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San Mateo County Planning Commission
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**Subject: MidPen Housing Cypress Point Housing Project, Moss Beach CA
Biological Resources Assessment**

Dear Commissioners Hansson, Gupta, Santacruz, Ramirez and Ketcham,

BioMaAS peer reviewed the Biological Resources Assessment (BRA) for a proposed 71 affordable housing unit subdivision at the corner of Sierra and Carlos Streets, in Moss Beach, San Mateo County, California, prepared by De Novo Planning Group on May 24, 2018. Two additional documents, BKF's May 2, 2018 Cypress Point Hydromodification Management Memorandum, and the Stevens Consulting Cypress Point Project Public Services And Utilities Report, were utilized as references during our peer review of the BRA, but these documents were not peer reviewed for content.

My qualifications and experience are as follows.

Over 20 years of experience working throughout California on projects involving environmental consulting, biological assessments, special status species studies and management, environmental compliance, habitat restoration, and mitigation.

USFWS Section **10(a)(1)(A)** Recovery Permit holder for California red-legged frog, San Francisco garter snake, Alameda whipsnake, salt marsh harvest mouse and California tiger salamander.

A copy of my CV is attached.

General Comments

Based on our review, we believe that there are several sections of the BRA that should be clarified or expanded to include more pertinent information, and adequate analysis of project impacts and mitigations.

While the document lists various federal state and local regulations under the heading of regulatory setting, there is not much discussion as to how the listed regulations apply to this particular project, or what the implications of those regulations will be. The BRA entirely fails to analyze if the project will potentially violate the federal Endangered Species Act, the federal Clean Water Act, California's Fish & Game Code, California's Wetlands Conservation Policy, the Coastal Act or San Mateo County's Local Coastal Program. Further, while noting that there are 20 special-status plant species and 10 special status wildlife species within 5 miles of the project site, the BRA indicates that most species are "absent" (none observed during surveys), rather than giving a level of potential for their occurrence and gives little justification regarding those "absent" findings. An explanation for the rationale behind labeling of species as absent is warranted.

In addition, a more thorough discussion of potential mitigation measures, including agency consultation, should be included regarding some of these species.

Finally, as described further below, the BRA fails to adequately describe potential impacts to wetlands and how potential impacts could be mitigated.

Specific Comments

Project Description

An adequate analysis of biological impacts must be based on an adequate description of the project. Our review of the BRA reveals only that "the proposed project would result in construction activities that would change a portion of the 10.88-acre parcel into medium high-density housing, and that "the ground-disturbing activities on the site will consist of demolishing the existing foundations and grading the site."

The BRA should provide a description of all actions associated with the proposed project. Of particular concern to project impacts on wetlands and riparian habitat, the BRA makes only vague reference to drainage being "directed away from" the adjacent creek. This contrasts with BKF's May 2, 2018 Cypress Point Hydromodification Management Memorandum and the Stevens Consulting Cypress Point Project Public Services and Utilities Report which both state that excess stormwater runoff surface flows ultimately discharge to Montara Creek. The BRA should provide a more thorough description of the location, volume, and rate of drainage in order to adequately evaluate impacts to the adjacent Montara Creek. A map of the projected drainage should also be included.

Environmental Setting

As an initial observation, it has been almost 2 years since the project site was last surveyed by De Novo. Circumstances may have changed in this period and it would be prudent to re-survey the site and adjacent habitat.

The BRA states that based on field surveys the potential for each special-status species to occur within the project site was evaluated as either “No Potential,” “Potential,” or “Present.” However, BRA’s findings on species “presence” reported in Table 1 fails to use these classifications. This is more than just a technicality. For example, the BRA defines “Potential” as “Some of the habitat components meeting the species requirements are present, and/or only some of the habitat on or adjacent to the site is unsuitable.” By failing to use this classification system, the reader of the BRA is deprived an understanding of the survey findings and thus at a loss to understand project biological impacts.

Further, Table 1 simply lists many species as “absent” which can’t be proven by lack of observation. The BRA - in many instances - fails to explain the justification for its determination of a species as absent. In addition, Table 1 identifies Fragrant fritillary as absent, but surveys were not conducted during the June to September period when this plant is in bloom.

The BRA’s “California red-legged frog” section does not mention the relatively close proximity of the species occurrence within the adjacent Montara Creek. To adequately analyze project impacts, the BRA must explain why the proposed project site does not provide suitable upland habitat for the species.

Project Impacts

As noted above, the BRA entirely fails to analyze if the project will potentially violate the federal Endangered Species Act, the federal Clean Water Act, California’s Fish & Game Code, California’s Wetlands Conservation Policy, the Coastal Act or San Mateo County’s Local Coastal Program. There are species protected by the federal Endangered Species Act and California’s Fish & Game Code – including San Francisco garter snake, California red-legged frog, and birds of prey – that are noted in the BRA, which make analysis of potential violations of the regulations essential.

Table 1 mentions that the San Francisco garter snake is potentially present, and that the “drainage north of site provides limited habitat, cypress along northern boundary is potential upland.” Given this, the BRA fails to adequately analyze potential impacts to this species.

In the “San Francisco dusky-footed woodrat” section, the BRA provides inadequate justification for its conclusion that construction activities would not impact this species. Because this species occurs in scrub habitats in addition to forest, it would be prudent for all vegetated areas within the proposed project area to be thoroughly surveyed. The BRA does not make it clear that this has been done, and thus its conclusion is suspect.

In regard to bats, the BRA states that no bats were observed during surveys, but does not specify if a bat survey was conducted. Trees provide potential bat habitat but were omitted from the BRA’s discussion of suitable bat habitat.

For Impact BIO-3, the BRA states “The closest recognizable wetlands are approximately 350 feet to the north near 16th street, and approximately 600 feet to the west in the Pacific Ocean. Neither construction nor operation of the project would have a substantial adverse effect on these nearby wetlands, given the distance of these wetlands to the project site, and the fact that drainage from the site will be directed away from the adjacent stream.” Yet, the BRA fails to provide a detailed description of the project drainage, which likely will adversely impact wetlands.

The BRA does not mention the retention ponds proposed as part of the site. In contrast, BKF's May 2, 2018 Cypress Point Hydromodification Management Memorandum states that there will be post-project drainage towards "the bioretention areas" which will have a "6,500 square foot footprint," and that "this configuration will be adjusted accordingly as *more* bioretention areas are introduced into the site plan."

The Stevens Consulting Cypress Point Project Public Services and Utilities Report at Section 7.4.1 reveals that the project site slopes range from 10 percent to 50 percent, there is no existing storm drain infrastructure on the property, and that "stormwater ultimately discharges to Montara Creek within the James V. Fitzgerald Area of Specific Biological Significance (ASBS) watershed area." In addition to stormwater from the 11-acre project site, there is an additional one (1) acre of offsite runoff that drains through the project site and contributes to the overall drainage area.

Drainage out of the retention ponds and stormwater runoff has the potential to adversely impact wetlands.

In addition, project retention ponds may function as habitat, or as an attractive nuisance, for California red-legged frogs by luring them to breed at a site where reproductive success is unlikely. The BRA omits the necessary analysis of these potential adverse impacts, and thus also omits any discussion of potential mitigation measures.

Mitigation Measures

The BRA's discussion of mitigation measures appears inadequate, as it includes no discussion with the US Fish & Wildlife Service or CDFW to avoid "take" of California red-legged frog, San Francisco garter snake, San Francisco dusky-footed woodrat, and bats.

Regarding Mitigation Measure Bio-2, the BRA fails to include surveys for all protected bird species. In addition to raptors, other native nesting birds should be protected from disturbance. Preconstruction surveys should be conducted and there should be communication with CDFW to avoid take of active nests if they are discovered.

The BRA fails to include an analysis of proposed methods to prevent adverse wetland impacts, including the methods to be used and their location, both during and after construction.

If you have any questions or comments, please feel free to contact Steve Powell, 510-734-7286.

Regards,



Steve Powell
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**Years of Experience**

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Expertise

Senior Permitted Biologist

Education

B.S. (Biology) at California State University, Hayward, 1998.

Registrations/Certifications

Certified Marbled Murrelet Surveyor

Permits

USFWS Section **10(a)(1)(A)** Recovery Permit (**TE-107075-3**) for California red-legged frog, San Francisco garter snake, Alameda whipsnake, salt marsh harvest mouse and California tiger salamander.

Experience

Mr. Powell is a permitted biologist for San Francisco garter snake, California red-legged frog, California tiger salamander, salt marsh harvest mouse, and Alameda whipsnake. He has over 23 years of experience working on projects in endangered species habitat, dealing with issues of environmental compliance, endangered species management and habitat restoration.

With experience as a biologist, environmental inspector, researcher, consultant, project manager, and monitor, Mr. Powell has extensive field experience and has conducted numerous studies throughout a broad range of wildlife and biological communities in California. Mr. Powell is skilled in vertebrate identification, taxonomy, natural history, California special status species survey methods, and habitat assessments. Mr. Powell also has extensive experience in monitoring efforts, habitat preservation, mitigation, restoration, trapping and relocation for the California red-legged frog, foothill yellow-legged frog, California tiger salamander, salt marsh harvest mouse, San Francisco dusky-footed woodrat, Alameda whipsnake, San Francisco garter snake, Western pond turtle, and burrowing owl.

Mr. Powell has conducted surveys and habitat assessments for a variety of other species including California Ridgway's rail, California black rail, Swainson's hawk, Northern goshawk, California spotted owl, Western snowy plover, marbled murrelet, San Joaquin kit fox, bats, and valley elderberry longhorn beetle. Mr. Powell has also contributed to many fish surveying and relocation projects, which involved species such as steelhead and delta smelt.

His environmental document writing experience includes: Environmental Impact Reports, Management Plans, Invasive Plant Management Programs, Nesting Bird Reports, Habitat Conservation Plans, restoration plans, and Biological Assessments. Mr. Powell has managed many biological projects and performed functions such as oversight, training, deployment of personnel, and budget management.

Relevant Experience

Alameda Creek Diversion Dam – Fish Passage Facilities Project, Sunol, California
Owner: San Francisco Public Utilities Commission

Mr. Powell was an agency-approved monitor and environmental inspector. He performed preconstruction surveys for Alameda whipsnake, California tiger salamander, California red-legged frog, Foothill Yellow-legged frog (FYLF), Western pond turtle, bats, San Francisco dusky-footed woodrat, and nesting birds. He conducted surveys and relocation of several dozen FYLF egg masses and monitored their survival over three seasons. He relocated dozens of adult and juvenile FYLF as well. He also relocated dusky-footed woodrats, CRF, and AWS. He also conducted acoustic monitoring and exclusion for bats. His duties included construction access road inspections to minimize Take of special status species, wildlife exclusion fence inspection, daily compliance reports, environmental training, and speed limit enforcement on site.

**Caltrans Devil's Slide Hwy 1 Tunnel Project, San Mateo County*****Owner: Caltrans District 4***

Mr. Powell was responsible for environmental and biological monitoring at three project sites, including quality assurance for contractor implementation of water quality measures, erosion control, spill and containment, SWPPP compliance inspection, water sampling, ESA and wildlife fence inspection, and biological monitoring for California red-legged frog, San Francisco garter snake, migratory birds, and San Francisco dusky-footed woodrat. Pre-construction work included trapping and relocation of California red-legged frogs and relocation of San Francisco dusky-footed woodrats outside of the construction area as well as nesting bird surveys. Mr. Powell functioned as the lead construction and biological monitor for south and north portal work on the Devil's Slide Hwy 1 Tunnel Project.

Calera Creek Wetland Restoration Project, San Mateo County, CA***Client: City of Pacifica Department of Public Works***

Mr. Powell conducted trapping and visual surveys for San Francisco garter snake, Western pond turtle, California red-legged frog, and San Francisco dusky-footed woodrat. He also took samples and collected data on water quality. He compiled the data into a report and created a habitat management plan which improved and maintained habitat for California red-legged frog, San Francisco garter snake, western pond turtle, and San Francisco dusky-footed woodrat through control of invasive vegetation, and enhancement of upland and wetland vegetative cover.

Bean Hollow Ponds Management, Pescadero, CA***Client: San Mateo County Public Works Department***

Mr. Powell is involved in the management of several wetland sites that provide habitat for San Francisco garter snake and CA red-legged frog. We are currently conducting nocturnal and diurnal surveys and are developing an on-site habitat enhancement plan to enhance and create more wetland habitat near the existing ponds.

San Francisquito Creek Flood Reduction, Ecosystem Restoration, and Recreation Project, Palo Alto, CA***Owner: San Francisquito Creek Joint Powers Authority***

Mr. Powell was the USFWS approved permitted biologist and fisheries biologist for a levee improvement and salt marsh restoration project in salt marsh adjacent to San Francisco Bay. Mr. Powell's responsibilities included: preparing species avoidance plans for California Ridgway's rail, salt marsh harvest mouse, and anadromous fish, preparing environmental education program, identification of any salt marsh harvest mice and other rodents encountered within the project area, Resource Agency consultation, environmental compliance management and, compliance monitoring, pre/post construction surveys for saltmarsh harvest mouse and California Ridgway's rail, relocation of several thousand fish during dewatering, coordination of contractor and environmental monitors, and ensuring the integrity of the exclusion fencing. Mr. Powell identified Salt marsh harvest mice and western harvest mice on the project. Other special status species included California Ridgway's rail, California black rail, Western pond turtle, California red-legged frog, green sturgeon, and steelhead.

**Tyler Ranch Caltrans Mitigation Site, Alameda Co., California****Owner: Caltrans District 4**

Mr. Powell participated in the design and implementation of an Alameda whipsnake trapping program to determine the presence and distribution of this listed species within a proposed Caltrans mitigation site located on Tyler Ranch. Whipsnakes were marked and photographed as part of an effort to ascertain population size. He also conducted aquatic sampling to determine the presence of California tiger salamander and California red-legged frog within wetlands on and adjacent to the property. Mr. Powell captured and marked Alameda whipsnakes and trapped numerous California red-legged frogs during the project.

Biological Constraints Analysis for Proposed Crow Canyon Road Safety Improvement Project.**Owner: Alameda County Public Works**

Mr. Powell conducted a biological constraints analysis for 13 proposed road improvements at a number of locations along Crow Canyon Road. The constraints analysis included a review of literature and field surveys to determine the extent of previous biological surveys and the species and habitats known or likely to occur along the segment. Special status species included: CA red-legged frog, CA tiger salamander, and western pond turtle

Old Niles Project, Alameda Co. CA**Owner: Caltrans District 4**

Conducted pre-construction surveys prior to retaining wall installation on Niles Canyon Road adjacent to Alameda Creek. Special status species within the area included California red-legged frog, foothill yellow-legged frog, Alameda whipsnake, and Central Coast ESU steelhead. Conducted nesting bird surveys and mapped nests within and adjacent to the project area.

San Pedro Creek Bridge Replacement Project, Pacifica, CA**Owner: Caltrans District 4**

As project manager, Mr. Powell performed nesting bird deterrence, listed species relocation, biological monitoring and environmental inspection during vegetation removal for a bridge replacement and dredging project in California red-legged frog (CRF) and steelhead habitat. He conducted daily bird surveys and bird deterrence during the nesting season to prevent nesting birds from delaying the start of the project. This work included removing nest-starts and installing deterrents to nesting. He conducted preconstruction surveys and a habitat assessment for CRF and steelhead and relocated numerous CRF egg masses and adults from the work area. He also relocated nests of San Francisco dusky-footed woodrats and monitored the removal of trees and other vegetation prior to the start of construction

Route 92 West Albert Canyon Mitigation Project, San Mateo Co.**Owner: Caltrans District 4**

Mr. Powell was responsible for environmental and biological monitoring on a culvert repair and creek bank restoration project on highway 92. Special status species on



site included California red-legged frog, San Francisco dusky-footed woodrat, and central coast steelhead. Mr. Powell also conducted pre-construction surveys, nesting bird surveys, contractor education, completed daily reports, and removed wildlife from the construction area. After concrete was poured to line the inside of a culvert, a plastic detention basin surrounded by exclusion fence was constructed at the pipe outfall to prevent entry by California red-legged frog. Mr. Powell conducted daily water tests on the discharge from the pipe to check the pH and determine when it was safe to be released downstream. Until the proper pH levels were reached, water was pumped from the fenced detention basin and into a truck for disposal.

SMART CP4 Haystack Landing Bridge Replacement, Petaluma, CA

Owner: Sonoma Marin Area Rail Transit (SMART)

Mr. Powell was the Service-Approved lead biologist on a railroad bridge replacement project over the Petaluma River. His responsibilities included oversight of the biological monitors and contractor to ensure resource agency permit compliance with the federal Biological Opinion and all project permits. Of special interest on this project were water quality concerns due to working in a live river, impacts to fish during dewatering, and impacts to special status species during vegetation clearing and ground disturbance. Special status species in the area included salt marsh harvest mouse, California red-legged frog, California clapper rail, Delta smelt and green sturgeon.

Mare Island Salt Marsh Harvest Mouse Habitat Assessment, Vallejo, CA

Owner: U.S. Navy

Mr. Powell conducted habitat assessments for salt marsh harvest mouse (SMHM) at several sites throughout the Mare Island Naval Base. As a permitted SMHM biologist, he conducted site visits to multiple locations to assess the potential for SMHM to occur within proposed project areas and wrote reports detailing the results. He also reviewed reports of other biologists for accuracy.

I-680 Highway Widening, Pleasanton, CA

Owner: Caltrans District 4

As a CDFW/USFWS-approved biological monitor, Mr. Powell performed preconstruction surveys, camera trapping, live-trapping, and midden relocation for San Francisco dusky-footed woodrat next to the Bernal Ave. onramp on I-680. He assisted in the relocation of over a dozen woodrat middens. He inspected trapped adult woodrats to evaluate their reproductive status, lactating females were returned to their nests, other woodrats were relocated along with their middens

SFPUC Water System Improvement Program Crystal Springs-San Andres Pipeline Upgrade Project, San Mateo Co. CA

Owner: San Francisco Public Utilities Commission

Mr. Powell conducted environmental and biological inspection for compliance during a water pipeline improvement project. He monitored construction activities such as de-watering, excavation, rip-rap placement, drilling, and demolition of concrete structures. Special status species within the project area include; San Francisco garter snake, California red-legged frog, Western pond turtle, Central California Coast ESU steelhead, San Francisco Dusky-footed woodrat, and migratory



nesting birds. Mr. Powell also conducted preconstruction surveys, contractor education, filed daily reports documenting compliance, and relocated special status species.

Surveys and Exclusion Activities for the Permit-level Composting Facility at the Altamont Landfill and Resource Recovery Facility

Client: Waste Management of Alameda County

Mr. Powell conducted protocol-level surveys for the San Joaquin kit fox, CA red-legged frog, CA tiger salamander, and burrowing owl. Surveys included spot lighting, track dusting, and burrow surveys. Owls were found in the construction footprint, and coordination with CDFG biologists allowed for passive exclusion the owls from burrows so that construction could continue. Mr. Powell also conducted surveys for Alameda whipsnake.

PG&E Jefferson-Martin 230 kV Line Installation Project, San Mateo County

Owner: PG&E

Mr. Powell was responsible for permitted biological monitoring and conducting surveys for special-status species including the California red-legged frog, San Francisco garter snake, and San Francisco dusky-footed woodrat on the Jefferson-Martin 230 k-V Line Project adjacent to San Andreas Reservoir. Efforts included a capture and relocation program for these species to remove them from the construction zone and providing a permitted construction monitoring team as required by the project permits. He relocated many CRF and SFGS by hand and through trapping, and relocated woodrat middens.

PG&E San Francisquito Creek Emergency Pipeline Repair Project, Santa Clara County, CA

Mr. Powell provided project management, and environmental/biological monitoring during an emergency PG&E project that involved the dewatering of an approximate 100-foot stretch of stream to facilitate the repair of a 24-inch gas pipeline which crossed below the creek bed. Central coast ESU steelhead were relocated from the project area prior to pipeline repair. He conducted preconstruction surveys for CA red-legged frog and CA tiger salamander, and bats. After the completion of construction, he directed the installation of erosion control and the revegetation of the area with native plants. He conducted quarterly assessments of the revegetation and the status of the creek as suitable anadromous fish habitat over the course of 5 years.

Three-year fish survey of lower Delta marsh channels, Contra Costa County, CA

Client: Cal Fed

Mr. Powell conducted a three-year fish survey of restored lower Sacramento-San Joaquin Delta marsh channels to determine their use by native California species including the federally and state threatened Delta smelt (*Hypomesus transpacificus*). We successfully adapted standard fish capture methods to function well in Delta marsh drainage channels with strong tidal flows. This permitted quarterly sampling of all fish entering and leaving restored and preserved marshes over a three-year period.