

submitted at 1-3-17
mkt/ly

January 3, 2017

To: Morro Bay Planning Commission
Chairperson Robert Tefft
Commissioner Gerald Luhr
Commissioner Michael Lucas
Commissioner Richard Sadowski
Chairperson Joseph Ingraffia

RE: PUBLIC HEARING, January 3, 2017
B-1 Case #: CP0-500, UP0-440
Site Location: 3300 Panorama Drive
Project Title: Demolition of Tanks and Associated Structures

Good Evening,

I am Annie Pivarski, resident and homeowner in North Morro Bay; and a Morro Bay Stakeholder. I live around the corner from this project, and have commented in the past about **trust** issues surrounding it.

First, I would like to thank Scot Graham for responding to Stakeholders via e-mail on December 28 regarding the permitting process and the role of SLO County Public Health Department. It takes time to communicate effectively!

Commissioners, THANK YOU: For *listening* to those of us who have raised concerns and asked questions. You've *heard* us and posed questions and comments of your own. I *trust* YOU.

The complex nature of this project is enormous. It has changed in size and scope from the original application; and from the information that was presented by the applicant and consultants on October 17 during the informational meeting held on the property. The project now includes demolition and removal of additional material and a longer timeline for completion.

However, not all relative documentation is posted on the City's website. We've been told by Community Development there is not enough staff to post all documents. Postings are not in one location. They are difficult to navigate and find. (Please see the Attachment as an example.) It's clear the City cannot commit the resources to facilitate proper notification to its citizens. I suggest an Advisory Oversight Committee be formed to assist Community Development to help organize and post all documentation for this project. We have the right to review *everything*, and to question a missing report, share concerns, and make comments. The formation of an advisory group would also speak volumes to building *trust*.

I would like clarification about the following statements in the Staff Report: Attachment 1, RESOLUTION:

Under STANDARD CONDITIONS, page 22, #1.:

The Coastal Development Permit CP0-488 referenced is not part of this project. Or is it? That permit refers to demolition and removal of structures at the Morro Bay Power Plant which does not house jet fuel tanks, and is not located within a residential neighborhood. How is this related; or is it a "cut-and-paste" issue?"

Regarding FIRE CONDITIONS Emergency Response Plan, page 30, C. Communication/Emergency Alerting and Notification: "The Field Project Manager (FMP) will have primary responsibility for correcting emergency situations. A Health and Safety Officer (HSO) will serve as alternate." Who are they and what are their credentials?

At the Planning Commission's "Informational Meeting" held on December 6, David Fry, a contractor who will remove the shot crete was introduced. Where is the plan for this? I believe it's important as it adds another 100-150 truckloads of material to be demolished and transported on our streets and out of our neighborhood.

I think these are examples of a resolution and report with documentation that's either absent, lacking, not available, or not posted. It feels like this permit is being rushed to meet some unspecified deadline or advance an unidentified agenda.

I implore you to not "conditionally approve" the permit tonight. I believe your knowledge, input and scrutiny is still needed to move this project towards approval, and urge you to stay involved until all relevant information/documentation is produced and there's been adequate time to digest it.

Thank You.

Annie Pivarski

Attachment: Locations of Reports, Correspondence and Documentation Related to UPO-440 & CPU-500

Locations of Reports, Correspondence and Documentation Related to UPO-440 & CPU-500

AGENDA CORRESPONDENCE, January 3, 2017 Planning Commission Meeting:

[file:///C:/Users/User/AppData/Local/Microsoft/Windows/Temporary%20Internet%20Files/Content.Outlook/DMOK3ZTB/3300%20Panorama%20Agenda%20Corresp_RN3039%20\(3\).pdf](file:///C:/Users/User/AppData/Local/Microsoft/Windows/Temporary%20Internet%20Files/Content.Outlook/DMOK3ZTB/3300%20Panorama%20Agenda%20Corresp_RN3039%20(3).pdf)

10/18/16: Truesdale letter re: Weight of trucks and Performance Bond

12/6/16: Griggs letter re: Changes in scope of project

12/20/16: Pivarski letter re: Trust w/ City Org Chart

11/1/16: Truesdale letter w/ approximately 300 signatures from citizens in support of a performance bond: Hearing Records related to the Applicant, Partners and CVI Group, LLC; Documentation from the Center for Individual Rights and lawsuit

12/22/16: Truesdale letter re: Noise and relevant documentation

12/22/16: Morro Coast Audubon Society letter re: Language in the Staff Report "to the extent feasible."

12/26/16: Kristen Headland letter: re requesting The Project return to the original application and that the work done be completed in "phases." Includes information regarding the ESHA, citing Municipal Codes, and Vegetation Policies

12/20/16: Reposting of Pivarski letter re: Trust w/ City Org Chart

12/27/16: Solley letter re: Morro Bay Stakeholders

Gentlemen of the Planning Commission,

I offer for your consideration, Aurora Draytonii,

It's better known as the California Red Legged frog.

And, It's a rare species of frog found almost exclusively here in California. In fact, it's a bit of a celebrity here in the golden state, being the very frog featured in Mark Twain's short story The Celebrated Jumping Frog of Calaveras County.

Today, the California red-legged frog is on the Endangered Species list,

Why.. mostly because of habitat loss. And, habitat loss is of course, a human created condition.

But tonight we are talking about habitat loss in Morro Bay, a city that takes pride in its natural wonders. We live here for the natural beauty. Thousands visit here for the natural wonders.

So, our trees, our plants, our animals are important to protect. Not only because its the right thing to do, but also because these living things are the basis of our economic health, all of our tourism.

Once gone, they're gone forever. We only have one chance to get it right.

Let's be clear, The Morro Bay stakeholders are not against the Panorama demolition. However, the way we approve this project matters. So, the accuracy of an ESHA map is not a trivial thing.

The ESHA map is not accurate. The map that is the very basis for months of demolition and removal work, is off.

In fact, the ESHA map is grossly inaccurate.

I'm surely about out of time so let me cut to the chase.

This map puts tons of heavy equipment squarely in the path of rare protected species.

The Coopers Hawk, the Red Legged Frog. And dozens more.

submitted at 1.3.17
meeting

Re: Case No.:#CPO-500 and #UPO-440
3300 Panorama Drive, Morro Bay

Dear Committee members,

December 28, 2016

We live in the neighborhood of the abandoned jet fuel tanks and would like to express our support for the demolition project proposed by the developers. These tanks need to come down. The longer they remain, the more of a chance they will deteriorate into the surrounding land and neighborhood. In addition, they're an eyesore, especially if the trees hiding them were to die or fall. We attended a meeting the developers organized to inform the neighborhood of their plans. They did a good job explaining what they were going to do and how they were going to do it. They assembled a number of qualified people and companies to ensure this process goes as smooth as possible. We have a party willing to remove these tanks at no cost to the city or residents. We believe this group will complete the project in a timely and responsible way. By delaying it we could lose out on this opportunity. Please vote to move this project ahead as soon as possible.

Thank-you,

Bob & Betsy Mastro
~~██████████~~

submitted a 1.3.17
meeting

Date: January 3, 2017

To: Morro Bay Planning Commission
955 Shasta Ave.
Morro Bay, CA 93442

Subject: Case: CPO-500, UPO-440, Jet Fuel Demolition and Removal Project
Letter from Rob Solley, December 28, 2016

Honorable Planning Commissioners:

Thank you for allowing the Morro Bay Stakeholders to provide public comment regarding the demolition project at 3300 Panorama Drive. Once again, we do not oppose the demolition of the former jet fuel tanks, but we do wish it to be completed within the parameters of the applicable Morro Bay City Ordinances, San Luis Obispo County Public Health Department, State of California and Federal standards.

Rob Solley is an associate of the applicant Chris Mathys. Mr. Solley submitted a letter dated December 28, 2016 to the Planning Commission. It is noted in the Staff Agenda for the January 3, 2016 Planning Commission meeting. Mr. Solley makes several claims, which are without foundation. I have summarized in documents and sent them to you along with reports from the San Luis Obispo Public Department, Hazardous Materials Section. I believe this to be important information regarding your decision in granting the Conditional Use Permit for this project

Mr. Solley in paragraph 2 claims that "we are a bit surprised by the repetition of the many concerns being made by a small number of critics, especially since we have been actively addressing the concerns of not only the 'Stakeholders', but also any other parties expressing concerns or having questions".

- We are not a small number of people: There are approximately 100 Morro Bay Stakeholders. The people that have spoken represent those stakeholders.
- We are citizens voicing our legitimate concerns about the city's unrecoverable financial risks, our health, safety, and the habitat that is threatened by the project. We live here, some of us right across the street from the project.

Mr. Solley, in paragraph 3, sentence 1, states "To that end, we have ordered numerous ADDITIONAL reports and studies to be conducted due to those specific request(s).

- Any additional reports his associates conducted were required of the applicant that hitherto had not been addressed, issues with regard to the ESHA, insurance, infrastructure and the Environmental Public Health Department; some of which are as yet unanswered.

Mr. Solley states, in paragraph 3, sentence 2: "We have, to date complied with and exceeded all requirements of every agency with jurisdiction over this proposed project".

- According to the November 23, 2016 letter Patricia Atkins, from the San Luis Obispo County Public Health Department, the applicant has been found to be deficient in a number of issues in the Demolition Plan. As of today, Patricia Atkins stated that her department has not received any responses in regarding to their letters to the applicant Chris Mathys dated on August 8, 2016 and November 23, 2016. Ms. Atkins stated no permit would be granted from the Public Health department until all requirements are met.

Mr. Solley states in paragraph 4, sentence 1: "One statement on the website refer to a 'blank check' as part of the "Mitigated Negative Declaration", this 'blank check' is NON-EXISTENT!

- The Mitigated Negative Declaration is still deficient as regards the issues of noise and protection of the ESHA. Until these issues are resolved, the MB Stakeholders, will continue take issue with MND.

Mr. Solley states in Paragraph 4, sentence 3: "It has been our goal from the beginning of this project to ensure that it is conducted in the most open and proper way, following all regulations by agencies with jurisdiction.

- On August 8th, SLO County Public Health sent Mr. Mathys a letter "direction letter specifying what is required in the Demolition Plan to receive the agencies approval....". The SLO County Public Health sent a letter dated November 23, indicating that Mathys had not complied with the letter of August 8th, and that the Demolition Plan is Deficient.

Mr. Solley states in Paragraph 5, sentence 4: "Considering that this piece of property is valued at approximately \$5,000,000.00 (Five Million Dollars) and has no encumbrances against it what so ever, there is at the very least a free & clear piece of expensive property to lien in the remote chance there is a problem completing the project".

- A qualified appraisal document did not accompany this \$5M estimated value.
- A lien is not the same as a proper insurance guarantee, as required in Resolution PC 18-16.
- Should a toxic residue be found under the tanks, the cost of remediating could be millions of dollars, thereby bringing into question of the value of the land. The City cannot wait the numerous years required to settle a lien.

Mr. Solley States in paragraph 6, sentence 5, "It appears that Mr. Griggs has some sort of ax to grind about this project, and it appears that he is being disingenuous and not completely forthcoming with the facts of this project via postings on the 'Stakeholder' website.

- Mr. Griggs lives across the street from the project, like the majority of the MB Stakeholders; he has a vested interest in what happens at the site. As such, he is in a unique position to have observed the activities on the site and has compiled a number of facts concerning the applicant and/or his representatives. If holding the applicant accountable for the activities

on the site, holding the applicant accountable for the proposed demolition project and all of the issues that surround the project, is called “an ax to grind”, it is the right of every citizen to voice their concerns, as it will impact them.

- Exactly what facts is Mr. Griggs “being disingenuous and not completely forthcoming about? Mr. Griggs is not the only contributor on the Morro Bay Stakeholders web site. There are a lot of people that are concerned and passionate about protecting their community and neighborhood.

Mr. Solley states in paragraph 7, sentence 1, and “The removal of these tanks in an environmentally and ecologically safe manner at NO cost to the City of Morro Bay or its citizens should be considered a huge benefit to the community”.

- The plan to remove the tanks at this time is not environmentally or ecologically safe. The SLO County Public Health Department, in their November 23 letter has clearly stated that the demolition plan is deficient, and therefore not safe environmentally.
- There are still outstanding issues with regard to the ESHA: namely, the accurate definition of the ESHA, demolition during the nesting season; issues with the California Red Legged Frog habitat; storm run-off into the habitat; soil stabilization.
- The financial benefit is not the issue to be considered and at present. The demolition project is what is in question here.
- What is relevant now is the proposed project. If it is completed with little or no damage to the health of our citizens, to the habitat, to the infrastructure, it may indeed be of great benefit, however that is an unknown entity at this time.

Mr. Solley states in paragraph 7, sentence 2, 3: “This project is in fact supported by a very large number of the residents of your fine city”. The Morro Bay Stakeholders can be included in those that support the project.

The Morro Bay Stakeholders have always supported the demolition of tanks, pipes and pumps as long as it is done correctly without injury or illness to citizens, wildlife, streets, sewer lines or the Environmentally Sensitive Habitat.

Sincerely,

Donald & Kristen Headland
Morro Bay Stakeholders

submitted at
1.3.17

January 3, 2017

Planning Commission Meeting
re: 3300 Panorama Drive
Morro Bay, CA

Members of the Planning Commission, City Staff, and neighbors. I am Carol Walker, ~~3300~~
~~3300~~ ~~Subject~~, Morro Bay, and have lived here with my husband, Bob, since May 8, 2000.

My career was a real estate appraiser and right now, we have not much hope of trying to sell our house. Everyone asks, "what are they going to do with the property across the street?" The applicant has said that property is worth \$5 Million when they paid \$1.4 just less than five years ago. I am wondering how that property increases so much in value and ours has not?

We bought this house because of its quiet, peaceful neighborhood. At night and early morning, we hear owls hooting in the big cypress trees just up the street from our house and on the subject property. Have you ever stood quietly near a pond, listening to frogs & birds, then a loud noise occurs, like an airplane overhead or a car starting, and the natural sounds cease? What will happen when eight hours a day, for 3-4 months, jackhammers, trucks, shears, and saws disrupt the wildlife? And, what about us, who live right across the street? It is unclear what the expected noise level will be, there was some mention of 88 dB and if this is conservative, will we be at risk of hearing loss which can occur at 90-95 dB? The noise level of a jackhammer is 130dB, well over the 90-95dB for potential hearing loss, so why do we have to endure this risk? Will someone provide us with noise cancelling headphones, like I'm assuming the workers will have? I am including a photo of what we see from the second story deck of our house - note the tanks. I sound follows line of sight, clearly we will be severely affected. We have our sliding door open many days and for 3-4 months, we could be exposed to hearing loss level noise. Right now, we can hear the owls, goats, dogs, voices of neighbors, all much softer than heavy equipment, so certainly we will be impacted very negatively by the noise.

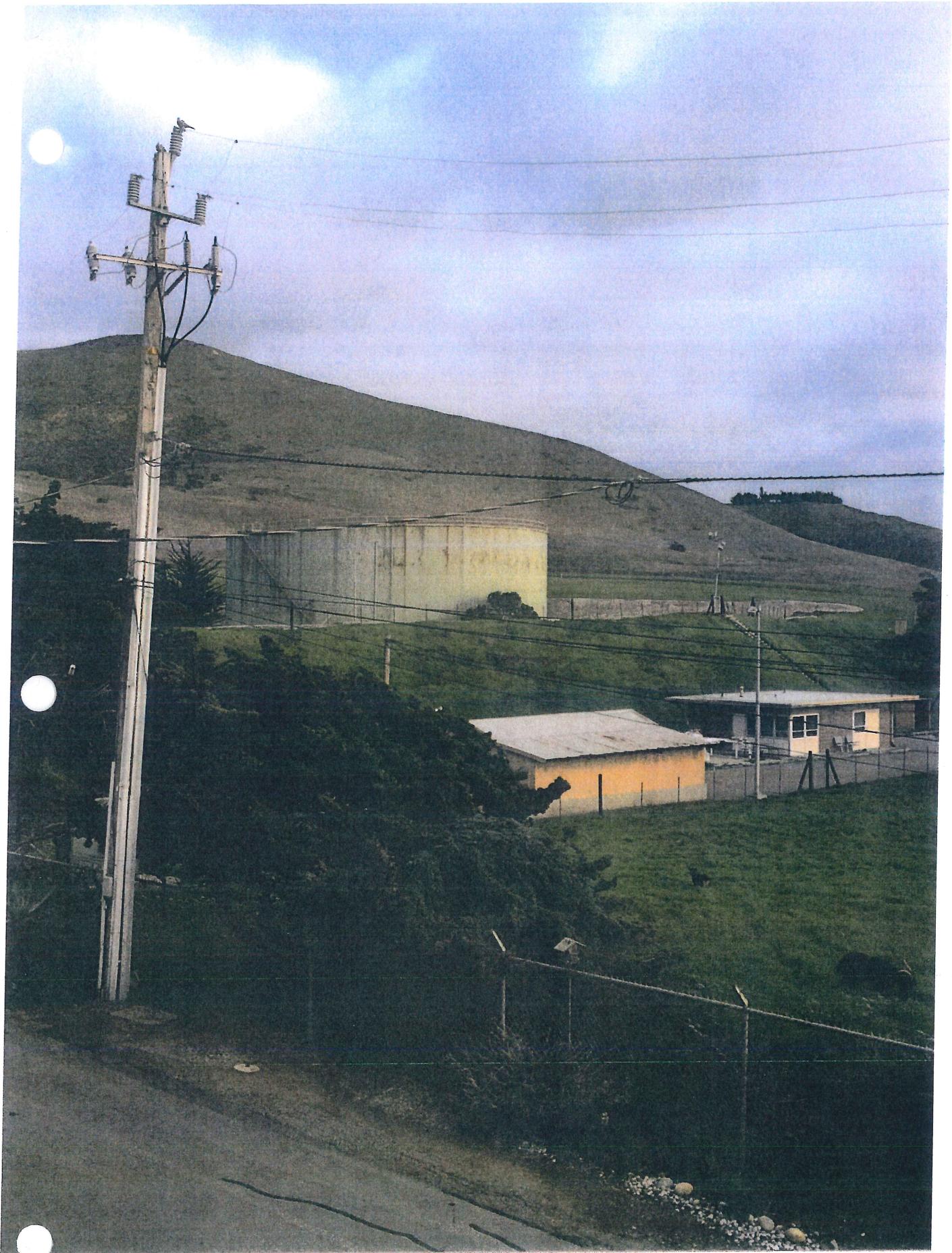
Additionally, I have been very concerned about the lead chips and asbestos debris. Morro Bay is windy. Where we live, we have wind coming down the canyon, fiercely at times, or the other direction from the ocean. I still am not convinced the applicant can corral all those chips when its windy and keep them from coming in my house and lungs. I realize the workers will be protected, but what about the neighbors?

Third, I too am in favor of a two phase project. It only seems reasonable, given the potential hazards and to ensure our neighbors safety. The first phase should be removal of the tanks, pipes and pumps, then test for soil contaminants. If cleared to the satisfaction of monitoring agencies involved, then proceed to phase 2, the removal of shotcrete and underground pipes with an erosion control plan. The two phases make good sense.

Finally, because this project is so huge in scope, NO compromises should be made, anywhere or by any agency. Please, uphold the nesting season dates, the noise levels, the ESHA requirements, the disbursement of contaminants, and protect this place we call home. The rules and regulations were put in place to safeguard our citizens, it is important to us.

Thank You,

Carol Walker



submitted at 1.3.17

City of Morro Bay
Morro Bay Planning Commission
Public Hearing
January 3, 2017
Case: CPO 500 and UPO-440

Comments Robert Walker

~~223 Whidbey St~~, Morro Bay

Communication: We have asked this question before, and will ask it again. Who will be in charge of this project onsite and during day to day operations? Who do we call when the when the noise is too loud, there is too much dust, and smell is excessive? From our point of view this must be someone onsite, not two and half hours away in the valley.

Project Creep: The duration of the project has gone from four to six week to two to three months. I don't see how this can be accomplished without seriously compromising one or more of the restriction on time available for construction.

Dry Season: October 31 through April 1

Nesting: February 1 – September 15

Tree Removal: February. 1-June 30th.

It seems the "staff" should have made recommendations concerning the permissible construction period in their December 20, 2016 report. This would have given the public a chance to review and comment on their recommendations. In the end we are left with the staff making this decision with no further public review.

Mitigation Measure BR-4- ESA: An ESA buffer of 25 feet has been selected by staff. The 25 feet is considered an appropriate minimum buffer in urban areas, but it is not a requirement. Any one of the three criteria's 25, 50, or 100 feet could have been used. It just seems that given a choice the staff seems to make choices that are to the benefit of the applicant. Because of the importance of protecting our ESA I believe that one of the larger buffers should have been selected.

Mitigation Measure BR-6 –Tree Replacement: The statement is made that the trees are to be replaced "in-kind". This is at best vague. At a minimum it could mean a seedling of the same species or at the other extreme it could be the same species and the same trunk diameter. If this intended to be a real requirement I think the wording needs to be more specific about what is required. Again we are left with the staff making those final decisions with no further public review.

Volume of Administrative/Paper Work: How is the Planning Development Department going to keep up with the volume of reports and certifications required by this project? Will all the "Cities" all of the administrative costs of this project really be payed by the applicant? Listed below are a few of the reports and certification that are required:

Reports

Storm Water Pollution Plan	Air Pollution Control Dist
SLO County Environmental Health	Citification of Pre-Demolition Plan
Environment Sampling	Waters Management

Verifications:

Industrial Hygienist	Maine Chemist
Professional Engineer	Reg environmental Assessor
	Contractor-Certified hazardous material removal

Hygienist: During the December informational meeting Michael Tiffany was very helpful describing the removal process and the many environmental considerations. It was a bit surprising when he stated that his current scope of work was limited to the tank removal. It was not at all clear to me if that included soil sampling and hazard assessment of the material underneath the tanks.

Public Health Department: In the November 23, 2016 letter from SLO County Health Department letter to the applicant it is stated that the October 28,2016 demolition work plan was deficient. I am not sure what to make of this! It would seem the applicant and or their experts don't yet have their act together.

Performance Bond: I realize at this point Performance Bond is longer an issue for you. It has been decided that a Performance Bond is not appropriate for this project. Somewhere along the line it was stated that a Performance Bond had never been required before. To me it was implied that "never been required before" was reason enough not to require a Performance Bond. It seems that the "City" has never had a project quite like this before. Does that mean the project should not be done? I don't think so!

submitted at the
1.3.17 meeting

**COMMENTS ON THE PROPOSED APPROVAL OF CDP #CPO 500 AND
CONDITIONAL USE PERMIT #UPO-4400**

Demolition of military jet fuel tanks, piping and pump equipment at 3300 Panorama

Prepared by Cynthia Hawley, Attorney

January 3, 2016

The Planning Commission should deny the project application for the following reasons.

The whole project is being unlawfully piecemealed.

This project amounts to pre-construction preparation for residential development of the site. Under CEQA a "Project means the whole of an action" that has a potential for causing a direct or indirect change in the physical environment. CEQA forbids piecemealing environmental review of a project. It prohibits segmentation of the environmental review of a whole action for the purpose of evading environmental considerations of the project as a whole. In the case of *Laurel Heights Improvement Assn. v. Regents of the University of California* (1988) 47 Cal.3d 376, the California Supreme Court set aside an EIR for failing to analyze the impacts of the reasonably foreseeable second phase of a multi-phased project.

The demolition and removal of structures is not a stand-alone project. Rhine LP and Morro 94, LLC or CVI Group, LLC (see below) are not clearing the property of jet fuel tanks and delivery systems on soil known to be contaminated with toxic jet fuel for the benefit of the community. As a matter of law, the whole project that has the potential for causing direct or indirect changes in the environment includes the reasonably foreseeable next phase of residential development of the site for which the site is now being cleared.

In addition, the City staff's recommendation to unlawfully approve the proposed segment of the whole project is a denial of the public's right to participate in an informed decision making process - to know and deliberate information about the whole project including the potential environmental effects of the whole project and mitigation measures to reduce those effects.

For example, according to the staff report, in 1997 the Regional Water Quality Control Board indicated that no further action was identified, as no further development was proposed at that time and in the mid 1990s the California Department of Toxic Substance Control (DTSC) "... acknowledged that when the site is converted to residential use it should be reassessed for the presence of contaminants and the need for additional remediation (p.11) If the City approves the first phase of the project - preparation of the site for residential development as if clearing the property was not part of the conversion to residential use - the conversion will have occurred without

The Mitigated Negative Declaration is inadequate because it does not assess whether the project could exacerbate the contamination that is already present.

According to the California Supreme Court, CEQA requires an agency such as the City of Morro Bay to evaluate existing conditions in order to assess whether a project could exacerbate hazards that are already present.² Note that the law requires evaluation of existing conditions. In this case the City wrongly relies on the results of tests from two decades ago and on tests that may be carried out after project approval and outside of the informed public decision-making process required by CEQA. The law also requires an evaluation of the existing soil and water contamination; that is, collection and analyses of samples and assessments of whether disturbance of the site could exacerbate the hazards already posed by the contamination. No such evaluation of existing conditions has been carried out by the City. Accordingly, the City must require preparation of an EIR that includes evaluation and assessment of whether the whole project could exacerbate hazards that are already present.

The Mitigated Negative Declaration unlawfully precludes informed public decision-making and engages in deferred mitigation.

Fundamental purposes of CEQA are to provide informed public decision making processes that disclose and analyze potential harms that a project may cause to the environment and provide mitigation measures to reduce potential harms before a project is approved. The process the City describes violates these fundamental purposes.

For example, in the face of the admitted likelihood that the project will “disturb areas of previously documented hydrocarbon contamination” the City proposes to approve the project and then, after the project is approved and outside of the public decision-making process, require the applicant to test soils and “mitigate potential health and environmental hazards related to possible exposure” by way of adhering to the requirements of a permit issued by the Air Pollution Control District. (p.11-12)

In addition, the applicants have not submitted an application to County Environmental Health and there is no approved Aboveground Hazardous Materials Storage Tank and Piping Closure permit. Informed public decision making and development of effective mitigation measures depend on analysis of information contained in this application.

² *California Building Industry Assn. v. Bay Area Air Quality Management District* (2015) 62 Cal.4th 369, 388.

Department of Fish and Wildlife that might allow the development within the setback of the stream does not seem to exist. Mitigation of harms in this context is not relevant. The project is explicitly not consistent with Policy 11.06, yet the City does not make a finding to disclose this inconsistency. Instead, even though no new structures are proposed in this phase of the development, the City makes the irrelevant finding that “No new permanent structures are proposed within 100 feet of mapped ESHA, consistent with this policy” giving the false impression that the project is consistent with Policy 11.06.

The project is also inconsistent with Policy 11.06 because this policy allows reduction of the setback only under certain conditions related to subdivisions that do not exist here and a “downward adjustment” of a setback must be established in consultation with the Department of Fish and Wildlife. Again, the Initial Study and MND appear to make no claim of such a consultation.

Policy 11.14

The Initial Study’s analysis of consistency with Policy 11.14 – which also requires the minimum buffer setback from ESHA – admits that “... actions within 50-100 feet of the creek are limited to the demolition and removal of pumps, piping, and tanks and associated equipment use.” The IS does not make a finding that the project is consistent with these requirements of Policy 11.14. It admits the inconsistency. Policy 11.14 also requires assessment of specific factors in relation to protection of biological productivity and water quality of streams including:

- (a) Soil type and stability of stream corridors:
- (b) How surface water filters into the ground:
- (c) Slope of land on either side of the stream; and
- (d) Location of the 100 year flood plain boundary.

The City does not claim to have assessed these factors and does not make a finding that the project is consistent with this requirement of Policy 11.14. The finding made is that “...the project appears consistent with the intent of this policy.” The project is not consistent with the requirements of Policy 11.14.

The list of supporting documents and reports on the City’s web site is incomplete as reports on contamination relied upon by the City are not included.

An informed public decision making process depends on access – by the public and decision makers – to all documents and reports relied upon by the City to prepare the Initial Study Mitigated Declaration, the staff report and the recommended actions. While the City’s web site provides links to, for example, multiple biological reports,

must be provided for liability purposes. First, Standard Condition 5 requires the “applicant” to indemnify and hold harmless the City in the case of any claim or action as a result of the City’s decision related to the project, etc. The correct applicant must be identified in order to enforce this condition. Second, the correct applicant / property owner must be identified for service of process as required by CEQA in the event that litigation under CEQA against the City results from the City’s decision.

submitted at
1.3.17

January 3, 2017

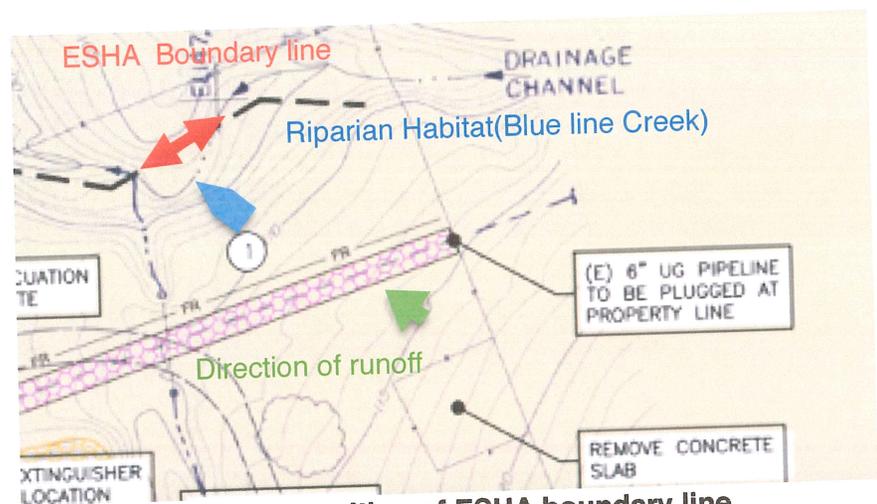
Morro Bay Planning Commission

Robert Tefft
Michael Lucas
Richard Sadowski
Jerry Luwr
Joseph Ingrassia

RE: UPO-440, CPO-500, Environmentally Sensitive Habitat Area(ESHA)

Honorable Commissioners,

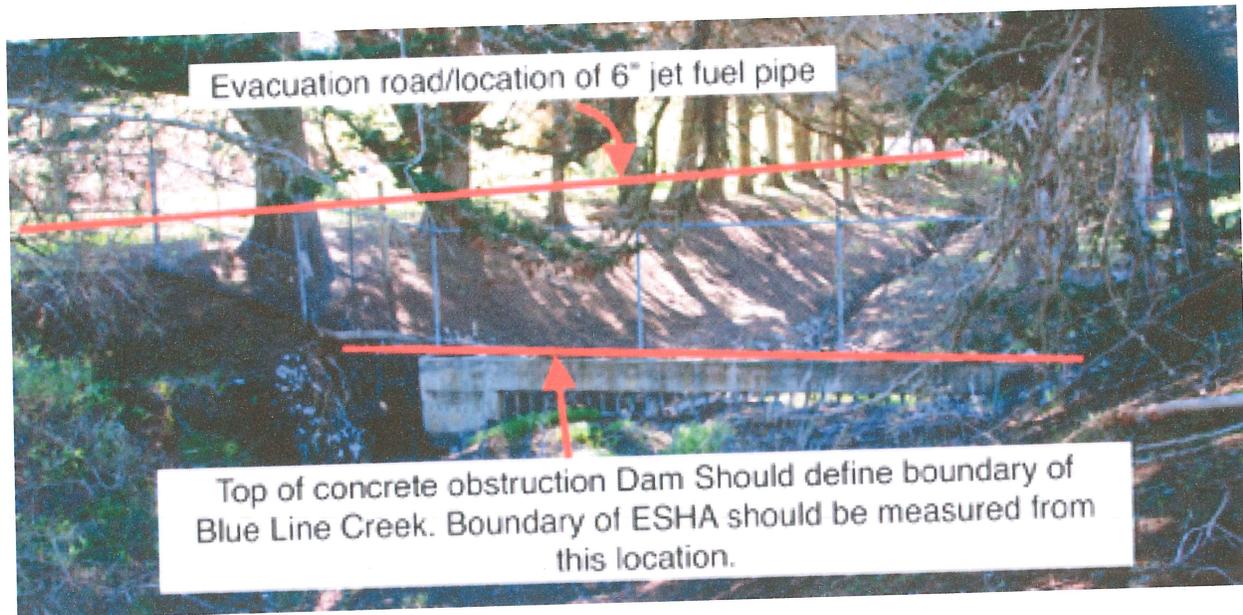
The ESHA map is grossly inaccurate. There is no single map defining all elements of the ESHA. These elements include, but are not limited to: the blue line creek including the width of the creek, both boundaries of the ESHA(the northwest and the southwest extent of the buffer zone), the location of the 6" pipeline, the buffer zones(both the northwest and the southwest extent of the buffer zone).



inaccurate position of ESHA boundary line

This is a closeup of the map in the Biological Assessment. This inaccuracy calls into question the validity of the Biological Assessment of the ESHA. That very area is in the California Red Legged Frog habitat which on the map, is OUTSIDE of the ESHA boundary.





The above picture illustrates where the minimum Blue Line Creek boundaries should be. The maximum boundaries of the blue line creek should be at the top of the concrete debris dam noted by the red line. The maximum width of the creek is at the base of the trees where storm runoff has carved the slope. Also the image illustrates the Evacuation Road, through the middle of which the 6" jet fuel pipe has been defined with pink wooden stakes.

Also, as was pointed out by Don Headland in the December 6th Planning Commission Meeting, the no name Blue Line Creek is much wider than is reflected in the grossly inaccurate map of the ESHA. During normal rainfall years the creek widens considerably for it's entire length throughout the property. Therefore, the boundaries of the ESHA need to be widened considerably.

6" Pipe Removal

The removal of the 6" pipe has been justified by the Development Staff as "Restoring" the ESHA, and the "potential" of the pipe joints having asbestos. I don't think that a proper cost/benefit analysis has been conducted to weigh potential of negatively impacting the ESHA by digging up the pipe vs the potential of removing a pipe that may or may not have asbestos. Removing the pipe is properly called remediation, and should be included in a separate application. Just as any other remediation activity should be included in a separate application.

Road to North Tanks

17.48.300, A., 2. States: Pedestrian or vehicular intrusions: the nature of possible pedestrian or vehicular intrusions, estimated traffic volumes and their probable locations.

The ESHA at the 3300 Panorama Blvd. falls within the above Morro Bay Municipal Code. Since the mapped boundaries of the ESHA are inaccurate and misleading they need to be reworked, and mapped properly. Once they are done properly and staked on the ground, the road under which the 6" pipeline is supposed to be located needs to be re-evaluated for it's proximity to the ESHA. Is the pipeline in or out of the ESHA?



Is this road to be used to access the north portion of the site, either before or after the 6" pipe is to be removed? If so, is there a plan in place to mitigate the runoff into the ESHA from the road? According to the Truck Traffic Impact Analysis and the Demolition Plan, no specific provision has been made to access the concrete slab, scheduled to be removed on the northeast boundary of the project area. If the 6" pipeline is removed (thus the road is disturbed), what is to prevent trucks from removing concrete from this slab via the perimeter road traversing the as yet properly defined ESHA? Until the ESHA has been properly defined and mapped, nothing at all should take place in the ESHA at any time of the year.

Ms. McIlvaine was quoted by one of the Morro Bay Stakeholders, Kris Headland, as saying that this is an old map, and that the Evacuation Road was not really going to be used. If this road is not really going to be used, how are the contractors going to access the concrete slab on the northeast corner of the property, marked "Remove Concrete Slab".

Morro Bay is a Bird Sanctuary

We don't expect developers to understand the values and quality of life that we enjoy here in Morro Bay. These values are also resonated in the signs posted throughout our community that say Morro Bay is a Bird Sanctuary, and Tree City USA. The annual Morro Bay Winter Bird Festival is another example of how our community values our natural resources and our commitment to protect them. We do however expect the people that represent the City of Morro Bay to understand the values and quality of life here in Morro Bay by properly enforcing the city code. They have recommended approval of an application that in violation of city code, has not been properly identified and mapped the ESHA.

Presently, bird populations throughout the world are declining because of incremental habitat destruction. Here in Morro Bay, the habitat is across the street: If the city staff is disinclined to protect it, the citizens of Morro Bay will.

Respectfully,

Ed Griggs
Morro Bay Stakeholders