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May 10, 2004

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**VIA FEDERAL EXPRESS**

Monterey County Planning Commission  
c/o Monterey County Planning & Building Inspection Department  
2620 - 1st Avenue  
Marina, CA 93933

**Re: PLN030620 - Initial Study/ Proposed Mitigated Negative Declaration  
Julia Pfeiffer Burns State Parks Exotic Species Removal**

To the Members of the Monterey County Planning Commission:

The project proposed by the Department of Parks and Recreation (referenced above) is not what your staff report describes. A far more accurate project description is this:

Parks proposes to fell more than 4000 trees on the Big Sur coast, with hundreds of those trees to be disposed of by felling them so they topple over the side of the bluff, bulldozing seacliff buckwheat on their course down to the beach and surf zone below. Seacliff buckwheat is the one and only habitat of the endangered Smith's Blue Butterfly. As the trees, with trunk diameters of as much as eight feet, scar the bluff face on their long downward course, some will snag in the ravines of the bluff, blocking drainage and sprouting suckers. Others, when they have made it the whole way, may well pummel harbor seals that have hauled out in the pocket beaches below.

1. As the courts have often said, “[a] curtailed or distorted project description may stultify the objectives of the reporting process. Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal’s benefit against its environmental cost . . . .” Berkeley Keep Jets Over the Bay v. Bd. of Port Commissioners of the City of Oakland, 91 Cal. App. 4th 1344, 1358 (2001) (quoting Sacramento Old City Assn. v. City Council, 229 Cal.App.3d 1011, 1023 (1991)); see also 1 Kostka, Stephen L. et al., Practice Under the California Environmental Quality Act § 12.17

Oregon  
Washington  
California  
Utah  
Idaho



(2002) (“If the description is inadequate because it fails to discuss the complete project, the environmental analysis will probably reflect the same mistake.”). You must have an accurate project description before you can determine whether a negative declaration is appropriate in this case. Here, your project description does not even deal with the hundreds of trees dumped over the side of the bluff.

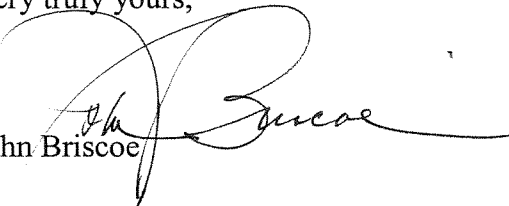
2. Your staff reports that there is no “fair argument” this project might cause a significant effect on the environment. To state such a position, in the light of an accurate project description, illuminates the position’s absurdity. Suppose a timber company bought a hundred acres at Partington Point, proposing to fell 4000 trees and dispose of several hundred unwanted ones by dumping them over the side of the cliff. How would you respond to a staff recommendation of approval on a negative declaration? It is for you to decide.
3. Your staff also reports that Parks need not comply with your regulation that biological surveys must “be prepared by a qualified biologist, as selected from the County’s list of Consulting Biologists.” Monterey County Coastal Implementation Plan, Part 3, § 20.145.040(A)(3). We see no basis for such an ad hoc exemption.

In the end, you must decide—since Parks has already done much of this work without having first obtained any of the necessary governmental approvals, and without having complied with CEQA—whether it is in fact better to ask forgiveness than permission. Your decision, whatever it is, will be heard by every law-abiding citizen in your jurisdiction. And by every scofflaw.



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Very truly yours,

  
John Briscoe

cc: Monterey County Counsel (via FedEx)  
California Coastal Commission (via FedEx)  
California Regional Water Quality Control Board – Central Coast Region (via FedEx)  
California State Lands Commission (via FedEx)  
California Department of Fish and Game (via FedEx)  
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