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August 19, 2004

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VIA OVERNIGHT MAIL

Clerk
Monterey County Board of Supervisors
240 Church Street, East Wing Room 225
P.O. Box 1728
Salinas, CA 93902

**Re: August 24, 2004 Agenda Item S-10 – Appeal of Coastal Development Permit
(PLN030620/Julia Pfeiffer-Burns State Park)**

To the Members of the Monterey County Board of Supervisors:

Your staff recommends that you approve a permit for “removal” of 4,516 trees and shrubs “near environmentally sensitive habitat and on slopes exceeding 30% at Julia Pfeiffer-Burns State Park.”

The application before you, in fact, is not just an application to cut down those thousands of trees, but also to toss many of them over the cliff, taking out endangered species habitat in the process, and leaving debris on the slopes, the ground and in the surf zone. To be more accurate still, the applicant *already has* cut down thousands of those trees and tossed them over the cliff, taking out endangered species habitat, and leaving debris on the slopes, the ground and in the surf zone. State Parks, applying for an after-the-fact permit, has found it more expedient to seek forgiveness than permission. The Friends of the Big Sur Coast and Joseph P. Schoendorf oppose the application for this “removal” project.

John Gilchrist, an environmental consultant and licensed erosion control specialist, has prepared a third report identifying the inadequacies of both the planning for this project and the County’s handling of the matter “after-the-fact.” To summarize:

- There has been no survey of individual seacliff buckwheat plants for evidence of any endangered Smiths’ blue butterfly live phases;
- The United States Fish and Wildlife Service was not consulted about the possible presence of a federally-listed endangered species or the eradication of its protected habitat;

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- Review of the trees for roosting sites of monarch butterflies (a state listed sensitive species) was inadequate, or not done at all;
- Raptor nest surveys were not performed before trees were cut, and the work buffer now imposed by the County is inadequate;
- No analysis of the impacts to the intertidal and near shore zones has been done, even though trees *have been* observed in those areas and it is highly likely that additional trees will reach those areas;
- The proposed monitoring amounts to nothing more than periodic visits to see if any fallen trees have reached the beach;
- There has been no study of the impacts and damage to the plants on the slope, of the damage to inter-tidal organisms, or of the erosion impacts from the massive logs;
- Leaving eucalyptus logs and other non-native debris on the slopes, where they will not break down for decades, is a serious impact that has not been adequately addressed and is not mitigated;
- The County is ignoring the need for more mitigation measures or the existence of significant unmitigable impacts;
- The submitted reports do not have the information normally required for non-government projects, such as the qualifications of the investigators, the dates of surveys, and the background information of species of concern;
- Removal of existing seacliff buckwheat that may contain any of the life stages of the Smith's Blue Butterfly, including larvae or pupae, is a significant unavoidable impact—and a violation of the federal Endangered Species Act;
- The planting of new seacliff buckwheat (proposed as mitigation) takes years to mature into a butterfly host plant;
- The County has understated the slope vegetation impacts and has not required any detailed revegetation plans that would normally include methods, species types, numbers, spacing, monitoring and maintenance, and performance expectations.



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After performing an inadequate review, your staff recommended approval of this project on a mitigated negative declaration. Without a doubt, but for the identity of the project applicant—the California Department of Parks and Recreation—the project would not have been approved at all, much less on a mitigated negative declaration.¹

With regard to mitigation, the measures proposed for this project do not reduce its effects “to a point where clearly no significant effect on the environment would occur *and* there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment.” Tit. 14 Cal. Code Regs. § 15064(f)(2) (emphasis added). Significant effects have already occurred. And they have not been properly studied, remediated, or even addressed, much less mitigated.

Should you deny this appeal, you will perpetuate the fallacy that this “removal” project—cutting down over 4,000 trees on the Big Sur coastal cliffs and sending them plowing down the cliff walls through endangered species habitat to the shores of the Pacific—“clearly” will have no significant effect on the environment. You will also set an important precedent for future coastal projects in the county.

Very truly yours,

John Briscoe

JB:gsb
Enclosure

¹ Incidentally, the Staff Report claims that similar treatment was extended to “other violation cases such as Mayer (PLN010331), Kleissner (010280), Kitaji (PLN020357), and Waters (PLN 040055).” 7/13/04 Staff Report at p. 4. Our understanding is that, in two instances, the subject properties were ultimately sold. In all of those cases, the issues involved unpermitted road improvements, not the cutting of thousands of trees that were subsequently thrown over the cliff. Nevertheless, many people will be interested to know that the County claims this is not a case of preferential treatment. Future project applicants may appreciate such inexpensive “after-the-fact” permitting.



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cc: Friends of the Big Sur Coast
Joseph P. Schoendorf
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)
Carl P. Holm, Project Planner, Monterey County Planning & Building Inspection
Department (via FedEx)
Tim LaFranchi, Chief Counsel to Department of Parks and Recreation