Exhibit D

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ED MERCURIO, BIOLOGICAL CONSULTANT
637 Carmelita Dr. # 20, Salinas, CA 93901
ed_mercurio@yahoo.com
(831) 206-0737

Fionna Jensen, Assistant Planner
Housing and Community Development, Planning Services
1441 Schilling Place, 2nd Floor
Salinas, California 93901

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RE: Specific biological considerations in the determination of mitigations for the grading and construction without proper permits of Area A6: Outdoor Deck 2 on the 54722 Highway 1 (Wind and Sea) Property, Big Sur, California 93920. APN: 421-011-010, PLN200097, Citation 16CE00201.

Dear Ms. Jensen:

This letter was written on behalf of the property owner to more specifically outline my rationale for my recommendations for retaining Outdoor Deck 2 and the trail to it as they are currently, as presented in my biological survey report for the property.

SETTING

The violation here was grading and construction without proper permits. It is stated in county documents that impacts occurred here from grading within environmentally sensitive habitat. An area of approximately 800 square feet below the deck and an area of approximately 1750 square feet in pathway areas around the deck are designated for restoration. The recommended restoration is the removal of non-native invasive plant species, such as poison hemlock, from the area below the deck and removal of non-native invasive plant species and restoration with native plant revegetation for the pathway areas around the deck.

The trail to the deck and the deck are both in thick northern coastal scrub vegetation that is some of the most uniform and most continuous on the property. This is probably related to the topography in this area which is a broad, shallow drainage with deeper soil than on most of the rest of the property which contains more steeper and more exposed slopes.

Although this is a drainage, I did not observe what could be defined as any type of corridor of riparian vegetation along the floor of the drainage in the project area. This is because running water is a very rare occurrence in this portion of the drainage. Arroyo willows, which are a plant frequently associated with riparian vegetation, however, are in this drainage further down towards the coastline. They are present in thick growths on the slopes of this drainage and the slopes of the deeper drainage on the south side of the property, but are not very common in the floors of the drainages. This is because a lot of the water available to the plants on this property comes from fog drip. As the fog in the coastal winds ascends the coastal bluffs, it has greater contact with the ground on the higher slopes and bluff tops and delivers more water here in the form of fog drip, which maintains these willows as well as maintaining the lushest, thickest northern coastal scrub. Of course, the more coastal portions of deeper drainages that extend further into the mountains are likely to have streams of flowing water and riparian corridors along their streams. But, that is not the case with the short and comparatively shallow drainages on this property.

Therefore, the vegetation that was impacted by the construction of Outdoor Deck 2 was not riparian habitat which would be classified as sensitive habitat. Although northern coastal scrub is sometimes classified as sensitive habitat, it is not a habitat of very high sensitivity, as riparian habitats are because of their limited distribution and habitat value for sensitive animal species, and as central maritime chaparral is because of its high concentration of sensitive plant species. Large areas of continuous northern coastal scrub habitat are common north of Point Sur (which is considered to be the southern limit for the occurrence of this plant community) and it becomes less continuous and more mixed with central coastal scrub in the coastal portions of the Santa Lucia mountain range south of Point Sur. This is where 54722 Highway 1 is located, and what I observed is a dominance of northern coastal scrub but with considerable central coastal scrub in drier, more exposed areas. Although there is thick northern coastal scrub vegetation in this specific Outdoor Deck 2 area, it contains a considerable amount of invasive non-native plants. Some of these invasive non-native plants, such as poison hemlock *(Conium maculatum),* fennel *(Foeniculum vulgare)* and Kikuyu grass *(Pennisetum clandestinum)* are present mostly because of disturbances created by the development, and some, such as sticky ageratina *(Ageratina adenophora),* cape ivy *(Delairea odorata)* and Italian thistle *(Carduus pycnocephalus)* also typically occur in most unimpacted stands of northern coastal scrub in this area.

RECOMMENDATIONS AND RATIONALES

I recommend retaining Outdoor Deck 2 and the trail to it as they are currently constructed and prohibiting any further development in this area. This area has been considered for further development in the past. I recommend that no further development occur in this area in the future. The rationale here is that, as with most of the other violation areas on the property, any soil breaking activities would pose a danger to very sensitive habitats downstream. Particles of silt and soil suspended in waters can seriously degrade the quality of wetland and aquatic environments. This could seriously impact the riparian environment downstream, and especially the ephemeral stream aquatic environment on the floor of the drainage near its end at the shoreline, and the shoreline rocky intertidal environment.

I can't foresee a way to remove this deck and the trail and not create a major threat of impacts downstream, even with the leaving of the concrete supports for the structure in place. The very large size of many of the beams and large amount of wood to be removed up the trail would be difficult without bringing mechanized vehicular transport down to the deck that would have widespread major impacts to the integrity and stability of soil and substrate in the trail area and in the area surrounding the deck. Sassan Geosciences, the geotechnical consultant for the property, stated that in order to get the heavy machinery required to remove this deck to the site, a road with a minimum width of 16 feet with switchbacks to maintain the required gentle grade would need to be built to the site in the drainage. If the wood was to be winched up the slope to the south from the deck area, this would heavily impact a large area of the best quality continuous northern coastal scrub on the property and would denude and loosen soil on slopes in that area that are very steep and would likely be difficult to stabilize.

My recommendations for restoration in this area are to first clear the areas around the deck and around the steps leading down to the deck of as many invasive non-native plants as possible and then to restore the cleared portions of the area with shrubs native to the local area and that occur in northern coastal scrub habitat. Plants listed in the list of plants for general use on the property in the biological survey report will be good choices for most of this area. For the areas immediately around the trail, however, the low growing - ground cover types, such as yerba buena, foothill sedge, common yarrow and sea pink would be good choices since they won't interfere with walking on the trail as they spread into it.

Since the restoration plantings will be implemented in areas that will be largely cleared of non-native plants and will be somewhat bare, I recommend a plant spacing of 4 feet apart, which is one plant per 16 square feet. That is 50 plants for the approximately 800 square feet below the deck, and 109 plants for the approximately 1750 square feet in pathway areas around the deck.

The annual wildflower seed mix for the property, as listed in the biological survey report, can be broadcast over the trail restoration to provide additional annual plant flower attractiveness for this area. The erosion control seed mix is not a priority for most of this area because of rather gentle slopes, but should be used selectively in areas with the greatest erosion potential.

The first task in the restoration of this area will be to properly install plastic sheet barrier fencing (silt/exclusion fencing) before restoration activities begin. Here the silt/exclusion fencing can be installed on the slopes downhill and downstream from the restoration areas to primarily protect the rocky intertidal environment, riparian environment downstream, and the ephemeral stream channel aquatic environment near the coastal end of this drainage. I did not observe any riparian environment or ephemeral stream channel environment on the floor of this drainage within or close to the restoration area. The silt/exclusion fencing should have no gaps and extend at least 15 feet, curving upward, beyond each end of the restoration area. This will prevent loose silt and soil from the restoration area from reaching biologically sensitive areas and will also keep small animals from entering the area of ground disturbance. This will first and foremost prevent particles of silt and soil suspended in waters from seriously impacting the quality of wetland and aquatic environments downstream. This silt/exclusion fencing will remain in place until the end of the rainy season following its installation to ensure that any loose soil will have been stabilized by the growth of the erosion control herbaceous plants in the seed mix that was broadcast over the disturbed ground areas.

Please contact me if you have any questions.

Best regards,

Ed Mercurio,
Biological Consultant

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