

August 30, 2002

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Ms. Cathy Woodbury  
Midpeninsula Regional Open Space District  
330 Distal Circle  
Los Altos, CA 94022-1404

Re: Comments on the "San Mateo Coastal Annexation 'Draft Environmental Impact Report'" (initial circulation beginning 6/13/02; State Clearinghouse No.   ?  )

Dear Ms. Woodbury:

"Brief" general comments on the California Environmental Quality Act (CEQA) compliance process will be followed by a discussion of the nature and level of analysis required under this Act of the conceivable significant environmental impacts of the proposed project (MROSD's annexation of Coastal San Mateo County; "the project"). This discussion will be followed by examination of the project's 'Draft Environmental Impact Report' (hereafter "the/this EIR") which will specify its errors and deficiencies with particular focus on the inadequacy of the project description and noncompliance with procedural aspects of CEQA resulting in less than adequate disclosure and complete analysis of foreseeable environmental impacts relating to the project. Comment on the "Fiscal Analysis" of the project circulated along with the EIR is deferred; comments on the circulated draft "Willing Seller Ordinance" and related matters are not deferred as this ordinance is incorporated into the EIR "as an agricultural impact mitigation measure".

The "Headnote" of the Appellate Court decision (*Planning & Conservation League v. Dept. of Water Resources*; 83 Cal.App.4th 892 [2000]) affirming a challenge to the certification of an EIR states regarding the contents and sufficiency of an adequate EIR: *Both the mandate and the mechanism of the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) are carefully crafted and well ingrained into the law of this state. The environmental impact report (EIR), with all its specificity and complexity, is the mechanism prescribed by CEQA to force informed decision making and to expose the decisionmaking process to public scrutiny. The EIR is the heart of CEQA, an environmental alarm bell, and a document of accountability. Whenever a project may have a significant and adverse physical effect on the environment, an EIR must be prepared and certified (Pub. Resources Code, § 21100, subd. (a)). An EIR provides the public and responsible government agencies with detailed information on the potential environmental consequences on an agency's proposed decision. The ultimate decision of whether to approve a project, be that decision right or wrong, is a nullity (emphasis added) if based upon an EIR that does not provide the decision makers, and the public, with the information about the project that is required by CEQA. The error is prejudicial if the failure to include relevant information precludes informed decisionmaking and informed public participation, thereby thwarting the statutory goals of the EIR process. CEQA's EIR process protects not only the environment but also informed self-government. CEQA assigns primacy to the protection of the environment; EIRs not only inform decision makers and the public of projects' significant environmental effects and ways to reduce them but they also inform the citizenry as to whether the environment is actually being protected and may provide bases for political accountability through disclosing the environmental priorities and values held by elected and appointed officials associated with their crafting, certification or implied acceptance.*

The EIR prepared for MROSD's annexation establishes abuses of discretion resulting from not proceeding in a manner required by CEQA and by not engaging in a good faith effort to fully disclose/describe the proposed project and/or disclose relevant information relating to its significant individual and cumulative environmental impact(s) that may not be mitigable. That a/the project has unmitigable significant environmental impacts/effects does

not in itself preclude its approval; under CEQA what is sought to be precluded is ignorance of the environmental consequences when planning and approving an action or a project of any nature. Although CEQA allows a fair amount of latitude, dictated by reason, in just how the environmental impact(s) assessment for any particular project is accomplished; there are, however, certain procedural and substantive process requirements designed to insure unbiased and full disclosure that must be fulfilled for a "Lead Agency" to insulate an EIR from being deemed a "nullity" (uncertifiable under CEQA) upon review by the Judiciary.

#### PROCEDURAL ERROR AND INADEQUACIES OF THE EIR:

##### o Lead Agency Determination:

MROSD ("the District") under CEQA requirements is the/a "responsible agency" and is inappropriately designated as the "lead agency" for the project; LAFCo is the "lead agency" and as such is the agency that is required to oversee the preparation and certify the EIR as complete. The District argues that it is the "lead agency" for the project since "its' decision as to whether to request LAFCo's approval of annexation is the first decision to be made regarding the project". "Lead agency" is not determined by which agency first envisions or delineates a project; "'Lead Agency' means the public agency which has the principal responsibility for carrying out or approving a project which may have a significant effect upon the environment" (Public Resources Code Section 21067; emphasis added). If, as the District is wont to claim, the annexation project "is just about moving a line on a map" then it should be clear that the District does not have the authority to change its own service boundaries otherwise there would be no need for its Application to LAFCo for this purpose; in this instance the San Mateo LAFCo alone has this authority and is therefore under CEQA the appropriately designated "lead agency". The "lead agency" is that agency which has the ultimate responsibility and power to say if the project happens or not; although the District is the proponent and eventual "constructor" of the project and would be in fact the "lead agency" for other/ensuing projects in the annexation area if the proposed project is approved by LAFCo, it has not been properly designated or has improperly designated itself the "lead agency" for the project of the subject EIR.

LAFCo can not delegate its "lead agency" responsibilities under CEQA. The District as the project's proponent may be designated the actual preparer of the EIR for the project, but LAFCo has the responsibility and as the lead agency the only authority to certify it as complete and adequate and is required to be involved in its preparation. Proper designation of "lead agency" is necessary to insure that a proposed project is subjected to unbiased, independent analysis of its environmental setting and impacts; the EIR (the current draft) for the project is a case in point. The District's assuming the role of the "lead agency" has resulted in the EIR containing prejudicial error, with previously identified significant mitigable and unmitigable impacts being omitted leading to inadequate analyses of alternatives (including the no project alternative) and skirting a principle purpose of a "Program EIR" – the opportunity for timely and credible cumulative impact analyses. Given that, to an all to large part, the project is vaguely described by broad "guiding" policies/"principles" that may shape the District's activities in the annexation area if LAFCo approves its application; given that LAFCo's expertise is in existing local plans and policies: LAFCo is also the logical lead agency to determine/know if the District's project/policies are in fact compatible with in place policies and plans directed at protecting this County's deliberately determined environmental values and priorities. What may be viewed as mere technical procedural violation becomes problematic with respect to CEQA compliance when it results in a skewed environmental analysis lacking objectivity and a "good faith effort at full disclosure" of the project's impacts. (Planning & Conservation League v. Dept. of Water Resources; 83 Cal.App.4th 892 [Sept. 2000])

##### o Misrepresentation (misleading characterization) of the nature and scope of a "Program EIR":

Contrary to that which is implied in your and Ms. Schectman's "written recommendations" to the District's Board on 6/12/02 and also intimated throughout the EIR: Under a "Program EIR" the environmental analysis of specific components of the project are not as a matter of course put off until such time as the actual development of site-specific projects are considered. In the "recommendations" of 6/12/02 it is stated: "Analysis of the potential for environmental impact takes into account the guiding principles of the *Draft Service Plan* that would govern site-specific planning and implementation. These policies and guidelines, along with the mitigation measures in the Program EIR, would avoid or minimize the environmental effects associated with future implementation of projects that could potentially result from the annexation. Under CEQA, the District will still be required to undertake an environmental evaluation of subsequent site-specific projects as they are proposed, and determine what additional environmental documentation and review are necessary." (emphasis added) For those who are critical of the project's (as "described" in the *Draft Service Plan*) lack of conservation coherence and specificity (like how much of the proposed 11,800 acres will be acquired for the preservation of agriculture and how much for "low intensity" recreation) and find it therefore difficult to assay the project for environmental benefits or impacts these words may be comforting - they should not be. A project (and this project even with all its conceivable permutations resulting in various and vast consequences to the environment is under CEQA "a project") that is found appropriately considered and certified under a "Program EIR" is actually insulated/exempted by CEQA from further environmental review unless it is determined that the project has changed substantially or there are significant environmental impacts that site-specific projects would have that were not addressed in "Program EIR" (Public Resources Code, § 21166). In the above "recommendation" to the District where it states "Under CEQA, the District will still be required to undertake an environmental evaluation . . ." given that the project has been scrutinized via a "Program EIR", the further scrutiny that is in fact required is only that required by the insertion of 'may' where 'will' occurs.

The selection and use by the District of a "Program EIR" for analysis of the environmental impacts of the project in effect, once the EIR is certified, essentially gives the District something very close to environmental carte blanche regarding its operations within the annexation area - it can do whatever it wants, via Negative Declaration(s) without anymore extensive environmental review as "site-specific projects are proposed". The only recourse anyone would have with objection to any perceived impacts resulting from this environmental free reign may be limited to the courts - whether there is further good faith environmental assessment is otherwise at the sole discretion of the District. The District's remarks regarding the nature and scope of both the project and the environmental assessment involved in a "Program EIR" and the EIR to the extent that they mislead and disarm(ed) timely and exhaustive environmental assessment (particularly of cumulative effects) and the consideration of alternatives undermines any finding of the adequacy and sufficiency of the EIR.

For the EIR to obtain the above indicated procedural benefits CEQA accorded to a "Program EIR" it must before certification identify all the major components of the project and seriously engage in the analysis of their environmental impacts including within reason their secondary and long range environmental impacts associated with implementation of the project. The cumulative and alternatives analysis can not be put off to a later date. That the EIR dismisses such analysis with, paraphrasing: "We have demonstrated that the conceivable environmental impacts from implementing the separate components of the project (of those we have considered significant) all can be mitigated to less than significance; since there is absolutely no identified environmental impact that has not been reduced to insignificance there would be no (couldn't be any) cumulative impact and we have no obligation to inquire into alternatives that would reduce environmental impacts of the project since there aren't any - we would just be wasting everyone's time." The argument is of coarse fatuous if only those impacts that are in fact mitigable are identified and the cumulative impact(s) of the implementation of the project's various identified components is/are ignored. The EIR asserts

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that trails can be constructed so that the agricultural potential of lands they traverse are protected (more on this subject below) and that trail impacts on biological resources can be mitigated to insignificance; however, there is no analysis of the short term or cumulative impacts on agriculture of the combined project's trail and natural resources protection components. What are the cumulative consequences of superimposing a recreational trail grid over a planned agricultural district not just over this or that land but over the whole area? What are the consequences to agriculture of superimposing this grid **and** the implementation of "Implementation Action G.3.A.(i); On a case-by-case basis, the District shall determine how best to continue agricultural uses consistent with protection of rare and endangered plant and animal species and their habitat"? Are the combined cumulative effects of the conservation antinomies embedded in the project description going to have the same cumulative effect on agriculture within the annexation area as their resolution in the Districts current polices have had on agriculture within its present boundary (i.e.; for all intents and purposes, liquidation in favor of "natural resource protection" and availability of recreational opportunities)? What mitigation measure(s) in the EIR address this potentially significant cumulative impact of the project? The one relating to eminent domain (Mitigation AGR-1c)? How? The cumulative impact(s) to a project along with credible analysis of alternatives or mitigation that avoid or reduce them can not be avoided in a "Program EIR" for a project that could conceivably have area wide environmental consequences - it must be embraced.

*A program EIR is designed to "(1) Provide an occasion for a more exhaustive consideration of effects and alternatives than would be practical in an EIR on an individual action, [¶] (2) Ensure consideration of cumulative impacts that might be slighted in a case-by-case analysis, [¶] (3) Avoid duplicative reconsideration of basic policy considerations, [¶] (4) Allow the lead agency to consider broad policy alternatives and program wide mitigation measures at an early time when the agency has greater flexibility to deal with basic problems or cumulative impacts, [and] [¶] (5) Allow reduction in paperwork." (CEQA Guidelines, § 15168, subd. (b).) Friends of Mammoth v. Town of Mammoth Lakes Redevelopment Agency; 82 Cal.App.4th 511 (p. 531)*

#### COMMENTS ON THE SUBSTANTIVE JUDGMENTS AND ANALYSIS OF THE EIR:

- o Multiple and inadequate description of the project:

Mr. Miller, of 2M Associates, was the first to assert that "annexation itself has no environmental impacts". In your communication to the District's Board on 6/12/02 you and Ms.Schectman state: "The act of annexation is a legal and administrative change to the District's boundary and does not itself produce an environmental effect." Subsequently the District's Public Affairs spokesperson is reported in the Half Moon Bay Review to have opined that annexation was just a "metaphysical" act of moving lines on a map and this was repeated by the District's General Manager at its Board Meeting on 7/31/02. These are damaging comments not only to full CEQA analysis and its prescribed informed public participation, but may in themselves be sufficient to overturn a certification of the EIR by the District acting as the "lead agency". There can be no question that LAFCo would not have the same opinion of the consequence of its approval of the District's proposed Application.

The District can not have it both ways: It can not both say that annexation is really about nothing but if it happens it'll be able to bring "benefits" to the coast such as "low-intensity recreation opportunities--regional hiking trail links, such as Skyline to the Sea Trail". The District's characterization of annexation as nothing but a mapping exercise exacerbates its CEQA difficulties not only through hijacking informed public participation but by reinforcing the charge that the project is inadequately described thus not allowing full environmental disclosure.

The first paragraphs of both the EIR's Summary and Introduction states "The District proposes to extend its boundaries to include the majority of the San Mateo Count coastside .

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... in order to acquire and manage land and easements for the preservation of open space and agriculture, and the protection of sensitive resources". A preponderance of the impacts analyzed in the EIR relate to the District's proposed recreational developments within the Annexation Area following annexation. The District has recently reported that its expectation that 80% of its land acquisitions after annexation "will come from POST". These comments, along with the overriding impact focus of the EIR, reinforce the nebulosity of the project in that POST's President wrote the District's Board, towards the end of the Coastal Advisory Committee meetings, on Nov. 8, 1999: Speaking of POST; "Most of the rural land we acquire will not become either parks or open space preserves. Instead we plan to protect these lands with conservation easements, and resell them once permanently protected, to private owners, carving out where appropriate, trail corridors, beach accessways, and other low intensity recreational uses. A simple example of this type of project is the former Cowell Ranch, now owned and farmed by Aldo Giusti. We also see POST as continuing to hold, monitor and enforce the conservation easements on protected lands. What we hop for is that the Open Space District would manage recreational uses on these private lands, and take title to lands that belong in public ownership to be operated as open space preserves. (all emphases added) **We have not and do not advocate ownership by the District, or any other governmental agency, of lands which will be kept in private use. We also do not advocate ownership by the District of conservation easements over these lands.**" If this communication continues to reflect POST's intentions vis-a-vis the District regarding conveyance of its holdings it reveals that the District may be essentially limited to delivering the same services in the Annexation Area that it currently provides within its service boundary - recreation and natural preserve management not "agricultural preservation services" as indicated in a District's recent mailer entitled "COASTAL ANNEXATION PROGRAM: KEY FACTS".

The problem that the vague and free floating description of the project poses for the District under CEQA is that the reassurance that anything close to full disclosure of actual environmental impacts is unattainable. If the project encompasses the removal of 80% of the targeted 11,800 acres of predominately agriculturally designated lands into "nature preserves" and recreational uses that is one project; if it is going to primarily preserve these acquisitions for agriculture that is another and the environmental/agricultural impacts are conceivably cumulatively as different as night and day. Ultimately for conservation/environmental assessment and CEQA compliance this is the EIR's biggest weakness and greatest vulnerability. That the project's description, couched in "guiding principles", allows for (is) the implementation of either of these environmentally disparate scenarios (or/and countless others) demonstrates both an inadequate project description for CEQA analysis as well as for competent land planning decision making.

o Agricultural impact assessment:

The District asserts that the project and "the annexation process" is "governed" by Cortese-Knox-Hertzberg, the Local Government Reorganization Act of 2000. This is the project's basic weakness - it reveals that the District's actual regard for agriculture and agricultural land preservation is no greater than that of a sewer district. The EIR asserts (page III-1) that the changes enacted in this Act actually "strengthened" LAFCo policies to protect agriculture. This is false. This Act actually removed "(f) Land which is used to maintain livestock for commercial purposes" from that which was designated as "prime agricultural land" under its predecessor Cortese-Knox of 1985 - the 2000 changes removed 45,000± acres, 80-85% of the agricultural acreage within the proposed Coastal Annexation Area from that which was previously considered "prime" for urban planning purposes. This did not effect the District's "Service Plan" definition of 'Prime Agricultural Land' in that its definition was taken from the Williamson Act which was identical to that Cortese-Knox (1985) except it did not include this ranchland acreage under "prime land"; and the current Draft Service Plan has adopted the new Act's definition which now not only excludes this

45,000 acres but other acreage that was previously considered as prime but for which irrigation is no longer feasible. The first versions of the "Service Plans" regard for agricultural relating to urban planning purposes was actually initially less than that required of a sewer district.

The District's Service Plan's definition of 'prime agricultural land' is important in that in the EIR the measures proposed to mitigate the identified significant impacts of trails on agricultural lands apply only to those designated as "prime"; trail impacts to other agricultural lands, by omission are deemed insignificant in the EIR [Actually if land is not in current use "for the purpose of producing an agriculture commodity for commercial purposes, land left fallow under a crop rotational program, or land enrolled in an agricultural subsidy or set-aside program", under the Service Plan's definition, it is not even considered 'agricultural land'. The District's Staff was asked if land enrolled under the Williamson Act was considered "enrolled in an agricultural subsidy or set-aside program" and after some hesitation it was "thought it might be so considered". Given that Williamson Act is actually a "subsidization" of urbans desire to prevent sprawl and prevent the conversion of open space lands to residential uses and it is not generally considered an "agriculture/farm subsidy program"; the extent of District's true regard as expressed in the Service Plan on close reading for agricultural land preservation shrinks even further and is very limited indeed.] There is no question that the District's regard for the impact of trails to agricultural lands is aberrantly limited.

The impact(s) of the trails component of the project receive truncated analysis and inadequate mitigation in the EIR. Conceivable impacts to biological resources are fairly comprehensively assayed and addressed - proposed mitigations of these resources dance all around the "Design Guide" admonition (included in the 2001 San Mateo County Trails Plan) which is recommended for inclusion as an explicit Mitigation Measure in the EIR: "Conflicts between trail alignment and resource protection shall be decided in favor of resource protection". This is also the principle incorporated in the Trails Plan's Program EIR (State Clearinghouse No. 9505371) Mitigation Measure that was submitted to the Planning Commission as to how to address conflict/impacts (specific and cumulative) arising from trail construction across all agricultural lands within a "Planned Agricultural District". That Mitigation Measure states: *Proposed trails shall either be located to avoid prime agricultural lands and lands designated as suitable for agriculture in a manner that does not result in interference with agricultural activities or substantially reduce the agricultural potential of these lands. Operators of active agricultural activities shall be consulted to identify appropriate routes on lands they cultivate. The agricultural activities and the agricultural potential of traversed lands shall be protected and buffered from trail user impact by means of distance, physical barriers (sturdy fences) or other non-disruptive methods* (emphasis added). [This language was constricted however subsequently within the actual Trail Plan's policy crafted to capture the intent of this mitigation measure so as to apply only to "prime lands designated as suitable for agriculture emphasis added". If you don't think you understand the difference or degree of constriction you might consider an inquiry of 2M Associates - the head of your annexation team and presumably your 'author'ity on impacts of trails on agriculture; also an author of the Service Plan (2000); co-author of its/the EIR (2002); and contemporaneously co-author of both the 2001 San Mateo County Trails Plan [within which this constricted and aberrant regard for breakfast, lunch and dinner now resides] and its EIR (1999).

The above Mitigation Measure language allows for public access across agricultural lands such as the Cowell Ranch Access which takes the pressure off agricultural. What Mr. Kozak in his remarks on the Trails Plan Draft EIR found of concern ("I have concern about the potential problems in interfacing public trails and Agricultural areas - Health Hazards would be just one aspect of this issue. (¶) . . . Increased vehicle, pedestrian, horse and bicycle traffic in agricultural areas could be disruptive to certain farming operations and . . . (¶) The EIR should establish a set of guidelines for the trail-agricultural relationship possibly by working with the County Agricultural Advisory Committee and/or the SMCo Farm

Bureau") was alarmingly unaddressed in the final circulated Draft and the matter was taken up with the Planning Commission in particular to address the cumulative environmental impact of superimposing a recreational grid over a planned agricultural district. Leaving aside the arguments, the Commission received and approved (with it subsequently also receiving specific approval by the County Board of Supervisors and is incorporated in the certified Count Trails Plan EIR). The above Mitigation Measure language was intended to keep recreational associated pressures/activities from being unnecessarily or recklessly foisted onto agricultural lands/operations with indifference to consequences to agricultural viability, security, and productivity; and to conform with the County's Local Coastal Plan Polices relating to agriculture protection and recreational compatibility.

Some of this language is now found in Mitigation AGL-3c that seeks to address only specific impacts to lands that are of utmost concern under CEQA. Under CEQA it is also necessary to be concerned with the cumulative impacts of trails or any other aspect of a proposed project on local plans and policies it is therefore recommended that the following language be substituted for AGL-3c: *Trails shall either be located to avoid prime agricultural lands and lands designated as suitable for agriculture or traverse such lands in a manner that does not result in interference with agricultural activities or substantially reduce the agricultural potential of these lands. The routes over all agriculturally designated lands shall be developed in consultation with and the approval of the SMCo Agricultural Advisory Committee. Operators of active agricultural activities on lands owned by or under easement to the District shall be consulted to identify appropriate routes that protect agricultural resource use, utility and value; operators of active agricultural activities on lands adjacent to District lands used for non-agricultural purposes shall be consulted to identify routes that will avoid adverse effects on their land's agricultural resource value, use, or utility. The agricultural activities and the agricultural potential of traversed lands shall be protected and buffered from trail user impacts by means of distance, physical barriers (sturdy fences) or other non-disruptive methods.* Mitigation Measure AGR-1b should be revised accordingly.

Mitigation Measure AGR-1c relating to eminent domain should be deleted. An EIR is not the place to resolve public controversy; an EIR focuses, by law, on assessment of the physical effects of a project on the environment. Mitigation measures are appropriate when a significant adverse effect can be by addressed by the implementation of certain remedial action(s). Since the use of eminent domain is not a part of the project no significant physical impact of the project is actually mitigated by AGR-1c. If this impact mitigation measure is not deleted than the significant effect(s) it is mitigating must be indicated otherwise it can be concluded that there is/are significant undisclosed impact(s) of the project to agriculture that are not disclosed (and consequently there is no way of knowing if the impact has been fully mitigated).

The Notice Of Preparation indicated that, as then scoped, the project would have no significant impacts on agriculture. Your agricultural impact consultant should be referenced in that the EIR now asserts that there are potentially multiple significant impacts which are all mitigable below significance. Further, what is the basis for the conclusion found in Mitigation AGL-3a that appropriately fenced trails do not fragment grazing lands both agriculturally and as a natural resource. On what authority does the EIR's implied conclusion that fragmentation of agricultural land is the only conceivable impact from trail exposure? Is the Planning Dept. of San Fransico (in comments relating to proposed trail plan routing through their watershed management area) out to lunch when they suggest that the potential for off trail use, trespassing, increased risk for fire, vandalism should be considered - they didn't mention dogs, hoof and mouth disease, hardware poisoning, etc..

The EIR is conclusionary and not persuasive that agriculture is more compatible with adjacent "nature preserves" than adjacent residential development. It is conclusionary that natural resource protection is better accomplished through "nature preserves" with low-impact recreation rather than low-impact residential development. The EIR is not persuasive that the impact on agriculture of multiple nature preserves removing lands suitable for

agriculture permanently from agricultural into recreational production does not have as great an impact environmentally as residential development would if not a great deal more – the loss of critical mass, vital agricultural economy, is the same (maybe a lot less) the impacts to agriculturally adjacent may be more (maybe a lot more), more traffic.

o Regarding the "Willing Seller Ordinance":

I do not hold that any policy, ordinance, law relating to use of eminent domain can be made permanent – the dead can not govern the living. All that the current Board can do is state and fix/codify as firmly as possible the District's intention not to use it should annexation occur within the annexation area. The Constitution itself (clearly the basic law of the land is) not permanent; in the words of Jefferson: "The idea that the earth belongs to the dead, and not the living, is most absurd." I do think that the proposed ordinance can go a bit further in establishing and solidifying/hardening the District's resolve by a few changes and adding the conservation rationale that instructs future Boards and generations as to why you are relinquishing this power of dubious and counter-productive merit. I therefore urge the insertion of the following recital into the Ordinance:

*WHEREAS, the District recognizes and holds it to be self evident: In order to advance the highest level of environmental stewardship and preservation of the open space resources within the Coastal Annexation Area that the District must collaborate to that end on a free and equitable basis with its resident and their respective communities; further, given the vastness of the Coastal Annexation Area, its widely dispersed population and the complexity of the task, any Area wide effort to conserve resources requires that the District must necessarily participate in and engender a sense of collective responsibility. The District recognizes the counter-productivity, the manifest and potential divisiveness generated by its having and exercising the power of eminent domain within the Coastal Annexation Area; the Midpeninsula Regional Open Space District does hereby agree (and through the approval of its LAFCo application to extend its service boundaries to include the Coastal Annexation Area) and does covenant with the residents of the Coastal Annexation Area singularly and collectively to never utilize or seek the right to use the power of eminent domain within the Coastal Annexation Area.*

I urge the additional changes in the Ordinance (word additions/changes indicated in bold type and language urged to be struck lined):

*WHEREAS, it was the recommendation of the District's Coastal Advisory Committee that the District adopt a policy **permanently** prohibiting the use of eminent domain to acquire . . .*

*WHEREAS, it is the desire of the Board of Directors to further demonstrate its commitment to a prohibition of the use of eminent domain to acquire property . . . ., ~~and CEQA Document~~ by adoption and publication . . . setting out its intent that this be a permanent ~~(rule of conduct)~~ **policy and ordinance** of the Midpeninsula Regional Open Space District.*

I urge Section 2. be changed to read:

*The Midpeninsula Regional Open Space District shall not exercise the power of eminent domain to acquire any real property or any interest in real property within the territory described in Section 1; further, the Midpeninsula Regional Open Space District shall not acquire any real property or any interest in real property or extend any management or other services to real property that has been so acquired bay any*



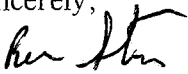
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*other entity through the exercise of the power of eminent domain.*

I urge that the recital relating to CEQA be removed from the Ordinance. I also urge that relinquishment of eminent domain not be referred to as a "Guiding Principle" in the Service Plan - a principle can not be compromised. The conservation principle is what informed/prescribed its relinquishment and that is what ought to be prominently placed in the Service Plan as a guiding principle - a policy however declaring that the eminent domain is prohibited in the annexation area is appropriate.

In order to get these comments to you before the already extended deadline, I am terminating these comments without engaging the subject of alternatives that ameliorate adverse environmental impacts conceivable resulting from the proposed project and alternatively appropriately engage both the near and long term resource conservation challenges facing the Coastal Annexation Area. I am up both against the clock and my own pessimism at the moment in that I don't think there is much hope for the future when those who have reaped such bounty from free enterprise dismiss the potential of a free and enlightened citizenry acting in democratic community when it comes to the conservation and salvage of an environmentally sustainable future; who think that literally throwing indispensable resources at the acquisition of more "recreation and parks" is actually environmentally commendable when similar existing facilities within the coastal area are near destitute. Alternative analysis is deferred, it isn't exactly timely anyway until revisions in the project are genuinely entertained.

Sincerely,



Ron Sturgeon

cc: San Mateo County LAFCo  
State Office of Planning and Research  
State Clearinghouse  
San Mateo County Board of Supervisors