know that the land  
9 which for this easement in and of itself, it does continue  
10 to allow grazing, breeding, pasturing, raising of  
11 livestock, so this would not change potentially or  
12 prohibit the continued use of these lands in agriculture.  
13 I think that was a --

14 BILL KEENE: Correct. No, it would not. It  
15 would still be available for agricultural use.

16 SUPERVISOR CARRILLO: And I think there was a  
17 few examples I think that were included as far as whether  
18 grazing and public access were compatible, and I think  
19 that the -- I mean, obviously there's -- there's  
20 differences of opinion depending on how you look at it  
21 with that, but it's my understanding that in fact this  
22 would not take the land out of agriculture for any reason  
23 whatsoever.

24 BILL KEENE: Correct.

25 SUPERVISOR CARRILLO: And I just want to make

1 sure that's clarified.

2 BILL KEENE: Correct.

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1 1:40:50 to 1:43:09

2 SUPERVISOR RABBITT: But I -- I -- I'm trying to  
3 come to grips with how we price an unknown: the trails.

4 So I understand on the -- on the conservation  
5 easement that it's basically taking away development  
6 rights, and that's -- that's a given number, and that  
7 makes sense, and you could factor that out.

8 How do we price a trail that we don't know -- we  
9 have five miles maximum, but it could be a quarter-mile,  
10 zero, five miles?

11 And the staging areas, I assume staging areas  
12 are really parking lots in this case.

13 BILL KEENE: Uh-huh.

14 SUPERVISOR RABBITT: And what does that mean to  
15 the road?

16 And, I mean, also, the environmental review,  
17 there's going to be so many pieces that come up in terms  
18 of impactful consequences to the property. How do we  
19 price that?

20 BILL KEENE: The -- that -- those are great  
21 questions. And the -- if -- if -- if you're the  
22 appraiser -- in this case, Howard Levy -- it was very  
23 difficult to price it, and so what -- it's not an exact  
24 science, an appraisal. There's a lot of subjectivity  
25 there. But in this case, because we didn't know where the

1 trails would go or where the staging areas would go, the  
2 appraiser had to make some assumptions about what type of  
3 buyers would come and buy that property given that you  
4 could have these trails go anywhere and these staging  
5 areas could be anywhere, and that's why you see a very  
6 significant value for the trail easement. And I think  
7 it's seven -- a little over seven hundred and fifty  
8 thousand. That was a -- a problem for the appraiser, not  
9 knowing exactly where. If you knew where the trails were  
10 and you knew where the staging areas were, there could  
11 be -- certainly could be a change in that value, and it's  
12 likely that it would go down, if anything.

13 SUPERVISOR RABBITT: Is that like as well,  
14 would the agricultural value go down once you have  
15 recreational use on there? 'Cause it seems to me that  
16 you're limiting the agricultural uses once we're opening  
17 it up to the public.

18 BILL KEENE: Uh --

19 SUPERVISOR RABBITT: Is that taken into  
20 account?

21 BILL KEENE: I -- I don't -- I don't believe he  
22 was assuming that the agricultural use would be limited.  
23 That you'd still have grazing out there, and you might  
24 have some fencing around trails and such, but -- and  
25 staging areas, but that the remaining parts of the

1 property would still be used -- used for grazing.

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1 2:32:25 to 2:34:18

2 SUPERVISOR CARRILLO: I think this is a unique  
3 opportunity for us to move forward not only with the  
4 protection of the conservation easement, but also with  
5 providing public access, and doing it in a sensitive way.  
6 And I think that is what is going to be the challenge:  
7 how do we do it in a sensitive way to ensure that we have  
8 that fully analyzed?

9 That said, I think it is prudent upon us as the  
10 district directors to ensure that we have the studies done  
11 and performed to ensure that we're not gonna be faced --  
12 and I guess the one question I do have is: Let me just  
13 give you a hypothetical scenario: We move forward.  
14 The -- the -- we accept the Coastal Conservancy money. We  
15 go through the environmental studies, the environmental  
16 review. The environmental studies come back and say, You  
17 know, we've done some resource studies, and the trail  
18 actually would be a detriment to that land and -- and a  
19 detriment to the sensitive habitat, so we do not -- we  
20 cannot support moving forward with the extent of what the  
21 Coastal Conservancy would say is considered public access.  
22 I would imagine the Coastal Conservancy at that point  
23 would say, Well, that -- our funds were intended  
24 specifically for the public access because I think it's a  
25 specific pot, a specific fund that they're taking it from.

1 It's quite viable that they would potentially take that  
2 money back and not allow the district to utilize it as  
3 part of the -- as part of the acquisition.

4 At that point, does it then fall on the district  
5 to come up with those funds to pay back if the coastal  
6 conservancy decides to do that?

7 BILL KEENE: Yeah, if -- if -- if we were not  
8 meeting the terms of the grant agreement with the Coastal  
9 Conservancy, yeah, we would need to return those funds.

10 However, I guess I would just point out that the  
11 Coastal Conservancy is not mandating what the access would  
12 look like. They'd want it to be consistent with  
13 protection of the resources, so I think we have a lot of  
14 latitude to work with them on that.

15 SUPERVISOR CARRILLO: Okay.  
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2:49:00 to 2:49:49

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2 SUPERVISOR RABBITT: I attended at least half,  
3 maybe a little more, of the meeting that was held out in  
4 Valley Ford -- and I thank Supervisor Carrillo for  
5 allowing me to come out there and listening to the  
6 concerns -- I think that the -- for, you know, a county  
7 that's steeped in process, the way we go about acquiring  
8 land in this particular case is obviously behind closed  
9 doors because it's property negotiations; but at the same  
10 time, the use of this particular piece of property is  
11 really -- it's a land-use decision that we're basing today  
12 on and whether it's a park, a big capital park or a small,  
13 small, you know, p-a-r-k, it's still providing an  
14 intensification of use, and without really going through  
15 the environmental review, you don't know what that -- is  
16 gonna be involved. We don't know what the mitigations are  
17 going to be involved out there, and those mitigations, as  
18 we all know from going through this process in this  
19 county, could cost a -- a lot of money.

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1 3:07:10 to 3:08:00

2 SUPERVISOR RABBITT: I want to be clear that  
3 my support of this particular site and the beauty of this  
4 particular site is -- is without question. It really  
5 comes down to the access and what that is long term and  
6 how it affects the county costs, and including that  
7 ongoing funding of the business plan that was spoken of  
8 and, again, what the environmental considerations. I can  
9 only imagine that this site is not gonna be -- it's not  
10 gonna be open to the public; it's gonna have to have some  
11 sort of guided tours. I would imagine that's gonna be  
12 where the -- I mean, my speculation here, looking through  
13 an environmental process, given what I know of what I saw  
14 the day that I was out on that point, I can't even imagine  
15 that you could put a trail out there, which is unfortunate  
16 because that's where the belvedere, the best view is. I  
17 don't know how that works with burrowing owls and all the  
18 other animals that were mentioned, which that's where they  
19 live.

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3:20:50 to 3:21:00

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2 BILL KEENE: The landowner just said, you know,  
3 that the -- that the landowner would consider cancelling  
4 the project if there's a delay.  
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1 with what we're trying to do.

2 BILL KEENE: I'm gonna maybe put it over to Carol  
3 to answer that question.

4 CARYL HART: Yeah, I think, you know, the CEQA  
5 process involves project meetings and hearings. But in  
6 order to get public input, we need to present the public  
7 with some concepts or some ideas of where the trail  
8 alignment potentially could go, so I think that in the  
9 process of doing that, I think we'll be working with the  
10 public, particularly the landowner, doing resource  
11 studies, et cetera, to build the trail alignment proposal.

12 SUPERVISOR RABBITT: Perhaps the county counsel  
13 could help on the process.

14 MR. GOLDSTEIN: Yes.

15 I would say that typically, there would be an  
16 initial project description that'll form the basis for  
17 community input. And then when the CEQA analysis is done,  
18 there will be an alternatives analysis that will look at  
19 different alternatives and then with the idea of coming  
20 out with the environmentally preferable alternative, so  
21 it's a starting point, not an ending point.

22 SUPERVISOR RABBITT: Okay.

23 CHAIRWOMAN ZANE: Maybe the county administrator  
24 can comment on this.

25 VERONICA FERGUSON: Sure. Maybe it's the

1 language that we chose, record a survey. It looks  
2 definitive, and that was not our intention. Our intention  
3 was simply to say we would, you know, identify what a  
4 possible trail would be and that would be the beginning of  
5 the environmental review.

6 SUPERVISOR RABBITT: Well, I think it goes to my  
7 point that I made last time. The thing that I think gives  
8 me the most angst is not knowing exactly what we're  
9 approving or buying and what price to associate with all  
10 that. And I certainly understand the need to do a CEQA  
11 analysis moving forward, but again, it goes, at what point  
12 do you do it? I understand that you don't want to do it  
13 when you don't have the property, but at the same time,  
14 if what we have before us is a plan of action to survey  
15 trails and produce a staging area with trails and  
16 overlooks and everything else, there seems to be a project  
17 implied, and it talks about doing CEQA after -- after the  
18 fact instead of what I would consider to be a normal kind  
19 of CEQA process as having a scoping session about, you  
20 know, where the project would go, so, you know, I don't  
21 know if that answers -- or gives me great satisfaction  
22 moving forward on that.

23 And I guess the other piece is on -- on the  
24 \$50,000 coastal conservancy grant. And I know that buys  
25 us the survey work is essentially what it's doing for us,

1 and, you know, I don't know -- at the end of the day, I  
2 take it that the 75,000 that's mentioned later buys us the  
3 environmental document?  
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1 1:39:00 to 1:40:01

2 MR. GOLDSTEIN: That discussion just points out  
3 why the CEQA process that was done to date was an  
4 exemption based in part that the project that's gonna be  
5 done in the future is entirely speculative at this point  
6 because the environmental review has not been done, that  
7 different alternatives would be looked at, including no-  
8 project alternative, that the information that's provided  
9 in the Gordon report (sp) that provides some ballpark  
10 estimates of cost is based, in part, it is depending on  
11 the nature and scope of the future project.

12 The opportunity to review what that project is  
13 specifically is part of the CEQA review will come back to  
14 the board, and at that point, your board can make a  
15 determination of what project makes the most sense based  
16 on the environmental information that's been done after  
17 the studies.

18 So we're at the point in the process now where we  
19 don't know what the project will be, but after the CEQA  
20 review is done, we'll be able to make a more educated  
21 determination that will come back to your board.

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1 2:13:00 to 2:15:20

2 SUPERVISOR CARRILLO: And I think that we have to  
3 be reminded of what it is we're doing today. This is not  
4 an acquisition. This is a conservation easement. So  
5 the -- you know, as far as -- we've got to be clear.  
6 It's -- it's an -- it's an agriculture conservation  
7 easement on one hand. Yes, we're making it a trail  
8 easement. That has not been decided how we're going to  
9 use or if in fact we're gonna be able to use -- to use  
10 that -- the land for a trail. And it's almost like  
11 putting the cart before a horse, to a certain extent.

12 To Supervisor Brown's comment, you're absolutely  
13 right. This board, particularly for the district, has  
14 taken a certain approach on how we look at lands: from a  
15 conservation-easement perspective or from an acquisition,  
16 in the cases you described. This is conservation. This  
17 is not an acquisition of this property. I mean, I just  
18 want to make sure that we're clear about that. That is  
19 the main goal of why this project is coming before us is  
20 to preserve agriculture on that land.

21 The second goal to that is potentially public  
22 access. And I would remind the board and I will remind  
23 the public that what we have before us is a low-intensity  
24 public-recreational and educational enjoyment. Once  
25 again, that's low intensity. Will there be a fairly

1 decent type of development out there? You know, that  
2 process will -- will -- will -- will dictate what we're  
3 able to do and what we're able not to do.

4           The fact of the matter is we do have, in my  
5 perspective, I think a unique opportunity here to really  
6 keep the agriculture preservation of what we pride  
7 ourselves in this county, but to also potentially ensure  
8 the possibility of allowing the public to have this  
9 resource as an asset as well. I do believe that we can --  
10 that those two can co-exist. I mean, I strongly believe  
11 that.

12           And I will commit myself, you know, hoping that  
13 the board will support this today, to be a part of that  
14 discussion and to, you know, really allow this not to be  
15 the end of it, but to be the beginning of the discussion  
16 of how this process takes place. There will absolutely be  
17 public participation. The landowners will absolutely be  
18 part of this discussion, advocates and whomever else wants  
19 to be part of this, because I do believe that that process  
20 will dictate if, in fact, this can work on one end and how  
21 we can make it work collectively.

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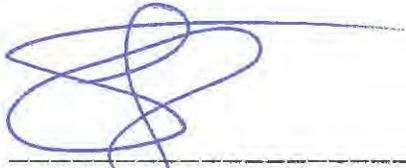
1 State of California, )  
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I, THOMAS DAVID BONFIGLI, CSR License Number 5498, certify that I have transcribed the previously described excerpts of meetings of the Sonoma County Board of Supervisors and that the foregoing is a full, true and complete transcription thereof.

I further certify that I am not connected with nor related to any of the parties involved in this action, nor in any way interested in the outcome of this case.

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_\_ day of August, 2019.



THOMAS DAVID BONFIGLI,  
CSR LIC. NO. 5498

BORDESSA COMMENTS RE ESTERO TRAIL EASEMENT  
DRAFT ENVIRONMENTAL IMPACT REPORT  
**ATTACHMENT E**

# TED WINFIELD & ASSOCIATES

## MEMORANDUM

**Date:** March 12, 2020

**To:** Christina Berglund (Remy Moose Manley, LLP)

**From:** Ted Winfield, Ph.D.

**RE:** Comments on DEIR for the Estero Trail Easement: Designation of Trail Corridors and Associated Staging Areas and Construction and Operation of Recreational Amenities Project (SCH no. 2017112054)

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This memorandum provides comments on the DEIR for the Estero Trail Easement: Designation of Trail Corridors and Associated Staging Areas and Construction and Operation of Recreational Amenities Project (SCH no. 2017112054) (Project) prepared for the County of Sonoma by Dudek (dated December 2019). The focus of my review was on biological resources, the expected impacts to biological resources resulting from construction and operation of the proposed Project, and mitigation being proposed to offset unavoidable impacts of the Project on biological resources.

Before addressing specific issues with the DEIR, I have some general comments on the Biological Resources section of the DEIR (section 3.4), including the mitigation measures being proposed to offset anticipated impacts to sensitive biological resources.

### COMMENTS

#### Regulatory Setting.

The discussion on applicable regulations does not include a discussion on section 10 of the Rivers and Harbors Act. Section 10 of the Rivers and Harbors Act applies to structures and/or work in or affecting navigable waters of the United States. Navigable waters of the United States are defined as “*waters that are subject to the ebb and flow of the tide*,”<sup>1</sup> and the Estero waters adjacent to the Project site are tidal. Although the matting that would be applied to the surface of the tidal flats to allow for access by boaters

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<sup>1</sup> U.S. Army Corp of Engineers, San Francisco District, Regulatory Branch memorandum from Chief, Regulatory Branch, and District Counsel to Regstaff, Office of Counsel (January 21, 2004, revised March 5, 2004) discusses the upstream limit of navigable waters of the U.S. (Section 10 waters).

(unpowered kayaks and canoes) would be a minimal structure, its placement may require, at a minimum, a Letter of Permission from the U.S. Army Corps of Engineers.

### **Local Sonoma County Coastal Plan.**

The discussion of the Sonoma County Coastal Plan does not include a discussion of the draft of the Sonoma County Coastal Plan that is currently undergoing review. Depending on when the current Draft is approved and goes into effect, the Project could be subject to the provisions of the new Coastal Plan, especially the definition of what constitutes an Environmentally Sensitive Habitat Area (ESHA). The expanded definition of what would be considered an ESHA in the current Draft of the Coastal Plan is consistent with the LCP Update Guide<sup>2</sup> issued by the California Coastal Commission and may be more inclusive in what constitutes an ESHA than the current Coastal Plan.

### **Project Impacts and Mitigation Measures.**

The discussion in the Introduction to the Biological Resources section of the DEIR summarizes comments that were received in response to the Notice of Preparation of the EIR and comments received in response to the prior Mitigated Negative Declaration released in October 2016. The comments raised concerns about impacts to sensitive biological resources resulting from construction and operation of the proposed Project, including impacts resulting from encroachment and associated disturbance of sensitive biological resources.

The DEIR fails to adequately analyze the impacts of the Project and the proposed mitigation measures presented in the DEIR do not adequately address the significant impacts of the Project, especially those concerning operation and maintenance of the trails. Further, the discussion of sensitive vegetation does not address the possible occurrence of coastal prairie, a type of California grassland that consists of a mixture on native and non-native grasses and forbs.

According to Ford and Hayes (2007)<sup>3</sup> the conservation value of sites supporting coastal prairie is commonly assessed by recording visual estimates of California oatgrass (*Danthonia californica*), purple needlegrass (*Stipa pulcher*), Idaho fescue (*Festuca idahoensis*) and California hairgrass (*Deschampsia caespitosa*) which are considered indicator species for coastal prairie. But, according to Todd Keeler-Wolf, as cited in Ford and Hayes (2007) there is no agreed upon threshold value for the percent cover by native grasses used to designate coastal prairie. Further, Hayes, cited in Ford and Hayes (2007)

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<sup>2</sup> LCP Update Guideline. Section 4. Environmentally Sensitive Habitats and Other Natural Resources. July 31, 2013.

<sup>3</sup> Ford, L.D. and G.F. Hayes. 2007. Northern Coastal Scrub and Coastal Prairie. In M.G. Barbour, T. Keeler-Wolf, and A.A. Schoenherr (eds). Terrestrial Vegetation of California. Third Edition. University of California Press. Berkeley, CA.

states that few areas of remaining coastal prairie contain greater than 15% relative cover of all native perennial grasses.

A number of native plants observed during the vegetation studies conducted on the Bordessa Ranch are included on published lists of plant species observed in coastal prairie habitat, including California oatgrass (*Danthonia californica*), purple needlegrass (*Stipa pulcher*), Douglas' iris (*Iris douglasiana*), blue-eyed grass (*Sisyrinchium bellum*), sessileflower false goldenaster (*Heterotheca sessiliflora* ssp. *bolanderi*), dwarf brodiaea (*Brodiaea terrestris*), western dog violet (*Viola adunca*) and several other native species, and a number of non-native species (see Ford and Hayes 2007 for published plant species lists for coastal prairie).

The presence of these species does not necessarily mean that coastal prairie habitat is present at the Bordessa Ranch, but because coastal prairie is considered an ESHA an analysis addressing the presence or absence of coastal prairie should be included in the DEIR.

As discussed herein, the DEIR fails to adequately analyze and mitigate for significant impacts related to operation (public use) and maintenance of the Project.

**Mitigation Measure BIO-1 Worker Environmental Awareness Training.** This mitigation measure is a standard mitigation measure and can be an effective measure to reduce impacts to sensitive species. This measure, however, should be expanded to include maintenance activities as those making repairs to the trail may not be the same people responsible for constructing the trail. Depending on the extent and nature of repair activities, pre-construction surveys should be required should the repairs occur when sensitive biological resources, such as ground-nesting birds, may be present in the vicinity of the trail.

**Mitigation Measure BIO-2 Trail Alignment Fencing and Interpretive Signage.** This mitigation measure relies entirely on visitors reading and following the directives designed to minimize impacts to sensitive resources. What are the safeguards to minimize off-trail venturing (informal or social trails) or walking dogs along the trail, or picking up the little frog or turtle found along the trail? There is no evidence cited to support the conclusion that this measure by itself, especially the reliance on signage, will be sufficient to ensure that impacts to sensitive species would be reduced to less than significant.

This mitigation measure should also be expanded to include seasonal surveys along the trail corridor for possible occurrence of ground-nesting birds, nesting raptors, possible nesting burrowing owls, migrating California red-legged frogs, western pond turtles or other sensitive wildlife species, including other sensitive species that may not have been observed during the technical surveys that have been conducted at the property but that may occupy the property in the future. Closing segments of the trail should sensitive wildlife occur in close proximity and potentially impacted by human presence should be an operational parameter since the purpose of the Conservation Easement recorded over

the Bordessa Ranch is to “ . . . *preserve and protect the conservation values of the property.*”

***Mitigation Measure BIO-5 Burrowing Owl.*** This mitigation measure, and Mitigation Measures Bio-6 and BIO-7 as currently proposed ignore operational impacts that could occur during maintenance and use of the trail system. This mitigation measure should be expanded to include surveys prior to trail maintenance activities that would occur during the nesting season, especially those maintenance activities that would require reconstruction of segments of the trail, and at the beginning of the breeding season to identify any burrowing owl nesting within 100 feet of the trail, and periodically during the breeding season. If breeding is documented during the initial burrowing owl breeding surveys, and if burrowing owl nesting is confirmed the section of the trail within 100 feet of the nesting owl should be closed to hikers until the nest is abandoned or fledglings have left the nest.

***Mitigation Measure BIO-6 Native Nesting Birds.*** As with Mitigation Measure BIO-5, this mitigation measure should be implemented each season to identify possible bird nesting within 50 feet of the trail. If breeding is documented during the initial nesting bird surveys the section of the trail within 50 feet of the nesting birds should be closed to hikers until the nest is abandoned or fledglings have left the nest.

***Mitigation Measure BIO-7 Short-eared owl, Northern Harrier, White-tailed kite, Yellow Warbler, Bryant’s savannah sparrow, Grasshopper sparrow, Saltmarsh yellow-throat.*** As with Mitigation Measure BIO-5, this mitigation measure should be implemented each season to identify possible bird nesting within 50 feet of the trail, especially migratory songbirds designated by CDFW as species of special concern that may be nesting in the vicinity of the trail, such as the grasshopper sparrow and Bryant’s savannah sparrow. Surveying for species of special concern is important because of the expanded definition of an ESHA which will include species of special concern as designated by the CDFW. If breeding is documented during the initial nesting bird surveys the section of the trail within 50 feet of the nesting birds should be closed to hikers until the nest is abandoned or fledglings have left the nest.

***3.4-2: The proposed project could have a substantial adverse effect on riparian habitat and other sensitive natural communities identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service. This is considered a potentially significant impact.*** The discussion of potential impacts associated with the Estero access trail (East Trail) fails to adequately address possible impact to the tidal flats and the pickleweed plant community present on the tidal flats.

The intertidal marsh habitat along the Estero Americano shoreline is dominated by pickleweed (*Salicornia pacifica*), a perennial salt marsh plant. In a study of the impacts of human perturbations (e.g., trampling) on pickleweed in salt marsh habitat in Elkhorn

Slough in the Monterey Bay area, Martone and Wasson (2008)<sup>4</sup> found that perturbations, such as trampling, that reduce biotic resistance interact with perturbations that alter abiotic conditions (e.g., reduced tidal flushing) to promote invasion of disturbed area by non-native invasive plants. Walking through the pickleweed or laying down mats to allow access to the water in the Estero could “trample” the pickleweed, allowing non-native plants to invade and this effect could be long lasting due to the periodic reduction/elimination of tidal action in the Estero. The discussion of impacts of the Estero trail should address this potential impact and identify potential mitigation measures to prevent or offset impacts to pickleweed habitat along the Estero.

**Mitigation Measure BIO-12 Arroyo Willow Riparian Habitat, Slough Sedge Sward, Purple Needlegrass, and Pickleweed Communities.** Item 3 of this mitigation measure states the following: “*If removal or disturbance of any of these plant communities would occur, a qualified botanist shall prepare a propagation and planting plan to offset the loss of any vegetation/plants to be removed or disturbed.*” It goes on to state: “*Propagation and planting outside of the trail corridor(s) shall occur on a 1:1 basis to ensure no net loss of these sensitive natural communities.*” It is my understanding that the trail easement only covers the trail corridors and that planting outside the trail corridor would not be permitted without approval of the landowner. If that is the case and planting has to occur outside the Bordessa Ranch, then the local loss to the impacted native plant community, especially purple needlegrass, would remain significant as the local loss of the affected community would reduce the extent of the affected plant community along the trail corridor. Any offsite planting should, therefore, be at a higher ratio than 1:1.

Because of the size of the trail corridor and likely small area of these native plants (e.g., purple needlegrass) that would be impacted by the corridor, a 1:1 mitigation ratio based on area may not be sufficiently large enough to ameliorate potential edge effects that could compromise the long-term success of the planted mitigation site, especially if the mitigation site is isolated from similar plant communities. Planting within the trail corridor would have the same issue unless there is a large area of the impacted plant community on both sides of the trail corridor.

Item 4 of BIO-12 states that the County Regional Parks Department in coordination with a qualified biologist would designate the final installation/placement of the Estero access trail (East Trail). The location of the trail across the tidal flats in the Estero should also be approved by the Greater Farallones National Marine Sanctuary (Sanctuary) as the tidal flats occur within the boundary of the Sanctuary.

**Mitigation Measure BIO-13 Wetlands.** The last sentence of the discussion of mitigation measures for impacts to state or federally protected wetlands states, in part that “ . . . *and by ensuring that visitors to the site are restricted to the established trails potentially significant impacts to wetland and non-wetland waters of the U.S. would be reduced to a*

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<sup>4</sup> Martone, R.G. and K. Wasson. 2008. Impacts and interactions of multiple human perturbations in a California salt marsh. *Oecologia*, online version (DOI 10.1007/s00442-008-1129-4).

*less-than-significant level.*” Apparently, item 3 of the proposed Mitigation Measure BIO-13, specifically the reference to BIO-2, is meant to ensure that visitors do not venture off the trail. BIO-2 is a key to the other biological mitigation measures, but is only a passive activity relying to the users of the trail to read the restrictions but there is no active program that would **ensure** that users of the trail would not venture off the trail to, say, pursue a frog, photograph flowers, explore nearby areas, etc.

The proposed mitigation measures do not appear to address impacts to wetlands along the trail outside the drainage crossings (see first sentence of item 2 under BIO-13). There seems to be an unsupported assumption that the trail can be constructed to avoid all of the wetlands outside the drainage crossings, which may not be the case. Further, item 2 would require preparation of the mitigation and monitoring plan and that this plan would have to be approved by the County, District and the U.S. Army Corps of Engineers. What about approvals by the Regional Board since waters requiring a permit from the U.S. Army Corps of Engineers would most likely require authorization by the Regional Board pursuant to section 401 of the Clean Water Act and, as such, the Regional Board would also need to approve any such mitigation and monitoring plan. Since these areas may also be considered ESHAs, especially the meadows and crossing to the north end of the main north-south drainage across the Project site, the Coastal Commission would also need to approve any mitigation and monitoring plan affecting wetlands or any other ESHA.

Because of the possible limitations for implementing mitigation outside the trail corridors and the limited area within the trail corridors to provide adequate area for mitigation, the discussion of mitigation for impacts to wetlands should identify alternative means of mitigating for impacts to jurisdictional wetlands. Further, if mitigation needs to occur offsite, then the mitigation ratio would likely need to be greater than it would be if mitigation was to occur onsite.

### **Analysis of Alternatives (Chapter 5)**

An objective discussion of alternatives in Chapter 5 of the DEIR is compromised since the trail corridors and objectives for the trail system was established well before the full extent of the presence of sensitive biological resources present at the Bordessa Ranch was known. The reference to objectives in the discussion of alternatives to eliminate particular alternatives is somewhat forced given the *a priori* nature of the objectives.

The list of alternatives included elimination of the East Trail Alternative (Alternative 4) but does not include an alternative to eliminate the West Trail and the northern extension of the East Trail (West Trail Alternative). The West Trail Alternative would eliminate the need for the northern-most staging area and related access road to this staging area, avoid crossing of the northern end of the central drainage on the Project site, and avoid the multiple drainage crossings along the West Trail. A West Trail Alternative is a viable alternative that should have been evaluated in the DEIR.

Because of the extent of sensitive biological resources within and immediately adjacent to the proposed trail corridors that were not known at the time that the trail easement was established, consideration should be given to the possible modification of Project amendments to facilitate implementation of an environmentally superior alternative that protects the sensitive resources to the maximum extent practicable.

BORDESSA COMMENTS RE ESTERO TRAIL EASEMENT  
DRAFT ENVIRONMENTAL IMPACT REPORT  
**ATTACHMENT F**

From: Sue Gallagher <Sue.Gallagher@sonoma-county.org>  
Sent: Monday, October 26, 2015 8:08 PM  
To: Chris Mazzia  
Subject: Bordessa Ranch Resource Studies  
Attachments: Rare Plant-Wetland Habitat Assessment.pdf

Chris,

I am forwarding the two natural resource assessments conducted by PRMD in connection with the proposed trail easement designation on the Bordessa Ranch. I will be sending them in three parts, due to the size limits of our e-mail system. I presume that the Bordessas already have the 2012 bird survey prepared by Emily Heaton and the Bordessa Ranch Conservation Easement Baseline Document, which staff also relied upon in preparing the proposed alignments for the trail corridors and staging areas. If you do not have copies, please let me know and I will forward them.

As step one, attached here is the Rare Plant / Wetland Habitat Assessment. Two more e-mails will follow.

And I apologize for the delay in sending these – I intended that they would be sent this morning, but it's been a hectic day.

Thanks, Sue

Sue A. Gallagher  
Chief Deputy County Counsel  
575 Administration Drive, Rm. 105A  
Santa Rosa, CA 95403  
(707) 565-2421

=====**Confidentiality Statement**=====

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**BORD 004941**



**COUNTY OF SONOMA**  
**PERMIT AND RESOURCE MANAGEMENT DEPARTMENT**

2550 Ventura Avenue, Santa Rosa, CA 95403  
(707) 565-1900 FAX (707) 565-1103

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DATE: October 30, 2014  
TO: Rich Stabler, Sr. Environmental Specialist  
FROM: Crystal Acker, Environmental Specialist  
SUBJECT: Part 1. Rare Plant/Wetland Habitat Assessment-  
Estero Trail site

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The purpose of the following habitat assessment memo is to satisfy environmental review requirements of the California Environmental Quality Act (CEQA) for biological resources, specifically, potential habitat for rare plant species and/or potentially jurisdictional wetlands, which may be present in areas where ground disturbance may occur on the Estero Trail project site. The project site is also located within the jurisdiction of the Local Coastal Plan (LCP), which, in some cases, calls for more stringent protection requirements than would otherwise be warranted under CEQA. Potential impacts under the LCP were also evaluated.

The determinations included in this memo are based on a review of previous studies conducted on/near the project site, a review of current endangered species databases, and site visits conducted on April 15 and June 23, 2014.

**PROJECT DESCRIPTION SUMMARY**

The proposed project will select a general location (a 50-foot buffered area) for two public access trails over a portion of the 495-acre Bordessa property. The trail easement will be 50-foot wide and not more than 5-miles in length. The trails will be constructed for pedestrian use and hand-carried non-motorized boats, kayaks and canoes. The trails are anticipated to be 5-foot wide compacted native material or other permeable surface including rock wet crossings within the easement. Trail marker posts and benches would be placed along the trails. The existing main access road and gate or improved replacements, are expected to remain in similar locations. Two staging areas would be added to accommodate parking for trail users, together not to exceed 1.5 acres in size. Each staging area will be suitable for use by pedestrians, bicyclists and motor vehicles. Staging areas may include one or more of the following: restroom facilities, accessible parking, bicycle parking, picnic tables, benches, trash & recycle containers, and operations signage.

Likely improvements would consist of entry road improvements and road extension to provide operations, maintenance, emergency vehicle access, and public access to the southern staging area.

#### SITE ASSESSMENT METHODOLOGY

Two site visits were conducted by County staff, on April 15 and June 23, 2014. The April visit focused on the "East Trail" preliminary alignment, while the June visit focused on the "West Trail" preliminary alignment. Specific areas were visited on both dates (e.g., flatlands along the access road, barn and the Estero Americano frontage). The proposed preliminary trail alignments and surrounding area (about 100 feet on either side) were traversed on foot. Observations of existing site conditions (e.g., vegetation, soil type, topography, disturbance) were documented.

Prior to conducting the site visit, previous studies were reviewed<sup>1</sup> and a review of occurrence records maintained by the California Department of Fish and Wildlife (CDFW) and California Native Plant Society (CNPS), as published in the CDFW's California Natural Diversity Database (CNDDDB) and CNPS Electronic Inventory of Rare and Endangered Plants was conducted within a five mile radius of the site. All CNPS Inventory species listed as occurring in the Bodega Head and Valley Ford USGS 7.5 minute Quads were also included.

#### SITE DESCRIPTION

The Estero Trail site is located west of Valley Ford on the Bordessa Ranch, bordered by Highway 1 on the north and the Estero Americano on its south in unincorporated Sonoma County. Site elevations range from sea level at the Estero to about 400 feet at the highest knoll on the northwestern corner.

On-site and adjacent land uses are rural agricultural, primarily livestock grazing. Existing structural development includes a barn and shed/outbuilding, but the site is primarily undeveloped. General habitat types/features present on the property include rolling to steeply sloped hillsides vegetated by annual grassland, rocky outcrops, upland seeps, a few developed springs and ponds, Estero marshland, an unnamed perennial creek running north-south through the approximate center of the property, and several smaller drainages that support riparian vegetation.

The property can be split into five survey areas:

- The Western Hill
  - West of the access road, north of Forever Wild area
  - Includes most of the West Trail preliminary alignment

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<sup>1</sup> Bordessa Ranch Conservation Easement Baseline Documentation. May 2012. Rob Evans, Evans & Associates.  
Estero Americano Preserve Herbarium Book. January 2011. Sonoma Land Trust.  
DRAFT Estero Americano Preserve Grassland Monitoring Plan. January 2009. Caroline E. Christian.  
Estero Americano Preserve Resource Management Plan. December 2007. Sonoma Land Trust.

- The Access Road and Flat Lands
  - Along the existing access road and around the barn between the western hill/Forever Wild area and the creek corridor
  - Includes the access road, proposed parking/staging areas, and Estero access portion of the East Trail preliminary alignment
- The Eastern Hills
  - East of the creek corridor
  - Includes large portions the East Trail preliminary alignment
- The Perennial Creek Channel/Central Riparian Corridor
  - Includes one existing and one proposed trail crossing
- The Estero Americano Frontage/Marshland
  - Includes potential portage area for canoes and kayaks

Each of these survey areas is described below. A list of all identifiable plant species observed is provided in Table 1. Note that it is not intended to be a complete flora. Additional species not observed are likely to be present.

#### Western Hill

Soils in this area are mapped by USDA as Steinbeck loam:

- SnD – Steinbeck loam, 9 – 15% slopes
- SnD2 – Steinbeck loam, 9 – 15% slopes, eroded
- SnF2 – Steinbeck loam, 30 – 50% slopes, eroded

The Steinbeck soil series consists of moderately well-drained loams that have a clay loam subsoil, underlain by weakly to moderately consolidated sandstone and shale at a depth of 20 inches to more than 60 inches. They are found on dissected marine terraces. When undisturbed, these soils support mainly annual and perennial grassland with scattered shrubs and oaks. They are used primarily for pastureland and production of grain and hay crops. These soils lack special components (e.g., serpentine, volcanic) that might be particularly suited to support rare plants. These soils are sometimes hydric, when located on upland slopes with seeping groundwater (SnC, SnD, SnD2).

The dominant plant community on the western hill was annual grassland. The most commonly observed species were: velvetgrass (*Holcus lanatus*), rattlesnake grass (*Briza maxima*), little quaking grass (*Briza minor*), hedgehog dogtail grass (*Cynosurus echinatus*), slender wild oats (*Avena barbata*), bull thistle (*Cirsium vulgare*), Italian thistle (*Carduus pycnocephalus*), birdsfoot trefoil (*Lotus corniculatus*), cat's ears (*Hypochaeris glabra*; *H. radicata*), yellow glandweed (*Parentucellia viscosa*), pale flax (*Linum bienne*), sheep sorrel (*Rumex acetosella*), catchfly (*Silene gallica*), yarrow (*Achillea millefolium*), dwarf brodiaea (*Brodiaea terrestris*), California poppy (*Eschscholzia californica*), pale yellow hayfield tarweed (*Hemizonia congesta* ssp. *cangesta*), geraniums (*Geranium dissectum*; *G. molle*), annual lupine (*Lupinus bicolor*), prickly sow thistle (*Sonchus asper*), rough pea (*Lathyrus hirsutus*), narrow leaved plantain (*Plantago lanceolata*), blue-eyed grass (*Sisyrinchium bellum*), western bracken fern (*Pteridium aquilinum*),

soap plant (*Chlorogalum pomeridianum*), toad rush (*Juncus bufonius*), and patches other juncus species (*Juncus occidentalis*, *J. effuses*, *J. patens*). Scattered shrubs were present mostly on the upper slopes, including gorse (*Ulex europaeus*), sweet-briar rose (*Rosa rubiginosa*) and coyote bush (*Baccharis pilularis*). A small patch of native purple needlegrass (*Stipa pulchra*) was also observed on the eastern side slope.

Most of the dominant plant species, and nearly all of the grasses, were non-native, many of them listed as invasive by the California Invasive Plant Council (Table 1). However, some native species were also observed, notably purple needlegrass and pale yellow hayfield tarweed, which is a special status subspecies (California Rare Plant Rank 1B).

Two intermittent drainage channels were present running west-east down the eastern slope of the Western Hill survey area. The West Trail preliminary alignment crosses each of these near the bottom, where vegetation is minimal. Both channels were nearly dry during the June site visit, with a few patches of moist, but not saturated, soils.

The northerly drainage contained patches of wetland vegetation, including pennyroyal (*Mentha pulegium*), coyote thistles (*Eryngium aristulatum*; *E. armatum*), sedges/juncus, docks (mostly *Rumex pulcher*; few *R. crispus*) cow clover (*Trifolium wormskioldii*), hyssop loosestrife (*Lythrum hyssopifolia*), velvetgrass (*Holcus lanatus*), and a few willows (*Salix* sp.) near the bottom, progressing to mostly gorse and coyote bush moving upslope. An off-channel pond with a fringe of cattails (*Typha* sp.) and sedges was present above this drainage. The pond will not be impacted by the proposed trail.

The southerly drainage was mostly canopied by Tasmanium bluegum (*Eucalyptus globus*), with a few other trees/shrubs including Douglas fir (*Pseudotsuga menziesii*), California blackberry (*Rubus ursinus*), California wax myrtle (*Morella californica*), hawthorn (*Crataegus douglasii*), and poison oak (*Toxicodendron diversilobum*). This channel contained fewer patches of wetland vegetation, and had more bare, eroded surfaces, especially near the bottom, where the proposed trail will cross.

The Western Hill survey area contained numerous pockets of seeping groundwater in upland areas without depressions. None of these contained surface water in June, but all were moister than the surrounding grassland (either a bit muddy, or evidence of having been muddy, i.e., hoofprints). These upland seeps supported a mix of both hydrophytic and upland plants, including slough sedge (*Carex obnupta*) poison hemlock (*Conium maculatum*), bull thistle, field bindweed (*Convolvulus arvensis*), pale flax, cat's ears, velvetgrass, and various upland grasses which were also present in surrounding hills.

#### Access Road Flat Lands

Soils in this area are mapped by USDA as:

- Steinbeck loam (SnC), 2 – 9% slopes (from N property boundary to just S of the barn)
- Blucher fine sandy loam (BcA), overwash, 0 – 2% slopes (S of barn to Estero)

The Steinbeck soil series consists of moderately well-drained loams that have a clay loam subsoil, underlain by weakly to moderately consolidated sandstone and shale at a depth of 20 inches to more than 60 inches. They are found on dissected marine terraces. When undisturbed, these soils support mainly annual and perennial grassland with scattered shrubs

and oaks. They are used primarily for pastureland and production of grain and hay crops. These soils lack special components (e.g., serpentine, volcanic) that might be particularly suited to support rare plants. These soils are sometimes hydric, when located on upland slopes with seeping groundwater (SnC, SnD, SnD2).

The Blucher soil series consists of somewhat poorly drained loam, underlain by mixed sedimentary alluvium of stratified silt and clay (BcA also has a surface overwash of fine sandy loam). These soils are found in basins along stream bottoms and on alluvial fans. Where undisturbed, these soils support mostly annual and perennial grassland, with patches of sedges and wild berry vines. Many areas have been cleared and cultivated for dry or irrigated pasture and some row crops. These soils lack special components (e.g., serpentine, volcanic) that might be particularly suited to support rare plants. These soils are sometimes hydric, when located in drainageways (BcA).

Vegetation in the Flat Lands was annual grassland, similar to that of the Western Hills, but contained a higher percentage of non-native and invasive weeds, and had larger concentrations of wetland seep/wet meadow. The most commonly observed species were: Harding grass (*Phalaris aquatica*), slender wild oats, little quaking grass, velvetgrass, bull thistle, Italian thistle, redstem filaree (*Erodium cicutarium*), longbeak stork's bill (*Erodium botrys*), pineapple weed (*Matricaria discoidea*), dovefoot geranium (*Geranium molle*), shining peppergrass (*Lepidium nitidum*), scarlet pimpernel (*Anagallis arvensis*), narrow leaved plantain (*Plantago lanceolata*), field bindweed, sheep sorrel, prickly sow thistle, fiddle dock (*Rumex pulcher*), black medic (*Medicago lupulina*), spotted medic (*Medicago arabica*), California burclover (*Medicago polymorpha*), henbit (*Lamium purpureum*), shamrock clover (*Trifolium dubium*), California buttercup (*Ranunculus californicus*), and black mustard (*Brassica nigra*).

Wet meadow/seep areas usually contained a combination of hydrophytic and upland plants, including velvetgrass, poison hemlock, spreading rush (*Juncus patens*), soft rush (*Juncus effusus*), fiddle dock, henbit, spinyfruit buttercup (*Ranunculus muricatus*), and sometimes pennyroyal. Hydrology during the April site visit varied from very shallow surface water (<1 inch) to just saturated, to evidence that saturation had been present (hoof prints in dried/drying mud). By June, only moist soils with evidence of saturation were observed.

There were several patches of a large unidentified sedge (2-3 ft tall) near the top of the creek bank to the east of the access road. None appear to be within the proposed trail alignment.

### Eastern Hills

Soils in this area are mapped by USDA as:

- Steinbeck loam (SnE2) – Steinbeck loam, 9 – 15% slopes, eroded
- Kneeland sandy loam, sandy variant (KsD), 2 – 15% slopes
- Los Osos clay loam, thin solum (LsF2), 30 – 50% slopes, eroded

The Steinbeck soil series consists of moderately well-drained loams that have a clay loam subsoil, underlain by weakly to moderately consolidated sandstone and shale at a depth of 20 inches to more than 60 inches. They are found on dissected marine terraces. When undisturbed, these soils support mainly annual and perennial grassland with scattered shrubs and oaks. They are used primarily for pastureland and production of grain and hay crops. These soils lack special components (e.g., serpentine, volcanic) that might be particularly suited to

support rare plants. These soils are sometimes hydric, when located on upland slopes with seeping groundwater (SnC, SnD, SnD2).

The Kneeland soil series consists of well-drained loams that have a clay loam subsoil, underlain by medium-grained, hard sandstone at a depth of 25 to 45 inches. These are upland soils, typically found near the Pacific Ocean (KsD is located on the tops of marine terraces). When undisturbed, these soils support annual and perennial grassland and scattered shrubs, and are typically used for pastureland. These soils lack special components (e.g., serpentine, volcanic) that might be particularly suited to support rare plants. None of the Kneeland soils are listed as hydric.

The Los Osos soil series consists of well-drained clay loams that have a clay subsoil, underlain by weathered, fractured sandstone and shale at a depth of 15 to 50 inches (LsF2 is 15 – 22 inches). These are soils found on rolling hills and mountainous uplands. In most places, these soils support annual and perennial grasslands with scattered oaks; particularly steep slopes may include other small shrubs or hardwoods. They are used primarily for pastureland and production of hay. These soils lack special components (e.g., serpentine, volcanic) that might be particularly suited to support rare plants. None of the Los Osos soils are listed as hydric.

The Eastern Hills are also vegetated by annual grassland, but appeared to be a bit less disturbed, and less weedy than the Western Hill and Flat Lands survey areas. The most commonly observed species were: velvetgrass, rattlesnake grass, little quaking grass, slender wild oats, sweet-briar rose, coyote bush, bull thistle, Douglas iris (*Iris douglasiana*), annual lupine, blue-eyed grass, birdsfoot trefoil, sun cups (*Taraxia ovata*), California buttercup, cat's ear, soap plant, narrow leaved plantain, milk maids (*Cardamine californica*), footsteps of spring (*Sanicula arctopoides*), purple sanicle (*Sanicula bipinnatifida*), johnny jump up (*Viola pedunculata*), and narrowleaf mule's ears (*Wyethia angustifolia*).

There was a small patch of native early blue violet (*Viola adunca*) near some rocky outcrop/eroded soil areas on the upper southwestern slope of the northeasterly knoll. The violet has no special status, itself, but it is a host plant for the endangered Myrtle's silverspot butterfly (*Speyeria zerene myrtleae*), and as such, should be protected from impact.

Several small patches of native California goldfields (*Lasthenia californica* ssp. *californica*) were present in shallow soils near rocky outcrops along the top of the eastern creek bank just upstream and downstream of the existing bridge. California goldfields have no special status, but this is a unique habitat type that should be protected from impact.

Wetland swales and upland seeps running down the western hillside of the northeasterly knoll were frequent. Wet features were less frequent, but still present, on the southeasterly knoll. The ground was saturated or near saturated in most wetland areas in April. Shallow surface water (up to an inch) was observed in only a few places. Although some upland plants common to the surrounding grassland were present in many of these seeps, they were more dominantly vegetated by hydrophytic plants than any of the wet features west of the creek channel. Seep/swale plants observed in the Eastern Hills survey area included: brown-headed rush (*Juncus phaeocephalus*), soft rush (*Juncus effusus*), western rush (*Juncus occidentalis*), sedge (*Carex* sp.), spinyfruit buttercup, pennyroyal, California mugwort (*Artemisia douglasiana*), and velvetgrass.

There is a sort of bowl-shaped depression near the east bank of the creek channel in the estimated location of the proposed East Trail upper creek crossing. The bowl may have been used as a borrow site in the past, or may have naturally thin soils. It was mostly unvegetated in April, but contained dense algal matting (mostly dried up), indicating that surface water had been present earlier in the spring. An unidentified grass, hyssop loosestrife, and little mouse tail (*Myosurus minimus*) also had patchy cover in the bowl.

#### Creek Channel/Central Riparian Corridor

The Estero Trail project easement will not impact the creek corridor, except at proposed crossings. Only these crossings were assessed for rare plants and wetlands.

The existing bridge, just east of the barn, is located in an area without much tree canopy. Only minor impacts to the riparian corridor are expected to occur there, depending on what improvements are ultimately conducted on the bridge. There is an assumed dead tree present on the northeast corner that may need to be removed or trimmed back. The banks were weedy and steep, and no adjacent wetland terraces were present. In-channel emergent vegetation was sparse, but included longleaf pondweed (*Potamogeton nodosus*) and juncus (*Juncus* sp.).

The location of the upstream preliminary trail crossing could not be definitively located in the field, but it appears that the general area has steep high banks, with dense vegetation. The least impactful crossing in such an area would be a bridge. Construction of an armored crossing would require a significant amount of bank cut and vegetation removal.

There is an existing low water crossing near Highway 1 at the northern upstream end of the creek channel. The banks in this area are already low and relatively clear of vegetation. It appears that only minimal willow pruning and bank cutting would be required to install a rock crossing at this location. However, this area is not located within the currently proposed trail easement.

#### Estero Americano Frontage

A rock outcrop just above the marsh plain contained a small patch of coyote mint (*Monardella villosa*) and California sandaster (*Corethrogyne filaginifolia*), both native species.

The marsh below was vegetated primarily by pickleweed (*Salicornia pacifica*), but also contained alkali heath (*Frankenia salina*), saltgrass (*Distichlis spicata*), brass buttons (*Cotula coronopifolia*), fat hen (*Atriplex prostrata*), and annual rabbitfoot grass (*Polypogon monspeliensis*).

There was also a lot of exposed mudflat/bare sand. It appears that during the drier portion of the year, the marsh is not inundated by daily tides. The surface was dry and consolidated, easy to walk across in both April and June. It does apparently go under water in the winter months (as seen in aerial photos).

## FINDINGS/DISCUSSION

### Potential for Rare Plants to Occur Within the Easement Area

#### Plants With Low Or No Potential For Presence

A total of 40 plant species were identified within the region as a result of the database search (Table 2). Some of these plants are not expected to occur within the trail easement area, because their primary habitat requirements are lacking (i.e., no fully inundated tidal marsh, freshwater marsh, dunes, chaparral, etc.), and/or the project is far from their known or expected range within the region.

Thirteen (13) species were determined to be Not Present, due to a complete lack of suitable habitat within the proposed easement area and/or non-observation during surveys (woody shrubs only).

Six (6) species were determined to be Unlikely to be present due to highly unsuitable habitat, (i.e., tidal marsh species- Estero marshland is not fully tidal; dune/sand species that can also be found in coastal grassland, but rarely are).

There are eighteen (18) species which are sometimes or always associated with grassland habitats. None of these were observed during April or June surveys; however, each has a Low Potential for presence within the Estero Trail easement. None of these were determined to have Moderate Potential or higher due to the poor quality of the on-site habitat and lack of sightings in the vicinity. The grassland habitat is not suitable to support most rare plants for several reasons: 1) the grassland has a high percentage of cover by disturbance- and/or drought-tolerant invasive plants, which easily outcompete rare plants in most environmental conditions; 2) the grassland is dominated by non-native annual grasses, which die off each season and leave a large amount of dead biomass (thatch) behind. Thatch can form a barrier to sunlight and seed/soil contact, inhibiting growth of native plants, and can alter the nutrient cycles that native plants depend on; 3) current/historic land management practices. Managed livestock grazing can be beneficial for rare plant populations if conducted in a way that decreases thatch and protects against trampling, erosion, and maintains water quality. Thatch appeared to be more built-up in the Western Hill survey area and Flat Lands than the Eastern Hills. However, erosion and evidence of trampling were observed in all survey areas; 4) large stands of invasive shrubs – such as sweet-briar rose and gorse- can also outcompete native plants by shading them out.

There is an historic occurrence (from 1940) of showy rancheria clover (*Trifolium amoenum*, FE, CRPR 1B) mapped along the Highway 1 property frontage, which is assumed to be extirpated. It was not observed on-site during April or June surveys. Presence is Unlikely.

#### Plants Likely To Be Present Or Observed

The harlequin lotus (*Hasackia gracilis*, CRPR 4) has been seen in similar grazed non-native grassland habitat on the Sonoma Land Trust Estero Americano Preserve. It was not observed on the Bordessa site during April or June surveys. However, it has Moderate Potential for presence.

The pale yellow hayfield tarplant (CRPR 1B) was observed on-site during the June survey (Western Hill, Eastern Hills, Flat lands), and therefore, is Present.

In addition, a patch of early blue violet was observed in the Eastern Hills survey area. The violet, itself, has no special status, but it is a host plant for the endangered Myrtle's silverspot butterfly, and therefore, is a significant resource.

## Potential for Wetlands and Other Waters to Occur Within the Easement Area

### Regulatory Framework

The Army Corps Of Engineers (ACOE) regulates "Waters of the United States", including adjacent wetlands, under Section 404 of the federal Clean Water Act. Waters of the United States include navigable waters, interstate waters, territorial seas and other waters that may be used in interstate or foreign commerce. Potential wetland areas are identified by the presence of (1) hydrophytic vegetation, (2) hydric soils, and (3) wetland hydrology. All three parameters must be present, under normal circumstances, for an area to be designated as a jurisdictional wetland under the Clean Water Act. Areas that are inundated for sufficient duration and depth to exclude growth of hydrophytic vegetation are subject to Section 404 jurisdiction as "other waters" and are often characterized by an ordinary high water mark (OHWM). The discharge of dredged or fill material into a Waters of the U.S. (including wetlands) generally requires a permit from the ACOE under Section 404 of the Clean Water Act.

"Waters of the State" are regulated by the Regional Water Quality Control Board (RWQCB) under Section 401 of the federal Clean Water Act and the state Porter-Cologne Water Quality Control Act. Waters of the State are defined by the Porter-Cologne Act as any surface water or groundwater, including saline waters, within the boundaries of the state. RWQCB jurisdiction includes "isolated" wetlands and waters that may not be regulated by the ACOE under Section 404 (such as roadside ditches). Section 401 of the Clean Water Act specifies that any activity subject to a permit issued by a federal agency must also obtain State Water Quality Certification (401 Certification) that the proposed activity will comply with state water quality standards. If a proposed project does not require a federal permit, but does involve dredge or fill activities that may result in a discharge to Waters of the State, the RWQCB has the option to regulate the dredge and fill activities under its state authority through its Waste Discharge Requirements (WDR) program.

The Sonoma County Local Coastal Plan defines wetlands as: "Areas where the water table is at, near, or above the land surface long enough to bring about the formation of hydric soils or to support the growth of plants which normally are found to grow in water or wet ground. Wetlands are here defined to include marshes, ponds, seeps, and reservoirs."

The California Coastal Commission (CCC) Administrative Regulations [Section 13577 (b)] provide a more explicit definition: "Wetlands are lands where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent or drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salt or other substance in the substrate. Such wetlands can be recognized by the presence of surface water or saturated substrate at some time during each year and their location within, or adjacent to, vegetated wetlands or deepwater habitats." Therefore, in effect, the CCC requires the observation of only one diagnostic feature of a wetland - wetland hydrology, dominance of wetland vegetation (hydrophytes), or presence of hydric soils - as a basis for asserting jurisdiction under the Coastal Act.

The CCC has a “no net loss” policy for wetlands. However, wetland impacts can be approved (after all feasible avoidance, minimization, and mitigation measures are implemented) when associated with an improvement to public access under California Coastal Act Section 30001.5: “The legislature further finds and declares that the basic goals of the state for the coastal zone are to: . . . (c) Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principles and constitutionally protected rights of private property owners.”

The proposed Estero Trail would meet the CCC basic goal of maximizing public access to coastal areas.

#### Potentially Jurisdictional Wetlands Observed Within the Easement Area

Seasonal wet meadows and upland seeps are present within the proposed trail easement, within both the West Trail and East Trail preliminary alignments. Many such features were observed in the Western Hill, Eastern Hills and Flat Lands survey areas, and at least some of these will have to be traversed by the trail alignment (i.e., they can’t all be avoided).

In addition to the more obvious wetlands where evidence of hydrology was observed (e.g., surface water, saturated soils, hoofprints, algal matting, drainage patterns), there are seemingly random patches of hydrophytic vegetation in areas without any apparent hydrology indicators. Soil pits were not examined during the field surveys; however, most of the soil types mapped on-site can contain hydric inclusions, meaning, they are likely to meet hydric soil criteria.

A formal wetland delineation, using both the ACOE 3-parameter procedure and the CCC 1-parameter procedure will need to be conducted within the trail easement alignment to determine the full extent of existing wetlands under both jurisdictions prior to alignment of the trails themselves.

It is possible that a large percentage of the grassland habitat within the trail easement will meet the CCC’s 1-parameter wetland definition, due to the presence of Facultative<sup>2</sup> grasses and herbs throughout most of the grassland, such as little quaking grass, six-week fescue, velvet grass, Kentucky bluegrass, shining peppergrass, birdsfoot trefoil, black medic, yellow glandweed, narrow leaved plantain, curly dock and fiddle dock. A site visit with CCC staff may be helpful to determine final jurisdictional boundaries of seasonal wetlands (upland seeps and wet meadows).

Some or all of these 1-parameter areas may be exempted from regulation by the ACOE.

If the trail is extended out into the Estero marshland, impacts to coastal salt marsh wetland could also occur. Coastal salt marsh would be regulated by both the CCC and ACOE.

#### Potentially Jurisdictional Other Waters Observed Within the Easement Area

Two defined intermittent drainage channels are present within the Western Hill survey area. Currently, the project proposes to construct armored crossings across both of these, which

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<sup>2</sup> Lichvar, R.W., M. Butterwick, N.C. Melvin, and W.N. Kirchner. 2014. State of California 2014 Wetland Plant List. Excerpted from *The National Wetland Plant List: 2014 update of wetland ratings*. Phytoneuron 2014-41: 1-42. [http://wetland\\_plants.usace.army.mil/](http://wetland_plants.usace.army.mil/)

FAC=Facultative - Occurs in wetlands and non-wetlands

would likely be considered fill in a jurisdictional area under both ACOE and CCC criteria. Locating the crossings towards the bottom of the slope where vegetation is sparse would limit impacts to riparian/hydrophytic vegetation.

In addition, the central creek channel/riparian corridor has one existing bridge that will be improved by the trail project, and one newly proposed crossing to be constructed. Both of these project actions would likely have some level of impact to jurisdictional areas. The exact location of the new crossing was not identified during field surveys, but it appears that the general vicinity would require a substantial amount of slope cut and vegetation removal to construct a low water armored crossing. If feasible, a clear-span bridge may be a superior alternative to limit impacts to stream channel and riparian resources. Other than these crossings, the preliminary trail alignment would not impact the creek corridor.

## **FINDINGS SUMMARY**

### **Rare Plants**

- One rare plant, pale yellow hayfield tarplant (CRPR 1B), is present within the proposed trail easement and likely will be present within the trail alignment, itself. The tarplant is an annual species, which can seed into new areas each growing season. It was observed scattered throughout the Western Hill, Eastern Hills, and Flat Lands survey areas.
- Nineteen other species have a low (18) or moderate (1) potential to be present.
- Although not technically special status, several discrete patches of native plants were observed: purple needlegrass in Western Hill, early blue violet (Myrtle's silverspot host plant) and California goldfields in Eastern Hills.
- As long as construction impacts can be avoided/minimized, trail use is not expected to have an impact on rare plants and/or native plant communities.

### **Wetlands**

- Upland seep/wet meadow seasonal wetlands are present within the proposed preliminary trail easement and likely will be present within the trail alignment, itself. Potential seasonal wetlands were observed in the Western Hill, Eastern Hills, and Flat Lands survey areas.
- Coastal salt marsh is present along the Estero frontage.
- Trail construction could result in a physical loss of wetland acreage within the trail footprint. Compensatory mitigation would likely be required for any such loss of wetland acreage at a minimum of 1:1 and up to a 4:1 replacement ratio.
- Trail construction and use are not expected to result in a decrease in overall functional capacity. Trails will be constructed of permeable materials and in a manner that allows continuation of existing drainage patterns, and low intensity pedestrian use should have only negligible effects.

### Other Waters

- Two stream crossings are proposed (one improvement to an existing bridge and one new crossing), which could impact the main creek channel/riparian corridor. Potential impacts will depend upon the precise location and design of the crossing.
- Two additional crossings are proposed through intermittent drainage channels in the Western Hill survey area.

### REFERENCES/SOURCES

Baldwin, Bruce, Douglas Goldman, David Keil, Robert Patterson, Thomas Rosatti and Dieter Wilken (eds). 2012. *The Jepson Manual; Vascular Plants of California, Second Edition*. UC Press, Berkeley.

Best, Catherine, John Thomas Howell, Walter & Irja Knight, and Mary Wells. 1996. *A Flora of Sonoma County*. California Native Plant Society.

California Coastal Commission. June 15, 1994. *Procedural Guidance for the Review of Wetland Projects in California's Coastal Zone*. <http://www.coastal.ca.gov/web/wetrev/wetttitle.html>

California Department of Fish & Wildlife (CDFW). California Natural Diversity Database - Rarefind 5. <http://www.dfg.ca.gov/biogeodata/cnddb/mapsanddata.asp> [accessed 14 April 2014].

California Invasive Plant Council (Cal-IPC). California Invasive Plant Online Inventory. <http://www.cal-ipc.org/paf/> [accessed 1 July 2014].

California Native Plant Society (CNPS), Rare Plant Program. Inventory of Rare and Endangered Plants (online edition, v8-02). California Native Plant Society, Sacramento, CA. Website <http://www.rareplants.cnps.org> [accessed 14 April 2014].

Christian, Caroline. January 2009. *DRAFT Estero Americano Preserve Grassland Monitoring Plan*. Prepared for the Gold Ridge Resource Conservation District and the Sonoma Land Trust.

Evans, Rob, Evans & Associates. May 2012. *Bordessa Ranch Conservation Easement Baseline Documentation*. Prepared for the Sonoma County Agricultural Preservation and Open Space District.

Lichvar, R.W., M. Butterwick, N.C. Melvin, and W.N. Kirchner. 2014. *State of California 2014 Wetland Plant List*. Excerpted from *The National Wetland Plant List: 2014 update of wetland ratings*. Phytoneuron 2014-41: 1-42. [http://wetland\\_plants.usace.army.mil/](http://wetland_plants.usace.army.mil/)

Regents of the University of California. The Jepson Online Interchange Project, University of California, Berkeley. <http://ucjeps.berkeley.edu/interchange/> [accessed 1 July 2014].

Sonoma Land Trust. January 2011. *Estero Americano Preserve Herbarium Book*.

Sonoma Land Trust, Bob Neale and Shanti Wright. December 2007. *Estero Americano Preserve Resource Management Plan*.

United States Army Corp of Engineers (USACOE). September 2008. *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region (Version 2.0)*. Technical Report ERDC/EL TR-08-28. Vicksburg, MS: U.S. Army Engineer Research and Development Center, Environmental Laboratory.

USACOE. August 2008. *A Field Guide to the Identification of the Ordinary High Water Mark (OHWM) in the Arid West Region of the Western United States*. R.W Lichvar and S.M. McColley. Technical Report ERDC/CRREL TR-08-12. Hanover, NH: U.S. Army Engineer Research and Development Center, Cold Regions Research and Engineering Laboratory.

USACOE. January 1987. *Corps of Engineers Wetlands Delineation Manual*. Technical Report Y-87-1. U.S. Army Engineer Waterways Experiment Station, Vicksburg, MS.

United States Department of Agriculture (USDA), National Resource Conservation Service, Sonoma County Field Office. 1992. *Official List of Hydric Soil Map Units for Sonoma County, California*.

USDA, Soil Conservation Service. 1972. *Soil Survey of Sonoma County, California*. 188 pp. plus Appendices. In cooperation with the University of California Agricultural Experiment Station.

### Other Waters

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### REFERENCES/SOURCES

Baldwin, Bruce, Douglas Goldman, David Keil, Robert Patterson, Thomas Rosatti and Dieter Wilken (eds). 2012. *The Jepson Manual; Vascular Plants of California, Second Edition*. UC Press, Berkeley.

Best, Catherine, John Thomas Howell, Walter & Irja Knight, and Mary Wells. 1996. *A Flora of Sonoma County*. California Native Plant Society.

California Coastal Commission. June 15, 1994. *Procedural Guidance for the Review of Wetland Projects in California's Coastal Zone*. <http://www.coastal.ca.gov/web/wetrev/wetttitle.html>

California Department of Fish & Wildlife (CDFW). California Natural Diversity Database - Rarefind 5. <http://www.dfg.ca.gov/biogeodata/cnddb/mapsanddata.asp> [accessed 14 April 2014].

California Invasive Plant Council (Cal-IPC). California Invasive Plant Online Inventory. <http://www.cal-ipc.org/paf/> [accessed 1 July 2014].

California Native Plant Society (CNPS), Rare Plant Program. Inventory of Rare and Endangered Plants (online edition, v8-02). California Native Plant Society, Sacramento, CA. Website <http://www.rareplants.cnps.org> [accessed 14 April 2014].

Christian, Caroline. January 2009. *DRAFT Estero Americano Preserve Grassland Monitoring Plan*. Prepared for the Gold Ridge Resource Conservation District and the Sonoma Land Trust.

Evans, Rob, Evans & Associates. May 2012. *Bordessa Ranch Conservation Easement Baseline Documentation*. Prepared for the Sonoma County Agricultural Preservation and Open Space District.

Lichvar, R.W., M. Butterwick, N.C. Melvin, and W.N. Kirchner. 2014. *State of California 2014 Wetland Plant List*. Excerpted from *The National Wetland Plant List: 2014 update of wetland ratings*. Phytoneuron 2014-41: 1-42. [http://wetland\\_plants.usace.army.mil/](http://wetland_plants.usace.army.mil/)

Regents of the University of California. The Jepson Online Interchange Project, University of California, Berkeley. <http://ucjeps.berkeley.edu/interchange/> [accessed 1 July 2014].

Sonoma Land Trust. January 2011. *Estero Americano Preserve Herbarium Book*.

Sonoma Land Trust, Bob Neale and Shanti Wright. December 2007. *Estero Americano Preserve Resource Management Plan*.

Table 1. Plant species observed at the Estero Trail project site, April 15, 2014 & June 23, 2014

Scientific Name <sup>1</sup>	Common Name	Wetland Status <sup>2</sup>	Native Status <sup>3</sup>	April 15	June 23
<i>Acaena pinnatifida</i> var. <i>californica</i>	California sheepburr		N	X	
<i>Achillea millefolium</i>	yarrow	FACU	N	X	X
<i>Acemispou americanus</i> var. <i>americanus</i>	Spanish lotus	UPL	N	X	
<i>Aira caryophylla</i>	silver hairgrass	FACU	I		X
<i>Anagallis arvensis</i>	scarlet pimpernel		I	X	X
<i>Anaphalis margaritacea</i>	pearly everlasting	FACU	N		X
<i>Arbutus menziesii</i>	Pacific madrone		N		X
<i>Artemisia douglasiana</i>	California mugwort	FAC	N	X	X
<i>Atriplex prostrata</i>	fat hen	FACW	I	X	X
<i>Avena barbata</i>	slender wild oats		I-M	X	X
<i>Baccharis pilularis</i>	coyote bush		N	X	X
<i>Beta vulgaris</i>	beet		I	X	
<i>Brassica nigra</i>	black mustard		I-M	X	X
<i>Briza maxima</i>	rattlesnake grass		I-L	X	X
<i>Briza minor</i>	little quaking grass	FAC	I		X
<i>Brodiaea terrestris</i>	dwarf brodiaea		N		X
<i>Bromus hordeaceus</i>	soft chess	FACU	I-L		X
<i>Bromus madritensis</i>	foxtail chess	UPL	I-H		X
<i>Calystegia subcaulis</i>	shortstem morning glory		N	X	X
<i>Capsella bursa-pastoris</i>	shepherd's purse	FACU	I	X	X
<i>Cardamine californica</i>	milk maids		N	X	
<i>Carduus pycnocephalus</i>	Italian thistle		I-M	X	X
<i>Carex obnupta</i>	slough sedge	OBL	N		X
<i>Carex</i> sp.	sedge	OBL-FAC		X	X
<i>Chlorogalum pomeridianum</i>	soap plant		N	X	X
<i>Cirsium vulgare</i>	bull thistle	FACU	I-M	X	X
<i>Conium maculatum</i>	poison hemlock	FACW	I-M	X	X
<i>Convolvulus arvensis</i>	field bindweed		I	X	X
<i>Corethrogyne filaginifolia</i>	California sandaster		N		X
<i>Cotula coronopifolia</i>	brass buttons	OBL	I-L		X
<i>Crataegus douglasii</i>	hawthorn	FAC	N		X
<i>Cynosurus echinatus</i>	hedgehog dogtail grass		I-M		X
<i>Cyperus eragrostis</i>	tall flatsedge	FACW	N		X
<i>Dichelostemma capitatum</i>	blue dicks	FACU	N	X	
<i>Distichlis spicata</i>	saltgrass	FAC	N	X	X
<i>Eriogonum nudum</i>	naked buckwheat		N		X
<i>Erodium botrys</i>	longbeak stork's bill	FACU	I	X	X
<i>Erodium cicutarium</i>	redstem filaree		I-L	X	
<i>Erodium moschatum</i>	whitestem filaree		I	X	
<i>Eryngium aristulatum</i>	California eryngio	OBL	N		X
<i>Eryngium armatum</i>	coastal coyote thistle	FACW	N		X
<i>Eschscholzia californica</i>	California poppy		N	X	X
<i>Eucalyptus globulus</i>	Tasmanian bluegum		I	X	X
<i>Festuca bromoides</i>	six-week fescue	FAC	I	X	X

Scientific Name <sup>1</sup>	Common Name	Wetland Status <sup>2</sup>	Native Status <sup>3</sup>	April 15	June 23
<i>Festuca perennis</i>	Italian ryegrass		I - M		X
<i>Foeniculum vulgare</i>	fennel		I - H	X	
<i>Frangula californica</i>	California coffeeberry		N		X
<i>Frankenia salina</i>	alkali heath	FACW	N	X	X
<i>Gamochaeta ustulata</i>	purple cudweed		N		X
<i>Geranium dissectum</i>	cutleaf geranium		I - L	X	
<i>Geranium molle</i>	dovefoot geranium		I	X	
<i>Grindelia stricta</i>	coastal gumweed	FACW	N		X
<i>Hemizonia congesta</i> ssp. <i>congesta</i>	pale yellow hayfield tarweed		N		X
<i>Hesperocyparis macrocarpa</i>	Monterey cypress		I		X
<i>Hirschfeldia incana</i>	wild mustard		I - M	X	X
<i>Holcus lanatus</i>	velvet grass	FAC	I - M	X	X
<i>Hordeum murinum</i>	foxtail barley	FACU	I - M		X
<i>Hypochaeris glabra</i>	smooth cat's ear		I - L	X	
<i>Hypochaeris radicata</i>	hairy cat's ear	FACU	I - M		X
<i>Iris douglasiana</i>	Douglas iris		N	X	
<i>Juncus bufonius</i>	toad rush	FACW	N		X
<i>Juncus effusus</i>	soft rush	FACW	N	X	
<i>Juncus occidentalis</i>	western rush	FACW	N		X
<i>Juncus patens</i>	spreading rush	FACW	N	X	X
<i>Juncus phaeocephalus</i>	brown headed rush	FACW	N		X
<i>Lamium purpureum</i>	henbit		I	X	
<i>Lasthenia californica</i> ssp. <i>californica</i>	California goldfields	FACU	N	X	
<i>Lathyrus hirsutus</i>	rough pea	FAC	I		X
<i>Lepidium nitidum</i>	shining peppergrass	FAC	N	X	
<i>Linum bienne</i>	pale flax		I		X
<i>Lonicera involucrata</i>	twinberry	FAC	N		X
<i>Lotus corniculatus</i>	birdsfoot trefoil	FAC	I	X	X
<i>Lupinus bicolor</i>	annual lupine		N	X	X
<i>Lythrum hyssopifolia</i>	hyssop loosestrife	OBL	I - L		X
<i>Marah oregana</i>	coast manroot		N	X	
<i>Matricaria discoidea</i>	pineapple weed	FACU	I	X	
<i>Medicago arabica</i>	spotted medick		I	X	
<i>Medicago lupulina</i>	black medick	FAC	I	X	
<i>Medicago polymorpha</i>	California burclover	FACU	I - L	X	
<i>Mentha pulegium</i>	pennyroyal	OBL	I - M	X	
<i>Microseris bigelovii</i>	coastal silverpuffs		N	X	
<i>Monardella villosa</i>	coyote mint		N		X
<i>Morella californica</i>	California wax myrtle		N		X
<i>Muilla maritima</i>	sea muilla		N	X	
<i>Myosurus minimus</i>	little mouse tail	OBL	N		X
<i>Parentucellia viscosa</i>	yellow glandweed	FAC	I - L		X
<i>Phalaris aquatica</i>	Harding grass	FACU	I - M	X	
<i>Pinus radiata</i>	Monterey pine		I		X
<i>Plantago lanceolata</i>	narrow leaved plantain	FAC	I - L	X	X
<i>Poa pratensis</i>	Kentucky bluegrass	FAC	I - L		X

Scientific Name <sup>1</sup>	Common Name	Wetland Status <sup>2</sup>	Native Status <sup>3</sup>	April 15	June 23
<i>Polypogon monspeliensis</i>	annual rabbitfoot grass	FACW	I - L		X
<i>Polystichum munitum</i>	Western sword fern	FACU	N		X
<i>Populus nigra</i>	Lombardy poplar		I	X	X
<i>Potamogeton nodosus</i>	longleaf pondweed	OBL	N	X	
<i>Prunella vulgaris</i>	selfheal	FACU	N		X
<i>Pseudotsuga menziesii</i>	Douglas fir		N		X
<i>Pteridium aquilinum</i>	western bracken fern	FACU	N	X	X
<i>Ranunculus californicus</i>	California buttercup	FACU	N	X	
<i>Ranunculus muricatus</i>	spinyfruit buttercup	FACW	I	X	
<i>Raphanus sativus</i>	wild radish		I - L		X
<i>Rosa rubiginosa</i>	sweet-brier rose	UPL	I	X	X
<i>Rubus ursinus</i>	California blackberry	FAC	N	X	X
<i>Rumex acetosella</i>	sheep sorrel	FACU	I - M	X	X
<i>Rumex crispus</i>	curly dock	FAC	I - L		X
<i>Rumex pulcher</i>	fiddle dock	FAC	I	X	X
<i>Salicornia pacifica</i>	pickleweed	OBL	N	X	X
<i>Salix sp.</i>	willow	OBL- FACW	N	X	X
<i>Sanicula arctopoides</i>	footsteps of spring		N	X	
<i>Sanicula bipinnatifida</i>	purple sanicle		N	X	
<i>Silene gallica</i>	catchfly		I		X
<i>Silybum marianum</i>	milk thistle		I - L	X	
<i>Sisyrinchium bellum</i>	blue-eyed grass	FACW	N	X	X
<i>Sonchus asper ssp. asper</i>	prickly sow thistle	FAC	I	X	
<i>Stachys rigida</i>	rough hedgenettle	FACW	N		X
<i>Stipa pulchra</i>	purple needlegrass		N		X
<i>Symphoricarpos albus</i>	snowberry	FACU	N		X
<i>Taraxia ovata</i>	sun cup		N	X	
<i>Toxicodendron diversilobum</i>	poison oak		N		X
<i>Trifolium dubium</i>	shamrock clover	UPL	I	X	
<i>Trifolium wormskioldii</i>	cow clover	FACW	N		X
<i>Typha sp.</i>	cattails	OBL		X	X
<i>Ulex europaeus</i>	gorse	UPL	I - H	X	X
<i>Vicia benghalensis</i>	purple vetch		I		X
<i>Vicia sativa</i>	spring vetch	FACU	I	X	X
<i>Viola adunca</i>	Early blue violet	FAC	N	X	
<i>Viola pedunculata</i>	johnny jump up		N	X	
<i>Wyethia angustifolia</i>	narrowleaf mules ears	FACU	N	X	
<i>Zeltnera sp.</i>	centaury		N	X	

<sup>1</sup> Species taxonomy according to *The Jepson Online Interchange Project*, University of California, Berkeley, accessed July 1, 2014. <http://ucieps.berkeley.edu/interchange/>

<sup>2</sup> Where applicable, wetland statuses are provided for the Arid West Region. U.S. Army Corps of Engineers. 2014. *State of CALIFORNIA 2014 Wetland Plant List*. Excerpted from *The National Wetland Plant List: 2014 Update of Wetland Ratings*. Lichvar, R.W., M. Butterwick, N.C. Melvin, and W.N. Kirchner. *Phytoneuron* 2014-41: 1-42.

OBL = Obligate, almost always occurs in wetlands

FACW = Facultative Wetland, usually occurs in wetlands, but may occur in non-wetlands

FAC = Facultative, occurs in wetlands and non-wetlands

FACU = Facultative Upland, usually occurs in non-wetlands, but may occur in wetlands

UPL = Upland, almost never occurs in wetlands

<sup>3</sup> N = Native; I – Introduced

Where applicable, invasive category is provided, as determined by the California Invasive Plant Council.

*California Invasive Plant Online Inventory*, accessed July 1, 2014. <http://www.cal-ipc.org/paf/>

L = Limited: minor ecological impacts on a statewide level or lacking information to justify a higher score, distribution generally limited

M = Moderate: substantial and apparent- but generally not severe- ecological impacts, distribution may be limited to widespread

H = High: severe ecological impacts, species often widely distributed

**Table 2: Sensitive plant species potentially occurring in the region of the proposed Estero Trail project**

Common Name	Scientific Name	Status <sup>1</sup>	General Habitat Description	Probability for Occurrence within the Project Site
pink sand-verbena	<i>Abronia umbellata</i> var. <i>breviflora</i>	1B	Coastal Dunes. 0-10m. Blooms June-Oct	No dune habitat present on-site. NOT PRESENT.
Biasdale's bent grass	<i>Agrostis biasdalei</i>	1B	Coastal bluff scrub, coastal dunes, coastal prairie. 5-15-m. Blooms May-July	Non-native grassland on-site could supply marginal habitat. Not observed, but Low Potential for presence.
Franciscan onion	<i>Allium peninsulare</i> var. <i>franciscanum</i>	1B	Cismontaine woodland, valley & foothill grassland on clay, volcanic or serpentine soils. 52-300m. Blooms May-June	No occurrences within 5 miles. Non-native grassland on-site could supply marginal habitat. Not observed, but Low Potential for presence.
Napa false indigo	<i>Amorpha californica</i> var. <i>napensis</i>	1B	Broadleafed upland forest, chaparral, cismontaine woodland. Openings in forest or woodland or in chaparral. 120-2000m. Blooms April-July	No forest, woodland, or chaparral habitat present on-site. No indigo shrubs observed. NOT PRESENT.
coastal bluff morning-glory	<i>Calystegia purpurata</i> ssp. <i>saxicola</i>	1B	Coastal dunes, coastal scrub, north coast coniferous forest. 10-105m. Blooms (Mar) Apr-Sept	Multiple occurrences within 2-5 miles. Non-native grassland on-site could supply marginal habitat. Not observed, but Low Potential for presence.
swamp harebell	<i>Campanula californica</i>	1B	Bogs and fens, closed cone coniferous forest, coastal prairie, meadows and seeps, marshes and swamps, North Coast coniferous forest, mesic sites. 1-405m. Blooms June-Oct	1 occurrence in 5 miles on lower Saimon Cr. Hillside seeps/ wetlands in non-native grassland on-site could supply marginal habitat. Not observed, but Low Potential for presence.
bristly sedge	<i>Carex comosa</i>	2B	Coastal prairie, marshes and swamps, valley & foothill grassland. 0-625m. Blooms May-Sept	1 occurrence in 5 miles at mouth of Salmon Cr. Hillside seeps/ wetlands in non-native grassland on-site could supply marginal habitat. Not observed, but Low Potential for presence.
Point Reyes bird's-beak	<i>Chloropyron maritimum</i> ssp. <i>palustre</i>	1B	Marshes and swamps, coastal salt marsh. 0-10m. Blooms June-Oct	2 occurrences ~5 miles to W at Bodega Head/Doran Beach. On-site salt marsh habitat along the Estero does not appear to be suitable due to lack of daily tidal inundation. Not observed; Presence Unlikely.
San Francisco Bay spineflower	<i>Chorizanthe cuspidata</i> var. <i>cuspidata</i>	1B	Coastal bluff scrub, dunes, prairie, scrub. 3-215m. Blooms Apr-July (Aug)	Although other habitats listed, almost always found in dunes. Not observed; Presence Unlikely.
woolly-headed spineflower	<i>Chorizanthe cuspidata</i> var. <i>villosa</i>	1B	Coastal dunes, prairie, scrub. 3-60m. Blooms May-July (Aug)	Although other habitats listed, almost always found in dunes. Not observed; Presence Unlikely.

Common Name	Scientific Name	Status <sup>1</sup>	General Habitat Description	Probability for Occurrence within the Project Site
Franciscan thistle	<i>Cirsium andrewsii</i>	1B	Broadleaf upland forest coastal bluff scrub, scrub, prairie. 0-150m. Blooms Mar-July	1 extant occurrence within 5 miles at Dillon Beach last seen in 1947. Non-native grassland on-site could supply marginal habitat. Not observed, but Low Potential for presence.
Mendocino dodder	<i>Cuscuta pacifica</i> var. <i>papillata</i>	1B	Coastal dunes and interdune depressions. 0-50m. Blooms July-Oct	No dune habitat present on-site. NOT PRESENT.
Baker's larkspur	<i>Delphinium bakeri</i>	FE SE 1B	Coastal scrub, grasslands. Only extant site occurs on NW-facing slope, on decomposed shale. Hist. known from grassy areas along fencelines too. 80-305m. Blooms Mar-May	1 extant occurrence within 5 miles last seen in 1923 in vicinity of Tomales. Non-native grassland on-site could supply marginal habitat. Not observed, but Low Potential for presence.
golden larkspur	<i>Delphinium luteum</i>	FE SR 1B	Chaparral, coastal prairie, coastal scrub. North-facing rocky slopes. 0-100m. Blooms Mar-May	Nearest occurrences <2 miles to S and W. Rock outcrop areas within non-native grassland on-site could supply marginal habitat. Not observed, but Low Potential for presence.
western leatherwood	<i>Dirca occidentalis</i>	1B	Broadleaf upland forest, chaparral, closed-cone coniferous forest, cismontane woodland, N coast coniferous forest, riparian forest, riparian woodland. On brushy slopes, mesic sites; mostly in mixed evergreen & foothill woodland communities. 25-550m. Blooms Jan-Mar(Apr)	No forest, woodland, or chaparral habitat present on-site. Riparian corridor not surveyed, but not within trail easement. No leatherwood shrubs observed. NOT PRESENT.
bluff wallflower	<i>Erysimum concinnum</i>	1B	Coastal bluff scrub, dunes, prairie. 0-185m. Blooms Feb-July	1 occurrence within 5 miles from 1900 in vicinity of Bodega Head. Almost always found on dunes and sandy bluffs. Not observed; Presence Unlikely.
fragrant fritillary	<i>Fritillaria liliacea</i>	1B	Coastal scrub, valley and foothill grassland, coastal prairie. Often on serpentine; various soils reported though usually clay, in grassland. 3-410m. Blooms Feb-Apr	The only occurrence within 5 miles is from 1924 <1 mile to NW near town of Bodega. Non-native grassland on-site could supply marginal habitat. Not observed, but Low Potential for presence.
blue coast gilia	<i>Gilia capitata</i> ssp. <i>chamissonis</i>	1B	Coastal dunes & scrub. 2-200m. Blooms Apr-July	No dunes or sandy scrub habitat on-site. NOT PRESENT
woolly-headed gilia	<i>Gilia capitata</i> ssp. <i>tomentosa</i>	1B	Coastal bluff scrub. Rocky outcrops or serpentine on the coast. 10-220m. Blooms May-July	Two occurrences 2 to 5 miles to W. Rock outcrop areas within non-native grassland on-site could supply marginal habitat. Not observed, but Low Potential for presence.
dark-eyed gilia	<i>Gilia millefoliata</i>	1B	Coastal dunes. 2-30m. Blooms Apr-July	No dune habitat on-site. NOT PRESENT

Common Name	Scientific Name	Status <sup>1</sup>	General Habitat Description	Probability for Occurrence within the Project Site
pale yellow hayfield tarplant (white seaside tarplant)	<i>Hemizonia congesta</i> ssp. <i>congesta</i>	1B	Coastal scrub, valley and foothill grassland, often in fallow fields. 25-560m. Blooms April-Nov	The plant was observed in non-native grassland on-site during the June survey and has been documented in other nearby places. PRESENT.
short-leaved evax	<i>Hesperovax sparsiflora</i> var. <i>brevifolia</i>	1B	Coastal bluff scrub, dunes, prairie. 0-215m. Blooms Mar-June	1 occurrence within 5 miles on bluffs N of Dillon Beach. Non-native grassland on-site could supply marginal habitat. Not observed, but Low Potential for presence.
Point Reyes horkelia	<i>Horkelia marinensis</i>	1B	Coastal dunes, prairie, scrub, sandy soils. 5-350m. Blooms May-Sept	Almost always found on dunes and sandy bluffs. Not observed; Presence Unlikely.
harlequin lotus	<i>Hosackia gracilis</i>	4	Wetlands & roadsides in Broadleaved upland forest, Coastal bluff scrub, Closed-cone coniferous forest, Cismontane woodland, Coastal prairie, Coastal scrub, Meadows and seeps, Marshes and swamps, North Coast coniferous forest, Valley and foothill grassland. 0-700m. Blooms Mar-July	This plant has not been observed on the Bordessa property, but has been observed on the Estero Americano Preserve in similar non-native grassland/wet meadow habitat. Moderate Potential for presence.
Baker's goldfields	<i>Lasthenia californica</i> ssp. <i>bakeri</i>	1B	Openings in closed-cone coniferous forest, coastal scrub. 60-520m. Blooms Apr-Oct	Several occurrences within 2-5 miles. Non-native grassland on-site could supply marginal habitat. Not observed, but Low Potential for presence.
perennial goldfields	<i>Lasthenia californica</i> ssp. <i>macrantha</i>	1B	Coastal bluff scrub, coastal dunes, coastal scrub. 5-520m. Blooms Jan-Nov	Several occurrences within 2-5 miles. Non-native grassland on-site could supply marginal habitat. Not observed, but Low Potential for presence.
Contra Costa goldfields	<i>Lasthenia congugens</i>	FE 1B	Valley and foothill grassland, vernal pools, alkaline playas, cismontane woodland. Vernal pools, swales, low depressions, in open grassy areas. 1-470 M. Blooms Mar-June	Upland seeps are not likely to support the plant; no depressional wetlands present. Not observed; Presence Unlikely.
rose leptosiphon	<i>Leptosiphon rosaceus</i>	1B	Coastal bluff scrub. 0-100m. Blooms Apr-July	No coastal bluff habitat present. NOT PRESENT
San Mateo tree lupine	<i>Lupinus arboreus</i> var. <i>eximius</i>	3	Chaparral, coastal scrub. 90-550m. Blooms Apr-July	No occurrences within 5 miles. No chaparral or scrub habitat present. NOT PRESENT.
Tidestrom's lupine	<i>Lupinus tidestromii</i>	FE SE 1B	Coastal dunes. 0-100m. Blooms Apr-July	No dune habitat present. NOT PRESENT.

Common Name	Scientific Name	Status <sup>1</sup>	General Habitat Description	Probability for Occurrence within the Project Site
marsh microseris	<i>Microseris paludosa</i>	1B	Closed cone coniferous forest, cismontane woodland, coastal scrub, valley and foothill grassland. 5-300m. Blooms Apr-June (July)	1 occurrence within 5 miles near Dillon Beach thought to be extirpated by subdivision. Non-native grassland on-site could supply marginal habitat. Not observed, but Low Potential for presence.
Oregon polemonium	<i>Polemonium carneum</i>	2B	Coastal prairie, scrub, lower montane coniferous forest. 0-1830m. Blooms Apr-Sept	1 occurrence within 5 miles on rock ledge over Bodega Bay. Not observed; Presence Unlikely.
Marin knotweed	<i>Polygonum marinense</i>	3	Coastal salt marsh or brackish marsh. 0-10m. Blooms (Apr) May-Aug (Oct)	On-site salt marsh habitat along the Estero does not appear to be suitable due to lack of daily tidal inundation. Not observed; Presence Unlikely.
Point Reyes checkerbloom	<i>Sidalcea calycosa</i> ssp. <i>rhizomata</i>	1B	Marshes and swamps. Freshwater marshes near the coast. 5-75(245)m. Blooms Apr-Sept	No suitable wetland habitat within easement area. Upland seeps do not supply suitable habitat. Not observed in lower Estero marshland. Nearest occurrence from 1886 2 miles to E near Valley Ford. NOT PRESENT within easement area
Marin checkerbloom	<i>Sidalcea hickmanii</i> ssp. <i>viridis</i>	1B	Chaparral on serpentine soils. 50-430m. Blooms May-June	No occurrences within 5 miles. No chaparral. NOT PRESENT
purple-stemmed checkerbloom	<i>Sidalcea malviflora</i> ssp. <i>purpurea</i>	1B	Broadleaved upland forest, coastal prairie. 15-85m. Blooms May-June	2 occurrences within 2-5 miles. Non-native grassland on-site could supply marginal habitat. Not observed, but Low Potential for presence.
whiteworm lichen	<i>Thamnolia vermicularis</i>	2B	Chaparral, valley and foothill grassland on sandstone. 90m.	Various unidentified lichens were observed on rock outcrops. The trail will not impact any rock outcrops. NOT PRESENT in easement area.
showy Rancheria clover (two-fork clover)	<i>Trifolium amoenum</i>	FE 1B	Valley and foothill grassland, coastal bluff scrub. Sometimes on serpentine soil, open sunny sites, swales. Most recently sighted on roadside and eroding cliff face. 5-560m. Blooms April-June	Historic occurrence along Hwy 1 property frontage, not seen since 1940, assumed to be extirpated from site. Not observed; Presence Unlikely.
San Francisco owl's-clover	<i>Triphysaria floribunda</i>	1B	Coastal prairie, scrub, valley and foothill grassland, usually serpentine. 10-160m. Blooms Apr-June	1 occurrence ~2 miles S. Non-native grassland on-site could supply marginal habitat. Not observed, but Low Potential for presence.
coastal triquetrella	<i>Triquetrella californica</i>	1B	Coastal bluff scrub. 10-100m.	No occurrences within 5 miles. No bluff habitat present. Not observed. NOT PRESENT.

Common Name	Scientific Name	Status <sup>1</sup>	General Habitat Description	Probability for Occurrence within the Project Site
<sup>1</sup> Key to Status Codes:				
FE	Federal-listed as Endangered	SE	State-listed as Endangered	
FT	Federal-listed as Threatened	ST	State-listed as Threatened	
FC	Federal Candidate	SR	State Rare (plants only)	
1A	California Rare Plant Rank (CRPR): Plants Presumed Extirpated in California and Either Rare or Extinct Elsewhere			
1B	CRPR: Plants Rare, Threatened, or Endangered in California and Elsewhere			
2A	CRPR: Plants Presumed Extirpated in California, but More Common Elsewhere			
2B	CRPR: Plants Rare, Threatened, or Endangered in California, but More Common Elsewhere			
3	CRPR: Plants About Which We Need More Information - A Review List			
4	CRPR: Plants of Limited Distribution - A Watch List			

**From:** Sue Gallagher <Sue.Gallagher@sonoma-county.org>  
**Sent:** Monday, October 26, 2015 8:14 PM  
**To:** Chris Mazzia  
**Subject:** Bordessa Ranch Resource Studies (III)  
**Attachments:** Wildlife Resources Evaluation Part 1-B.pdf

Chris,

And the second part of the Wildlife Resources Evaluation is attached.

We look forward to seeing you on Wednesday.

Sue

Sue A. Gallagher  
Chief Deputy County Counsel  
575 Administration Drive, Rm. 105A  
Santa Rosa, CA 95403  
(707) 565-2421

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**BORD 004965**

### **Monarch butterfly (*Danaus plexippus*)**

#### Status

No formal status. Winter roost sites are considered sensitive by CDFW and are tracked in the CNDDDB.

#### Habitat and Distribution

Monarchs migrate in the fall from northern breeding grounds to temperate wintering grounds along the coast, from northern Mendocino County to Baja California, Mexico. Winter roosts are typically located in wind-protected tree groves (eucalyptus, Monterey pine, and cypress). Monarchs arrive on the coast in early October and depart in March to migrate north to breeding grounds (California Department of Parks and Recreation, 2007).

Occurrences in the CNDDDB include wintering sites approximately 5 miles to the west around Bodega Bay and 5 miles to the south near Dillon Beach (CDFW, 2014).

#### Occurrence at the Site

The project site is not a known wintering site for monarchs. Eucalyptus or pine on the property may provide potential wintering habitat, particularly the more dense eucalyptus groves near the West Trail corridor and in the central creek. Site surveys occurred outside of the fall and winter roosting season, therefore, use of the site for wintering is unknown.

### **San Francisco forktail damselfly (*Ischnura gemina*)**

#### Status

The San Francisco forktail damselfly has no formal status.

#### Habitat and Distribution

The San Francisco forktail damselfly is endemic to a small range (probably less than 5000 square miles) in the greater San Francisco Bay area (NatureServe, 2014). It is not listed or designated a California Species of Special Concern; however, it is tracked in the California Natural Diversity Database and included on CDFW's Special Animals List (2014). It occupies small, mostly open seeps, ponds, and canals with floating vegetation. These damselflies lay their eggs in aquatic plants, and larvae cling to submerged plants. Adults forage among herbs and shrubs. The species appears somewhat adaptable, but prefers sluggish shallow water without many fish. Larvae overwinter, and the adult flight period is March to November. (NatureServe, 2014).

The CNDDDB includes two occurrences of San Francisco forktail damselfly within 5 miles of the project site, from near Dillon Beach (CDFW, 2014). The species was also observed in 2003 at the nearby Estero Americano Preserve (Sonoma Land Trust, 2007).

#### Occurrence at the Site

Ponds or seeps on the project property could provide habitat for this species. Sluggish pools in the central creek could provide habitat, however, the abundance of fish such as mosquitofish

may limit suitability of the habitat. Mosquitofish have been implicated in the decline of native damselflies in Hawaii (Nico et al., 2014).

10/20/2014 10:00 AM

## References

Acker, C. 2014. Rare Plant/Wetland Habitat Assessment- Estero Trail site. Memorandum from Crystal Acker, Sonoma County Permit and Resource Management Department.

Albertson, J.D. 1995. Ecology of the California clapper rail in south San Francisco Bay. M.A. Thesis, San Francisco State University. 200 pp.

Bolander, G.L. and B.D. Parmeter. 2000. Birds of Sonoma County: An annotated checklist and birding gazetteer. Redwood Region Ornithological Society, Napa, CA.

Breeding Bird Atlas Explorer (online resource). 2014. U.S. Geological Survey Patuxent Wildlife Research Center. <August 27, 2014>. <http://www.pwrc.usgs.gov/bba>.

Bulger, J. B., N. J. Scott Jr., and R. B. Seymour. 2003. Terrestrial activity and conservation of adult California Red-legged Frogs *Rana aurora draytonii* in coastal forests and grasslands. *Biological Conservation* 110:85-95.

Burridge, B. 1995. Sonoma County Breeding Bird Atlas: Detailed maps and accounts for our nesting birds. Madrone Audubon Society, Santa Rosa, CA.

California Department of Fish and Game (CDFG). 1999. Life history account for burrowing owl. California Wildlife Habitat Relationships System. California Interagency Wildlife Task Group. Originally published in: Zeiner, D.C., W.F. Laudenslayer, Jr, K.E. Mayer, and M. White, eds. 1988-1990. *California's Wildlife*. Vol. I-III. CDFG, Sacramento, CA.

California Department of Fish and Game (CDFG). 1999. Life history account for California black rail. California Wildlife Habitat Relationships System. California Interagency Wildlife Task Group. Originally published in: Zeiner, D.C., W.F. Laudenslayer, Jr, K.E. Mayer, and M. White, eds. 1988-1990. *California's Wildlife*. Vol. I-III. CDFG, Sacramento, CA.

CDFG. 2000. Life history account for Townsend's big-eared bat. California Wildlife Habitat Relationships System. California Interagency Wildlife Task Group. Originally published in: Zeiner, D.C., W.F. Laudenslayer, Jr, K.E. Mayer, and M. White, eds. 1988-1990. *California's Wildlife*. Vol. I-III. CDFG, Sacramento, CA.

CDFG. 2000. Life history account for western pond turtle. California Wildlife Habitat Relationships System. California Interagency Wildlife Task Group. Originally published in: Zeiner, D.C., W.F. Laudenslayer, Jr, K.E. Mayer, and M. White, eds. 1988-1990. *California's Wildlife*. Vol. I-III. CDFG, Sacramento, CA.

CDFG. 2005. Life history account for white-tailed kite. California Wildlife Habitat Relationships System. California Interagency Wildlife Task Group. Originally published in: Zeiner, D.C., W.F. Laudenslayer, Jr, K.E. Mayer, and M. White, eds. 1988-1990. *California's Wildlife*. Vol. I-III. CDFG, Sacramento, CA.

CDFG. 2005b. The Status of Rare, Threatened, and Endangered Plants and Animals of California, 2000-2004.

CDFG. 2008. Life history account for Grasshopper Sparrow. California Wildlife Habitat Relationships System. California Interagency Wildlife Task Group. Originally published in: Zeiner, D.C., W.F. Laudenslayer, Jr, K.E. Mayer, and M. White, eds. 1988-1990. *California's Wildlife*. Vol. I-III. CDFG, Sacramento, CA.

CDFG. 2008b. Guidance for Burrowing Owl Conservation. Habitat Conservation Branch, Wildlife Branch, Bay Delta Region. Sacramento, CA.

CDFG. 2009. Report to the Fish and Game Commission; A Status Review of the Longfin Smelt (*Spirinchus thaleichthys*).

CDFG. 2009b. Longfin Smelt Fact Sheet. Accessed from [http://www.dfg.ca.gov/delta/data/longfin-smelt/documents/Longfin-smelt-FactSheet\\_July09.pdf](http://www.dfg.ca.gov/delta/data/longfin-smelt/documents/Longfin-smelt-FactSheet_July09.pdf). September 11, 2014.

CDFW. 2014. Natural Diversity Data Base, Wildlife and Habitat Data Analysis Branch, Sacramento. Accessed on July 11, 2014 from <https://www.dfg.ca.gov/bioceodata/cnddb/mapsanddata.asp>

California Department of Fish and Wildlife, Natural Diversity Database. September 2014. Special Animals List. Periodic publication. 52 pp.

California Department of Parks and Recreation. 2007. Sonoma Coast State Park Final General Plan and Environmental Impact Report.

Davis, J.N. and C.A. Niemela. 2008. Northern Harrier (*Circus cyaneus*). In California Bird Species of Special Concern: A ranked assessment of species, subspecies, and distinct populations of birds of immediate conservation concern in California (W. D. Shuford and T. Gardali, eds.). Studies of Western Birds 1. Western Field Ornithologists, Camarillo, CA, and California Department of Fish and Game, Sacramento.

Dunk, Jeffrey R. 1995. White-tailed Kite (*Elanus leucurus*), The Birds of North America Online (A. Poole, Ed.). Ithaca: Cornell Lab of Ornithology; Retrieved from the Birds of North America Online: <http://bna.birds.cornell.edu/bna/species/178>

Eddleman, W. R., R. E. Flores and M. Legare. 1994. Black Rail (*Laterallus jamaicensis*), The Birds of North America Online (A. Poole, Ed.). Ithaca: Cornell Lab of Ornithology; Retrieved from the Birds of North America Online: <http://bna.birds.cornell.edu/bna/species/123>

Eng, L.L. 1981. Distribution, life history, and status of the California freshwater shrimp, *Syncaris pacifica* (Holmes). California Department of Fish and Game. Inland Fisheries Endangered Species Program Special Publication 81-1.

Fitton, S.D. Bryant's Savannah Sparrow (*Passerculus sandwichensis alaudinus*). 2008. In California Bird Species of Special Concern: A ranked assessment of species, subspecies, and distinct populations of birds of immediate conservation concern in California (W. D. Shuford and T. Gardali, eds.). Studies of Western Birds 1. Western Field Ornithologists, Camarillo, CA, and California Department of Fish and Game, Sacramento.

Fiosi, G., S. Downie, J. Hopelain, M. Bird, R. Coey, and B. Collins. 1998. California Stream Habitat Restoration Manual, 3<sup>rd</sup> edition, 1998. California Department of Fish and Game, Inland Fisheries Division. Sacramento, CA.

Gardali, T and J. Evens. 2008. San Francisco Common Yellowthroat (*Geothlypis trichas sinuosa*). In California Bird Species of Special Concern: A ranked assessment of species, subspecies, and distinct populations of birds of immediate conservation concern in California (W. D. Shuford and T. Gardali, eds.). Studies of Western Birds 1. Western Field Ornithologists, Camarillo, CA, and California Department of Fish and Game, Sacramento.

Gervais, J.A., D.K. Rosenberg, and L.A. Comrack. 2008. Burrowing Owl (*Athene cunicularia*). In California Bird Species of Special Concern: A ranked assessment of species, subspecies, and distinct populations of birds of immediate conservation concern in California (W. D. Shuford and T. Gardali, eds.). Studies of Western Birds 1. Western Field Ornithologists, Camarillo, CA, and California Department of Fish and Game, Sacramento.

Gold Ridge Resource Conservation District. 2007. The Estero Americano Watershed Management Plan.

Heaton, E. 2011. Summary of Findings from Bird Surveys on the Bordessa Ranch Interim Report #2: April and June, 2011 – Breeding Bird Surveys.

Heaton, E. 2012. Summary of Findings from Bird Surveys on the Bordessa ranch, Final Report: 2011 and 2012 Surveys.

Holland, D. 1994. The Western Pond Turtle: Habitat and History, Final Report. Prepared for U.S. Department of Energy Bonneville Power Administration; Environment, Fish and Wildlife. Portland, Oregon.

Jennings, M.R. 2000. Western pond turtle. Baylands ecosystem species and community profiles: life histories and environmental requirements of key plants, fish, and wildlife. Prepared by the San Francisco Bay Area Wetlands Ecosystems Goals Project. San Francisco Bay Regional Water Quality Control Board, Oakland, CA.

Jennings, M. R. and M. P. Hayes. 1994. Amphibian and Reptile Species of Special Concern in California. Report prepared for the California Department of Fish and Game, Inland Fisheries Division, Rancho Cordova, CA.

Martinelli, S. April 7, 2010. Email to Laura Peltz, PRMD regarding American badger and the Coastal Prairie Trail Project. California Department of Fish and Game. [smartinelli@dfg.ca.gov](mailto:smartinelli@dfg.ca.gov).

Merritt Smith Consulting. 1996. Aquatic habitat survey results. Santa Rosa Subregional Long-term Wastewater Project. Prepared for City of Santa Rosa and U.S. Army Corps of Engineers. Prepared by Merritt Smith Consulting for Harland Bartholomew & Associates. Lafayette, CA. 33 pp. [161kb]

Moyle, P.B. Inland Fishes of California. 2002. University of California Press. Berkeley, CA.

Moyle, P.B., R.M. Yoshiyama, J. E. Williams, and E.D. Wikramanayake. 1995. Fish Species of Special Concern in California. Prepared for the Resources Agency Department of Fish and Game, Inland Fisheries Division, Rancho Cordova, CA.

National Marine Fisheries Service (NMFS). 2001. Biological Opinion: Replacement of Riverside Drive Bridge over Sonoma Creek, in Sonoma County, California. 151422-SWR-00-SR-145.

National Oceanic and Atmospheric Administration. 2008. 15 CFR Part 922 Gulf of the Farallones National Marine Sanctuary Regulations; Monterey Bay National Marine Sanctuary Regulations; and Cordell Bank National Marine Sanctuary Regulations; Final Rule. Federal Register Vol. 73, No. 225 / Thursday, November 20, 2008

NOAA. 2008b. Biological Opinion for Water Supply, Flood Control Operations, and Channel Maintenance conducted by the U.S. Army Corps of Engineers, the Sonoma County Water Agency, and the Mendocino County Russian River Flood Control and Water Conservation Improvement District in the Russian River Watershed. National Marine Fisheries Service, Southwest Region.

NatureServe. 2014. NatureServe Explorer: An online encyclopedia of life [web application]. Version 7.1. NatureServe, Arlington, Virginia. Available <http://explorer.natureserve.org>. (Accessed: July 31, 2014).

Nico, L., P. Fuller, G. Jacobs, M. Cannister, J. Larson, A. Fusaro, T.H. Makled and M. Neilson. 2014. *Gambusia affinis*. USGS Nonindigenous Aquatic Species Database, Gainesville, FL. <http://nas.er.usgs.gov/queries/FactSheet.aspx?speciesID=846> Revision Date: August 8, 2014.

Pilliod, D.S., J. L. Welty and R. Stafford. 2013. Terrestrial movement patterns of western pond turtles (*Actinemys marmorata*) in Central California. *Herpetological Conservation and Biology* (8): 207-221.

Rathbun, G. N.J. Scott, Jr. and T. Murphey. 2002. Terrestrial habitat use by Pacific pond turtles in a Mediterranean climate. *The Southwestern Naturalist* 47(2):225-235.

Roberson, D. 2008. Short-eared Owl (*Asio flammeus*). Pp. 242-248 in *California Bird Species of Special Concern: A ranked assessment of species, subspecies, and distinct populations of birds of immediate conservation concern in California* (W. D. Shuford and T. Gardall, eds.). *Studies of Western Birds* 1. Western Field Ornithologists, Camarillo, CA, and California Department of Fish and Game, Sacramento.

Sonoma Land Trust. 2007. Estero Americano Preserve Resource Management Plan.

Shuford, W.D. 1993. *The Marin County Breeding Bird Atlas: A distributional and natural history of coastal California birds*. California Avifauna Series 1. Bushitit Books, Bolinas, CA.

Smith, K.G., S. R. Wittenberg, R. B. Macwhirter and K. L. Bildstein. 2011. Northern Harrier (*Circus cyaneus*). *The Birds of North America Online* (A. Poole, Ed.). Ithaca: Cornell Lab of Ornithology; Retrieved from the *Birds of North America Online*: <http://bna.birds.cornell.edu/bna/species/210>

USFWS. 1998. *California Freshwater Shrimp (Syncares pacifica Holmes 1895) Recovery Plan*. Region 1 U.S. Fish and Wildlife Service. Portland, OR.

USFWS. 2002. *Recovery Plan for the California Red-legged Frog (Rana aurora draytonii)*. Region 1, U.S. Fish and Wildlife Service. Portland, Oregon. May 28, 2002.

USFWS. 2005. Recovery Plan for the Tidewater Goby (*Eucyclogobius newberryi*). Pacific Region, U.S. Fish and Wildlife Service. Portland, Oregon.

USFWS. 2007. Species Account: Myrtle's silverspot butterfly (*Speyeria zerene myrtleae*). Sacramento Fish and Wildlife Office.

USFWS. 2009. Myrtle's Silverspot Butterfly (*Speyeria zerene myrtleae*) 5-Year Review: Summary and Evaluation. Sacramento Fish and Wildlife Field Office. Sacramento, CA.

USFWS. 2010. San Bruno Elfin Butterfly (*Callophrys mossii bayensis*) and Mission Blue Butterfly (*Icaricia icarioides missionensis*) 5-Year Review: Summary and Evaluation. Sacramento Fish and Wildlife Field Office. Sacramento, CA.

USFWS. 2010b. Species Account for the California Clapper Rail. Sacramento Fish and Wildlife Office. February 27, 2010. Accessed from [http://www.fws.gov/sacramento/es\\_species/Accounts/Birds/es\\_species-accounts\\_birds.htm](http://www.fws.gov/sacramento/es_species/Accounts/Birds/es_species-accounts_birds.htm).

USFWS. 2011. California Freshwater Shrimp (*Syncaris pacifica*) 5-Year Review: Summary and Evaluation. Sacramento Fish and Wildlife Office. Sacramento, CA.

USFWS. 2013. Recovery Plan for Tidal Marsh Ecosystems of Northern and Central California. Sacramento, California. Xviii + 605 pp.

USFWS. 2013b. 50 CFR Part 17: Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for the Western Distinct Population Segment of the Yellow-billed Cuckoo (*Coccyzus americanus*); Proposed Rule. Federal Register Vol. 78, No. 192 / Thursday, October 3, 2013.

Unitt, P. 2008. Grasshopper Sparrow (*Ammodramus savannarum*). In California Bird Species of Special Concern: A ranked assessment of species, subspecies, and distinct populations of birds of immediate conservation concern in California (W. D. Shuford and T. Gardali, eds.). Studies of Western Birds 1. Western Field Ornithologists, Camarillo, CA, and California Department of Fish and Game, Sacramento.

Vickery, P.D. 1996. Grasshopper Sparrow (*Ammodramus savannarum*). The Birds of North America Online (A. Poole, ed.). Cornell Lab of Ornithology, Ithaca, NY. Retrieved from the Birds of North America Online: <http://bna.birds.cornell.edu/bna/species/239>.

Wiggins, D.A., D.W. Holt, and S.M. Leasure. 2006. Short-eared Owl (*Asio flammeus*). The Birds of North America Online (A. Poole, ed.). Cornell Lab of Ornithology, Ithaca, NY. Retrieved from the Birds of North America Online: <http://bna.birds.cornell.edu/bna/species/062>.

Zeiner, D.C., W.F. Laudenslayer, Jr, K.E. Mayer, and M. White, eds. 1990. California's Wildlife. Vol. I-III. CDFG, Sacramento, CA.

## Appendix A. Site Photographs



Photo 1. Entrance Road with general location of potential parking on the left and general location of a portion of the West Trail loop on the right. (4/15/14)

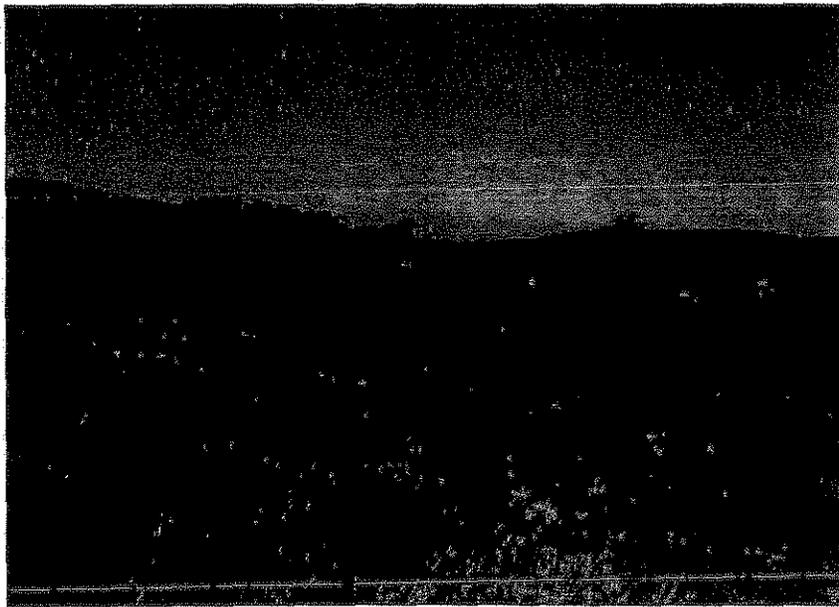


Photo 2. Looking north along the Estero access trail alignment toward the barn and potential southern staging area. (4/15/14)



Photo 3. Looking north along the central creek from near the East Trail corridor. (4/14/14)



Photo 4. Looking south towards the Estero Americano and lower portion of the central creek from the East Trail corridor. (4/15/14)

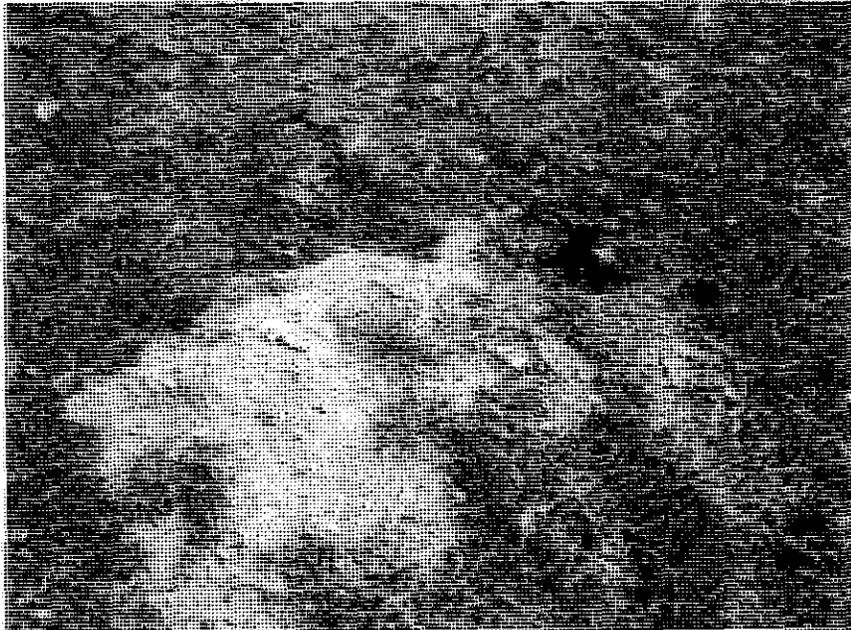


Photo 5. Collapsed badger burrow with old owl pellets indicating probable former use by burrowing owl, on the East Trail corridor overlooking the Estero. (4/15/14)

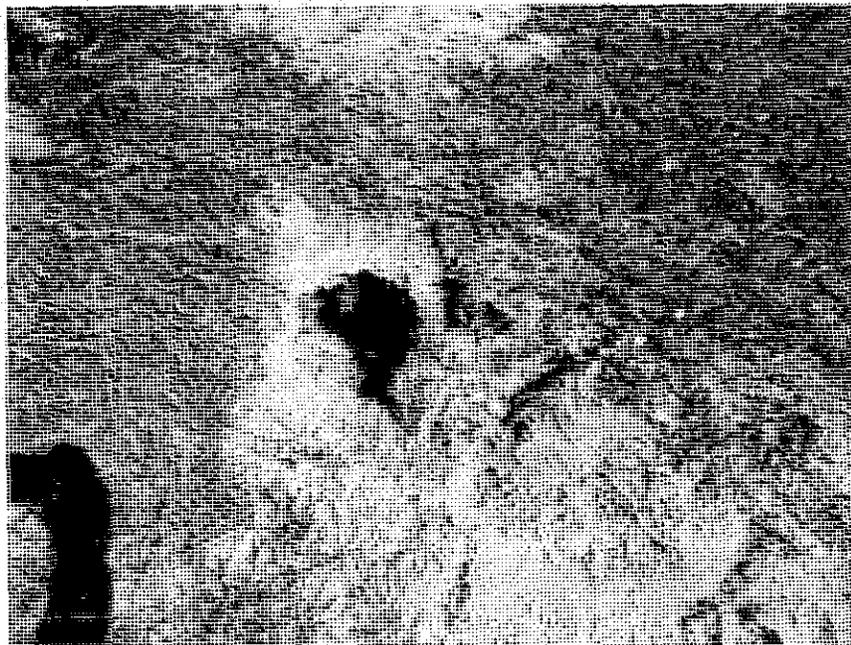


Photo 6. Recent badger burrow in the southeast quadrant of the East Trail corridor. (4/15/14)

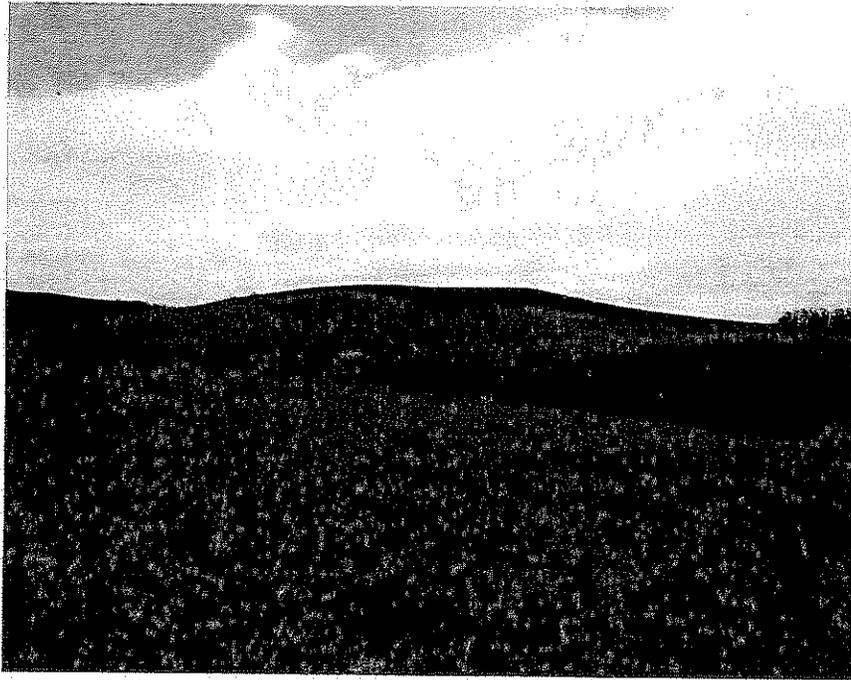


Photo 7. Typical grassland habitat along the East Trail corridor. (4/15/14)



Photo 8. *Viola adunca* located near the East Trail corridor near the knoll in the northeast corner of the property. (4/15/14)

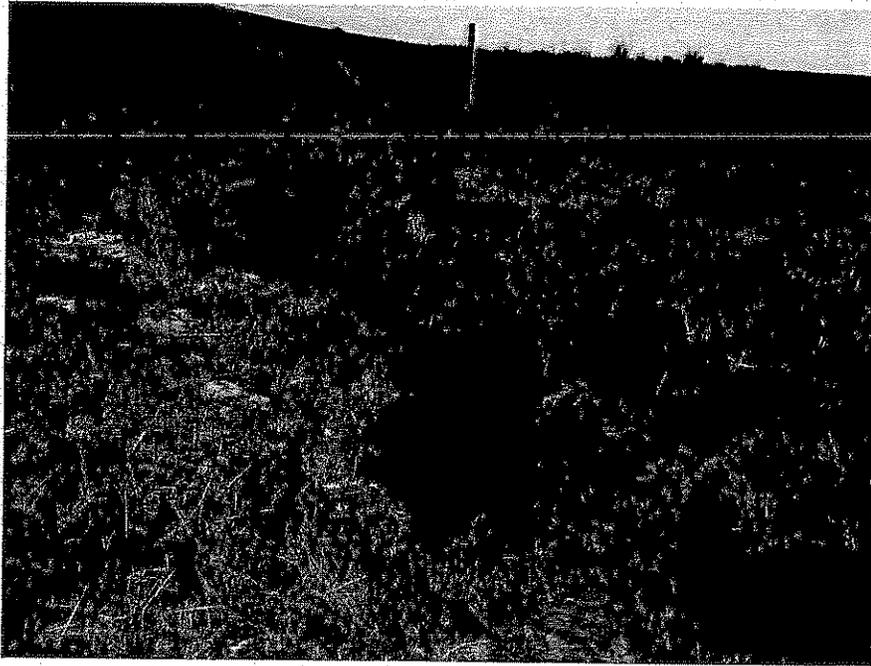


Photo 9. Small drainage located on the East Trail corridor draining to central creek near the eucalyptus stand. (4/15/14)



Photo 10. Approximate location for trail creek crossing. (4/15/14)

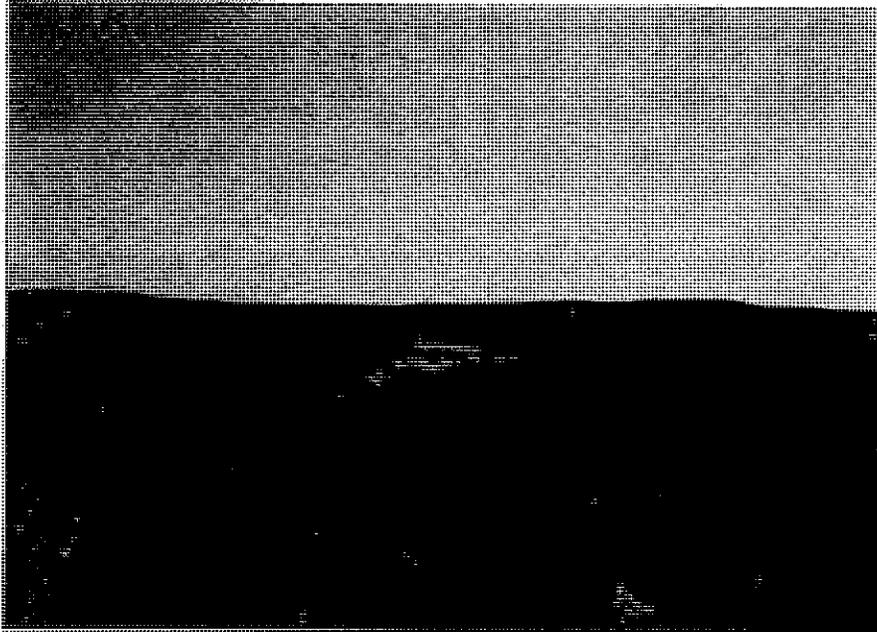


Photo 11. Looking towards the Estero Americano from the near the East Trail.  
(4/15/14)

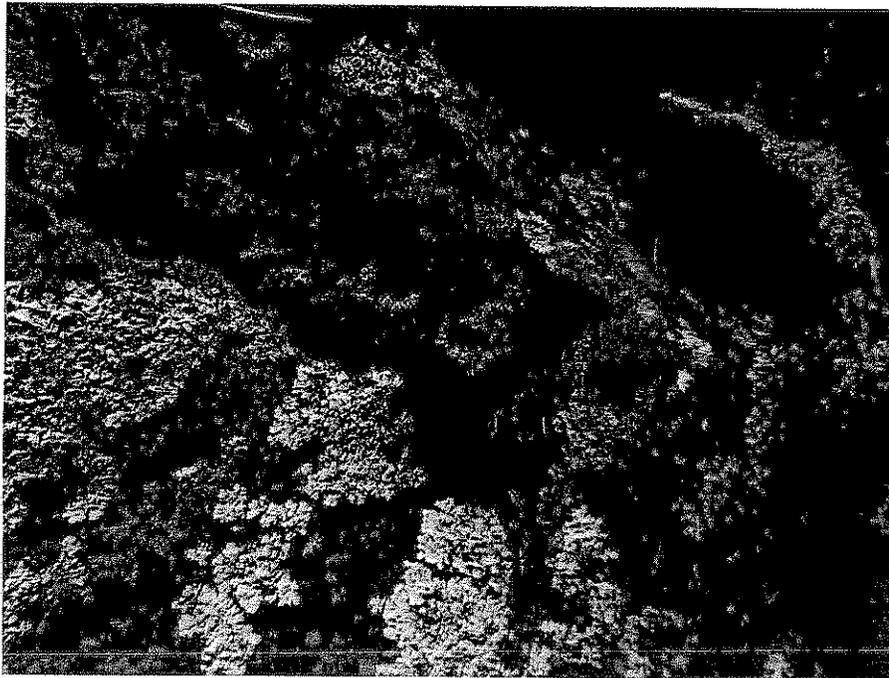


Photo 12. Unidentified pellet on rock near East Trail. (4/15/14).

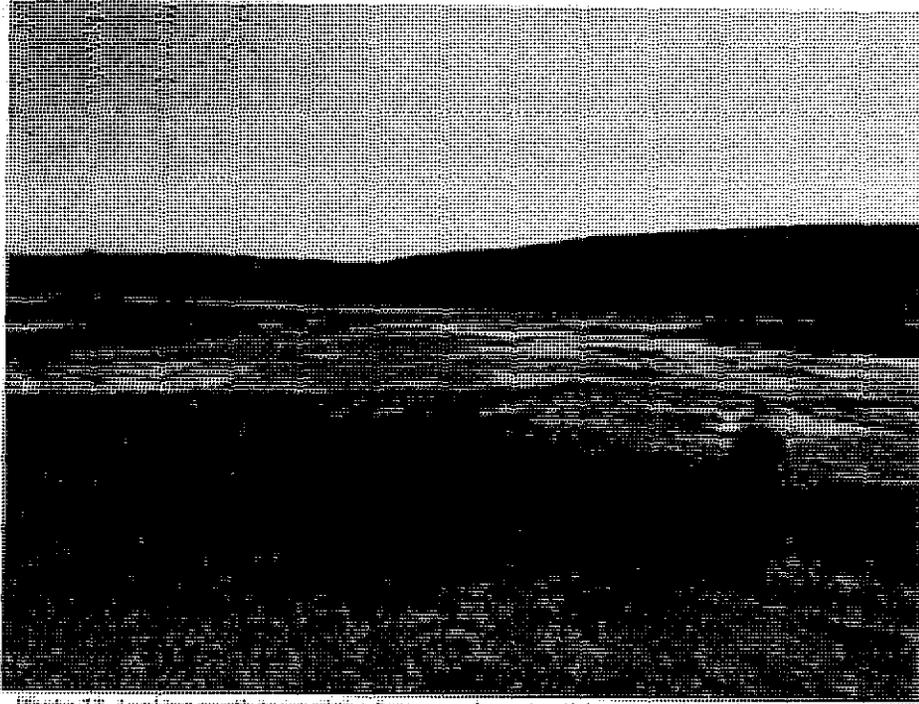


Photo 13. Looking south toward the Estero and a potential passage back to the East Trail corridor. (4/15/14)

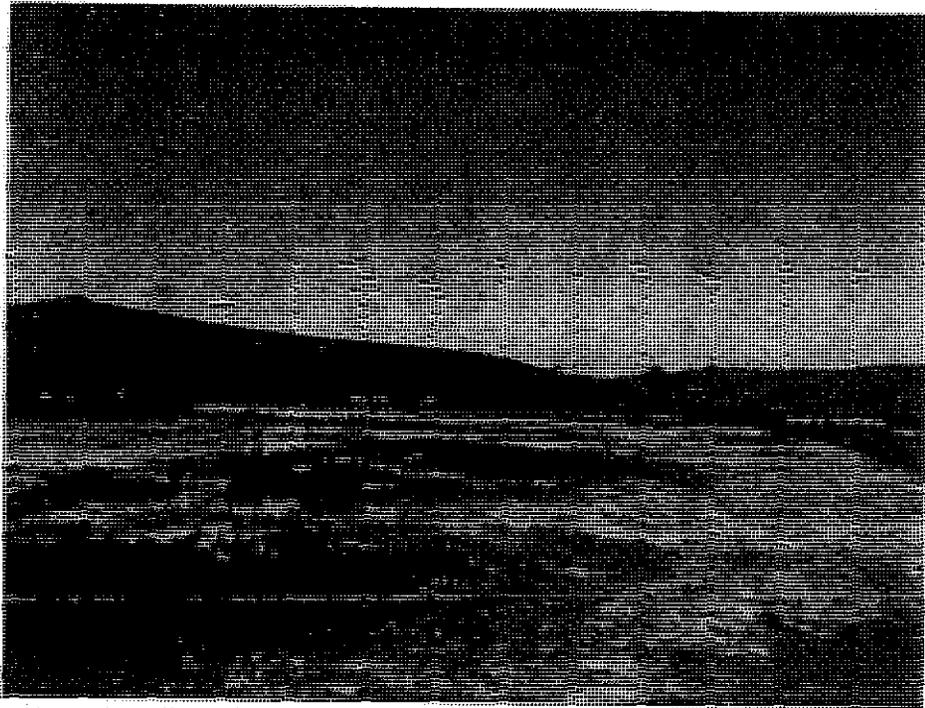


Photo 14. Standing at the Estero looking north across the salt marsh/mudflat. (4/15/14)

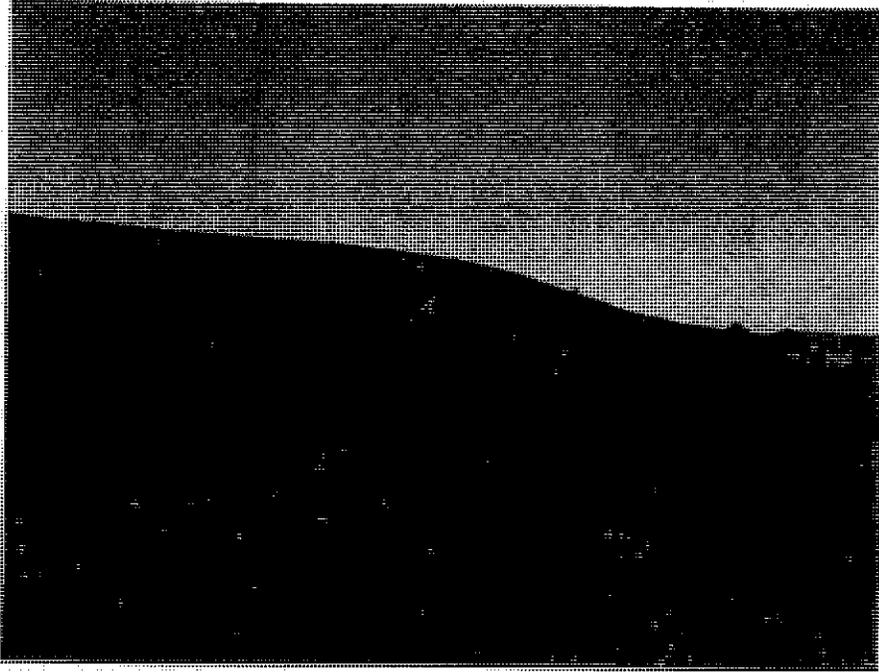


Photo 15. Transitional marsh habitat near the mouth of the central creek. (4/15/14)

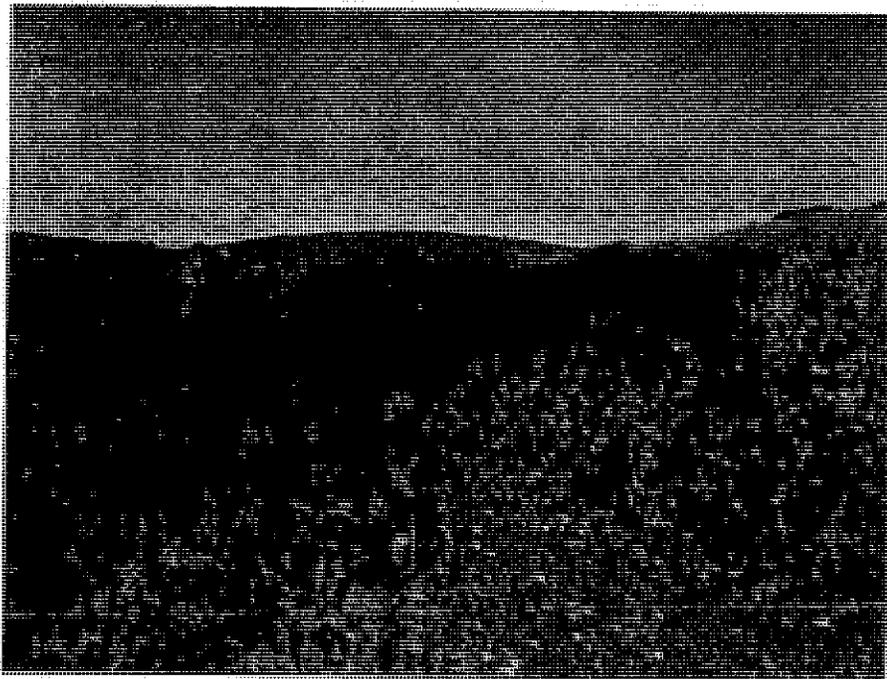


Photo 16. Small seep-supported wetland on West Trail corridor. (6/23/14)

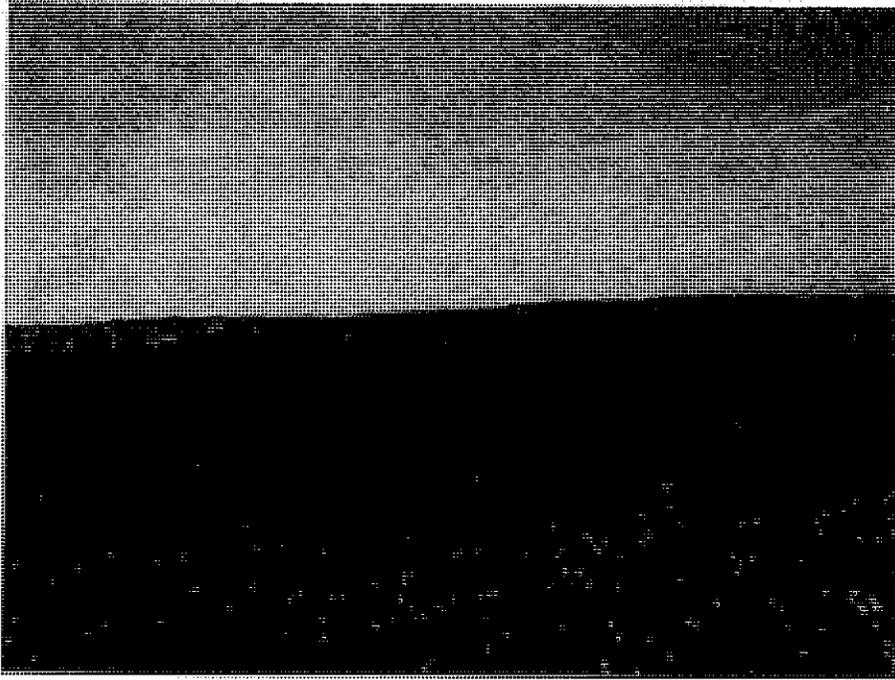


Photo 17. Tundra at summit of West Trail corridor. (8/13/14)

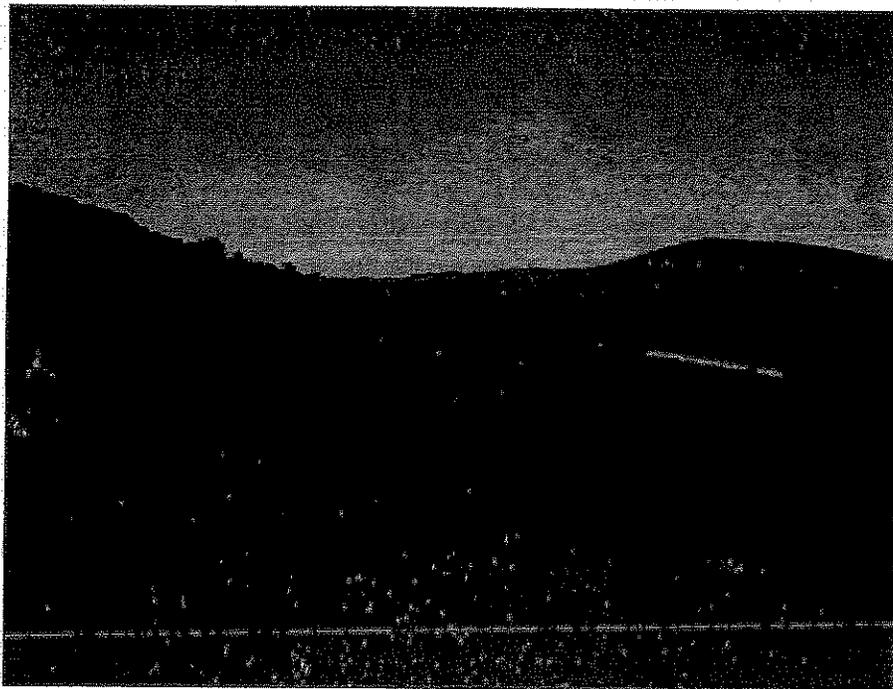


Photo 18. Northernmost portion of West Trail corridor. (6/23/14)



Photo 19. Existing bridge across central creek. (4/15/14)

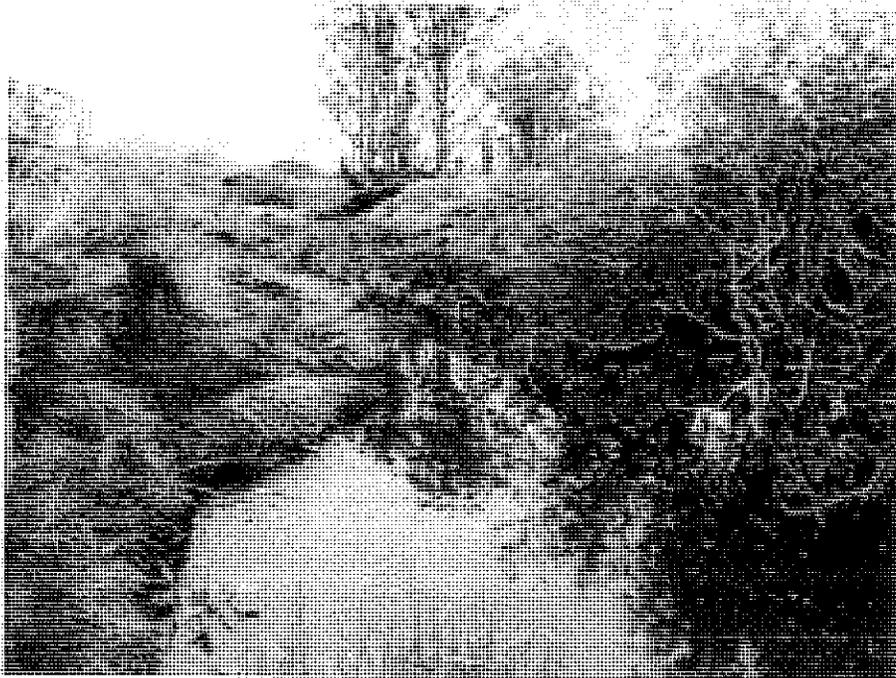


Photo 20. Central creek upstream from existing bridge. (4/15/14)

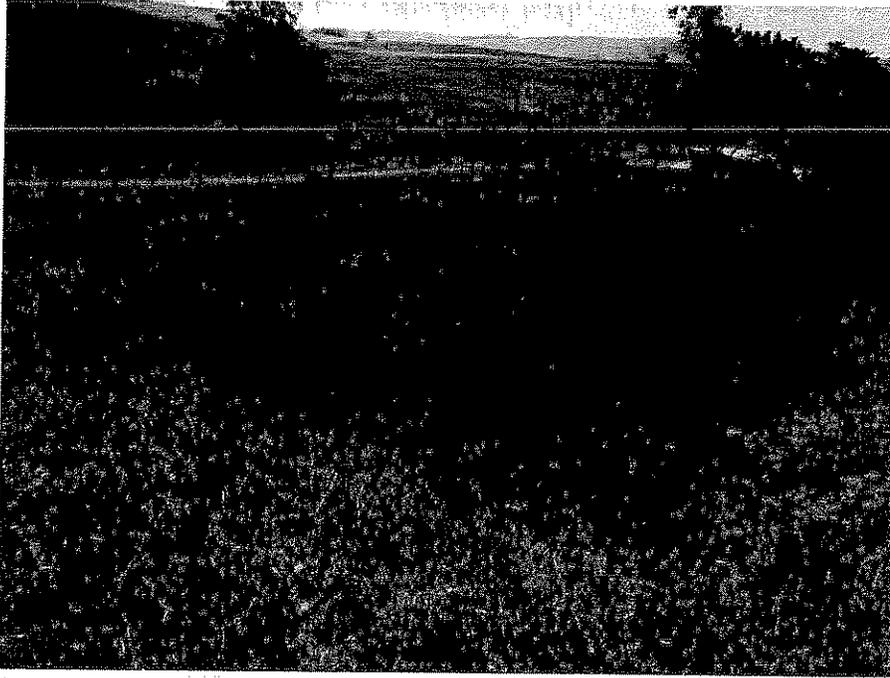


Photo 21. Pond 1 near West Trail corridor. California red-legged frogs observed in this feature during night surveys. (6/23/14)



Photo 22. Pond 2 east of West Trail corridor. California red-legged frogs not observed in this feature during night surveys. (6/23/14)



Photo 23. Pond 3 near East Trail corridor. (4/15/14)



Photo 24. California red-legged frog at seep above water trough along East Trail corridor. (4/15/14)

## Appendix B. Species Lists

**U.S. Fish & Wildlife Service**  
**Sacramento Fish & Wildlife Office**  
**Federal Endangered and Threatened Species that Occur in**  
**or may be Affected by Projects in the**  
**VALLEY FORD (502C)**  
**U.S.G.S. 7 1/2 Minute Quad**

Database last updated: September 18, 2011

Report Date: March 25, 2014

Listed Species

Invertebrates

*Haliotes cracherodii*  
black abalone (E) (NMFS)

*Haliotes sorenseni*  
white abalone (E) (NMFS)

*Speyeria zerene myrtleae*  
Myrtle's silverspot butterfly (E)

*Syncaris pacifica*  
California freshwater shrimp (E)

Fish

*Eucyclogobius newberryi*  
critical habitat, tidewater goby (X)  
tidewater goby (E)

*Oncorhynchus kisutch*  
coho salmon - central CA coast (E) (NMFS)  
Critical habitat, coho salmon - central CA coast (X) (NMFS)

*Oncorhynchus mykiss*  
Central California Coastal steelhead (T) (NMFS)  
Central Valley steelhead (T) (NMFS)  
Critical habitat, Central California coastal steelhead (X) (NMFS)

*Oncorhynchus tshawytscha*  
California coastal chinook salmon (T) (NMFS)

Amphibians

*Rana draytonii*

California red-legged frog (T)

Critical habitat, California red-legged frog (X)

Reptiles

*Caretta caretta*

loggerhead turtle (T) (NMFS)

*Chelonia mydas* (incl. *agassizi*)

green turtle (T) (NMFS)

*Dermochelys coriacea*

leatherback turtle (E) (NMFS)

*Lepidochelys olivacea*

olive (=Pacific) ridley sea turtle (T) (NMFS)

Birds

*Brachyramphus marmoratus*

marbled murrelet (T)

*Charadrius alexandrinus nivosus*

western snowy plover (T)

*Diomedea albatrus*

short-tailed albatross (E)

*Pelecanus occidentalis californicus*

California brown pelican (E)

*Strix occidentalis caurina*

northern spotted owl (T)

Mammals

*Arctocephalus townsendi*

Guadalupe fur seal (T) (NMFS)

*Balaenoptera borealis*

sei whale (E) (NMFS)

Balaenoptera musculus  
blue whale (E) (NMFS)

Balaenoptera physalus  
finback (=fin) whale (E) (NMFS)

Eubalaena (=Balaena) glacialis  
right whale (E) (NMFS)

Eumetopias jubatus  
Steller (=northern) sea-lion (T) (NMFS)

Physeter catodon (=macrocephalus)  
sperm whale (E) (NMFS)

#### Plants

Delphinium bakeri  
Baker's larkspur (E)

Delphinium luteum  
Critical habitat, yellow larkspur (X)  
yellow larkspur (E)

Lasthenia conjugens  
Contra Costa goldfields (E)

Trifolium amoenum  
showy Indian clover (E)

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#### Key:

- (E) Endangered - Listed as being in danger of extinction.
- (T) Threatened - Listed as likely to become endangered within the foreseeable future.
- (P) Proposed - Officially proposed in the Federal Register for listing as endangered or threatened.
- (NMFS) Species under the Jurisdiction of the National Oceanic & Atmospheric Administration Fisheries Service. Consult with them directly about these species.
- Critical Habitat - Area essential to the conservation of a species.

- (PX) Proposed Critical Habitat - The species is already listed. Critical habitat is being proposed for it.
- (C) Candidate - Candidate to become a proposed species.
- (V) Vacated by a court order. Not currently in effect. Being reviewed by the Service.
- (X) Critical Habitat designated for this species

CNDDDB Quad Species List 48 records.

Element Type	Scientific Name	Common Name	Element Code	Federal Status	State Status	CA CDFW Status	Rare Plant Rank	Quad Code	Quad Name	Data Status	Taxonomic Sort
Animals - Amphibians	<i>Rana boylei</i>	foothill yellow-legged frog	AAABH01050	None	None	SSC	-	3812238	Valley Ford	Unprocessed	Animals - Amphibians - Ranidae - <i>Rana boylei</i>
Animals - Amphibians	<i>Rana draytonii</i>	California red-legged frog	AAABH01022	Threatened	None	SSC	-	3812238	Valley Ford	Mapped and Unprocessed	Animals - Amphibians - Ranidae - <i>Rana draytonii</i>
Animals - Birds	<i>Pandion haliaetus</i>	osprey	ABNKC01010	None	None	WL	-	3812238	Valley Ford	Unprocessed	Animals - Birds - Accipitridae - <i>Pandion haliaetus</i>
Animals - Birds	<i>Cypseloides niger</i>	black swift	ABNUA01010	None	None	SSC	-	3812238	Valley Ford	Mapped	Animals - Birds - Apodidae - <i>Cypseloides niger</i>
Animals - Birds	<i>Coccyzus americanus occidentalis</i>	western yellow-billed cuckoo	ABNRB02022	Threatened	Endangered	-	-	3812238	Valley Ford	Mapped	Animals - Birds - Cuculidae - <i>Coccyzus americanus occidentalis</i>
Animals - Birds	<i>Agelaius tricolor</i>	tricolored blackbird	ABPBXB0020	None	None	SSC	-	3812238	Valley Ford	Mapped	Animals - Birds - Icteridae - <i>Agelaius tricolor</i>
Animals - Birds	<i>Pelecanus occidentalis californicus</i>	California brown pelican	ABNFC01021	Delisted	Delisted	FP	-	3812238	Valley Ford	Unprocessed	Animals - Birds - Pelecanidae - <i>Pelecanus occidentalis californicus</i>
Animals - Birds	<i>Athene cunicularia</i>	burrowing owl	ABNSB10010	None	None	SSC	-	3812238	Valley Ford	Unprocessed	Animals - Birds - Strigidae - <i>Athene cunicularia</i>
Animals - Crustaceans	<i>Syncaris pacifica</i>	California freshwater shrimp	ICMAL27010	Endangered	Endangered	-	-	3812238	Valley Ford	Mapped and Unprocessed	Animals - Crustaceans - Atyidae - <i>Syncaris pacifica</i>
Animals - Fish	<i>Eucyclogobius newberryi</i>	tidewater goby	AFCQN04010	Endangered	None	SSC	-	3812238	Valley Ford	Mapped and Unprocessed	Animals - Fish - Gobiidae - <i>Eucyclogobius newberryi</i>
Animals - Fish	<i>Oncorhynchus kisutch</i>	coho salmon - central California coast ESU	AFCHA02034	Endangered	Endangered	-	-	3812238	Valley Ford	Unprocessed	Animals - Fish - Salmonidae - <i>Oncorhynchus kisutch</i>
Animals - Fish	<i>Oncorhynchus mykiss irideus</i>	steelhead - central California coast DPS	AFCHA0209G	Threatened	None	-	-	3812238	Valley Ford	Unprocessed	Animals - Fish - Salmonidae - <i>Oncorhynchus mykiss irideus</i>
Animals - Insects	<i>Lichnanthe ursina</i>	bumblebee scarab beetle	IICOL67020	None	None	-	-	3812238	Valley Ford	Mapped	Animals - Insects - Glaphyridae - <i>Lichnanthe ursina</i>
Animals - Insects	<i>Callophrys mossii bayensis</i>	San Bruno elfin butterfly	IILEPE2202	Endangered	None	-	-	3812238	Valley Ford	Mapped	Animals - Insects - Lycaenidae - <i>Callophrys mossii bayensis</i>
Animals - Insects	<i>Danaus plexippus</i>	monarch butterfly	IILEPP2010	None	None	-	-	3812238	Valley Ford	Mapped	Animals - Insects - Nymphalidae - <i>Danaus plexippus</i>
Animals - Insects	<i>Speyeria zerene myrtilae</i>	Myrtle's silverspot butterfly	IILEPJ608C	Endangered	None	-	-	3812238	Valley Ford	Mapped	Animals - Insects - Nymphalidae - <i>Speyeria zerene myrtilae</i>

Animals - Insects	Coelus globosus	globose dune beetle	HCOL4A010	None	None	-	-	3812238	Valley Ford	Mapped	Animals - Insects - Tenabronidae - Coelus globosus
Animals - Mammals	Arborimus pomo	Sonoma tree vole	AMAFF23030	None	None	SSC	-	3812238	Valley Ford	Mapped	Animals - Mammals - Muridae - Arborimus pomo
Animals - Mammals	Taxidea taxus	American badger	AMAJF04010	None	None	SSC	-	3812238	Valley Ford	Mapped	Animals - Mammals - Mustelidae - Taxidea taxus
Animals - Mollusks	Vespericola marinensis	Marin hesperian	IMGASA4140	None	None	-	-	3812238	Valley Ford	Mapped	Animals - Mollusks - Polygyridae - Vespericola marinensis
Animals - Reptiles	Emys marmorata	western pond turtle	ARAAD02030	None	None	SSC	-	3812238	Valley Ford	Mapped and Unprocessed	Animals - Reptiles - Emydidae - Emys marmorata
Community - Terrestrial	Coastal Brackish Marsh	Coastal Brackish Marsh	CTT52200CA	None	None	-	-	3812238	Valley Ford	Mapped	Community - Terrestrial - Coastal Brackish Marsh
Plants - Bryophytes	Triquetrella californica	coastal triquetrella	NBMUS7S010	None	None	-	1B.2	3812238	Valley Ford	Mapped	Plants - Bryophytes - Pottiaceae - Triquetrella californica
Plants - Lichens	Thamnozia vermicularis	whiteworm lichen	NLTES43860	None	None	-	2B.1	3812238	Valley Ford	Mapped	Plants - Lichens - Lecanodophilaecae - Thamnozia vermicularis
Plants - Vascular	Cirsium andrewsii	Franciscan thistle	PDAST2E060	None	None	-	1B.2	3812238	Valley Ford	Mapped	Plants - Vascular - Asteraceae - Cirsium andrewsii
Plants - Vascular	Hemizonia congesta ssp. congesta	white seaside tarplant	PDAST4R085	None	None	-	1B.2	3812238	Valley Ford	Mapped	Plants - Vascular - Asteraceae - Hemizonia congesta ssp. congesta
Plants - Vascular	Hesperisvax sparsiflora var. brevifolia	short-leaved evax	PDASTE5011	None	None	-	1B.2	3812238	Valley Ford	Mapped	Plants - Vascular - Asteraceae - Hesperisvax sparsiflora var. brevifolia
Plants - Vascular	Lasthenia californica ssp. bakeri	Baker's goldfields	PDAST5L0C4	None	None	-	1B.2	3812238	Valley Ford	Mapped	Plants - Vascular - Asteraceae - Lasthenia californica ssp. bakeri
Plants - Vascular	Lasthenia californica ssp. macrantha	perennial goldfields	PDAST5L0C5	None	None	-	1B.2	3812238	Valley Ford	Mapped	Plants - Vascular - Asteraceae - Lasthenia californica ssp. macrantha
Plants - Vascular	Lasthenia conjugens	Contra Costa goldfields	PDAST5L040	Endangered	None	-	1B.1	3812238	Valley Ford	Mapped	Plants - Vascular - Asteraceae - Lasthenia conjugens
Plants - Vascular	Microseris paludosa	marsh microseris	PDAST6E0D0	None	None	-	1B.2	3812238	Valley Ford	Mapped	Plants - Vascular - Asteraceae - Microseris paludosa
Plants - Vascular	Arabis blepharophylla	coast rockcress	PDBRA0G040	None	None	-	4.3	3812238	Valley Ford	Unprocessed	Plants - Vascular - Brassicaceae - Arabis blepharophylla

Plants - Vascular	<i>Calystegia purpurata</i> ssp. <i>saxicola</i>	coastal bluff morning-glory	PDCON040D2	None	None	-	1B.2	3812238	Valley Ford	Mapped	Plants - Vascular Convolvulaceae - <i>Calystegia purpurata</i> ssp. <i>saxicola</i>
Plants - Vascular	<i>Trifolium amoenum</i>	showy rancheria clover	PDFAB40040	Endangered	None	-	1B.1	3812236	Valley Ford	Mapped	Plants - Vascular - Fabaceae - <i>Trifolium amoenum</i>
Plants - Vascular	<i>Fritillaria liliacea</i>	fragrant fritillary	PMLIL0V0C0	None	None	-	1B.2	3812238	Valley Ford	Mapped	Plants - Vascular - Liliaceae - <i>Fritillaria liliacea</i>
Plants - Vascular	<i>Sidalcea calycosa</i> ssp. <i>rhizomata</i>	Point Reyes checkerbloom	PDMAL11012	None	None	-	1B.2	3812238	Valley Ford	Mapped	Plants - Vascular - Malvaceae - <i>Sidalcea calycosa</i> ssp. <i>rhizomata</i>
Plants - Vascular	<i>Sidalcea malviflora</i> ssp. <i>purpurea</i>	purple-stemmed checkerbloom	PDMAL110FL	None	None	-	1B.2	3812238	Valley Ford	Mapped	Plants - Vascular - Malvaceae - <i>Sidalcea malviflora</i> ssp. <i>purpurea</i>
Plants - Vascular	<i>Triphysaria floribunda</i>	San Francisco owl's-clover	PDSCR2T010	None	None	-	1B.2	3812238	Valley Ford	Mapped	Plants - Vascular - Orobanchaceae - <i>Triphysaria floribunda</i>
Plants - Vascular	<i>Agrostis blasdalei</i>	Blasdale's bent grass	PMPOA04060	None	None	-	1B.2	3812238	Valley Ford	Mapped	Plants - Vascular - Poaceae - <i>Agrostis blasdalei</i>
Plants - Vascular	<i>Elymus californicus</i>	California bottle-brush grass	PMPOA2H0W0	None	None	-	4.3	3812238	Valley Ford	Unprocessed	Plants - Vascular - Poaceae - <i>Elymus californicus</i>
Plants - Vascular	<i>Gilia capitata</i> ssp. <i>chamissonis</i>	blue coast gilia	PDPLM040E3	None	None	-	1B.1	3812238	Valley Ford	Mapped	Plants - Vascular - Polemoniaceae - <i>Gilia capitata</i> ssp. <i>chamissonis</i>
Plants - Vascular	<i>Leptosiphon rosaceus</i>	rose leptosiphon	PDPLM09180	None	None	-	1B.1	3812238	Valley Ford	Mapped	Plants - Vascular - Polemoniaceae - <i>Leptosiphon rosaceus</i>
Plants - Vascular	<i>Chorizanthe cuspidata</i> var. <i>villosa</i>	woolly-headed spineflower	PDPGN04082	None	None	-	1B.2	3812238	Valley Ford	Mapped	Plants - Vascular - Polygonaceae - <i>Chorizanthe cuspidata</i> var. <i>villosa</i>
Plants - Vascular	<i>Delphinium bakeri</i>	Baker's larkspur	PDRAN0B050	Endangered	Endangered	-	1B.1	3812238	Valley Ford	Mapped	Plants - Vascular - Ranunculaceae - <i>Delphinium bakeri</i>
Plants - Vascular	<i>Delphinium luteum</i>	golden larkspur	PDRAN0B0Z0	Endangered	Rare	-	1B.1	3812238	Valley Ford	Mapped	Plants - Vascular - Ranunculaceae - <i>Delphinium luteum</i>
Plants - Vascular	<i>Ranunculus lobbii</i>	Lobb's aquatic buttercup	PDRAN0L1J0	None	None	-	4.2	3812238	Valley Ford	Unprocessed	Plants - Vascular - Ranunculaceae - <i>Ranunculus lobbii</i>
Plants - Vascular	<i>Horkelia marinensis</i>	Point Reyes horkelia	PDR0S0W0B0	None	None	-	1B.2	3812238	Valley Ford	Mapped	Plants - Vascular - Rosaceae - <i>Horkelia marinensis</i>
Plants - Vascular	<i>Dirca occidentalis</i>	western leatherwood	PDTHY03010	None	None	-	1B.2	3812238	Valley Ford	Mapped	Plants - Vascular - Thymelaeaceae - <i>Dirca occidentalis</i>

CNDDDB Animal Occurrences within a 5-mile Radius of the Project Site  
 (BIOS 5 Online Search Date July 11, 2014)

Scientific Name	Common Name	Occ		Federal Status	State Status	Other Status
		No.	EONDX			
<i>Rana draytonii</i>	California red-legged frog	743	55178	Threatened	None	CDFW_SSC; IUCN_VU
<i>Rana draytonii</i>	California red-legged frog	742	55177	Threatened	None	CDFW_SSC; IUCN_VU
<i>Rana draytonii</i>	California red-legged frog	62	5465	Threatened	None	CDFW_SSC; IUCN_VU
<i>Rana draytonii</i>	California red-legged frog	41	16266	Threatened	None	CDFW_SSC; IUCN_VU
<i>Rana draytonii</i>	California red-legged frog	75	6360	Threatened	None	CDFW_SSC; IUCN_VU
<i>Rana draytonii</i>	California red-legged frog	74	20061	Threatened	None	CDFW_SSC; IUCN_VU
<i>Rana draytonii</i>	California red-legged frog	423	45155	Threatened	None	CDFW_SSC; IUCN_VU
<i>Rana draytonii</i>	California red-legged frog	1335	77729	Threatened	None	CDFW_SSC; IUCN_VU
<i>Rana draytonii</i>	California red-legged frog	845	62536	Threatened	None	CDFW_SSC; IUCN_VU
<i>Rana draytonii</i>	California red-legged frog	429	45290	Threatened	None	CDFW_SSC; IUCN_VU
<i>Charadrius alexandrinus nivosus</i>	western snowy plover	75	25741	Threatened	None	ABC_WLBCC; CDFW_SSC; USFWS_BCC
<i>Coccyzus americanus occidentalis</i>	western yellow-billed cuckoo	172	72486	Threatened	Endangered	BLM_S; USFS_S; USFWS_BCC
<i>Cypseloides niger</i>	black swift	19	28976	None	None	ABC_WLBCC; CDFW_SSC; IUCN_LC; USFWS_BCC
<i>Agelaius tricolor</i>	tricolored blackbird	278	6659	None	None	CDFW_SSC; IUCN_EN; USFWS_BCC
<i>Agelaius tricolor</i>	tricolored blackbird steelhead - central	324	30793	None	None	CDFW_SSC; IUCN_EN; USFWS_BCC
<i>Oncorhynchus mykiss irideus</i>	California coast DPS	30	79213	Threatened	None	AFS_TH
<i>Thaleichthys pacificus</i>	eulachon	5	91929	Threatened	None	CDFW_SSC
<i>Eucyclogobius newberryi</i>	tidewater goby	15	28567	Endangered	None	IUCN_VU
<i>Eucyclogobius newberryi</i>	tidewater goby	14	28568	Endangered	None	IUCN_VU
<i>Eucyclogobius newberryi</i>	tidewater goby	13	28569	Endangered	None	IUCN_VU
<i>Myotis evotis</i>	long-eared myotis	86	69764	None	None	WBWG_M
<i>Myotis thysanodes</i>	fringed myotis	72	69765	None	None	BLM_S; IUCN_LC; WBWG_H
<i>Lasiurus cinereus</i>	hoary bat	123	68886	None	None	IUCN_LC; WBWG_M
<i>Corynorhinus townsendii</i>	Townsend's big-eared bat	461	93841	None	Candidate Threatened	IUCN_LC; USFS_S; WBWG_H
<i>Corynorhinus townsendii</i>	Townsend's big-eared bat	224	69763	None	Candidate Threatened	IUCN_LC; USFS_S; WBWG_H
<i>Antrozous pallidus</i>	pallid bat	45	43206	None	None	IUCN_LC; USFS_S; WBWG_H
<i>Arborimus pomio</i>	Sonoma tree vole	189	41317	None	None	CDFW_SSC; IUCN_NT
<i>Taxidea taxus</i>	American badger	232	57130	None	None	CDFW_SSC; IUCN_LC
<i>Taxidea taxus</i>	American badger	408	71225	None	None	CDFW_SSC; IUCN_LC
<i>Taxidea taxus</i>	American badger	451	83056	None	None	CDFW_SSC; IUCN_LC
<i>Emys marmorata</i>	western pond turtle	463	9358	None	None	IUCN_VU; USFS_S
<i>Emys marmorata</i>	western pond turtle	425	21696	None	None	IUCN_VU; USFS_S
<i>Emys marmorata</i>	western pond turtle	404	8182	None	None	IUCN_VU; USFS_S
<i>Emys marmorata</i>	western pond turtle	401	16265	None	None	IUCN_VU; USFS_S
<i>Emys marmorata</i>	western pond turtle	539	46564	None	None	IUCN_VU; USFS_S

<i>Emys marmorata</i>	western pond turtle	641	63917	None	None	IUCN_VU; USFS_S
<i>Syncaris pacifica</i>	California freshwater shrimp	3	14451	Endangered	Endangered	IUCN_EN
<i>Syncaris pacifica</i>	California freshwater shrimp	13	12967	Endangered	Endangered	IUCN_EN
<i>Syncaris pacifica</i>	California freshwater shrimp	20	67733	Endangered	Endangered	IUCN_EN
<i>Coelus globosus</i>	globose dune beetle	26	61128	None	None	IUCN_VU
<i>Lichnanthe ursina</i>	bumblebee scarab beetle	2	22629	None	None	
<i>Lichnanthe ursina</i>	bumblebee scarab beetle	9	12874	None	None	
<i>Lichnanthe ursina</i>	bumblebee scarab beetle	10	55978	None	None	
<i>Callophrys mossii bayensis</i>	San Bruno elfin butterfly	20	61775	Endangered	None	XERCES_CI
<i>Speyeria zerene myrtleae</i>	Myrtle's silverspot butterfly	14	43753	Endangered	None	XERCES_CI
<i>Speyeria zerene myrtleae</i>	Myrtle's silverspot butterfly	15	43767	Endangered	None	XERCES_CI
<i>Speyeria zerene myrtleae</i>	Myrtle's silverspot butterfly	7	43742	Endangered	None	XERCES_CI
<i>Speyeria zerene myrtleae</i>	Myrtle's silverspot butterfly	5	43735	Endangered	None	XERCES_CI
<i>Speyeria zerene myrtleae</i>	Myrtle's silverspot butterfly	4	43734	Endangered	None	XERCES_CI
<i>Speyeria zerene myrtleae</i>	Myrtle's silverspot butterfly	8	43743	Endangered	None	XERCES_CI
<i>Speyeria zerene myrtleae</i>	Myrtle's silverspot butterfly	6	43736	Endangered	None	XERCES_CI
<i>Danaus plexippus</i>	monarch butterfly	22	22964	None	None	
<i>Danaus plexippus</i>	monarch butterfly	231	20591	None	None	
<i>Vespericola marinensis</i>	Marin hesperian	2	58683	None	None	

**Appendix C. Wildlife Species Observed on the Project Property during the April and June 2014 Site Visits**

*Mammals*

American badger	<i>Taxidea taxus</i>	Burrows only
Black-tailed deer	<i>Odocoileus hemionus columbianus</i>	
jackrabbit	<i>Lepus californicus</i>	

*Birds*

Mallard	<i>Anas platyrhynchos</i>
California quail	<i>Callipepla californica</i>
American white pelican	<i>Pelecanus erythrorhynchos</i>
Turkey vulture	<i>Cathartes aura</i>
Osprey	<i>Pandion haliaetus</i>
Red-tailed hawk	<i>Buteo jamaicensis</i>
Eurasian collared dove	<i>Streptopelia decaocto</i>
Mourning dove	<i>Zenaida macroura</i>
Black phoebe	<i>Sayornis nigricans</i>
Western kingbird	<i>Tyrannus verticalis</i>
Western scrub jay	<i>Aphelocoma californica</i>
Common raven	<i>Corvus corax</i>
Tree swallow	<i>Tachycineta bicolor</i>
Barn swallow	<i>Hirundo rustica</i>
Western bluebird	<i>Sialia mexicana</i>
California towhee	<i>Melospiza crissalis</i>
Savannah sparrow	<i>Passerculus sandwichensis</i>
White-crowned sparrow	<i>Zonotrichia leucophrys</i>
Red-winged blackbird	<i>Agelaius phoeniceus</i>
Brewer's blackbird	<i>Euphagus cyanocephalus</i>
House finch	<i>Carpodacus mexicanus</i>
American goldfinch	<i>Spinus tristis</i>
House sparrow	<i>Passer domesticus</i>

*Reptiles and Amphibians*

Garter snake	<i>Thamnophis sp.</i>
Western pond turtle	<i>Emys marmorata</i>
California red-legged frog	<i>Rana draytonii</i>
American bullfrog	<i>Rana catesbeiana</i>
Pacific chorus frog	<i>Pseudacris regilla</i>

*Fish and Aquatic*

*Invertebrates*

Mosquitofish	<i>Gambusia affinis</i>
Threespine stickleback	<i>Gasterosteus aculeatus</i>
Water boatman	
Predatory diving beetle	

**From:** Sue Gallagher <Sue.Gallagher@sonoma-county.org>  
**Sent:** Monday, October 26, 2015 8:11 PM  
**To:** Chris Mazzia  
**Subject:** Bordessa Ranch Resource Studies (II)  
**Attachments:** Wildlife Resources Evaluation Part 1-A.pdf

Chris,

Attached is the first part of the Wildlife Resources Evaluation. (The report is here split into two parts, only due to the limits of our e-mail system.) One more e-mail to follow.

Sue

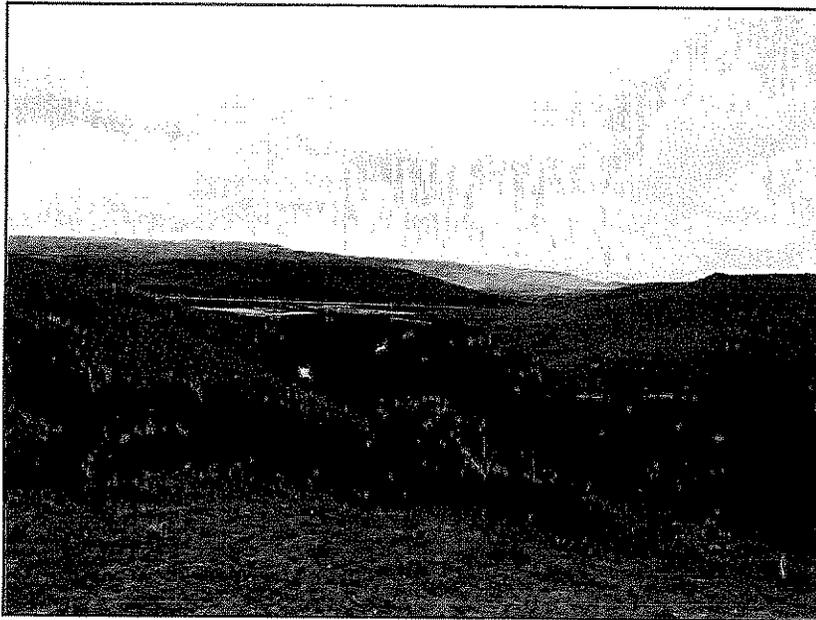
Sue A. Gallagher  
Chief Deputy County Counsel  
575 Administration Drive, Rm. 105A  
Santa Rosa, CA 95403  
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**BORD 004997**

Estero Trail  
Wildlife Resources Evaluation  
Part 1- Assessment



Prepared for:

Sonoma County Agricultural Preservation and Open Space District

Prepared by:

Laura Peltz, Environmental Specialist

Richard Stabler, M.S., Senior Environmental Specialist

Sonoma County Permit and Resource Management Department

October 2014

**BORD 004998**

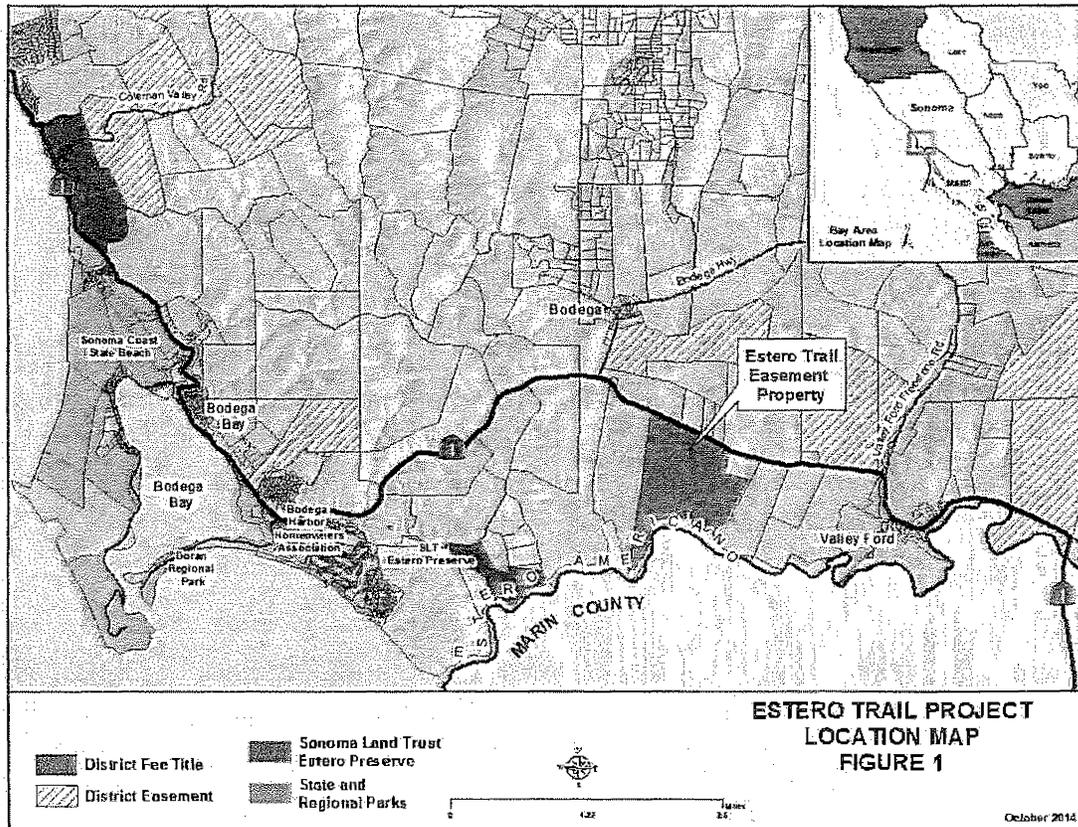
## Introduction

The Sonoma County Agricultural Preservation and Open Space District (District) and the Sonoma County Regional Parks Department (Regional Parks) are joint sponsors of the Estero Trail Project, and the District is acting as the lead agency for purposes of environmental review under the California Environmental Quality Act (CEQA). This document has been prepared by Sonoma County Permit and Resource Management Department (PRMD) staff to identify the potential wildlife in the area of the project.

## Project Setting

As described in the Gold Ridge Resource Conservation District's *Estero Americano Watershed Plan*, the Estero Americano is a fjord-like estuary that extends from the Pacific Ocean, just south of Bodega Harbor, to the town of Valley Ford 4.0 miles inland. Its main tributary, Americano Creek, is about 7.6 miles in length and drains the upper third of the Estero Americano Watershed before flowing into the tidal estuary at Valley Ford. The estuary is considered a "seasonal estuary" due to the formation of a sand bar at the mouth of the estuary during the late spring and summer months that blocks the tidal influence. The Estero Americano and Americano Creek drain an area of 39 square miles. (GRRCD, 2007) The project property is located in the lower portion of the watershed. The predominant land use in the watershed is grazing.

The estuary is located in the Pacific Flyway and its mudflats, open water, and marshes provide seasonally important foraging habitat for migratory waterfowl and shorebirds, and resident wading birds (GRRCD, 2007). The Estero estuary to the mean high water line is within the boundaries of the Gulf of the Farallones National Marine Sanctuary upstream to the bridge at Valley Ford Estero Road (NOAA, 2008).



**Figure 1. Location Map**

Sonoma County has a climate of typically dry summers and mild, wet winters, with 90 percent of the rainfall occurring from November through April. The project property is about 3 miles inland from the coast. The climate is influenced by the Pacific Ocean and is characterized by mild seasonal temperatures, strong prevailing northwest winds, often with low clouds and fog during the summer months. Mean annual precipitation varies from 30 to 38 inches. (Rob Evans and Associates, 2012)

The project property consists of rolling, predominantly south-sloping, hills and open pasture, and extends south to the Estero Americano, with 1.3 miles of Estero Americano frontage. The project property has historically been and is currently used for livestock grazing. An unnamed creek runs generally from north to south through the middle of the property, and another creek follows the eastern boundary of the property. Other small drainages drain the west and northwest portions of the property. The elevation ranges from 390 feet at the hilltop on the western half of the project property to sea-level at the Estero. (Rob Evans & Associates, 2012)

Plant communities and habitat at the project property are described below under Existing Plant Communities and Habitats.

## **Project Description**

The proposed project would establish two pedestrian only trail corridors with associated staging areas (parking lots) that would allow for low-intensity public access to pursue outdoor recreational and educational uses. (See Figure 2). The proposed future uses may include hiking, nature study, bird watching, sightseeing, picnicking, outdoor education, docent-led tours, scientific research and observation, as well as limited seasonal access to the Estero Americano for recreational uses such as kayaking and canoeing.

The proposed trail corridor alignments consist of two 50-foot wide corridors, totaling not more than 5-miles in length. The trails will be constructed for pedestrian use and hand-carried non-motorized boats, kayaks and canoes. The trails are anticipated to be 5-foot wide compacted native material or other permeable surface including rocked wet crossings only for any stream crossings. Trail marker posts and benches would be placed along the trail.

The existing main access road and gate or improved replacements, are expected to remain in similar locations. Two staging areas would be added to accommodate parking for trail users, together not to exceed 1.5 acres in size. Staging areas may include one or more of the following: restroom facilities, accessible parking, bicycle parking, picnic tables, benches, trash & recycle containers, and operations signage.

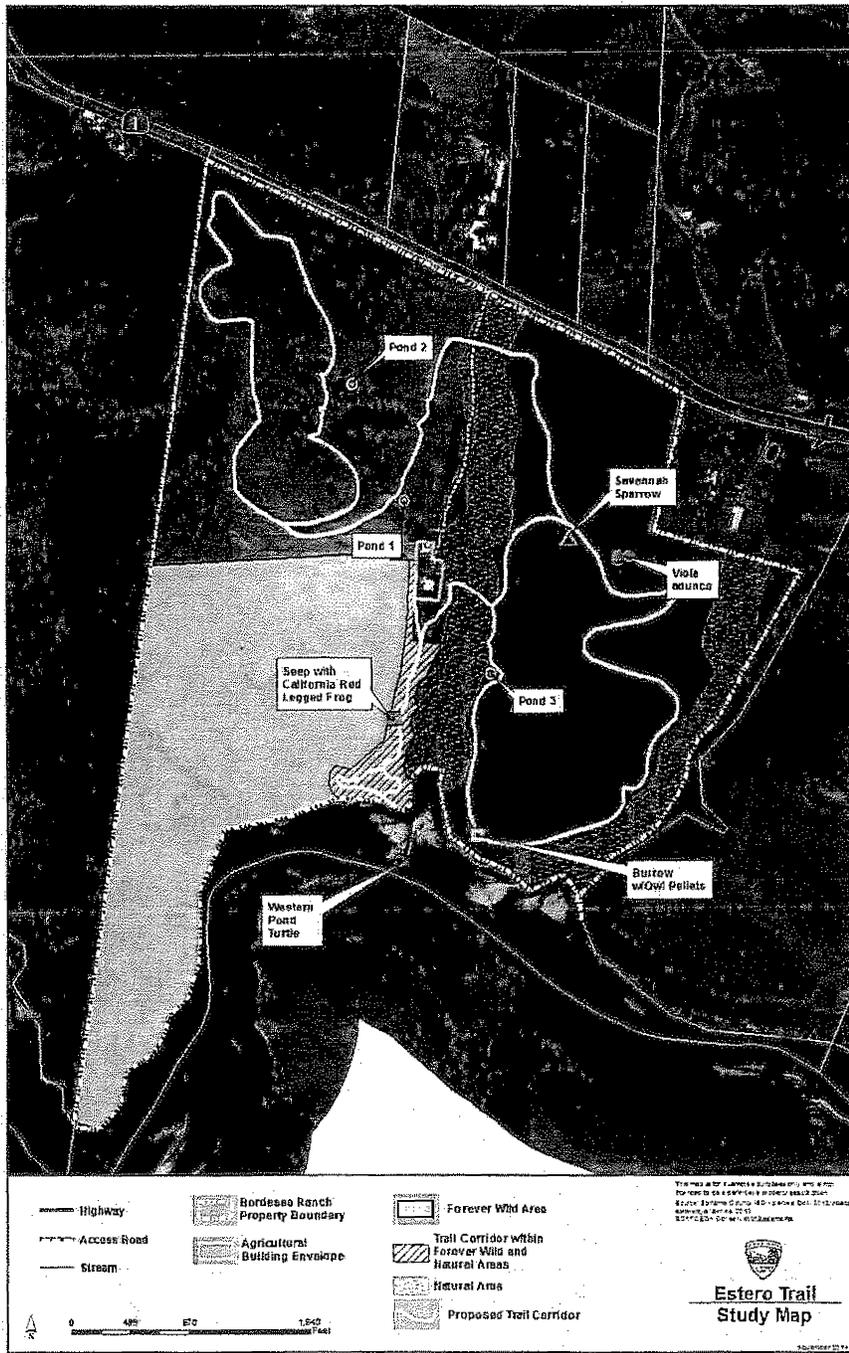


Figure 2. Estero Trail Study Map

## Study Methodology

Two site visits were conducted by County biological staff (Richard Stabler, Laura Peltz, and Crystal Acker) on April 15 and June 23, 2014. During the April site visit, the authors surveyed the proposed East Trail corridor (which includes the trail alignment east of the central unnamed creek and extending south along the west side of the creek from the barn area to near the Estero), areas along the existing access road that may be used for future parking or staging, and the barn and surrounding areas. We also conducted a reconnaissance survey of the central unnamed creek on the property to determine its potential to support special status species and identify the need for species-specific targeted surveys.

During the June site visit, the authors surveyed the proposed West Trail corridor and nearby aquatic features. We also conducted a dip-net survey for California freshwater shrimp within the central creek up- and downstream of the existing bridge crossing (see the section on California freshwater shrimp in this report for further details of this survey). We returned after dark on the evening of the 23<sup>rd</sup> to conduct surveys for adult California red-legged frogs (see the section on California red-legged frog for further details on this survey).

The site visits were reconnaissance-level surveys to document conditions on the property in the vicinity of potential improvements associated with the trail, identify potential for special status wildlife species to be present on site, identify habitat for these species in the vicinity of the trail and associated improvements, and recommend measures to minimize potential impacts from trail easement recordation, trail development and operation. The surveys of the proposed trail corridors, staging and parking areas consisted of the authors walking the general trail corridor alignment and surrounding area in a widely-spaced and meandering pattern to maximize coverage. The site visits were not intended to be an exhaustive survey of the entire property for planning or management purposes other than for the purpose of designation of the location of the trail corridors and staging areas. To adequately prepare for our site visits, we reviewed the following informational resources:

- A review of special status animal occurrences within 5 miles of the site and for the Valley Ford United States Geological Survey (USGS) 7.5' quadrangle from the California Natural Diversity Database (CNDDB) (CDFW, 2014), and
- The U.S. Fish and Wildlife Service (USFWS)'s species list for the Valley Ford quadrangle.

Prior assessments at the site that were also used in this analysis include:

- Intensive bird surveys conducted by Emily Heaton in 2011 and 2012 and described her report *Summary of Findings from Bird Surveys on the Bordessa Ranch, Final Report: 2011 and 2012 Survey* (2012);
- The *Bordessa Ranch Conservation Easement Baseline Documentation* report prepared by Rob Evans and Associates to document physical features, land use, easements, as well as biological and hydrologic features on the property relative to the Deed and Agreement conveying a conservation easement to the District (2012).

## Existing Plant Communities and Habitats

Plant communities and habitat types found on site are characterized briefly below. For additional detail on the plant composition on site and along the proposed trail corridors, please refer to the

*Rare Plant/Wetland Habitat Assessment- Estero Trail Site* (Acker, 2014) and *Bordessa Ranch Conservation Easement Baseline Documentation* (Rob Evans and Associates, 2012).

#### Annual Grassland

The predominant habitat type on site is annual grassland, which makes up the majority of the East and West Trail corridors and the staging areas. Non-native plants dominate this habitat type. The East Trail corridor is open with very few shrubs. The West Trail corridor is also predominantly open, though the north facing slope nearest to Highway 1 has more shrubs including gorse (*Ulex europaeus*), sweet-briar rose (*Rosa rubiginosa*) and coyote bush (*Baccharis pilularis*), and a few trees (Monterey pine). Within the grassland habitat, there are numerous areas of seeping groundwater and areas of wet meadow vegetation. There are also intermittent drainages along the slopes draining to the central creek.

#### Riparian

Riparian habitat is present along the central creek. The northern portion is dominated by dense willow and some gorse. The middle portion upstream of the existing bridge is still dominated by willow, but is somewhat more open with pond-like vegetation including longleaf pondweed (*Potamogeton nodosus*) and juncus (*Juncus* sp.). There are several blue gum eucalyptus (*Eucalyptus globules*), along the central creek north of the existing bridge. The southern portion of the creek is open with more pond-like and marsh vegetation with scattered willows.

Riparian habitat is also present along two other small drainages within the Forever Wild area in the southwest corner of the property, and the creek forming the eastern border of the property located outside the study area for the trail corridor easement (Rob Evans and Associates, 2012).

#### Eucalyptus

There is a eucalyptus grove located along an intermittent drainage on the western half of the property. The West Trail corridor crosses the drainage below the eucalyptus grove. Understory plants in the grove include Douglas-fir (*Pseudotsuga menziesii*), wax myrtle, hawthorn, cream bush, wild rose, gorse, sword fern, and coyote bush (Rob Evans and Associates, 2012). The eucalyptus may provide nesting and roosting habitat for raptors and other birds.

#### Lacustrine

There are several small ponds on the property. Ponds in proximity to the trail corridor (Ponds 1, 2 and 3) are described in more detail in this report in the California Red-legged Frog section. In general, these are small features formed in depressions or dammed portions of intermittent drainages that contain standing water. There is an additional pond within the Forever Wild Area (outside the trail corridor study area) that likely provides habitat for wildlife on-site.

#### Marsh

Marsh habitat is located along the Estero Americano at the southern property boundary and at the mouth of the central creek. The marsh is vegetated primarily by pickleweed (*Salicornia pacifica*), but also contains alkali heath (*Frankenia salina*), saltgrass (*Distichlis spicata*), brass buttons (*Cotula coronopifolia*), fat hen (*Atriplex prostrata*), and annual rabbitfoot grass.

*(Polypogon monspeliensis)* (Acker, 2014). The marsh grades into brackish and freshwater marsh proceeding upstream in the central creek (Rob Evans and Associates, 2012).

There is also a lot of exposed ground within the marsh. During the drier portion of the year, the marsh is not inundated by daily tides. The ground surface was dry and consolidated, and easy to walk across during our April and June site visits.

### Special Status Species – Impacts and Recommendations

For the purposes of this report, "special status species" refers to those taxonomic groups included within the California Department of Fish and Wildlife's Special Animals List (2014). According to CDFW, "Special Animals" is a broad term used to refer to all the animal taxa tracked by the Department of Fish and Wildlife's California CNDDDB, regardless of their legal or protection status. The Special Animals List includes species, subspecies, or Evolutionarily Significant Units (ESU) where at least one of the following conditions applies:

- Officially listed or proposed for listing under the State and/or Federal Endangered Species Acts;
- Taxa considered by CDFW to be a Species of Special Concern (SSC);
- Taxa which meet the criteria for listing, even if not currently included on any list, as described in Section 15380 of the California Environmental Quality Act Guidelines;
- Taxa that are biologically rare, very restricted in distribution, or declining throughout their range but not currently threatened with extirpation;
- Population(s) in California that may be peripheral to the major portion of a taxon's range but are threatened with extirpation in California;
- Taxa closely associated with a habitat that is declining in California at a significant rate (e.g. wetlands, riparian, vernal pools, old growth forests, desert aquatic systems, native grasslands, valley shrubland habitats, etc.);
- Taxa designated as a special status, sensitive, or declining species by other state or federal agencies, or a non-governmental organization (NGO) and determined by the CNDDDB to be rare, restricted, declining, or threatened across their range in California.

The following table is a list of sensitive species potentially occurring or known to occur in the region of the proposed project. As described under study methodology, we compiled the list from a review the USFWS 7.5 minute quadrangle (quad) list for the Valley Ford quad, a CNDDDB 5-mile radius record search and Valley Ford USGS 7.5 minute quad list (CDFW, 2014), and prior surveys performed at the site (Heaton, 2012; Rob Evans and Associates, 2012).

Species not likely to be impacted by the project due to lack of suitable habitat on site, or if their range does not lie within the project area are discussed only within the table. Taxa with potential suitable habitat on site that may be impacted by the project, or species that warrant further explanation are described in the text.

**Table 1. Sensitive species potentially occurring or known to occur in the region of the proposed project.**

Scientific Name	Common Name	Status	General Habitat Description	Habitat Present/Absent	Rationale
<b>Mammals</b>					
<i>Arborimus pomo</i>	Sonoma tree vole	SSC	North coast fog belt from Oregon border to Sonoma Co. in Douglas fir, redwood & montane hardwood-conifer forests. Feeds almost exclusively on Douglas fir needles. Will occasionally take needles of grand fir, hemlock or spruce.	A	No conifer forests present on site.
<i>Antrozous pallidus</i>	pallid bat	SSC	Deserts, grasslands, shrublands, woodlands & forests. Most common in open, dry habitats with rocky areas for roosting. Roosts must protect bats from high temperatures. Very sensitive to disturbance of roosting sites.	HP	Barn on site could provide roosting habitat.
<i>Corynorhinus townsendii</i>	Townsend's big-eared bat	SSC	Throughout CA in a wide variety of habitats. Most common in mesic sites. Roosts in the open, hanging from walls & ceilings. Roosting sites limiting. Extremely sensitive to human disturbance.	HP	Barn on site could provide roosting; however roosting may be limited by the occasional human presence in the barn due to species sensitivity to human presence.
<i>Lasiurus cinereus</i>	hoary bat	M	Prefers open habitats or habitat mosaics, w/ access to trees for cover & open areas or habitat edges for feeding. Roosts in dense foliage of medium to large trees. Feeds primarily on moths. Requires water.	HP	Limited habitat since there few trees on site. Those present do not have particularly dense foliage. Eucalyptus grove could provide marginal habitat.
<i>Myotis evotis</i>	long-eared myotis	M	Found in all brush, woodland, & forest habitats from sea level to about 9000 ft. Prefers coniferous woodlands & forests. Nursery colonies in buildings, crevices, spaces under bark, & snags. Caves used primarily as night roosts.	HP	Barn on site could provide roosting habitat, though preferred coniferous woodland and forest habitat is not present.

Scientific Name	Common Name	Status	General Habitat Description	Habitat Present/Absent	Rationale
<i>Myotis thysanodes</i>	fringed myotis	H	In a wide variety of habitats, optimal habitats are pinyon-juniper, valley foothill hardwood & hardwood-conifer. Uses caves, mines, buildings or crevices for maternity colonies and roosts.	HP	Barn on site could provide roosting habitat.
<i>Taxidea taxus</i>	American badger	SSC	Most abundant in drier open stages of most shrub, forest, and herbaceous habitats, with friable soils. Need sufficient food, friable soils & open, uncultivated ground. Prey on burrowing rodents. Dig burrows.	HP	Species present. Recent and abandoned badger burrows observed within the grassland habitat.
<b>Birds</b>					
<i>Accipiter cooperii</i>	Cooper's hawk	WL	(Nesting). Woodland, chiefly of open, interrupted or marginal type. Nest sites mainly in riparian growths of deciduous trees, as in canyon bottoms on river flood-plains; also, live oaks.	HP	Species observed on property in winter and probable sighting flying over property in spring by Heaton. Marginal nesting habitat -riparian trees of limited density/distribution.
<i>Agelaius tricolor</i>	tricolored blackbird	SSC	(Nesting colony). Requires open water, protected nesting substrate, & foraging area with insect prey within a few km of the colony.	HP	Some emergent and willow thicket habitat present, though discontinuous in nature. No individuals or nesting colony observed. Nearest CNDDB occurrence approx. 3 mi E of site on American Creek.
<i>Aquila chrysaetos</i>	golden eagle	FP WL BCC	(Nesting and wintering). Rolling foothills, mountain areas, sage-juniper flats, & desert. Cliff-walled canyons provide nesting habitat in most parts of range; also, large trees in open areas.	HP	Observed on property in winter by Heaton. Site provides foraging habitat, unlikely to support nesting due to lack of preferred cliff/canyon habitat and limited tall trees.
<i>Ammodramus savannarum</i>	grasshopper sparrow	SSC	(Nesting). Dense grasslands on rolling hills, lowland plains, in valleys & on hillsides on lower mountain slopes. Favors native grasslands with a mix of grasses, forbs & scattered shrubs. Loosely	HP	Species present on property. Species observed by Heaton in suitable grassland habitat during nesting season.

Scientific Name	Common Name	Status	General Habitat Description	Habitat Present/ Absent	Rationale
			colonial when nesting.		
<i>Ardea alba</i>	great egret	--	(Nesting colony). Colonial nester in large trees. Rookery sites located near marshes, tide-flats, irrigated pastures, and margins of rivers and lakes.	HP	Suitable marsh foraging habitat present. No nesting colonies were observed in the limited suitable nest trees on the property. Observed on the Estero by Heaton.
<i>Ardea herodias</i>	great blue heron	--	(Nesting colony). Colonial nester in tall trees, cliffsides, and sequestered spots on marshes. Rookery sites in close proximity to foraging areas: marshes, lake margins, tide-flats, rivers and streams, wet meadows.	HP	Suitable foraging habitat present. No nesting colonies were observed in the limited suitable nest trees on the property. Observed by pond and on the Estero in winter by Heaton.
<i>Asio flammeus</i>	Short-eared owl	SSC	(Nesting). Found in swamp lands, both fresh and salt; lowland meadows; irrigated alfalfa fields. Tule patches/tall grass needed for nesting/daytime seclusion. Nests on dry ground in depression concealed in vegetation.	HP	Species observed winter roosting in ungrazed grassland by Heaton (2012). Probable but unconfirmed summer presence by Heaton and property owner.
<i>Athene cunicularia</i>	burrowing owl	SSC BCC	(Burrow sites & winter observations). Open, dry annual or perennial grasslands, deserts & scrublands characterized by low-growing vegetation. Subterranean nester, dependent upon burrowing mammals, most notably, the CA ground squirrel.	HP	Species observed on property using mammal burrows in winter by Heaton (2012), primarily in grazed or open grassland areas.
<i>Brachyramphus marmoratus</i>	marbled murrelet	FT SE	(Nesting). Feeds near-shore; nests inland along coast, from Eureka to Oregon border & from Half Moon Bay to Santa Cruz. Nests in old-growth redwood-dominated forests, up to six miles inland, often in Douglas firs.	A	No suitable old-growth habitat on the property.
<i>Buteo regalis</i>	ferruginous hawk	WL BBC	(Wintering). Open grasslands, sagebrush flats, desert scrub, low foothills & fringes of pinyon-juniper habitats. Eats mostly lagomorphs, ground squirrels, and mice. Population trends may follow	HP	Suitable winter hunting habitat present. Species observed overhead in ungrazed grassland on property by Heaton (2012). Outside of nesting

Scientific Name	Common Name	Status	General Habitat Description	Habitat Present/Absent	Rationale
			lagomorph population cycles.		range.
<i>Charadrius alexandrinus nivosus</i>	western snowy plover	FT SSC	(Nesting). Federal listing applies only to the Pacific coastal population. Sandy beaches, salt pond levees & shores of large alkali lakes. Needs sandy, gravelly or friable soils for nesting.	A	No suitable nesting habitat due to lack of sandy, friable soils.
<i>Circus cyaneus</i>	northern harrier	SSC	(Nesting). Coastal salt & fresh-water marsh. Nest & forage in grasslands, from salt grass in desert sink to mountain cienegas. Nests on ground in shrubby vegetation, usually at marsh edge; nest built of a large mound of sticks in wet areas.	HP	Suitable marsh and grassland habitat present. Species observed on property in winter and in suitable nesting habitat in breeding season by Heaton.
<i>Coccyzus americanus occidentalis</i>	western yellow-billed cuckoo	FT SE	(Nesting). Riparian forest nester, along the broad, lower flood-bottoms of larger river systems. Nests in riparian jungles of willow, often mixed with cottonwoods, w/ lower story of blackberry, nettles, or wild grape.	A	Western yellow-billed cuckoos require large blocks of riparian habitat for breeding. The western yellow-billed cuckoo currently nests almost exclusively in low to moderate elevation riparian woodlands that cover 50 acres (ac) (20 hectares (ha)) or more (USFWS, 2013b). Property does not provide suitable nesting habitat due to limited extent of willow scrub riparian habitat. Nearest CNDDB occurrence approx. 3 mi NW of site on Salmon Creek (CDFW, 2014).
<i>Cypseloides niger</i>	black swift	SSC BCC	(Nesting). Coastal mountains. Breeds in small colonies on cliffs behind or adjacent to waterfalls in deep canyons and sea-bluffs above surf; forages widely.	A	No suitable waterfall/cliff or sea-bluff habitat present.
<i>Egretta thula</i>	snowy egret	--	(Nesting colony). Colonial nester, with nest sites situated in protected beds of dense tules. Rookery sites situated close to foraging areas: marshes, tidal-flats, streams, wet meadows, and	HP	Suitable foraging areas present. Marginal nesting areas on central drainage near Estero. Species observed on the Estero by Heaton. No nesting colonies

Scientific Name	Common Name	Status	General Habitat Description	Habitat Present/Absent	Rationale
			borders of lakes.		observed.
<i>Elanus leucurus</i>	white-tailed kite	FP	(Nesting). Rolling foothills/valley margins w/scattered oaks & river bottomlands or marshes next to deciduous woodland. Open grasslands, meadows, or marshes for foraging close to isolated, dense-topped trees for nesting and perching.	HP	Foraging habitat present. Species observed in winter by Heaton. Dense topped nesting tree habitat limited, but use is possible.
<i>Geothlypis trichas sinuosa</i>	San Francisco (saltmarsh) common yellowthroat		Resident of the San Francisco Bay region, in fresh and salt water marshes. Requires thick, continuous cover down to water surface for foraging; tall grasses, tule patches, willows for nesting.	HP	Marsh habitat and central drainage provide suitable habitat. No CNDDB occurrences within 5 miles (CDFW, 2014).
<i>Laterallus jamaicensis cotumiculus</i>	California black rail	ST FP BCC	Inhabits freshwater marshes, wet meadows & shallow margins of saltwater marshes bordering larger bays. Needs water depths of about 1 inch that does not fluctuate during the year & dense vegetation for nesting habitat.	HP	Species not known from the Estero (Heaton, 2012). Saltwater/brackish marsh present at the mouth of the central drainage, however, density of vegetation in the area of the Estero access is sparse and unlikely to provide suitable habitat. Lower portions of the central drainage could provide freshwater marsh habitat. Nearest CNDDB occurrence approx 11 mi s of site on Pt. Reyes peninsula (CDFW, 2014).
<i>Nycticorax nycticorax</i>	black-crowned night heron	--	(Nesting colony). Colonial nester, usually in trees, occasionally in tule patches. Rookery sites located adjacent to foraging areas: lake margins, mud-bordered bays, marshy spots.	HP	Suitable foraging habitat present. Willow scrub in central drainage may provide nesting habitat, though no nesting colonies observed. Sub-adult of the species observed by pond in Forever Wild area by Heaton.
<i>Pandion haliaetus</i>	osprey	WL	(Nesting). Ocean shore, bays, fresh-water lakes, and larger streams. Large nests built in tree-tops within .15 miles of a good-fish-producing body of	HP	Estero provides suitable hunting habitat. Species observed overhead on property by Heaton and Peltz.

Scientific Name	Common Name	Status	General Habitat Description	Habitat Present/ Absent	Rationale
			water.		No osprey nests observed on property.
<i>Passerculus sandwichensis alaudinus</i>	Bryant's savannah sparrow	SSC	Inhabit coastal salt marshes and moist grasslands, primarily within and just beyond the fog belt.	HP	Savannah sparrows observed in suitable grassland habitat on property in winter by Heaton and in breeding season by Heaton (2012) and Peltz (2014).
<i>Pelecanus erythrorhynchus</i>	American white pelican	SSC	(Nesting colony). Colonial nester on large interior lakes. Nests on large lakes, providing safe roosting and breeding places in the form of well-sequestered islets.	HP	Suitable nesting habitat not present. Estero provides migratory habitat. Species observed on Estero by Peltz.
<i>Pelecanus occidentalis californicus</i>	California brown pelican	FE SE FP	(Nesting colony). Colonial nester on coastal islands just outside the surf line. Nests on coastal islands of small to moderate size which afford immunity from attack by ground-dwelling predators.	A	No suitable coastal nesting habitat present. Unlikely to be present on the Estero as far inland as the property.
<i>Phalacrocorax auritus</i>	double-crested cormorant	WL	(Nesting colony). Colonial nester on coastal cliffs, offshore islands, & along lake margins in the interior of the state. Nests along coast on sequestered islets, usually on ground with sloping surface, or in tall trees along lake margins.	HP	Suitable nesting habitat not present. Estero provides foraging habitat. No nesting colony observed on property. Species observed on Estero by (Heaton 2012).
<i>Picoides nuttall</i>	Nuttall's woodpecker	BCC	(Nesting.) Oak forest and woodlands. Requires standing snag or hollow tree for nest cavity.	HP	Nesting habitat is marginal due to lack of woodland and is limited to the eucalyptus groves and cluster of pines near barn complex. Species observed on site in breeding season by Heaton (2012).
<i>Rallus longirostris obsoletus</i>	California clapper rail	FE SE FP	Salt-water & brackish marshes traversed by tidal sloughs in the vicinity of San Francisco Bay. Associated with abundant growths of pickleweed, but feeds away from cover on invertebrates from mud-bottomed sloughs.	HP	Species not known from the Estero (Heaton, 2012). Saltwater/brackish marsh present at the mouth of the central drainage, however, density of vegetation in the area of the Estero access is sparse and

Scientific Name	Common Name	Status	General Habitat Description	Habitat Present/ Absent	Rationale
					unlikely to provide suitable habitat. Nearest CNDDDB occurrence approx 8 mi. S of site at Walker Creek (CDFW, 2014).
<i>Selasphorus sasin</i>	Allen's hummingbird	BCC	(Nesting). Breeds in coastal lowlands of the Upper Sonoran and Transition life-zones. Prefers coastal sage scrub, soft chaparral, ravines & canyons, broken coastal forests, oak woodlands & riparian-lined watercourses.	HP	Suitable shrub and riparian habitat on site. A probable Allen's hummingbird was observed by Heaton (2012) in drainage near entrance gate in nesting season.
<i>Strix occidentalis caurina</i>	Northern spotted owl	FT SSC	Old-growth forests or mixed stands of old-growth & mature trees. Occasionally in younger forests w/patches of big trees. High, multistory canopy dominated by big trees, many trees w/cavities or broken tops, woody debris & space under canopy.	A	Property lacks old-growth or mature forest habitat.
<b>Herptiles</b>					
Sonoma DPS California tiger salamander	<i>Ambystoma californiense</i>	FT ST	Central Valley populations federal-listed as threatened. Santa Barbara & Sonoma County populations federal-listed as endangered. Found associated with long lasting vernal pools or other seasonal water sources for breeding. Need underground refuges, i.e., ground squirrel burrows.  Critical habitat designation within Sonoma County is limited to the Santa Rosa Plain for the Sonoma County population.	A	The property is well out of the known range of CTS in Sonoma County and there are no published occurrences within 9 miles of the project site.
<i>Emys marmorata</i>	western pond turtle	SSC	Associated with permanent or nearly permanent water in a wide variety of habitats. Requires basking sites. Nest sites may be found up to 0.5 km from water.	HP	Species observed on property at confluence of central drainage with the Estero by Stabler and Peltz (2014). Central drainage provides suitable aquatic habitat.

Scientific Name	Common Name	Status	General Habitat Description	Habitat Present/Absent	Rationale
<i>Rana draytonii</i>	California red-legged frog	FT SSC	Lowlands & foothills in or near permanent sources of deep water with dense, shrubby or emergent riparian vegetation. Requires 11-20 weeks of permanent water for larval development. Must have access to aestivation habitat.	HP	Property provides breeding and aestivation habitat. Species observed at multiple locations on property by Stabler and Peltz, and tadpoles were observed in the central drainage.
<b>Fish</b>					
<i>Eucycloglobius newberryi</i>	tidewater goby	FE SSC	Brackish water habitats along the CA coast. Found in shallow lagoons and lower stream reaches; they need fairly still but not stagnant water & high oxygen levels.	HP	Drainages on property do not provide habitat. The Estero along the property is designated critical habitat for the species. The species has been found in the Estero downstream of the property in extremely low numbers-high summer salinity thought to be limiting factor to species in Estero (GRRCD, 2007).
<i>Oncorhynchus kisutch</i>	Central California Coast coho salmon	FE SE	Federal listing includes all naturally spawned populations of coho salmon from Punta Gorda in northern California south to the San Lorenzo River in central California (inclusive). Need cover, cool water & sufficient dissolved oxygen.	A	The Estero is not known to currently support a population of coho salmon and the property does not provide suitable spawning or rearing habitat for coho. Historical reports of coho in the Estero exist (Spence, et al., 2005). All accessible stream reaches in the CCC coho Evolutionarily Significant unit are designated critical habitat.
<i>Oncorhynchus mykiss</i>	Central California Coast steelhead	FT	Listing includes all naturally spawned anadromous steelhead populations below natural and manmade impassable barriers in California streams from the Russian River to Aptos Creek (inclusive). Also San Francisco & San Pablo Bay Basins.	A	The Estero is designated critical habitat for steelhead. Drainages on the property are not designated critical habitat. The central creek has a silty substrate and does not provide suitable spawning or rearing habitat. The Estero at the project site may be

Scientific Name	Common Name	Status	General Habitat Description	Habitat Present/Absent	Rationale
					a migratory corridor.
<i>Oncorhynchus tshawytscha</i>	California Coastal chinook salmon	FT	Federal listing refers to naturally spawned coastal spring & fall Chinook salmon between Redwood Creek in Humboldt County & the Russian River in Sonoma County.	A	The Estero is not designated critical habitat for Chinook and is not known to support a population of Chinook salmon.
<i>Spirinchus thaleichthys</i>	longfin smelt	FC ST	Euryhaline, nektonic & anadromous. Found in open waters of estuaries, mostly in middle or bottom of water column. Prefer salinities of 15-30 ppt, but can be found in completely freshwater to almost pure seawater. Bay-Delta DPS is a candidate species. State listing is throughout range.	HP	Species has been found on the Estero (GRRCD, 2007). Drainages on property do not provide suitable habitat.
<i>Thaleichthys pacificus</i>	eulachon	FT SSC	Found in Klamath River, Mad River, Redwood Creek & in small numbers in Smith River & Humboldt Bay tributaries. Spawn in lower reaches of coastal rivers w/ moderate water velocities & bottom of pea-sized gravel, sand & woody debris.	A	Outside federally listed range. Nearest CNDDDB occurrence from Bodega Bay (CDFW, 2014). Silty substrate does not provide suitable spawning habitat.
<b>Invertebrates</b>					
<i>Callophrys mossii bayensis</i>	San Bruno elfin butterfly	FE	Coastal, mountainous areas with grassy ground cover, mainly in the vicinity of San Bruno Mountain, San Mateo County. Colonies are located on steep, north-facing slopes within the fog belt. Larval host plant is <i>Sedum spathulifolium</i> .	A	Property lacks steep, north facing slopes with suitable conditions for larval host plant <i>Sedum spathulifolium</i> (shallow weathered soils associated with rocky substrates that occur at 275-325 m elevation). All known locations are restricted to San Mateo County (USFWS, 2010).
<i>Coelus globosus</i>	globose dune beetle	--	Inhabitant of coastal sand dune habitat, from Bodega head in Sonoma County south to Ensenada, Mexico. Inhabits foredunes and sand hummocks; it burrows beneath the sand surface and is most common beneath	A	No sand dunes within the project limits.

Scientific Name	Common Name	Status	General Habitat Description	Habitat Present/ Absent	Rationale
			dune vegetation.		
<i>Danaus plexippus</i>	monarch butterfly	--	Winter roost sites extend along the coast from northern Mendocino to Baja California, Mexico. Roosts located in wind-protected tree groves (eucalyptus, Monterey pine, cypress), with nectar and water sources nearby.	HP	Eucalyptus and pine on the property could provide winter roosting habitat. Nearest CNDDDB occurrence approx 4.8 mi from the site near Dillon Beach (CDFW, 2014).
<i>Ischnura gemina</i>	San Francisco forktail damselfly	--	Endemic to the San Francisco Bay area. Small, marshy ponds and ditches with emergent and floating aquatic vegetation.	HP	Ponds or swales on property or ponded areas in central drainage could provide habitat. Two CNDDDB occurrences located approximately 5 miles south of the site near Dillon Beach (CDFW, 2014).
<i>Lichnanthe ursina</i>	bumblebee scarab beetle	--	Inhabits coastal sand dunes from Sonoma Co south to San Mateo Co. Usually flies close to sand surface near the crest of the dunes.	A	No dune habitat present.
<i>Speyeria zerene myrtilae</i>	Myrtle's silverspot butterfly	FE	Restricted to the foggy, coastal dunes/hills of the Point Reyes peninsula; larval food plant thought to be restricted to <i>Viola adunca</i> .	HP	Annual grassland habitat present. <i>Viola adunca</i> present on-site, along with several potential nectar plants.
<i>Syncaris pacifica</i>	California freshwater shrimp	FE SE	Endemic to Marin, Napa, & Sonoma Cos. Found in low elevation, low gradient streams where riparian cover is moderate to heavy. Shallow pools away from main streamflow. Winter: undercut banks w/exposed roots. Summer: leafy branches or roots submerged in water.	HP	Central drainage appears to contain pools of sufficient depth to remain hydrated year-round, summer habitat, and some limited winter habitat. Species not found in dip-net surveys by Stabler and Peltz.
<i>Vespericola marinensis</i>	Marin hesperian	--	Found in moist spots in coastal brushfield and chaparral vegetation in Marin County. Under leaves of cow-parsnip, around spring seeps, in leafmold along streams, in alder woods & mixed evergreen forest.	A	General habitat type present on site. All occurrences are from Marin County.

Key to Status Codes:

FE	Federal-listed as Endangered	SE	State-listed as Endangered
FT	Federal-listed as Threatened	ST	State-listed as Threatened
FC	Federal Candidate	SR	State Rare (plants only)
BCC	USFWS Birds of Conservation Concern	SC	State Candidate
		FP	CDFW Fully Protected Species
		SSC	CDFW California Special Concern Species
		WL	CDFW Watch List
H	Western Bat Working Group (WBWG) High Priority		
M	WBWG Medium Priority		

\* Strictly pelagic species from the USFWS list are not included in the table.

### ***Special Status Mammals***

#### **American badger (*Taxidea taxus*)**

##### Status

California Species of Special Concern

##### Habitat and Distribution

The American badger, a California Species of Special Concern, is a widespread, uncommon resident across California. It is found in a variety of habitats, and is most abundant in drier open stages of shrub, forest, and herbaceous habitats, that have friable soils (Zeiner, et al. 1990). Badgers are carnivorous, eating primarily small rodents, especially ground squirrels and pocket gophers, but also take a variety of other smaller prey (Zeiner, et al. 1990). Badgers dig their own burrows, and often reuse old burrows, but may dig new ones each night (Zeiner, et al. 1990). They are active year-round, though less so in winter. Badgers breed in summer and early fall, and implantation of the embryos is delayed, and young are typically born in March and April (Zeiner, et al. 1990). The young remain underground until the age of 6-8 weeks old. At age 3-4 months of age, badgers disperse to live in their own burrows (Martinelli, personal communication, 2010).

The CNDDDB lists numerous occurrences of American badger in the general area, including an occurrence at the project property (CDFW, 2014).

##### Occurrence at the Site

We observed many badger burrows along the proposed trail corridors at several locations in the annual grasslands. Some were fairly recently used, with well defined openings and relatively freshly disturbed soil at the entrance, indicating that badgers are actively using the project area. Others appeared older and not maintained, showing signs of collapse and abandonment. Due to the distribution of the existing burrows and propensity for badgers to continually dig new burrows, we assume badger burrows could be present along either of the trail corridors or within the staging areas at any given time, and that current burrow locations do not necessarily represent the locations that will be occupied at the time of trail construction.

## Special status bats

The CNDDDB search identified several bat species occurrences within five miles of the project, including pallid bat (*Antrozous pallidus*), Townsend's big-eared bat (*Corynorhinus townsendii*), fringed myotis (*Myotis thysanodes*), long-eared myotis (*Myotis evotis*), and hoary bat (*Lasiurus cinereus*) (CDFW, 2014).

### Status

Pallid bat and Townsend's big-eared bat are California Species of Special Concern. Fringed myotis, long-eared myotis, and hoary bat do not have formal status, they are considered sensitive species by CDFW (see Table 1.) Though fringed myotis, long-eared myotis, and hoary bat are not discussed in further detail here, measures employed to minimize impacts to the Species of Special Concern will also minimize impacts to these bats.

### Habitat and Distribution

#### *Pallid bat*

Pallid bats occupy a variety of habitats at low elevation including grasslands, shrublands, woodlands and forests. It is most common in open, dry habitats with rocky areas for roosting. Pallid bat day roosts are in caves, crevices, mines, and occasionally hollow trees and buildings. Night roosts can be more open, and can include porches and open buildings. Most pallid bats are social, roosting in groups of 20 to over 100. They are very sensitive to disturbance of roosting sites. Pallid bat may be present in the area at any time of year (Zeiner, et al, 1990). Maternity colonies form in early April, and may have 12 to 100 individuals. Pallid bat eat many types of insects, foraging over open ground, taking prey from the ground or gleaning it from vegetation. The nearest CNDDDB occurrence is located approximately 4 miles north of the site (CDFW, 2014).

#### *Townsend's big-eared bat*

Townsend's big-eared bat is found throughout California, with the exception of alpine and sub-alpine habitats, and may be present at any time of year. They require caves, mines, tunnels, buildings, or other human-made structures for roosting, and roost in the open on the walls or ceilings of these structures (CDFG, 2000). Townsend's big-eared bat is extremely sensitive to disturbances of roost sites (CDFG, 2000). They prey on moths or other soft-bodied insects, gleaning them from brush or feeding along habitat edges (CDFG, 2000). The nearest CNDDDB occurrence is approximately 3.4 miles west of the site (CDWF, 2014).

### Occurrence at the Site

While there were no direct or indirect (guano, urine staining, body streaks) observations of bat presence during the site visits, bats may be present on site. The site provides suitable foraging habitat. Though limited in number and distribution, trees on site may provide roosting habitat for pallid bat or tree roosting bat species. The barn and adjacent structures may provide roosting habitat, though current use of the barn in association with ranching activities and occasional human presence in the barn may limit the suitability of the habitat, particularly to those species most sensitive to human presence, such as Townsend's big eared-bat and pallid bat. The proposed trail corridors lack caves, tunnel, or rocky areas that could be used for roosting.

### ***Special Status Birds***

The project property provides suitable habitat for numerous special status bird species, as indicated in Table 1, including tree-nesting, shrub/scrub/grassland nesting and ground nesting species. In general, the trail corridor avoids removal of mature trees. Many colonial nesting species could use the project property or the Estero Americano for foraging, however, nesting colonies were not observed on the property during numerous bird surveys by Ms. Heaton (2012) or our site visits in 2014. Only those species most likely to be impacted by the trail construction and operation, particularly grassland and ground nesting/wintering species, marsh or riparian nesting species, or those with an elevated status requiring additional discussion, are described in detail below. Measures will be recommended sufficient to address impacts to all special status bird species that may occur on the property.

Common bird species also use the project property. Most birds (and their eggs) in the United States, including non-status species, are given special protection under the Migratory Bird Treaty Act (MBTA) of 1918. Measures will be recommended sufficient to address impacts to birds protected by the MBTA.

More extensive detail on life history and use of the site by the species addressed below can be found in the bird survey report by Emily Heaton (2012).

#### ***Grasshopper sparrow (*Ammodramus savannarum*)***

##### Status

Grasshopper sparrow is a California Species of Special Concern, with breeding listed as the season of concern<sup>1</sup>.

##### Habitat and Distribution

In general, grasshopper sparrows in California prefer short to middle-height, moderately open grasslands with scattered shrubs (Unitt, 2008). These sparrows forage primarily on the ground or from low vegetation; bare ground may be important (Vickery, 1996). Grasshopper sparrows feed primarily on insects and also eat other invertebrates, as well as grass and forb seeds (CDFG, 2008). They use scattered shrubs for singing perches, and breed from early April to mid-July, with a peak in May and June (CDFG, 2008). Grasshopper sparrows build nests domed with grasses and with a side entrance, usually hidden in depressions at the base of grass clumps with the rim approximately level to the ground (Vickery, 1996).

Grasshopper sparrow is a summer resident in Sonoma County. The CNDDB does not list any nesting occurrences within 5 miles of the project site (CDFW, 2014). The Sonoma County Breeding Bird Atlas (online resource) 2011-2015, lists confirmed breeding for grasshopper sparrow in the census block including the project property, as well as several nearby blocks (Breeding Bird Atlas, 2014).

<sup>1</sup> Given the distribution and abundance of many taxa in California vary greatly seasonally, the "season of concern" corresponds to the season, or seasons, for which a specific taxon is ranked for conservation priority on the BSSC list (CDFG, 2008).

### Occurrence at the Site

Heaton detected grasshopper sparrows on the project property during her June 2011 survey, concentrated on the flat ridge southwest of the barn, on the slopes of the surrounding drainages, and on the ridge southwest of the pond (see Figure 3). Two of these areas are adjacent to or within the East Trail corridor and southern staging/parking area. Heaton noted that grasshopper sparrows on the site seemed to prefer grassland of intermediate heights (about 1-2 feet (30-60 cm)) with some diversity of grass and herb species. Breeding of this species on site is assumed.

No grasshopper sparrows were identified in our 2014 site visits, however, on more than one occasion, sparrows flushed from suitable habitat on the trail corridor ahead of our survey before they could be identified, and continued use of the site is likely.

Grasshopper sparrow populations can fluctuate between years. This may be the result of population shifts to take advantage of variable habitat suitability caused by annual differences in rainfall or disturbance such as grazing (Unit, 2008). In general, much of the trail corridor passes through grassland habitat that could be used by grasshopper sparrow. The localized suitability of habitat for grasshopper sparrow along the trail corridor may shift in response to changing conditions. Heaton noted that the western half of the property had been ungrazed for a few years at the time of her surveys. During our April 15, 2014 site visit, we observed cattle grazing within the northwestern portion of the property (the West Trail location), and observed cattle tracks on the Estero mudflats on the western half of the property, indicating that grazing patterns of the site shift over time. Drought conditions may also influence habitat suitability and may heighten the effects of grazing. Grasshopper sparrows may be present in areas where they were not observed during site surveys, or absent in areas previously occupied.

### **Bryant's savannah sparrow (*Passerculus sandwichensis alaudinus*)**

#### Status

California Species of Special Concern (with year-round listed as the season of concern)

#### Habitat, and Distribution

Bryant's savannah sparrow is a subspecies of savannah sparrow that occupies salt marsh and moist grasslands within and just above the fog belt, and, infrequently, drier grasslands (Fitton 2008). It is the only subspecies that breeds in Sonoma County. In winter, other subspecies of savannah sparrow move into the county. Savannah sparrows eat primarily animal matter (insect eggs, insects and other invertebrates) during the breeding season and primarily vegetable matter during winter (seeds and fruit) (Fitton, 2008). They forage on the ground or in low growing plants (Zeiner, et al., 1990). In salt marsh, they prefer areas 1.5 to 3 m above mean sea level, above cord grass stands, often near the transition to grassland (Fitton, 2008). In grassland, they often use areas where herbaceous vegetation is relatively short, often near swales or drainages (Fitton, 2008). Cup nests are constructed on the ground, hidden by overhanging vegetation (CWHR account). Savannah sparrows often sing from perches such as low shrubs, grass clumps, and fences (Fitton, 2008).

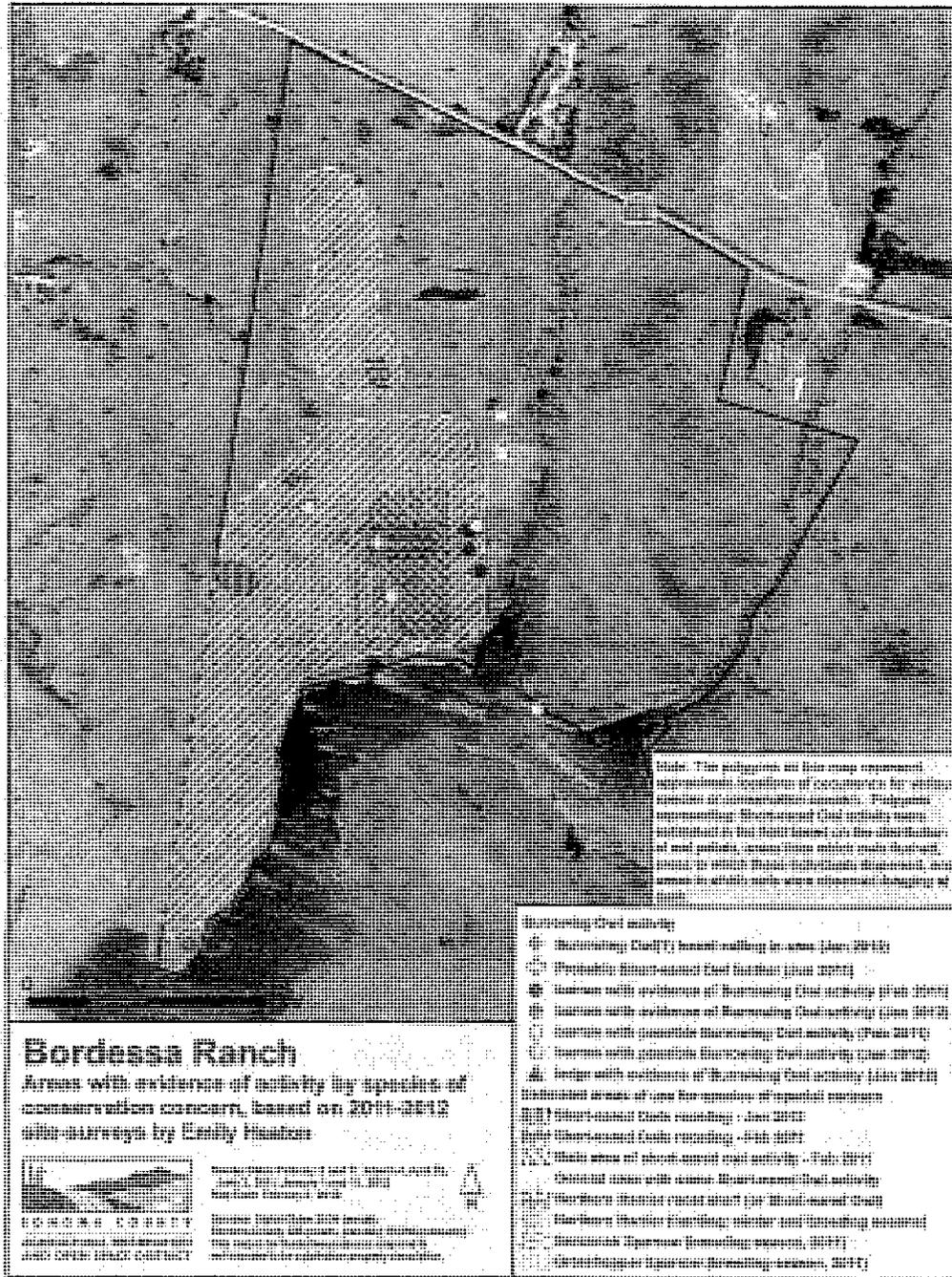


Figure 3. Approximate Locations of Occurrences for Bird Species of Conservation Concern.

Figure Source: Heaton, 2012.

The CNDDDB does not list any occurrences within 5 miles of the project property (CDFW, 2014). However, the Sonoma County Breeding Bird Atlas (Burridge, 1995; Breeding Bird Atlas, 2014) and Marin County Breeding Bird Atlas (Shuford, 1993) show numerous probable and confirmed breeding occurrences in the project vicinity.

#### Occurrence at the Site

During winter surveys, savannah sparrows were distributed widely across the property. During the 2011 breeding season surveys, Bryant's Savannah Sparrows were dispersed across the property and occurred at various locations, both in grazed and ungrazed grassland (See Figure 3) (Heaton, 2012). Ms. Heaton noted that in most locations where savannah sparrows were present, the grassland habitat was of an intermediate height, generally 1-2 feet (30-60 cm), though they were also present in one location where the grass was significantly shorter.

During the April 15 site visit, Peltz observed a savannah sparrow perched on sweetbriar shrubs in annual grassland habitat near the East Trail corridor, and another near a seep above a water trough south of the barn area.

As with grasshopper sparrow, in general, much of the trail corridors pass through grassland habitat that could be used by savannah sparrow. In addition, the marsh to grassland transitional zone near the south end of the proposed East Trail corridor near the Estero also provides suitable habitat. The localized suitability of grassland habitat for savannah sparrow along the trail corridor may shift in response to changing conditions, such as grazing or annual climate patterns influencing grassland growth. Savannah sparrows may be present in areas where they were not observed during site surveys, or absent in areas previously occupied.

#### **Short-eared owl (*Asio flammeus*)**

##### Habitat and Distribution

Short eared owl is a California Species of Special Concern, with breeding listed as the season of concern. It inhabits marshes and grasslands. It is typically a crepuscular hunter, but can also be active in the day and at night (Roberson, 2008). Short-eared owl nests and roosts on the ground, and requires dense vegetation, often tall grasses, for cover (CWHR). In the non-breeding season, it forms large communal roosts (Wiggins et al., 2006).

Short-eared owls shift wintering and breeding sites in response to cycles in local prey abundance, resulting in variation in numbers and range, and can be nomadic (Roberson, 2008; Wiggins et al., 2006). In California, California vole is an important food source.

Short-eared owl is a year-round resident in some parts of California, while in others it is a wintering species. Birds increase the population in the state during winter months, generally between October and early March (Roberson, 2008). In Sonoma County, it occurs in the winter months. Only one breeding record is known for Sonoma County (from Anadel State Park) and one for Marin County (from Point Reyes National seashore, both from 1979 (Burridge, 1995; Shuford, 1993).

#### Occurrence at the Site

A good number of Short-eared Owls inhabited the Bordessa Ranch during the 2010-2011 and 2011-2012 winter seasons (Heaton, 2012). At least twenty owls were observed in 2010-2011.

and at least 18 in 2011-2012, with the landowner reporting seeing even higher numbers. Owls were flushed from communal roost sites in ungrazed grassland. The location of the main roost shifted between visits and between years; (see Figure 3). All roost sites were found in grassland habitat dense enough and tall enough (about 30-60cm) to effectively conceal roosting owls. Based on owl observations and signs (pellets, whitewash, feathers), Heaton determined that short-eared owl was using a majority of the western ungrazed portion of the property. Roosting was concentrated in the Forever Wild portion of the property.

Heaton did not observe any owls directly during the 2011 breeding season survey, though a fresh likely short-eared owl feather was found near the pond in the Forever Wild area along with owl pellets. The land owners reported seeing owls in April-May of 2011 and in summer of 2010. Ms. Heaton concluded that if owls do nest on the property, it is likely that most of the individuals that winter there migrate to distant breeding grounds for nesting based on the species' life history and the lack of any evidence that large numbers of owls occur on the property during the breeding season.

Our 2014 surveys did not coincide with the winter season for short-eared owl, so we cannot make conclusions regarding continued use of the site for winter roosting; however, Heaton's observations showed roosting over more than one year, so it is likely roosting continues. We did not observe evidence of short-eared owl during our surveys, which correspond to the breeding season, though the survey of the proposed trail corridors did not include the pond in the Forever Wild area where the possible breeding season evidence was observed by Heaton. Confirmation of breeding would be a significant find as there is currently only one recorded breeding occurrence in Sonoma County.

As with the other grassland species, shifting grazing patterns over time may influence the suitability of habitat for short-eared owl on the site, particularly as short-eared owl use of the site seems to correspond to taller, ungrazed areas (Heaton, 2012). Owl use on the proposed trail corridor alignments could shift over time if some areas become more heavily grazed, or alternatively, are left ungrazed for a period of time.

### **Burrowing owl (*Athene cunicularia*)**

#### Status

The burrowing owl is a California Species of Special Concern, with breeding listed as the season of concern.

#### Habitat and Distribution

The burrowing owl is a small, ground-dwelling species of open, dry grassland and desert habitats, and may be found in prairie, rolling hills, and ranchlands. Burrowing owls are active both day and night, and can often be seen standing at burrow entrances during the day. They nest underground, using abandoned ground squirrel and other small mammal burrows, though in soft soil than can dig their own burrow (CDFG, 1999). They feed mostly on insects, but also feed on small vertebrates. Breeding occurs from March through August, with the peak in April and May (CDFG, 1999). Nesting by burrowing owls has not been documented in Sonoma County in over 20 years (Shuford, 1993; Burrige, 1995; Gervais et al., 2008). However, the Sonoma County Breeding Bird Atlas 2011-2015, lists a "possible" breeding occurrence for the census block which includes the project site (Breeding Bird Atlas, 2014). Burrowing owl is only

infrequently observed in Sonoma County during the nonbreeding (winter) season (Bolander and Parmeter, 2000; Burrige, 1995).

The CNDDDB includes one occurrence of burrowing owl approximately 5 miles northwest of the site consisting of three adults observed near burrows in February 2007 (CDFW, 2014).

#### Occurrence at the Site

Heaton (2012) found evidence of burrowing owls, including pellets and whitewash, around numerous badger burrow entrances during site surveys in 2010-2011 and 2011-2012 winter seasons, a burrowing owl was seen by Gene Hunn on March 4, 2011, and a probable burrowing owl call was heard calling on January 11, 2012 (Heaton, 2012). Locations where burrowing owls were observed by Heaton are shown on Figure 3, in general located in the Forever Wild Area in the southwest corner of the property, along the southern part of the proposed West Trail corridor and at the southeastern point of the proposed East Trail corridor. No burrowing owls were detected during the 2011 breeding season surveys. Heaton noted that burrows being used by burrowing owl generally occurred where: "1) the grassland habitat was much more open and exposed (as compared to that used by Short-eared Owls), with clumps of thatch being fairly sparse; or 2) vantage points (e.g. a ledge created by a gully) that would allow an owl to survey the surrounding area for predators were present."

We did not observe burrowing owls during our site surveys of the proposed trail corridors on April 15 and June 23, 2014. This is consistent with regional patterns of burrowing owl occurrence (i.e. wintering only). Old pellets were observed near a fully collapsed badger burrow near the proposed East Trail alignment overlooking the Estero (see Photo 5 in Appendix A), similar in location to burrows observed by Ms. Heaton in 2011. A nearby rock showed whitewash. Due to the collapsed nature of the burrow and old appearance of the pellets, we concluded this burrow was not occupied, but could have been used in the winter preceding our survey. One other unidentified owl pellet was discovered on a rock near the Estero (see Photo 12 in Appendix A), but no burrows were found in the immediate vicinity, and we cannot say if the pellet was from a burrowing owl or another species. We did not observe any other evidence of burrowing owl activity along the trail corridor. Because our site visits were outside of the wintering season, we cannot draw conclusions regarding continued wintering use of the site. However, badger dens or other mammal burrows along the trail alignment provide suitable habitat for owls.

Based on the lack of observations during the breeding season and lack of documented breeding in general for Sonoma County, it is unlikely burrowing owl uses the site for breeding.

#### **Northern harrier (*Circus cyaneus*)**

##### Status

Northern harrier is a California Species of Special Concern, with breeding listed as the reason of concern.

##### Habitat and Distribution

Northern harriers occupy numerous open habitats such as fresh and saltwater marsh, grasslands, meadows, ungrazed or lightly grazed pastures, desert sinks, sagebrush flats and some croplands. Habitat elements include abundant prey (rodents (often voles) and songbirds),

vegetative cover, and scattered perches such as shrubs or fence posts. Northern harriers nest on the ground in dense, tall vegetation. (Davis and Niemela, 2008)

In California, northern harriers occur year round within the breeding range, but tend to be more broadly distributed and in higher numbers in winter and during migration periods (Davis and Niemela, 2008). Harriers typically roost communally in the winter (Smith, et al., 2011). The CNDDDB does not include any records within 5 miles of the project site (CDFW, 2014). Nevertheless, breeding in Sonoma County is known to occur in coastal grasslands and within marshes, as well as near the Petaluma River and San Pablo Bay, and may also occur near the Laguna de Santa Rosa (Burrige, 1995; Breeding Bird Atlas, 2014).

#### Occurrence at the Site

Northern harrier was observed on site in both the breeding and non-breeding season though in greater numbers in the non breeding season (Heaton, 2012). Northern harrier activity was often concentrated on the hillside northwest of the barn. During her January 11, 2012 survey, Heaton found a likely northern harrier communal roost site in an area of dense, tall (2-2.5 feet) grassland (see Figure 3). During the 2011 breeding season surveys, harriers were observed flying above and hunting on the project property (Heaton, 2011).

Our April and June 2014 surveys were conducted outside of the winter period when communal roosting is likely to occur. Therefore, it is not known if the communal roost site is still being used, though harriers are known to be philopatric and have high site fidelity for roosts, often using the same roost over multiple years (Heaton, 2012).

Taller grasslands on the project property provide suitable breeding habitat for northern harrier. Marsh habitat along the Estero on the property may provide suitable habitat, though the area just west of the mouth of the central creek primarily consists of open ground with only sparse vegetation that would not be suitable breeding habitat.

#### **White-tailed kite (*Elanus leucurus*)**

##### Status

White-tailed kite is a CDFW Fully Protected Species per the Fish and Game Code Section 3511.

##### Habitat and Distribution

White-tailed kite nesting occurrences are considered sensitive and are tracked in the CNDDDB. White-tailed kite is a year-round resident of coastal and valley lowlands that forages in undisturbed, open grasslands, meadows, farmlands and emergent wetlands. It makes a nest near the top of a dense oak, willow, or other tree stand, in close proximity to open foraging habitat (CDFG, 2005), but may also use tall shrubs (Dunk, 1995). It preys on voles, or other small vertebrates that are active during the day. It is often observed hovering while searching for prey (CDFG, 2005). In winter, kites can roost communally, often in a small stand of trees, but sometimes on the ground (Dunk, 1995).

No nesting occurrences are included in the CNDDDB within 5 miles of the project site (CDFW, 2014). However, the Sonoma County Breeding Bird Atlas shows possible breeding in the atlas

block that includes the project site (Burrige, 1995; Breeding Bird Atlas, 2014), and confirms breeding in an adjacent atlas block (Breeding Bird Atlas, 2014).

#### Occurrence at the Site

Heaton observed white-tailed kite at the project property in winter of 2010-2011 and 2011-2012. Kite activity appeared to be concentrated near the top of the two westernmost drainages and in the pasture to the west of the barn complex (Heaton, 2012). Kites were seen perching on fences and in trees. Heaton did not observe any kites during breeding season surveys in 2011, and we did not observe any during our April and June survey of 2014. However, it is possible that kites could breed on-site or forage during the breeding months. In general, tree nesting habitat is somewhat limited on the property, though trees and shrubs along the property's drainages could be used.

#### **California black rail (*Laterallus jamaicensis coturniculus*)**

##### Status

California black rail is state listed as Threatened and is also a Fully Protected species.

##### Habitat and Distribution

California black rail is a secretive resident of saline, brackish and fresh emergent wetlands. The most common habitats include tidal emergent wetlands dominated by pickleweed and brackish marsh with bulrush and pickleweed. Freshwater marsh habitats usually include bulrushes, cattails and saltgrass. California black rail typically inhabits the high wetland zones near the upper limit of tidal flooding, not low wetland areas with considerable annual and/or daily fluctuations in water levels. During extreme high tides, rail may depend on the upper wetland zone and adjoining upland or freshwater wetland vegetation for cover. Little is known about range size or territoriality. (CDFG, 1999b)

California black rail eats isopods, insects and other arthropods from mud and vegetation (CDFG, 1999b), though some studies have also shown that seeds can also be a component of their diet (Eddleman, et al., 1994).

California black rail build a loose cup nest at or near the ground in dense vegetation, often within pickleweed (CDFG, 1999b). Nesting habitat is characterized by areas with water depths of about one inch (CDFG, 2005b).

The black rail population in Sonoma County is primarily concentrated in the marshes of San Pablo Bay and the Petaluma River (Burrige, 1995). There are no occurrences in the CNDDDB within 5 miles of the project site (CDFW, 2014). California black rail is not known to occur in the Estero but bird surveys in this estuary have been limited (Heaton, 2012). The CNDDDB includes several occurrences along the margins of Tomales Bay in Marin County to the south (CDFW, 2014). Burrige (1995), describes a small population to the north in Bodega Bay from the early 1990s.

### Occurrence at the Site

California black rail has not been observed on the project property or within the Estero watershed. Salt marsh near the upper tidal zone and transitional marsh along the lower reaches of the central creek may provide some suitable habitat for black rail.

The proposed trail corridor does not pass through suitable habitat for California black rail. South of the East Trail corridor, near the Estero, is an area that is predominantly open ground with a low density of scattered pickleweed (see Photos 13 and 14 in Appendix A). This area is subject to large daily fluctuations in tides, as well as periods of extended lack of inundation in summer (since the Estero is cut off from tidal inundation during summer months due to the sandbar that forms at the mouth (GRRCD, 2007)). These extremes in tidal fluctuations make the marsh habitat unsuitable for black rail. Areas of brackish marsh to the west, and to the east (on the opposite side of the central creek) provide more dense pickleweed dominated vegetation. However, these areas are also subject to large fluctuations in tidal inundation, and the abrupt transition to steep grassland slopes leaves little in the way of escape areas for rail during very high tides. The transitional marsh along the lower portion of the central creek outlet is dominated by saltgrass and has suitable dense vegetation, year-round water from outflow of the creek, and provides escape areas upstream during very high tide events, making this area potentially suitable habitat, although limited in extent.

### **California clapper rail (*Rallus longirostris obsoletus*)**

#### Status

California clapper rail is federally and state listed as Endangered and is also a state Fully Protected Species. Critical habitat has not been designated for this species.

#### Habitat and Distribution

The U.S. Fish and Wildlife Service has issued a Recovery Plan addressing California clapper rail within the *Recovery Plan for Tidal Marsh Ecosystems of Northern and Central California* (2013). According to the Recovery Plan, "California clapper rails occur almost exclusively in tidal and brackish marshes with unrestricted daily tidal flows, adequate invertebrate prey food supply, well developed tidal channel networks, and suitable nesting and escape cover providing *refugia* during extreme high tides. Lack of extensive blocks of tidal marsh with suitable structure is the ultimate limiting factor for the species' recovery."

Clapper rails are considered secretive and difficult to see in dense vegetation, but can be seen more easily along the edges of tidal sloughs. Clapper rails are omnivores and are opportunistic feeders. They require a complex network of sloughs to provide cover and abundant populations of invertebrates for foraging (USFWS, 2013).

Nests are typically located in the upper middle tidal marsh or high tidal marsh zones, but not within upland habitat transition zones. The nest must be at an elevation to prevent total inundation at high tide. Vegetation must be high (19.7 inches or greater) for nest concealment. In San Francisco Bay, dense pickleweed or gumplant vegetation is often selected as the nest location. The nest is a platform surrounded by vegetation that is pulled together to form a canopy. Nesting may begin in late February/early March and extend through August. (USFWS, 2013)

Clapper rails exhibit strong territorial defense, particularly during the late winter and early breeding seasons. A 1991-1992 radiotelemetry study in south San Francisco Bay indicated an average home range of 11.6 acres and an average core use area of 2.2 acres (Albertson, 1995). Home ranges can vary by season and from marsh to marsh. (USFWS, 2013)

Adults rails and eggs/nestlings are vulnerable to a wide variety of avian and native and non-native mammalian predators. Red fox and Norway rats are significant nest predators U.S. Fish and Wildlife Service considers the California clapper rail sensitive to human disturbance, though sensitivity varies between marshes and between individuals (USFWS, 2013).

Suitability of many marshes for California clapper rail is limited by their small size (USFWS, 2010b). Large marshes increase the distance to upland predator dens, tend to have fewer edge effects such as contamination, human disturbance, and litter to attract additional predators, provide the increased complexity of tidal sloughs and vegetation needed for foraging and cover, and provide more elevation-dependent nesting sites and high-tide refugia (USFWS, 2013).

California clapper rail are now restricted almost entirely to the San Francisco Bay Estuary (USFWS, 2013). The Recovery Plan Central Coast Recovery Unit does include a narrow band of land along the Marin and Sonoma Coast, and the plan states that California clapper rail formerly occurred in Humboldt Bay, and in the Marin-Sonoma embayments, which include Bodega Harbor, Tomales Bay, Drakes/Limantour Estero, and Bolinas Lagoon (USFWS, 2013). The only recent occurrences of California clapper rail in the general vicinity of the Estero Trail project are records of rails in Tomales Bay from the late 1990's and 2012. It is unknown whether clapper rails are currently breeding in Tomales Bay, but suitable habitat now exists (USFWS, 2013). Recovery actions for the Central Coast Recovery Unit include the establishment of 800 acres of suitable marsh habitat in Tomales Bay.

#### Occurrence at the Site

There are no known occurrences of California clapper rail in the Estero Americano watershed (Heaton, 2012; USFWS, 2013). The project property is not within the boundaries of the Central Coast Recovery Unit for California clapper rail, which extends inland about a half-mile from the mouth of the Estero, approximately 2.5 miles from the site. There are no specific habitat restoration or rail population goals set for the Estero in the Recovery Plan.

The proposed trail corridor does not pass through suitable habitat for California clapper rail. South of the East Trail corridor, near the Estero, is an area that is predominantly open ground with a low density of scattered pickleweed (Photos 13 and 14 in Appendix A). This area is subject to periods of extended lack of inundation in summer (since the Estero is cut off from tidal inundation during summer months due to the sandbar that forms at the mouth (GRRCD, 2007)). Vegetation height in this area does not provide sufficient cover for nesting. At the time of the April 2014 site visit, cattle tracks were prevalent in the mud, indicating a relatively high level of disturbance in the mudflat.

Areas of pickleweed marsh to the west, and to the east (on the opposite side of the central creek) provide more dense vegetation. However, these areas are also subject to seasonal periods without inundation, are limited in overall extent, and lack a complex network of tidal sloughs needed for foraging. As with black rail, the abrupt transition to steep grassland slopes leaves little in the way of escape areas for rail during very high tides. Tidal slough habitat required for feeding is also limited in extent and complexity within the project vicinity.

The Estero Americano Watershed Management Plan indicates that there are 240 acres of coastal brackish marsh in the watershed (2007). This marsh occurs as a relatively narrow band along the Estero at the foot of generally steep slopes bordering the Estero. Marsh areas are widest at the mouths of drainages that enter the Estero. Seasonal variations in inundation, limited distribution, prevalence of edge areas, and steep transition to uplands may limit the suitability of the marsh as habitat for California clapper rail.

Based on the above, and the lack of known occurrences in the watershed, it is very unlikely that California clapper rail is present at the project property or on the Estero.

#### **San Francisco (saltmarsh) common yellowthroat (*Geothlypis trichas sinuosa*)**

##### Status

San Francisco (or saltmarsh) common yellowthroat is a California Species of Special Concern, with year-round designated as the season of concern.

##### Habitat and Distribution

San Francisco common yellowthroat is one of four subspecies of common yellowthroat in California (Gardali and Evens, 2008) and one of two that occurs in Sonoma County (Burrige, 1995). Breeding range maps for San Francisco common yellowthroat show the northern limit of the breeding range ending to the south of the Marin County line near the project property area, however, there is uncertainty in the understanding of the range boundary for the subspecies (Gardali and Evens, 2008), and so the subspecies is addressed here.

In the San Francisco Bay Area, San Francisco common yellowthroat breeds primarily in brackish marsh, freshwater marsh, riparian woodland/swamp, but also in salt marsh and rarely upland (Gardali and Evens, 2008). This yellowthroat inhabits the ecotone between moist habitats and uplands. Common yellowthroat also can use small and relatively isolated patches of habitat, including swales and seeps (Gardali and Evens, 2008).

Common yellowthroats nest on or near the ground or over water in dense vegetation including emergent aquatic vegetation and dense shrubs (Zeiner, et al., 1990). Nest sites include herbaceous vegetation, cattails, tules, sometimes coyote brush (Gardali and Evens, 2008) and willow thickets (CDFW, 2014).

There are no occurrences within 5 miles of the project property in the CNDDDB (CDFW, 2014). The Sonoma County Breeding Bird Atlas indicates possible breeding for common yellowthroat (not identified to subspecies level) for the atlas block that includes the project property (Breeding Bird Atlas, 2014).

##### Occurrence at the Site

Common yellowthroat was not observed during site surveys by Heaton or our site surveys. However, wetland vegetation and willow thicket along the central creek and emergent wetland in the transitional marsh area near the central creek mouth provides suitable habitat for this species.

## ***Special Status Amphibians and Reptiles***

### **California red-legged frog (CRLF) (*Rana draytonii*)**

#### Status

Federally Threatened, California Species of Special Concern

#### Habitat and Distribution

CRLFs are pond-dwelling amphibians that generally live in the vicinity of permanent aquatic habitats including livestock ponds and pools in perennial streams (Jennings and Hayes, 1994). The most optimal habitat is characterized by dense, shrubby riparian vegetation associated with deep (more than 2.3 feet in depth), still, or slow-moving water (Hayes and Jennings, 1988). Although CRLFs are found in ephemeral streams and ponds, populations cannot be maintained where all surface water disappears (Jennings and Hayes, 1994). Hayes, 1994). Reproduction occurs at night in permanent ponds or slack-water pools of streams during the winter and early spring (late November-through April). CRLF populations have declined largely because of habitat loss and the introduction of nonnative aquatic predators such as green sunfish, red-swamp crayfish and bullfrogs (Jennings and Hayes, 1994).

For CRLF, essential habitat components generally include breeding habitat, non-breeding habitat and migration corridors. Breeding habitat consists of ponds with adequate depth and hydrology as well as slow moving streams with pond-like vegetation. Breeding in this region of the species range is generally late January to late February, depending upon weather conditions. Nonbreeding habitat typically includes riparian areas that have adequate moisture for survival during the summer months, sufficient cover to moderate temperature during extremes in the local climate, and provide protection from predators with features like deep pools, and/or dense vegetation. While migration corridors for CRLF are not necessarily restricted to specific landscape features, roadways and areas that lack cover are obvious hazards to CRLF movement. Typically, forested riparian communities, grasslands, open meadows, and agricultural fields are known to be used as migration corridors by CRLF.

#### *Breeding habitat*

All life history stages are most likely to be encountered in and around breeding sites, which are known to include coastal lagoons, marshes, springs, permanent and semi-permanent natural ponds, ponded and backwater portions of streams, as well as artificial impoundments such as stock ponds, irrigation ponds, and siltation ponds. CRLF egg masses are usually found in ponds or in backwater pools in creeks attached to emergent vegetation such as *Typha* and *Scirpus*. However, egg masses have been found in areas completely denuded of vegetation. CRLF larvae remain in these habitats until metamorphosis in the summer months. Young CRLF can occur in slow moving, shallow riffle zones in creeks or along the margins of ponds.

#### *Summer habitat*

CRLF often disperse from their breeding habitat to forage and seek summer habitat if water is not available. In the summer, CRLF are often found close to a pond or a deep pool in a creek where emergent vegetation, undercut banks, or semi-submerged rootballs afford shelter from predators. CRLF may also take shelter in small mammal burrows and other refugia on the

banks up to 100 meters from the water any time of the year and can be encountered in smaller, even ephemeral bodies of water in a variety of upland settings (Jennings and Hayes, 1994; USFWS, 2002).

#### *Upland habitat*

CRLF are frequently encountered in open grasslands occupying seeps and springs. Such bodies may not be suitable for breeding but may function as foraging habitat or refugia for dispersing frogs. During periods of wet weather, starting with the first rains, some individuals make overland excursions through upland habitats (USFWS, 2002).

#### *Dispersal Habitat*

CRLF may move up to 3 kilometers (1.88 miles) up or down drainages and are known to wander throughout riparian woodlands up to several dozen meters from the water (Rathbun et al. 1993). Dispersing frogs have been recorded to cover distances from 0.40 kilometer (0.25 mile) to more than 3.2 kilometers (2 miles) without apparent regard to topography, vegetation type, or riparian corridors (Bulger, et al., 2003).

#### *Distribution*

There are 10 occurrences of CRLF in the CNDDDB within 5 miles of the project property, the nearest on a tributary to Americano Creek in the vicinity of Valley Ford (the polygon for this occurrence encompasses a portion of the project property) (CDFW, 2014).

#### Occurrence at the Site

During surveys in April and June, 2014, we found tadpoles, and adult CRLF on the project site. During the April 15 site visit, a juvenile CRLF was observed basking adjacent to a seep with some open water that is located just upslope from a watering trough along the proposed East Trail corridor near the Estero.

Based on the presence of the CRLF, and potentially suitable breeding habitat at the project site, we conducted night surveys to further characterize use of habitat by CRLF at the site, particularly aquatic habitat in close proximity to the potential trail corridor. We conducted the survey on June 23, 2014, beginning at 9:15 p.m. It was a clear, cool evening with no moon visible. We used JustRite incandescent 4 d-cell headlamps and a 4 d-cell incandescent maglight to conduct an eyeshine survey of the following features:

#### **Survey Results**

##### *Pond 1*

This is a small (approximately 35 feet by 25 feet), exposed upland pond likely carved out of a hillside seep or spring source, well vegetated with *Typha*, *Juncus*, and some *Scirpus* (see Photo 21 in Appendix A). It is located about 50 feet and down a steep slope from the West Trail loop. The feature provides abundant cover abundant with limited open water. We found two juvenile CRLF and four adults. An additional three frogs retreated underwater prior to identification. In total, we identified six CRLF in this feature.

#### *Pond 2*

This is a small (approximately 20 feet by 15 feet), steep-sided pond surrounded by a thick growth of *Baccharis* and some *Scirpus*, located approximately 200 feet east and downslope of the proposed West Trail loop and north of a large eucalyptus grove (see Figure 2, and Photo 22 in Appendix A). Water depth in the pool was in excess of 3.5 feet. We observed diving beetles and two chorus frog tadpoles. Water quality seemed poor and recent cattle disturbance was evident and raccoon tracks were abundant. We did not observe CRLF in this feature.

#### *Central Creek*

We surveyed the central creek in the vicinity of the existing bridge crossing, but were unable to find adult frogs. Two frogs, likely ranids, were able to escape prior to identification.

Additionally, we observed three CRLF tadpoles in the central creek while conducting dip net surveys for California freshwater shrimp (described below).

#### **Discussion**

Based on the survey results, we assume presence of CRLF on the entire project site, with the exception of aquatic habitat within the lower reaches of the creek that are inundated by brackish water.

#### *Pond 1*

Based on the number of CRLF observed (including both juveniles and adults) given the size of the feature, the fact that it was still hydrated at the June site visit, and that it provides plentiful cover, we conclude that this feature provides important summer habitat and likely breeding habitat for CRLF.

#### *Pond 2*

Based upon the poor overall quality of the habitat and the lack of any evidence of CRLF during our night surveys, it is unlikely that CRLFs currently use this feature as habitat.

#### *Pond 3*

This small pond (approximately 50 feet by 30 feet) is located about 30 feet west of the East Trail corridor, with an outlet that runs to the central creek. It is heavily grown over with cattail (see Photo 23 in Appendix A). The lack of open water makes it unsuitable for breeding. It may provide marginal summer holding habitat.

#### *Central Creek*

Though we did not observe adults in the central creek, we assume adults may be present in this feature throughout the year due to abundant cover and pools which remain hydrated, and it is certainly being used for breeding, as evidenced by the presence of CRLF tadpoles. Bullfrogs are present in the creek, and likely prey on CRLF and tadpoles. In addition, other predators such as mosquitofish are present which may affect breeding success. Nevertheless, the central creek appears to be an important habitat feature for CRLF in this region.

### *Summer and Upland Habitat*

Any one of the numerous seeps and small drainages along the trail corridor could provide summer habitat for CRLF, including habitat for dispersing juveniles that may be displaced by adults from higher quality habitat at the site, including the ponds and central unnamed creek.

CRLF could be present in upland portions of the trail alignment when migrating between habitat features, dispersing overland, foraging or aestivating. While this area is less likely to have CRLFs when compared to the seeps, drainages and ponds on the site, encounters with CRLFs on the trail alignment would be more likely during the rainy season. CRLF could occupy small mammal burrows along the trail corridor alignment as summer refuges or aestivation habitat, particularly those in proximity to the ponds, seeps or other drainages, since those would likely retain more soil moisture.

### *Other Habitat*

Note that other aquatic habitat exists on the property, particularly the creek forming the eastern boundary of the project property, and the pond within the Forever Wild portion of the property. Though these features were not within the scope of the surveys, they could serve as other sources of breeding or summer habitat for the CRLF population on the property.

### *Critical Habitat*

The project is not located within critical habitat for CRLF, though lands in Marin County directly opposite the project across the Estero are designated as such.

## **Western pond turtle (*Emys marmorata*)**

### Status

California Species of Special Concern

### Habitat and Distribution

Western pond turtles are omnivorous, feeding on aquatic plant material, invertebrates, and even carrion. Individual turtles generally live in ponds, lakes, slow moving streams, or permanent pools alongside streams with abundant vegetation for cover. Pond turtles require basking sites such as partially submerged logs, rocks, floating vegetation, or open mud banks (CDFG, 2000b). They build nests in sandy banks on slow moving streams, or away from streams, in friable soil with relatively high humidity (CDFG, 2000b). Nests may be located a considerable distance (400 m or more) from aquatic habitat, but most are closer if nesting substrate and exposures are suitable (Jennings, 2000). Most nesting areas are characterized by sparse vegetation, and slope aspect is generally south or west-facing (Holland, 1994). Egg laying occurs from March to August depending on local conditions (CDFG, 2000b), though most occurs in May and June (Jennings and Hayes, 1994). The natural incubation period is 80 to over 100 days (Holland, 1994). Hatchlings may overwinter in the nest and emerge in spring (Jennings and Hayes, 1994). Western pond turtle can also use uplands for refugia and overwintering, digging in friable loam soils and leaf-duff to hide. Duration of use of upland

habitat and distance traveled is variable, and may depend on local habitat conditions (Jennings and Hayes, 1994; Rathbun, et al., 2002; Pilliod, et al, 2013).

There are multiple occurrences of western pond turtle within 5 miles of the project, including one from Ebabias Creek in the Estero Americano watershed.

#### Occurrence at the Site

We observed a western pond turtle on the project site on April 15, 2014, at the mouth of the central creek near the confluence with the Estero Americano. The banks of the central unnamed creek likely would provide suitable breeding habitat. Adjacent uplands provide suitable refugia and nesting habitat. Other pond features near the trail alignment (Ponds 1 and 2) could also be used by western pond turtle.

Note that other aquatic habitat exists on the property, particularly the creek forming the eastern boundary of the project property, and the pond within the Forever Wild portion of the property. Though these features were not within the scope of the surveys, they could serve as other sources of aquatic habitat for western pond turtles on the property.

### ***Special Status Fishes***

#### ***Tidewater goby (*Eucyclogobius newberryi*)***

##### Status

Federally listed as Endangered (currently proposed for downlisting to Threatened), California Species of Special Concern

##### Habitat and Distribution

The tidewater goby inhabits brackish waters of coastal lagoons, estuaries and marshes. The species is typically found in waters less than 1 meter (3.3 feet) deep with salinities of less than 12 parts per thousand, though it has been documented in salinities to 42 parts per thousand. Typical habitat is characterized by brackish, shallow lagoons and lower stream reaches where the water is fairly still but not stagnant. Tidewater gobies generally select habitat within the fresh-saltwater interface. Physical habitat factors can fluctuate daily and by season. The lagoonal nature of many habitats tends to decrease short-term variation, but annual variation can still be wide. Winter rains and increased stream flows can cause flooding, breaching, and flushing of lagoonal waters, decreasing salinity levels to near fresh water conditions (USFWS, 2005).

Tidewater gobies feed mainly on small aquatic crustaceans and insect larvae plucked from the bottom, sifted from sediment by mouth, or captured in mid-water. Marsh vegetation provides cover for growth and refuge from scouring winter flows (USFWS, 2005).

Tidewater gobies reproduce year-round, with females laying multiple clutches per year, though in the bay area, a peak in spawning does occur in late summer to fall (Moyle et al., 1995). The male tidewater goby digs a breeding burrow, often after the lagoon has closed to the ocean. The

preferred breeding substrate is clean, coarse sand (USFWS, 2005). Females compete to lay their eggs in the burrow and the male remains in the burrow to guard their eggs.

The Estero Americano is designated critical habitat for the tidewater goby. The U.S. Fish and Wildlife Service considers the Estero to be occupied habitat, and tidewater gobies were collected there in October of 1999 (USFWS, 2005). Bimonthly fish sampling conducted in the Estero Americano in 1988 and 1989 found only a few individuals of tidewater goby. Biologists conducting the study thought the low number of gobies was likely attributable to high salinity concentrations in the upper Estero Americano, along with impacts to tidal wetland habitat from livestock use. During summer months, when the sandbar forms across the Estero mouth at the Pacific Ocean and inflow from freshwater streams is low, salinity levels in the upper estuary are often hypersaline (>34 parts per thousand or above ocean salinity levels) (GRRCD, 2007).

#### Occurrence at the Site

Tidewater goby could be present in the Estero in the main channel in summer months when the bar closes the Estero from tidal influence, though if present, individuals of this species would be expected only in extremely low numbers. In winter months when the bar is open, tidewater goby could be present in the main channel and inundated portions of the marsh.

### **Longfin smelt (*Spirinchus thaleichthys*)**

#### Status

State Threatened

#### Ecology, Habitat, and Distribution

Longfin smelt is an anadromous fish species that lives in open ocean, bays, estuaries, and rivers. It typically inhabits open channels and bays. Most have a two-year life cycle, spawning in low salinity or freshwater reaches of coastal rivers and streams, primarily from January – March (CDFG, 2009b). Spawning occurs over sandy, gravel or rocky substrates or aquatic plants (Moyle, 2002). Most longfin smelt die after spawning. (Moyle, 2002). Larvae typically rear downstream in brackish water. Longfin smelt are mostly found in water cooler than 22 degrees C and are usually found mid-water or near the bottom, but move up and down in the water column following their prey (zooplankton) at night (CDFG, 2009b).

Scattered populations of longfin smelt occur along the Pacific coast, with the San Francisco Bay Estuary supporting the southernmost and largest population in California (CDFG, 2009). Most descriptions of longfin smelt life history in California focus on San Francisco Bay populations, and relatively little is known of north coast populations (CDFG, 2009b).

The San Francisco Bay-Delta Distinct Population Segment is a Candidate Species for listing. The USFWS determined that listing of longfin smelt is not warranted throughout the remainder of its range, including the project area. Longfin smelt is state listed throughout its range.

#### Occurrence at the Site

Eight longfin smelt were caught in otter trawl sampling conducted in the Estero in 1988-1999, in the lower part of the estuary downstream from the project site (GRRCC, 2007). It is possible

that longfin smelt could be present in the open water of the Estero in the vicinity of the project property, though the area along the project site would not provide spawning habitat.

### **Central California Coast Steelhead (*Oncorhynchus mykiss*)**

#### Status

Federally listed as threatened.

#### Habitat and Distribution

Steelhead are anadromous rainbow trout. The steelhead within the Central California Coast DPS are "winter-run," meaning that adults return to their freshwater spawning grounds from late fall to April (NMFS 2001). Some steelhead survive to return to the ocean then spawn again in subsequent years. Steelhead construct nests called redds in spawning gravel, generally prefer gravel sized 0.5 to 6 inches dominated by 2- to 3-inch gravel (Flosi, et al 1998), and need gravel that is free from excessive sediment that can smother eggs. Egg development is temperature dependent, varying from about 19 days at 60 degrees F to about 80 days at 42 degrees F (NMFS 2001). Steelhead hatch as "alevins" (a larval life stage dependent on food stored in a yolk sac), and emerge from the gravel as "fry." In their first summer, fry generally rear in shallow habitats such as pool tailouts, shallow riffles, and edgewater habitats. In winter, they are often found under large boulders in shallow riffles and quiet backwater and edge areas (Flosi, et al 1998). Cover in the form of boulders, root wads and woody debris provides important summer and winter habitat. Later as they grow, juveniles move into the deeper water of riffles and pools. Steelhead prefer rearing water temperatures between 53 to 58 degrees F, and have an upper lethal limit around 75 degrees F (NMFS 2001). Pools provide a cool water refuge for higher summer temperatures. Juvenile steelhead remain in fresh water 1-3 years, migrate to the ocean as "smolts" (typically between March and June) and then spend 2-3 years in the ocean before returning to spawn in their natal stream.

The Estero Americano and its tributary, Ebabias Creek, are designated as *Critical Habitat* for steelhead by the National Oceanic and Atmospheric Administration. However, according to the Gold Ridge Resource Conservation District's Estero Watershed Management Plan, "Due to conditions in the estuary and its tributaries such as declines in year-round freshwater flow, siltation of former spawning areas, denuded stream corridors, fish passage barriers, and poor water quality, the system does not currently provide suitable habitat for salmonids" (GRRCD, 2007). A single adult steelhead was caught in gill net sampling in the Estero in 1988-1999, though this was thought to be a stray from another watershed (GRRCD, 2007), and three steelhead were observed in the watershed during surveys by Merritt Smith Consulting (1996). However, steelhead are thought to be extirpated from the watershed (NOAA, 2008b).

#### Occurrence at the Site

The central unnamed creek on the project site does not provide suitable habitat for steelhead as based on field observations is it is heavily embedded with sediment, is likely poorly oxygenated, and generally lacks suitable spawning gravels.

The Estero Americano along the project property would be a migratory corridor for steelhead.

## ***Special Status Invertebrates***

### **California freshwater shrimp (*Syncaris pacifica*)**

#### Status

Federally Endangered, State Endangered

#### Habitat and Distribution

The California freshwater shrimp is a decapods crustacean of the family Atyidae and is believed to be the only extant species of the genus. They are generally less than 50 millimeters (2.17 inches) (Eng 1981) in postorbital length (from eye orbit to tip of tail). Females are generally larger than males by the time they reach sexual maturity, at the end of the second summer. Juveniles and males typically appear translucent to nearly transparent while mature females are often brown with a tan dorsal stripe. They are found in low elevation, low gradient, freshwater, perennial streams in Marin, Napa, and Sonoma counties. During the winter, habitat includes shallow margins of stream pools containing undercut banks and exposed living fine-root material that provide shelter and refuge from high water velocities associated with winter storm events. During the summer months, California freshwater shrimp are often associated with submerged leafy branches. It is believed both winter and summer habitat components need to be found in close proximity in order for this species to persist for prolonged periods. (USFWS, 2011).

California freshwater shrimp has been found on Ebabias Creek, a tributary to the Estero Americano. The confluence of Ebabias Creek with the Estero Americano is located approximately 1.8 miles upstream of the Estero's confluence with the central creek on the project property. The Salmon Creek and Stemple Creek watersheds also have populations of California freshwater shrimp within 5 miles of the project property, as the crow flies.

#### Occurrence at the Site

During the April 15 site visit, we observed suitable shrimp habitat within the central creek, consisting of low gradient, low velocity, well hydrated pools with overhanging vegetation (willow, blackberry, sedges). Based on potential habitat and the nearby occurrence on Ebabias Creek, we concluded a survey for California freshwater shrimp should be conducted, and Mr. Stabier (TEO-048470-4 and SC-4131) obtained authorization from USFWS to conduct the survey. During the June 23, 2014 site visit, Mr. Stabier and Ms. Peltz conducted a survey for shrimp in suitable habitat within the central creek approximately 430 feet upstream to approximately 1000 feet downstream of the existing bridge crossing the central creek, to the downstream limit of suitable shrimp habitat as determined by a transition to salt marsh habitat. A d-frame 20 mm mesh aquatic dip net was used to sweep areas within the study area that could contain shrimp. This included areas within the water column, submerged vegetation and roots, and along the banks and bottom of the creek. No shrimp were found during the survey.

We found numerous mosquitofish (*Gambusia affinis*) during the dip net survey. The recovery plan for California freshwater shrimp states that mosquitofish may prey on shrimp, and because of the relatively recent introduction of exotic fish such as mosquitofish, the shrimp probably has not developed defense mechanisms that would reduce its risk of predation (USFWS, 1998). Other possible predators listed in the recovery plan include predaceous diving beetles and

dragonfly and damselfly nymphs, all of which were present in the dip net surveys. The abundance of mosquitofish and other potential predators may reduce the suitability of the central creek habitat for shrimp.

Based on the negative findings of the survey, it is unlikely that California freshwater shrimp are present within the central creek. Though we were unable to access the proposed upper crossing corridor due to extremely dense vegetation including gorse and willow thickets, the creek becomes much narrower and shallower, and the gradient increases slightly, making it less suitable for shrimp.

### **Myrtle's silverspot butterfly (*Speyeria zerene myrtleae*)**

#### Status

Federally Endangered

#### Habitat and Distribution

Myrtle's silverspot butterfly is a medium sized (2.2-inch wingspan) butterfly of the brush foot family (Nymphalidae). Myrtle's silverspot butterflies lay eggs on the dried leaves and stems of *Viola adunca*, the larval host plant. After hatching, the caterpillars spin a silk pad in foliage or leaf litter where they pass the winter. In spring, the caterpillars immediately seek out the host plant. After 7-10 weeks, the caterpillars form pupa from leaf debris and silk. Adults emerge in about 2 weeks, and can live for about 5 weeks. Adults are in flight from about late June to early September. Adults feed on nectar from flowers including but not limited to gumplant (*Grindelia rubicaulis*), yellow sand verbeña (*Abronia latifolia*), mints (*Monardella spp.*), bull thistle (*Cirsium vulgare*) and seaside daisy (*Erigeron glaucus*). (USFWS, 2007; USFWS, 2009).

The CNDDDB includes numerous occurrences within 5 miles of the property; the closest is approximately one mile south of the site, a population which was last surveyed in 2003 (CDFW, 2014). Other known populations in the vicinity include a population north of the Estero de San Antonio and populations at Point Reyes National Seashore.

#### Occurrence at the Site

We did not observe Myrtle's silverspot butterfly on site during the site surveys. We observed a small patch (with approximately 150 individual flowers) of *Viola adunca* during the April site visit along the East Trail corridor in the grassland habitat (see Figure 2). We did not find *Viola adunca* elsewhere along the East Trail corridor. We also did not observe *Viola adunca* on the West Trail corridor. However, the West Trail corridor was surveyed in June, at a time when the plant was no longer in bloom at the site.

The property contains several plant species that are known nectar sources for Myrtle's silverspot butterfly, including several composites, and species within the mint family among others (Acker, 2014).

Based on presence of the larval host plant, adult nectar sources, and extant populations in the project vicinity, it is possible that Myrtle's silverspot butterfly may be present and could reproduce on the property. While that is the case, since the distribution and abundance of the host plant appears to be extremely limited on-site, it is expected that if Myrtle's silverspot butterfly is present its distribution and abundance would be very limited as well.

BORDESSA COMMENTS RE ESTERO TRAIL EASEMENT  
DRAFT ENVIRONMENTAL IMPACT REPORT  
**ATTACHMENT G**

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SUPERIOR COURT OF CALIFORNIA

COUNTY OF SONOMA

---oOo---

ALFRED BORDESSA AND JOSEPH )  
BORDESSA, AS SUCCESSOR )  
TRUSTEES OF THE BRUNO BORDESSA )  
AND DOROTHY BORDESSA REVOCABLE )  
INTERVIVOS TRUST (CREATED BY )  
DECLARATION OF TRUST DATED )  
JUNE 12, 2000), )

Plaintiff, )

vs. )

THE SONOMA COUNTY AGRICULTURAL )  
PRESERVATION AND OPEN SPACE )  
DISTRICT, AND DOES 1 THROUGH )  
20, INCLUSIVE, )

Defendants. )  
----- )

Case No. SCV-256943  
Unlimited Civil

DEPOSITION OF RICHARD ALAN STABLER

REPORTED BY THOMAS DAVID BONFIGLI,

C.S.R. LIC. NO. 5498

JANUARY 26, 2016

9:00 A.M.

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APPEARANCES:

FOR PLAINTIFF: Christopher M. Mazzia,  
Attorney at Law  
Anderson, Zeigler, Disharoon,  
Gallagher & Gray  
50 Old Courthouse Square, Fifth Floor  
Santa Rosa, CA 95404

FOR DEFENDANTS: Joshua A. Myers,  
Deputy County Counsel,  
County of Sonoma  
575 Administration Drive, Room 105A  
Santa Rosa, CA 95403-2881

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I N D E X

WITNESS: RICHARD ALAN STABLER

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E X H I B I T S

NUMBER (Plaintiff's)

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1                   BE IT REMEMBERED that pursuant to Notice of  
2 Taking Deposition, on Tuesday, the 26th of January, 2016,  
3 commencing at the hour of 9:00 o'clock thereof, at the  
4 offices of Anderson, Zeigler, Disharoon, Gallagher & Gray,  
5 50 Old Courthouse Square, Fifth Floor, Santa Rosa,  
6 California, before me, THOMAS DAVID BONFIGLI, a Certified  
7 Shorthand Reporter, in and for the County of Sonoma, State  
8 of California, personally appeared:

9                   RICHARD ALAN STABLER,  
10 who, being by me first duly sworn, was thereupon examined  
11 and interrogated as is hereinafter set forth.

12                   WITNESS'S RESPONSE TO OATH: "I do."

13                   ---oOo---

14                   EXAMINATION BY MR. MAZZIA

15           Q.    Please state your name for the record.

16           A.    Richard Alan Stabler.

17           Q.    And where are you employed?

18           A.    With Sonoma County Permit and Resource Management  
19 Department.

20           Q.    Okay. Mr. Stabler, my name is Chris Mazzia.  
21 I'm an attorney representing the Bordessas in this case  
22 that's been filed against the open space district. We're  
23 here today to take what's called your deposition.

24           A.    Uh-huh.

25           Q.    Have you ever had your deposition taken before?

1 want you to give reliable testimony.

2            A.     Alright?

3            A.     Alright.

4            Q.     So if you're unsure of anything, don't hesitate  
5 to ask for clarification or to have it repeated.

6            A.     Alright?

7            A.     I'll do that.

8            Q.     And again, don't guess.  If you're unsure of  
9 something but you can estimate or say, Well, I think it  
10 was in this time frame, you can do that.

11           A.     Alright?

12           A.     Okay.

13           Q.     Is there any reason why you can't give reliable  
14 testimony today?

15           A.     There's no reason.

16           Q.     All right.

17           THE REPORTER:  I brought the original exhibits.

18           MR. MAZZIA:  Yeah.

19           Q.     So you're with Open Space?

20           A.     I'm sorry.  I'm with the Permit and Resource  
21 Management Department.

22           Q.     Oh, you're with the P.R.M.D.  And what's your  
23 position with P.R.M.D.?

24           A.     I'm a senior environmental specialist.

25           Q.     And what do you do in that capacity?

1           A.    I review projects for CEQA compliance,  
2 endangered-species compliance, other environmental laws  
3 and regulations, obtain permits for projects and things of  
4 that nature.

5           Q.    Okay.  And for about how long have you been  
6 employed by P.R.M.D.?

7           A.    Since '99, so going on 17 years.

8           Q.    And have you had other jobs there, or has it  
9 always been environmental specialist?

10          A.    It's always been environmental specialist.

11                Well, I started off as an intern there, but --

12          Q.    Okay.  But doing the same type of work?

13          A.    Yeah, same type of work.

14          Q.    Okay.  And were you employed in a professional  
15 capacity prior to working for P.R.M.D.?

16          A.    Well, I've had various jobs over the years, but I  
17 was in University -- I was at school before I was at  
18 P.R.M.D.

19          Q.    Okay.  So really, 1999 is your first step into  
20 the professional world.

21          A.    Correct.

22          Q.    Okay.  And can you outline briefly, please, your  
23 professional training?

24          A.    Professional training?

25          Q.    (Nods head.)

1 A. Like college, that sort of thing?

2 Q. Sure.

3 A. Yeah.

4 I've got a Master's in Science Degree in Biology  
5 at Sonoma State University.

6 Q. Uh-huh.

7 A. I -- I've done various trainings over time on  
8 various wildlife species, mostly focussed on amphibians  
9 and reptiles.

10 I also -- my Master's work was focussed mostly on  
11 plant ecology, aquatic-plant ecology.

12 I -- you know, I've also done lots of work with  
13 salmonids --

14 Q. I'm sorry.

15 A. Salmonids, fisheries, salmon, steelhead those  
16 sorts of things.

17 Q. I see.

18 A. They call 'em salmonids.

19 -- over time. And I hold permits and licensings  
20 for various amphibians and fishes and also voucher-  
21 collection permits for -- for plants.

22 Q. And could you tell me what that is, please? You  
23 hold permits for --

24 A. State and federal permits for federal  
25 collection -- plant-collection permits.

1 Q. Okay. Of species specific -- I don't know. I'm  
2 not sure how that works. How does that work?

3 A. Yeah, they generally are. For the state, it  
4 comes down to mostly, you know, amphibians and reptiles  
5 generally; but then also I have a voucher permit for rare  
6 plants so I can collect rare plants.

7 And also, for -- at the federal level, it's  
8 called a recovery permit, and that's for California Tiger  
9 Salamander, Freshwater Shrimp and things like that, rare  
10 and endangered things.

11 I've also undergone training for Army Corps of  
12 Engineers. You know, it's, you know, identifying wetlands  
13 and delineating wetlands.

14 I currently, seasonally teach a class at  
15 San Francisco State University in vernal-pool ecology and  
16 wetlands in the wetland science series.

17 And I also teach or help teach a rare-pond-  
18 species workshop that's given annually that covers  
19 California Red-legged Frog, California Tiger Salamander  
20 and Western Pond Turtle. It helps identify -- it helps in  
21 identification and handling procedures for those three  
22 specific species.

23 Q. I'm sorry. Western Pond Turtle, Tiger Salamander  
24 and Red-legged Frog?

25 A. California Red-legged Frog, that's correct.

1 Q. I'm sorry. What does that do? That assists  
2 in --

3 A. Teaching people how to handle and identify those  
4 species, how to handle 'em correctly per the federal rules  
5 and how to do encounter surveys, how to survey properly  
6 for those species.

7 Q. Okay. Does that cover it?

8 A. I'm probably forgetting stuff, but, yeah, that  
9 pretty much covers it.

10 Q. Okay. And what year did you graduate from Sonoma  
11 State?

12 A. I first graduated with my undergraduate in '96,  
13 and then my Master's Degree I got in 2009.

14 Q. Okay. So is there any sort -- I'm not going to  
15 ask you to repeat everything -- any sort of a listing or a  
16 summary that I can find that outlines the various permits  
17 that you hold?

18 A. Sure. What would you like? I mean --

19 Q. Okay. So you've given an outline, but do these  
20 have technical names?

21 A. They're -- okay. Yeah, one. The federal ones's  
22 called a recovery permit.

23 Q. Okay. So you hold a federal recovery permit?

24 A. And the state level is called a scientific  
25 collection permit that's from Department of Fish and

1 Wildlife.

2           And then I also manage what's called a 4-D  
3 permit. That's for salmonids and Steelhead.

4           Q.   Okay. And then federal recovery permit, is that  
5 species specific?

6           A.   It is.

7           Q.   Okay. And I mean, are we talking dozens of  
8 species or --

9           A.   No.

10          Q.   Okay. So which species do you --

11          A.   For California Tiger Salamander.

12          Q.   Ah. Okay. For -- uh-huh.

13          A.   And California Freshwater Shrimp.

14          Q.   Okay. Anything else?

15          A.   No.

16          Q.   No?

17          A.   No.

18          Q.   Okay. So the federal recovery permit authorizes  
19 you to do what?

20          A.   Well, to do -- to actually handle them and to do  
21 that level of research so I can actually do research on  
22 those things. It's really a research-based permit.

23          Q.   Okay. And that's the Tiger Salamander and  
24 Freshwater Shrimp?

25          A.   Yeah. So Freshwater Shrimp and Tiger Salamander,

1 because of the nature of those species, you have to  
2 actually handle them to actually do surveys for them.

3 And also, I do some science on those. I'm  
4 interested in their distribution, abundance and things  
5 like that.

6 Q. Okay. And red legend Frog, is there a recovery  
7 permit issued for red legend Frog?

8 A. There can be if you're doing research work.

9 Q. How about for handling?

10 A. There would be for handling as well, yeah.

11 Q. And do you hold that?

12 A. No. I do work under -- when I do handle  
13 California red legend Frog I work under a friend's permit.  
14 He's a person that I partner with for that, that workshop.

15 Q. Okay. Who's that?

16 A. His name's Dave Cook from --

17 Q. Okay. So Dave Cook holds a federal recovery  
18 permit for Red-legged Frog.

19 A. Correct.

20 Q. Okay. And so you went out to the property in  
21 June of 2014, correct?

22 A. Correct.

23 Q. Okay. Was Dave Cook there?

24 A. No, he was not.

25 Q. Okay. Was anybody there who held a federal

1 Q. Okay. So --

2 A. The lead agency, lead -- the lead agency would be  
3 the County of Sonoma.

4 Q. Okay. So I'm not clear, 'cause I've been told  
5 that the Open Space District is a legally distinct --

6 A. It's a special district, so I guess they are the  
7 lead agency. That's actually the reality, yes.

8 Q. Okay. So who's the lead agency?

9 A. The district.

10 Q. The Ag and Open Space District is the lead  
11 agency?

12 A. That's correct.

13 Q. Okay.

14 Alright. And is it common or typical to have the  
15 project manager be from a different agency than the lead  
16 agency?

17 A. No, it's not uncommon.

18 Q. "It's not uncommon." So it's common?

19 A. Well, we do private projects all the time where  
20 the project proponent isn't from the lead agency.

21 Q. Okay. So it's not unusual?

22 A. No, I don't think so.

23 Q. And you've been the project manager for CEQA  
24 compliance projects for CEQA compliance purposes before,  
25 correct?

1 A. Yes.

2 Q. Roughly how many times?

3 A. Could you restate the question?

4 Q. Right.

5 Approximately how many times, just roughly, have  
6 you served as a project manager for CEQA compliance?

7 A. Probably 20 times.

8 Q. Okay.

9 A. You know, over 17 years, yeah, probably about 20  
10 times.

11 Q. Okay. And have you served as project manager for  
12 CEQA compliance for a project involving trail development?

13 A. No.

14 Q. Have you consulted with anyone who has served as  
15 a project manager for CEQA compliance for trail  
16 development?

17 A. Could --

18 MR. MYERS: I'm sorry. Objection, vague as to  
19 time.

20 Regarding this particular project?

21 MR. MAZZIA: Okay. I'll say regarding this  
22 project.

23 A. Could you restate the question?

24 Q. Sure.

25 With respect to the Bordessa project, have you

1 A. Biology reports.

2 Q. Okay. So although you're not project manager,  
3 you're working on a project where a trail's being  
4 developed?

5 A. Correct.

6 Q. Okay.

7 A. And I've done the biological work --

8 Q. Okay.

9 A. -- necessary to develop the trail.

10 Q. And do you have any understanding as to why you  
11 were chosen to be project manager for this project?

12 A. My manager asked me if I wanted to take the  
13 project on, and I said, "Yes."

14 Q. Okay. And who's your manager?

15 A. Sandi Potter.

16 Q. And did -- it's Ms. Potter, correct?

17 A. Correct.

18 Q. Did she tell you anything about this project when  
19 she presented it to you?

20 A. Yes.

21 Q. And what did she tell you?

22 A. She told me that there's an area out at the  
23 Estero --

24 Q. Uh-huh.

25 A. -- that the county and Open Space and parks is

1 interested in, you know, siting a trail easement and that  
2 it required us to have CEQA compliance completed for the  
3 site.

4 Q. Okay. When were you appointed project manager?

5 A. Sometime in spring of 2014, early spring/late  
6 winter.

7 Q. Okay. Do you know, were there others who were  
8 considered?

9 A. None that I'm aware of.

10 Q. Okay. And so did Sandi tell you that an EIR  
11 would be needed?

12 A. She -- no, she didn't say that.

13 Q. Did she tell you an EIR was not needed?

14 A. No, she didn't tell me that either.

15 Q. Did she tell you why a CEQA review was being  
16 done?

17 A. No, she didn't tell me why the CEQA review was  
18 being done.

19 Q. Did she tell you what level of CEQA review was  
20 being done?

21 A. No.

22 Q. Okay. Have you ever heard of -- have you ever  
23 taken a look at the trail easement?

24 A. Yes.

25 Q. Okay. And you're generally familiar with the

1           A.    Take a second.

2                   (Pause.)

3           MR. MAZZIA:  Q.  Again, there might be an  
4 objection to this, but is there any time line as to when  
5 CEQA review is anticipated to be completed for the  
6 Bordessa project?

7           MR. MYERS:  I'm going to raise the same objection  
8 about the official information privilege and instruct him  
9 not to answer.

10          MR. MAZZIA:  Q.  Okay.  What studies have been  
11 done relating to the Bordessa project?

12          MR. MYERS:  (Nods head.)

13          THE WITNESS:  Okay.

14                Overall, you mean the studies since I've been  
15 involved with the project or --

16          MR. MAZZIA:  Q.  Yep.  Lay it on.

17           A.  Okay.  Since I've been involved with the project,  
18 there's been a traffic study.  There's been a cultural  
19 resources study.

20          Q.  Okay.  One second don't go too fast, please.

21           A.  Okay.

22          Q.  Uh-huh.

23           A.  A wetlands and plant study.

24          Q.  Okay.

25           A.  And a wildlife study.

1 Q. Anything else that you're aware of?

2 A. I think there's an ongoing cattle management plan  
3 that's being worked on. That is my understanding. I have  
4 not seen the final draft of that, but I've seen drafts of  
5 it. That's since my involvement started with the project,  
6 just to be clear.

7 Q. Right. Which was a year-plus ago?

8 A. Two years ago.

9 Q. Two years ago.

10 A. Yeah.

11 Q. Okay.

12 A. It's 2016, so yeah, a little less than two years.

13 Q. Okay.

14 A. Yeah.

15 Q. Okay. Are there other studies that you're aware  
16 of that have been done since your involvement began?

17 A. That's the ones I just listed.

18 Q. Okay.

19 A. Yes.

20 Q. And does that include studies that might be in  
21 draft form?

22 A. Let's see.

23 Yes.

24 Q. Okay. Now, are you aware of any studies that  
25 were done before your involvement?

1 MR. MYERS: I appreciate that.

2 MR. MAZZIA: Okay. So I might stray into that  
3 inadvertently, and if so, just let me know.

4 MR. MYERS: (Nods head.)

5 MR. MAZZIA: Q. Alrighty?

6 A. Alright.

7 Q. And we've been talking about Exhibit 6. Okay.  
8 Looking at Exhibit 6, starting with the -- at the bottom,  
9 there's stamped numbers, 4942 through 4964 seems to be the  
10 first transmittal.

11 Who is Crystal Acor?

12 A. She's environmental specialist at P.R.M.D.

13 Q. So she's another P.R.M.D. employee.

14 A. Correct.

15 Q. And are you her supervisor?

16 A. No.

17 Q. So how does the ranking go? Are you --

18 A. Well, she's now been promoted to a senior  
19 environmental specialist, so she has the same ranking as I  
20 do now.

21 When this was prepared, she was a journey-level  
22 environmental specialist.

23 Q. Okay. But you weren't her supervisor.

24 A. No.

25 Q. Okay. But she basically reported to you?

1 A. On this, she prepared this report.

2 Q. Okay.

3 A. Yeah, to me.

4 Q. And is there any reason why Crystal was chosen to  
5 prepare this report?

6 A. She has many, many years of experience. This is  
7 her level -- this is her area of expertise.

8 Q. "This" being what?

9 A. This rare plant wetland habitat assessment for  
10 the Estero trail project.

11 Q. So she does wetland delineations?

12 A. She does.

13 Q. Okay. "The determination" -- I'm looking at page  
14 4942.

15 A. Uh-huh.

16 Q. "The determinations included in this memo are  
17 based on a review of previous studies conducted  
18 on or near the project site," et cetera.  
19 Do you know what previous studies she's referring  
20 to?

21 A. I'm assuming that she's referring specifically to  
22 the --

23 MR. MYERS: Well, don't assume. Only answer if  
24 you know.

25 THE WITNESS: I don't know.

1 MR. MAZZIA: Q. Is it custom and practice to  
2 list the studies that are being relied on?

3 A. Yeah.

4 Q. Okay. And is that done somewhere?

5 A. Do you want me to answer that?

6 Q. Yeah, please.

7 MR. MYERS: And take your time; review the  
8 document if you need to.

9 MR. MAZZIA: Q. Is that what's on page 4953?

10 A. Yeah, I do see one here. It's -- they're not  
11 numbered, but there's two, actually, that I see that  
12 stick out. There's the one that was prepared by  
13 Caroline Christian, 2009, for the Estero trail preserve.  
14 She's the one that I mentioned that worked for the land  
15 trust.

16 There's another under that it's Rob Evans.  
17 I forgot that he had prepared a, sort of a baseline study  
18 previous to us coming in.

19 Q. Okay. I don't see on 4953 or 4954 Emily Heaton's  
20 bird survey. Do you know --

21 A. Yeah, I don't think that would be really relevant  
22 to the wetland and plant work is why.

23 Q. Okay. Let's see. And she refers to site visits  
24 conducted on April 15th and June 23rd, 2014.

25 A. Uh-huh.

1 Q. Let's talk about the June 23rd, 2014, visit.

2 A. I'm sorry. Which?

3 Q. June 23rd of 2014.

4 A. Okay.

5 Q. Let's talk about that visit.

6 Who went to the property on June 23rd, 2014?

7 MR. MYERS: Objection, speculation.

8 If you know, you can answer it if you know.

9 THE WITNESS: I can only say that Sher- --  
10 Crystal, myself and Laura were there, Laura Peltz.

11 MR. MAZZIA: Q. Okay. So it's Crystal, you and  
12 I'm sorry, Laura Peltz?

13 A. Yeah.

14 Q. And who is Ms. Peltz?

15 A. Ms. Peltz is a senior -- now a senior  
16 environmental specialist in the land division.

17 Q. At P.R.M.D.?

18 A. Correct.

19 Q. Okay. Anyone else attend?

20 A. There -- Karen Davis Brown may or may not have  
21 been there. She was there one of the dates; I can't  
22 remember which one.

23 Q. And who is Ms. Davis Brown?

24 A. She's a park planner with Sonoma County Regional  
25 Parks.

1 Q. Anyone else that you recall --

2 A. No.

3 Q. -- either was there -- no?

4 A. No.

5 Q. Okay. And what was the purpose of that visit?

6 A. The purpose of the visit was to -- for Crystal or

7 for us in general or --

8 Q. For you in general.

9 A. The idea of that site visit was to try to

10 identify the sensitive resources that might be on site.

11 Q. And what documentation was made of the visit?

12 A. We all individually kept notes.

13 Q. And how do you keep notes?

14 A. I personally have a small notebook.

15 Q. You mean pen and paper.

16 A. Right.

17 Q. Okay. And do you know how the others kept notes?

18 A. I don't, no.

19 Q. And photos were taken?

20 A. Yeah, photos were taken.

21 Q. Any other measurements or samples taken?

22 A. Let me think about that. "Measurements."

23 No, I don't think so, not that I can think of.

24 Q. Any samples of anything?

25 A. No.

1 Q. And what time of the day did this visit occur?

2 A. I believe we got there in the morning and left in  
3 the afternoon.

4 Q. Let me take a look at this property. If you look  
5 on the next page, the June visit focussed on the west  
6 trail preliminary alignment.

7 A. Uh-huh.

8 Q. So the west trail is where the structures are.  
9 Is that the west side?

10 A. Have we got a map?

11 Q. Yeah; oh, yeah, absolutely.

12 A. Let's see.

13 MR. MYERS: So for the record, we're looking at  
14 Exhibit 5?

15 THE WITNESS: Correct. So -- the west trail --  
16 no, actually, I think the west trail wouldn't be. It  
17 comes close to the structures.

18 I believe this would be the west trail alignment.

19 MR. MAZZIA: Q. Okay. Well, it's on the side  
20 where the structures are --

21 A. Okay.

22 Q. -- does that sound right?

23 A. I'll grant you that.

24 Q. Was there any -- when you talk about encountering  
25 Red-legged Frogs, was that done in the June visit, do you

1 know?

2 A. Well, actually, we encountered Red-legged Frog  
3 during the earlier visit during the day.

4 Q. Uh-huh.

5 A. And then we -- to understand the full  
6 distribution of Red-legged Frogs on the site, it's really  
7 necessary to do a nighttime survey, so that's why we came,  
8 and that -- I think it was in the evening of June 23rd  
9 that we actually did an evening survey as well.

10 Q. If you look, for example, at what's stamped  
11 4984 --

12 A. 4984. Yes.

13 Q. Okay.

14 -- it refers to some photos that talk about a  
15 nighttime survey?

16 A. Uh-huh.

17 Q. Yes?

18 A. Yeah. I see that.

19 Q. Alright. Does that refresh your recollection  
20 that the June visit was a nighttime visit?

21 A. You know, okay. I thought that -- okay. My  
22 understanding of -- my recollection, which could be  
23 faulty, was that we actually did a day visit that started  
24 in the morning, and then we -- we broke with part of the  
25 team, and then Laura Peltz and I came back that evening

1 and did a nighttime encounter survey.

2 Q. Okay. So in -- for the day survey, you recall  
3 generally what work would have been done in June?

4 A. Yeah, I believe we were looking for the viola --  
5 I'm sorry -- the violet that's the host plant for Myrtle's  
6 Silverspot.

7 We looked for wetlands, pond turtles, those sorts  
8 of things; birds, different bird species; mammal burrows.  
9 You know, if we got lucky, we might see a Red-legged Frog.

10 Q. Alrighty. And about how long was the daytime  
11 visit on June 23rd?

12 A. I think it was about eight hours, seven to eight  
13 hours.

14 Q. A full day.

15 A. It was a full day, yeah.

16 Q. Okay. Just so I'm clear, then, then you left and  
17 came back?

18 A. That's correct.

19 Q. Okay. So when you got there for the day, the day  
20 that you first get there, you get there in the morning,  
21 obviously.

22 A. I believe it was morning, yeah.

23 Q. Such as --

24 A. Well, it was probably around 9:00 would be my  
25 guess, somewhere in that vicinity.

1 Q. And did you travel together or different cars?

2 A. The three of us -- Crystal, Laura and myself --  
3 we came together.

4 Q. In a county vehicle.

5 A. In a county vehicle, yes.

6 Q. And you drove up to the gate.

7 A. Uh-huh.

8 Q. And was the gate open or closed?

9 A. You know, I don't recall.

10 Q. Was the gate locked?

11 A. Was the gate locked.

12 I don't recall.

13 Q. Okay.

14 A. It could -- I mean, I can make my best estimation  
15 for you. It could be that Ag and Open Space personnel  
16 came and met us at the site, but I don't have a clear  
17 memory of how we actually accessed the gate.

18 Q. Did you leave the vehicle on the Valley Ford side  
19 Road (sic) of the gate or drive the vehicle up the access  
20 road to the barn area?

21 A. We drove the vehicle up the access road, but not  
22 as far as to the barn.

23 Q. Okay. So your understanding was that the gate  
24 was able to be open so the vehicle went up the road?

25 A. Correct.

1           A.    So this was the third time, yeah.

2                    No, actually, we did a walk-through with regional  
3 parks staff.  It was in mid-winter, probably February or  
4 something like that --

5           Q.    Okay.

6           A.    -- of that same year.

7           Q.    Right.

8           A.    So this would have been actually our third day-  
9 site visit.

10          Q.    Right.  Okay.  At any rate, at the end of this  
11 June 23rd visit, the nighttime visit --

12          A.    The nighttime visit, yes.

13          Q.    -- did you have any further work planned for  
14 Red-legged Frogs?

15          A.    No.  We covered all the wetland features that we  
16 were interested in covering, the pond features, mostly.

17          Q.    Okay.  So as of the end of June, did you have a  
18 feeling that you had done whatever studies were -- or  
19 inspections of property that needed to be done to assess  
20 Red-legged Frog?

21          A.    For Red-legged Frog, yeah, I think we covered  
22 it --

23          Q.    Okay.

24          A.    -- adequately.

25          Q.    And are your findings and opinions or -- by

1 "you," I mean not just you, but also Miss Ackers --  
2 reflected in the reports transmitted as part of  
3 Exhibit 6?

4 A. I don't think that -- I think that Ms. Ackers is  
5 silent on the matter. She did the wetland.

6 Q. So you did the Red-legged Frog?

7 A. Yes.

8 Q. So what I mean to ask is: If I look at Exhibit  
9 6, does that contain a complete-and-accurate description  
10 of your findings regarding Red-legged Frog?

11 A. I believe so.

12 Q. All right. If you could point me to where I  
13 should look so we can talk about it.

14 A. Let's see here.

15 MR. MYERS: And Rich, take your time.

16 THE WITNESS: Hmm.

17 (Witness looks through documents.)

18 THE WITNESS: Distribution --

19 So it would be on Exhibit -- what is it -- 6?

20 MR. MAZZIA: Q. Six, uh-huh.

21 A. And item 5029, item 5029 and going to sort of the  
22 middle of the page of 5032.

23 Q. Okay.

24 A. So if you do go to the top -- or the middle of  
25 5031, we're assuming presence over the entire site.

1 Q. Right. Okay. But first, it basically looks like  
2 on 5029, you're giving the background, the habitat  
3 description?

4 A. Yeah.

5 Q. Coastal -- the breeding sites for coastal  
6 lagoons, marshes, springs, permanent or semipermanent  
7 natural ponds, backward portions of streams and artificial  
8 impoundments.

9 A. Uh-huh.

10 Q. Okay. So in the summer, it looks like they  
11 forage off of their breeding habitat. Am I right?

12 A. They can.

13 Q. What does that mean?

14 A. They'll move away from -- well, they'll look for  
15 food, essentially.

16 Q. So if they're, let's say, on the central creek  
17 near the bridge area, in the dry season, they might forage  
18 and look for food?

19 A. They may. If it's a cool, moist humid night,  
20 they might. They're subject -- well, I don't want to go  
21 on, but, yes, they may.

22 Q. It looks like on the top of page 5030, talking  
23 about they might range a hundred meters or so?

24 A. Yeah, that's correct, a couple, 300 feet, yeah.

25 Q. And they're frequently encountered in open grass

1 A. Salt, yes.

2 Q. Okay. So -- and under this discussion again,  
3 Pond 1, habitat and breeding for Red-legged Frog, yes?

4 A. Yes.

5 Q. Pond 2, your feeling is not likely?

6 A. Yeah.

7 Q. Pond 3?

8 A. Pond 3 is fairly -- are you asking me a question?

9 Q. Yes. Pond 3?

10 A. Pond 3 is fairly well filled in with cattails,  
11 and there's not a lot of open water, and we didn't see any  
12 presence there, so it's also --

13 Q. And then central creek?

14 A. Central creek?

15 Q. Yes. And that says what you just told me?

16 A. We found adults there as well as juveniles, or as  
17 well as tads, so yeah, definitely.

18 Q. Okay. And if I turn the page to 5032, Summer and  
19 Upland Habitat, and what -- what areas of the site are you  
20 talking about there?

21 A. Well, that site has numerous seeps and wetlands  
22 and cattle watering troughs and those sorts of things that  
23 as ponds dry down, they can move to those wet areas and  
24 use those as summer habitats to hang out and such, yeah.

25 Q. I'm sorry. That's seeps, springs?

1           A.    Yeah, areas of perennial waters, essentially.  
2 Perennial, year-round.

3           Q.    Did you diagram those areas, or is it your view  
4 that that's pretty much around most, in not all, the site?

5           A.    It would be the areas that Crystal diagrammed  
6 specifically.  But, I mean, like I said, I mean, you could  
7 potentially find a Red-legged Frog anywhere on site.

8           Q.    Okay.  Alright.  I'll get to where Crystal  
9 diagrammed.

10                    Then Other Habitat.  So what's the essence of  
11 what you're saying there?

12                    Oh, I see.  Okay.  I think I know.  But go ahead;  
13 just tell me, please.

14           A.    Well, there's adjacent features on adjacent  
15 properties that could also improve the likelihood for  
16 Red-legged Frog presence on the Bordessa site, creeks and  
17 adjacent cattle ponds and things like that --

18           Q.    Okay.

19           A.    -- that sort of make a mosaic of, you know,  
20 improved habitat.

21           Q.    All right.  And is it your understanding if we  
22 look at page, say, 5002, although we do have other maps --

23           A.    Uh-huh.

24           Q.    -- on the eastern side of the property, there's  
25 another blue-line stream.  Is that your understanding?

1           A.    Before it's designed.

2                    Yeah, subsequent surveys, I think, would -- would  
3 be definitely a good thing, once the process moves along,  
4 sure.

5           Q.    Okay.  Before the trail's designed.

6           A.    Yeah.

7           Q.    Yeah, okay.  'Cause you haven't assessed --  
8 although I understand you say not likely or as prime as  
9 the other creek, but you would plan on assessing that  
10 creek?

11          A.    I think it makes good sense to do another -- take  
12 another cut at it, sure.

13          Q.    And in terms of the seeps and so on that are in  
14 the area of that eastern trail, has that been assessed?

15          A.    We walked all those areas, yeah.

16          Q.    And there's a lot of seeps there?

17          A.    There were seeps there.

18          Q.    Okay.

19                    Okay.  Now you had mentioned Ms. Acker doing  
20 some -- a diagram.  Where's that?

21          A.    I believe -- I don't know where that is.  Let me  
22 take a look.

23                    MR. MYERS:  Take your time.

24                    THE WITNESS:  Sure.

25                    (Witness looks through documents.)

1           THE WITNESS:  Hmm.  Maybe -- maybe my memory's  
2  faulty on that and it could be that she didn't prepare a  
3  specific figure that shows the wetlands, but she does  
4  discuss them throughout the write on -- within the -- she  
5  breaks it up in the eastern his and western hills and  
6  areas of access road, flatlands and gives a general  
7  description of the wetlands that are found there --

8           Q.  Okay.

9           A.  -- and plants.

10          Q.  'Cause I'm not seeing that.

11          A.  I thought that there was one, but -- Summer  
12 Findings.

13                 No, I guess there wasn't one.  Remember I said  
14 this wasn't a -- she didn't perform a formal wetland  
15 delineation.  This was reconnaissance-level stuff that she  
16 had done.

17          Q.  Oh.

18          A.  So apparently, I'm incorrect and there wasn't a  
19 specific figure she actually prepared for this.

20          Q.  Okay, okay.  We'll get to that.

21                 Okay.  So back to the frogs for a minute.

22          A.  Okay.

23          Q.  All right.  Correct me if I'm wrong.  As a  
24 biologist, how do you describe how you assess how the  
25 presence of Red-legged Frog or habitat would affect the

1 trail-planning process?

2 MR. MYERS: And, Chris, you're talking about in  
3 general, not specific to the Bordessa property?

4 MR. MAZZIA: Well, first, just in general, just  
5 so I know what vocabulary to use, and then we'll ask about  
6 this project.

7 A. Okay. Could you please restate that?

8 Q. Yeah.

9 I want to ask: In your view, how does the  
10 presence of frogs affect the trail planning?

11 MR. MYERS: And if you're talking about this  
12 project, then I'm going to object on the official  
13 information privilege 'cause I think that goes to the CEQA  
14 review that's being completed right now.

15 I'm going to instruct him not to answer.

16 MR. MAZZIA: Okay.

17 MR. MYERS: If you're aiming for a different  
18 thing, I'm happy to entertain that question.

19 MR. MAZZIA: Okay. Well, what I want to do is  
20 get, I guess, kind of the general lay of the land, like  
21 how you just frame the issues, and then I would ask about  
22 this project, the Bordessa property.

23 Okay. So I understand your objection, you would  
24 object and instruct him not to answer, tell me, any  
25 questions that relate to this property?

1           MR. MYERS: Well, no, obviously not. You've  
2 asked a lot of questions about this property.

3           MR. MAZZIA: Right.

4           MR. MYERS: But specifically, how -- his input on  
5 where the trail should or should not be located based on  
6 the presence of Red-legged Frogs, I would instruct him not  
7 to answer that question.

8           MR. MAZZIA: Alrighty. When I say "Alrighty," I  
9 mean, I hear what you're saying; I don't agree with you.

10          MR. MYERS: I understand, Chris.

11          MR. MAZZIA: Q. Okay. How do you articulate  
12 the analysis -- on what do you base an analysis of how  
13 Red-legged Frogs affect the trail planning process in  
14 general, without reference to the Bordessa property?

15          A. Well, I would look at -- specifically, we'd look  
16 at the most sensitive resources, whether it be breeding  
17 sites. And there was a methodology that was prepared by  
18 Kleeman and Fellers back in -- I think it was like around  
19 2009, they prepared a paper that was published, and they  
20 give some general guidance for Red-legged Frog  
21 avoidance --

22          Q. Okay.

23          A. -- for projects.

24                 And, you know, I think most professionals loosely  
25 use something like that -- and as well do I -- where it

1 actually, you know, shows different types of habitat  
2 breeding sites to begin with and then habitat corridors,  
3 and then, you know, you draw, you know, reasonable buffers  
4 from those sorts of things for avoidance.

5 Q. Okay. So you look at habitat breeding sites.

6 A. Right.

7 Q. And you look at habitat corridors.

8 A. Correct.

9 Q. And what else do you look at?

10 A. Well, for this site, I'd also look at wetlands  
11 and holding areas for summer habitat.

12 Q. And I'm sorry. What are they called, holding  
13 areas?

14 A. Yeah, like a seep.

15 Q. Like seeps or troughs or ponds?

16 A. Yeah. Those would be secondary to, you know,  
17 maybe even tertiary to breeding sites.

18 Q. Okay. And what else does one consider in  
19 general?

20 A. You know, essentially, anywhere there would be a  
21 likelihood that a frog may be, we'd look at potential  
22 impacts of -- of that.

23 Q. Okay.

24 Okay. So once you have breeding sites -- what is  
25 a habitat corridor?

1           A.    You know, interestingly -- well, a habitat  
2    corridor is where frogs would move from one type of  
3    habitat to another or one resource to another, and it  
4    would just be the likely area that they would use to -- to  
5    move between those two types of habitats.

6           Q.    Okay.  And so when you have that information,  
7    then, you said in general, again, what you look at then is  
8    what, avoidance?

9           A.    Generally, yeah.

10          Q.    Okay.  And what does that mean?

11          A.    Well, that would mean, you know, distance.  
12    Generally, it's just providing enough distance from that  
13    resource to avoid impacts.  But there can be other things.  
14    You know, if there's -- if there's a specific barrier, you  
15    know, thatch, or like a, you know, impenetrable sort of  
16    riparian area or something like that or, you know,  
17    something that's a potential barrier to Red-legged Frog  
18    movement you might have a less of -- a smaller buffer,  
19    versus, you know, an area that's just wide open, there's  
20    no barrier, you might have a larger barrier.

21          Q.    Okay.  And what type of distance is recommended,  
22    if there is any such standard or rule of thumb?

23          A.    Not for trails, there is none.  It's a more  
24    passive use than with -- what the methodology was based  
25    upon is actually development projects where we're talking

1 about buildings --

2 Q. Okay.

3 A. -- and cities and things like that, so you have  
4 to -- other than that, though, that's -- you know, it's  
5 sort of -- you have to sort of temper it based upon the  
6 type of use that's planned.

7 Q. Okay. So as I understand it, is it -- again,  
8 speaking in general -- that there is, what, no avoidance  
9 recommendations for trail development?

10 A. There are no official, none that I know of  
11 specifically. I've -- yeah, I don't know of any  
12 specifically that are prepared by the U.S. Fish and  
13 Wildlife Service or another -- none that I'm aware of.

14 Q. Okay. If that's the case, why do any Red-legged  
15 Frog assessment at all for this property?

16 A. Why do an assessment?

17 Q. Yeah. If -- are you saying that you could put a  
18 trail anywhere through Red-legged Frog habitat or  
19 corridor?

20 A. No. Did I answer it -- Okay. No, you can put it  
21 through a corridor because, you know, that's not -- as  
22 long as you're not making it -- the trail isn't becoming a  
23 barrier for frog movement and as long as you're avoiding  
24 the most sensitive habitat, you know, the -- the pond  
25 features and anything like that, it's possible to mitigate

1 through avoidance mitigation in other ways.

2 Q. Well, what does that mean?

3 A. So you're asking me is it possible -- you know,  
4 why do an assessment? Why even look at? So like I was  
5 saying, there's a tiered approach of, you know, looking at  
6 the types of habitat. The very most sensitive is breeding  
7 habitat, and then it sort of goes down the list from  
8 there; so as long as your project isn't affecting breeding  
9 habitat, you know, you're avoiding that to the extent  
10 possible, and then you're also -- your trails themselves  
11 aren't cutting off a migratory route, you're not going  
12 through or you're not filling or destroying, you know,  
13 potential holding sites, the seeps, the springs and things  
14 like that, then that's why we do it.

15 We're trying to avoid, you know, putting --  
16 siting the trail through those sorts of specific types of  
17 habitats and destroying those types of habitats through  
18 fill or, you know, channelization or whatever.

19 Q. Okay. Well, when I look at -- okay. How does  
20 one know in general whether or not a trail's going to  
21 serve as a barrier?

22 A. Basically, Red-legged Frogs can move through most  
23 things. A barrier would be an area that would have a high  
24 curb, or it would be some sort of physical barrier to  
25 movement like -- you know, basically, it would be like a

1 curb or some sort of -- you know, a wall or something like  
2 that or a fence along -- you know, complete fence that a  
3 frog couldn't pass through.

4 Q. Okay. But they'll go through parking lots?

5 A. They can, yeah. It's -- there's been telemetry  
6 studies that have been done that show that frogs do move  
7 through areas like that.

8 Q. Up to what size, an acre?

9 A. The size of the lot, you know, I don't have a  
10 specific answer for that --

11 Q. Okay.

12 A. -- so I don't know.

13 Q. And how does one know -- I mean, so wetlands can  
14 serve as habitat, breeding habitat?

15 A. Specific types of wetlands can serve as breeding  
16 habitats. They have to have adequate depth --

17 Q. Okay.

18 A. -- and duration.

19 Q. Okay. And seeps can serve as habitat?

20 A. Yes.

21 Q. Right. So how close can one come to a seep  
22 that's serving as a habitat with a trail and not adversely  
23 affect the breeding habitat?

24 A. Wait. Restate that.

25 Q. I'd like to know how close one can come to a

1 breeding habitat and not adversely affect that breeding  
2 habitat.

3 A. I don't recall. I would say within 50 feet of a  
4 passive use like a trail, though, we'd probably try to  
5 maintain a 50-foot buffer at least.

6 Q. And how does one measure 50 feet, from where to  
7 where?

8 A. From the edge of the pool to a linear distance in  
9 uplands.

10 Q. Okay. And that would be 50 feet from all the  
11 breeding habitat, or is there certain breeding habitats  
12 one could go through, generally?

13 MR. MYERS: I'm going to object, incomplete  
14 hypothetical.

15 But you can answer if you can.

16 THE WITNESS: Could you restate the question.

17 MR. MAZZIA: Q. Right.

18 So would you say in general, we're talking about  
19 trying to keep a 50-foot buffer from the edge of any  
20 breeding habitat?

21 A. Yeah.

22 Q. Okay. Have the breeding habitats for Red-legged  
23 Frog on the Bordessa property been mapped?

24 A. All potential breeding habitats I believe have  
25 been mapped except for the central creek, which we know is

1 breeding 'cause we found tads there.

2 Q. So if we look at page 5002, the map --

3 MR. MYERS: And that's in Exhibit 6?

4 MR. MAZZIA: Yes.

5 Q. -- down at the bottom, it says, "Seep with  
6 California Red-legged Frog."

7 A. No.

8 Oh, yeah.

9 Q. So is that breeding habitat?

10 A. No.

11 Q. If you'll look at Pond 1, is that breeding  
12 habitat?

13 A. Yes.

14 Q. And is that within 50 foot -- feet of a planned  
15 trail?

16 A. Does somebody have a scale? Oh, let's see.  
17 There's the scale, but I can't read that.

18 Can you?

19 MR. MYERS: No, not with any accuracy or --

20 So Chris, you're --

21 THE WITNESS: I don't know I guess is the answer.

22 MR. MYERS: Yeah.

23 MR. MAZZIA: Q. Okay. And then in terms of the  
24 central creek, then, how do you measure 50 feet? Is that  
25 from the top of bank or somewhere else?

1           A.    That would be the red channel -- the low-flow  
2 channel.

3           Q.    It would be the what?

4           A.    The low-flow channel.

5           Q.    Okay.  And let's talk about wetlands.

6           A.    Alright.

7           Q.    So was it Ms. Acker who did the wetlands work?

8           A.    Correct.

9                   MR. MYERS:  Chris, before we move into the next  
10 topic, can we take a quick break so I can go to the  
11 bathroom?

12                   MR. MAZZIA:  Sure.

13                   MR. MYERS:  Thanks.

14                   (Recess.)

15                   MR. MAZZIA:  Q.  Okay.  So regarding the June  
16 visit again, so if I look at page 5002 of Exhibit 6, the  
17 map --

18           A.    Okay.

19           Q.    Now I'm talking about the nighttime visit.

20           A.    Yeah.

21           Q.    -- can you tell me where on the property you  
22 went?

23           A.    Yeah.  So as I mentioned, we started at the gate,  
24 and we went to Pond 2, I believe, first.  We moved over to  
25 Pond 1, went down to the central creek, looked around up

1 access or without permission? Because access was denied.

2 Q. Uh-huh?

3 Okay. Let's go another 15 minutes or so, and  
4 then we'll break for lunch?

5 MR. MYERS: (Nods head.)

6 MR. MAZZIA: Q. Let's talk about wetlands.

7 Okay. So have you done any wetlands studies?

8 A. In my life?

9 Q. No. I'm sorry. Okay. No. Thanks. I mean with  
10 regard to the Bordessa property.

11 A. I have not.

12 Q. Is it your -- has anyone other than Ms. Acker  
13 done any wetlands study for the Bordessa property?

14 A. Crystal Ackers is the only one that I'm aware of.

15 Q. Okay. And at the -- after the October -- after  
16 the June, 2014, site inspection, did Ms. Acker indicate to  
17 you that she needed to do any further work for wetlands  
18 studies?

19 A. Yes.

20 Q. And what did she tell you needed to be done?

21 A. Well, subsequent work needs to be done for the  
22 actual trail once the -- you know, once the actual trail's  
23 designed, essentially, but not for the siting of the trail  
24 within a 50-foot corridor, so no subsequent studies for  
25 this level of CEQA work that we're doing now.

1           But then, you know, later, when it comes to the  
2 project-level work, then certainly, wetland delineation  
3 will be necessary for, you know, 87 manual-level stuff.

4           Sorry.

5           Q.    So --

6           A.    You know, a core jurisdictional determination  
7 would need to be done.

8           Getting a little tired.

9           Q.    How are you doing?

10          A.    I'm fine. You know, if we want to go 10 more  
11 minutes, I can probably deal with that.

12          Q.    If that's okay. I mean, if it's not, there's no  
13 problems.

14          A.    I can do it, yeah.

15          Q.    Okay. Okay.

16                So in terms of -- well, what's your  
17 understanding -- how would you describe the wetlands-study  
18 work that Ms. Acker did do? How would you describe it?

19          A.    It's reconnaissance level.

20          Q.    As opposed to delineation?

21          A.    Yeah.

22          Q.    And is it your understanding that the  
23 reconnaissance-level work is sufficient to design a  
24 50-foot trail corridor?

25          A.    Design a 50-foot --

1 Q. Yeah.

2 A. -- course?

3 Yeah, it should be sufficient to site a 50-foot  
4 corridor.

5 Q. Okay. And if we look at Exhibit 5-A, those are  
6 these two maps.

7 A. Uh-huh.

8 MR. MYERS: Whoa. Was that an earthquake?

9 THE WITNESS: I don't know. No, it's just  
10 somebody --

11 MR. MYERS: You must be bringing in a lot of  
12 food.

13 MR. MAZZIA: Okay.

14 MR. MYERS: That did feel weird, though.

15 THE WITNESS: Cheap building. No.

16 MR. MAZZIA: It's been through -- it's been  
17 through a few earthquakes, so -- we haven't had any  
18 damage.

19 THE WITNESS: It's designed to move like that,  
20 I'm sure.

21 MR. MAZZIA: Stay away from the shelves.

22 Q. If we look at Exhibit 5-A, there's a shaded area  
23 on the northern side of the property that appears to be  
24 a -- I believe that's a staging area. Do you see that  
25 kind of curved rectangular area just to the --

1 A. You're referring to this polygon here?

2 Q. Yes, on top of it.

3 A. Correct.

4 Q. That's your understanding?

5 A. Uh-huh.

6 Q. Yes?

7 A. Uh-huh.

8 MR. MYERS: You have to answer verbal.

9 THE WITNESS: Oh.

10 Yes. Sorry.

11 MR. MAZZIA: Q. Do you know, is that staging  
12 area in a wetland?

13 A. I'd have to look at the wetland report to  
14 determine, but I believe there are some wetlands within  
15 that vicinity.

16 Q. Uh-huh. Okay. And if you look at 5-A going  
17 south, south of the barn area, south of the ag envelope,  
18 there's another rectangular staging area, correct?

19 A. Uh-huh.

20 Q. Yes?

21 A. Yes.

22 Q. Is that within a wetlands?

23 A. Again, I'd have to refer to the report, but  
24 it's -- it's likely that there is wetlands in there or  
25 within the vicinity of that.

1 Q. Okay. And then if we look at the map from, I'll  
2 say, the northern staging area from which the western  
3 trail begins --

4 A. Yeah.

5 Q. Okay.

6 -- heading south, is it your understanding --

7 A. "Heading south."

8 Oh, this road right here?

9 Q. Yeah.

10 A. Yeah.

11 Q. -- is it your understanding that there's a road  
12 that's diagrammed to be developed leading from that newly  
13 designed staging area to basically the ag building  
14 envelope?

15 A. Yes, I'm aware of that.

16 Q. Okay. And does that, I'll say, western road or  
17 new road, does that go through any wetlands?

18 A. Yeah, it would.

19 Q. I'm sorry. Did you finish your answer?

20 A. I was going to preface that, but it doesn't --

21 Q. Go ahead. What's your preface?

22 A. The preface is that we're in the coastal zone  
23 here.

24 Q. Uh-huh.

25 A. And so there's a really low bar for wetlands.

1 There's a one-parameter approach, so you can either have  
2 hydrophytic vegetation or hydric soils or the correct  
3 hydrology.

4 So, you know, most things in this -- in the  
5 coastal zone are wetlands. There's wetlands everywhere in  
6 the coastal zone.

7 Q. Does that mean that they're entitled to any less  
8 protection than wetlands anywhere else?

9 A. Entitled to less protection.

10 No, I wouldn't say that.

11 Q. Okay. Right.

12 Okay. So what you're expressing is basically  
13 common knowledge within your field.

14 A. Yeah.

15 Q. That you're not surprised when you come out to  
16 the Bordessa property and study it, or from which you  
17 heard that Ms. Acker did, that there's wetlands in lots of  
18 areas on the property; that's what you'd expect.

19 A. That is what you'd expect.

20 Q. And given the nature of the property, where it's  
21 kind of a bowl or basin, correct?

22 A. Uh-huh. Yes.

23 Sorry.

24 MR. MYERS: That's okay. Everybody does it.

25 Don't worry about it.

1 MR. MAZZIA: Q. Meaning that the central creek  
2 and the existing road, the existing structures, then the  
3 proposed trail all are in one of the lower areas of the  
4 property, correct?

5 A. Correct.

6 Q. Which is where water flows and gathers.

7 A. Correct.

8 Q. And which is where there's wetlands.

9 A. And that is correct as well.

10 Q. And that's no surprise to you.

11 A. Not a surprise, no.

12 Q. Okay.

13 Okay. So looking at -- I think you mentioned --  
14 is there in Exhibit 6 somewhere where wetlands are, to  
15 whatever extent they are, mapped out or diagrammed?

16 A. No.

17 Q. Okay. So if I want to know what areas of this  
18 property are wetlands, what areas are not wetlands based  
19 on studies that have been done so far, where do I look?

20 A. You'd have to -- you can review the narrative  
21 that Crystal Ackers prepared in her wetland plant report.

22 Q. Okay. So I can look at the narrative in Exhibit  
23 6, yes?

24 A. Yes.

25 Q. Other than that, if you -- you're the project

1 manager for this. If you wanted to say, Do I have a map  
2 showing with any degree of reliability or certainty or  
3 accuracy, whatever, where wetlands are on the Bordessa  
4 property, does any such map exist?

5 A. I believe not.

6 Q. Okay. Is there anything that describes wetlands  
7 any more completely or accurately than whatever narrative  
8 exists in Exhibit 6?

9 A. I believe Exhibit 6 includes everything we've  
10 done to date.

11 Q. Okay. So if you could do me a favor and point me  
12 to the area or areas of Exhibit 6 where the narrative is.

13 A. Sure.

14 (Witness looks through documents.)

15 A. So it -- let's see. Site Description. So  
16 there's a site description starting on page 4943, and it  
17 goes on to page 4944, talks about the different areas and  
18 then talks about the western hill area and what was found  
19 there.

20 Q. Okay. Well, one second.

21 So western hill in Exhibit 5-A is basically the  
22 northwest part of the property, more or less, correct?

23 A. 5-A?

24 Q. Yeah.

25 A. Yeah, I believe that's correct.

1 Q. Okay. And --

2 A. My 5-A -- oh, that was -- this is --

3 MR. MYERS: You're good.

4 THE WITNESS: This is ours?

5 MR. MYERS: Uh-huh.

6 MR. MAZZIA: Q. So I'm not sure. Is she saying  
7 on 4945 that much of that is wetland, or what's her  
8 summary about that?

9 A. I believe her summary is in the rear, but she --  
10 at the end of the -- at the end of the report, but she  
11 does -- "seeping groundwater in upland areas without  
12 depression."

13 So she's saying there's a bunch -- there's a lot  
14 of seeps in that area.

15 Q. Likely wetlands.

16 A. Yeah. Well, yeah.

17 Q. I see. Okay.

18 So at 4951 is where she's got a summary; is that  
19 correct?

20 A. I believe. Let's see here.

21 (Witness reviews document.)

22 A. Yeah, this is what you could characterize as a  
23 summary.

24 Q. So she says --

25 A. She does have findings here at the very end of

1 the page, 5942 -- 52 -- 4952.

2 Q. I see. So 4952:

3 Wet-meadow seasonal wetlands are present within  
4 the proposed preliminary trail easement and  
5 likely will be present in the trail alignment  
6 itself."

7 MR. MYERS: Chris, where are you reading from?

8 MR. MAZZIA: 4952.

9 MR. MYERS: Okay. Thank you.

10 THE WITNESS: I think that is a correct  
11 statement, yeah.

12 MR. MAZZIA: Q. Okay. Then she talks about the  
13 western hills; she talks about eastern hills.

14 A. Uh-huh.

15 Q. And let's see where that is. East of the creek  
16 corridor and large portions of the east trail preliminary  
17 site line. So looking at 5-A, what's your understanding  
18 of where the eastern hills are?

19 A. That's this area that you're pointing to.

20 Q. Okay. So --

21 MR. MYERS: So for the record, that's on the  
22 right side of the map of the Bordessa property in Exhibit  
23 5-A.

24 Is that right, Chris?

25 MR. MAZZIA: Right.

1 A. Correct.

2 Q. And you're looking at the southerly portion near  
3 where the proposed trail is, correct?

4 A. Correct.

5 Q. So large portions of that eastern trail are in  
6 wetlands, correct?

7 A. As well, yeah.

8 Q. Okay. Flatland survey area?

9 A. I believe that would be the area where the  
10 staging areas would be mostly.

11 Q. Okay. So the flatlands are the existing access  
12 road and around the barn between the western hill, Forever  
13 Wild and creek corridor, including the access road for  
14 both parking, staging.

15 I'm looking at page 4944.

16 A. Oh, 44.

17 Q. Parking, staging areas and Estero access portion,  
18 correct? So that's the access road and flatlands?

19 MR. MYERS: Where are you reading from?

20 MR. MAZZIA: 4944, top.

21 A. Up top. Oh, yeah. Existing access road -- okay.

22 Q. And then if we go to page 4952, she's saying that  
23 the wetlands are present there, right?

24 A. Sure.

25 Q. Yeah. Okay. So do you have any understanding --

1 so the -- your understanding, without getting into  
2 details, your understanding is the wetlands-delineation  
3 work is not completed, correct?

4 A. Yeah, it's not.

5 MR. MAZZIA: Okay. And you might object.

6 Q. But do you know, is the intention to survey the  
7 precise location of the staging areas before any further  
8 wetlands work is done?

9 MR. MYERS: Wait. Could you repeat that?

10 MR. MAZZIA: Q. Does the county or Open Space  
11 intend to survey the precise location of the staging areas  
12 before any further wetlands work is done?

13 MR. MYERS: Yeah, objection, it may call for  
14 speculation.

15 You can answer it if you know.

16 THE WITNESS: I don't know. Are you talking  
17 about land survey --

18 MR. MAZZIA: Q. Yeah.

19 A. -- or are you talking about --

20 Yeah, I don't know.

21 Q. Do you know, does the county intend to designate  
22 where the staging areas are going to be before any further  
23 wetlands work is done?

24 MR. MYERS: Same objection.

25 Answer if you know.

1 THE WITNESS: I don't know.

2 MR. MAZZIA: Q. Now, is it your understanding --  
3 okay. So when there's wetlands work in general, your  
4 understanding is that the corps of engineers gets  
5 involved.

6 A. Yeah.

7 Q. When there is going to be fill in a wetlands.

8 A. Generally, they do.

9 Q. And you would agree that the staging areas would  
10 be development or fill of a wetlands.

11 A. Likely, yes.

12 Q. And putting the road between the stage, the  
13 two -- the northern staging area and the ag envelope,  
14 would involve fill.

15 A. Correct.

16 Q. And would involve cutting and grading.

17 A. Yes.

18 Q. And the work that would be done for that would go  
19 beyond the boundaries of whatever road would be developed,  
20 correct?

21 A. So the fill would go beyond the actual cut?

22 Q. No.

23 A. I don't understand.

24 Q. The actual construction work, whether you're  
25 doing cutting, culvert work.

1 A. Oh, yeah, for a permanent structure, yeah.

2 Q. Sure.

3 And exactly what the extent of that construction  
4 work is, we don't know, right? That hasn't been designed.

5 A. It hasn't, that's correct.

6 Q. Is it your understanding that even if the county  
7 does work involving putting fill in a wetlands, if the  
8 work they do is not done in compliance with law that the  
9 property owner can face civil penalties?

10 MR. MYERS: Objection, may call for a legal  
11 conclusion.

12 You can answer if you know.

13 THE WITNESS: I don't know.

14 MR. MAZZIA: Q. Is it your understanding that  
15 the owner -- the property owner can face criminal  
16 penalties.

17 MR. MYERS: Same objection.

18 THE WITNESS: Same answer: I don't know.

19 MR. MAZZIA: Q. Have you ever given that  
20 question any thought?

21 MR. MYERS: In general or --

22 THE WITNESS: Yeah.

23 MR. MAZZIA: Q. Yeah, in general, has it ever  
24 come up in your years of experience as to what adverse  
25 consequences a property owner might face for unauthorized

1 wetlands work performed by others on their property?

2 A. Yeah.

3 Q. Okay. Has that come up in your experience?

4 A. Yes.

5 Q. Okay. In what type of situation?

6 A. There's been some situations where county crews  
7 would, you know, have excess fill material and, you know,  
8 tried to locate -- this is a "for instance," by the way --  
9 they're trying to locate a disposal site; and often, they  
10 go -- they look towards private-property owners to do that  
11 sort of thing, and so that's -- that's the sort of  
12 situation where that would typically come up with me would  
13 be, you know, looking at the potential for wetlands on a  
14 private property with the county's fill and assessing, you  
15 know, the risks -- or I haven't assessed the risks of  
16 private property, but I've been made aware that there is a  
17 risk to private-property owners when they're accepting  
18 fill on their private property of county fill materials.

19 Q. Right.

20 And it is your understanding the risk could be  
21 civil.

22 A. You know, I don't know what the penalties are, to  
23 be honest with you. I just know that there is a risk of  
24 the corps coming after somebody with a fill violation.

25 Q. Right.

1           Now, is it your understanding that the -- I'll  
2 say the new road between the proposed northern staging  
3 area down to the ag envelope on Exhibit 5-A --

4           A.    This here?

5           Q.    Yeah.

6                   Does that new road need to meet fire-safe  
7 standards?

8           A.    You know, that's not my area of expertise.

9           MR. MYERS:   Just answer if you know or you don't  
10 know.

11           THE WITNESS:   I don't know.

12           MR. MAZZIA:   Q.   Okay.  Has that question come  
13 up, to your knowledge, in the Bordessa project?

14           A.    No, not to my knowledge.

15           Q.    Has there been any discussion that you're aware  
16 of with anyone other than counsel as to what standards  
17 that new road must meet?

18           A.    No.

19           Q.    You're generally -- generally familiar with  
20 fire-safe standards?

21           A.    Very generally.

22           Q.    Okay.  Well, better than me.

23                   Has there been any discussion about what turnouts  
24 are needed?

25           MR. MYERS:   You know, I'm -- I'm going to make my

BORDESSA COMMENTS RE ESTERO TRAIL EASEMENT  
DRAFT ENVIRONMENTAL IMPACT REPORT  
**ATTACHMENT H**

# Griffin Cove Transportation Consulting, PLLC

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January 27, 2020

Ms. Andrea K. Leisy  
Remy Moose Manley LLP  
555 Capitol Mall, Suite 800  
Sacramento, California 95814

Subject: ***Review of Transportation and Circulation Analysis  
Draft Environmental Impact Report for the Estero Trail Easement Project  
Sonoma County, California***

Dear Ms. Leisy:

Griffin Cove Transportation Consulting, PLLC (GCTC) has completed a review of the “Transportation and Circulation” analysis completed with respect to the proposed Estero Trail Easement Project (Project) in Sonoma County, California. The proposed project is the subject of a Draft Environmental Impact Report (DEIR) prepared for the County (Reference: Dudek, *Draft Environmental Impact Report for the Estero Trail Easement: Designation of Trail Corridors and Associated Staging Areas and Construction and Operation of Recreational Amenities Project*, December 2019). The DEIR incorporates a traffic study prepared by W-Trans, although no separate traffic technical report is provided in the DEIR.

Our review focused on the technical adequacy of the “Transportation and Circulation” analysis, including the detailed procedures and conclusions documented in the DEIR.

## **TRANSPORTATION AND CIRCULATION ANALYSIS REVIEW**

Our review of the “Transportation and Circulation” analysis for the proposed Estero Trail Easement Project revealed several issues that must be addressed prior to certification of the environmental document and approval of the Project by Sonoma County. These issues are presented below.

1. ***Project Trip Generation*** – The trip generation estimates for the Project are presented at DEIR Table 3.13-4 (p. 3.13-12). The trip generation rates for the Project were developed based on counts conducted at three existing parks described as having “similar usage type.” (DEIR, p. 3.13-11) We have the following concerns regarding the validity of the Project trip generation estimates, particularly with respect to generally accepted sample size and data collection requirements.

We note that the peak-hour trip generation estimates for the Project are based on trip generation rates derived from only three data points. With respect to the circumstances under which additional trip generation data is needed, the Institute of Transportation Engineers (ITE) *Trip Generation Handbook* (Third Edition, August 2014, p. 26) says to collect local data when the:

*Data plot has only one or two data points (and, preferably, when five or fewer)[.]*

Further, the *Trip Generation Handbook* (p. 29) addresses the preferred sample size for selecting appropriate trip generation rates from those available in the ITE *Trip Generation Manual* (ITE, Tenth Edition, 2017):

- *If the number of data points is **one or two**, either (1) consider the use of a different independent variable and its associated data pages, or (2) collect local data and establish a local or consolidated rate. Refer to Chapter 9 for guidance.*

- *If the number of data points is **three, four, or five**, the analyst is encouraged to collect local data and establish a local or consolidated rate . . . [Emphasis not added]*

In summary, only if the sample size is six or more does the ITE handbook indicate that it is advisable to proceed with the analysis. Clearly, three data points are inadequate to represent a valid indication of the trip generation characteristics of any land use. Because the DEIR analysis does not follow these broadly-accepted norms within the transportation engineering profession, the report's conclusions should not be treated as credible.

This deficiency in the Project's estimated traffic volume is particularly relevant to the findings documented in the DEIR regarding the potential need for a left-turn lane to serve traffic entering the Project site, as discussed below.

2. ***Left-turn Lane Warrant Analysis*** – The DEIR analysis of the need for a left-turn lane on westbound State Route 1 (SR 1) to serve entering traffic was performed in accordance with Sonoma County procedures. Based on the Project trip generation estimates referenced above, the analysis found that a left-turn lane was not warranted under either short-term or long-term conditions, as the number of projected inbound left turns was insufficient.

However, the analysis also found that if the number of entering left turns were just three higher (i.e., 17 instead of 14) under Future Weekend Midday Peak Hour conditions, a left-turn lane would be warranted. This is acknowledged at DEIR p. 3.13-21. As noted above, the trip generation estimates presented for the Project lack credibility, based on the inadequate sample size employed in their development. It is not unreasonable to believe that higher trip rates might result from a data collection effort employing an adequate sample size.

The DEIR (p. 3.13-21) also notes that if the evaluation had addressed conditions using the “95<sup>th</sup>-percentile” speed of 65 MPH (instead of the 85<sup>th</sup>-percentile speed of 60 MPH) the warrant would have been satisfied even using the projection of 14 left turns.

Furthermore, the DEIR (p. 3.13-18) acknowledges that the analysis is based on counts performed in April 2018, and “If the counts were collected during the summer months, the traffic volumes along SR 1 would likely be higher and may lead to conditions which would have warranted the left-turn lane.”

Obviously, substantial uncertainty exists with respect to the DEIR's conclusions regarding the need for a left-turn lane at the Project entrance.

The DEIR identified this as a “potentially significant impact” (DEIR p. 3.13-21), but defined it as “significant and unavoidable” because “. . . there is no funding available to construct this left-turn lane . . .” We believe that a lack of funding is insufficient justification for failing to address a significant safety deficiency created by the Project. It would be irresponsible to add substantial traffic to the existing driveway intersection without making improvements to protect the safety of patrons turning left into the Project site. Anecdotal evidence suggests that queues currently form behind vehicles waiting to turn into the driveway at the nearby Sonoma Coast Villa Resort & Spa and even, at times, at the proposed Project driveway. Given the 50 – 60 MPH speeds on SR 1 and the current epidemic of inattentive and distracted drivers, it would seem prudent to take measures to protect park patrons from the significant risk of rear-end collisions while waiting to enter the site.

Although the DEIR traffic analysis found that a left-turn lane is not currently warranted under Sonoma County standards, other alternatives exist to increase the safety of trail users and other, more broadly-based standards are available for consideration. One potential alternative is a left-turn bypass lane, which would be added to the outside edge of the roadway, allowing through vehicles to pass left-turning vehicles on the right. For illustrative purposes, Attachment A contains a detailed drawing of a left-turn bypass lane. (Source: Alabama Department of Transportation)

The drawing in Attachment A also provides a set of guidelines to determine when either a left-turn lane or a left-turn bypass lane is warranted. Specifically, a left-turn bypass lane is called for under the following circumstances:

<b>Table 1</b>	
<b>Left-Turn Bypass Lane Guidelines<sup>1</sup></b>	
Daily Roadway Volume (Vehicles/Day)	Peak-Hour Left-Turns (Vehicles/Hour)
6,000 or less	10 – 40 <sup>2</sup>
More than 6,000	5 – 30 <sup>3</sup>
Notes:	
<sup>1</sup> Source: Alabama Department of Transportation	
<sup>2</sup> Left-turn lane required if greater than 40.	
<sup>3</sup> Left-turn lane required if greater than 30.	

According to the DEIR (p. 3.13-2 and 3.13-4), SR 1 adjacent to the Project carries 5,200 vehicles/day on weekdays, and the number of entering left turns is estimated to be eight in the weekday PM peak hour. This falls slightly short of meeting the warrant presented above.

However, on weekends, SR 1 carries 7,350 vehicles/day and the number of entering left turns is projected to be 14 in the weekend midday peak hour. (DEIR, p. 3.13-4) These values meet the warrant calling for installation of a left-turn bypass lane.

Further, in the future, the weekday traffic volume on SR 1 is projected to increase to 6,480 vehicles/day according to the DEIR (p. 3.13-4). Combining that volume with the estimated eight entering left turns indicates that a left-turn bypass lane will be warranted under those circumstances.

These findings are reinforced by research documented in the following two National Cooperative Highway Research Program (NCHRP) reports:

- NCHRP Report 745, *Left-Turn Accommodations at Unsignalized Intersections*, 2013.
- NCHRP Report 780, *Design Guidance For Intersection Auxiliary Lanes*, 2014.

As background, the NCHRP program represents systematic, well-designed research that is conducted with the full cooperation and support of the Federal Highway Administration of the U.S. Department of Transportation. The NCHRP research program is administered by the Transportation Research Board, which is one of six major divisions of the National Research Council. Consequently, the results of NCHRP research represent the state-of-the-art in the field of highway transportation.

Much of the relevant research documented in NCHRP Report 745 was incorporated into NCHRP 780, which then provided recommendations for changes to the widely-used design document entitled, *A Policy on Geometric Design of Highways and Streets*, published by the American Association of State Highway and Transportation Officials (AASHTO). That document is commonly referred to as the “Green Book.”

According to NCHRP Report 745, a bypass lane:

*. . . allows the through driver to change lanes to avoid the left-turning vehicle and continue through the intersection. It is commonly called a bypass lane. This alignment may be used where right-of-way is constrained but a left-turn lane is warranted.*

The report further states that:

*Agencies may consider the use of bypass lanes at “T” intersections in undeveloped areas when left-turn lane warrants are met but the installation of a left-turn lane is not practical. Some states [such as California] do not allow informal passing on the right or driving on the shoulder; constructing the additional width for through vehicles provides a legal means of passing slowed or stopped left-turning vehicles.*

Attachment B contains excerpts from NCHRP Report 745 describing the circumstances under which a left-turn bypass lane should be provided. Table 2 summarizes the pertinent warrants for rural three-legged (i.e., “T”) intersections on two-lane highways, such as the Project access intersection on SR 1.

<b>Table 2</b>		
<b>Recommended Left-Turn Treatment Warrants for Rural Two-Lane Highways</b>		
<b>Left-Turn Lane Peak-Hour Volume (Vehicles/Hour)</b>	<b>Two-Lane Highway Peak-Hour Volume (Vehicles/Hour/Lane) That Warrants a Bypass Lane</b>	<b>Two-Lane Highway Peak-Hour Volume (Vehicles/Hour/Lane) That Warrants a Left-Turn Lane</b>
5	50	200
10	50	100
15	< 50	100
20	< 50	50
25	< 50	50
30	< 50	50
35	< 50	50
40	< 50	50
45	< 50	50
50 or more	< 50	50

Source: NCHRP Report 745, *Left-Turn Accommodations at Unsignalized Intersections*, 2013, p. 8.

As shown, any combination of five or more peak-hour left turns and 50 or more peak-hour vehicles per lane on SR 1 indicates that a left-turn bypass lane should be provided. Given that the minimum estimated number of Project-related peak-hour left turns is 8 and the volume of traffic on SR 1 far exceeds 50 vehicles per hour, it is apparent that a bypass lane should be provided.

In fact, the criteria presented here indicate that a left-turn lane is warranted, as the volume on SR 1 exceeds 200 vehicles/hour/lane in either study period, and the entering left-turn volume exceeds 5 vehicles/hour.

This information is also summarized in graphical form in Attachment C. As shown there, the “Major Highway Volume” (i.e., the number of vehicles per lane in the peak hour on SR 1) is off the scale of the chart. Both the weekday peak-hour left-turn volume (8 vehicles) and the weekend midday peak-hour left-turn volume (14 vehicles) fall above the threshold calling for provision of a left turn lane, as indicated by the asterisks along the right-hand edge of the chart.

Given the uncertainties in the analysis process, particularly with respect to the volume of traffic that is expected to be generated by the Project, we believe that the conservative, safety-minded approach would be to provide a left-turn lane to serve entering drivers. At a minimum, a left-turn bypass lane should be provided. Doing so will substantially reduce the potential for certain types of serious collisions at the Project access intersection, particularly rear-end collisions associated with queues of vehicles waiting to enter the site.

3. **Safety Analysis** – DEIR p. 3.13-5 documents the “Existing Traffic Safety and Collision History.” This section conveniently addresses, “. . . the section of SR 1 within 200 feet in either direction of the project access point . . .” (DEIR, p. 3.13-5) It shows one collision in the 5-year period from 2013 thru 2017, and concludes that the accident rate at the project site is lower than the statewide average for similar roads. Given the minimal level of activity at this driveway, such a finding is not surprising. In effect, the DEIR has documented collision activity in a straight 400-foot (0.076 mile) section of SR 1, where there is practically no reason to expect any collisions.

By selecting that very limited study section, the DEIR ignored several existing private driveways along SR 1 in the vicinity of the Project site, including the existing driveway intersection at the Sonoma Coast Villa Resort & Spa, which is described as being 350 feet from the Project driveway. Collisions are much more likely to occur at driveways, as vehicles entering and exiting driveways are often associated with rear-end and broadside collisions.

The study area for the safety analysis should be expanded to include those other nearby driveways. Doing so would provide much more meaningful information in terms of what has recently occurred in the vicinity of the Project and, more importantly, what might be expected to occur at the Project driveway.

We believe that an appropriate study area for the safety analysis would encompass SR 1 from Bodega Highway (about 1.1 miles to the west of the Project driveway, at Caltrans Postmile 5.38) to Freestone Valley Ford Road (about 1.8 miles to the east of the Project driveway, at Caltrans Postmile 2.42). Based on the Caltrans Postmile designations, this segment is 2.96 miles long.

To determine the effect of this expanded study area, we obtained Statewide Integrated Traffic Records System (SWITRS) collision data from the California Highway Patrol (CHP) for the most recent available five-year period – January 1, 2014 through December 31, 2018. This is the same

approach employed in the DEIR traffic analysis, although the data is one-year newer than the information presented in the DEIR. The SWITRS data revealed that 32 collisions occurred in the expanded study area during this time period.

As in the DEIR, we converted this information to an accident rate, in terms of accidents/million-vehicle-miles (acc/mvm). The Caltrans document, *2016 Collision Data on California State Highways (Road Miles, Travel, Collisions, Collision Rates)* presents the following formula for calculating accident rates on roadway segments:

$$\text{Accident Rate} = \frac{(\text{Number of Accidents}) \times (1,000,000)}{\text{Vehicle Miles of Travel}}$$

Vehicle miles of travel is calculated as:

$$\text{VMT} = (\text{ADT}) \times (365) \times (\text{Segment Length, in miles}) \times (\text{No. of Years}), \text{ where}$$

ADT = Average Daily Traffic = 5,200 vehicles/day (DEIR, p. 3.13-2 and 3.13-4)

Segment Length = 2.96 miles

No. of Years = 5

Thus, based on the 2014 – 2018 SWITRS data for the expanded study area, the accident rate for SR 1 in the vicinity of the Project is:

$$\text{Accident Rate} = \frac{(32) \times (1,000,000)}{(5,200) \times (365) \times (2.96) \times (5)} = 1.14 \text{ acc/mvm}$$

Note that if we used the Caltrans ADT value of 4,650 vehicles/day (as reported at DEIR p. 3.13-4), the accident rate would increase to 1.27 acc/mvm.

These values are somewhat higher than the accident rate of 0.89 acc/mvm reported in Table 3.13-3 of the DEIR (p. 3.13-5). In fact, we attempted to replicate the accident rate presented in the DEIR, and were unable to do so. Using the one accident reported in the DEIR, the segment length of 400 feet (i.e., 0.076 mile), and the daily traffic volume of 5,200 vehicles/day, we calculated a rate of 1.39 acc/mvm, as follows:

$$\text{Accident Rate} = \frac{(1) \times (1,000,000)}{(5,200) \times (365) \times (0.076) \times (5)} = 1.39 \text{ acc/mvm}$$

We are also unable to confirm the statewide average collision rate of 1.40 acc/mvm presented in DEIR Table 3.13-3 (p. 3.13-5). Attachment D contains a pair of tables extracted from the Caltrans document, *2016 Collision Data on California State Highways (Road Miles, Travel, Collisions, Collision Rates)*. The first table documents the “Statewide Travel and Accident Summary” for various roadway types. The first line in the table presents information for conventional two- and three-lane highways in rural locations outside of cities, such as SR 1 adjacent to the Project site. As shown, the statewide accident rate for these facilities is 1.15 acc/mvm, which differs substantially from the rate of 1.40 acc/mvm presented in the DEIR.

The second table in Attachment D presents a “Travel and Accident Summary” that is specific to Sonoma County. Again, the top line in the table addresses conventional two- and three-lane highways in rural locations outside of cities. It shows that a total of 385 accidents occurred on those types of

roadways in Sonoma County in 2016. It also shows that total travel in the County was 347.3 million-vehicle-miles. Dividing the number of accidents by the vehicles-miles-traveled reveals a Sonoma County-specific accident rate of 1.11 acc/mvm for roads similar to SR 1 at the Project site.

Thus, both tables in Attachment D indicate that the historical average accident rate for roads that are similar to SR 1 in the vicinity of the Project site is substantially different than the value presented in the DEIR. Further, this modified information suggests that existing conditions in the vicinity of the Project site are somewhat less safe than the DEIR stated, as the actual existing accident rate is: (1) higher than the value claimed in the DEIR, and (2) at or above the historical average value for similar roads throughout both California and Sonoma County.

Table 3 provides a summary of the safety-related information discussed above.

<b>Table 3 Safety Analysis Summary &amp; Comparison</b>		
	DEIR	GCTC
Study Area Segment Length	400 Feet (0.076 Mile)	2.96 Miles
No. of Accidents	1	32
Calculated Accident Rate (acc/mvm) <sup>1</sup>	0.89 acc/mvm <sup>2</sup> (Corrected: 1.39 acc/mvm) <sup>3</sup>	1.14 acc/mvm <sup>4</sup> (1.27 acc/mvm) <sup>5</sup>
Historical Statewide Average Accident Rate	1.40 acc/mvm <sup>2</sup>	1.15 acc/mvm <sup>6</sup>
Historical Sonoma County Average Accident Rate	--	1.11 acc/mvm <sup>6</sup>
Notes:		
<sup>1</sup> Accidents/Million-Vehicle-Miles		
<sup>2</sup> Source: DEIR, Table 3.13-3, p. 3.13-5.		
<sup>3</sup> Calculation reflects 1 accident, 0.076-mile study segment, and daily traffic volume of 5,200 vehicles/day, as presented in DEIR.		
<sup>4</sup> Assuming daily traffic volume of 5,200 vehicles/day (DEIR, p. 3.13-4).		
<sup>5</sup> Assuming daily traffic volume of 4,650 vehicles/day documented by Caltrans (DEIR, p. 3.13-4).		
<sup>6</sup> Source: Caltrans, <i>2016 Collision Data on California State Highways (Road Miles, Travel, Collisions, Collision Rates)</i> ; See Attachment D.		

Furthermore, the DEIR has made no effort to establish whether additional collisions will occur upon implementation of the Project. It seems obvious that this will be the case, but the DEIR is silent on this point. Moreover, it is reasonable to expect that collisions at the Project access might be relatively severe, given the 50 – 60 MPH speed of traffic on SR 1, as documented in the DEIR (p. 3.13-4).

The failure to accurately and thoroughly consider safety-related conditions along SR 1 in the vicinity of the Project site (including conditions at nearby private driveways) and to relate those conditions to the proposed Project access is a substantial deficiency in the DEIR. Additional, more relevant collision data must be assembled, evaluated, and documented to provide a credible indication of the potential safety impacts of the Project.

4. **Parking Impacts** – The DEIR (p. 3.13-16) includes the conclusory statement that, “. . . the 30 parking spaces provided . . . should serve the anticipated parking demand.” No estimate of the anticipated peak parking demand was generated, however, so it is impossible for this statement to be credibly made. The DEIR claims that County Park Rangers would be on-site to turn away visitors if no parking is available, but no certainty is provided that this will actually be the case.

The DEIR must incorporate a credible estimate of peak parking demand at the Project. Further, if the projected demand exceeds the proposed 30-space on-site parking capacity, a meaningful, enforceable mitigation measure must be identified to remedy the deficiency.

5. **Emergency Access** – The DEIR (p. 3.13-19) concludes that emergency access is a less-than-significant impact, but it ignores the fact that access gates will be locked after hours (DEIR, p. 2-18), so if a fire, for example, were to occur on-site during those off-hours, access would be impossible for first responders.

## CONCLUSION

Our review of the “Transportation and Circulation” analysis completed with respect to the proposed Estero Trail Easement Project revealed several issues affecting the validity of the conclusions presented in the Draft Environmental Impact Report. Of particular concern are the flawed conclusions regarding the need for a left-turn lane or bypass lane at the Project entrance, and the failure to adequately address Project-related safety impacts along SR 1 near the Project site. These issues must be addressed prior to approval of the proposed project and its environmental documentation by Sonoma County.

We hope this information is useful. If you have questions concerning any of the items presented here or would like to discuss them further, please feel free to contact me at (906) 847-8276.

Sincerely,

**GRIFFIN COVE TRANSPORTATION CONSULTING, PLLC**

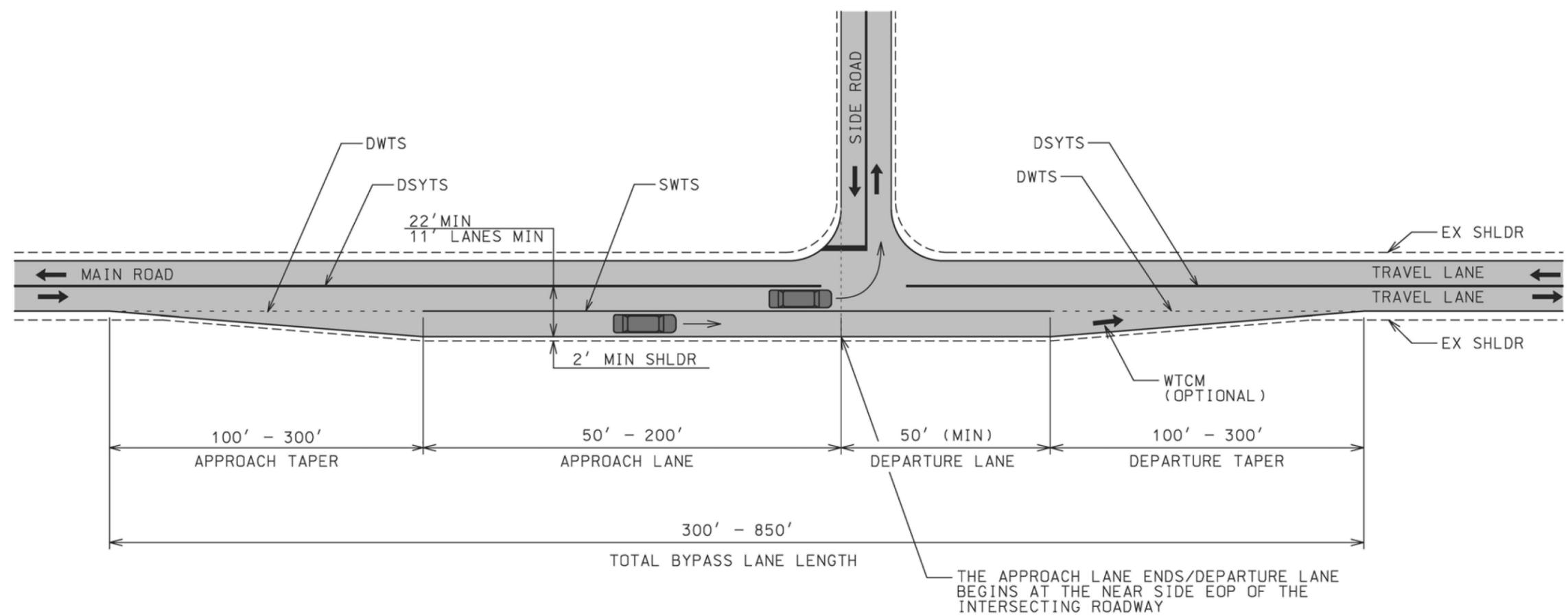


Neal K. Liddicoat, P.E.  
Principal

Attachments

**ATTACHMENT A**

**Detailed Drawing Illustrating a Left-Turn Bypass Lane  
(Source: Alabama Department of Transportation)**



DESIGN SPEED (MPH)	MINIMUM LEFT TURN BYPASS LANE DESIGN GUIDELINES				
	APPROACH TAPER LENGTH (FT)	APPROACH LANE LENGTH (FT)	DEPARTURE LANE LENGTH (FT)	DEPARTURE TAPER LENGTH (FT)	TOTAL LEFT TURN BYPASS LANE LENGTH (FT)
LESS THAN 55	100	50 (MIN)	50 (MIN)	100	300
50 OR GREATER	180	50 (MIN)	50 (MIN)	180	460

DESIGN SPEED (MPH)	PREFERRED LEFT TURN BYPASS LANE DESIGN GUIDELINES				
	APPROACH TAPER LENGTH (FT)	APPROACH LANE LENGTH (FT)	DEPARTURE LANE LENGTH (FT)	DEPARTURE TAPER LENGTH (FT)	TOTAL LEFT TURN BYPASS LANE LENGTH (FT)
LESS THAN 30	150	150	50 (MIN)	150	500
30 - 45	200	150	50 (MIN)	200	600
50 OR GREATER	300	200	50 (MIN)	300	850

GUIDANCE OF WHEN TO USE LEFT TURN BYPASS LANE  
LEFT TURN BYPASS LANES SHOULD BE USED WHEN ONE OR MORE OF THE FOLLOWING EXIST:

- AT A THREE-LEGGED UNSIGNALIZED (T) INTERSECTION ON TWO-LANE HIGHWAYS WITH MODERATE THROUGH AND TURNING VOLUMES, ESPECIALLY INTERSECTIONS THAT HAVE A PATTERN OF REAR-END COLLISIONS INVOLVING VEHICLES WAITING TO TURN LEFT FROM THE HIGHWAY.<sup>1</sup>
- AT A THREE-LEGGED UNSIGNALIZED (T) INTERSECTION ON TWO-LANE HIGHWAYS THAT HAVE A PATTERN OF CRASHES INVOLVING DRIVERS RUNNING OFF THE ROADWAY TO AVOID VEHICLES WAITING TO TURN LEFT FROM THE HIGHWAY.
- SEE CHART BELOW FOR GUIDELINES REGARDING PEAK HOUR LEFT TURNS AND VOLUME CRITERIA.

LEFT TURN LANE & LEFT TURN BYPASS LANE GUIDELINES		
ROADWAY VOLUME (AADT) (VEH/DAY)	LEFT TURN LANE (PEAK HOUR LEFT TURNS)	LEFT TURN BYPASS LANE (PEAK HOUR LEFT TURNS)
6,000 or less <sup>2</sup>	Greater than 40 <sup>2</sup>	10 - 40
More than 6,000 <sup>2</sup>	Greater than 30 <sup>2</sup>	5 - 30

D. WHERE THERE IS EVIDENCE OF VEHICLES USING THE SHOULDER OF THE ROAD TO PASS VEHICLES STOPPED IN THE THROUGH LANE TO TURN LEFT AT A "T" INTERSECTION.

<sup>1</sup> FROM NCHRP REPORT 500/VOLUME 5: A GUIDE FOR ADDRESSING UNSIGNALIZED INTERSECTION COLLISIONS  
<sup>2</sup> FROM ALDOT ACCESS MANAGEMENT MANUAL

LEGEND	
SWTS	SOLID WHITE TRAFFIC STRIPE
DSYTS	DOUBLE SOLID YELLOW TRAFFIC STRIPE
DWTS	DOTTED WHITE TRAFFIC STRIPE
WTCM	WHITE TRAFFIC CONTROL MARKING

NOTES:  
1. REQUIRED PAVEMENT BUILDUP SHALL MATCH EXISTING PAVEMENT.  
2. IF THERE IS A MAJOR DRIVEWAY OR INTERSECTING ROADWAY WITHIN THE TOTAL BYPASS LANE LENGTH, THE APPROACH LANE OR DEPARTURE LANE MAY NEED TO BE EXTENDED TO ENCOMPASS THE DRIVEWAY OR OTHER INTERSECTING ROADWAY OR SHORTENED TO AVOID THE DRIVEWAY OR INTERSECTING ROADWAY.

DETAILS OF LEFT TURN BYPASS LANE AT "T" INTERSECTION

NOT TO SCALE

**ATTACHMENT B**

**Excerpts from NCHRP Report 745,  
*Left-Turn Accommodations at Unsignalized Intersections, 2013.***

NATIONAL COOPERATIVE HIGHWAY RESEARCH PROGRAM

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**NCHRP REPORT 745**

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**Left-Turn Accommodations at  
Unsignalized Intersections**

**Kay Fitzpatrick  
Marcus A. Brewer  
William L. Eisele**

TEXAS A&M TRANSPORTATION INSTITUTE  
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of the steps a designer could take to determine whether a left-turn lane is appropriate for a particular location. Where there are no applicable access management guidelines, adequate spacing and design consistency are both essential requirements to consider.

## Apply Left-Turn Lane Warrants

### Warrants

After compiling all of the relevant information pertaining to a particular intersection, it is necessary to determine whether that information indicates that a left-turn lane is indeed necessary or beneficial. Left-turn lanes can reduce the potential for collisions and improve capacity by removing stopped vehicles from the main travel lane. The recommended left-turn lane warrants developed based on the NCHRP Project 3-91 research (1) are:

- Rural, two-lane highways (see Table 1),
- Rural, four-lane highways (see Table 2), and
- Urban and suburban roadways (see Table 3).

Table 1 also present warrants for a bypass lane treatment on two-lane rural highways. Given a peak-hour left-turn volume and a particular intersection configuration (i.e., number of legs, number of lanes on the major highway), the tables show the minimum peak-hour volume on the major highway that warrants a left-turn lane or bypass lane. Figure 2 displays the warrants for rural two-lane highways graphically. Figure 3 shows graphical warrants for four-lane rural highways, and Figure 4 shows the recommended warrants for urban and suburban arterials.

Technical warrants are an important element of the decision-making process; however, other factors should also be considered when deciding whether to install a left-turn lane, including:

- Sight distance relative to the position of the driver and
- Design consistency within the corridor.

These factors should be considered in conjunction with the numerical warrants. For example, if volumes indicate that a left-turn lane is not warranted but there is insufficient sight distance at the location for the left-turning vehicles, then the left-turn lane should be considered along with other potential changes (e.g., remove sight obstructions, realign the highway, etc.).

### Source of Warrants—Benefit-Cost Approach

A benefit-cost approach was conducted as part of NCHRP Project 3-91 (1) to determine when a left-turn lane would be justified. Economic analysis can provide a useful method for combining traffic operations and safety benefits of left-turn lanes to identify situations in which left-turn lanes are and are not justified economically. The development steps included:

- Simulation to determine delay savings from installing a left-turn lane,
- Crash costs,
- Crash reduction savings determined from safety performance functions available in the AASHTO *Highway Safety Manual* (Chapter 10 discusses rural two-lane, two-way roads; Chapter 11 discusses rural multilane highways; and Chapter 12 discusses urban and suburban arterials) (4),

**Table 1. Recommended left-turn treatment warrants for rural two-lane highways.**

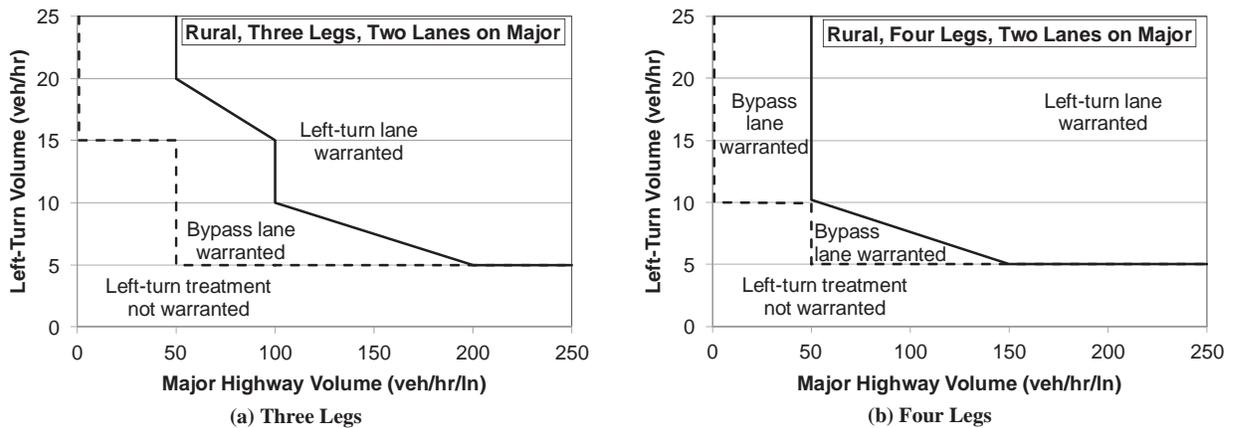
Left-Turn Lane Peak-Hour Volume (veh/hr)	Three-Leg Intersection, Major Two-Lane Highway Peak-Hour Volume (veh/hr/ln) That Warrants a Bypass Lane	Three-Leg Intersection, Major Two-Lane Highway Peak-Hour Volume (veh/hr/ln) That Warrants a Left-Turn Lane	Four-Leg Intersection, Major Two-Lane Highway Peak-Hour Volume (veh/hr/ln) That Warrants a Bypass Lane	Four-Leg Intersection, Major Two-Lane Highway Peak-Hour Volume (veh/hr/ln) That Warrants a Left-Turn Lane
5	50	200	50	150
10	50	100	< 50	50
15	< 50	100	< 50	50
20	< 50	50	< 50	< 50
25	< 50	50	< 50	< 50
30	< 50	50	< 50	< 50
35	< 50	50	< 50	< 50
40	< 50	50	< 50	< 50
45	< 50	50	< 50	< 50
50 or More	< 50	50	< 50	< 50

**Table 2. Recommended left-turn lane warrants for rural four-lane highways.**

Left-Turn Lane Peak-Hour Volume (veh/hr)	Three-Leg Intersection, Major Four-Lane Highway Peak-Hour Volume (veh/hr/ln) That Warrants a Left-Turn Lane	Four-Leg Intersection, Major Four-Lane Highway Peak-Hour Volume (veh/hr/ln) That Warrants a Left-Turn Lane
5	75	50
10	75	25
15	50	25
20	50	25
25	50	< 25
30	50	< 25
35	50	< 25
40	50	< 25
45	50	< 25
50 or More	50	< 25

**Table 3. Recommended left-turn lane warrants for urban and suburban arterials.**

Left-Turn Lane Peak-Hour Volume (veh/hr)	Three-Leg Intersection, Major Urban and Suburban Arterial Volume (veh/hr/ln) That Warrants a Left-Turn Lane	Four-Leg Intersection, Major Urban and Suburban Arterial Volume (veh/hr/ln) That Warrants a Left-Turn Lane
5	450	50
10	300	50
15	250	50
20	200	50
25	200	50
30	150	50
35	150	50
40	150	50
45	150	< 50
50 or More	100	< 50

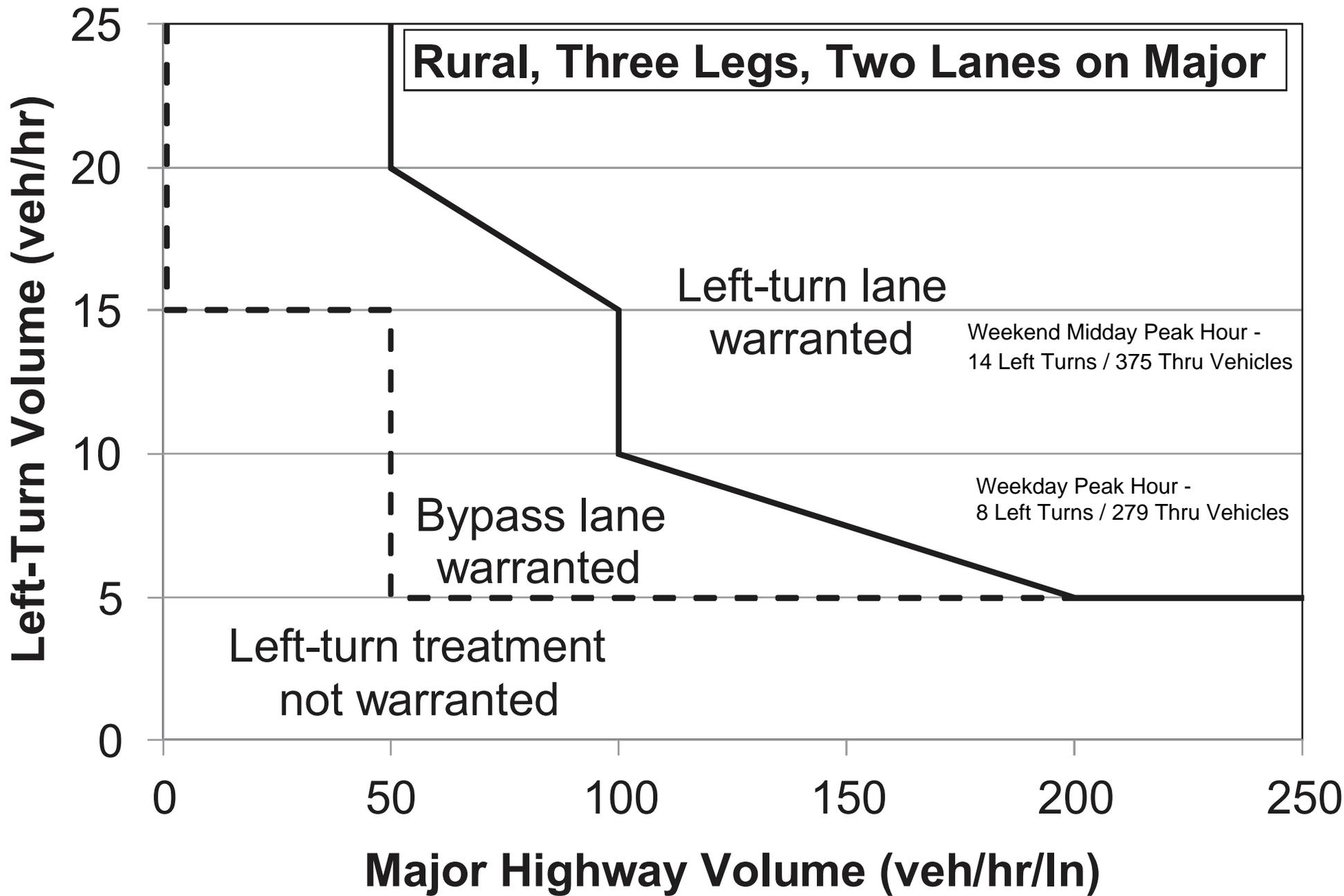


**Figure 2. Recommended left-turn treatment warrants for intersections on rural two-lane highways.**

**ATTACHMENT C**

**Left-Turn Lane Warrants Chart**

**(Source: NCHRP Report 745, *Left-Turn Accommodations at Unsignalized Intersections*, 2013)**



**(a) Three Legs**

**ATTACHMENT D**

**Statewide Travel and Accident Summary Tables**  
**(Source: Caltrans, 2016 Collision Data on California State**  
**Highways (Road Miles, Travel, Collisions, Collision Rates))**

**2016 Collision Data  
on California State  
Highways** (road miles,  
travel, collisions,  
collision rates)



**Statewide Travel / Accident Summary**  
FOR 2016 PREPARED 10/14/2018

**STATEWIDE TRAVEL AND ACCIDENT SUMMARY**

LANE TYPE	ROAD MILES	TRAVEL (MVM)	TOTAL	ACCIDENTS			VICTIMS		RATES		FATALITIES /100 MVM
				PDO	INJURY	FATAL	KILLED	INJURED	ACC/MVM	F+I/MVM	
<b>RURAL (OUTSIDE CITY)</b>											
2 AND 3 LN	7,032.8	9,968.9	11,480	6,275	4,879	326	386	7,502	1.15	0.52	3.87
4+ UND	66.7	215.4	221	140	76	5	5	124	1.03	0.38	2.32
4+ DIV	292.5	1,547.8	1,506	964	520	22	25	802	0.97	0.35	1.62
SUBTOTAL	7,392.1	11,732.1	13,207	7,379	5,475	353	416	8,428	1.13	0.50	3.55
2 AND 3 LN EXP	707.3	1,562.7	1,214	679	507	28	30	855	0.78	0.34	1.92
4+ DIV EXP	566.3	3,598.2	2,382	1,509	840	33	37	1,405	0.66	0.24	1.03
NON FWY	8,665.6	16,893.0	16,803	9,567	6,822	414	483	10,688	0.99	0.43	2.86
FREEWAY	1,688.0	22,616.6	11,427	7,443	3,809	175	211	5,929	0.51	0.18	0.93
TOTAL	10,353.7	39,509.6	28,230	17,010	10,631	589	694	16,617	0.71	0.28	1.76
<b>URBAN (INSIDE CITY)</b>											
2 AND 3 LN	224.4	1,050.2	1,426	786	624	16	16	879	1.36	0.61	1.52
4+ UND	64.9	517.9	937	507	420	10	11	587	1.81	0.83	2.12
4+ DIV	464.5	5,803.7	8,139	4,110	3,956	73	73	5,707	1.40	0.69	1.26
SUBTOTAL	753.8	7,371.8	10,502	5,403	5,000	99	100	7,173	1.42	0.69	1.36
2 AND 3 LN EXP	17.6	93.2	71	39	31	1	1	52	0.76	0.34	1.07
4+ DIV EXP	59.4	871.8	858	494	358	6	6	562	0.98	0.42	0.69
NON FWY	830.8	8,336.8	11,431	5,936	5,389	106	107	7,787	1.37	0.66	1.28
FREEWAY	1,750.0	100,856.5	112,351	76,953	34,959	439	470	49,766	1.11	0.35	0.47
TOTAL	2,580.8	109,193.2	123,782	82,889	40,348	545	577	57,553	1.13	0.37	0.53
<b>SUBURBAN (RURAL INSIDE CITY + URBAN OUTSIDE CITY)</b>											
2 AND 3 LN	778.9	2,679.1	3,726	2,182	1,499	45	47	2,223	1.39	0.58	1.75
4+ UND	27.9	191.6	273	166	102	5	8	151	1.42	0.56	4.17
4+ DIV	145.0	1,286.5	1,968	1,154	789	25	31	1,199	1.53	0.63	2.41
SUBTOTAL	951.8	4,157.3	5,967	3,502	2,390	75	86	3,573	1.44	0.59	2.07
2 AND 3 LN EXP	93.3	387.7	390	235	155	0	0	267	1.01	0.40	0.00
4+ DIV EXP	119.2	1,443.9	1,194	714	462	18	19	714	0.83	0.33	1.32
NON FWY	1,164.3	5,988.8	7,551	4,451	3,007	93	105	4,554	1.26	0.52	1.75
FREEWAY	968.7	32,249.4	26,141	17,481	8,498	162	182	12,235	0.81	0.27	0.56
TOTAL	2,133.0	38,238.2	33,692	21,932	11,505	255	287	16,789	0.88	0.31	0.75

**Statewide Travel / Accident Summary  
FOR 2016 PREPARED 10/1/2018**

**TRAVEL AND ACCIDENT SUMMARY FOR SON COUNTY**

LANE TYPE	ROAD MILES	TRAVEL (MVM)	TOTAL	ACCIDENTS			VICTIMS	
				PDO	INJURY	FATAL	KILLED	INJURED
<b>RURAL</b>								
<b>2 AND 3 LN</b>	136.2	<b>347.3</b>	<b>385</b>	231	148	6	8	216
4+ UND	0.6	4.0	1	1	0	0	0	0
4+ DIV	0.2	1.2	0	0	0	0	0	0
SUBTOTAL	137.0	352.5	386	232	148	6	8	216
2 AND 3 LN EXP	0.0	0.0	0	0	0	0	0	0
4+ DIV EXP	6.9	144.3	171	114	57	0	0	89
NON FWY	143.9	496.7	557	346	205	6	8	305
FREEWAY	17.2	238.1	56	38	18	0	0	22
TOTAL	161.1	734.9	613	384	223	6	8	327
<b>URBAN</b>								
2 AND 3 LN	30.6	213.4	254	144	108	2	2	155
4+ UND	0.2	1.9	4	3	1	0	0	1
4+ DIV	7.0	87.4	110	47	61	2	2	87
SUBTOTAL	37.8	302.6	368	194	170	4	4	243
2 AND 3 LN EXP	0.0	0.0	0	0	0	0	0	0
4+ DIV EXP	3.0	65.2	51	30	21	0	0	31
NON FWY	40.8	367.8	419	224	191	4	4	274
FREEWAY	36.1	1,186.0	1,085	702	380	3	3	517
TOTAL	77.0	1,553.8	1,504	926	571	7	7	791
<b>COUNTYWIDE</b>								
2 AND 3 LN	166.9	560.7	639	375	256	8	10	371
4+ UND	0.8	5.8	5	4	1	0	0	1
4+ DIV	7.1	88.5	110	47	61	2	2	87
SUBTOTAL	174.8	655.1	754	426	318	10	12	459
2 AND 3 LN EXP	0.0	0.0	0	0	0	0	0	0
4+ DIV EXP	10.0	209.4	222	144	78	0	0	120
NON FWY	184.8	864.5	976	570	396	10	12	579
FREEWAY	53.3	1,424.1	1,141	740	398	3	3	539
TOTAL	238.1	2,288.6	2,117	1,310	794	13	15	1,118

BORDESSA COMMENTS RE ESTERO TRAIL EASEMENT  
DRAFT ENVIRONMENTAL IMPACT REPORT

# **ATTACHMENT I**

- SFO Airport: take Hwy. 380 to Hwy. 280 North following signs to Nineteenth Avenue, Golden Gate Park and the Golden Gate Bridge
- From Golden Gate Bridge go North 32 miles on Hwy. 101 to the Central Petaluma / East Washington Blvd. exit, then west (left at stop light) (over freeway) on East Washington Blvd
- Continue 22 miles on the same road, which will become Hwy. One
- Our signs and entrance are two miles past the small town of Valley Ford on the right-hand side at the bottom of a long hill

## Sacramento

*Approximately 2-1/2 hours*

- South on Hwy. 80 to Napa / Sonoma / Hwy. 12 exit by Fairfield
- Hwy. 12 merges with Hwy.29 and crosses the Napa River
- After the bridge turn left on Hwy 121 and follow signs for Hwy. 116 and Petaluma. Ultimately reaching Hwy. 101
- Turn north on Hwy. 101 and go one exit to the Central Petaluma / East Washington Blvd. exit, then west (left at stop sign) on East Washington Blvd
- Continue 22 miles on the same road, which becomes Hwy. One
- Our signs and entrance are two miles past the small town of Valley Ford on the right-hand side at the bottom of a long hill

## East Bay and Oakland Airport

*Approximately 1-1/2 hours*

- North on Hwy. 80 / 880 past the San Francisco Bay Bridge and follow signs for Sacramento
- Follow signs for Hwy. 580 West and the Richmond / San Rafael Bridge
- After crossing San Rafael/Richmond Bridge follow signs for Hwy. 101 North. Head North to Petaluma
- At Petaluma take the Central Petaluma exit, then west (left at stop sign) on East Washington Blvd
- Continue 22 miles on the same road, which becomes Hwy. One
- Our signs and entrance are two miles past the small town of Valley Ford on the right-hand side at the bottom of a long hill.

## Proprietor's notes

Many maps in travel books and on the internet give routes that vary in distance and directions for the same trip. Our goal is for guests of the Villa to arrive timely and safely as there is so much to enjoy here in West Sonoma County. Driving times are based on normal traffic.

Remember to allow an extra hour if it's afternoon, evening or Friday night. A slight diversion for those coming from Sacramento might be to follow Hwy. 12 into the town of Sonoma where the plaza offers shopping and great food. To continue your journey to the Villa just follow Hwy. 12 through Santa Rosa and Sebastopol until the road dead ends at Hwy. 1. Turn left 1 mile and you will see our gates on the left side as you come down a steep hill. Caution! Put your blinker on early. Another route might be to follow Hwy. 116 to Sebastopol where there are antique shops and shopping. From there just follow the signs for Bodega on Hwy. 12.

From the south there is always scenic Coast Hwy. 1. From the Golden Gate Bridge follow signs for Hwy. 1. Stinson Beach, Point Reyes and the Hog Island Oyster Farm in Marshall are a few spots on the way to the Villa. Double your driving time as the road has many curves and great vistas.

*"This was the most delightful place to stay - lovely villa, and grounds. The food was outstanding and cooked to perfection."*

*-Ray, M.*

BORDESSA COMMENTS RE ESTERO TRAIL EASEMENT  
DRAFT ENVIRONMENTAL IMPACT REPORT  
**ATTACHMENT J**



SONOMA COUNTY OPEN SPACE FISCAL OVERSIGHT COMMISSION  
**COMMISSIONERS**

Mike Sangiacomo (Sonoma)  
Todd Mendoza (Petaluma)  
Regina De La Cruz (Rohnert Park)

Bob Anderson (Healdsburg)  
Eric Koenigshofer (Occidental)  
Jeff Owen (Alternate)

**REGULAR MEETING AGENDA**

Virtual Meeting Due to Sonoma County's Shelter in Place Order

May 21, 2020 | 5:00 pm

**In accordance with Executive Order N-29-20, the May 21, 2020 Fiscal Oversight Commission meeting will be held virtually.**

MEMBERS OF THE PUBLIC MAY NOT ATTEND THIS MEETING IN PERSON

**\*UPDATE REGARDING VIEWING AND PUBLIC PARTICIPATION IN  
MAY 21, 2020 FISCAL OVERSIGHT COMMISSION MEETING\***

The May 21, 2020 Fiscal Oversight Commission Meeting will be facilitated virtually through WebEx. Members of the public can watch or listen to the meeting using one of the three following methods:

1. Join the WebEx meeting on your computer, tablet or smartphone by:
  - Navigating to <https://www.webex.com/login/attend-a-meeting>
  - Enter 990 846 872 into the Meeting Number field.
  - Enter your name and email address.
  - Enter G2pd&m18 for the meeting password.
2. If you have a WebEx account, click Join Meeting by number: 990 846 872 password: G2pd&m18
3. Call-in and listen to the meeting: Dial 707-565-4657 Enter meeting ID: 990 846 872

**Public Comment During the Meeting:** You may email public comment to Sara.Ortiz@sonoma-county.org. All emailed public comments will be forwarded to all Commissioners and read allowed for the benefit of the public. Please include your name and the relevant agenda item number to which your comment refers. In addition, if you have joined as a member of the public through the WebEx app or by calling in, there will be specific points throughout the meeting during which live public comment may be made via WebEx and phone.

**DISABLED ACCOMMODATION:** If you have a disability which requires an accommodation or an alternative format to assist you in observing and commenting on this meeting, please contact Sara Ortiz by phone at (707) 565-7346 or by email to Sara.Ortiz@sonoma-county.org. by 12pm Wednesday, May 20th to ensure arrangements for accommodation.

**\*END OF UPDATE\***

1. **Call to Order**
2. **Agenda Items to be Held or Taken Out of Order; Off- Agenda Items**
3. **General Announcements Not Requiring Deliberation or Decision**
4. **Public Comment**  
The Brown Act requires that time be set aside for public comment on items not agendized.
5. **Correspondence/ Communications**
6. **Approval of Commission Minutes** **Attachment 1** April 16, 2020 Minutes  
**Attachment 2** April 20, 2020 Minutes
7. **Financial Report** **Attachment 3** Julie Mefferd | Administrative & Fiscal Services Manager
8. **Torr Initial Public Access, Operation and Maintenance** **Attachment 4** Louisa Morris | Acquisition Specialist
9. **Carrington Coast Ranch Initial Public Access, Operation and Maintenance** **Attachment 5** Misti Arias | Acquisition Program Manager
10. **Closed Session**  
**Conference with Real Property Negotiator** **Attachment 6**  
Project Name: Carrington Coast Ranch Transfer to Sonoma County Regional Parks  
Property Address: 3800, 4000, 4300, and 4500 State Highway One, Bodega Bay, California  
APN: 101-040-005, -006, -007, & -008  
Owner: Sonoma County Agricultural Preservation and Open Space District  
Negotiating Parties:  
    Ag + Open Space's Representative: William J. Keene, General Manager  
    Regional Parks' Representative: Bert Whitaker, Director  
Under Negotiation: The conveyance of the fee interest in the Property to the County of Sonoma in exchange for a Conservation Easement and Recreation Covenant granted to Ag + Open Space. The Commission will give instruction to its negotiator(s) on the price. (Government Code Section 54956.8)
11. **Report Out of Closed Session**
12. **Suggested Next Meeting**  
June 4, 2020
13. **Adjournment**

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**AGENDAS AND MATERIALS:** Agendas and most supporting materials are available on the District's website at [sonomaopenspace.org](http://sonomaopenspace.org). Due to legal, copyright, privacy or policy considerations, not all materials are posted online. Materials that are not posted will be made available for public inspection between 8:00 a.m. and 5:00 p.m., Monday through Friday, at 747 Mendocino Avenue, Santa Rosa, CA after Sonoma County health officials lift the Shelter in Place order.

**SUPPLEMENTAL MATERIALS:** Materials related to an item on this agenda submitted to the Commission/Committee after distribution of the agenda packet will be posted on the District's website and made available for public inspection at the District office at 747 Mendocino Avenue, Santa Rosa, CA during normal business hours after Sonoma County health officials lift the Shelter in Place order. You may also email [Sara.Ortiz@sonoma-county.org](mailto:Sara.Ortiz@sonoma-county.org) for materials.





SONOMA COUNTY OPEN SPACE FISCAL OVERSIGHT COMMISSION  
**COMMISSIONERS**

**Mike Sangiacomo (Sonoma)**  
**Todd Mendoza (Petaluma)**  
**Regina De La Cruz (Rohnert Park)**

**Bob Anderson (Healdsburg)**  
**Eric Koenigshofer (Occidental)**  
**Jeff Owen (Alternate)**

**UNAPPROVED MINUTES**

Virtual Meeting Due to Sonoma County's Shelter in Place Order

April 16, 2020 | 5:00 pm

---

**COMMISSIONERS PRESENT:** Bob Anderson (Chair), Eric Koenigshofer (Vice Chair), Regina de la Cruz, Jeff Owen

**STAFF PRESENT:** Bill Keene, General Manager; Lisa Pheatt, County Counsel; Julie Mefferd, Administrative and Fiscal Services Manager; Sara Ortiz, Administrative Aide; Misti Arias, Acquisition Program Manager; Louisa Morris, Acquisition Specialist.

**PUBLIC PRESENT:** Howard Levy, Appraiser; Steve Ehret, Regional Parks Planner Manager.

**1. Call to Order**

5:03 p.m.

**2. Agenda Items to be Held or Taken Out of Order; Off- Agenda Items**

There was none.

**3. General Announcements Not Requiring Deliberation or Decision**

Bill Keene announced that the Mowing and Wildlife Survey Contract were approved by the Board of Directors on April 7, 2020.

**4. Public Comment**

There was none.

**5. Correspondence/Communications**

**6. Approval of Commission Minutes Attachment 1 March 5, 2020**

On a motion by Commissioner Koenigshofer and a second by Commissioner de la Cruz, the March 5, 2020 minutes were approved.

**7. Financial Report Attachment 2 Julie Mefferd | Administrative & Fiscal Services Manager**

Julie Mefferd reviewed the monthly financial statements for February 2020. She will present the latest financial projections for the sales tax when they are available from HdL.

**8. Closed Session**

**Conference with Real Property Negotiator Attachment 3**

Project Name: Torr Fee Acquisition by Sonoma County Regional Parks

Property Address: 8610 Main Street, Monte Rio 95462

## **ATTACHMENT 1**

APN: 096-010-003 and 096-010-008

Owner: Regina E. Torr, deceased

Negotiating Parties:

Owner's Representative: Michele Mc Donell & Michael L. Torr

District's Representative: William J. Keene, General Manager

Under Negotiation: Terms and conditions of funding towards fee acquisition of the property by Sonoma County Regional Parks, which terms include the conveyance of a conservation easement and recreation covenant over the property to Ag + Open Space.

Direction was given to staff.

### **9. Suggested Next Meeting**

April 20, 2020 at 11:45 a.m.

### **10. Adjournment**

6:51 p.m.

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**DISABLED ACCOMMODATION:** If you have a disability which requires an accommodation, an alternative format, or requires another person to assist you while attending this meeting, please contact Mary Dodge at 707-565-7349, as soon as possible to ensure arrangements for accommodation.

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SONOMA COUNTY OPEN SPACE FISCAL OVERSIGHT COMMISSION  
COMMISSIONERS

Mike Sangiacomo (Sonoma)  
Todd Mendoza (Petaluma)  
Regina De La Cruz (Rohnert Park)

Bob Anderson (Healdsburg)  
Eric Koenigshofer (Occidental)  
Jeff Owen (Alternate)

**UNAPPROVED MINUTES**

Virtual Meeting Due to Sonoma County's Shelter in Place Order

Special Meeting

April 20, 2020 | 11:45 am

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**COMMISSIONERS PRESENT:** Bob Anderson (Chair), Eric Koenigshofer (Vice Chair), Regina de la Cruz, Jeff Owen

**STAFF PRESENT:** Bill Keene, General Manager; Lisa Pheatt, County Counsel; Sara Ortiz, Administrative Aide; Misti Arias, Acquisition Program Manager; Louisa Morris, Acquisition Specialist.

**PUBLIC PRESENT:**

1. **Call to Order**

11:50 a.m.

2. **Public Comment**

The Brown Act requires that time be set aside for public comment on items not agendized.

3. **Adopt Resolution Regarding Acquisition of Torr Conservation Easement And Recreation Covenant**

**Torr Conservation Easement and Recreation Covenant  
Resolution 2020-002**

On a motion by Commissioner Koenigshofer and second by Commissioner Owen, the Commission determined that the District is not paying more, or receiving less, than the fair market value for the Torr Conservation Easement and Recreation Covenant.

4. **Suggested Next Meeting**

May 21, 2020

5. **Adjournment**

11:56 a.m.

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**SUPPLEMENTAL MATERIALS:** Materials related to an item on this agenda submitted to the Commission/Committee after distribution of the agenda packet are available for public inspection at the District office at 747 Mendocino Avenue, Santa Rosa, CA

## ATTACHMENT 2

during normal business hours.

**DISABLED ACCOMMODATION:** If you have a disability which requires an accommodation, an alternative format, or requires another person to assist you while attending this meeting, please contact Mary Dodge at 707-565-7349, as soon as possible to ensure arrangements for accommodation.

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**Attachment 3**

Sonoma County Agricultural Preservation and Open Space District  
Consolidated Balance Sheet - District and OSSTA Funds  
April 30, 2020

**Assets**

Cash and Investments	\$66,770,938
Accounts Receivable	0
Other Current Assets	0
Intergovernmental Receivables	10,000

**Total Assets** \$66,780,938

**Liabilities and Fund Balance**

Current Payables	\$0
Other Current Liabilities	20,116
Due to Other Governments	13,472
Deferred Revenue	0
Long-Term Liabilities	0

**Total Liabilities** 33,588

**Fund Balance**

Nonspendable - Prepaid Expenditures	1,254
Restricted - District Activities	66,746,096
Total Fund Balance	66,747,350

**Total Liabilities and Fund Balance** \$66,780,938

\*\*\*\*\*

**Cash by Fund**

OSSTA - Measure F	\$56,135,541
Open Space District	2,536,803
Fiscal Oversight Commission	6,905
Stewardship Reserve*	0
Cooley Reserve	154,572
Operations and Maintenance	7,937,117

**Total Cash by Fund** \$66,770,938

\*On July 1, 2015 the County of Sonoma Measure F Sales Tax Refunding Bonds, Series 2015 were issued. The transaction provided a savings of \$13.6 million, in part by following the Commission's recommendation of paying down \$30 million in principal, as well as obtaining a lower interest rate. The Commission recommended using the \$10 million in the Stewardship Reserve Fund as part of the \$30 million paydown. Additionally, the Commission directed use of the \$7.5 million annual savings resulting from the shortened term to fund the Stewardship Reserve beginning in the fiscal year 2024-2025. FOC Minute Order #13 dated May 14, 2015 reflects this direction.

**Attachment 3**

Sonoma County Agricultural Preservation and Open Space District  
 Consolidated District and OSSTA Budget to Actual  
 For the eight months ended April 30, 2020  
 83% of Year Complete

	Budget Final	Actual Year to Date	Encumbrances Year to Date	Remaining Balance	% of Remaining
<b>Revenues</b>					
Tax Revenue *	\$25,254,000	\$17,703,986		\$7,550,014	29.90%
Intergovernmental	7,750,000	245,635		7,504,365	96.83%
Use of Money & Prop	590,000	522,122		67,878	11.50%
Miscellaneous Revenues	5,340,500	32,469		5,308,031	
Other Financing Sources	1,021,444	22,500		998,944	97.80%
<b>Total Revenues</b>	<b>39,955,944</b>	<b>18,526,712</b>		<b>21,429,232</b>	<b>53.63%</b>
<b>Expenditures</b>					
Salaries and Benefits	5,005,078	3,501,901		1,503,177	30.03%
Services and Supplies	11,649,486	2,737,881	\$3,142,609	5,768,996	49.52%
Other Charges	7,707,333	910,310	1,193,148	5,603,875	72.71%
Capital Expenditures**	35,074,928	3,023,245	221,888	31,829,795	90.75%
Other Financing Uses	8,539,312	6,398,000		2,141,312	25.08%
<b>Total Expenditures</b>	<b>67,976,138</b>	<b>16,571,338</b>	<b>4,557,645</b>	<b>46,847,155</b>	<b>68.92%</b>
<b>Net Earnings (Cost)</b>	<b>(\$28,020,194)</b>	<b>1,955,374</b>	<b>(\$4,557,645)</b>	<b>(\$25,417,923)</b>	
Beginning fund balance		64,791,976			
<b>Ending Fund Balance</b>		<b>66,747,350</b>			

Note: Sales tax collected as of April 30, 2019 was \$16,594,838. Current collections are 6.68% over the prior year.

(California Department of Tax and Fee Administration)

Note: Negative Use of Money and Property relates to the amortization of gains and losses of investments, not the rate of return.

\*\* Capital expenditure breakdown

Capital Expenditure - Tacoma 4x4	\$	35,817
CIP -Building & Improvement		31,474
Jacobsen Ranch		2,955,955
	<b>\$</b>	<b>3,023,245</b>



**AG + OPEN SPACE**  
SONOMA COUNTY

**DATE:** May 8, 2020 (Meeting May 21, 2020)  
**TO:** Fiscal Oversight Commissioners  
**FROM:** Louisa Morris, Acquisition Specialist  
**SUBJECT:** Torr Funding Agreement

**Summary**

The District is acquiring a conservation easement and recreation covenant over the 315.88-acre Torr property later this year (2020). The conservation easement and recreation covenant acquisitions will be simultaneous with Sonoma County Regional Parks' fee acquisition of the property. The conservation easement restricts use of the property to natural resource protection and public recreation and education. The conservation easement allows for recreational uses insofar as they are consistent with natural resource protection. The conservation easement also requires that recreational and educational uses occur as allowed in a District-approved Master Plan. These may include, but are not limited to the following: hiking, bicycling, horseback riding, picnicking, nature study, hike-in, low-impact tent camping, and other such uses similar in nature and intensity.

The recreation covenant also requires the property be open to the public for low-intensity outdoor public recreation and educational uses consistent with the conservation easement. Sonoma County Regional Parks intends to link recreational opportunities on the property with adjacent properties, including the Bohemia Ranch Ecological Reserve. There will be no public access via motorized vehicles. The recreation covenant requires that at such time that the Torr property becomes open to the general public, Regional Parks will concurrently make the property available for public recreational use.

The Torr fee acquisition request was brought to the Fiscal Oversight Commission on April 16, 2020 and approved by the Commission at a subsequent meeting, held on April 20, 2020.

Regional Parks has now submitted a request to the District for \$250,000 for initial public access and operations and maintenance (IPAO&M) activities, as detailed in Tables 1, 2, and 3 below. The funds would be expended within three years of the date of Regional Parks' acquisition of the Torr property, which is expected to take place later this calendar year. Consistent with the District's Expenditure Plan and its Initial Public Access and Operations and Maintenance Policy, the District may provide funding, on a reimbursement basis, to assist with initial public access and with operations and maintenance on recreational properties purchased with the open space sales tax.

**Initial Public Access and Operations and Maintenance (IPAO&M) Fund Status**

Per the Expenditure Plan, Ag + Open Space can expend up to 10% of its sales tax revenue on IPAO&M. For FY 19-20, the beginning IPAO&M fund balance was **\$9,118,485**.

In addition, it is anticipated that Ag + Open Space will receive approximately **\$2,525,400** in sales tax revenue in this fiscal year towards eligible IPAO&M costs for FY 19-20.

## **ATTACHMENT 4**

Ag + Open Space has four existing IPAO&M agreements with recreational partners with available balances that total **\$2,907,650**. The District anticipates additional requests for IPAO&M funds for at least three additional properties this fiscal year, including Carrington Coast Ranch, Estero Americano and McCormick Ranch. There are sufficient funds available in the IPAO&M fund for the Torr IPAO&M request as well as these anticipated future requests.

### **Funding Agreement**

In order to receive District funding, the District and Sonoma County Regional Parks will execute a Funding Agreement that specifies the types of costs that are eligible for reimbursement. As shown in more detail on the attached table, Regional Parks is requesting the following IPAO&M funding:

- Public access gates, fencing
- Public access amenities (including signs, maps)
- Road/trail brushing and erosion control
- Property clean-up
- Visitor safety and patrols (Park operations)
- Property maintenance
- Community engagement

No reimbursement will occur until Regional Parks submits, and the District approves, a Work Plan that more specifically describes the work and costs associated with these activities.

### **Property Background**

The Torr Property is located on Main Street, just south of Monte Rio and west of Dutch Bill Creek, in rural western Sonoma County. The Ag + Open Space acquisition consists of two (2) parcels owned by Regina Torr, Trustee and Starrett Enterprises, Inc. (the "Property") that are part of a larger transaction being negotiated between the Torr family and Sonoma County Regional Parks ("Regional Parks"). Ag + Open Space proposes to contribute funds towards the acquisition in fee of APNs 096-010-003 and 096-010-008, 315.88 acres of redwood-Douglas fir forest, with the total Regional Parks/Torr transaction at 515.45 acres.

The neighborhood consists of rural residential development (Monte Rio, Tyrone) and working forestlands. Conservation of the property will create over 1,300 acres of contiguous protected lands. The terrain on the Torr property is generally quite steep (slopes greater than 30%) with limited flat areas near Dutch Bill Creek's floodplain and Main Street, as well as at the top of the ridge. The property drains east into Dutch Bill Creek. There are scenic public views on either side of Main Street, and Bohemian Highway, a designated scenic corridor, offers public views of the property.

### **Next Steps**

District staff will bring the fee acquisition and IPAOM funding agreement to the Board of Directors for consideration in late summer or early fall 2020. Staff will bring Commissioners' comments to the Board at this time.

**ATTACHMENT 4**

<b>Table 1. Proposed Budget Summary</b>	
<b>Cost Category</b>	<b>Total Cost: 3 Years after Closing</b>
Capital Costs (see Table 2 below for detail)	\$124,000
Operations & Maintenance (see Table 3 below for detail)	\$101,000
Community Engagement (see Table 3 below)	\$25,000
<b>Total</b>	<b>\$250,000</b>

<b>Table 2. Capital Costs (detail)</b>		
<b>Item</b>	<b>Description</b>	<b>Estimated Cost</b>
Gates	3 locations (2 easy, 1 remote: Main Street, Tyrone, MR Fire Road); estimated cost includes adjacent fencing	\$15,000
Signage	Monument, regulatory, navigational, informational, boundary (materials only)	\$12,000
Public Map	For informational/navigational signage and website	\$3,000
Road/Trail Brushing	Pruning trees, removal of invasive broom in trail corridor	\$16,000
Road/Trail Erosion Control	Work informed by Goldridge RCD's road sediment assessment	\$40,000
Property Clean-Up	Combination of volunteers, contractors, maintenance staff	\$38,000
	<b>Total</b>	<b>\$124,000</b>

<b>Table 3. Operations, Maintenance, and Community Engagement Costs (detail)</b>	
<b>Category / Item</b>	<b>3 Year Costs</b>
<b>Park Operations</b>	
Routine Park inspection / Park Ranger patrols	\$16,299
Daily Park opening & closing /Visitor security/Search & Rescue	\$7,164
Law enforcement / Emergency response	\$7,164
Sanitation services (litter pickup / trash removal / restroom cleaning)	\$2,097
Park Mgmt /Direct admin (staff supervision, risk & revenue mgmt, contract admin, permits)	\$7,947
Sanitation services and supplies (restrooms, cleaning products, trashcans, liners, toilet paper)	\$6,000
<b>Subtotal</b>	<b>\$46,671</b>
<b>Maintenance</b>	
Park infrastructure (labor- sign install & maintenance, gates, fences)	\$10,359
Seasonal mowing / Trail maintenance / Fuel reduction / Grazing	\$26,934
Vandalism repair / Graffiti removal / Encampment removal	\$7,769
Maintenance mgmt/Direct admin (staff superv., risk mgmt, project mgmt, contract admin)	\$6,834
Maintenance - Service & Supplies (equipment, repair, materials)	\$2,433
<b>Subtotal</b>	<b>\$54,329</b>
<b>Community Engagement</b>	
Programmed outings	\$25,000
<b>Subtotal</b>	<b>\$25,000</b>
<b>Total</b>	<b>\$126,000</b>



## AG + OPEN SPACE

SONOMA COUNTY

**DATE:** May 11, 2020 (Meeting May 21, 2020)  
**TO:** Fiscal Oversight Commissioners  
**FROM:** Misti Arias, Acquisition Manager  
**SUBJECT:** Carrington Initial Public Access Operations and Maintenance Funding

### Summary

The Sonoma County Agricultural Preservation and Open Space District (Ag + Open Space) acquired the 335 acre Carrington Coast Ranch (“Property”) in 2003. At the time, it was anticipated that the Property would be owned and operated by the California State Parks. However, due to budgetary constraints, State Parks was unable to accept title to the Property. Ag + Open Space has been working with Sonoma County Regional Parks (Regional Parks) to design a project that protects the Property’s scenic and natural resources while providing for public recreation. Ag + Open Space proposes to transfer the Property to the County of Sonoma and to receive, in return, a Conservation Easement and Recreation Covenant.

The conveyance that is now before the Commission is the transfer of the Ag + Open Space’s fee interest in the Property to the County of Sonoma (“County”) for operation as a regional park and open space preserve by Sonoma County Regional Parks. Since Ag + Open Space has previously dedicated the Property to open space under Public Resources Code § 5540, the transfer is being structured in accordance with Public Resources Code § 5540.6. Thus, in exchange for fee title, the County will convey to Ag + Open Space a Conservation Easement, which will generally restrict use of the Property to natural resource preservation and public outdoor recreation, and a Recreation Covenant, which will ensure that the Property remain open to the public for low-intensity outdoor recreation in perpetuity. The transfer of the fee title will be discussed in closed session tonight.

### Transfer Agreement

To facilitate the transaction, Ag + Open Space and Regional Parks propose to enter into a transfer agreement that commits each agency to the following actions, as further described below:

- Transfer of the Property to the County, to be managed by Regional Parks.
- Recordation of a Conservation Easement to protect the natural, scenic, agricultural and recreational values of the Property.
- Recordation of a Recreation Covenant to ensure that the Property remains available for public outdoor recreation and education in perpetuity.
- Ag + Open Space will provide up to \$1,600,000 in funding to be made available to Regional Parks through reimbursement for initial public access and operation and maintenance of the Property. No reimbursement will occur until Regional Parks submits, and Ag + Open Space approves, a Work Plan that more specifically describes the work and costs associated with these activities.

### **Initial Public Access and Operations and Maintenance**

Regional Parks has now submitted a request to the District for \$1,600,000 for initial public access and operations and maintenance (IPAO&M) activities. The request includes \$1,300,000 for Initial Public Access planning and improvements and \$300,000 for Operations and Maintenance and programmed, supervised access for the first three years post transfer, as detailed below and in Tables 1, 2, and 3 below. The funds would be expended within three years of the date of Regional Parks' acceptance of fee title of the Property, which is expected to take place later this calendar year. Consistent with the District's Expenditure Plan and its Initial Public Access and Operations and Maintenance Policy, the District may provide funding, on a reimbursement basis, to assist with initial public access and with operations and maintenance on recreational properties purchased with the open space sales tax.

### **Initial Public Access and Operations and Maintenance (IPAO&M) Fund Status**

Per the Expenditure Plan, Ag + Open Space can expend up to 10% of its sales tax revenue on IPAO&M. For FY 19-20, the beginning IPAO&M fund balance was **\$9,118,485**. In addition, it is anticipated that Ag + Open Space will receive approximately **\$2,525,400** in sales tax revenue in this fiscal year towards eligible IPAO&M costs for FY 19-20.

Ag + Open Space has four existing IPAO&M agreements with recreational partners with available balances that total **\$2,907,650**. The District anticipates additional requests for IPAO&M funds for at least two additional properties this fiscal year, including Torr, Estero Americano and McCormick Ranch. There are sufficient funds available in the IPAO&M fund for the Carrington Coast Ranch IPAO&M request as well as these anticipated future requests.

### **Next Steps**

District staff will bring the Carrington Coast Ranch transfer including the IPAOM funding to the Board of Directors for consideration on June 9, 2020. Staff will bring Commissioners' comments to the Board at this time.

<b>Table 1. Proposed Budget Summary</b>	
<b>Cost Category</b>	<b>Total Cost 3 Years from Closing</b>
Capital	\$1,300,000
Operations & Maintenance	\$260,000
Community Engagement	\$40,000
<b>Total</b>	<b>\$1,600,000</b>

<b>Table 2. Capital Costs</b>		
<b>Item</b>	<b>Description</b>	<b>Estimated Cost</b>
<b>A. Planning &amp; Design</b>		
Resource & Special Studies	Bio, Wetland, Cultural, Traffic, Visual, Noise, Range	\$60,000
Community Engagement		\$30,000
Draft & Final Conceptual Plans		\$40,000
CEQA Doc	Assumes MND, includes additional studies	\$45,000
Project Management		\$40,000
<b>Subtotal</b>		<b>\$215,000</b>
<b>B. Construction</b>		
Design, Plans, Bid Docs		\$60,000
Construction Management	Staff & Consultant Inspections & Contract Management	\$40,000
Contractor Mobilization	Contractor Mobilization	\$40,000
Access & Staging Area	Gravel Parking with ADA, Roadwork, Restroom, Gates, Driveway Aprons, Drainage,	\$245,000
Trail	Grading, Rock Drainage Lenses, Boardwalks	\$324,000
Signage	Monument, Identification, Navigation, Boundary, Regulatory	\$20,000
Fencing	Perimeter fencing sufficient for livestock grazing	\$250,000
Erosion Control	Silt fencing, Straw wattles, hydroseed	\$18,000
Permits & Mitigation	Permit Consultations, Permit Fees, Mitigation Costs, ACOE, Coastal Commission, RWQCB, Building permits, Wetland/ CRLF mitigation, Nesting Surveys, Tailgate Trainings	\$60,000
Bat Interpretation	Interpretive station(s)	\$25,000
Public Map	For Informational/Navigational Signage (above) and website	\$3,000
<b>Subtotal Construction</b>		<b>\$1,085,000</b>
	<b>Capital Cost Total</b>	<b>\$1,300,000</b>

<b>Table 3. Operations, Maintenance, and Community Engagement Costs</b>	
<b>Category / Item</b>	<b>3 Year Costs</b>
<b>Park Operations</b>	
Routine Park Inspection / Park Ranger Patrols	\$85,256
Daily Park Open - Closing /Visitor Security/Search & Rescue	\$13,612
Law Enforcement / Emergency Response	\$25,075
Sanitation Services (litter pickup / trash removal / restroom cleaning)	\$13,209
Park Mgmt /Direct Admin (staff supervision, risk mgmt, revenue mgmt, contract admin, permits)	\$19,073
Sanitation Services and Supplies (restrooms, cleaning products, trashcans, liners, toilet paper)	9,000
<b>Subtotal</b>	<b>\$165,226</b>
<b>Maintenance</b>	
Park Infrastructure (labor for sign install & maintenance of signs, gates, fences)	\$13,812
Seasonal Mowing / Trail Maintenance / Fuel Reduction / Grazing	\$23,481
Vandalism Repair / Graffiti Removal / Encampment Removal	\$8,633
Maintenance Mgmt/Direct Admin (staff supervision, risk mgmt, project mgmt, contract admin)	\$6,834
Maintenance - Service & Supplies (equipment, equipment repair, structure repair materials)	\$2,015
<b>Subtotal</b>	<b>\$54,774</b>
<b>Community Engagement</b>	
Programmed, Supervised Access	\$40,000
<b>Subtotal</b>	<b>\$40,000</b>
<b>Total</b>	<b>\$300,000</b>