

MONTEREY COUNTY PLANNING COMMISSION
FEBRUARY 28, 2018
AGENDA ITEM NO. 3



Additional Correspondence

**GPZ090005 – Moss Landing Community Plan -
Workshop**

FOR ADDITIONAL INFORMATION CONTACT:

Bob Schubert, Senior Planner
Monterey County Resource Management Agency
1441 Schilling Place, 2nd Floor South, Salinas CA, 93901
(831) 755-5183 schubertbj@co.monterey.ca.us

McDougal, Melissa x5146

From: Marc Del Piero <mjdelpiero@aol.com>
Sent: Thursday, February 22, 2018 8:37 AM
To: McDougal, Melissa x5146
Cc: erickson@stamplaw.us
Subject: Re: Monterey County Planning Commission - Wednesday, February 28, 2018 Agenda

We got the notice. The county never responded to our comments nor did they give us a follow up meeting. JOHN Phillips has already made promises to give away the sewer capacity and the county's position is that water is not a problem. The "new" policy statement at the beginning of the draft reflects Phillips pro business/ anti environment/ anti coastal protection politics. Russ Jeffries, Tony Leonardini, and I will be there. The good old days at Monterey County are over. "Don't confuse me with the law or the facts. Whatever Don Chaplin wants is ok. "

Sent from my iPhone

On Feb 22, 2018, at 8:23 AM, McDougal, Melissa x5146 <McDougalM@co.monterey.ca.us> wrote:

Good Morning,

Please see the attached Revised Planning Commission Agenda for February 28, 2018.

Changes: Agenda Items numbered and a minor typo has been corrected.

Thank you,

Melissa McDougal
Senior Secretary
Monterey County
Resource Management Agency
1441 Schilling Place
Salinas CA 93901
Direct Line: (831) 755-5146
Fax: (831) 757-9516



From: McDougal, Melissa x5146
Sent: Wednesday, February 21, 2018 4:30 PM
Subject: Monterey County Planning Commission - Wednesday, February 28, 2018 Agenda

Good Afternoon,

Please find the attached agenda for the February 28, 2018 Planning Commission Meeting.

The following projects are scheduled:

PLN160608 - Bailey
PLN150805 - The Big Sur Land Trust (Lobos Ridge)
GPZ090005 - Moss Landing Community Plan - Workshop (Scheduled at 10:30 a.m.)

You may also view the agenda with live links at:
<https://monterey.legistar.com/Calendar.aspx> or searching by project file
number at: <https://aca.accela.com/monterey/> .

Thank you,

Melissa McDougal
Senior Secretary
Monterey County
Resource Management Agency
1441 Schilling Place
Salinas CA 93901
Direct Line: (831) 755-5146
Fax: (831) 757-9516

<PC Agenda 2-28-18 - Revised.pdf>

McDougal, Melissa x5146

From: Linda G. McIntyre <mcintyre@mosslandingharbor.dst.ca.us>
Sent: Thursday, February 22, 2018 5:09 PM
To: McDougal, Melissa x5146
Subject: RE: Monterey County Planning Commission - Wednesday, February 28, 2018 Agenda
Attachments: Response to DEIR MLCP - 2013MAY16.doc; Signed ML Draft Com Plan Comment Ltr - 2014AUG29.pdf; MLHD Comment Letter to Revised Draft MLCP - 2015MAY29.pdf; MLHD Comment Letter re Water - 2017DEC29.doc

Hi Melissa - thank you for providing me with a copy of the Agenda for next week's Planning Commission meeting.

I notice the instructions state that "The Planning Commission Clerk must receive all materials for the agenda packet by noon on the Tuesday one week prior to the Wednesday Planning commission meeting in order for the materials to be included in the agenda packet distributed in advance to the Commission"; however, the below email notifying us of the MLCP workshop was not received until 4:30 pm on Wednesday, a day after the above-stated deadline.

I am attaching 4 letters that the Moss Landing Harbor District has submitted to the County during the course of the ongoing MLCP planning process and I do want them entered into the Planning Commission record and I do want the Commissioners to have an opportunity to review them prior to the meeting.

Please feel free to contact me if you need further information, and thank you for your assistance regarding this matter.

Sincerely,

Linda G. McIntyre, Esq.
General Manager/Harbor Master
Moss Landing Harbor District
7881 Sandholdt Road
Moss Landing, CA 95039
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HEARING SUBMITTAL	
PROJECT NO./AGENDA:	APL090005 #2
DATE RECEIVED:	2/22/18
SUBMITTED BY/VIA:	Public / Email
DISTRIBUTION TO/DATE:	PC / 2/23
DATE OF HEARING:	2/28/18



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From: McDougal, Melissa x5146 [<mailto:McDougalM@co.monterey.ca.us>]
Sent: Wednesday, February 21, 2018 4:30 PM
Subject: Monterey County Planning Commission - Wednesday, February 28, 2018 Agenda

Good Afternoon,

Please find the attached agenda for the February 28, 2018 Planning Commission Meeting.

The following projects are scheduled:

PLN160608 - Bailey

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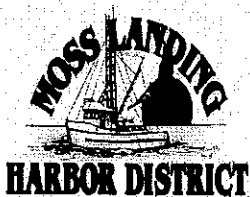
You may also view the agenda with live links at:

<https://monterey.legistar.com/Calendar.aspx> or searching by project file number at:

<https://aca.accela.com/monterey/> .

Thank you,

Melissa McDougal
Senior Secretary
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Direct Line: (831) 755-5146
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BOARD OF COMMISSIONERS

Russell Jeffries
Yohn Gideon
Vincent Ferrante
Frank Gomes, Jr.
Tony Leonardini

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GENERAL MANAGER
HARBOR MASTER

Linda G. McIntyre, Esq.

May 16, 2013

Martin Carver
Monterey County Resource Management Agency
168W. Alisal Street, 2nd Floor
Salinas, CA 93901

Subject: Notice of Preparation (NOP) of Draft Environmental Impact Report (DEIR) for the Moss Landing Community Plan (GPZ 090005/PD080541)

Dear Mr. Carver:

Thank you for the opportunity to comment on the referenced document. The NOP sets forth an opportunity to address coastal resource issues by setting the scope of information to be included in the forthcoming DEIR. We have the following comments and/or observations on the NOP. We will provide additional substantive comments when we have seen the DEIR.

• **MLHD General Comments:**

The 5 acre parcel north of the north harbor Yacht Club, south of Jetty Road, is currently restricted by the USFWS as spineflower habitat; however, despite many thousands of dollars and years of attempting to grow spineflower there, we believe that area is not conducive as spineflower habitat. The Moss Landing Harbor District plans to approach USFWS with a request to lift the requirement, possibly exchanging it with other suitable property. This condition was imposed 13 or 14 years ago as mitigation for using a portion of the 5 acres for dredge material handling after the 1998 flood created a dredge emergency. Moss Landing Harbor District plans to make the property open to the public for visitor serving facilities (small souvenir shops, kayak rentals, etc.), parking, walking trails, large gazebo for social gatherings, or similar uses, and should be appropriately identified.

The Moss Landing Harbor District would like to concur that the 30 room hotel in the north harbor is to remain on the books, as well as opening the view shed; improving the parking lot north of the Yacht Club and beyond.

The plan originally indicated the dry storage yard in the south harbor was indicated as environmentally sensitive habitat. The Moss Landing Harbor District reaffirms that the area is disturbed, graded, and filled, with no sensitive habitat on the parcel.

On page 114 of the MLCP, it states further: "The harbor district parcel south of Sandholdt Road has opportunities to provide public access in small un-motorized craft to the river channel and sloughs. Future improvements could include: docks for small vessels and facilities to launch small boats. In addition other improvements could include picnic facilities, pedestrian connections, and other improvements to tie this location into the downtown, integrating the waterfront into the Moss Landing Community."

SERVING COMMERCIAL FISHING AND RECREATIONAL BOATING SINCE 1947

The above statement is in conflict with the current use of this parcel. This property is currently used for dry storage and is fenced for security purposes, inconsistent with public access except perhaps around the periphery. We understand that these are mere recitals of potential opportunities but the Harbor District must be in a position to provide uses for which the District can charge a fee in order to maintain the property as well as generate funding for other Harbor uses. Non-motorized vessel rental and a means of access to the river are consistent with the District's enabling legislation, which requires us to provide facilities for commerce and navigation. Assuming there would be a fee for kayak rental, closing off the waterway to such vessels would be contrary to the "commerce" requirement, and closing off a waterway to non-motorized vessels would be contrary to "navigation" requirement.

- **Recreational Uses:** Section 2.4.5 identifies "appropriate" recreational uses in the MLCP area and includes such activities as general beach use, pedestrian trails, hiking, fishing, picnicking, nature studies, horseback riding, etc. If the County's intent is to give priority to or additional weight to its list of "appropriate" uses, then surfing must be included in its list because surfing is one of the more popular recreational activities in Moss Landing including at several locations off Jetty Road, Sandholdt Road, and Potrero Road.

- **Biological Resources:** The unimproved sand dune area at the southwest corner of Jetty Road and Highway 1 (previously referred to as the 5 acre spineflower parcel) is identified as recreation and visitor-serving on Figure ML-4: Land Use Diagram. We agree with that designation. However, the same area is shown as primarily either ESHA or ESHA buffer in Figure ML-11: ESHA Map. It is our observation that this site is improperly designated as such and should be consistent with the ML-4 designation. We also believe that the boundaries of the identified ESHA are too broad, and should be re-evaluated according to the correct identification of the ESA's that exist, and the land use objectives of the harbor.

The same thing applies for the properties at the north end of Sandholdt Road on the ocean side of the sand spit.

- **Harbor Dredging and Disposal:** The MLCP indicates the harbor district is pursuing a multi-year harbor dredging plan (Dredge Material Management Plan or DMMP) with provisions for offshore disposal into the Monterey Canyon for approved sediments. It should be noted that the Moss Landing Harbor District is aware of, and wants to emphasize its knowledge that all activities within the Sanctuary are governed by the National Oceanographic and Atmospheric Administration (NOAA) as well as other State and Federal agencies which have limitations on the disposal of materials within the sanctuary. Additionally, per Coastal Act, "clean" sand generated via dredge activities that are suitable for beach replenishment be placed onto the beach and remain within the littoral system. Everything related to dredge material management should incorporate the existing EIR for the MLHD DMMP.

- **Hazards and Sea Level Rise:** The 500 year flood map is not in conformance with flood management flood maps, which are generally 100 year maps. Figure ML-13 of the MLCP illustrates the projected effects of sea level rise in the next 90 years and shows the sand spit to be entirely underwater by the year 2100. The specific development plans and MLCP Figures also show this area to be fully developed within this same timeframe. Chapter 5.3 and 5.4 of the MLCP discuss the potential hazards arising from sea level rise and coastal erosion but do not indicate the options for addressing these issues (presumably beyond the hazards policies in the underlying LUP), including for example requiring adaptive strategies for removing/relocating structures that become threatened from these hazards. The primary means identified in the LUP for minimizing risk from flood hazards is through avoidance of flood prone areas. We observe that there appear to be inconsistencies and inadequacies within and between the planning

documents that will need to be addressed, such as allowing building with adequate strategies to minimize risk.

- **Public Access:** Public recreational access has manifested itself in many forms including public pedestrian trails and bicycle pathways, availability of public parking, provision of recreational amenities such as parks, benches, restrooms, and overnight accommodations. Many groups have been working with multiple state and local agencies including Monterey County, to complete the California Coastal Trail (CCT) a continuous multi-modal trail network along the entire length of the state. The MLCP includes identification of access points, parking locations, restrooms and other recreational facilities, including dedicated north-south pedestrian and bicycle alignments through the planning area. We would note that the preferred alignment south of the Highway One bridge on Highway One of the CCT is one that comes as close to the ocean, or in this case the harbor/slough, as possible. Said differently, it is the one that provides the greatest separation from Highway 1. We would also encourage you to include a policy that formally establishes and designates the proposed north-south pathways as segments in the MBSST | CCT and to develop a signage plan to better inform users. If we can be of further assistance with this aspect of the MLCP, please let us know

In addition, we observe and support that under the current proposal, the entire sandspit (island) would be designated to waterfront industry including commercial fishing and scientific/research as preferred uses over other uses (i.e., visitor-serving).

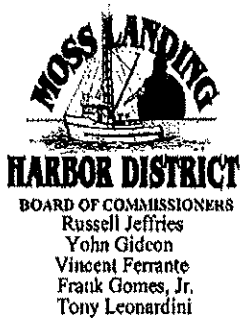
Thank you for the opportunity to comment on the NOP. With the clarifications described herein, we expect that the DEIR document will provide a sufficient level of detail to allow for a careful analysis of the project. We look forward to reviewing the DEIR and will provide additional comments at that time.

Sincerely,
MOSS LANDING HARBOR DISTRICT

Linda G. McIntyre, Esq.
General Manager/Harbor Master

LGM/mdm

Cc: MLHD BOHC



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GENERAL MANAGER
HARBOR MASTER
Linda G. McIntyre, Esq.

August 29, 2014

Michael Novo, Director
Monterey County Planning Department
168 West Alisal, Second Floor
Salinas, CA 93901
via email to novom@co.monterey.ca.us

RE: Comments and Corrections to the Draft Moss Landing Community Plan (July, 2014)

Dear Mr. Novo:

This letter is being forwarded to you and the County of Monterey pursuant to the direction that I have received from the elected Board of Commissioners of the Moss Landing Harbor District. As you know, the Harbor District is an independent, legislatively created special district established in 1946 for the purposes of operating and maintaining the harbor and its ancillary facilities and lands as directed and authorized by the legislature of the State of California.

The Board and I are extremely disappointed and concerned with the lack of communication from the County in recent years regarding the preparation of the Draft Moss Landing Community Plan. We believe that as a result of this lack of communication and coordination with the District, the Draft Plan contains some factual mistakes and unsupported conclusions, doesn't address existing legal requirements, contains proposed policies that do not comply with state and county laws, and outdated or incorrect information. These need to be addressed before the Plan can be submitted for approval to the Monterey County Board of Supervisors.

Both the Board President, Russ Jeffries, and Vice President Yohn Gideon attended the public meeting on July 24, 2014 wherein the above referred to Draft Plan and the previously undisclosed changes to both the existing 1984 Plan and the 2007-2012 Draft Plan (prepared by Mr. Ford) were disclosed for the first time to the public. As you may be aware, Mr. Jeffries serves on the Central Coast Regional Water Quality Control Board which administers the requirements of the Porter-Cologne Act and the Clean Water Act for the Central Coast of California. Although our President made several comments regarding the newly disclosed policies in the Draft Plan, his comments are conspicuously absent from the minutes posted on the County website.

Let me first point out the public documents, public laws, adopted Memorandums of Agreement by and between federal, state, and local agencies and permits that bind the County of Monterey and that appear to have been overlooked in the preparation of the current Draft Plan. We believe failure to comply with the mandates set out in these documents and the failure to consider their requirements as part of the preparation of the draft EIR process renders the Draft Plan fatally flawed. The proposed Draft Plan adversely and materially impacts our ability to provide coastal dependent services mandated by the California Coastal Act of 1976. We ask that the Plan be revised to address and correct the following:

- A. The Draft Plan fails to refer to, address, comply with or acknowledge the terms and requirements of the Monterey Bay National Marine Sanctuary 1993 Memorandum of Agreement (MOA) that was executed and legally binds all applicable federal agencies (US NOAA and USEPA), all state agencies (CAL-EPA and the CAL Resources Agency, thereby binding and controlling the actions and discretionary conduct of the SWRCB and the California Coastal Commission), all local agencies and AMBAG. The mandatory findings and policies of this MOA may not be modified by actions of the County of Monterey (a signatory to the MOA). This MOA specifically, although not exclusively, deals with dredging and dredged material disposal issues, harbor related developments, and recognizes and "grandfathers in" the existing seawater intake and outfall located on Moss Landing Harbor District property in the area of Moss Landing Road. The Draft Plan also fails to acknowledge the ownership interest of the Harbor District in the outfall alignment and the existing coastal dependant uses and reciprocal leases related to the outfall. The outfall is not owned by Moss Landing Marine Labs. The Draft Plan does, however, propose new policies, without producing any factual justification, that will directly and adversely impact major coastal dependant and harbor related uses because it failed to take into consideration the MOA. Please revise all policies that the County proposes to change to conform with the legal mandates of the MOA, and address these issues in the EIR for the Plan.
- B. The proposed new dredging policies appear to be modeled on the dredging policies adopted for the San Francisco Bay as part of the U.S. Army Corps of Engineers (ACOE) prepared comprehensive dredging plan (1999 Long Term Management Plan) for that bay which was prepared and adopted between 1990 and 2002. Unfortunately, the County's proposal seeks to impose upon the Moss Landing Harbor District the inapplicable mandates of a federally and state funded, comprehensive, non-coastal program that received its allocation of implementation funding directly through appropriations from the U.S. Congress. The proposed new Plan policies (which lack any identified funding source or legislative mandates) ignore the mandatory 1993 MOA requirements and propose to force compliance with a non-coastal program and its policies that would not have existed except for a specific Congressional mandate. Further, the congressionally mandated San Francisco Bay program identified and funded the dredging activities of the U.S. ACOE and acquisition of dredge material disposal dump sites. Unless the County intends to provide the same full funding to the Harbor District (that Congress provided to the U.S. ACOE from 1990 to 2002), the Harbor District hereby asks that the entire dredging section of the Draft Plan be withdrawn and replaced with dredging policies that reflect existing laws governing coastal dredging within the California Coastal Zone and the specific and unique circumstances of Moss Landing or that merely state that the Harbor District's dredging activities will continue to be conducted under an ACOE permit.

- C. The proposed Draft Plan policies fail to acknowledge and incorporate the findings of the California Legislature as set forth in Assembly Bill 1182 (Chapter 797, Statutes of 1998) which required the California Public Utilities Commission (CPUC) to develop the Plan B project, and the CPUC's *Carmel River Dam Contingency Plan – Plan B Project Report* which was prepared for the Water Division of the CPUC and accepted and published in July, 2002 by the CPUC. "Plan B" identifies the Moss Landing Industrial Park and the seawater intake/outfall on the Harbor District's property in the south harbor as the optimal location for a regional desalination facility. The proposed plan policies appear to circumvent the powers and authorities of the legislature, the Regional Water Quality Control Board and the California State Water Resources Control Board.

We oppose the proposed changes in the existing land use policies that would allow a desalination plant on our property (former dredge material handling site) in the North Harbor area. That site is not only a permit-restricted environmental restoration site, our plans for the North Harbor include visitor serving commercial, recreational, public access and resource protection uses making it unsuitable for such an intensive industrial use needed to serve a large region with such an important product. Further, no intake or outfall facility exists in that location nor can a new one be permitted due to the 1993 Sanctuary MOA.

We believe the same issues and insurmountable potential adverse impacts apply to the proposed changes purporting to allow a desalination plant on the "Island" as well. We ask that all of the proposed changes affecting desalination facilities (and the proposed but unjustified limitation on intake and outfall capacity of the outfall that is located on Harbor District property) be eliminated in the Draft Plan and that any proposed changes be drafted to reflect the above referred to legislation and accompanying reports.

As the County is aware, the Harbor District is considering whether to act as lead agency for a proposed publicly owned regional desalination plant at the Moss Landing Commercial Park (formerly National Refractories) site. To that end it is our understanding that the Moss Landing Commercial Park has filed a renewal application for the existing intake/outfall with the Central Coast Regional Water Quality Control Board in November, 2013.

The Draft Plan fails to refer to, address, comply with, or acknowledge the terms and requirements of Monterey County Code Chapter 16.55 *Onshore Facilities Supporting Offshore Oil and Gas Exploration and Development*. The premise that the long abandoned offshore oil offloading pipeline could be rehabilitated contradicts existing and long-established (by public initiative passed by the voters of Monterey County) law in Monterey County. It is our understanding that the old pipeline was never permitted by the Coastal Commission. The old, and now long destroyed, tank farms, which were also never permitted originally, cannot be re-built without a ballot initiative that must be passed by Monterey County voters (pursuant to the above referred to ordinance adopted in 1986). We have been advised that the easement upon which the abandoned pipeline was located has reverted due to abandonment to the Harbor District pursuant to its authorizing statutory authority and grant of tidelands from the legislature in 1946. Our District, as the holder of the reversionary interest to the long abandoned pipeline easement, asks that the Draft Plan acknowledge the Harbor District's jurisdiction over the pipeline and any potential re-use of that pipeline on District property.

- D. Page 77 of the existing 1982 North County LUP specifically enumerates the reasons why a sewer capacity allocation plan was mandated when that plan was adopted by the Board of Supervisors and certified by the Coastal Commission. We believe the proposal to remove the references to the existing permits for the Moss Landing sewer collection system and to eliminate the adopted allocation plan is a recipe for disaster. The existing coastal permits for the pipelines and treatment system remain in effect. The system has significantly limited capacity particularly in the area north of the Elkhorn Slough Bridge and on the "Island". For nearly 30 years, no litigation or disputes have taken place over sewer capacity because the allocation formula has guaranteed service to every land owner who paid into the construction of the system. Our Board strongly objects to the proposal in the Draft Plan to eliminate these capacity guarantees that protect the interests of each and every parcel owner, in particular the Harbor District. We ask that this proposal be eliminated and that the allocation plan, the policies supporting it, and the 1982 historical evidence which demonstrates the existing permitting context of the system that has served us so well be retained. The Harbor District, like all other landowners in the sewer district, has paid its assessments for over 30 years and expects that the sewer pipeline capacity for which it has paid public funds will be protected. The capacity in the pipelines belongs to us and can't be given away to subsequent developers.

The balance of our comments address specific proposed changes and specific sections of the Draft Plan with which we take issue, or which have been inserted into the current draft plan without our knowledge and/or input:

1. The proposal to increase residential densities to 30 or 40 units per gross acre will significantly overtax existing sewer pipeline capacity, existing water resources, and traffic capacity. The proposed density cannot be physically built given existing height limitations supported by the community and the proposed 35% coverage on page 19 of the draft plan. The density should be changed to "not more than 20 units per net acre dependent upon site limitations and sewer pipeline capacity limitations". We reiterate that we oppose the elimination of the sewer allocation formula and plan.
2. The proposed "new" tsunami construction standards are both cost prohibitive and superfluous, given the physical limitations of the Moss Landing Harbor. In the event of a major tsunami the Harbor frontage buildings will be flooded and subsequently will be uninhabitable for an extended period. The proposed construction standards will not remedy this problem and will effectively stop all construction because lenders will not lend on projects that must bear the excessive construction costs necessitated by the new standards. We ask that they be eliminated from the Plan. Building Codes and standards can be changed by legislation and by the industry, adopted independently of this Plan making it unnecessary to include them.
3. The Flood Plain map on Page 17 does not appear to correctly delineate the North Harbor area.
4. The proposed increase in commercial sewer allocations and utilization ignores existing permit requirements, existing pipeline capacities and previously approved projects. The proposal will effect a taking of already purchased and committed water and sewer allocations and pipeline capacity (the charts have significant inaccuracies). The existing commitments of both sewer and water capacity for approved and under-construction projects appear to be grossly underestimated.

5. The District opposes any land use changes to the designation of our existing District parcel at the end of Potrero Road (formerly the Gaske parcel). The District has plans for that property directly related to coastal dependent uses and the staff changes as proposed will significantly interfere with our plans.
6. Desalination plants are priority coastal dependent industrial uses and should be acknowledged as such in paragraph 2.4.3 on page 23. The new policies in the Draft Plan need to be revised accordingly pursuant to our earlier comments.
7. The conclusion reached as to so-called "legislative intent" on page 24 is an unsubstantiated conclusion without citation.
8. The proposal to allow a desalination plant on the "Island" should be deleted in accordance with our earlier comments. At the very least, this proposal anticipates a massive health and safety risk and crisis to the service area/residents for which it would be established. It is inappropriate to try to artificially install an industrial use in an area subject to damage similar to the loss of the entire Moss Landing Marine Lab in the 1989 earthquake. Such risks must be taken into consideration in determining placement of a desalination plant. Regional desalination plants need to be restored in the general industrial and Coastal Industrial land uses classification.
9. Delete the language in the first paragraph of Page 26 that limits desalination plant production and water supplies in this land use category to only uses on site. See earlier comments.
10. Delete the references to the marine terminal and pipeline on Page 26. Discuss Mo. County Code Sec.16.55.020. See previous comments.
11. Add water systems to Sec. 2.4.4 Harbor Facilities on Page 27.
12. Add to Page 32 – The seawater intake and outfall pipeline is owned by the owner of the Moss Landing Commercial Park. The pipeline is located on Moss Landing Harbor District property. The Harbor District has a lease on the Moro Cojo Slough portion of the harbor for boat berths from the owner of the slough area, who is also the owner of the Moss Landing Commercial Park. The owner of the pipeline has a reciprocal lease for his outfall from the Harbor District. Moss Landing Marine Lab's seawater intake is dependent upon the continuing permit of the owner of the M.L. Commercial Park, who has filed for renewal of his discharge permit with the Central Coast Regional Water Quality Control Board.
13. Page 38 – Line 18 states "130" hotel rooms but we believe the number is "30".
14. Our Board recommends the preservation of the existing sewer allocation plan and the elimination of Page 41.
15. Page 46 – ML-2.6 is ambiguous and lacks definitions (What are "community land use patterns, system capacities and planning objectives")?
16. Page 47 – ML2.7 Define "polluting, heavy industry".

17. Page 48 – ML2.8 This proposed policy appears to effect an illegal taking of the Harbor District's leasehold in the Moro Cojo Slough and needs to be eliminated. It appears that this is an unlawful taking/limitation on property rights. Is the purpose to avoid paying for a trail right-of-way?
18. Page 48 – ML 2.9 is ambiguous – transmission of what? Define "acceptable level".
19. Page 49 – ML 2.12 This section needs to be deleted in view of Monterey County Code Chapter 16.55 previously discussed. The Harbor District owns the reversionary interest to the easement and has jurisdiction over any future use. Page 50 – ML2.17 we do not believe it is necessary or appropriate to give priority to commercial fishing activities and aquaculture over other types of coastal dependent uses at the Moss Landing Business Park. It may be appropriate for other industrial areas such as the island.
20. Page 51 – Revise ML 2.22 – Again, the Harbor District is governed by an elected Board which should determine the priorities appropriate to fulfilling its legislatively enacted responsibilities. Although the County may wish to support those uses outlined in ML2.22, the statement should be revised to add "in consultation with and subject to approval by the Board of Harbor Commissioners."
21. Page 51 – ML 2.25 – Delete. The Moss Landing Harbor District is a legislatively created and statutorily empowered public agency with an elected Board of Commissioners to carry out its mission. It is inappropriate for the County to modify or change State legislation in its general plan.
22. Page 52 – Delete ML 2.26, 2.27, 2.28, 2.29, 2.30, and 2.32 on page 53. These are mandates beyond the power and authority of the County. Incidentally, a number of the ML's contain factual inaccuracies.
23. Page 64 – Sec. C – delete. This proposed policy should be thoroughly vetted with marine biologists, Moss Landing Marine Lab experts and the Harbor District in view of the potential for major adverse environmental effects on the harbor and the Elkhorn Slough. The Moro Cojo has never been subject to tidal influence. Before the opening of the harbor, it was a fresh water wetland. The tide gates were installed to preserve that unique freshwater habitat and the surrounding farmland and freshwater aquifers from seawater intrusion from the harbor. This project may not comply with the Coastal Act, the Marine Mammal Protection Act, the Porter-Cologne Act, both state and federal Endangered Species Acts, and the Clean Water Act. It would appear that during flood events on the Moro Cojo Slough, this proposed project will allow tons of pesticide and fertilizer contaminated sediments to be discharged into the harbor, and in high tides, the polluted sediment will move up the Elkhorn Slough. This will also cause significant sedimentation of our harbor which will result in increased water quality violations and increase demands for dredging and disposal of contaminated sediment.

24. Page 79 and Page 83 – Restore the existing wastewater allocation plan from the existing 1982 M.L. Community Plan. See Sec. 5.2.3 of the existing plan. There has been no expansion of pipe capacity since the adoption of the existing allocation plan. The proposal to eliminate the allocation plan invites litigation over limited pipeline capacity in the North Harbor and on the Island. Treatment capacity at the regional sewer treatment plant in Marina has no bearing on the pipeline capacity limitations in Moss Landing.
25. Page 84 – Section 4.24 - This proposal must not reduce the allocations for which property owners have paid for 30 years.
26. Pages 91-94 – Restore all of the historical documentation of water supplies from the prior draft. The information is factual and without dispute. Restore reference to court ordered groundwater supplies and water rights. The court order guaranteed full and adequate water supplies to all existing and previously approved development projects before 2007.
27. Page 103 – The first paragraph under “Capacity Improvements” is factually incorrect. It is my understanding that PSMCSD is not an adjudicated water district but rather holds adjudicated groundwater rights pursuant to an order issued by U.S. District Court Judge Jeremy Fogel in 2007. The adjudicated groundwater rights issued by the court, along with all other assets of the water system, guaranteed water for all existing and/or approved projects within the service area at the time of the order. Subsequent “will serve letters” and the sale of water meters by PSMCSD pursuant to existing discretionary use permits and/or land use permits that had been issued by the County prior to the date of the order, were incorporated into the adjudicated supply. The Court granted the requisite groundwater rights to PSMCSD to insure adequate supplies to all existing and /or approved users of water who had been promised water supplies by the prior operator of the water system, ALCO Water. We believe this information regarding our protected water supply needs to be included in the Plan policies.
28. Page 103 – There is no reference to the regional desalination plant which is being planned at the Moss Landing Commercial Park (People’s Desalination Project). The Peoples’ Project and a full discussion thereof must be included in the Draft Plan to comply with CEQA.
29. Page 106 – We request this clarification be added: The seawater intake used by MLML belongs to the Moss Landing Commercial Park. MLML is allowed to have space in the pipe by the owner subject to the CCRWQCB permits held by the owner. The easement upon which the pipeline is located belongs to the Harbor District.
30. Page 108 – ML 4.6 – Delete or modify. Paying a fee is not mitigation for a lack of pipeline capacity, so the mitigation will have to include not only paying the fair share for the upgrade but also delaying development until the upgrade is constructed and completed.
31. Page 109 – Section 4.4.2 – This entire section needs to be re-written to correct major errors, including but not limited to misstating the condition of PSMCSD’s groundwater rights, misstating basic tenets of California groundwater rights law, misstating existing committed allocations of water by both PSMCSD and prior approvals by the County, appears to attempt to

re-write prior legal findings and decisions by the County and the Coastal Commission and to impose limitations on the operations of PSMCSD without any legal authority

- 32. Page 110 – ML 4.11 – This section attempts to impose standards used to regulate heavy industry upon seawater desalination plants. It appears the language is inapplicable. This section needs to be re-written for clarification. See 1993 MOA and CPUC Plan B comments referred to above.
- 33. Page 111 – ML 4.13 – We believe this is an inappropriate limitation to the development of the site identified by the State of California as the optimal location for a regional desalination plant. See 1993 MOA and CPUC Plan B comments referred to above.
- 34. Page 128 states that Moss Landing Harbor “maintains 216 boat slips” but in fact the Harbor District maintains 610+ slips.

Other observations not directly related to the Harbor District:

- 35. There is no reference to the permitted and under-construction History and Heritage Center at the south end of Moss Landing Road in the Recreational and Visitor-Serving Commercial section on Page 23. This mistake needs to be corrected. Both the eight inch water main (constructed by the developer) and the eight inch water meter and supply purchased from PSMCSD and the purchased sewer capacity and meter (purchased from M.L. Sanitation District and MRWPCA) are either incorrectly stated or missing entirely from the Plan and the charts. Three buildings and a restaurant space are completed, the 30 unit hotel is under construction and the County has already calculated and committed the water demand and sewer demand (pursuant to the existing County and Coastal Commission use permits for the project and its certified EIR) which have been paid for by the owner.
- 36. There is a typographical error on the next to last line of the second full paragraph on Page 27 (remove the word “from”).
- 37. Page 31 – The “Island” sewer pipeline capacity (in the 6” sewer main) for the proposed fisherman’s dormitory appears to be currently used by Phil’s Fish Market and restaurant
- 38. The estimates on the top of Page 33 regarding expansion of commercial space lack any factual foundation or evidence to substantiate this conclusion. Delete or provide substantiation.
- 39. The estimate of job generation on Page 33 is also unsubstantiated by any facts or evidence. Delete or provide substantiation.
- 40. Item #7 on Page 37 is incorrect. The south Moss Landing Road project (History and Heritage Center) contains a total of 2.5 acres and includes over 30,000 sq. ft. of commercial space, a 30 room hotel, a Monterey Jack Cheese factory, and large restaurant facilities. See the existing County Use Permit, certified EIR, existing sewer allocation permit, and existing water supply permits. The project is under construction and is 80% completed. Payment has been made for all utility services.

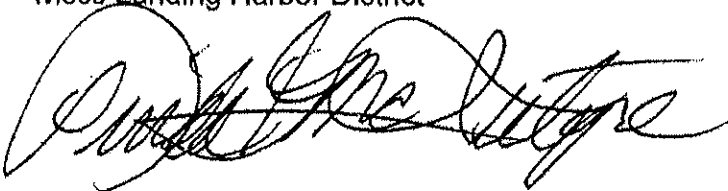
41. Page 64 – Sec. B – We do not believe the statement is true that “turning left from State Highway Route 1 onto Moss Landing Road (is) difficulty and dangerous”. There is no record of any accident that we know of from a left turn off of Highway 1 onto Moss Landing Road.
42. Page 76 – ML 3.9 – This section needs to be deleted as it obligates the County to develop and pay for an access plan for a state beach. This is the responsibility of the CA. Dept. of Parks and Recreation.
43. Page 95 – 99 - The Moss Landing History and Heritage Center (30 hotel rooms, restaurant, Monterey Jack Cheese factory, total 30,000+ square feet of commercial space) has been erroneously left off of the charts for existing committed sewer allocations and significantly under allocated from its existing purchased water allocations. See existing use permit, existing sewer and water permits and the certified EIR. The charts need to be corrected to avoid allegations of a “taking” of utility capacity from an entitled and approved project

The Harbor District hereby submits these comments as our more detailed response to the July 2014 Draft Plan. We believe that major revisions to the Draft Plan must be made before there is another public presentation.

After my initial email response to the Draft Plan sent to your staff immediately following the July 24 public presentation, your staff indicated the desire to meet with representatives of the Harbor District. The members of the Harbor District Board and I welcome such a meeting.

After reviewing our comments in the foregoing letter, please feel free to contact me if you need any additional information or clarification. We hope you find our comments helpful and we look forward to hearing from you and/or your staff to schedule the aforementioned meeting.

Sincerely,
Moss Landing Harbor District



Linda G. McIntyre
General Manager

LGM:mdm

C: Jacqueline Onciano via email oncianoj@co.monterey.ca.us
Carl P. Holm via email holmcp@co.monterey.ca.us
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GENERAL MANAGER
HARBOR MASTER
Linda G. McIntyre, Esq.

May 29, 2015

Michael Novo, AICP, Director of Planning
Martin Carver, AICP, Planning Management Specialist
Monterey County Resource Management Agency
168 W. Alisal Street, 2nd Floor
Salinas, CA 93902

RE: Revised Moss Landing Community Plan/Coastal Implementation Plan Comments

Gentlemen:

Please accept the following comments on the above referenced Plans on behalf of the Moss Landing Harbor District:

Our District strongly opposes the proposed changes in the draft plan that eliminates the specific sewer capacity allocation formula established in 1982 guaranteeing capacity and allocations to assessed properties within the existing boundaries of the Community Plan/Moss Landing Sanitation District area. We believe this taking of our reserved rights for which our District has paid for the last 30 years and which were originally granted to us because we qualified for federal grant funds, is wrongful and unfairly grants benefits to those who have not paid for the system and who would otherwise be required to pay to replace and increase the pipeline and pumping capacities of the system.

Page 77 of the existing 1982 North County LUP specifically enumerates the reasons why a sewer capacity allocation plan was mandated when that plan was adopted by the Board of Supervisors and certified by the Coastal Commission. The sewer system in Moss Landing received federal grant funds for construction expressly to serve and benefit specific properties within the "grant designated area" because they met both public health remediation criteria and "need" standards because of the community's low income status. The MLHD properties are all entirely within the original "benefitted area".

There is no evidence of any kind to justify the arbitrary elimination of the sewer capacity allocation plan. The existing coastal permits for the pipelines and treatment system remain in effect. The system has limited capacity particularly in the area north of the Elkhorn Slough Bridge and on the "Island". Further, the Castroville Community Services District agreed to take over the Moss Landing sewer system from the county with full knowledge of and subject to the reserved rights granted in 1982 and paid for by those property owners, including the Harbor District.

For nearly 30 years, no litigation or disputes have taken place over sewer capacity because the allocation formula has guaranteed service to every land owner who paid into the construction of the system and who was a designated beneficiary of the federal grant funds. Our Board strongly objects to the unilateral proposal in the draft Moss Landing Community Plan to eliminate these capacity guarantees that protect the interests of each and every parcel owner, in particular the Harbor District. We ask that this proposal be eliminated, and that the allocation plan, the policies supporting it, and the 1982 historical evidence which demonstrates the existing permitting context of the system that has served us so well be retained. In

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the alternative, we request that you convene a settlement discussion with us and our representatives so that we can attempt to resolve this dispute.

The proposed "new plan amendments" anticipate significant, if not massive, new development projects by the Moss Landing Marine Lab, MBARI, and newly arrived private property owners outside of the existing service area. Mandatory LCP policies requiring them to finish "paid forward" and completed infrastructure improvements for our sewer system and road improvements on Highway 1 at both ends of Moss Landing Road before these "new" projects are finalized/occupied must be incorporated into the new plan amendments so that it is clear that existing landowners are not now being required to subsidize private new developments of a scale not seen before in Moss Landing.

The Harbor District, like all other landowners in the existing sewer district, has paid its assessments for over 30 years and expects that the sewer pipeline capacity for which it has paid public funds will be protected from developers who have not paid anything for the system that our community bought. The capacity in the pipelines belongs to us and can't be given away.

We hope to resolve this issue with you so that the proposed changes do not result in sustained disputes that will benefit no party in Moss Landing.

The following are specific comments regarding specific sections of the Plan and Implementation Plan:

Moss Landing Community Plan Comments:

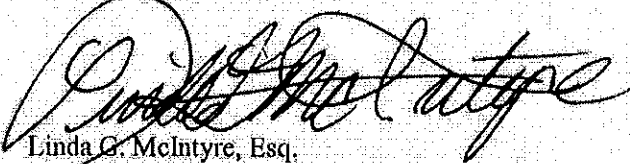
1. NCLUP-ML-2.16 – This section needs to be removed because it eliminates the Harbor District's ability to continue with its ongoing pile removal and replacement program, interferes with the Harbor District's dredging activities to preserve protected coastal priority land uses and to eliminate contaminants from the harbor, and conflicts with the statutory duties of the Harbor District as established by the state legislature in our District's authorizing statute.
2. NCLUP-ML-2.19 – This section needs to be eliminated or more fully evaluated and modified in the CEQA document before it can be approved because it calls for a construction strategy (in lieu of North Harbor dredging) that will result in the taking of privately owned lands by induced tidal scour and flooding that would result from the County's proposed modifications to Jetty Road. Jetty Road was constructed in the 1940's with tide gates to impede artificially induced seawater intrusion and seawater flooding onto privately owned lands (Capurro Ranch and Dobler Ranch) resulting from the opening of the harbor mouth. The maintenance of existing, legislatively mandated coastal priority harbor facilities cannot be burdened with a mandate to "take" private property rights (flooding rights) from private land owners. This provision also imposes an unfunded mandate on the Harbor District.
3. NCLUP-ML-2.20 – This policy contradicts the existing state statute authorizing the creation of and the duties of the Harbor District.
4. NCLUP-ML-4.2.2 – We oppose this section and we oppose the elimination of the 1982 Moss Landing Community Plan sewer allocation plan.
5. NCLUP – ML-3.0 et seq. – We request the addition of a new section: "Traffic trips from existing, permitted, and replacement projects are included in existing baseline traffic levels of service (LOS). Only future "New Projects" that may be allowed and permitted under this plan, and which were not previously allowed or permitted under the 1982 Plan, shall be required to contribute to Highway 1 improvements based upon their proposed traffic impacts and mitigation measures."

Coastal Implementation Plan Revisions Comments:

1. Sec. 20.27.030 paragraphs (A) and (B) need to require CEQA compliance.
2. Sec. 20.27.030 (E) and Sec. 20.27.040 (B) are unclear and lack specificity, measurable standards, and limits.
3. We object to the changes proposed in Sec. 20.144.130. For reasons specified in greater detail above, we do not want any change to the sewer allocation formula that is part of the existing 1982 Plan. The proposed changes and expansion of Urban Service Lines and services outside of the existing sewer system boundaries lack specificity and fail to address and evaluate proposed "new" projects and the significant impacts thereof.
4. Sec. 20.144.160 (C) (h) must be modified to include any and all expansions or developments on ~~any~~ *and all* industrial properties on Dolan Road.

We hope you find our comments helpful and will be happy to meet with you or provide any additional information that may facilitate finalizing the Moss Landing Community Plan.

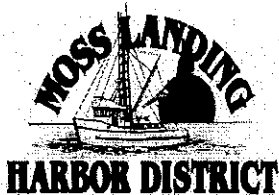
Sincerely,
Moss Landing Harbor District



Linda G. McIntyre, Esq.
General Manager

LGM:mdm

C: Moss Landing Harbor District Board of Commissioners
Supervisor John Phillips



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December 29, 2017

Mike Novo, AICP
Management Specialist
Monterey County Resource Management Agency
1441 Schilling Place, 2nd Floor
Salinas, CA 93901

Via Email: novom@co.monterey.ca.us

Re: Draft MLCP Comments/Questions re Water Element: Unavailability of water resources for Moss Landing new developments

Dear Mr. Novo:

On behalf of the Moss Landing Harbor District (MLHD) please accept this comment letter as our first of several comment letters related to currently pending, but not approved, development projects and proposed revisions in the Moss Landing Community Plan area.

As part of the County's proposed update of the Moss Landing Community Plan component of the North County Land Use Plan of the Monterey County Local Coastal Plan, we believe that the current staff-prepared draft is incomplete and may result in misleading beliefs or interpretations by the public/developers that the known overdraft of groundwater resources in the Moss Landing area has been remedied. The groundwater overdraft has not been remedied. The County and the Coastal Commission have an extensive and documented history of denying new developments (as recently as 2017) due to the significant overdraft, and the significant, unmitigated adverse effects it causes on protected priority coastal land uses and potable coastal aquifers. We are deeply concerned that the apparent planned course of action of the County (of ignoring the previously acknowledged groundwater overdraft in Moss Landing so as to try to wrongfully approve "new" water allotments for newly proposed, unpermitted projects) will lead to extensive and unnecessary litigation.

The implied conclusion by county staff that their "granting approval" of newly proposed consumptive groundwater demands of previously unpermitted proposed new developments is "de minimus" violates CEQA (both the statutes and the CEQA Guidelines), but also constitutes impermissible "ultra vires acts" by the County because the County (by the prior written admission of MCWRA) holds no groundwater rights, groundwater supplies, or resources that it may allocate or grant to its preferred new developments which also have no such water rights. There is no such concept in California groundwater rights law as a "de minimus taking" of privately held groundwater rights from innocent, overlying landowners by a County so as to

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benefit a third party developer. Willfully increased pumping of an overdrafted potable groundwater basin results in significant and unmitigated adverse effects on the environment and directly endangers the potable water supplies of existing customers who have paid for the existing water system and its resources.

Further, the County has already publicly acknowledged in writing that none of MCWRA's previous water projects, including the dams, the wastewater reclamation/purple valve project, or its so-called "Rubber Dam" project, have or will provide any benefit or beneficial recharge to the groundwater resources from which the Pajaro Sunny Mesa Community Services District (PSMCSD) well draws the community's water supply. (See MCWRA and related studies: U.S. ARCOE, 1980; Anderson-Nichols, 1980-81; Montgomery-Watson, 1998). It is important to note that, in an over-drafted, percolated groundwater basin, over 100 years of California groundwater rights law holds that the Doctrine of Correlative Overlying Water Rights applies; and, in an over-drafted basin, no surplus water is available for new "groundwater appropriators" or new appropriations. (Katz v. Walkinshaw, 141 Cal. 116). The State Groundwater Management Act of 2014 has reaffirmed this law and, as part of its express legislative intent, prohibits the taking by any new management agencies of groundwater rights from existing overlying landowners.

MLHD believes that the County must recognize in the revised Plan policies, unless major acquisitions and investments are made by developers to significantly upgrade the community's groundwater rights/supplies and distribution system that are owned by the PSMCSD, that no new water service connections beyond existing approved projects and a 250 gallon per day per vacant lot of record allocation may be approved. The granting to PSMCSD of quantified but limited appropriative groundwater rights, along with ownership of the water system, by Judge Jeremy Fogel of the United States District Court in 2008 fixed those allocations based upon the existing/permitted water uses and approved developments for which land use entitlements had already been granted/recognized (i.e. the re-building of the burned Harbor Inn restaurant owned by MLHD and the under-construction Moss Landing History and Heritage Center). Importantly, the General Manager of PSMCSD has acknowledged this judicially limited allocation of groundwater rights.

MLHD is providing herewith a history of the groundwater resources and the water system in Moss Landing. MLHD previously owned the Moss Landing water system and sold it to ALCO Water Service in the 1980's predicated upon promises of upgrades by ALCO that failed to materialize. It is inappropriate for the County, as part of its revisions to the Moss Landing Community Plan, to directly or indirectly change the Plan policies to allow new developments that rely on "taking" prior allocations of water from existing permitted land use projects. Moreover, inasmuch as the groundwater basins which underlie Moss Landing are both in a state of "overdraft", California groundwater rights law prohibits PSMCSD, a junior appropriator, from pumping any more water for new, unpermitted projects that were not permitted, or identified or allowed pursuant to Judge Fogel's decision. For the County to ignore this by trying to order increased illegal pumping would expose PSMCSD, not the County, to litigation from senior water rights holders.

The following summary of the hydrogeology of the Moss Landing area, which is located in both the Pajaro Valley Water Management Agency and the Monterey County Water Resources Agency and, in part, in its Zone 2C follows and needs to be specifically incorporated into the update of the Moss Landing Community Plan:

POTABLE WATER SUPPLY AVAILABILITY IN MOSS LANDING, CA

Moss Landing, a small fishing, coastal shipping, and residential community has been dependent upon groundwater since its founding in the 19th century. Originally reliant upon naturally occurring, fresh-water springs fed by the then-unexploited "perched" aquifer (elevation: 0-30 ft. below sea level), Moss Landing now is solely dependent upon deep and distant groundwater wells for its potable supplies. Further, the hydrologic recent history of Moss Landing is one of excessive exploitation by private land owners that has resulted in groundwater contamination from seawater intrusion. Restoration and rehabilitation of these fresh water aquifers is a coastal priority under both the certified Local Coastal Plan and the California Coastal Act (CA. Public Resources Code).

Anecdotally, fresh water springs continued to exist and be used on the "island" area of Moss Landing and near Zmudowski State Beach into the late 1930's and early 1940's. The two separate hydro-geologic areas (north and south of the Elkhorn Slough) have been modified subsequently by separate actions by both private parties and the federal government. These actions and modifications have caused seawater intrusion without general acknowledgment of the responsibility, and potential liability, of the parties that have caused this damage to overlying landowners and to regional percolated groundwater supplies.

The north side of the Slough is known as the Springfield Terrace, which was included in 1984 into the legislatively-determined boundaries of the Pajaro Valley Water Management Agency (PVWMA) so as to receive water from then-proposed and now-defunct Central Valley Project import pipeline. Supplemental water reservations and supplies for the PVWMA from the federally-owned Central Valley Project were terminated and prohibited by the U.S. Congress as part of the Central Valley Project Improvement Act in 1992 and by subsequent decisions by federal courts prohibiting increased appropriations of water from the Sacramento-San Joaquin Delta due to adverse impacts on federally-listed and endangered salmonid and smelt species. The Terrace is now bordered on three sides by tidally influenced and increasingly deepening slough channels filled with seawater contributing to increasing seawater intrusion. The hydro-geology of the water-bearing formations that underlie the Terrace is primarily sands and sandstone formations with some non-uniform and discontinuous clay layers. The area receives most of its current recharge from rainfall, and reclaimed wastewater from a PVWMA pipeline, and the hydro-geology of this area near Moss Landing is decidedly dissimilar from the water-bearing formations of the Pajaro Valley or the Salinas Valley. The importation of reclaimed waste water for agricultural irrigation of protected coastal farmlands is slowly reversing seawater intrusion north of the Harbor.

The south side of the Elkhorn Slough, and the hydro-geology found there, should be divided into two areas, west of the Moro Cojo Slough (a freshwater slough) and east/northeast of the Moro Cojo Slough, for proper characterization. The area west of the Moro Cojo has long been

identified as being part of the Salinas River groundwater system. Similarities in well logs between wells drilled immediately south of Moss Landing and wells drilled in the Castroville area have confirmed over many decades that the generally uniform, confined, water-bearing aquifers of the lower Salinas Valley predominate this area. Importation of reclaimed wastewater for agricultural irrigation is improving groundwater quality and reducing seawater intrusion in this area.

The areas east/northeast of the Moro Cojo Slough, and the areas along Dolan Road, show a much less uniform and far more complex hydro-geology. These areas generally show little similarity to the Salinas River groundwater system. Importantly, this is the area where the PSMCSD potable wells (that provide the potable groundwater supplies for the community of Moss Landing) are located. These areas east of the Moro Cojo have fewer uniform clay layers and are far more similar to the unconfined aquifers located north of the Elkhorn Slough and the areas to the east in the Elkhorn and Prunedale areas of North Monterey County. These largely unconfined sand and sandstone formations appear to be more susceptible to seawater intrusion, particularly from the seawater influenced tidal flows in the Elkhorn Slough. Additionally, these areas receive the vast majority of their recharge from rainfall (See: 1998 MCWRA Montgomery-Watson study adopted by the Board of Supervisors showing NO hydrologic connection between the Salinas River and the over-drafted Prunedale-Elkhorn percolated groundwater aquifers).

In the late 1930s, the Kaiser Refractories plant opened and began to exploit groundwater supplies in the area south of the Elkhorn Slough adjacent to the historic confluence of the Salinas River and the Moro Cojo Slough. Although general information about the Kaiser manufacturing process implied that it was solely dependent upon seawater, the plant, through the use of groundwater wells, in fact significantly exploited groundwater and groundwater aquifers for over sixty years as part of the brick manufacturing process.

In the 1940's two other events occurred in this area that, along with Kaiser, compromised groundwater supplies in the southern Moss Landing area. The development of the P.G. & E. power plant created an unprecedented, and unlawful, overdraft of groundwater to cool turbines in the plant. P.G. & E. lacked legally valid overlying groundwater rights to the vast majority of the water that they pumped. Additionally, the permanent opening of the Moss Landing Harbor by the U.S. Army Corps of Engineers (ARCOE) forever modified the surface hydrology of the Harbor and the Elkhorn Slough. Finally, the breaching of the Elkhorn Slough dikes and small levees (installed by ARCOE in the 1940's) by state and federal environmental agencies in the 1980's has increased the tidal prism of the Elkhorn Slough, tidal scour, and increased adverse impacts on local aquifers. Due to increased scouring and erosion of the Slough, the expansion of tidal influence has exacerbated seawater interface and intrusion into over-drafted, near-surface aquifers and compromised shallow, near-Slough wells. These actions, coupled with the loss of seasonal fresh water inundation of the Slough due to the permanent opening of the Harbor mouth in 1947, the permanent relocation of the Salinas and Pajaro Rivers' mouths, and the loss of the historic annual confluence of the Salinas and Pajaro Rivers at Moss Landing, have had a severe and adverse impact on groundwater recharge opportunities that could benefit the potable groundwater supplies upon which Moss Landing is dependent.

Additionally, in the 1940's, the historic pasture and grazing lands on the north side of the Slough (Springfield Terrace) were converted to irrigated crops, or multiple cropping patterns, that significantly increased groundwater pumping and consequently, seawater intrusion.

Land use patterns in the Springfield Terrace are primarily agriculture, except for the residential areas on Struve and Springfield Roads and the North Harbor commercial and public facilities. Housing stock is predominantly low-income, occupied by individuals employed in agriculture. Groundwater overdraft significantly exceeds recharge, which comes solely from rainfall and reclaimed wastewater used for irrigation. Additionally, like the south side of the Slough, increased scouring and the permanent changes and the opening of the Harbor mouth, have increased seawater impacts and intrusion on near-Slough aquifers. The Springfield Terrace aquifers suffer from chronic and acute groundwater contamination from seawater intrusion and from nitrates, from fertilizers and historic septic tank effluent discharges. These constitute significant public health challenges due to a lack of any alternative potable supplies.

In 2003, The Pajaro/Sunny Mesa Community Services District (PSMCSD) annexed most of the Springfield Terrace area into its boundaries. PSMCSD qualified for a California Department of Public Health grant to develop a new well for the area at the Moss Landing School. Due to the low income nature of the community, PSMCSD is eligible to receive partial grants to rebuild the aging water systems and to permanently close and seal existing contaminated wells. Seawater intrusion has adversely impacted the west side of the Terrace (west of Highway 1), and, to a lesser degree, shallow wells on the eastern edge of the Terrace. The PSMCSD well site was located with that existing contamination in mind. PSMCSD has assumed no charges in the North County land use plan in its long term supply planning for the north side of the Slough. PSMCSD has indicated that it may connect and integrate "north side" facilities into the Moss Landing Water System for redundancy and for the protection of the health and safety of public water supplies, if funds become available.

In 2005, PSMCSD took over operational control and management of five water systems (formerly owned by ALCO, the Alisal Water Corporation), including the Moss Landing Water System, as a result of an order from the U.S. District Court. PSMCSD assumed ownership of these systems in April, 2008, by order of the Court (Judge Jeremy Fogel), after the Court recognized in its' order PSMCSD's superior administrative, financial, managerial, and technical abilities demonstrated while running the Moss Landing System. The Moss Landing system has, as its sole water supply, a well located near Avila Road. PSMCSD has secured access, for emergency and "back-up" supply purposes, to a well on Dolan Road (east of the Moro Cojo Slough) owned by the Moss Landing Green Industrial Park and to a deep well located near Highway 1 (west of the Moro Cojo Slough), south of Moss Landing, owned by Mr. Tony Leonardini. These protected coastal potable water wells, and the protected coastal potable groundwater supplies upon which they rely, are "priority coastal resources" that are required to be affirmatively preserved and protected, pursuant to the certified LCP policies and the California legislative mandates of the California Coastal Act and the State Groundwater Management Act, by the County of Monterey and its' agencies for protected coastal agricultural irrigation and legislatively established priority coastal land uses.

Seawater intrusion resulting in chloride contamination predominates in near-shore aquifers, and excessive historic well pumping by both Kaiser/National Refractories and the power plant

(the single greatest source of overdraft) has caused groundwater contamination far to the east, down Dolan Road. This excessive historic overdraft resulted in a private settlement with the Moon Glow Dairy by the power plant to provide fresh water to the dairy. No supplemental water supply was guaranteed to the MLHD, the community, ALCO, or residents of Moss Landing at that time, however. PSMCSD (ALCO's successor), from its "sole source" well, now has adequate court-ordered and approved groundwater supplies and water rights to serve existing and previously approved projects (prior to 2008) in the Moss Landing community, pursuant to the 1982 Moss Landing Community Plan. Cessation of groundwater pumping by the power plant, because the groundwater supply was contaminated by seawater intrusion, has slowed, but not stopped regional seawater intrusion. Changes in land uses, particularly new land uses and/or amendments to Local Coastal Plan development policies will require new water rights and supplies to be granted to PSMCSD before PSMCSD will provide "will serve" letters. PSMCSD has stated that it is pursuing conservation strategies to maximize the beneficial uses of its existing supplies and rights. Additionally, increased pumping of existing wells in the area south of the Slough, given the increased scouring and erosion in the last 20 years, will likely exacerbate seawater intrusion from Slough water into lands to the east along Dolan Road.

Finally, it must be noted that Governor Arnold Schwarzenegger, on November 14, 2008, issued Executive Order S-13-08 which mandates that all state regulatory agencies must take into consideration the impacts of sea level rise and tidal levels as part of their approval processes. This is likely to adversely affect grant funding for facilities to be constructed within areas that may be potentially affected. An article outlining the Order, as well as the text of the Order itself, is attached hereto.

Sincerely,
Moss Landing Harbor District

Linda G. McIntyre
General Manager/Harbor Master

LGM/ss

Attachments: As Stated

C: Liz Gonzales, RMA via email: gonzalesl@co.monterey.ca.us

Governor orders state agencies to plan for sea level rise and climate impacts

Written by Lake County News Reports

Saturday, 15 November 2008

SACRAMENTO – Given the serious threat of sea level rise to California’s water supply and coastal resources and the impact it would have on our state’s economy, population and natural resources, Governor Arnold Schwarzenegger on Friday issued an executive order to enhance the state’s management of climate impacts from sea level rise, increased temperatures, shifting precipitation and extreme weather events.

“We have to adapt the way we work and plan in order to manage the impacts and challenges that California and our entire planet face from climate change,” Governor Schwarzenegger said in a written statement. “Given the serious threat of sea level rise to California’s water supply, population and our economy, it’s critically important that we make sure the state is prepared when heavy rains cause flooding and the potential for sea level rise increases in future years.”

There are four key actions in the executive order including:

- Initiate California’s first statewide climate change adaptation strategy that will assess the state’s expected climate change impacts, identify where California is most vulnerable and recommend climate adaptation policies by early 2009;**
- Request the National Academy of Science establish an expert panel to report on sea level rise impacts in California to inform state planning and development efforts;**
- Issue interim guidance to state agencies for how to plan for sea level rise in designated coastal and floodplain areas for new projects; and**
- Initiate a report on critical existing and planned infrastructure projects vulnerable to sea level rise.**

One key benefit that the executive order will facilitate is California’s first comprehensive climate adaptation strategy. This effort will improve coordination within state government and adapt the way work so that better planning can more effectively address climate impacts to human health, the environment, the state’s water supply and the economy.

The order also provides consistency and clarity to state agencies on how to address sea level rise in current planning efforts, reducing time and resources unnecessarily spent on developing different policies using different scientific information.

The executive order and its actions carry on the governor's environmental leadership by continuing to address climate change adaptation in coordination with our climate change mitigation policies as outlined in AB 32. The states of Washington and Oregon, as well as Canada and Mexico, along with several global institutions have expressed interest in coordinating our climate change adaptation policies as outlined in this order.

California's Energy Commission, the California Ocean Protection Council and Caltrans are conducting numerous scientific studies on the impact of climate change, including new sea level rise impact projections that are being used to develop the state's climate change adaptation strategy.

Full text of executive order:

EXECUTIVE ORDER S-13-08

by the Governor of the State of California

WHEREAS climate change in California during the next century is expected to shift precipitation patterns, accelerate sea level rise and increase temperatures, thereby posing a serious threat to California's economy, to the health and welfare of its population and to its natural resources; and

WHEREAS California is a leader in mitigating and reducing its greenhouse gas emissions with the 2006 Global Warming Solutions Act (Assembly Bill 32), the Low Carbon Fuel Standard (Executive Order S-01-07), the 2008 Senate Bill 375 and the Renewable Portfolio Standard; and

WHEREAS these efforts, coupled with others around the world, will slow, but not stop all long-term climate impacts to California; and

WHEREAS California must begin now to adapt and build our resiliency to coming climate changes through a thoughtful and sensible approach with local, regional, state and federal government using the best available science; and

WHEREAS there is a need for statewide consistency in planning for sea level rise; and

WHEREAS California's water supply and coastal resources, including valuable natural habitat areas, are particularly vulnerable to sea level rise over the next century and could suffer devastating consequences if adaptive measures are not taken; and

WHEREAS the country's longest continuously operating gauge of sea level, at Fort Point in San Francisco Bay, recorded a seven-inch rise in sea level over the 20th century thereby demonstrating the vulnerability of infrastructure and resources within the Bay; and

WHEREAS global sea level rise for the next century is projected to rise faster than historical levels with the Intergovernmental Panel on Climate Change predicting that global sea levels will rise by between seven to 23 inches this century and some experts predicting even higher rises; and

WHEREAS while climate models predicting global sea level rise are generally understood and improving, less information is available for sea level rise projections specific to California that accounts for California's topography, coastal erosion rates, varying land subsidence levels and tidal variations; and

WHEREAS billions of dollars in state funding for infrastructure and resource management projects are currently being encumbered in areas that are potentially vulnerable to future sea level rise; and

WHEREAS safety, maintenance and operational efforts on existing infrastructure projects are critical to public safety and the economy of the state; and

WHEREAS the longer that California delays planning and adapting to sea level rise the more expensive and difficult adaptation will be; and

WHEREAS the California Resources Agency is a member of the California Climate Action Team and is leading efforts to develop and implement policy solutions related to climate change adaptation regarding current and projected effects of climate change; and

WHEREAS the Department of Water Resources (DWR) is responsible for managing the state's water resources to benefit the people of California, and to protect, restore and enhance the natural and human environments; and

WHEREAS California's coastal management agencies such as the California Coastal Commission, the California Ocean Protection Council (OPC) and California State Parks are charged with managing and protecting the ocean and coastal resources of the state; and

WHEREAS the California Energy Commission's (CEC) Public Interest Energy Research Program has funded research on climate change since 2001 including funding the development of preliminary sea level rise projections for the San Francisco Bay area by the Scripps Institution of Oceanography/University of California at San Diego.

NOW, THEREFORE, I, ARNOLD SCHWARZENEGGER, Governor of the State of California, by virtue of the power vested in me by the Constitution and statutes of the State of California, do hereby order effective immediately:

- 1. The California Resources Agency, in cooperation with DWR, CEC, California's coastal management agencies, and the OPC, shall request that the National Academy of Sciences (NAS) convene an independent panel to complete the first California Sea Level Rise Assessment Report and initiate, within 60 days after the signing of this Order, an independent sea level rise science and policy committee made up of state, national and international experts.**
- 2. By March 31, 2009, the OPC, DWR and the CEC, in coordination with other state agencies, shall hold a public workshop to gather policy-relevant information specific to California for use in preparing the Sea Level Rise Assessment Report and to raise state awareness of sea level rise impacts.**
- 3. The California Resources Agency shall request that the final Sea Level Rise Assessment Report be completed as soon as possible but no later than December 1, 2010. The final Sea Level Rise Assessment Report will advise how California should plan for future sea level rise. The report should include: (1) relative sea level rise projections specific to California, taking into account issues such as coastal erosion rates, tidal impacts, El Niño and La Niña events, storm surge and land subsidence rates; (2) the range of uncertainty in selected sea level rise projections; (3) a synthesis of existing information on projected sea level rise impacts to state infrastructure (such as roads, public facilities and beaches), natural areas, and coastal and marine ecosystems; and (4) a discussion of future research needs regarding sea level rise for California.**

4. The OPC shall work with DWR, the CEC, California's coastal management agencies and the State Water Resources Control Board to conduct a review of the NAS assessment every two years or as necessary.

5. I direct that, prior to release of the final Sea Level Rise Assessment Report from the NAS, all state agencies within my administration that are planning construction projects in areas vulnerable to future sea level rise shall, for the purposes of planning, consider a range of sea level rise scenarios for the years 2050 and 2100 in order to assess project vulnerability and, to the extent feasible, reduce expected risks and increase resiliency to sea level rise. However, all projects that have filed a Notice of Preparation, and/or are programmed for construction funding the next five years, or are routine maintenance projects as of the date of this Order may, but are not required to, account for these planning guidelines. Sea level rise estimates should also be used in conjunction with appropriate local information regarding local uplift and subsidence, coastal erosion rates, predicted higher high water levels, storm surge and storm wave data.

6. The Business, Transportation, and Housing Agency shall work with the California Resources Agency and the Governor's Office of Planning and Research (OPR) to prepare a report within 90 days of release of this Order to assess vulnerability of transportation systems to sea level rise that will include provisions for investment critical to safety, maintenance and operational improvements of the system and economy of the state.

7. By June 30, 2009, the California Resources Agency, through the Climate Action Team, shall coordinate with local, regional, state and federal public and private entities to develop a state Climate Adaptation Strategy. The strategy will summarize the best known science on climate change impacts to California (led by CEC's PIER program), assess California's vulnerability to the identified impacts and then outline solutions that can be implemented within and across state agencies to promote resiliency. A water adaptation strategy will be coordinated by DWR with input from the State Water Resources Control Board, an ocean and coastal resources adaptation strategy will be coordinated by the OPC, an infrastructure adaptation strategy will be coordinated by the California Department of Transportation, a biodiversity adaptation strategy will be jointly coordinated by the California Department of Fish and Game and California State Parks, a working landscapes adaptation strategy will be jointly coordinated by the California Department of Forestry and Fire Protection and the California Department of Food and Agriculture, and a public health adaptation strategy will be jointly coordinated by the

California Department of Public Health and the California Air Resources Board, all as part of the larger strategy. This strategy will be facilitated through the Climate Action Team and will be coordinated with California's climate change mitigation efforts.

8. By May 30, 2009, OPR, in cooperation with the California Resources Agency, shall provide state land-use planning guidance related to sea level rise and other climate change impacts.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

I FURTHER DIRECT that as soon as hereafter possible, this Order shall be filed with the Office of the Secretary of State and that widespread publicity and notice be given to this Order.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 14th day of November 2008.

Arnold Schwarzenegger
Governor of California

ATTEST:

Debra Bowen
Secretary of State

PUBLIC RESOURCES CODE DIVISION 20

CALIFORNIA COASTAL ACT (2018)

HEARING SUBMITTAL	
PROJECT NO / AGENDA	C-2090005 #3
DATE RECEIVED	2/28/18
SUBMITTED BY/VIA	Public / Hearing
DISTRIBUTION TO DATE	PC / 2/28/18
DATE OF HEARING	2/28/18

Section 30000 Short Title

This division shall be known and may be cited as the California Coastal Act of 1976.

Section 30001 Legislative findings and declarations; ecological balance

The Legislature hereby finds and declares:

(a) That the California coastal zone is a distinct and valuable natural resource of vital and enduring interest to all the people and exists as a delicately balanced ecosystem.

(b) That the permanent protection of the state's natural and scenic resources is a paramount concern to present and future residents of the state and nation.

(c) That to promote the public safety, health, and welfare, and to protect public and private property, wildlife, marine fisheries, and other ocean resources, and the natural environment, it is necessary to protect the ecological balance of the coastal zone and prevent its deterioration and destruction.

(d) That existing developed uses, and future developments that are carefully planned and developed consistent with the policies of this division, are essential to the economic and social well-being of the people of this state and especially to working persons employed within the coastal zone.


(Amended by Ch. 1090, Stats. 1979.)

Section 30001.2 Legislative findings and declarations; economic development

The Legislature further finds and declares that, notwithstanding the fact electrical generating facilities, refineries, and coastal-dependent developments, including ports and commercial fishing facilities, offshore petroleum and gas development, and liquefied natural gas facilities, may have significant adverse effects on coastal resources or coastal access, it may be necessary to locate such developments in the coastal zone in order to ensure that inland as well as coastal resources are preserved and that orderly economic development proceeds within the state.


Section 30001.5 Legislative findings and declarations; goals

The Legislature further finds and declares that the basic goals of the state for the coastal zone are to:

 (a) Protect, maintain, and where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources.

(b) Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state.

(c) Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principles and constitutionally protected rights of private property owners.

 (d) Assure priority for coastal-dependent and coastal-related development over other development on the coast.

(e) Encourage state and local initiatives and cooperation in preparing procedures to implement coordinated planning and development for mutually beneficial uses, including educational uses, in the coastal zone.

(Amended by: Ch. 1090, Stats. 1979; Ch. 1617, Stats. 1982.)

Section 30002 Legislative findings and declarations; implementation of plan

The Legislature further finds and declares that:

(a) The California Coastal Zone Conservation Commission, pursuant to the California Coastal Zone Conservation Act of 1972 (commencing with Section 27000), has made a detailed study of the coastal zone; that there has been extensive participation by other governmental agencies, private interests, and the general public in the study; and that, based on the study, the commission has prepared a plan for the orderly, long-range conservation, use, and management of the natural, scenic, cultural, recreational, and manmade resources of the coastal zone.

(b) Such plan contains a series of recommendations which require implementation by the Legislature and that some of those recommendations are appropriate for immediate implementation as provided for in this division while others require additional review.

Section 30003 Compliance by public agencies

All public agencies and all federal agencies, to the extent possible under federal law or regulations or the United States Constitution, shall comply with the provisions of this division.

Section 30004 Legislative findings and declarations; necessity of continued planning and management

The Legislature further finds and declares that:

(a) To achieve maximum responsiveness to local conditions, accountability, and public accessibility, it is necessary to rely heavily on local government and local land use planning procedures and enforcement.

(b) To ensure conformity with the provisions of this division, and to provide maximum state involvement in federal activities allowable under federal law or regulations or the United States Constitution which affect California's coastal resources, to protect regional, state, and national interests in assuring the maintenance of the long-term productivity and economic vitality of coastal resources necessary for the well-being of the people of the state, and to avoid long-term costs to the public and a diminished quality of life resulting from the misuse of coastal resources, to coordinate and integrate the activities of the many agencies whose activities impact the coastal zone, and to supplement their activities in matters not properly within the jurisdiction of any existing agency, it is necessary to provide for continued state coastal planning and management through a state coastal commission.

Section 30005 Local governmental powers; nuisances; attorney general's powers

No provision of this division is a limitation on any of the following:

(a) Except as otherwise limited by state law, on the power of a city or county or city and county to adopt and enforce additional regulations, not in conflict with this act, imposing further conditions, restrictions, or limitations with respect to any land or water use or other activity which might adversely affect the resources of the coastal zone.

(b) On the power of any city or county or city and county to declare, prohibit, and abate nuisances.

(c) On the power of the Attorney General to bring an action in the name of the people of the state to enjoin any waste or pollution of the resources of the coastal zone or any nuisance.

(d) On the right of any person to maintain an appropriate action for relief against a private nuisance or for any other private relief.

Section 30005.5 Local governmental powers; construction

Nothing in this division shall be construed to authorize any local government, or to authorize the commission to require any local government, to exercise any power it does not already have under the Constitution and laws of this state or that is not specifically delegated pursuant to Section 30519.

(Added by Ch. 744, Stats. 1979.)

Section 30006 Legislative findings and declarations; public participation

The Legislature further finds and declares that the public has a right to fully participate in decisions affecting coastal planning, conservation and development; that achievement of sound coastal conservation and development is dependent upon public understanding and support; and that the continuing planning and implementation of programs for coastal conservation and development should include the widest opportunity for public participation.

Section 30006.5 Legislative findings and declarations; technical advice and recommendations

The Legislature further finds and declares that sound and timely scientific recommendations are necessary for many coastal planning, conservation, and development decisions and that the commission should, in addition to developing its own expertise in significant applicable fields of science, interact with members of the scientific and academic communities in the social, physical, and natural sciences so that the commission may receive technical advice and recommendations with regard to its decisionmaking, especially with regard to issues such as coastal erosion and geology, marine biodiversity, wetland restoration, the question of sea level rise, desalination plants, and the cumulative impact of coastal zone developments.

(Added by Ch. 965, Stats. 1992.)

Section 30007 Housing; local government

Nothing in this division shall exempt local governments from meeting the requirements of state and federal law with respect to providing low- and moderate-income housing, replacement housing, relocation benefits, or any other obligation related to housing imposed by existing law or any law hereafter enacted.

Section 30007.5 Legislative findings and declarations; resolution of policy conflicts

The Legislature further finds and recognizes that conflicts may occur between one or more policies of the division. The Legislature therefore declares that in carrying out the provisions of this division such conflicts be resolved in a manner which on balance is the most protective of significant coastal resources. In this context, the Legislature declares that broader policies which, for example, serve to concentrate development in close proximity to urban and employment centers may be more protective, overall, than specific wildlife habitat and other similar resource policies.

Section 30008 Division as coastal zone management program

This division shall constitute California's coastal zone management program within the coastal zone for purposes of the Federal Coastal Zone Management Act of 1972 (16 U.S.C. 1451, et seq.) and any other federal act heretofore or hereafter enacted or amended that relates to the planning or management of coastal zone resources; provided, however, that within federal lands excluded from the coastal zone pursuant to the Federal Coastal Zone Management Act of 1972, the State of California shall, consistent with applicable federal and state laws, continue to exercise the full range of powers, rights, and privileges it now possesses or which may be granted.

(Amended by Ch. 1075, Stats. 1978.)

Section 30009 Construction

* This division shall be liberally construed to accomplish its purposes and objectives.

Section 30010 Compensation for taking of private property; legislative declaration

The Legislature hereby finds and declares that this division is not intended, and shall not be construed as authorizing the commission, port governing body, or local government acting pursuant to this division to exercise their power to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation therefor. This section is not intended to increase or decrease the rights of any owner of property under the Constitution of the State of California or the United States.

(Amended by Ch. 285, Stats. 1991.)

Section 30011 Requirements of Government Code § 65590; review of local government's application; evidence of compliance; information concerning status of action to apply

Nothing in this division shall authorize the commission to review a local government's application of the requirements of Section 65590 of the Government Code to any development. In addition, the commission shall not require any applicant for a coastal development permit or any local government to provide certification or other evidence of compliance with the requirements of Section 65590 of the Government Code. The commission may, however, solely in connection with coastal development permit applications described in subdivision (c) of Section 30600.1, require information about the status of a local government's action to apply the requirements of Section 65590 of the Government Code. This information shall be used for the purpose determining time limits for commission action on these applications as provided in that subdivision (c).

(Added by Ch. 43, Stats. 1982.)

Section 30012 Legislative findings and declarations; public education program

(a) The Legislature finds that an educated and informed citizenry is essential to the well-being of a participatory democracy and is necessary to protect California's finite natural resources, including the quality of its environment. The Legislature further finds that through education, individuals can be made aware of and encouraged to accept their share of the responsibility for protecting and improving the natural environment.

(b) (1) The commission shall, to the extent that its resources permit, carry out a public education program that includes outreach efforts to schools, youth organizations, and the general public for the purpose of promoting understanding of, fostering a sense of individual responsibility for, and encouraging public initiatives and participation in programs for, the conservation and wise use of coastal and ocean resources. Emphasis shall be given to volunteer efforts such as the Adopt-A-Beach program.

(2) In carrying out this program, the commission shall coordinate with other agencies to avoid duplication and to maximize information sharing.

(c) The commission is encouraged to seek funding from any appropriate public or private source and may apply for and expend any grant or endowment funds for the purposes of this section without the need to specifically include funds in its budget. Any funding made available to the commission for these purposes shall be reported to the fiscal committee of each house of the Legislature at the time its budget is being formally reviewed.

(d) The commission is encouraged to seek and utilize interns for the purpose of assisting its regular staff in carrying out the purposes of this section and this division and, notwithstanding any other provision of law, may participate in any internship program the executive director determines to be appropriate. With respect to any internship program the commission uses, it shall make the best efforts to ensure that the participants in the program reflect the ethnic diversity of the state and are provided an educational and meaningful experience.

(e) The commission shall submit to each house of the Legislature an annual report describing the progress it is making in carrying out this section.

(Added by Ch. 802, Stats. 1991.)

Section 30013 Environmental Justice

The Legislature further finds and declares that in order to advance the principles of environmental justice and equality, subdivision (a) of Section 11135 of the Government Code and subdivision (e) of Section 65040.12 of the Government Code apply to the commission and all public agencies implementing the provisions of this division. As required by Section 11135 of the Government Code, no person in the State of California, on the basis of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, genetic information, or disability, shall be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination, under any program or activity that is conducted, operated, or administered pursuant to this division, is funded directly by the state for purposes of this division, or receives any financial assistance from the state pursuant to this division.

(Added by Ch. 578, Stats. 2016.)

Public Comment

Michael W. Stamp
Molly Erickson

STAMP | ERICKSON
Attorneys at Law

479 Pacific Street, Suite One
Monterey, California 93940
T: (831) 373-1214
F: (831) 373-0242

February 27, 2018

Via Email

Keith Vandevere, Chair
Monterey County Planning Commission
168 West Alisal Street
Salinas, CA 939091

Re: Moss Landing Community Plan Update (item 3, Feb. 28 agenda)

Dear Chair Vandevere and members of the Planning Commission:

I write to you on behalf of Friends, Artists & Neighbors of Elkhorn Slough (FANS). FANS co-chair Mari Kloeppel was an appointed active member of the Moss Landing Community Plan Update Committee. Mari and I have participated in the community meetings to discuss various drafts of the plan. The County held approximately one meeting a year. Over the years we have met with the project planners and managers (Ford, Holm, Onciano, Carver, Mack). Last week, we met with the current County planners (Novo, Schubert, Gonzales). We hope to have more meetings to address issues and information about the history from 2008 to the present.

FANS respectfully presents these comments for your consideration.

Incomplete: The August 2017 draft plan is incomplete. County staff is in process of gathering current information and making changes to the 2017 draft plan. The residents and interested parties have not seen a complete plan.

Sea Level Rise: The August 2017 draft did not consider a 2017 report on sea level rise by Moss Landing Marine Labs that specifically addresses Moss Landing. It has significant material relevance to this plan. (See attached excerpts.)

Traffic: The Moss Landing traffic counts will not be done until March 2018. The contact for that traffic study is Monterey County RMA.

Water: The draft water section has significant problems. It is far weaker than the General Plan requirement for sustainable water supply. It is inconsistent with North County LUP. For example, proposed policy NCLUP-ML-4.7 states the County should ignore the mandatory water resource protections in North County LUP section 2.5.3.A.

Materially outdated: Much of the draft needs to be updated. It is based on information from 2008 and earlier. The water manager, Monterey County Water Resources Agency, apparently was not consulted for its review and input.

Unfunded Mandates: Several policies require the County to take affirmative actions but there is no funding for those actions. (E.g., NCLUP-ML-2.11-2.17, 2.21.)

Moss Landing Community Coastal Climate Change Vulnerability Report



Photo: Don Debold.

JUNE 2017

CENTRAL COAST WETLANDS GROUP

MOSS LANDING MARINE LABS | 8272 MOSS LANDING RD, MOSS LANDING

- Almost all the commercial district buildings and approximately half of the residences within the Monterey Dunes Colony fall within the 2060 combined hazard zone
- By 2060 erosion of the dunes near Potrero road and near the Salinas River mouth are at risk of wave overtopping during storms, leading to ocean waves flowing into the Old Salinas River channel, bypassing the coastal flood protections provided by the tide gates.
- By 2100 the increased height of monthly tides becomes the driving hazard for Moss Landing adaptation planning.
- By 2100 much of the agriculture lands south of Moss Landing and west of Highway One will be vulnerable to frequent flooding due to further dune erosion and loss of water control structure functions

Public Comment
Agenda Item # 3
February 28, 2018

McDougal, Melissa x5146

From: Karin & Scott <srbkaf2000@gmail.com>
Sent: Tuesday, February 27, 2018 9:10 PM
To: McDougal, Melissa x5146
Cc: Andrew Devogelaere
Subject: Re: FW: Monterey County Planning Commission - Wednesday, February 28, 2018 Agenda

Hello Melissa,

Thank for the meeting notice. I will be unable to attend this meeting, but I'd like to follow up with you to see if you can help me with a related matter. I had previously sent two messages to John Ford, following Aug-Sep 2016 meetings in Moss Landing, to get copies of files from the late Melanie Mayer Gideon that were given to the County following her passing. I never heard back from John Ford, but I have pasted those two messages below, and I would be most grateful if you could help me locate these files so I can make a copy for our community records.

Thank you kindly,
Karin Forney
10922 Pieri Ct
PO Box 254
Moss Landing CA 95039

----- Forwarded Message -----

Subject:Re: Cancellation of September 1, 2016 Moss Landing Community Meeting

Date:Tue, 30 Aug 2016 09:36:29 -0700

From:Karin & Scott <srbkaf2000@gmail.com>

To:Ford, John H. x5158 <FordJH@co.monterey.ca.us>

Thank you, John.

This actually works out better for me, as I am currently at sea on a research cruise off the US. West Coast, returning on Sep 7th.

Did you have any luck finding Melanie Mayer Gideon's files? If so, I would still love to get a copy (I would be happy to stop by and make copies or scan them myself once I return, if that is easiest).

Thank you!
Karin

--
Karin Forney
PO Box 254, 10922 Pieri Ct
Moss Landing CA 95039
srbkaf2000@gmail.com

On 8/30/2016 8:58 AM, Ford, John H. x5158 wrote:

NOTICE OF CANCELATION

Moss Landing Community Plan Community Meeting

Monterey Bay Aquarium Research Institute

Pacific Forum Room

7700 Sandholdt Road

Moss Landing, CA 95039

Thursday, September 1, 2016

5:30 pm to 7:30 pm

Dear Moss Landing Stakeholders:

I apologize for needing to cancel the meeting on September 1, but the Resource Management Agency has had several staff leave, and David Mack has been out for approximately one month. I have not been

able to put together information for your review in time for this meeting.

I will be rescheduling the meeting for later in September.

If you have any questions please contact me,

John Ford

(831) 755-5158

----- Forwarded Message -----

Subject:Melanie Mayer Gideon files - Moss Landing

Date:Fri, 9 Sep 2016 09:58:43 -0700

From:Karin & Scott <srbkaf2000@gmail.com>

To:Ford, John H. x5158 <FordJH@co.monterey.ca.us>

Hello John,

I've just returned from field work at sea, and wanted to see if you were able to locate Melanie Mayer Gideon's Moss Landing files, which were given to the County sometime during the last year or so (per the statement made by one gentleman at our last community meeting)? I would very much like to get copies of those files if possible. Thank you!

Cheers,
Karin

On 2/22/2018 8:23 AM, McDougal, Melissa x5146 wrote:

Good Morning,

Please see the attached Revised Planning Commission Agenda for February 28, 2018.

Changes: Agenda Items numbered and a minor typo has been corrected.

Thank you,

Melissa McDougal
Senior Secretary
Monterey County
Resource Management Agency
1441 Schilling Place
Salinas CA 93901
Direct Line: (831) 755-5146
Fax: (831) 757-9516

From: McDougal, Melissa x5146

Sent: Wednesday, February 21, 2018 4:30 PM

Subject: Monterey County Planning Commission - Wednesday, February 28, 2018 Agenda

Good Afternoon,

Please find the attached agenda for the February 28, 2018 Planning Commission Meeting.

The following projects are scheduled:

PLN160608 - Bailey
PLN150805 - The Big Sur Land Trust (Lobos Ridge)
GPZ090005 - Moss Landing Community Plan - Workshop (Scheduled at 10:30 a.m.)

You may also view the agenda with live links at:

<https://monterey.legistar.com/Calendar.aspx> or searching by project file number at: <https://aca.accela.com/monterey/> .

Thank you,

Melissa McDougal
Senior Secretary
Monterey County
Resource Management Agency
1441 Schilling Place
Salinas CA 93901
Direct Line: (831) 755-5146
Fax: (831) 757-9516

February 28, 2018

Public Comment
Agenda# 3
February 28, 2018

To: Planning Commission of the County of Monterey, State of California

From: Nancy Russell
PO Box 321
Moss Landing CA 95039
rusnancy@gmail.com

My family has owned and occupied 10942 Pieri Ct in Moss Landing, for more than 60 years. I have lived in the house since 2011. My key concerns are:

- Better communication between the county and residents of Moss Landing, with sincere efforts to engage the residents of Moss Landing.
- The change in plans about installation of underground electrical utilities and related infrastructure on Pieri Ct
- The need for sidewalks between the residential section of Moss Landing and the downtown area. As far as I know the sidewalks are only slated for downtown Moss Landing.

Communication

Moss Landing seems to fall between the cracks. The responsible parties at the county change, meetings are called and canceled, and letters to staff in the county or requests of information are ignored.

Underground Utilities

Prior to moving back to the house I received a notice, informing me that our neighborhood would be receiving underground wiring. Since I moved back I learned that Pieri Ct and Laguna would not be included in the underground electrical utilities project. I have attended several meetings where the issue was raised and the answer was always vague. My neighbor, Andrew DeVogelaere recently wrote a letter to Liz Gonzales at the Monterey County Resource Management. In the letter he asked three questions regarding these funds and received no response.

In addition, another neighbor, at one of the meetings held at MBARI, asked the county for records that had been kept by Melanie Mayer along with permission to copy them. She also received no reply.

In general, the community meetings, hosted by the county have been less about listening to the community and more about presenting the county's plans. Due to changes in County staffing there has been a lack of consistency.

Sidewalks

The need for a sidewalk between Moss Landing Heights and downtown is not just a convenience. Traffic consistently drives above the speed limit on Moss Landing road, making it dangerous for pedestrians. In addition the land along the sides of the road is uneven and difficult to navigate without walking on the road itself. Moss Landing Rd is full of pot holes, making it even more dangerous for cars and pedestrians.

Nancy Russell
Moss Landing Resident

cc: John Phillips, Supervisor