

# Exhibit B

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Exhibit B, Attachment 1  
Notice of Preparation Comments

**From:** [Melissa Mahoney](#)  
**To:** [cegacomments](#); [MossLandingCPUupdate](#)  
**Cc:** [Angelo, Philip](#); [Steve Scheiblaue](#)  
**Subject:** CEQA for Moss Landing Community Plan Update  
**Date:** Wednesday, December 18, 2024 4:00:17 PM  
**Attachments:** [MBFT- ML CPU Scoping Letter 12.18.24.pdf](#)

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Dear Mr Angelo and team,  
Please find our comment letter attached regarding Moss Landing Community Plan Update being considered at this time.  
Also please add me to your email list to receive updates on this matter.  
Thank you very much for the opportunity to provide comments.

Melissa

**Melissa M. Mahoney** she/her/hers  
Executive Director, [Monterey Bay Fisheries Trust](#)  
[mmahoney@mbfishtrust.org](mailto:mmahoney@mbfishtrust.org) | +1.831.332.0465  
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December 18, 2024

County of Monterey Housing & Community Development Dept.  
Attn: Phil Angelo, Senior Planner  
1441 Schilling Place, South 2<sup>nd</sup> Floor  
Salinas, CA 93901-4527

RE: Moss Landing CPU Update Notice of Preparation (NOP)

Dear Mr. Angelo,

The Monterey Bay Fisheries Trust (Trust) is a local nonprofit organization dedicated to ensuring sustainable fisheries and resilient coastal communities around Monterey Bay. We work closely with commercial fishery participants and related businesses, harbor districts, and local governments to maintain and improve access to essential facilities and infrastructure that are critical to a vibrant working waterfront.

We are writing to express our strong support for the continued prioritization of commercial fishing and related coastal-dependent uses in the Moss Landing Community Plan Update (CPU). Specifically, we would like to highlight the following key concerns and requests:

**Retention and Expansion of the Waterfront Marine (WM) Land Use Designation:**

1. The “Island” area, as identified on the draft Land Use Plan map (Fig. 11), is vital for commercial fishing operations for both resident and non-resident fishermen. The WM designation allows for critical uses such as fueling stations, launch ramps, docks, lifts, repair facilities, storage areas, and boat sales.
2. Over the years, commercial infrastructure in Moss Landing has diminished while marine research uses have expanded (e.g., Bay Fresh, Del Mar Wharf). We request that the WM designation be retained and, where possible, expanded to support the infrastructure needs of our fishing fleet.

**Development of Critical Infrastructure:**

1. The Moss Landing harbor has limited space for infrastructure improvements, yet key facilities are still missing. Of particular importance is the development of an **ice house**,

(831) 233-3101  
info@mbfishtrust.org  
www.MontereyBayFisheriesTrust.org  
101 Cooper Street, Santa Cruz, CA 95060

which is essential for preserving seafood quality and supporting the viability of commercial fishing operations.

2. The Trust encourages the County to prioritize and streamline permitting for projects that enhance coastal-dependent uses, including:
  - a. The development of a new dock at the north end of the south harbor (currently under permitting with the Coastal Commission).
  - b. Completion of bulkheading work along the western shoreline of the south harbor to improve boat repair and fish processing capabilities.

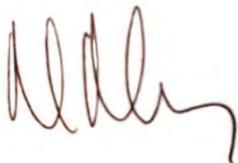
**Programmatic CEQA Review to Support Future Development:**

1. We request that projects enhancing commercial fishing infrastructure—such as docks, ice facilities, and bulkheading—be explicitly included in the CPU Environmental Impact Report (EIR).
2. By addressing these projects programmatically within the EIR, future CEQA review can tier off this document, reducing delays and costs for critical infrastructure improvements.

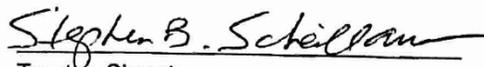
In closing, we support the overall direction of the draft CPU and strongly advocate for its focus on maintaining and expanding commercial fishing infrastructure through the WM land use designation and harbor facility improvements. Ensuring these elements are prioritized will benefit not only the fishing community but also the broader local economy, including tourism and hospitality sectors that rely on an active working waterfront.

Thank you for the opportunity to provide input on this important plan. We look forward to continued collaboration to ensure Moss Landing remains a thriving hub for commercial fishing and coastal-dependent uses.

Sincerely,



Melissa Mahoney  
Executive Director  
[mmahoney@mbfishtrust.org](mailto:mmahoney@mbfishtrust.org)  
831.332.0465



Steve Scheiblauer  
Board Chair  
[maconsult49@gmail.com](mailto:maconsult49@gmail.com)  
831.239.1219

**From:** [Eddie Ballaron](#)  
**To:** [cegacomments](#)  
**Cc:** [Richard Stedman](#); [David Frisbey](#); [Shawn Boyle](#)  
**Subject:** MBARD Comments NOP Moss Landing Community Plan Update  
**Date:** Friday, January 3, 2025 7:38:36 AM  
**Attachments:** [Outlook-bv0szgsx.png](#)  
[MBARD Comments NOP Moss Landing Community Plan Update.pdf](#)

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Hello Mr. Angelo,

Attached is the MBARD Comment letter regarding the Moss Landing Community Plan Update NOP. Please let me know if you have any questions.

Cheers,



Edward Ballaron  
Air Quality Planner I



24580 Silver Cloud Ct.  
Monterey, CA 93940  
(831) 718-8030 (Ext. 241)

January 3, 2025

County of Monterey Housing and Community Development Department  
Attn: Phil Angelo  
1441 Schilling Place, 2<sup>nd</sup> Floor South  
Salinas, CA 93901  
Submitted via email: CEQAcomments@countyofmonterey.gov

Re: NOP Comments: Moss Landing Community Plan Update

Dear Mr. Angelo,

Thank you for providing the Monterey Bay Air Resources District (MBARD) with the opportunity to comment on the NOP of the Moss Landing Community Plan Update. MBARD has reviewed the NOP and has the following comments based on any future potential projects encompassed within the plan:

### **CEQA Guidelines**

MBARD recommends the Moss Landing Community Plan Update utilize the MBARD, CEQA Air Quality Guidelines as a resource for preparing the EIR.

### **Low-Income Community Status**

The Moss Landing Community Plan Update zone is within a designated low-income area, as defined by the California Climate Investment Priority Population map found on the MBARD website (<https://www.mbard.org/ab-617-community-air-protection>). When addressing any potential land use and future growth in the plan area, please consider Environmental Justice (EJ) issues and utilize MBARD grant funding opportunities to mitigate any negative air quality impacts as a result of the project.

### **Sensitive Receptors**

MBARD recommends the Moss landing Community Plan Update take sensitive receptors into consideration as land use and future growth are addressed.

Land use and future growth decisions can greatly influence the significance of an impact on local air quality, particularly if sensitive receptors would be affected. A “sensitive receptor” is generally defined as any residence, including private homes, condominiums, apartments, and living quarters; education resources such as preschools and kindergarten through grade twelve (K-12) schools; daycare centers; and health care facilities such as hospitals or retirement and nursing homes. A sensitive receptor includes long term care hospitals, hospices, prisons, and dormitories or similar live-in housing. Proper land use designations can minimize or eliminate significant impacts to local or regional air quality. For example,

designating residential land use adjacent to industrial land use can be incompatible, creating potential air quality issues for those sensitive receptors.

### **Asbestos Cement Materials (ACM) and other Asbestos Cement Piping (ACP) infrastructure**

MBARD has prior experience with abatement of Asbestos Containing Materials (ACM), Asbestos Cement Piping (ACP) and other asbestos utility infrastructure components within and surrounding the Moss Landing Power Plant area. Proper procedures must be utilized when development or other construction activities are conducted if any active or abandoned ACP or other asbestos-containing subsurface infrastructure is encountered. This includes notifications, surveys, removal, and disposal of regulated asbestos containing materials (RACM) as well as adherence to the renovation and demolition procedures per MBARD Rule 424. Please include a discussion of potential asbestos hazards associated with buildout of the Plan Update.

### **Electric Charging Infrastructure**

The Air District supports incorporating electric vehicle infrastructure goals in the project plan. To achieve further emission reduction of criteria pollutants, emissions and greenhouse gases, the Air District suggests including publicly available dual port Level 2 & DC fast-charge charging stations throughout the project area.

### **VMT Reduction**

A large component of the pollution generated within the North Central Coast Air Basin (NCCAB) emanates from traffic emissions. Beginning in September 2021, the NCCAB, under the supervision of MBARD, has maintained its attainment status with the State of California, regarding traffic related criteria pollution emissions. In order to continue to maintain this attainment status, MBARD recommends projects incorporate mitigation measures to limit Vehicle Miles Travel (VMT). Mitigation measures include walkable spaces within the community as well as the inclusion of bike lanes and trails. Additionally, an investment in a mass transit system utilizing electric vehicle technology can aid in limiting traffic and thus limiting emissions.

### **Communication**

MBARD requests any future communication of documents and notices be sent to Edward Ballaron at [eballaron@mbard.org](mailto:eballaron@mbard.org).

MBARD appreciates the opportunity to comment on the NOP of the Moss Landing Community Plan Update. Please let me know if you have any questions. I may be reached at (831) 718-8030 or [eballaron@mbard.org](mailto:eballaron@mbard.org).

Regards,



Edward Ballaron  
Air Quality Planner I

cc: Richard A. Stedman, Air Pollution Control Officer  
David Frisbey, Planning and Air Monitoring Manager  
Shawn Boyle, Planning and Air Monitoring Supervisor

## NATIVE AMERICAN HERITAGE COMMISSION

December 13, 2024

Phil Angelo  
County of Monterey  
1441 Schilling Place South  
2<sup>nd</sup> Floor  
Salinas CA 93901



**Re: 2013041053 Moss Landing Community Plan Update Project, Monterey County**

Dear Mr. Angelo:

The Native American Heritage Commission (NAHC) has received the Notice of Preparation (NOP), Draft Environmental Impact Report (DEIR) or Early Consultation for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code §21000 et seq.), specifically Public Resources Code §21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource, is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, §15064.5 (b) (CEQA Guidelines §15064.5 (b)). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an Environmental Impact Report (EIR) shall be prepared. (Pub. Resources Code §21080 (d); Cal. Code Regs., tit. 14, § 5064 subd.(a)(1) (CEQA Guidelines §15064 (a)(1)). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources within the area of potential effect (APE).

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a separate category of cultural resources, "tribal cultural resources" (Pub. Resources Code §21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. (Pub. Resources Code §21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code §21084.3 (a)). **AB 52 applies to any project for which a notice of preparation, a notice of negative declaration, or a mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements.** If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. §800 et seq.) may also apply.

The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments.

**Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.**



CHAIRPERSON  
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Chumash

VICE-CHAIRPERSON  
**Buffy McQuillen**  
Yokayo Pomo, Yuki,  
Nomlaki

SECRETARY  
**Sara Dutschke**  
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PARLIAMENTARIAN  
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COMMISSIONER  
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[NAHC.ca.gov](http://NAHC.ca.gov)

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

- 1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project:** Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:

  - a. A brief description of the project.
  - b. The lead agency contact information.
  - c. Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code §21080.3.1 (d)).
  - d. A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code §21073).
  
- 2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report:** A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code §21080.3.1, subs. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1(b)).

  - a. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).
  
- 3. Mandatory Topics of Consultation If Requested by a Tribe:** The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:

  - a. Alternatives to the project.
  - b. Recommended mitigation measures.
  - c. Significant effects. (Pub. Resources Code §21080.3.2 (a)).
  
- 4. Discretionary Topics of Consultation:** The following topics are discretionary topics of consultation:

  - a. Type of environmental review necessary.
  - b. Significance of the tribal cultural resources.
  - c. Significance of the project's impacts on tribal cultural resources.
  - d. If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code §21080.3.2 (a)).
  
- 5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process:** With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code § 6254 (r) and § 6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code §21082.3 (c)(1)).
  
- 6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document:** If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:

  - a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
  - b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code §21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code §21082.3 (b)).

- 7. Conclusion of Consultation:** Consultation with a tribe shall be considered concluded when either of the following occurs:
- a.** The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
  - b.** A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code §21080.3.2 (b)).
- 8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document:** Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code §21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code §21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code §21082.3 (a)).
- 9. Required Consideration of Feasible Mitigation:** If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code §21084.3 (b). (Pub. Resources Code §21082.3 (e)).
- 10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:**
- a.** Avoidance and preservation of the resources in place, including, but not limited to:
    - i.** Planning and construction to avoid the resources and protect the cultural and natural context.
    - ii.** Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
  - b.** Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
    - i.** Protecting the cultural character and integrity of the resource.
    - ii.** Protecting the traditional use of the resource.
    - iii.** Protecting the confidentiality of the resource.
  - c.** Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
  - d.** Protecting the resource. (Pub. Resource Code §21084.3 (b)).
  - e.** Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code §815.3 (c)).
  - f.** Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code §5097.991).
- 11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource:** An Environmental Impact Report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:
- a.** The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code §21080.3.1 and §21080.3.2 and concluded pursuant to Public Resources Code §21080.3.2.
  - b.** The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
  - c.** The lead agency provided notice of the project to the tribe in compliance with Public Resources Code §21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code §21082.3 (d)).

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: [http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation\\_CalEPAPDF.pdf](http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf)

## SB 18

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code §65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: [https://www.opr.ca.gov/docs/09\\_14\\_05\\_Updated\\_Guidelines\\_922.pdf](https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf).

Some of SB 18's provisions include:

1. Tribal Consultation: If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code §65352.3 (a)(2)).
2. No Statutory Time Limit on SB 18 Tribal Consultation. There is no statutory time limit on SB 18 tribal consultation.
3. Confidentiality: Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code §65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code §5097.9 and §5097.993 that are within the city's or county's jurisdiction. (Gov. Code §65352.3 (b)).
4. Conclusion of SB 18 Tribal Consultation: Consultation should be concluded at the point in which:
  - a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
  - b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>.

## NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center ([https://ohp.parks.ca.gov/?page\\_id=30331](https://ohp.parks.ca.gov/?page_id=30331)) for an archaeological records search. The records search will determine:
  - a. If part or all of the APE has been previously surveyed for cultural resources.
  - b. If any known cultural resources have already been recorded on or adjacent to the APE.
  - c. If the probability is low, moderate, or high that cultural resources are located in the APE.
  - d. If a survey is required to determine whether previously unrecorded cultural resources are present.
2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
  - a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.

**b.** The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

**3.** Contact the NAHC for:

**a.** A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.

**b.** A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.

**4.** Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.

**a.** Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, §15064.5(f) (CEQA Guidelines §15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.

**b.** Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.

**c.** Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code §7050.5, Public Resources Code §5097.98, and Cal. Code Regs., tit. 14, §15064.5, subdivisions (d) and (e) (CEQA Guidelines §15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

If you have any questions or need additional information, please contact me at my email address:

[Mathew.Lin@NAHC.ca.gov](mailto:Mathew.Lin@NAHC.ca.gov).

Sincerely,

*Mathew Lin*

Mathew Lin  
Cultural Resources Analyst

cc: State Clearinghouse

**From:** [Nancy Russell](#)  
**To:** [McDougal, Melissa](#)  
**Subject:** Re: Moss Landing Community Plan Update Reminder  
**Date:** Tuesday, January 14, 2025 5:06:56 PM  
**Attachments:** [image001.png](#)

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Hi-- Most people thought that meeting was a waste of time. It does not make sense to do a sidewalk or anything if the road is not taken care of. That is not of any concern to the County -- I think we know our comments do not matter. Nancy

On Tue, Jan 14, 2025 at 3:14 PM McDougal, Melissa <[McDougalM@countyofmonterey.gov](mailto:McDougalM@countyofmonterey.gov)> wrote:

Good Afternoon,

If you're receiving this message, you're on the interested parties list for the Moss Landing Community Plan update. The County circulated a revised Notice of Preparation on December 6, 2024 seeking written input on the scope of the Environmental Impact Report (EIR) for the Moss Landing Community Plan update project, including potentially significant environmental issues, reasonable alternatives, and/or mitigation measures that should be considered for inclusion in the EIR.

We're sending this message as a reminder that the deadline for comments is next week on **January 21, 2025**. Information on the project, including the most current draft of the Community Plan update, the Notice of Preparation materials, and the presentation slides for and recording of the December 13, 2024 scoping meeting for the EIR can all be found on our web page for the Community Plan update linked here:

<https://www.countyofmonterey.gov/government/departments-a-h/housing-community-development/planning-services/ordinances-plans-under-development/moss-landing-community-plan>

If you have any questions please send an email to [MossLandingCPUUpdate@countyofmonterey.gov](mailto:MossLandingCPUUpdate@countyofmonterey.gov) or call Phil Angelo, Senior Planner at (831) 784-5731. We look forward to receiving your input!

**From:** [Roger](#)  
**To:** [MossLandingCPUpdate](#)  
**Subject:** Permits for Lots in Moss Landing Village Center  
**Date:** Wednesday, January 15, 2025 12:39:31 PM

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Hi,

I am writing in response to reading the Moss Landing Community Plan.

I am concerned that lots will remain vacant in the Village Center area because permits will not be issued and that Moss Landing will continue to atrophy further than has already taken place. There needs to be exciting development in the Village Center for the survival of Moss Landing.

Example below:

D. General Policies 1. The County of Monterey shall not approve discretionary development permits that exceed the water purveyor's ability to provide potable water.

Thank you,

Roger



BOARD OF COMMISSIONERS  
Russell Jeffries  
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Albert Lomeli

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GENERAL MANAGER/HARBOR MASTER  
Tom Razzeca

TO: Monterey County Planning Department, and  
Monterey County Supervisor Glenn Church (District 2), and  
Monterey County Board of Supervisors

RE: Comments on Moss Landing Community Plan Update

The MLHD is generally very pleased with the proposed draft. However, in light of the recent disaster at the VISTRA battery plant, we strongly recommend the inclusion of specific policies and mandates into the plan update. We are particularly concerned with the lack of specificity regarding **the absolute necessity of completing the four (4) lanes of CA. Highway 1 from Salinas Road to Castroville.**

**The expansion of four lanes on CA. Highway 1 is called for specifically in the state certified 1982 North County Local Coastal Plan.** The recent environmental (and economic) disaster and the terrible traffic problem at VISTRA that impeded emergency evacuations and emergency responses has reinforced the necessity of Monterey County demanding that CALTRANS program, fund, and construct the four lanes on CA. Highway 1 that serve our harbor and our residents.

Please accept these requests for additions to the draft plan.

1. Please add the statutory boundaries of the MLHD onto the map on Page 6. MLHD is a state created agency that functions pursuant to authorities specifically delegated to it by the State Legislature.
2. MLHD believes that a Section on Environmental Hazards needs to be added to Section 5.2.6 to address the risks and hazards at the battery storage facilities on Dolan Road.
3. The policies on Page 22 Hazards need to address In detail the hazards and mandatory requirements on and at the Dolan Road battery storage facilities. All potentially impacted parties, including but not limited to the County and the Moss Landing Harbor District, should be included in the development and implementation of appropriate mitigations and a comprehensive emergency response program.
4. ON Page 25, at Section 3.2.A.1, MLHD believes that it is necessary to add this sentence at the beginning of that paragraph: **"It is the continuing policy of the County of Monterey to require the expansion of CA. Highway 1 to four lanes throughout the Moss Landing Community Plan area and from Salinas Road to Merritt Street at Castroville."**

5. ON Page 25, under Section 3.2.A.4., MLHD believes that it is necessary to add this sentence at the beginning of that paragraph: **"CA. Highway 1 shall be expanded to four (4) lanes."**

6. On Page 37, under Moss Landing Substation, the following language should be added: **Both battery storage facilities pose significant environmental and economic risks which necessitate expansive fire suppression and emergency response systems to be funded, installed, and maintained by the owners of the facilities. North Monterey County Fire Protection District shall be the recipient of conditioned increased funding from the owners to assure the harbor and the public's safety.**

7. On Page 55, Policy 5.4.9.C.1 is mistakenly identified. It should be 5.4.9.D

**Most Respectfully,**

**Moss Land Harbor District**

## California Department of Transportation

CALTRANS DISTRICT 5  
50 HIGUERA STREET | SAN LUIS OBISPO, CA 93401-5415  
(805) 549-3101 | FAX (805) 549-3329 TTY 711  
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January 21, 2025

SCH # 2013041053  
MON/1/ VAR

Phil Angelo, Senior Planner  
County of Monterey Housing & Community Development  
1441 Schilling PL South 2<sup>nd</sup> Floor  
Salinas, CA 93901

### **Re: Moss Landing Community Plan Update Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR)**

Dear Mr. Angelo:

The California Department of Transportation (Caltrans) appreciates the opportunity to review the Notice of Preparation (NOP) for the Moss Landing Community Plan Update, which proposes amending the Monterey County Local Coastal Program. In addition, it includes the adoption and certification of an updated Moss Landing Community Plan, project specific analysis of the General Development Plan for the Monterey Bay Aquarium Research Institute, and street improvements along Moss Landing Road. Caltrans supports local development that is consistent with State planning priorities intended to promote equity, strengthen the economy, protect the environment, and promote public health and safety. We accomplish this by working with local jurisdictions to achieve a shared vision of how the transportation system should and can accommodate interregional and local travel and development. Caltrans offers the following comments in response to the NOP:

#### **Encroachment Permits**

1. Please be aware that any roadway connection improvements to Highway 1 will need to meet the Caltrans Project Development Procedures Manual, Encroachment Permits Manual, or Highway Design Manual requirements for work within the State's Highway Right of Way. Any work within the State's Right of Way (ROW) will be required to obtain an encroachment permit and meet all Caltrans requirements prior to any work taking place in the State's Highway Right of Way. For more information regarding the encroachment permit process, please visit our Encroachment Permit Website at: <https://dot.ca.gov/programs/traffic-operations/ep>.

### **Traffic Operations**

1. Caltrans request any information on required investigations noted at or around the proposed roadway connection at Moss Landing Road and Highway 1.
2. Caltrans request the County to consider an Intersection Safety and Operational Assessment Process (ISOAP) evaluation for the connection to the State Highway to determine the most suitable intersection type. For additional information on the ISOAP process, please visit: <https://dot.ca.gov/programs/traffic-operations/isoap>.
3. In the traffic analysis for the Draft Environmental Impact Report (DEIR), Caltrans encourages the examination of consolidating access points to Highway 1.

### **Environmental**

1. Caltrans encourages collaboration on climate resiliency between Caltrans and the County in the Community Plan Boundary through the Highway 1 Elkhorn Slough Corridor Resilience project, which the Transportation Agency for Monterey County (TAMC) is the lead agency for.
2. Climate change's impact on the State High System (SHS) and local roadways should be addressed given the forecasted increase in fires, precipitation, storm surge, etc. The SHS is the backbone of most county-level evacuation plans and often provides the only high-capacity evacuation routes for communities. Further, the SHS serves as the main access routes for emergency responders, and may serve as a physical line of defense such as a firebreak or an embankment against floodwaters, etc.

### **Hydrology**

1. Regarding hydraulics, Caltrans require studies that demonstrate that any increase in runoff that drains towards the State ROW should be metered to pre-construction levels and all impacts to the ROW be addressed and mitigated to the full extent possible.

### **Complete Streets**

1. Caltrans views all transportation improvements as opportunities to improve safety, access, and mobility for all travelers in California and recognizes bicycle, pedestrian, and transit modes as integral elements of the transportation network. Caltrans supports improved transit accommodation through the provision of Park and Ride facilities, improved bicycle and pedestrian access and safety improvements, signal prioritization for transit, bus on shoulders, ramp improvements, or other enhancements that promotes a complete and

integrated transportation network. Early coordination with Caltrans, in locations that may affect both Caltrans and the County, is encouraged.

**Equitable Access**

1. Please be aware if any Caltrans facilities are impacted by the project, those facilities must meet American Disabilities Act (ADA) Standards after project completion.

Thank you for the opportunity to review and comment on the proposed project. If you have any questions or need further clarification on the items discussed above, please contact me at (805) 835-6543 or email [Jacob.m.Hernandez@dot.ca.gov](mailto:Jacob.m.Hernandez@dot.ca.gov).

Sincerely,



Jacob Hernandez  
Transportation Planner  
District 5 Local Development Review Coordinator

**From:** [Wildlife R4 CEQA Program](#)  
**To:** [GeneralPlanUpdates](#)  
**Cc:** [Barajas-Perez, Evelyn@Wildlife](mailto:Barajas-Perez_Evelyn@Wildlife); [Wildlife R4 CESA](#); [Wildlife R4 LSA](#); [steve\\_henry@fws.gov](mailto:steve_henry@fws.gov); [Carpenter, Heidi@Wildlife](#); [state.clearinghouse@opr.ca.gov](mailto:state.clearinghouse@opr.ca.gov)  
**Subject:** Moss Landing Community Plan Update (Plan) NOP SCH No. 2013041053.pdf  
**Date:** Tuesday, January 21, 2025 4:49:22 PM  
**Attachments:** [Moss Landing Community Plan Update \(Plan\) NOP SCH No. 2013041053.pdf](#)

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[CAUTION: This email originated from outside of the County. Do not click links or open attachments unless you recognize the sender and know the content is safe. ]

Dear Phil Angelo,

Please see the attached letter.

Questions regarding this letter or further coordination should be directed to Evelyn Barajas-Perez, Environmental Scientist, at (805) 503-5738 or [evelyn.barajasperez@wildlife.ca.gov](mailto:evelyn.barajasperez@wildlife.ca.gov).

Thank you,

R4 CEQA Support Team.



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Central Region  
1234 East Shaw Avenue  
Fresno, California 93710  
(559) 243-4005  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



January 21, 2025

Phil Angelo, Senior Planner  
County of Monterey Housing and Community Development Department  
1441 Schilling Place, South 2nd Floor  
Salinas, California 93901-4527  
(831) 784-5731  
[GeneralPlanUpdates@countyofmonterey.gov](mailto:GeneralPlanUpdates@countyofmonterey.gov)

**Subject: Moss Landing Community Plan Update (Plan)  
Notice of Preparation (NOP)  
SCH No.: 2013041053**

Dear Phil Angelo:

The California Department of Fish and Wildlife (CDFW) received a NOP to prepare a Draft Environmental Impact Report (DEIR) from Monterey County for the Moss Landing Community Plan Update (Plan) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Plan that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Plan that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

### **CDFW ROLE**

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & Game Code, Section 711.7, subd. (a) & 1802; Pub. Resources Code, Section 21070; CEQA Guidelines Section 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (Id., Section 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

*Conserving California's Wildlife Since 1870*

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CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, Section 21069; CEQA Guidelines, Section 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, reasonably foreseeable future project's tiered from this Plan may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & Game Code, Section 1600 et seq.). Likewise, to the extent implementation of reasonably foreseeable future project's tiered from this Plan may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & Game Code, Section 2050 et seq.), related authorization as provided by the Fish and Game Code may be required.

**CDFW Ecological Reserve:** Fish and Game Code section 1583 states "Except in accordance with the regulations of the commission it is unlawful to enter upon any ecological reserves established under the provisions of the article, or to take therein any bird or the nest or eggs thereof, or any mammal, fish, mollusks, crustaceans, amphibia, reptiles or any other form of plant or animal life." In addition, California Code of Regulations, Title 14, Section 630 states "All ecological reserves are maintained for the primary purpose of developing a statewide program for protection of rare, threatened, or endangered native plants, wildlife, aquatic organisms, and specialized terrestrial or aquatic habitat types", and therefore, any other activity on these lands is restricted.

**Fully Protected Species:** CDFW has jurisdiction over fully protected species of birds, mammals, amphibians and reptiles, and fish, pursuant to Fish and Game Code sections 3511, 4700, 5050, and 5515. Fully protected species may not be taken or possessed at any time and no licenses or permits may be issued for their take except as follows:

- Take is for necessary scientific research,
- Efforts to recover a fully protected, endangered, or threatened species, live capture, and relocation of a bird species for the protection of livestock, or
- They are a covered species whose conservation and management is provided for in a Natural Community Conservation Plan (Fish & G. Code, §§ 3511, 4700, 5050, & 5515).

Additionally, specified types of infrastructure projects may be eligible for an Incidental Take Permit (ITP) for unavoidable impacts to fully protected species if certain conditions are met (see Fish & G. Code §2081.15). Project proponents should consult with CDFW early in the project planning process if an ITP may be pursued.

**Nesting Birds:** CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish

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and Game Code sections that protect birds, their eggs and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

**Unlisted Species:** Species of plants and animals do not need to be officially listed as Endangered, Rare, or Threatened (E, R, or T) on any State or federal list to be considered E, R, or T under CEQA. If a species can be shown to meet the criteria for E, R, or T, as specified in the CEQA Guidelines section 15380, CDFW recommends it be fully considered in the environmental analysis for the Plan.

## PLAN DESCRIPTION SUMMARY

**Proponent:** Monterey County

**Objective:** The Plan would designate the location and nature of allowable land uses within the community and include narrative and policies specific to Moss Landing. These policies supplement those of the North County Land Use Plan (LUP), which are also applicable in Moss Landing. The draft of the revised community plan includes a background section and elements addressing the following issues: resource management includes protection of the community's visual resources, historical resources, archaeological resources, tribal cultural resources, and water resources. Hazards are addressed within the resource management element, including coastal hazards that could impact development and uses in the community, such as flooding, tsunami, storm surge, and erosion, all of which are exacerbated by climate change.

The Plan also includes two specific development projects. One is proposed by the Monterey Bay Aquarium Research Institute (MBARI) (PLN080006) which would require a General Development Plan. The MBARI General Development Plan describes the existing uses and operations of the MBARI campus in the "Island" neighborhood of Moss Landing, along Sandholdt Road. The proposed General Development Plan contemplates the construction of a new 7,500-square foot dock house (Building K) and an approximately 100-square foot mooring dolphin (Building F). The other is the Moss Landing Road Street and Drainage Improvements project, which is a County of Monterey proposed stormwater and street improvement project along Moss Landing Road.

**Location:** The Plan is located in Moss Landing, California. Moss Landing is a small unincorporated town located along Highway 1, south of the City of Santa Cruz and north of the City of Monterey.

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## **COMMENTS AND RECOMMENDATIONS**

CDFW offers the following comments and recommendations to assist Monterey County in adequately identifying and/or mitigating the Plan's significant, or potentially significant, direct, indirect, and cumulative impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document for this Plan.

The NOP indicates that the DEIR prepared for the Plan will consider and analyze potential environmental effects to determine the level of significance. The DEIR will also identify and evaluate alternatives to the proposed Plan. When a DEIR is prepared, the specifics of mitigation measures may be deferred, provided the lead agency commits to mitigation and establishes performance standards for implementation.

### **Special-Status Species**

Based on aerial imagery and species occurrence records from the California Natural Diversity Database (CNDDDB) (CDFW 2024) as well as CDFW familiarity with biological resources in the Plan area, the proposed Plan area is known to and/or has the potential to support special-status species. These resources need to be evaluated and addressed prior to any approvals that would allow ground-disturbing activities as these activities have the potential to impact biological resources in the area of the Plan. CDFW recommends that the species identified in Attachment 1 of this letter be considered as part of the DEIR that will be drafted for this Plan.

### **Monterey Bay Aquarium Research Institute Project**

The NOP states that there are two proposed developments in the MBARI, identified as building K (dock house) and F (mooring dolphin), and these developments may impact species listed in attachment 1. CDFW recommends these resources be evaluated and that the DEIR specifically identify potential impacts to biological resources, including those identified in Attachment 1, and provide sufficient mitigation measures to avoid or reduce potential significant impacts prior to any approvals that would allow ground-disturbing activities. In addition to this more general recommendation, CDFW recommends the following specific to the MBARI project:

#### **Common Eelgrass**

Common eelgrass (*Zostera marina*) is a State sensitive natural community (SNC) known to occur within and surrounding the Plan area. The NOP does not indicate if the immediate area around the MBARI project or the surrounding areas contain common eelgrass; CDFW recommends the DEIR contain detailed information

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indicating if eelgrass is in the immediate MBARI project area and/or adjacent areas. CDFW also recommends the DEIR specify identification, monitoring, and avoidance measures for in-water work that may disrupt eelgrass. Disruption to eelgrass both inside and outside of the MBARI project area can occur due to increased turbidity from support vessels, equipment, installation of structures and piles, and shading from support vessels and barges during construction activities.

Common eelgrass plays a vital role in the ecosystem and is recognized by state and federal regulations as a highly valuable and sensitive habitat. It contributes to primary production, nutrient cycling, and provides essential spawning, foraging, and nursery habitats for numerous fish and invertebrate species. Protections exist under state and federal “no-net-loss” policies for wetland habitats, emphasizing its conservation priority. In California, eelgrass habitats are listed as SNCs with a vulnerable *State Rank S3*, indicating their limited distribution and susceptibility to environmental impacts, which must be addressed during CEQA reviews (CDFW 2018). The importance of eelgrass protection and restoration, as well as the ecological benefits of eelgrass, are also identified in the California Public Resources Code (PRC §35630). Areas that hold eelgrass are labeled as a Habitat Area of Particular Concern under Essential Fish Habitat for various federally managed species underscores its critical role in supporting thriving marine ecosystems. Given its ecological value, eelgrass habitat remains a high-priority focus for conservation management.

### **Recommended Mitigation Measure 1: Eelgrass surveys and mitigation**

CDFW recommends surveying to determine if eelgrass beds or patches are within or directly adjacent to the MBARI project area and surrounding areas identified in the NOP as defined within the California Eelgrass Mitigation Policy (CEMP) (NOAA 2014). If eelgrass is identified, CDFW recommends that plans be developed to avoid and minimize disturbance and damage or losses of eelgrass beds from construction activities. Activities include, but are not limited to, mooring dolphin piers installation, barge shading and anchoring within eelgrass habitat, pile driving, demolition and construction turbidity, sedimentation, falling debris to the maximum extent feasible, and any other in water work activities.

### **Recommended Mitigation Measures 2: A comprehensive analysis of impacts to eelgrass habitat**

CDFW recommends using CEMP, which was developed by the National Marine Fisheries Service, for guidance on identifying eelgrass impacts, eelgrass mitigation measures and compensation for construction activities. CDFW recommend to do pre-and post-construction surveys for eelgrass beds and patches should be conducted consistent with CEMP. CDFW recommends the

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DEIR include maps and acreage of patchy and dense eelgrass habitat within and adjacent to the proposed site and fully analyze any impacts to eelgrass. If eelgrass is identified, the following measures may reduce potential impacts:

- Locate temporary docks, pile driver barges and vessels, and all anchoring outside of eelgrass habitat.
- Minimize trampling and scouring by installing piles during a tide of sufficient elevation to float construction vessels.
- Conduct pile driving activities outside of eelgrass growing seasons when they are dormant/less sensitive to disturbance.
- Use barriers, such as silt curtains to reduce sediment dispersion.
- Use Best Management Practices (BMPs) such as perimeter debris booms. If debris is observed falling into the water, retrieve debris as soon as possible.

### **Recommended Mitigation Measures 3: A comprehensive eelgrass mitigation plan**

To ensure “no-net-loss”, CDFW recommends unavoidable impacts to eelgrass be compensated for in a method, at a minimum, consistent with CEMP. This plan should include mitigation for any impacts to eelgrass including, but not limited to, impacts from, barge shading and anchoring within eelgrass habitat, pile driving, demolition and construction turbidity, sedimentation, and falling debris.

### **Recommended Mitigation Measures 4: Scientific collecting permit**

If eelgrass harvest and transplanting is required for mitigation, a Scientific Collecting Permit (SCP) from CDFW will be required prior to harvest and transplanting activities. The SCP may include permit conditions such as donor eelgrass surveys, submittal of an eelgrass harvest and transplant plan, limits on number of turions collected, methods for collection and transplanting, notification of activities, and reporting requirements. Please visit CDFW’s SCP webpage for more information: <https://wildlife.ca.gov/Licensing/Scientific-Collecting>.

### **Pile Driving and Sound Criteria**

The NOP does not provide details on what methods of pile driving may be used for the MBARI project (e.g., impact hammer, vibratory hammer), types of piles, number of piles, or hydroacoustic impacts expected from pile installation/removal. Generally, CDFW recommends the use of vibratory hammers where feasible. Pile driving produces intense sound vibrations that may cause temporary or permanent impacts on fish, such as temporary movement out of the pile-driving area, barotrauma injury,

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or mortality. CDFW recommends following the Fisheries Hydroacoustic Working Group recommendations to set safe sound pressure level (SPL) criteria for pile driving activities (Fisheries Hydroacoustic Working Group 2008). The SPL dual criteria includes a peak level of 206 dB and a cumulative sound exposure level (SEL) of 187 dB for fish two grams and heavier or a cumulative SEL of 183 dB for fish less than 2 grams. Additionally, if hydraulic jetting or an impact hammer is used for pile driving, this may impact water quality, releasing contaminants from sediments into the water and/or creating turbidity that could harm fish and shade or smother eelgrass beds.

CDFW recommends that the DEIR evaluate hydroacoustic impacts to aquatic species such fish, including species such as tidewater goby (*Eucyclogobius newberryi*), South Central California Coast Steelhead (*Oncorhynchus mykiss*), and Pacific lamprey (*Entosphenus tridentatus*), which are identified in Attachment 1, and prepare a sound monitoring plan that includes a model of the expected SPL and SELs for the MBARI project's piling driving activities. CDFW further recommends using a vibratory hammer for pile driving to the greatest extent feasible, or an alternative that produces the least amount of noise. In addition, CDFW recommends the following:

#### **Recommended Mitigation Measures 5: Impact Hammer**

If an impact hammer must be used (e.g., due to pile material, refusal at bedrock), multiple minimization measures can be used to reduce sound levels. CDFW recommends the following:

- A sound attenuation and monitoring plan be submitted to the resource agencies for review prior to initiating pile driving activities.
- A wood, or similar material, cushion block is used between the pile and hammer during all pile driving using an impact hammer.
- Bubble curtains be used when feasible during all impact pile driving to reduce sound exposure levels that have been shown to cause injury and/or mortality.
- Underwater sound level monitoring be conducted during pile driving. If SPLs and SELs exceed agreed upon levels as per the 'Interim Criteria for Injury to Fish', additional steps should be taken to reduce the underwater noise to acceptable levels.
- Use of a silt curtain to control turbidity during high turbidity generating activities, such as hydraulic jetting when feasible. Additionally, high turbidity generating activities should be conducted when there are no strong outgoing tides since this could exacerbate turbid conditions and negatively impact marine life.

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## **Proposed Moss Landing Road Project**

The NOP proposes a Moss Landing Road storm drain and sidewalk improvement project. This project, “involves the design and reconstruction of the northern portion of Moss Landing Road from its intersection of State Route 1 through the commercial district of the Moss Landing community. New storm drains will be installed along an approximately 3,680-foot length of Moss Landing Road with concrete curb, gutter and sidewalk on both sides of the road.” A section of this project intersects the Moro Cojo slough. This project may impact species listed in attachment 1. As such, CDFW recommends these resources be evaluated and that the DEIR specifically identify potential impacts to biological resources from the project, including those identified in Attachment 1, and provide sufficient mitigation measures to avoid or reduce potential significant impacts prior to any approvals that would allow ground-disturbing activities.

## **California Endangered Species Act**

Reasonably foreseeable future projects tiered from this Plan, including the MBARI and Moss Landing Road projects, may be subject to CDFW's regulatory authority pursuant to the California Endangered Species Act (CESA). In the event that species listed under CESA are detected during surveys consultation with CDFW is warranted to discuss how to implement the project and avoid “take,” or if avoidance is not feasible, to acquire a State ITP, pursuant to Fish and Game Code section 2081 subdivision (b), prior to any ground disturbing activities. In addition, CDFW advises that mitigation measures for the CESA listed species be fully addressed in the CEQA document prepared for any future project tiered from this Plan.

CDFW therefore recommends that the DEIR for this Plan include information related to these requirements and advises that projects tiered from this Plan retain a qualified biologist to determine if potential impacts to CESA listed species may require the need to obtain a 2081 ITP.

## **Lake and Stream Alteration**

Reasonably foreseeable future projects tiered from this Plan, including the MBARI and Moss Landing Road projects may be subject to CDFW's regulatory authority pursuant to Fish and Game Code section 1600 et seq. Fish and Game Code section 1602 requires project proponents to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake; or (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. “Any river, stream, or lake” includes those that are ephemeral or intermittent as well as those that are perennial in nature. As an example, the proposed

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County of Monterey Housing and Community Development Department  
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Moss Landing Road project intersects Moro Cojo slough. If this project has the potential to substantially modify the slough, notification would be required per Fish and Game Code section 1602. For additional information on notification requirements, please contact our staff in the Lake and Stream Alteration Program at (559) 243-4593, or [R4LSA@wildlife.ca.gov](mailto:R4LSA@wildlife.ca.gov).

CDFW therefore recommends that the DEIR for this Plan include information related to these requirements of Fish and Game code and advise that projects tiered from this Plan, including the MBARI and Moss Landing Road project, retain a qualified biologist to determine if potential impacts to streams may require the need to notify pursuant to Fish and Game Code section 1602.

### **Proximity of Protected Lands**

CDFW would like to note that the Plan area is in close proximity to several protected areas including CDFW's Elkhorn Slough Ecological Reserve (and National Estuarine Research Reserve), Moss Landing Wildlife Area, and Moro Cojo Ecological Reserve, as well as the Moro Cojo Slough State Marine Reserve and the Elkhorn Slough State Marine Conservation Area. CDFW recommends that projects tiered from this Plan that result in ground disturbance and development be sited to avoid direct and indirect impacts to these protected areas and that a sufficient buffer be incorporated between future projects and these lands.

### **Botanical Surveys**

CDFW recommends that the DEIR for this Plan include a measure requiring that projects tiered from this Plan located within natural habitats, including the MBARI and Moss Landing Road project, be surveyed by a qualified botanist for any possible special-status plants following the "Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Natural Communities" (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>). CDFW recommends that the plant surveys be floristic and, if necessary, utilize a known reference site for any special-status plants in order to provide a high level of confidence in the effort and results.

If a special-status plant is found, CDFW recommends that the special-status plant species be avoided whenever possible by delineating and observing a no disturbance buffer of at least 50 feet from the outer edge of the plant population(s) or specific habitat type(s) required by special-status plant species. If buffers cannot be maintained, then consultation with CDFW is warranted to determine appropriate minimization and mitigation measures for impacts to special-status plant species. If a State or federally listed plant species is identified during botanical surveys, it is recommended that

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consultation with CDFW and/or the United States Fish and Wildlife Service (USFWS) be conducted to determine permitting needs.

### **Nesting birds**

CDFW recommends that all projects tiered from this Plan, including the MBARI and Moss Landing Road project, occur during the bird non-nesting season; however, if ground-disturbing or vegetation-disturbing activities must occur during the breeding season (February 15 through September 15), each future project applicant is responsible for ensuring that implementation of their project does not result in a violation of the Migratory Bird Treaty Act or relevant Fish and Game Codes as referenced above.

To evaluate future project-related impacts on nesting birds, CDFW recommends that a qualified biologist conduct an assessment of nesting habitat during biological surveys in support of each project's CEQA document, and then conduct pre-activity surveys for active nests no more than 10 days prior to the start of ground or vegetation disturbance to maximize the probability that nests that could potentially be impacted are detected. CDFW also recommends that surveys cover a sufficient area around each future project site to identify nests and determine their status. A sufficient area means any area potentially affected by a project. In addition to direct impacts (i.e., nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. Prior to initiation of construction activities, CDFW recommends that a qualified biologist conduct a survey to establish a behavioral baseline for all identified nests. Once construction begins, CDFW recommends having a qualified biologist continuously monitor nests to detect behavioral changes resulting from each future project. If behavioral changes occur, CDFW recommends halting the work causing that change and consulting with CDFW for additional avoidance and minimization measures.

If continuous monitoring of identified nests by a qualified biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival. Variance from these no-disturbance buffers is possible when there is compelling biological or ecological reason to do so, such as when the construction areas would be concealed from a nest site by topography. CDFW recommends that a qualified biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

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## **CEQA Alternatives Analysis**

CDFW recommends that the information and results obtained from the cumulative impacts analysis conducted as part of this Plan's DEIR be used to develop and modify the Plan's alternatives to avoid and minimize impacts to biological resources to the maximum extent possible. Please note that when efforts to avoid and minimize impacts have been exhausted for projects tiered from this Plan, remaining impacts to sensitive biological resources may need to be mitigated to reduce impacts to a less than significant level, if feasible.

## **CNDDDB**

Please note that the CNDDDB is populated by voluntary submissions of species detections. As a result, species may be present in locations not depicted in the CNDDDB but where there is suitable habitat and features capable of supporting species. A lack of an occurrence record in the CNDDDB does not mean a species is not present. All projects tiered from this Plan should adequately assess any potential project-related impacts to biological resources by ensuring biological surveys are conducted by a qualified wildlife biologist during the appropriate survey period(s) and using the appropriate protocol survey methodology as warranted in order to determine whether or not any special-status species are present at or near the project area.

## **Federally Listed Species**

CDFW recommends projects tiered from this Plan consult with the USFWS on potential impacts to federally listed species. Take under the Federal Endangered Species Act (FESA) is more broadly defined than CESA; take under FESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS in order to comply with FESA is advised well in advance of any ground disturbing activities.

## **Environmental Data**

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, Section 21003, subd. (e).) Accordingly, please report any special-status species and natural communities detected during project surveys to the CNDDDB. The CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email address:

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[CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov). The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

### Filing Fees

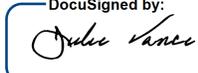
The Plan, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, Section 753.5; Fish & G. Code, Section 711.4; Pub. Resources Code, Section 21089).

### CONCLUSION

CDFW appreciates the opportunity to comment on the NOP to assist Monterey County in identifying and mitigating this Plan's impact on biological resources.

More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>). Questions regarding this letter or further coordination should be directed to Evelyn Barajas-Perez, Environmental Scientist, at (805) 503-5738 or [evelyn.barajas-perez@wildlife.ca.gov](mailto:evelyn.barajas-perez@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
FA83F09FE08945A...

Julie A. Vance  
Regional Manager

ec: CESA [R4CESA@wildlife.ca.gov](mailto:R4CESA@wildlife.ca.gov)

LSA [R4LSA@wildlife.ca.gov](mailto:R4LSA@wildlife.ca.gov)

FWS [steve\\_henry@fws.gov](mailto:steve_henry@fws.gov)

Heidi Carpenter [heidi.carpenter@wildlife.ca.gov](mailto:heidi.carpenter@wildlife.ca.gov)

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- National Oceanic and Atmospheric Administration. California eelgrass mitigation policy and implementing guidelines. 2014. National Oceanic and Atmospheric Administration, Fisheries West Coast Region, Portland, Oregon, USA.

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Common Name	Scientific Name	Status	
		State	Federal
Bald eagle	<i>Haliaeetus leucocephalus</i>	E; FP	-
California condor	<i>Gymnogyps californianus</i>	E; FP	E
California Ridgway's rail	<i>Rallus obsoletus obsoletus</i>	E; FP	E
Least bell's vireo	<i>Vireo bellii pusillus</i>	E	E
Santa Cruz long-toed salamander	<i>Ambystoma macrodactylum croceum</i>	E; FP	E
Bank swallow	<i>Riparia riparia</i>	T	-
California black rail	<i>Laterallus jamaicensis coturniculus</i>	T; FP	-
Tricolored blackbird	<i>Agelaius tricolor</i>	T	-
California tiger salamander - central California DPS	<i>Ambystoma californiense</i>	T	T
Monterey gilia	<i>Gilia tenuiflora</i>	T	E
Southern Sea Otter	<i>Enhydra lutris nereis</i>	FP	T
Golden eagle	<i>Aquila chrysaetos</i>	FP	-
White-tailed kite	<i>Elanus leucurus</i>	FP	-
Western burrowing owl	<i>Athene cunicularia hypugeae</i>	C	-
Crotch's bumble bee	<i>Bombus crotchii</i>	C	-
Western bumble bee	<i>Bombus occidentalis</i>	C	-
American badger	<i>Taxidea taxus</i>	SSC	-
Monterey dusky-footed woodrat	<i>Neotoma macrotis luciana</i>	SSC	-
Monterey shrew	<i>Sorex ornatus salarius</i>	SSC	-
Black swift	<i>Cypseloides niger</i>	SSC	-
Grasshopper sparrow	<i>Ammodramus savannarum</i>	SSC	-
Loggerhead shrike	<i>Lanius ludovicianus</i>	SSC	-
Northern harrier	<i>Circus hudsonius</i>	SSC	-
Short-eared owl	<i>Asio flammeus</i>	SSC	-
Yellow warbler	<i>Setophaga petechia</i>	SSC	-
Yellow-breasted chat	<i>Icteria virens</i>	SSC	-

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Western snowy plover	<i>Charadrius nivosus nivosus</i>	SSC	T
Northern California legless lizard	<i>Anniella pulchra</i>	SSC	-
California red-legged frog	<i>Rana draytonii</i>	SSC	T
Tidewater goby	<i>Eucyclogobius newberryi</i>	SSC	E
Pacific Lamprey	<i>Entosphenus tridentatus</i>	SSC	-
Monterey hitch	<i>Lavinia exilicauda harengus</i>	SSC	-
Common eelgrass	<i>Zostera marina</i>	SNC	-
California sea lion	<i>Zalophus Californianus</i>	-	MMPA
South Central California Coast Steelhead	<i>Oncorhynchus mykiss</i>	-	T

E= Endangered; T=Threatened, C= Candidate for listing as Threatened or Endangered, SSC= Species of Special Concern, FP= Fully Protected, SNC= Sensitive Natural Community. MMPA=Marine Mammal Protection Act

**Attachment 1**

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE  
RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM  
(MMRP)**

**PROJECT: Moss Landing Community Plan Update (Plan)  
Notice of Preparation (NOP)**

**SCH No.: 2013041053**

<b>RECOMMENDED MITIGATION MEASURE</b>	<b>STATUS/DATE/INITIALS</b>
<b><i>Before Disturbing Soil or Vegetation</i></b>	
<i>Common eelgrass (Zostera marina)</i>	
<b>Recommended Mitigation Measure 1:</b> Eelgrass surveys and mitigation	
<b>Recommended Mitigation Measure 2:</b> A comprehensive analysis of impacts to eelgrass habitat	
<b>Recommended Mitigation Measures 3:</b> A comprehensive eelgrass mitigation plan	
<b>Recommended Mitigation Measures 4:</b> Scientific collecting permit	
<i>Pile Driving and Sound Criteria</i>	
<b>Recommended Mitigation Measures 5:</b> Impact Hammer	
<b><i>During Construction</i></b>	
<i>Common eelgrass (Zostera marina)</i>	
<b>Recommended Mitigation Measure 2:</b> A comprehensive analysis of impacts to eelgrass habitat	
<i>Pile Driving and Sound Criteria</i>	

<b>Recommended Mitigation Measures 5:</b> Impact Hammer	
<b><i>Post Construction</i></b>	
Common eelgrass ( <i>Zostera marina</i> )	
<b>Recommended Mitigation Measures 2:</b> Eelgrass impact evaluation and mitigation measures	

**From:** [Aron Hernandez](#)  
**To:** [cegacomments](#)  
**Cc:** [Angelo, Philip](#)  
**Subject:** CEQA for Moss Landing Community Plan Update - TAMC Comments on NOP  
**Date:** Thursday, January 23, 2025 11:22:50 AM  
**Attachments:** [image001.png](#)  
[Angelo - Moss Landing Community Plan Update.pdf](#)

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Some people who received this message don't often get email from [aaron@tamcmonterey.org](mailto:aaron@tamcmonterey.org). [Learn why this is important](#)

[CAUTION: This email originated from outside of the County. Do not click links or open attachments unless you recognize the sender and know the content is safe. ]

Good morning,

Please see attached for TAMC's comments on the NOP for the Moss Landing Community Plan Update. My apologies for late submittal on comments. We hope our comments can be considered for preparation of the Draft EIR.

Thank you,

**Aaron Hernandez**

Transportation Planner / Planero de transporte

Transportation Agency for Monterey County / Agencia de Transporte del Condado de Monterey

E: [aaron@tamcmonterey.org](mailto:aaron@tamcmonterey.org)

P: (831) 775-4412



January 21, 2025

County of Monterey  
Housing and Community Development Department  
Attn: Phil Angelo, Senior Planner  
1441 Schilling Place, South 2<sup>nd</sup> Floor  
Salinas, CA 93901-4527

Via email: [CEQAcomments@CountyofMonterey.gov](mailto:CEQAcomments@CountyofMonterey.gov)

**SUBJECT: Comments on Notice of Preparation of the Moss Landing Community Plan Update**

Dear Mr. Angelo:

The Transportation Agency for Monterey County (TAMC) is the Regional Transportation Planning and Congestion Management Agency for Monterey County. Agency staff reviewed the Notice of Preparation of the Draft Environmental Impact Report for the Moss Landing Community Plan Update and offers the following comments for your consideration:

1. TAMC supports the use of methods that provide the best level of protection of coastal resources along the Highway 1 corridor in Moss Landing. TAMC encourages the coordination between the County of Monterey, TAMC and Caltrans to develop an adaptation plan to identify ways to protect Highway 1's long term utility from coastal hazard impacts while minimizing impacts to Elkhorn slough, wetlands and agricultural lands.
2. TAMC supports the development of a detailed Traffic Impact Analysis to inform the EIR about the impacts to local and regional road networks.
3. TAMC supports the inclusion of Transportation Demand Management Strategies in the Community Plan. Examples such as the Monterey Bay Aquarium Research Institute (MBARI) Vanpool Program are an effective strategy to reduce traffic congestion and parking demand. Monterey-Salinas Transit has recently partnered with Enterprise on a vanpool commute program to encourage Monterey County commuters to reduce traffic impacts on their commute to work. More on this program can be found here: <https://www.commutewithenterprise.com/content/commute/en/partners/montereycounty.html>
4. With planned pedestrian improvements on Moss Landing Road, implementation of bicycle infrastructure should also be considered at the time of road improvements. The [2018 Monterey County Active Transportation Plan](#) identifies a proposed Class II Bike Lane on Moss Landing Road from Potrero Road to the end of Moss Landing Road. In

addition, the [Monterey Bay Sanctuary Scenic Trail Master Plan](#) includes proposals to continue the scenic trail into and through the Moss Landing community.

5. TAMC encourages utilization of the agency's Wayfinding Plan to promote bicycling and walking as a viable transportation option for Moss Landing residents and visitors. The Wayfinding Plan identifies a segment of wayfinding signage to be placed along Moss Landing Road and Highway 1. This signage will provide guidance to pedestrians and bicyclists to access nearby points of interest, such as Elkhorn Slough, on preferred routes. More information on the Wayfinding Plan can be found here:  
<https://www.tamcmonterey.org/wayfinding-plan>
6. Consideration should be given to the installation of electric vehicle charging stations, as new construction provides an opportunity to install this infrastructure at a lower cost.
7. Please describe the policy directives for 5.2.4, Environmentally Sensitive Habitat Areas.

TAMC looks forward to reviewing the draft environmental impact report for this project. If you have any questions, please contact Aaron Hernandez of my staff at [aaron@tamcmonterey.org](mailto:aaron@tamcmonterey.org) or 831-775-4412.

Sincerely,



Todd A. Muck  
Executive Director

Exhibit B, Attachment 2  
California Coastal Commission Comments

**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
PHONE: (831) 427-4863  
WEB: WWW.COASTAL.CA.GOV

**February 19, 2025**

Phil Angelo  
Senior Planner  
County of Monterey Department of Housing and Community Development  
1441 Schilling Place, South 2<sup>nd</sup> Floor  
Salinas, CA 93901

Subject: **Comments for GPZ090005 (Moss Landing Community Plan Update).**

Dear Mr. Angelo,

Thank you for the opportunity to comment on the proposed Moss Landing Community Plan update. It is clear that the County has put considerable time and effort into crafting thoughtful LCP provisions, and we appreciate the work you have done to respond to the issues raised in our comments on past iterations of the Plan. As you know, Moss Landing is one of Monterey County's most ecologically and economically important coastal areas. The community's sloughs and wetlands provide critically important habitat for a diverse range of wildlife, including migratory birds, marine mammals, and commercially and ecologically important fish species. The community's dunes and old salt ponds provide habitat for rare species such as Monterey spineflower, coast wallflower, sand gilia, western snowy plover, and many more. The Moss Landing Harbor is a key hub for the local fishing industry, marine research, and recreation. As you also know, as the impacts of climate change intensify, Moss Landing faces significant challenges, including sea level rise, coastal erosion, coastal flooding, and more. Working towards community resilience in the face of these challenges is essential for preserving all that Moss Landing has to offer, and we appreciate that the County is taking these efforts seriously with the update. The following comments are intended to provide some direction on major update themes, and to help to further refine some of the overall objectives and potential implementation measures. These comments are not meant to be a strike-through and underline exercise so much as they are intended to promote discussion on the issues raised, including as a means to foster a dialogue to precede further policy and text development.

**Community Plan Update Goals and Intent**

The Moss Landing Community Plan is a chapter of the overall North County LUP. Its purpose is to supplement the broader policies of the LUP with a more detailed planning effort for the unique community of Moss Landing. As such, the Community Plan should avoid duplicative language with the LUP and be as concise as possible while addressing the community's specific planning needs.

The current LUP, including the current Community Plan, has generally functioned well since its adoption in the 1980s; however, two major issues have emerged since then. Climate change and sea level rise are compounding the hazards that this low-lying coastal community already faces, and coastal-dependent heavy industrial uses have largely ceased, raising questions

## GPZ090005 (Moss Landing Community Plan Update)

about the appropriate future uses for the significant sites they previously inhabited. We believe these two issues should be the primary focus of the Community Plan update.

### **Coastal Hazards and Armoring**

Moss Landing has long been subject to coastal hazards due to its location within an area of historically dynamic wetlands and sloughs and along the coast of the Pacific Ocean. Climate change is already compounding the risk of coastal hazard impacts to the community, and these risks will only increase over the years. Given this increasing risk and the fact that the existing Moss Landing Community Plan was drafted before our modern understanding of these issues, coastal hazard-related policy updates are perhaps the most important component of the updated Community Plan.

A number of proposed policies (for example, Policies 5.2.6.H.3, 5.2.6.I.1 and 5.4.9.E.7) allow for armoring nearly the entirety of the Harbor's interior and the ocean side of the Island.<sup>1</sup> The proposed language does this by expanding what is allowed armoring, most notably through the addition of 'coastal-related' uses. However, coastal-related uses are not one of the types of development allowed to make use of the Coastal Act's armoring override,<sup>2</sup> and are thus not consistent with the Act. Specifically, Coastal Act Section 30235 allows armoring only for three distinct things: coastal-dependent uses, existing structures,<sup>3</sup> and public beaches, and only when such development/uses are in danger from erosion and when they have been designed to eliminate or mitigate adverse impacts on local shoreline sand supply. The Coastal Act defines 'coastal-dependent development or use' as "any development or use which requires a site on, or adjacent to, the sea to be able to function at all"<sup>4</sup> and 'coastal-related development' as "any use that is dependent on a coastal-dependent development or use."<sup>5</sup> These definitions are also included in the North County Land Use Plan Appendix B (Glossary of Terms).

All that said, given the critical importance of the Harbor for Coastal Act priority uses, including not only as an important visitor destination, but also for its coastal-dependent commercial fishing, aquaculture, marine research, and recreational boating, as well as the important coastal-related facilities on the Island that facilitate, and support these uses, Moss Landing may be an appropriate location for a community-scale adaptation policy or armoring exception area framework that allows for armoring when necessary to protect the Harbor as a whole. There is no way to write these policies in a way that gets around the fundamental Coastal Act inconsistency of allowing armoring for structures/uses that are not entitled to it

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<sup>1</sup> 'Armoring' here is intended to describe a broad range of artificial shoreline protection devices and methods, including seawalls, revetments, bulkheads, etc.

<sup>2</sup> The Coastal Act has dozens of policies that protect beaches, bluffs, and shoreline area resources from the negative effects of coastal armoring. In most cases, these provisions would require that armoring proposals be denied. However, the Coastal Act also includes Section 30235, which allows for armoring projects that meet its criteria, even though they are inconsistent with the host of other Coastal Act resource protection policies. For that reason, Section 30235 is often referred to as an 'override' over these other resource policies.

<sup>3</sup> Existing structures are those built before the January 1, 1977 enactment of the Coastal Act and not redeveloped since, as affirmed in *Casa Mira Homeowners Association v. California Coastal Commission* (2024) 107 Cal.App.5th 370 [327 Cal.Rptr.3d 906, 909], as modified on denial of reh'g (Dec. 30, 2024), review filed (Jan. 16, 2025).

<sup>4</sup> Coastal Act Section 30101.

<sup>5</sup> Coastal Act Section 30101.3.

## GPZ090005 (Moss Landing Community Plan Update)

under the Coastal Act (such as ‘coastal-related’ uses), and so the best way to address this is for the County to be clearer about the actual approach. Put another way, if the intent is to allow for armoring of the Harbor, including the island, then the policies should clearly say as much. Such an approach will still be inconsistent with the Coastal Act, but it will allow for the Commission to consider whether an approach like that might be most protective of significant coastal resources overall, where such provisions could potentially be certified through conflict resolution.<sup>6</sup> For the County to best make its case for such an armoring exception area, the proposed policies should be expanded and refined to clearly define the affected area, and make clear what type of armoring would be allowed and subject to what criteria and conditions (e.g., required natural landform, public access, public view, and other coastal resource protections and improvements). The LCP would also need complementary provisions to ensure that the priority uses being protected by armoring are protected, provided, and enhanced. In other words, this policy approach should be framed as a package that not only allows for armoring to protect the Harbor its important Coastal Act-priority uses but also includes a suite of coastal resource requirements, both to offset/mitigate for the impacts of the armoring, but also to enhance, expand, and improve priority uses and development (e.g., in terms of public access, provide for a continuous public access walkway along the interior shoreline of the Harbor, additional public accessways to and along the Island shoreline, and improved and additional public parking and other public facilities).

An alternative path to approaching the question of armoring within the Community Plan area would be to retain the Coastal Act baseline for which structures are allowed to make use of the Coastal Act override for armoring (i.e., only existing structures or coastal-dependent uses); however, given the coastal hazards the community already faces, and the increasing threat of climate change, such an approach would need to be paired with a planning effort for managed retreat away from the Island and other hazardous areas in the relatively near term. Overall, regardless of the approach, we feel it is important that the County outline a clearer vision for how it will respond to coastal hazards in the future.

### **Sites of Former Coastal-Dependent Heavy Industrial Uses**

When the original Community Plan was certified, Moss Landing was home to multiple coastal-dependent heavy industrial uses, including the National Refractories plant and the natural gas and oil-fired Moss Landing power plant, both of which required large volumes of seawater for their operations. These uses have largely ceased, with these sites now containing a natural gas-fired power plant, grid-scale battery storage facilities, electrical transmission infrastructure, cannabis cultivation facilities, and large swaths of unused and abandoned industrial areas.

These industrial sites pose both a challenge and an opportunity for future planning efforts. They are, generally speaking, far more appropriate for intensive development than any other part of the community, both because of their general lack of (on-site) sensitive habitats and due to their comparatively lower flood risk in light of sea level rise. At the same time, some areas may require cleanup from impacts of prior industrial uses (which we would recommend be an explicitly allowed form of development at these sites). Their current land use designation also

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<sup>6</sup> Pursuant to Coastal Act Sections 30007.5 and 30200(b), ‘conflict resolution’ enables the Commission to approve LCP language inconsistent with certain Coastal Act policies when *not* approving that language would lead to greater impacts to coastal resources protected by other Coastal Act provisions. In other words, the Commission would need to find that the proposed policies would be, on balance, most protective of significant coastal resources.

## GPZ090005 (Moss Landing Community Plan Update)

restricts allowable uses, and there has been no significant interest from any parties to develop new coastal-dependent industrial uses at the sites for decades.<sup>7</sup> Additionally, Moss Landing and the communities that surround it, which are generally lower-income, non-white farming communities, have historically been disproportionately burdened by the impacts of industrial uses at these sites. These sites are also located directly adjacent to coastal waters, Elkhorn Slough, Moro Cojo Slough, and their interconnected wetlands, all of which comprise incredibly sensitive habitats that are preserved via a patchwork of highly protective designations<sup>8</sup> due to their extraordinary ecological importance. All of these factors are highlighted by the most recent battery fires, which caused widespread evacuations and may have spread ash contaminated with heavy metals throughout the area, including residential areas, farmland, sensitive upland habitats, wetlands, and coastal waters. The extent of the impacts of the fires on all of these areas is not yet fully clear. These fires, as well as the overall underutilization of the sites, raise questions about what the highest and best uses of these areas are, including whether further heavy industrial development is appropriate within the community.

We strongly recommend that the County further consider what may be appropriate for these opportunity sites, including uses that more directly support the community and community needs, and that are more compatible with both the sensitive nature of the habitats surrounding these sites and the Harbor itself. In addition, if an armoring exception area concept is to be considered, it may make sense for these opportunity areas to also be considered in that context, where allowing for such armoring means that these sites can be part of a larger and more coherent whole that interacts more seamlessly, as opposed to the way in which the two sites are essentially disjointed from the community currently. Put another way, how can these sites be integrated into the rest of the community in a way that provides for and facilitates County objectives for this area? We believe that portions of these sites could be appropriate for affordable housing, visitor-serving commercial business, and even transportation improvements (see the Transportation Infrastructure section below). There is no doubt that these sites need to be better integrated within the update, and that the County should take this opportunity to reimagine them in the context of what Moss Landing can be as opposed to what it once was.

### **Water Supply**

Like the rest of North County, the Moss Landing community faces serious long-term water supply issues; it is entirely dependent on groundwater from critically overdrafted aquifers experiencing ongoing saltwater intrusion. The lack of a long-term sustainable water source currently poses a significant issue for any proposed future water-using development at any site in Moss Landing, particularly for any large-scale development that might be proposed at the aforementioned opportunity sites. Addressing the water supply sustainability issue is critical to the community's future, particularly given that rising sea levels may increase rates of saltwater intrusion in the local aquifers. We encourage the County to proactively work to address these issues, including within this update.

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<sup>7</sup> And while there is some seawater infrastructure serving the two sites, it has been largely abandoned for years, and if they were an interest in pursuing coastal-dependent development that used such infrastructure, a new CDP would be required, including for any necessary environmentally-related upgrades.

<sup>8</sup> See the Elkhorn Slough National Estuarine Research Reserve, Elkhorn Slough State Marine Conservation Area, Elkhorn Slough State Marine Reserve, Moro Cojo Slough State Marine Reserve, the Moss Landing State Wildlife Area, and the Monterey Bay National Marine Sanctuary.

## GPZ090005 (Moss Landing Community Plan Update)

The proposed plan highlights several ways to expand the water supply, including water conservation, recycling, and desalination. We would recommend several additions, including listing direct potable reuse of water and brackish desalination (from seawater intruded aquifers) as potential options in policy 5.2.5.D.2. We also recommend that the language of 5.2.5.D.2 be modified to specify that the selection of new water supplies be based on a comprehensive alternatives analysis showing that any proposed water supply projects are feasible and the least environmentally damaging to coastal resources. Language specifying that any proposed desalination facility must be fully consistent with the most recent California Ocean Plan is also needed. We hope that these modifications will broaden the possible solutions to address the issue of water supply sustainability while ensuring the protection of coastal resources.

### **Introductory Language and Background Information**

We recommend several changes to the proposed introductory language. First, we strongly recommend that the County consult with local tribes to develop a more detailed description of the history of the Moss Landing area before and during European colonization. We would also recommend that the County consider how introductory language may be read in the future. Background information that may be accurate when it is drafted may no longer be accurate or relevant in several decades. As such, we recommend that only the most relevant and necessary background information be included and, when it is, that it be paired with qualifiers noting that the information provided is accurate as of 2025. Other background information – such as how the update process has unfolded (Policy 5.1.2) – would be better located in the County's staff report rather than within the Plan's language.

### **Transportation Infrastructure**

Highway 1 is the primary roadway residents and visitors use to travel to and through Moss Landing. The highway currently suffers from significant congestion during peak hours, and highway access points/intersections (particularly with Moss Landing and Dolan Roads) pose safety and congestion issues. We believe the County's efforts to address these issues are appropriate, and we have some specific recommendations to be added into policy. In particular, we believe that rerouting Dolan Road to connect to the highway at the current Moss Landing Road/Highway 1 intersection, and signaling that new 4-way intersection, would provide significant safety and congestion relief. Other changes, such as lowering highway speed limits through the community, could also help improve safety. Finally, we would recommend that the highway entrance to the Moss Landing Wildlife Area be included within the named entrances to Highway 1 in Policy 5.3.2.G.8 and be included in any public access maps within the update.

### **Jurisdiction and Standards of Review**

We would note that the Coastal Commission should be listed as an agency with jurisdiction over certain areas of Moss Landing in Policy 5.1.4. We also believe that some of the maps and policy language create some ambiguity as to the area the Community Plan covers and, conversely, the areas where the Commission has retained jurisdiction and the Coastal Act is the standard of review. For instance, Policy 5.4.4.A.4 includes in-water Harbor facilities within the areas with a land use designation of the Public/Quasi-Public 'Harbor Facilities.' While in-water Harbor facilities are indeed a public/quasi-public use, they fall entirely within the Commission's permitting jurisdiction and outside of the LCP area. Their inclusion within the LCP as an area with a defined land use creates ambiguity regarding the permitting authority and standard of review for projects in this area. We would also note that residential use of docked boats is not one of the seven allowable uses over open coastal waters, and that if the County intends to

## GPZ090005 (Moss Landing Community Plan Update)

facilitate such uses in Moss Landing, the only way they could be approved would be through the Coastal Act's conflict resolution provisions alluded to earlier. It is not clear to us right now with the conflict is under the Coastal Act that would require such resolution, but we are open to understanding the ways in which the County is envisioning residential use in these areas to meet greater housing goals and objectives. And either way, anything certified into the LCP regarding open water areas would be advisory only, as coastal permits in those areas would be through the Commission, where the standard of review is the Coastal Act.

We also recommend language that explicitly states the relationship between the Community Plan and the rest of the North County LUP, specifically how any conflicts between the Plan and the rest of the LUP shall be resolved (e.g., state that, in the event of a conflict, the Community Plan shall take precedent over the broader LUP).

### **ESHA, Wetlands, and Coastal Waters**

We recommend that the map of ESHA and ESHA buffer be removed from the Plan, or that it be made clear that its inclusion in the Plan is purely informative and not necessarily representative of current or future conditions or locations of ESHA (indeed, it appears the data used for the map is over a decade old). We would also note that the Coastal Act distinguishes between ESHA, wetlands, and coastal waters, and different Coastal Act policies with different development standards and protections apply within these different categories.<sup>9</sup> While it is true that these are all sensitive habitats, representing the waters of Elkhorn Slough, the various wetlands of the Slough(s), and areas of sensitive upland habitat as all being ESHA seems to indicate that all of these areas are subject solely to Coastal Act ESHA policy (e.g., section 30240) and its LCP equivalents, which is not necessarily the case.

### **Visitor-Serving Overnight Accommodations**

Policy 5.44.9.D.1 of the proposed Community Plan Update allows for up to 150 visitor-serving overnight accommodations. We recommend that the County reevaluate this number rather than just carry it over from the current Community Plan. Various factors may affect what is appropriate and whether a cap is needed, including if allowable uses in the heavy industrial areas of Moss Landing are changed as recommended above. It is also critical that a portion of any new or redeveloped visitor-serving accommodations be lower-cost, as Coastal Act Section 30213 requires. We recommend policies in line with the recently Commission-approved Sonoma County LUP update (see attached) to address this topic.

### **Environmental Justice**

We recommend that the County include environmental justice provisions in the Community Plan or, perhaps more appropriately, within the North County LUP overall. We recommend policies in line with the recently Commission-approved Sonoma County LUP update (see attached) to address this topic.

### **Land Use Designation Changes**

The land use designation for APN 133-181-012 is proposed to change from Wetlands and Coastal Strand to Agricultural Conservation. While the parcel is in agricultural use, satellite

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<sup>9</sup> Coastal Act Section 30240 is the Act's primary ESHA policy, while Section 30233 relates to diking, dredging, and filling of wetlands and coastal waters. Sections 30230 and 30231 relate to the biological productivity of coastal waters (which is particularly relevant here given the high biological productivity of Elkhorn Slough), water quality, etc.

## GPZ090005 (Moss Landing Community Plan Update)

imagery shows periodic inundation indicative of a wetland. We recommend that the land use designation for the parcel remain unchanged. We also recommend that the Harbor facilities designated area south of Sandholdt Road be restricted to upland areas already developed with such facilities.

### **Noise**

The Coastal Act does not directly regulate noise; rather, it regulates noise in the context of potential effects on coastal resources. The residential noise policies listed under Policy 5.4.9.K are best located outside the LCP.

Thank you for the opportunity to provide input on the revised Community Plan update. If and when it would be helpful, we would be happy to work more closely with the County on the specifics of the language of the plan to address the topics raised in this letter or any other topics that emerge as the process continues to unfold. Thank you for your time and dedication to this important and long-sought project.

Sincerely,  
*Breylen Ammen*  
Breylen Ammen  
Coastal Planner  
Central Coast District Office  
California Coastal Commission

**Attachment:** Sonoma County LUP environmental justice and lower-cost accommodations policies.

## GPZ090005 (Moss Landing Community Plan Update)

**Policy C-PA-3f:** Promote social equity and environmental justice by ensuring the fair treatment and meaningful involvement of all people, regardless of race, culture, or income by:

- a.** Considering environmental justice and, where applicable, the equitable distribution of environmental benefits when acting on a coastal development permit, amending the LUP, or implementing the LUP.
- b.** Encouraging inclusive public engagement in decision-making processes, with priority on communities that have historically been excluded.
- c.** Implementing the LUP in a manner that ensures no person is discriminated against based on race, national origin, religion, age, sex, sexual orientation, color, genetic information, or disability.

**Policy C-PA-3n:** Lower-cost overnight accommodations shall be protected, encouraged, and where feasible, provided.

**Policy C-PA-3o:** New development involving overnight accommodations shall provide a range of accommodations and prices in order to serve various income ranges. Priority for overnight accommodations (from higher to lower priority): lower-cost; moderate-cost; higher cost.

Exhibit B, Attachment 3  
Climate Change Hazard Workshop Comments

# MOSS LANDING DRAFT CLIMATE CHANGE HAZARDS WORKSHOP

## WRITTEN COMMENT – APRIL 15, 2025

NAME: Marilyn Viera (on behalf of Sup. Glenn Church, D2) DATE: April 15, 2025

COMMENTS: The update must include robust endorsement of expansion of Highway One to 4 lanes as climate change becomes the context for the plan as a whole. Language in the most current draft is markedly less precise ~~and~~ than language in the original 1982 and future versions.

Current language from 2024 (outdated) Draft:

5.3.2 A4 " construction of a four-lane expressway or equivalent capacity in bypass and/or <sup>an</sup> alternative modes such as light rail, through the Plan area."

ARE YOU PROVIDING ADDITIONAL DOCUMENTS? YES / (NO)

Email comments to [mosslandingcpupdate@countyofmonterey.gov](mailto:mosslandingcpupdate@countyofmonterey.gov) or mail:  
County of Monterey  
Housing & Community Development Department  
Attn: Mike Novo, Management Specialist  
1441 Schilling Place, 2<sup>nd</sup> Floor South  
Salinas, CA 93901

15 April 2025

From: Moss Landing Harbor District

To: Monterey County Planning Department

RE: Comments on proposed changes to the Moss Landing Community Plan (MLCP)

In response to the proposed changes to the MLCP, it appears that the proposed language under Key Policy-Hazards Section, G. General Policies, subsection 3 is directly violative of multiple provisions of the State Constitution, the Public Trust Doctrine, and both prior legislative enactments (existing statutes highlighted in yellow and herewith attached) and prior Gubernatorial Orders.

Moss Landing Harbor District in 1947 and more broadly in 1967 was granted management authority over the state tidelands and real property specifically identified in its legislation passed and enacted by the state legislature and signed by the Governor.

The land, submerged lands and tidelands comprising the Moss Landing Harbor were originally acquired by the State of California upon its admission to the United States of America in 1850. **The State, by virtue of its sovereignty, received in trust from the federal government all right, title and interest of these lands and tidelands along the Salinas River for the purpose of commerce, navigation and fisheries.**

The Moss Landing Harbor District was formed on June 22, 1943 for the purpose of developing a harbor at Moss Landing pursuant to the Federal Harbors and Navigation Code. The Harbor District Board executed an Easement and Franchise Agreement with landowner and District Board member Wilbur C. Sandholdt, granting the District easements and right-of-way over approximately 13-acres of land through which the harbor channel would be cut. In 1945, the United States Congress authorized construction of a harbor at Moss Landing by the United States Army Corps of Engineers. In 1947 the dredging had been completed, the piers and wharves had been built, and the harbor was now officially open.

Neither the County of Monterey nor the California Coastal Commission has the authority to limit nor demand limitations upon the use of state tidelands and Public Trust resources.

MLHD strongly recommend that these draft sections be removed so as to avoid the potential inherent legal defects to the plan revisions.

MLHD shall submit additional comments next week.

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CHAPTER 131

*An act to amend Section 1 of, and to add Section 3 to, Chapter 1190 of the Statutes of 1947, relating to the Moss Landing Harbor District.*

Approved by Governor May 12, 1967 Filed with  
Secretary of State May 12, 1967 1

*The people of the State of California do enact as follows:*

SECTION 1. It is hereby found and determined:

(a) That by Chapter 1190, Statutes of 1947, the Legislature did grant to the Moss Landing Harbor District in trust for the uses and purposes and upon the express conditions therein set forth, certain tide and submerged land, lands beneath navigable waters, and swamp and overflow lands described in said grant;

(b) That said grant was therein described in part as "the Pacific Ocean opposite said portion of the Old Salinas River with its northerly and southerly boundaries drawn due west;"

(c) That the precise meaning of said part of the description of said grant has proven ambiguous and has given rise to controversy;

(d) That the Legislature intended to and did upon enacting said statute grant to the Moss Landing Harbor District, upon the terms, conditions and trusts set forth in said statute, an area of tide and submerged lands located in Monterey Bay seaward of the ordinary high-water mark for the use of said district in conjunction with the area landward of said ordinary high-water mark on Monterey Bay so granted to the said district;

(e) That the said district, prior to said grant and pursuant to a lease from the State Lands Commission, did use and has used subsequent to said grant and pursuant to said grant, such an area of tide and submerged lands for the uses and purposes authorized by said statute and in conjunction with the said district's public activities;

(f) That it was the intention of the Legislature to include within said grant all those portions of the Pacific Ocean in Monterey Bay in the area described which had actually been used by the said harbor district for any or all of the purposes specified in said grant plus those portions which were reasonably necessary for such purposes in the future;

(g) That said area of tide and submerged lands in Monterey Bay so intended to be granted and so granted consisted of all tide and submerged lands lying between the northerly and southerly boundaries of that portion of the Old Salinas River Channel granted to the said district by Section 1 of Chapter 1190 of the Statutes of 1947, drawn due west, and between the ordinary high-water mark on Monterey Bay and a line 2,000 feet seaward of said ordinary high-water mark;

(h) That paragraph (g) of Section 1 of said statute required substantial improvement of the granted lands by the said district within 10 years of said grant and that if the State Lands Commission determined that the said district had failed to so improve said lands, all lands so granted should revert to the state; that on February 11, 1958, the State Lands Commission by resolution duly adopted found that the conditions of said Section 1(g) had been complied with.

SEC. 2. Section 1 of Chapter 1190 of the Statutes of 1947 is amended to read:

Section 1. There is hereby granted to the Moss Landing Harbor District, hereinafter called "district," a political subdivision of the State of California, and to its successors, all the right, title, and interest now held by the State of California by virtue of its sovereignty, in and to all lands, salt marsh, tidelands, submerged lands, and swamps and overflowed lands described as follows:

The Old Salinas River Channel from the northerly extremity to its mouth southerly to the existing county road across said channel south of the existing bridge at Moss Landing; the Pacific Ocean or Monterey Bay between the ordinary high-water mark and a line 2,000 feet seaward and due west thereof opposite said portion of the Old Salinas River with its northerly and southerly boundaries drawn due west; Bennett Slough, Elkhorn Slough and Moro Cojo Slough between the Old Salinas River and the easterly extremities of tidal action therein.

To be forever held by said district, and its successors, in trust for the uses and purposes and upon the express conditions following, to wit:

(a) That said lands shall be used by said district, and its successors, only for the establishment, improvement, and conduct of a harbor, and for the construction, maintenance, and operation thereon of wharves, docks, piers, slips, quays, and other utilities, structures, facilities, and appliances necessary or convenient for the promotion and accommodation of commerce and navigation; and said district, or its successors, shall not, at any time, grant, convey, give or alien said lands, or any part thereof, to any individual, firm or corporation for any purposes whatever; provided, that said district, or its successors, may grant franchises thereon for limited periods (but in no event exceeding 50 years), for wharves and other public uses and purposes and may lease said lands, or any part thereof, for limited periods (but in no event exceeding 50 years), for purposes consistent with the trust upon which said lands are held by the State of California, and with the requirements of commerce and navigation at said harbor.

(b) That said lands shall be improved by said district without expense to the state, and shall always remain available for public use for all purposes of commerce and navigation, and the State of California shall have at all times, the right to use, without charge, all wharves, docks, piers, slips, quays, and other improvements and facilities constructed on said lands, or any part thereof, for any vessel or railroad, owned or operated by the State of California.

(c) That in the management, conduct or operation of said harbor, or of any of the utilities, structures, appliances or facilities mentioned in paragraph (a), no discrimination in rates, tolls, or charges or in facilities for any use or service in connection therewith shall ever be made, authorized or permitted by said district or its successors.

(d) There is hereby reserved, however, in the people of the State of California the absolute right to fish in the waters of said harbor with the right of convenient access to said waters over said lands for said purposes together with the right of navigation.

(e) There is hereby excepted and reserved to the State of California all deposits of minerals, including oil and gas, in said land, and to the State of California, or persons authorized by the State of California, the right to prospect for, mine, and

remove such deposits from said land; provided, that said excepted and reserved power shall be exercised in a manner not inconsistent or incompatible with the use of said lands by grantee for purposes of commerce and navigation.

(f) The lands herein described are granted subject to the express reservation and condition that the state may at any time in the future use said lands or any portion thereof for highway purposes without compensation to the district, its successors or assigns, or any person, firm or public or private corporation claiming under it, except that in the event improvements have been placed upon the property taken by the state for said purposes, compensation shall be made to the person entitled thereto for the value of his interest in the improvements taken or the damages to such interest.

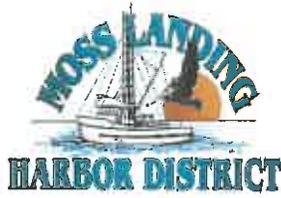
SEC. 3. Section 3 is added to Chapter 1190 of the Statutes of 1947, to read:

Sec. 3. That said amended description set forth in Section 1 of this act shall be deemed declaratory of the original meaning of said grant and all acts and agreements within, upon, or in relation to the area herein described done or executed by said district are hereby ratified and approved to the same extent as if said description had originally been set forth as herein amended.

Sec. 4. The State Lands Commission, at the cost of the Moss Landing Harbor District, shall survey and monument the granted lands referred to in this act and record a description and plat thereof in the office of the County Recorder of Monterey County. The survey required by this section shall be completed within two years after the effective date of this act.

Sec. 5. The district shall cause to be made and filed with the Department of Finance, annually, a detailed statement of receipts and expenditures by it of all rents, revenues, issues, and profits in any manner hereafter arising from the granted lands or any improvements, betterments, or structures thereon.

Exhibit B, Attachment 4  
Climate Change Hazard Regulations Comments



BOARD OF COMMISSIONERS  
Russell Jeffries  
Vincent Ferrante  
James Goulart  
Liz Soto  
Albert Lomeli

7881 SANDHOLDT ROAD  
MOSS LANDING, CA 95039

TELEPHONE – 831.633.2461  
FACSIMILE – 831.633.1201

GENERAL MANAGER/HARBOR MASTER  
Tommy Razzeca

April 29, 2025

TO: Monterey County Planning Department

ATTN: Phillip Angelo and Michael Novo

FROM: Moss Landing Harbor District, Tommy Razzeca, Harbor Master and General Manager

RE: Comments on Proposed Amendments to the Moss Landing Community Plan

By this letter, please accept these comments on behalf of the Moss Landing Harbor District Board of Commissioners (BoC) regarding proposed modifications to the draft Moss Landing Community Plan.

1. The MLHD BoC hereby references, and incorporates by reference into this letter, our MLHD comment memo dated April 15, 2025 that was delivered to you at your public meeting regarding the proposed changes. That memo is attached for the record of our comments. The resulting violations of the State Constitution related to the MLHD tidelands authority, the Public Trust Doctrine as articulated in the “National Audubon” decision by the California Supreme Court in 1983, and existing statutory enactments by the state legislature all would be violated if some of the proposed changes to the Plan were adopted. (SEE Item #8 below).
2. MLHD believes that the proposed changes addressing the new requirement for a mandatory Coastal Hazard Report (CHR) on virtually all projects within the ML Community Plan area are overly broad, legally over-reaching, and will eliminate the decision-making discretion currently held by Monterey County decision makers (Monterey County Board of Supervisor, Monterey County Planning Commission, and Monterey County Zoning Administrator).

Moreover, this new economic burden posed by the expense of a CHR for even small projects within the community plan will impede or effectively preclude any new projects from being pursued in the community.

3. The MLHD BoC strongly recommends that no CHR be required for Coastal Administrative Permits. Compliance with existing CEQA mandates adequately addresses the potential impacts of such small projects.
4. The MLHD BoC also recommends that the following language be added to clarify potential ambiguity: “Changes of uses within existing structures permitted pursuant to the North County LCP, and existing as of 2025 within the plan area, shall not be considered as “re-development projects”.
5. The MLHD BoC recommends that coastal projects proposed by The California Department of Parks and Recreation, the California Department of Fish and Wildlife, and other organizations proposing projects within areas influenced by daily tidal flow shall be required to prepare and implement CHR’s recommendations to insure that those projects do not increase tidal scour/tidal erosion of or within wetlands and marsh areas within the MLCP.
6. The MLHD BoC requests that the MLCP should be amended to add language and to indicate that “a potential relocation site of harbor facilities at Moss Landing, as a consequence of sea level rise, should be considered at Monterey County APN #133-181-001-000”.
7. The MLHD BoC recommends that “life expectancy of a new structure/project” be defined as: “New projects” within the plan area are determined to have a “life expectancy” of fifty (50) years from the date of the issuance of an applicable coastal permit.
8. Neither the County of Monterey nor the California Coastal Commission have the legal authority to mandate “deed restrictions” on state tidelands or Public Trust resources. These lands are governed by provisions of the state constitution and case law. Any reference to such new requirements (including new deed restrictions that allow the Coastal Commission and its staff to “re-visit permitted uses” already authorized by state legislature through other (non-Coastal Act) statutory authority needs to be deleted from the draft MLCP (see attached prior memo). It appears that certain proposed “revisions” in the draft plan seek to illegally extend the Coastal Commission’s regulatory authority over state tidelands that are under the ownership and control of other state or statutorily empowered governmental agencies with responsibilities over Public Trust resources.
9. The MLHD BoC requests that the following language be added: “If a consultant/author of a CHR determines that a project is likely to result in property damage or injury, or determines that a project will cause future foreseeable threats, the consultant shall certify that (in the event the consultant’s determination is incorrect) consultant’s professional liability insurance policy shall be available to cover any resulting or subsequent suits, costs, or takings claims by the landowners of the proposed project.

10. The MLHD BoC strongly recommends the elimination of the requirement for the recordation of a notice of a CHR on the deeds of lands within the plan area. State law (CA. Real Property Code) already mandates disclosure of such a report to prospective buyers. However, the proposed mandatory recordation of such a report on to the chain of title for a property in Moss Landing will effectively preclude both the ability to secure title insurance on the property and the ability to secure bank financing on the property.

11. The proposed mandatory requirement (See proposed sub-section g.) that a landowner waive its rights to relief pursuant to Public Resources Code Sec. 30235 interferes with and violates the statutory powers, rights, and authorities granted to the MLHD Board of Directors by the state legislature as part of the delegation of authority embodied in the statute which created the MLHD which predates the Coastal Act. This section and references must be deleted.

The Moss Landing Harbor District believes that many of the proposed changes to the Moss Landing Community Plan are clearly intended to require the “re-review under CEQA” and “re-permitting” of projects that have been previously approved, developed, and have been fully operational and in compliance with the certified North County Local Coastal Plan for over 40 years. It appears that they are merely “make work” provisions meant to apply to projects where no potential threat to coastal resources exist. Many of the same changes proposed by the Coastal Commission were rejected by the County of Monterey in 1984 prior to the ultimate certification of the NCLCP. Such an apparent over-reach to perpetuate bureaucratic control over existing developments is unacceptable to the MLHD.

The MLHD believes that the draft plan from 2023 was generally well drafted. However, the previously unseen “new”, apparently Coastal Commission staff- driven amendments are unworkable, legally suspect and over-reaching, compromise the discretion of the Board of Supervisors and the Planning Commission, and if approved will impose significant financially punitive impacts upon small projects and small landowners.

The MLHD Board of Commissioners respectfully requests the modifications to the MLCP as referenced herein.

Respectfully,

Tommy Razzeca

General Manager/Harbor Master

Moss Landing Harbor District



April 18, 2025

Mike Novo  
County of Monterey  
1441 Schilling Place, 2<sup>nd</sup> Floor  
Salinas, CA 93901

**RE: Moss Landing Draft Climate Change  
Hazard Regulations**

Dear Mr. Novo:

Monterey-Salinas Transit District (MST) provides public transportation throughout the County of Monterey and provides regional fixed-route services to the unincorporated communities of Monterey County, including Moss Landing. MST has reviewed the Moss Landing Draft Climate Change Hazard Regulations and would like to make the following comments for your consideration:

**MST Existing Service**

MST provides a service through Moss Landing with Line 28 (Watsonville via Castroville), which serves ten (10) bus stops along Highway 1 right-of-way. Line 28 operates daily between Salinas and Watsonville and has a frequency of every two (2) hours from 6:45 AM-7:45 PM.

MST is the sole public transit operator in Monterey County and works with County Office of Emergency Services during natural disasters. MST is often tasked to help evacuate members of the public during emergencies such as flooding.

**Moss Landing Draft Climate Change Hazard Regulations Comments**

At the time of this letter, MST does not have plans for developing or expanding its transit service to Moss Landing. However, if the state improves the corridor, it may upgrade existing bus stop infrastructure within Moss Landing along Highway 1 to be in accordance with the Americans with Disabilities Act (ADA). Bus stop infrastructure upgrades can include the following:

- Concrete foundation improvements for a smooth and unobstructed pedestrian through zone area and passenger landing pad that meets the dimensions and slope requirements of the ADA
- Curb long enough for buses to pull alongside and open both front and rear doors to allow passengers to board or exit the sidewalk
- Amenities such as benches, shelters, and trash can also be installed if certain ridership thresholds are met for an individual stop.

*Advocating and delivering quality public transportation as a leader within our community and industry.*

**Transit District Members** Monterey County • Carmel-by-the-Sea • Del Rey Oaks • Gonzales • Greenfield • King City • Marina • Monterey  
Pacific Grove • Salinas • Sand City • Seaside • Soledad **Administrative Offices** 19 Upper Ragsdale Drive, Suite 200 Monterey, CA 93940

PH 1-888-MST-BUS1 (1-888-678-2871) • FAX (831) 899-3954 • WEB [mst.org](http://mst.org)

All bus stop layouts and designs are outlines in MST's Designing for Transit Guidelines (2020) and must adhere as closely as possible to ensure all passengers have safe and adequate access to bus stop facilities. MST will work closely with County staff to ensure that all permitting and adequate documentation is completed during the bus stop upgrade process.

MST would like to thank the County of Monterey for the opportunity to comment on the Moss Landing Draft Climate Change Hazard Regulations. As this plan moves forward, we ask that you continue to collaborate with MST. If you have any questions about the above comments, please do not hesitate to contact me at [epatel@mst.org](mailto:epatel@mst.org) or 831-264-9288.

Sincerely,

A handwritten signature in black ink that reads "Emma Patel". The signature is written in a cursive, flowing style.

Emma Patel  
Planning Manager

**From:** [Nina Beety](#)  
**To:** [Novo, Mike](#)  
**Cc:** [Church, Glenn](#); [assemblymember.addis@assembly.ca.gov](mailto:assemblymember.addis@assembly.ca.gov); [ki6tkb@yahoo.com](mailto:ki6tkb@yahoo.com)  
**Subject:** Amend Moss Landing Community Plan  
**Date:** Monday, April 21, 2025 11:42:58 AM

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Mike Novo  
Monterey County Planning Department

Recently, the county released a draft update memo "Climate Change Hazards Section Moss Landing Community Plan Update." On page 11, Section D.4.b.1, under Non-conforming Structure Development Standards, it states that structures damaged or destroyed by fire in the coastal area around Moss Landing may be rebuilt.

Please amend the draft plan to explicitly exclude battery storage facilities from this policy.

Thank you.

Nina Beety  
Monterey

**From:** [Fabienne Collier](#)  
**To:** [Novo, Mike](#)  
**Subject:** Section "D-1 Area of Applicability"  
**Date:** Monday, April 21, 2025 11:30:13 AM

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Sir:

I request that the following simple fix be inserted into Section "D-1 Area of Applicability" of the draft updated Moss Landing Community Plan:

"None of the policies in this updated community plan apply to the industrial area where battery storage is ongoing. »

Respectfully,

Fabienne Boulongne-Collier

**From:** [Emma Brayfield](#)  
**To:** [Novo, Mike](#)  
**Subject:** Battery Storage  
**Date:** Sunday, April 20, 2025 5:22:38 PM

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Please do not let Vistra rebuild. There needs to be more regulations and safety measures.

**I request that the following simple fix be inserted into Section “D-1 Area of Applicability” of the draft updated Moss Landing Community Plan:**

**“None of the policies in this updated community plan apply to the industrial area where battery storage is ongoing.”**

--Emma  
Citizen of Prunedale

**From:** [Stella Bryan](#)  
**To:** [Novo, Mike](#)  
**Subject:** Vista Energy Battery Plant  
**Date:** Sunday, April 20, 2025 10:39:14 AM

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Hi, I am very concerned about the Vista Energy plant and the potential for it to be rebuilt. I think it is important to insert the below into the Moss Landing Community Plan.

**I request that the following simple fix be inserted into Section “D-1 Area of Applicability” of the draft updated Moss Landing Community Plan:**

**“None of the policies in this updated community plan apply to the industrial area where battery storage is ongoing.”**

Regards,  
Stella Bryan

**From:** [oceandancewi1@aol.com](mailto:oceandancewi1@aol.com)  
**To:** [Novo, Mike](#)  
**Subject:** Community Plan  
**Date:** Tuesday, April 22, 2025 10:06:20 AM

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Good morning,

To whom it may concern:

I request that the following simple fix be inserted into Section "D-1 Area of Applicability" of the draft updated Moss Landing Community Plan:

"None of the policies in this updated community plan apply to the industrial area where the battery storage is going on.

Thank you,

A concern citizen

**From:** [Sorcha Strnad Conneely](#)  
**To:** [Novo, Mike](#)  
**Subject:** Fix to Moss Landing Community Plan  
**Date:** Sunday, April 20, 2025 10:54:04 AM

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Dear Mike Novo,

I request that the following simple fix be inserted into Section “D-1 Area of Applicability” of the draft updated Moss Landing Community Plan:

“None of the policies in this updated community plan apply to the industrial area where battery storage is ongoing.”

Thank you,  
Sorcha Strnad Conneely

**From:** [Peg Crowley](#)  
**To:** [Novo, Mike](#)  
**Subject:** Vistra Energy Plant Moss Landing Monterey CA  
**Date:** Thursday, May 1, 2025 7:19:14 PM

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It is unconscionable in my opinion that this type of storage / battery power plant should have ever been approved literally in the middle of a sensitive marine and agricultural ecosystem. It is shameful that anyone from Monterey would have approved this or would be considering approving it's reconstruction. I believe that anyone approving this should be held accountable to the highest court in the land if there is consideration for establishing and/or supporting another impending disaster!

Lithium Ion Batteries have a well-known history of volatility. Go put it in the desert but if one is established near a sensitive ecosystem then I hope that there is a very special place in Hell for any supporters.

Margaret Crowley  
800 Dolan Rd, Moss Landing

**From:** [sheryl davidson](#)  
**To:** [Novo, Mike](#)  
**Subject:** D1 Area of Applicability  
**Date:** Monday, April 21, 2025 8:10:36 AM

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**To the County of Monterey,**

**After the lithium battery storage facility fires located in Moss Landing closing loopholes in our ordinances would be a prudent decision. Clean up has not begun and it would not be in the community's interest to have a build going on during the delicate period of clean up. It would be another disaster waiting to happen.**

**I request that the following simple fix be inserted into Section "D-1 Area of Applicability" of the draft updated Moss Landing Community Plan:**

**"None of the policies in this updated community plan apply to the industrial area where battery storage is ongoing."**

**Thank you,  
Sheryl Davidson  
District 2 resident**

**From:** [Christina Davis](#)  
**To:** [Novo, Mike](#)  
**Subject:** Request for inserted language  
**Date:** Monday, April 21, 2025 12:59:20 PM

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Dear Mr. Novo,

In consideration of public health and sanctuary habitat, I request that the following simple fix be inserted into Section "D-1 Area of Applicability" of the draft updated Moss Landing Community Plan:

"None of the policies in this updated community plan apply to the industrial area where battery storage is ongoing."

Thank you.

-Christina Davis, Prunedale Resident

**From:** [Mary Davis-Lauth](#)  
**To:** [Novo, Mike](#)  
**Subject:** Regarding Vistras application to rebuild at Moss Landing  
**Date:** Monday, April 21, 2025 9:56:16 AM

---

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Attention county planning committee:

I request that the following simple fix be inserted into Section "D-1 Area of Applicability" of the draft updated Moss Landing Community Plan:

"None of the policies in this updated community plan apply to the industrial area where battery storage is ongoing."

Please do not approve a rebuild at the storage facility instead a cleanup needs to be done.

Thank you for your attention to this matter.

Mary Davis-Lauth  
Scotts Valley, California

**From:** [Mary Davis-Lauth](#)  
**To:** [Novo, Mike](#)  
**Subject:** Moss Landing Community Plan  
**Date:** Monday, April 21, 2025 9:51:13 AM

---

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**I request that the following simple fix be inserted into Section “D-1 Area of Applicability” of the draft updated Moss Landing Community Plan:**

**“None of the policies in this updated community plan apply to the industrial area where battery storage is ongoing.”**

Thank you,

Mary Davis-Lauth  
Scotts Valley, California

**From:** [Ed Mitchell](#)  
**To:** [Novo, Mike](#)  
**Subject:** My Public Comment - Moss Landing Community Plan Update  
**Date:** Thursday, April 17, 2025 6:38:43 AM

---

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The recently released draft Moss Landing Community Plan mentions that structures damaged or destroyed by “fire” in the Coastal area around Moss Landing could be rebuilt. To ensure that the updated plan does not include the burnt-down Vistra indoor battery storage building, the community plan should clearly exclude that industrial site in any “coastal fire” policy.

I request that the following simple fix be inserted into Section "D-1 Area of Applicability" of the draft updated Moss Landing Community Plan:

“None of the policies in this updated community plan apply to the industrial area where battery storage is ongoing.”

Ed Mitchell  
North County Resident

**From:** [GayleneFlower](#)  
**To:** [Angelo, Philip](#); [Novo, Mike](#)  
**Cc:** [SLRGuidanceDocument@coastal.ca.gov](mailto:SLRGuidanceDocument@coastal.ca.gov)  
**Subject:** RE: Public Comment – Moss Landing Community Plan Update: Climate Change Impacts and Hazard Policies  
**Date:** Monday, April 28, 2025 9:19:38 AM

---

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County of Monterey  
Housing & Community Development Department  
Attn: Phil Angelo, Supervisor  
Mike Novo, Management Specialist  
1441 Schilling Place, 2nd Floor South  
<https://www.nps.gov/articles/000/biologists-restored-an-estuary-to-revive-eelgrass-then-an-otter-swam-118-miles-to-reach-it.htm> Salinas, CA 93901

RE: Public Comment – Moss Landing Community Plan Update: Climate Change Impacts and Hazard Policies

Dear Mr. Angelo, Mr. Novo, and Planning Department Staff,

First of all, thank you again for emailing me the Plan Update Meeting video and slide show, and all your work on behalf of both the environment and the local community. I am writing to express my concern regarding the escalating impacts of climate change on the coastal ecosystems of Moss Landing, particularly its beaches and dunes. I appreciate the County's ongoing work to proactively address the threats posed by climate change, sea level rise, erosion, and habitat loss in this vital coastal area.

As a resident of Moss Landing Heights, I have observed firsthand on my daily beach walks, the challenges posed by rising sea levels, increased erosion, and habitat degradation. Climate Change is here.....The believe the most effective overall strategy to prevent climate change effects on beaches and dunes is to prioritize nature-based solutions, which integrate ecological restoration with coastal protection, such as dune stabilization using native plants, managed retreat where appropriate, wetland expansion in North Harbor , along Harbor boundaries, and eelgrass restoration.

### **General Support and Recommendations**

I strongly support the inclusion of climate adaptation policies that prioritize nature-based solutions, the preservation of sensitive habitats, and the integration of best available science in planning and permitting processes. Moss Landing, with its proximity to Elkhorn Slough, endangered and threatened species, coastal dunes, tidal beaches, eelgrass beds, and rare marine mammal habitats, is a region of extraordinary ecological importance that demands strategic, sustainable stewardship as long as possible from the threat of climate change.

In light of these issues, I urge the Planning Department to consider the following adaptation strategies:

- 1. Habitat Restoration and Enhancement:**

**Continued Restoration** of native vegetation along dunes and beaches can improve resilience against storm surges and sea-level rise. Dune vegetation helps anchor sand

and soil, reducing erosion and maintaining the structural integrity of coastal landscapes. Incorporating habitat restoration into coastal management plans ensures the preservation of biodiversity and the provision of critical ecosystem services. I have provided links for some suggested implementations and possible solutions:

[https://mlml.sjsu.edu/ccwg/wp-content/uploads/sites/23/2022/01/SRSB-Dune-Restoration-and-Management-Plan\\_Final2021.pdf](https://mlml.sjsu.edu/ccwg/wp-content/uploads/sites/23/2022/01/SRSB-Dune-Restoration-and-Management-Plan_Final2021.pdf)

2. **Eelgrass Restoration and Protection:**

**Eelgrass** beds play a critical role in stabilizing sediments, reducing coastal erosion, and enhancing water quality. Recent studies have shown that healthy eelgrass meadows can reduce wave energy by up to 90%, acting as a natural buffer against storm surges and shoreline loss. In addition, eelgrass sequesters significant amounts of carbon—up to 35 times faster than tropical rainforests—making it a powerful tool in mitigating climate change. The Morro Bay National Estuary Program’s recent success in restoring eelgrass—expanding from 13 acres in 2017 to over 500 acres by 2021—demonstrates the real-world potential of this strategy. Implementing similar projects in Moss Landing could significantly protect both natural habitats and nearby human infrastructure. This erosion is expected to intensify with rising sea levels and stronger storm surges.

<https://www.nps.gov/articles/000/biologists-restored-an-estuary-to-revive-eelgrass-then-an-otter-swam-118-miles-to-reach-it.htm>

3. **Cattails:** In the back north Harbor. Excellent for erosion control. Cattails absorb phosphorus, preventing algal blooms, and are successful at removing very toxic substances such as mercury and arsenic and even pharmaceuticals. They are beneficial to wildlife and in particular bird species. California native cattail attracts both songbirds such as red-winged blackbirds and waterfowl such as mallards, ducks, and cormorants. Recommended for large ponds, streams or marsh edges.

4. **Community Engagement and Education:**

Engaging local communities and particularly the Harbor District in climate adaptation efforts fosters stewardship and enhances the effectiveness of implemented strategies. The Harbor District traditionally has opposed many of the environmental regulations and has moved many times in detouring climate change adaptations. For example, many Cypress Trees and Monterey Pines were cut down to expand with Harbor without input from the community in previous times. In 2023, the Harbor District cut down 8 over 100 year old trees at Salinas River Beach without permits. The North Harbor has an abundance of natural resources, in particular birding opportunities for the public and community. Educational programs can raise awareness about the importance of coastal ecosystems and encourage sustainable climate change practices. Development of a Shoreline and Harbor Adaptation Plan, in collaboration with Moss Landing Harbor District and other stakeholders. In particular the MBARI Labs should focus on protecting sensitive biological areas, including eelgrass beds, tidal beaches, and marine mammal haul-out zones and not pursue research at all costs.

5. Also, as a side note, I wanted to make you aware of the damage that has occurred to the primary nesting area at the mouth of Elkhorn Slough (near Hwy 1 bridge) by the Vistra fires. These native Egrets, large and small, have lost their primary nesting sites. The ecological restoration of the Harbor area may be a solution if the Harbor District is open to the solution. I encourage the Planning Department to regulate these activities and

encourage the Harbor District to donate some of these valuable lands to the State of California Parks District.

<https://www.smharbor.com/west-trail-living-shoreline-project>

I have also attached the Morro Bay Climate Change Impact Report and Suggestions (2025), which includes practical, science-based strategies that can inform this plan.

<https://library.mbnep.org/wp-content/uploads/2025/02/Collective-Impact-Report-2024.pdf>

### **Specific Policy Comments and Support**

#### **Section 5.2.6.G – Coastal Hazard Avoidance**

- **5.2.6.G.1–G.2:** I support requiring that all new development be sited, designed, and constructed to avoid climate-related coastal hazards which include: flooding, winds, erosion, and habitat destruction. Development that could negatively impact beaches, dunes, wetlands, estuaries, and other sensitive ecosystems should not be permitted.
- Avoidance of shoreline protective devices, if at all possible, and the preservation of natural landforms should be clearly enforced.
- Minor uses near shorelines should be allowed only if they minimize exposure to hazards and do not include major structural components or cause ecological disruption.

#### **Section 5.2.6.G.3–G.4 – Hazard Disclosure and Easements**

- I support deed restrictions that notify property owners of site-specific hazards, and the requirement that high-risk areas be placed under conservation easements or appropriately rezoned to protect natural resources and prevent unsustainable development.

#### **Section 5.2.6.H – Shoreline and Harbor Adaptation**

- The County prioritize natural protection strategies such as dune restoration, beach nourishment, native vegetation planting, and managed retreat where feasible.
- Development of a Shoreline and Harbor Adaptation Plan, in collaboration with Moss Landing Harbor District and other stakeholders, should focus on protecting sensitive biological areas, including eelgrass beds, tidal beaches, and marine mammal haul-out zones.
- Preservation of Elkhorn Slough National Estuarine Research Reserve as well as critical bird and wildlife habitats near the Harbor and shorelines should be explicitly prioritized as part of long-term planning.

#### **Section 5.2.6.H.3–H.4 and 5.2.6.I – Shoreline Protection Devices**

- While structural armoring may be necessary in some locations (e.g., portions of Highway 1 or harbor infrastructure), the first response should be natural protection methods.
- If shoreline protective devices are allowed, they must be designed to avoid disrupting

sand supply, protect coastal species, and incorporate public access where feasible.

- Projects should only be permitted if no feasible alternative exists, and resource impacts are fully mitigated.

## **Development Regulations & Code Compliance**

I support the inclusion of policies requiring:

1. Certified hazard studies for development in risk-prone areas (flood zones, tsunami zones, ).
2. Exclusion of certain industrial sites, such as the Vistra/Tesla lithium-ion battery facility, from any "coastal fire" rebuilding allowances.
3. Recordation of deed restrictions for Hazardous Zones.
4. Clear removal/relocation standards for non-conforming or at-risk structures, especially hazardous materials..
5. Continued public hearings and transparency for all community plan amendments.
6. Moss Landing Community protection from climate change due to increasing wind speeds,(example 2023 101 mph winds in Carmel) completion of the project of removing of power lines in Moss Landing Heights on Pieri Road and relocating underground for the safety of Moss Landing residents.
7. Clarify the Hwy 1 projections for flooding 2030 and mitigate protections for the Moss Landing Heights Residents from extreme flooding hazards ,highway noise and emergency exit procedures if all roads are flooded.

## **Conclusion**

The Moss Landing Community Plan Update offers a critical opportunity to create a science-based, community-driven approach to coastal resilience. I commend the County's direction and urge continued prioritization of natural habitat protection, sustainable development, and climate adaptation regulations to preserve the ecological and economic future of Moss Landing Heights residents and its surrounding coastal ecosystems and communities..

**Thank you again** for emailing me the Plan Update Meeting video and slide show, and all your work on behalf of both the environment and the local community. You are appreciated!

Sincerely,  
Gayle Eisner  
Resident,  
Moss Landing Heights  
gaylene5555@gmail.com

**From:** [Vicky Flower](#)  
**To:** [Novo, Mike](#)  
**Subject:** Updated Moss Landing Community Plan  
**Date:** Monday, April 21, 2025 12:12:23 PM

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**I request that the following simple fix be inserted into Section “D-1 Area of Applicability” of the draft updated Moss Landing Community Plan:**

**“None of the policies in this updated community plan apply to the industrial area where battery storage is ongoing.”**

**Sincerely,  
Vicky Flower**

**From:** [David Glovin](#)  
**To:** [Novo, Mike](#)  
**Subject:** Please do not rebuild the most landing Vista battery facility. I live in the harbor here and you are directly affecting my health  
**Date:** Sunday, April 20, 2025 3:48:08 PM

---

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None of the policies in this updated community plan apply to the industrial area where battery storage is ongoing."

David Glovin

**From:** [sharon.tosto](mailto:sharon.tosto)  
**To:** [Novo.Mike](mailto:Novo.Mike)  
**Subject:** Moss Landing Community Climate Change Plan April 15th Meeting Comments  
**Date:** Saturday, April 19, 2025 5:14:35 PM

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Hello Mr. Novo,

I am following up via email on the comments made at the April 15, 2025 meeting discussing the DRAFT Climate Change Hazards Section [Moss Landing Community Plan Update](#)

My concern with the recently released draft Moss Landing Community Plan is the mention of structures damaged or destroyed by “fire” in the Coastal area around Moss Landing could be rebuilt. To ensure that the updated plan does not include the burnt-down Vistra indoor battery storage building, the community plan should clearly exclude that heavy industrial site in any “coastal fire rebuild” policy. By stating that **heavy industrial zones** cannot rebuild non-conforming buildings that are lost, this policy would have minimal negative impact on small businesses and residents.

I request that the following simple fix be inserted into Section “D-1 Area of Applicability” of the draft updated Moss Landing Community Plan:

"None of the policies in the updated community plan apply to the industrial area where battery storage is ongoing."

To enhance community safety, the plan should require that all energy storage systems that are lost due to fire or other causes must reapply for permits and be constructed according to the most recently adopted codes. This requirement could apply to energy storage systems used in heavy industrial, industrial, and residential settings, as the technology and regulations are rapidly evolving.

Please let me know if you need me to clarify any of my comments. Thank you for your time and consideration.

Best,

Sharon Greenstein

**From:** [annie.griffin](#)  
**To:** [Novo, Mike](#)  
**Cc:** [annie.griffin](#); [Nina Beety](#)  
**Subject:** No Storage facility around our most precious" Sanctuary!  
**Date:** Friday, April 25, 2025 4:12:11 PM

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**Dear Mr. Nova,**

**I request that the following simple fix be inserted into Section "D-1 Area of Applicability" of the draft updated Moss Landing Community Plan:**

**"None of the policies in this updated community plan apply to the industrial area where battery storage is ongoing."**

In the Draft update memo that the county update team circulated 2 weeks ago, on page 11, paragraph b, there was a statement about "fire" that did not preclude Vistra from automatically being approved to rebuild. Specifying that the updated policy DOES NOT apply to battery storage facilities will preclude the county from inadvertently opening the backdoor for Vistra to rebuild because of a fire.

The recently released draft Moss Landing Community Plan mentions that structures damaged or destroyed by "fire" in the Coastal area around Moss Landing could be rebuilt. To ensure that the updated plan does not include the burnt-down Vistra indoor battery storage building, the community plan should clearly exclude that industrial site in any "coastal fire" policy.

Sincerely,

Annie Griffin

831 582 1705 Annie Griffin

**From:** [Beth Hecht](#)  
**To:** [Novo, Mike](#)  
**Subject:** Re: Moss Landing Community Plan draft  
**Date:** Sunday, April 20, 2025 1:33:23 PM

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Dear Mike Novo,

I respectfully request that the following simple fix be inserted into Section “D-1 Area of Applicability” of the draft updated Moss Landing Community Plan:

“None of the policies in this updated community plan apply to the industrial area where battery storage is ongoing.”

Sincerely,  
Beth Hecht  
Santa Cruz County Resident

**From:** [Emma Patel](#)  
**To:** [Novo, Mike](#)  
**Subject:** Moss Landing Draft Climate Change Hazards Regulations MST Comments  
**Date:** Friday, April 18, 2025 4:04:47 PM  
**Attachments:** [image001.png](#)  
[MST Comments - Climate Change Hazards Moss Landing Community Plan 04 2025.pdf](#)

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Hello Mr. Novo,

Please find attached MST's comments for the Moss Landing Draft Climate Change Hazards Regulations.

Thank you,  
Emma

Emma Patel  
Planning Manager  
(831) 264-9288  
[epatel@mst.org](mailto:epatel@mst.org)



Monterey-Salinas Transit  
19 Upper Ragsdale Drive, Suite 200  
Monterey, CA 93940  
[www.mst.org](http://www.mst.org)

Our mission is advocating and delivering quality public transportation as a leader within our community and industry.

**From:** [Jane Parks-McKay](#)  
**To:** [Novo, Mike](#)  
**Subject:** Community plan  
**Date:** Sunday, April 20, 2025 9:46:18 AM

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I understand that a recent community plan could allow the vistra battery storage plant to be rebuilt. Please do not allow this plant to be operated if safety is not followed. Thankyou.

Jane Parks-McKay

Sent from my iPhone

**From:** [C. Robinson](#)  
**To:** [Novo, Mike](#)  
**Subject:** Moss Landing  
**Date:** Sunday, April 20, 2025 9:59:59 AM

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**Hello, my name is Cheryl Robinson. I live in Elkhorn.  
I request that the following simple fix be inserted into Section “D-1 Area of Applicability” of the draft updated Moss Landing Community Plan:**

**“None of the policies in this updated community plan apply to the industrial area where battery storage is ongoing.”**

**Please listen to the community!  
we are screaming to be heard!  
we are the winners or casualties of your decision making.**

**thank you**

**From:** [Kathy S](#)  
**To:** [Novo, Mike](#)  
**Subject:** Regarding Vistras application to rebuild at Moss Landing  
**Date:** Sunday, April 20, 2025 10:55:30 PM

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Attention county planning committee:

I request that the following simple fix be inserted into Section “D-1 Area of Applicability” of the draft updated Moss Landing Community Plan:

“None of the policies in this updated community plan apply to the industrial area where battery storage is ongoing.”

Please do not approve a rebuild at the storage facility instead a cleanup needs to be done.

Thank you for your attention to this matter.

[Kathy Sparrow](#)

**From:** [Becky Steinbruner](#)  
**To:** [Novo, Mike](#)  
**Cc:** [Church, Glenn](#); [Assemblymember Dawn Addis](#); [Becky Steinbruner](#)  
**Subject:** Please Amend Moss Landing Community Plan to Exclude Possible Rebuild of Vistra BESS Facilities  
**Date:** Sunday, April 20, 2025 10:08:56 PM

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Dear Mr. Novo,

I am aware that the draft updated Moss Landing Community Plan, as it is currently proposed, would allow the Vistra Battery Energy Storage System (BESS) facility to be rebuilt. This should not be allowed, due to the multitude of sensitive receptors near the site.

Therefore, I request the following amendment to the Section "D-1 Area of Applicability" of the draft updated Moss Landing Community Plan include *"none of the policies in this updated Community Plan apply to the industrial area where battery energy storage systems (BESS) is ongoing."*

Please acknowledge your receipt of this message. Thank you.

Sincerely,  
Becky Steinbruner

**From:** [Dick Strubbe](#)  
**To:** [Novo, Mike](#)  
**Subject:** Moss Landing Community Plan amendment  
**Date:** Sunday, April 20, 2025 9:37:51 AM

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**Mr. Novo,**

**I request that the following simple fix be inserted into Section “D-1 Area of Applicability” of the draft updated Moss Landing Community Plan:**

**“None of the policies in this updated community plan apply to the industrial area where battery storage is ongoing.”**

Richard Strubbe

**From:** [Sheila Taylor](#)  
**To:** [Novo, Mike](#)  
**Subject:** Request for revision in community plan Section D-1  
**Date:** Sunday, April 20, 2025 4:23:57 PM

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**I request that the following simple fix be inserted into Section “D-1 Area of Applicability” of the draft updated Moss Landing Community Plan:**

**“None of the policies in this updated community plan apply to the industrial area where battery storage is ongoing.”**

**Sheila Taylor, resident  
Moss Landing, CA**

Sent from my iPhone

Exhibit B, Attachment 5  
Miscellaneous Comments

**From:** Andrew DeVogelaere <andrew.devogelaere@gmail.com>  
**Sent:** Monday, April 28, 2025 9:54 AM  
**To:** Novo, Mike <NovoM@countyofmonterey.gov>  
**Subject:** DeVogelaere comments on Moss Landing Community Plan

Scanned copy of  
Moss Landing  
Community Plan  
not attached to  
exhibit for brevity  
-HCD-Planning

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Mike Novo:

Please find attached my comments on the Moss Landing Community Plan draft. I have attached a file where I scanned the report with my hand written comments on it.

I've been engaged in the process over the many years of developing the plan. I think the latest draft is a nice piece of work, that includes responding to many comments from the Moss Landing community, where I live.

One issue that is important to me and only touched on in the plan is the need to underground the electrical wires on Pieri Court. The plans for the work were completed but the project was stopped the week before it was to be initiated because of lack of funds (I think they were used to cover cost overruns in the similar "downtown" effort). At any rate, it leaves this street one of the few areas in Moss Landing without buried power lines. It would be great if the County could look for funds to finish off this community effort, and make sure that it is clearly mentioned in the plan. When I retire, I'd be happy to work on grant funding opportunities myself. Any way to highlight this more in the plan would be appreciated.

Again, nice work on this daft and please feel free to contact me if I can be of help.

~ Andrew DeVogelaere  
P.O. Box 172  
Moss Landing, CA

[andrew.devogelaere@gmail.com](mailto:andrew.devogelaere@gmail.com)

(831) 234-5940

---

**From:** Roger <roger@industrialartist.com>  
**Sent:** Friday, March 21, 2025 4:53 AM  
**To:** Estrada, Armida <EstradaAR@countyofmonterey.gov>  
**Cc:** Nancy Russell <rusnancy@gmail.com>  
**Subject:** Re: Moss Landing Community Plan Workshop Announcement

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Hi Armida,

The potable water main currently serving residents in the Moss Landing Heights area is small, old, corroding, and subject to frequent failure. Leaks occur regularly with no provocation due to corroded sections blowing out holes. Often big leaks run for many days while the utility alerts are completed and the crews get out here to make the repair. There was a project started to replace the water main years ago that was mostly completed, but the main was not finished. I don't know if any residences are hooked up to the partially complete new main, and it was

never finished to even reach all of the houses. Our rates were raised many years ago with a note that the raise would complete the main and connect it to all of the houses. After some time with no action, I inquired of the water service provider at the time when the project was to begin. The response I got that the money from the increased rates had to be used for cost overruns relating to the new water main that was included with the bridge replacement project over to the island (where MBARI is). The residents of Moss Landing Heights need a sustainable and safe potable water infrastructure and some aspect of this new plan should address this existing failure in progress.

Thank you,

Roger Edberg

10946 Pieri Court

**From:** [Vierra, Marilyn](#)  
**To:** [Angelo, Philip](#)  
**Subject:** Quick Question  
**Date:** Monday, December 16, 2024 3:31:59 PM  
**Attachments:** [image001.png](#)

---

Good afternoon, Phil:

I have been skimming the clean version of the Moss Landing Community Plan, and found on p. 44 that the Moss Landing Post Office is named as an existing structure that should be “preserved, maintained, and if necessary, appropriately rehabilitated.” I think you must be aware that the Post Office has been ruined with a sudden and totally inept remodeling for an unknown purpose. We locals have wondered what could possibly have gone awry there. At any rate, the Plan should be edited!



Marilyn Vierra  
Chief of Staff  
District 2  
Supervisor Glenn Church  
11140 Speegle St.  
Castroville, CA 95012  
(831) 755-5022, ext. 8735  
[VierraM@countyofmonterey.gov](mailto:VierraM@countyofmonterey.gov)

June 30, 2025

Monterey County Housing & Community Development  
Planning Division  
1441 Schilling Place – South, 2nd Floor  
Salinas, CA 93901  
Email: novom@countyofmonterey.gov

Re: Moss Landing Community Plan (MLCP)

Dear Monterey County Planning Staff,

On behalf of San José State University, we appreciate the opportunity to comment on the Draft Moss Landing Community Plan. Our Moss Landing Marine Laboratories (MLML) - the main lab and associated properties across Moss Landing - have been a meaningful presence in the region since 1965 with a focus on marine science research and education. We are fortunate to have a strong presence in the biologically rich Elkhorn Slough and coast environment and are deeply invested in regional planning decisions that impact human health, ecosystem vitality, and coastal resilience. Given MLML's scientific mission and location within one of the most sensitive estuarine environments on the West Coast, we commend Monterey County for the continued progress on the Draft of the Community Plan and offer the following comments and recommendations:

- 1. Continue to Develop and Enhance the Shoreline and Harbor Adaptation Plan (SHAP)**  
We support integrating specific climate change resilient development approaches that account for sea level rise, flooding, and coastal hazards. As a scientific institution with broad expertise in coastal ecosystems and a significant presence along the shoreline and harbor, MLML would welcome continued engagement in SHAP development, offering input on habitat preservation, infrastructure siting, and adaptation strategies for the Moss Landing region and other at-risk areas.
- 2. Strengthen Multimodal Access and Coastal Trail Connectivity**  
We encourage continued investment in the California Coastal Trail (CCT) through the extension of pedestrian connections and trail hardening. The CCT serves not only as a recreation and transportation corridor but also as a means of public engagement with the coast and its changing conditions. As progress continues, the trail system should be designed to minimize environmental impact while improving access for communities and resources such as MLML.
- 3. Protect and Retrofit Highway 1**  
Highway 1 is a lifeline for coastal communities, institutions, and emergency response. Given its vulnerability to sea level rise, the County should plan for long-term protection, strategic retreat, or realignment of this critical corridor to maintain access and continuity while reducing pressure on shoreline ecosystems.

**4. Invest in Safe and Climate-Resilient Infrastructure**

Future development located in coastal or low-lying areas must incorporate resilient design standards to protect both human life and natural systems. Infrastructure investments should emphasize natural buffers, elevated development, and green infrastructure solutions over hard armoring along areas of sensitive habitat, which can disrupt sediment flow and habitat function. Work should also be done to maintain the health and safety of all residents as additional uses, such as energy storage, are considered.

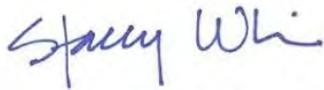
**5. Expand Workforce Housing**

We are encouraged by the County's commitment to allowing housing in support of employees. However, we urge the County to further revise the Community Plan to explicitly recognize the unique and pressing housing needs of students, faculty, and technical staff affiliated with institutions like MLML and other coastal research and education facilities. While the plan does support limited employee housing and/or mixed use in the small commercial zone, we ask that the County consider a broader definition of housing types to allow for all housing types for all markets.

We look forward to continuing collaboration on the Moss Landing Community Plan and Shoreline and Harbor Adaptation Plan and welcome opportunities to support approaches that celebrate and protect coastal environments while providing the necessary infrastructural investment that supports Monterey County's scientific, educational, and economic vitality.

Thank you for your consideration.

**Sincerely,**



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cc:

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