SETTLEMENT AGREEMENT AND RELEASE

James Lawrence Benjamin and Zoya Dorry Benjamin, Plaintiffs
v. City of Half Moon Bay, Defendant,
San Mateo County Superior Court Case No. CIV 494372

A. INTRODUCTION

This Settlement Agreement and Release ("Agreement") is made by the parties specified below and pertains to the above-captioned litigation.

B. PARTIES

This Agreement and Release is made and entered into by and among the following parties (the "Parties"):

James Lawrence Benjamin and Zoya Dorry Benjamin (collectively and individually, "Plaintiffs"); and

City of Half Moon Bay, a general law city ("City" or "Defendant").

C. RECITALS

This Agreement is entered into with reference to the following:

1. The Parties are all of the parties to litigation entitled *James Lawrence Benjamin and Zoya Dorry Benjamin, Plaintiffs v. City of Half Moon Bay, Defendant*, San Mateo County Superior Court Case No. CIV 494372 (the "Lawsuit").

2. The key issues of the Lawsuit, in general terms, involve certain work performed in early 2009 (the "Work") by the California Conservation Corps under contract with the City in a certain stream commonly known as the "Kehoe Ditch," and also known as the "Kehoe Watercourse" which runs adjacent to Plaintiffs' residence and then feeds into the Pilarcitos Creek, and ultimately the Pacific Ocean. The Work, in general, involved the use of chain saws to cut down several arroyo willow trees and the use of hand tools and manual labor to remove the tree branches and other vegetation, and two truckloads of materials were removed.

3. Plaintiffs filed their VERIFIED FIRST AMENDED PETITION FOR WRIT OF MANDAMUS AND COMPLAINT FOR DECLARATORY AND EQUITABLE RELIEF on or about June 4, 2010, alleging violations of the California Coastal Act and California Fish & Game Code, and seeking damages for trespass, nuisance, quiet title, slander of title inverse condemnation.

4. The matter came on regularly for trial before the Honorable Julie Conger in August, 2011 and was taken under submission on Monday, August 29, 2011.

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5. A Statement of Decision prepared by Judge Conger, attached hereto as Exhibit A and hereby incorporated by reference, was filed on or about September 23, 2011 and was subsequently served with an affidavit of mailing on November 23, 2011. Among other things, in the Statement of Decision Judge Conger states:

   (a) The California Coastal Act (Public Resources Code Section 30600, et seq.) requires a Coastal Development Permit (CDP) for all development located within the coastal zone, with certain exceptions.

   (b) Public Resources Code section 30240 requires that "Environmentally Sensitive Habitat Areas" (ESHAs) be protected against any significant disruption of habitat values.

   (c) Half Moon Bay Municipal Code Section 18.38.020 contains the following definitions:

      (1) Environmentally Sensitive Habitat Areas: Habitats containing or supporting unique species or rare and endangered species defined by the State Fish and Game Commission.

      (2) Riparian Area and Corridor: Any area of land bordering a perennial or intermittent stream or their tributaries…Riparian corridors are the areas between the limits or riparian vegetation, where limits are determined by vegetative coverage, at least fifty percent of which is comprised of a combination of the following plant species: red alder, jaumea, pickleweed, big leaf maple, narrow-leaf cattail, arroyo willow, broadleaf cattail, horsetail, creek dogwood, black cottonwood, and box elder……"

   (d) Title 14, California Code of Regulations section 13252, elaborating on Public Resources Code Section 30610, which exempts repair and maintenance from the requirement to obtain a Coastal Development Permit provides, in part, as follows:

      (1) For purposes of Public Resources Code section 30610(d), the following extraordinary methods of repair and maintenance shall require a coastal development permit because they involve a risk of substantial adverse environmental impact:

         a) Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area….that include:

            (i) The placement or removal, whether temporary or permanent, or rip-rap, rocks, sand or other beach materials or any other forms of solid materials.

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(ii) The presence, whether temporary or permanent, of mechanized equipment or construction materials.

(e) The Work was performed without a Coastal Development Permit.

(f) The Kehoe Watercourse and adjacent Riparian Area qualify as an Environmentally Sensitive Habitat Area for purposes of the Coastal Act, Local Coastal Program of the City of Half Moon Bay and the HMB Zoning Ordinance for the following reasons:

(1) The Kehoe Watercourse and adjacent riparian area contains or supports rare and endangered species as defined by the State Fish and Game Commission, including the California Red-Legged Frog and San Francisco Garter Snake…

(2) The Kehoe Watercourse and adjacent riparian area qualify under the Zoning Ordinance and LCP as a Riparian Area and Corridor…

(g) That the "repair and maintenance exception" to excuse the necessity of a Coastal Development Permit for the Work is inapplicable because of the "presence of mechanized equipment" to wit: use of a chainsaw in performing the work.

(h) That the Kehoe Ditch is a riparian area or corridor based on the fact that it is an area covered by vegetative coverage "at least fifty percent of which is comprised of a combination of … arroyo willow…(and other specified plant species)."

(i) The Kehoe Ditch and adjacent Riparian Area qualify as an Environmentally Sensitive Habitat Area for purposes of the Coastal Act, the Local Coastal Program of the City and the City of Half Moon Bay Zoning Ordinance.

(j) Under the requirements of the Coastal Act and the City of Half Moon Bay Municipal Code a Coastal Development Permit was required for the Work.

6. The Parties now desire to settle the Lawsuit, under the terms and conditions set forth in this Settlement Agreement and Release.

D. TERMS OF AGREEMENT

1. For purposes of resolving this matter, City accepts the recitals in Paragraph C.5 as a correct recitation of the law applicable to future repair and maintenance activities in environmentally sensitive habitat areas, and of the evidence presented in this Lawsuit as pertains to future repair and maintenance activities performed by the City in the Kehoe Ditch.

2. Notwithstanding the exemptions contained in the Half Moon Bay Municipal Code and Title 14, California Code of Regulations section 13252, the City shall obtain a coastal

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development permit before (or, in the event of an emergency only, after) undertaking any development, including repairs and maintenance, within the Kehoe Ditch. Prior to issuance of any such CDP, the City shall prepare and circulate a biological report in conformance with Local Coastal Program ("LCP") Policy 3-23 and Municipal Code Section 18.38.035 including, but not limited to, the requirement that the report "describe and map existing wild strawberry habitat on the site, existing sensitive habitats, riparian areas and wetlands located on or within two hundred feet of the project site." In the event of an emergency, as defined by Public Resources Code Section 30624, the City shall fully comply with the requirements of the Coastal Act and Coastal Commission Regulations pertaining to emergency permits.

3. Using best efforts and reasonable diligence, the City shall apply for and process to completion the issuance of a retroactive CDP for the Work. Plaintiffs will participate in good faith with such processing and issuance of a retroactive CDP. The processing of said CDP will include the following:

   (a) The City shall commission a biological report in accordance with LCP Policy 3-23 and Municipal Code Section 18.38.035 to examine the scope of the Work and recommend reasonable mitigation measures for the Work. The biological report shall be prepared by a biological consultant or firm (said consultant or firm to be mutually agreed to by the Parties within fifteen (15) days of the Effective Date, or, if the Parties are unable to agree upon the selection of a consultant or firm within that time, in accordance with subparagraph 3(e), below).

   (b) The CDP will incorporate conditions requiring implementation of mitigation measures recommended by the biological report, if any, provided that such mitigation measures shall be reasonable in terms of:

      (1) Their practicability;

      (2) The passage of time since the Work was performed; and

      (3) The cost of implementing any recommended mitigation measures relative to the cost of the Work or any damage or hazard caused thereby.

   (c) Using best efforts and reasonable diligence the City shall implement the mitigation measures incorporated in the CDP pursuant to Paragraph 3(b).

   (d) Using its best efforts and reasonable diligence, the City shall implement the following El Granada Pipeline staging area mitigation measures described in the February 29, 2008 letter from Erin McDermott, Principal, ISA Certified Arborist, Botanist, Wetland & GIS Specialist of Nomad Ecology to Steve Flint, Planning Director, City of Half Moon Bay. Staging Area 1 should be re-vegetated with an appropriate assemblage of native vegetation characteristic of Coastal grasslands present within project vicinity. A restoration and monitoring plan should be prepared that includes, but is not limited to, the species to be used, restoration

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techniques, planting specifications, appropriate timing of restoration planting, monitoring and success criteria, adaptive management strategies, and remedial actions if the success criteria are not achieved.

(e) In the event that the Parties are unable to timely reach agreement on selection of a biological consultant under paragraph 3(a), above, then this subparagraph shall apply, and each Party shall, within thirty (30) days of the Effective Date, select a biological consultant of their choosing who, in turn, will be instructed to, within forty-five (45) days of their selection, mutually select a qualified biologist or firm to prepare the biological report. If no biologist has been selected after ninety (90) days of the Effective Date, either party may petition the court to select one.

4. City acknowledges that the following areas have been identified as habitat supporting or containing rare, endangered, threatened or unique species in the March and August 2005 studies by Essex Environmental, the March 2007 study by Rana Creek Habitat Restoration, the February 12, 2008 report from Nomad Ecology, and the October 2005 report by H.T. Harvey & Associates:

   (a) the Kehoe Watercourse (also as a riparian area and corridor); and

   (b) Caltrans mitigation project site (also as a wetland).

   In addition, the City acknowledges that the following has been identified as likely habitat supporting or containing rare, endangered, threatened or unique species the October 2005 report by H.T. Harvey & Associates:

   (c) the vacant Sewer Authority Mid-Coastside parcel located immediately south of the Kehoe watercourse (APN 048-240-040, commonly known as the "Landstra Parcel").

   The areas identified in Subparagraphs (a) through (c) are hereinafter collectively referred to as the "Protected Area."

5. As material consideration to Plaintiffs under this Agreement, City agrees for each Protected Area:

   (a) To use its best efforts and reasonable diligence to process to successful adoption, including compliance with all notice and hearing requirements of the Half Moon Bay Municipal Code, an amendment to the LCP amending both (1) the Habitat Areas and Water Resources Overlay of the City's Local Coastal Program in accordance with LCP Policies 3-21 and 3-32 and (2) the Coastal Resource Area maps of Municipal Code section 18.38.020 in accordance with Half Moon Bay Municipal Code section 18.38.025 designating such Protected Area as Environmentally Sensitive Habitat Areas and Sensitive Habitat Areas, respectively, supporting or containing rare, endangered, threatened and unique species, and as riparian or wetland areas. Pending completion of the

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aforementioned process, City shall not process or accept as complete for purposes of processing any coastal development permit for any Protected Area, except for: (1) the retroactive CDP required by Paragraph 3 and (2) development that is expressly permitted pursuant to Half Moon Bay Municipal Code section 18.38.085.

(b) Alternatively, City may elect to conduct a protocol level survey of such Protected Area in full compliance with the accepted protocol for CRLF (attached hereto as Exhibit B) as to whether the Protected Area supports or contains CRLF. Since no written protocol for SFGS currently exists, a finding that a Protected Area contains or supports CRLF shall be presumed indicative of the fact that Protected Area also contains or supports SFGS. The survey shall be limited to such Protected Area, shall include a map clearly delineating all sensitive habitat areas (as defined in LCP Policy 3-1 and Half Moon Bay Municipal Code Section 18.38.020.A) within the confines of such Protected Area, and shall be performed by a biologist selected in the manner specified by Paragraph 3, above. Upon completion of the survey and mapping required by this Paragraph, the City shall use its best efforts and reasonable diligence to process to successful adoption, including compliance with all notice and hearing requirements of the Half Moon Bay Municipal Code, an amendment to the LCP amending both (1) the Habitat Areas and Water Resources Overlay of the City's Local Coastal Program and (2) the Coastal Resource Area maps of Municipal Code section 18.38.020 in accordance with Half Moon Bay Municipal Code section 18.38.025 to designate such Protected Area as Environmentally Sensitive Habitat Areas and Sensitive Habitat Areas, respectively, supporting or containing rare, endangered, threatened and unique species, and as riparian or wetland areas in such maps unless such surveys establish by clear and convincing evidence that such Protected Area does not contain or support any protected species or otherwise meet the LCP definition of ESHA. Pending completion of the aforementioned process, City shall not process or accept as complete for purposes of processing any coastal development permit for such Protected Area, except for: (1) the retroactive CDP required by Paragraph 3 and (2) development that is expressly permitted pursuant to Half Moon Bay Municipal Code Section 18.38.085.

(c) If the City makes the election specified under subparagraph 5(b) above, and the survey is not completed in full compliance with subparagraph 5(b) by December 31, 2013, City shall perform all actions specified in subparagraph 5(a), above.

6. Using its best efforts and reasonable diligence, the City will conduct and process to completion street vacation proceedings in accordance with the requirements of the California Streets and Highways Code for the unimproved portion of the Pilarcitos Avenue street right of way commencing on the southern terminus of Casa Del Mar Drive and extending southeast along the entire length of Pilarcitos Avenue (as highlighted in red on the attached St. John Subdivision Unit No. 3 Map attached hereto as Exhibit C and hereby incorporated by reference) and extending therefrom in a southeasterly direction to the southern edge of the Sewer Authority Mid-Coastside (formerly Landstra) parcel (the

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"Landstra Right-of-Way"). If the City Council determines, after the public hearing, that the Landstra Right-of-Way and easement along the built portion of Pilarcitos Avenue north of the Kehoe Watercourse are no longer needed for future street or highway purposes, then City shall vacate said right-of-way and abandon the related easement. The City Council shall not unreasonably conclude that said right-of-way or easement is needed for future street or highway purposes.

7. Pursuant to California Code of Civil Procedure Section 664.6, the parties hereby stipulate that the court may, upon motion, enter judgment pursuant to the terms of this Agreement, and hereby request the court to retain jurisdiction over the parties to enforce the Agreement until full performance of all of the provisions of this Agreement. The parties shall give the court notice of this Agreement, and request a case management conference. At the case management conference the parties will request the court retain jurisdiction to enforce this Agreement (and, if filed pursuant to Paragraph 8, take final action on the Memorandum of Costs and Motion for Attorneys Fees), and discuss dismissal of the Complaint at the earliest possible date in a manner which will still allow the court to retain jurisdiction. If the court agrees to retain jurisdiction after dismissal of the Complaint, the Complaint will be dismissed with prejudice within 10 days of the court agreement and oral order on the record retaining jurisdiction as aforesaid.

8. City shall pay the sum of two hundred ninety five thousand dollars ($295,000.00) (the "Settlement Payment") to the trust account of Willoughby, Stuart &Bening within ten (10) calendar days of dismissal. The Settlement Payment shall be the entire cash consideration for the settlement of the Lawsuit, and encompassing all matters, whether damages, civil penalties, attorneys fees, costs of suit or otherwise.

9. In the event that the City does not pursue with best efforts and due diligence the actions provided for in Paragraphs D. 1 through 8 of this Agreement, Plaintiffs may bring an action to enforce this Agreement pursuant to California Code of Civil Procedure Section 664.6, including a claim for injunctive relief for an order to comply with the provisions of this Agreement. As described in detail in Paragraph 7, the parties will request the court to retain jurisdiction over the parties to enforce the terms of this Agreement until performance in full of the terms of Paragraphs D. 1 through 8, and all of the terms of this Agreement. In the event that Plaintiffs seek to enforce this Agreement, and the court issues an order requiring the City to satisfy its obligations pursuant to Paragraphs D.1 through 8 of this Agreement, the Plaintiffs shall have the right to obtain reasonable attorneys fees incurred to enforce this Agreement and the public interest.

10. The signatories to this Agreement warrant and represent that they have all requisite authority to execute this agreement on behalf of Plaintiffs and City.

11. Except for any payment made pursuant to Paragraph 8 and/or fees awarded pursuant to Paragraphs 9 and 14(c), the parties shall bear their own respective attorneys fees and costs of suit.

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12. The "Effective Date" of this Agreement shall be the last execution date of any of the parties to this Agreement.

    a. The court shall retain jurisdiction over this matter until all of its terms and conditions are fulfilled.

13. RELEASE

    a. Each Party to this Agreement hereby releases and forever discharges all other Parties, their controlled corporations or other business entities and affiliates and their respective officers, directors, members, attorneys, partners, employees, legal successors, assigns, grantees, agents, executors, heirs, devisees and representatives from any and all rights, claims, demands, obligations, administrative remedies and causes of action of any nature whatsoever which each of them ever had or may have now or in the future against the other, arising from or in any way related to the course of dealings between the parties described in the Recitals and in the Lawsuit, except as provided in subparagraph (b), below. With that same exception, the Parties each hereby waive the provisions of Section 1542 of the Civil Code of California, which reads as follows:

    "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

    This release made pursuant to this Paragraph is intended to and shall be binding upon and shall inure to the benefit of the above-described Parties and their legal successors, assigns, grantees, agents, employees, executors, administrators, heirs, devisees, members, partners, spouses (to the extent of community property), attorneys, officers, directors, subsidiaries, affiliates and representatives.

    b. Notwithstanding the release set forth in subparagraph (a), above, nothing contained herein shall prevent Plaintiffs from bringing any future claims related to any property rights (including but not limited to a claim related to the location of Plaintiff's property boundaries or the location of any City easement over Plaintiff's property) or claims for damages accruing after Effective Date of this Agreement, including, but not limited to, claims for trespass, nuisance, erosion and/or inverse condemnation, regardless of whether the Work may have in part caused or contributed to such claims. Plaintiffs also reserve all their rights as members of the public to participate in administrative or other proceedings related to the implementation of the requirements of this Agreement, their property, the Kehoe Watercourse and surroundings, or other matters.

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14. General Terms

a. Compromise. It is understood and agreed that this is a compromise and settlement of disputed claims and that nothing contained herein shall be construed as an admission by the Parties of any liability or responsibility of any kind.

b. Warranty of Capacity. Each Party represents and warrants that no other person or entity has or has had any interest in the terms and conditions of this Agreement; that each of them has the sole right and exclusive authority to execute this Agreement and receive the consideration specified in this Agreement; and that none of them has sold, assigned, transferred, conveyed or otherwise disposed of any part of the rights referred to herein.

c. Attorney's Fees. Should any Party hereafter reasonably retain counsel for the purpose of enforcing or preventing the breach of any provision of this Agreement, including, but not limited to, instituting any action or proceeding to enforce any provision of this Agreement, for a declaration of rights or obligations under the Agreement, or for any other judicial remedy, then, if the matter is settled by judicial determination, the prevailing Party shall be entitled to reimbursement from the losing Party for all costs and expenses incurred thereby, including, but not limited to, reasonable attorneys' fees for the services rendered to the prevailing Party.

d. Construction. All Parties have reviewed the Agreement, and the normal rule of construction, providing that any ambiguities are to be resolved against the drafting party, shall not be employed in the interpretation of the Agreement.

e. Headings. Paragraph headings or captions contained in the Agreement are used for reference only and shall not be deemed to govern, limit, or extend the terms of the Agreement.

f. Waiver and Amendment. No breach of any provision of this Agreement can be waived unless done so expressly and in writing. Express waiver of any one breach shall not be deemed a waiver of any other breach of the same or any other provision of this Agreement. The Agreement may be amended or modified only by a written agreement executed by the Parties at the time of the modification.

g. Entire Agreement. All agreements, covenants, representations and warranties, express and implied, oral and written, between the Parties concerning the subject matter of the Agreement are contained or referred to in the Agreement. No other agreements, covenants, representations or warranties, express or implied, oral or written, have been made by any Party to any other Party concerning the subject matter of the Agreement. All prior and contemporaneous conversations, negotiations, possible and alleged agreements, representations, covenants and warranties concerning the subject matter of the Agreement other than those referred to here are merged into the Agreement.

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h. Independent Advice of Counsel. Both Parties have retained counsel in regard to this matter and represent and declare that in executing the Agreement they rely solely upon their own judgment, belief and knowledge concerning the nature, extent and duration of their rights and claims, have been advised by their own counsel, and that they have not been influenced to any extent whatsoever in executing the Agreement by any representations or statements not expressly contained or referred to in the Agreement.

i. Counterparts. The Agreement may be executed in counterparts, each of which shall be deemed an original and shall be deemed duly executed and effective upon the signing of the last counterpart by the Parties.

j. Time of Essence. **TIME IS HEREBY EXPRESSLY DECLARED TO BE OF THE ESSENCE IN THIS AGREEMENT AND OF EACH AND EVERY PROVISIONS THEREOF, AND EACH SUCH PROVISION IS HEREBY MADE AND DECLARED TO BE A MATERIAL, NECESSARY AND ESSENTIAL PART OF THIS AGREEMENT.**

IN WITNESS WHEREOF, each of the Parties has executed this Agreement on the date set forth below.

"PLAINTIFFS"

Dated: August 17, 2012

JAMES LAWRENCE BENJAMIN

Dated: 8/17/2012

ZOYA DORRY BENJAMIN

Approved as to form:

WILLOUGHBY, STUART & BENING

BRADLEY A. BENING
Attorneys for Plaintiffs

"CITY"

CITY OF HALF MOON BAY

Dated: 8-22-12

By: Laura Snideman
LAURA SNIDEMAN
City Manager

Approved as to form:

ATCHISON, BARISONE, CONDOTTI & KOVACEVICH

ANTHONY P. CONDOTTI
City Attorney

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EXHIBIT A

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN MATEO

James Lawrence Benjamin and Zoya Dorry Benjamin Plaintiffs, vs. City of Half Moon Bay, Defendants.	CASE NO. CIV 494372 **STATEMENT OF DECISION**

I. STATEMENT OF FACTS

The Kehoe Ditch, also known as the Kehoe Watercourse, lies adjacent to petitioner Benjamin's property in Half Moon Bay, California; it is a stream which feeds into the Pilarcitos Creek, and ultimately the Pacific Ocean. The Kehoe Watercourse is located within the Coastal Zone, within the meaning of Public Resources Code section 30103.

In January, 2009, the City of Half Moon Bay contracted with the California Conservation Corps to perform a drainage clearing project of about 2000 feet of the Kehoe Ditch. The contract specifies that the City would secure approvals and permits required by "any other state, federal, or local agency necessary to commence construction or operation of such projects."

The work described in the above contract was accomplished from February 9, 2009 to February 11, 2009 and on a return visit in March, 2009. A chain saw and weed whacker were employed in the work. Several arroyo willow trees were chopped down and two truckloads of vegetation were removed. The work was performed without a Coastal Development Permit issued by the City of Half Moon Bay or the Coastal Commission.

II. APPLICABLE STATUTES

A. California Coastal Act: Public Resources Code sections 30600 et. Seq: Coastal Development Permit (CDP) required for all "development" located within the coastal zone.

B. Public Resources Code section 30240: Environmentally sensitive habitat areas protected against any significant disruption of habitat values.

C. Half Moon Bay Municipal Code section 18.38.020:

A. Environmentally Sensitive Habitat Areas: Habitats containing or supporting unique species or rare and endangered species defined by the State Fish and Game Commission

B. Riparian Area and Corridor: Any area of land bordering a perennial or intermittent stream or their tributaries…Riparian corridors are the areas between the limits of riparian vegetation, where limits are determined by vegetative coverage, at least fifty percent of which is comprised of a combination of the following plant species: red alder, jaumea, pickleweed, big leaf maple, narrow-leaf cattail, arroyo willow, broadleaf cattail, horsetail, creek dogwood, black cottonwood, and box elder…….

E. Wetlands.

D. California Code of Regulations section 13252 (Title 14) elaborating on Public Resources Code section 30610, which exempts repair and maintenance from the requirement to obtain a Coastal Development Permit:

(a) For purposes of Public Resources Code section 30610(d), the following extraordinary methods of repair and maintenance shall require a coastal development permit because they involve a risk of substantial adverse environmental impact:

(3) Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area.....that include:

(A) The placement or removal, whether temporary or permanent, of rip-rap, rocks, sand or other beach materials or any other forms of solid materials

(B) The presence, whether temporary or permanent, of mechanized equipment or construction materials

III. FACTS NOT IN DISPUTE

The parties are in agreement that:

1) The Coastal Act provides a process by which a local government's Local Coastal Program is adopted and certified and that Half Moon Bay accomplished this by certification of its LCP and accompanying regulations.

2) The California Red-legged Frog and the San Francisco Garter Snake both qualify as a rare and endangered species as defined by the California State Fish and Game Commission.

FINDINGS:

IV. The Court finds that the Kehoe Watercourse is not a "Public Works" facility as defined by the Coastal Act, Public Resources Code section 30114.

V. The Court finds by a preponderance of the evidence, based upon the testimony of Mr. Martin Trso (Certified Geomorphologist) and Mr. Mark Jennings (Certified Herpetologist) that the Kehoe Watercourse and adjacent Riparian Area qualify as an Environmentally Sensitive Habitat Area for purposes of the Coastal Act, the Local Coastal Program of the City of Half Moon Bay, and the HMB Zoning Ordinance for the following reasons:

A) The Kehoe Watercourse and adjacent riparian area contains or supports rare and endangered species as defined by the State Fish and Game Commission, including the California Red-Legged Frog and the San Francisco Garter Snake

B) The Kehoe Watercourse and adjacent riparian area qualify under the Zoning Ordinance and LCP as a Riparian Area and Corridor.

The Court makes no finding as to whether the Kehoe Watercourse qualifies as a "wetland."

The Court's determination that the Ditch is an Environmentally Sensitive Habitat Area is supported by documents originating from the 1987 development of the St. John's Subdivision:

1) City of Half Moon Bay Resolution No. 33-88 Approving Final Map of St. John Subdivision (recorded July 12, 1988) designating the Ditch Area as a "riparian buffer zone"

2) Application for Coastal Development Permit for St. John's Subdivision, December 3, 1987, acknowledging on page 5 that the development is "in or near a sensitive habitat area."

VI. The Court finds that the "repair and maintenance exception" to excuse the necessity of a Coast Development Permit is inapplicable because of the "presence...of mechanized equipment", to wit the use of a chain saw in the project. (Statute cited supra.)

VII. The very wording of 14 CCR section 13252 specifies the "presence of mechanized equipment, whether temporary or permanent" as triggering a determination that such "extraordinary methods of repair and maintenance require a coastal development permit because they involve a risk of substantial adverse environmental impact" (underscoring added by the Court). Thus the Court is bound by the language of the statute and need not make an independent finding as to whether this clearing project specifically involved a risk of substantial adverse environmental impact.

VIII. Accordingly, the Court finds that the Kehoe Watercourse and the adjacent Riparian Area clearing project required a Coastal Development Permit since it involved removal of riparian vegetation and alteration of the Kehoe Ditch, an Environmentally Sensitive Habitat Area, and thus constituted development within the Coastal Zone.

IX. The Court further finds that the City of Half Moon Bay was on notice that the proposed Kehoe Ditch drain clearing project was located in and adjacent to a Environmentally Sensitive Habitat Area. This ruling is based upon the City's acknowledged receipt and review of numerous documents and studies related to the area:

1) Numerous email communications between City officers and plaintiff James Benjamin, dated September 29-October 3, 2006.
2) Email string between HMB Planning Director Steve Flint and Kathy Marx , HMB Project Planner, and Serge Glushkoff of California State Department of Fish and Game, dated November 9, 2007 to November 13, 2007
3) March 9, 2007 Biological Assessment for Kehoe Ditch Bank Stabilization Project prepared for City of Half Moon Bay by Rana Creek Habitat Restoration (Rana Creek)
4) August 2005 Habitat Assessment for the City of Half Moon Bay Kehoe Ditch Flood Control Project prepared by Essex Environmental Inc. (Essex)

5) May 2006 Biotic Assessment, Phase 3, El Granada Transmission Pipeline Replacement Project, Half Moon Bay, prepared by Coast Range Biological (Coast Range)

6) October 13, 2005 letter from H.T. Harvey and Associates to John Foley, Sewer Authority Mid-Coastside , re. Biological Constraints Assessment for an area whose northern boundary is the Kehoe Ditch

Though not all these studies or communications were specifically directed to the Kehoe Watercourse project of 2009, the considerations underlying determination of ESHA were extensively mentioned and discussed therein in the several years prior to undertaking the February, 2009 endeavor.

X. The Court further finds that the reasoning of the Half Moon Bay Planning Director Steven Flint that the Kehoe Ditch did not support or contain the Red-Legged Frog or the San Francisco Garter Snake because "none had ever been seen there" is untenable for the following reasons:

1) a) Rana Creek: pp. 4-5: Though no Red-legged frogs observed at the Kehoe Ditch, it does provide suitable habitat for the frogs. Several have been recorded within .5 miles, primarily at the Caltrans mitigation site, and the frogs disperse from breeding sites …"moving through landscape without apparent regard for vegetation or topography." The ditch may provide breeding habitat for the RLF, and the open space supplies "potential upland habitat."

b) Rana Creek p. 6: "SFGS may be present along the banks of the ditch in the riparian vegetation."

c) Rana Creek p. 8: "Impact: California red-legged frogs that are potentially present at the project site may be harassed or harmed in violation of the Endangered Species Act."

2) a) Essex p. 11: "California red-legged frog....likely to occur in the project area. CNDDB search listed numerous occurrences within 5 miles of the project, with the closest occurrences within 0.5 mile. Project area provides suitable habitat."

b) Essex p. 11. "San Francisco Garter Snake....likely to occur in the project area."

c) Essex p. 13: "Based on the suitable habitat available along the ditch..., there is a high potential for CRLF to occur."

d) Essex p. 13: "Due to known occurrences within a 2000-foot radius of the project site and documentation of movement in excess of 2000 feet of this species....presence of the San Francisco garter snake should be assumed."

3) a) Coast Range p. 8: "Due to the documented occurrences in the vicinity and the presence of suitable habitat, red-legged frog is considered to have a high potential for occurrence in the Study Area."

b) Coast Range p. 9: "San Francisco garter snake is considered to have a moderate potential for occurrence on the Study Area."

c) Coast Range p. 16: "Foraging and sheltering habitat for California red-legged frog occurs in.....Kehoe Ditch." "Prior to beginning vegetation removal, a qualified biologist shall survey the work area for red-legged frogs."

d) Coast Range report recommends mitigation measures to be undertaken for potential presence of both endangered species.

4) Harvey p. 5: "California red-legged frogs should be considered to be present within Kehoe Ditch, and potentially present in upland habitats on the site."

XI. The Court further finds untenable and illogical the Mr. Flint's reasoning determining that the Kehoe Ditch was not a riparian area or corridor for the following reasons:

1) There is undisputed evidence that 90% of the vegetation in the Kehoe Ditch is arroyo willow. The definition of a riparian corridor is an area covered by vegetative coverage "at

least fifty percent of which is comprised of a combination of ....arroyo willow,... (other plant species)..." Mr. Flint contends that because no other of the designated plant species were mentioned in the various studies cited above, the vegetation could not be deemed a "combination" of the specified plants; this contention defies logic and a reasonable, rational construction of the statute.

2) Rana Creek specifically states "The Kehoe Ditch site contains willow riparian" (p. 3) and furthermore recommends as mitigation efforts for any project ""All riparian trees will be avoided when possible during construction activities. Thinning of trees is acceptable, but no riparian trees over 4 inches diameter at breast height shall be removed."

3) Essex p. 5: "For purposes of this habitat assessment, the composition of riparian vegetation is consistent with The City of Half Moon Bay's Zoning Code, Title 18, Chapter 18.38 definition of a Riparian Area and Corridor.

4) Harvey p. 3: "Kehoe Ditch, where mature arroyo willow forms a continuous riparian canopy...." Uses the term "riparian zone."

5) Statement of City Engineer Mo Sharma to the City Council of Half Moon Bay, February 17, 2009: "We also have ivy, this is not native to the riparian area, this is actually harmful because it kind of overwhelms the riparian zone...."

XII. The Court finds questionable the assertion that the Kehoe Ditch project fell under the "repair and maintenance" exception to the need to obtain a CDP for the work. The Public Works Director of the City of Half Moon Bay, Mr. Paul Nagengast, in 2006 submitted an application to the Coastal Commission for a CDP for "repair/reconstruct drainage ditch" which included the Kehoe Ditch in the scope of its proposed work. A subsequent memorandum from Mr. Nagengast (August 16, 2006) specifically acknowledges the need for a CDP for "drainage ditch maintenance". See also September 18, 2006 letter from California

Coastal Commission to Public Works Director Nagengast, entitled "Coastal Development Permitting Requirements for Drainage Ditch Maintenance, which specifically states: "a CDP is required for any maintenance of the City's drainage ditches located in an environmentally sensitive habitat area that involves.....the presence, whether temporary or permanent, of mechanized equipment or construction materials."

Half Moon Bay's Planning Director Flint testified that the exception for Repair and Maintenance (CCR 13252 supra.) was not considered and did not factor into his decision not to obtain a Coastal Development Permit for the Kehoe Ditch.

Nevertheless, in presenting the project to the Half Moon Bay City Council, City Engineer Mo Sharma represented that all the work would be with hand tools only, in direct contradiction of the contract under which the work was performed.

While Mr. Sharma's misrepresentations may have been inadvertent, these statements constitute further circumstantial evidence that the Half Moon Bay city officials deliberately circumvented the requirement of obtaining a Coastal Development Permit for the work on the Kehoe Ditch.

XIII. Accordingly, the Court finds that the City of Half Moon Bay knowingly and intentionally failed to obtain a CDP for the Kehoe Ditch Project of 2009, thereby depriving the public in general, and plaintiffs/petitioners in particular, of the ability to be heard concerning the impacts of this project upon the stream, the environment and the community as a whole.

DAMAGES AND PENALTIES

XIV. Having found that the City's failure to obtain a CDP was knowing and intentional, the Court, in imposing appropriate penalties, will take into consideration the factors listed in Coastal Act section 30820:

1) Nature, circumstance, extent and gravity of the violation: The work done on the Kehoe Ditch was not particularly extensive; removal of two truckloads of trees and

branches from a 2000-foot ditch does not reflect significant deforestation. The photographs submitted as exhibits display a substantial amount of vegetation still remaining or regrown on the project site. The testimony of Mr. Jennings established a "substantial change to the vegetation" which had the effect of opening the stream, removing biomass for potential habitats, increasing the water temperature, deleting food sources for smaller animals and rodents, and potentially opening the area for predators; though this potential existed, no evidence was presented that these grave impacts were realized.

Mr. Trso testified that the geomorphologic impact of the project was to create visible erosion of the banks and a destabilization of the soil in the creek bed, with resultant gullying. While Mr. Jennings also expressed concern about the disturbance of the sediment which would dislodge food sources for the frogs, Mr. Trso deemed the sediment loss to be "relatively minor."

2) Sensitivity of the resource; restorability: Since neither the California Red-legged Frog nor the San Francisco Garter Snake has been located at the Kehoe Ditch, either before or after the February 2009 project, the Court has no evidence upon which to gauge either the sensitivity of the resource or the actual impact of the work upon these two endangered species. With regard to the willow riparian cover, the Court finds that the City of Half Moon Bay undertook reparative efforts by the replanting of arroyo willow tree stalks at some point after the work was done; unfortunately many of these replacement willows have not survived due to the extensive growth of cape ivy.

3) Cost to the state of bringing the action: None.

4) Voluntary cooperation, past history, and culpability: Evidence was presented that before the work was done, an educational presentation concerning the habitat and the protected species was given to the Corpsmen working on the Ditch.

XV. In summary, the Court finds that the Kehoe Ditch cleaning project of February, 2009, was a knowing and intentional violation of the Coastal Act, but that the impact upon the environment was not substantial. Accordingly, minimum civil penalties of $1000 for each day that the violation persists will be imposed per statute.

Judgment shall be entered in favor of Petitioners James Lawrence Benjamin and Zoya Dorry Benjamin.

Petitioners/plaintiffs to prepare judgment in accordance with this Statement of Decision.

Dated: September 15, 2011

Julie Conger

HON. JULIE CONGER
JUDGE OF THE SUPERIOR COURT

EXHIBIT B

U.S. Fish and Wildlife Service

Revised Guidance on Site Assessments and Field Surveys for the California Red-legged Frog

August 2005

I. Introduction

The U.S. Fish and Wildlife Service (Service) issued guidance on conducting site assessments and surveys for the California red-legged frog (*Rana aurora draytonii*) (CRF) on February 18, 1997 (1997 Guidance). Since then, the Service has reviewed numerous CRF site assessments and surveys results, accompanied wildlife biologists in the field during the preparation and performance of site assessments and CRF surveys, and consulted with species experts on the effectiveness of the 1997 Guidance. Based on our review of the information, the Service has determined that the survey portion of the 1997 Guidance is less likely to accurately detect CRF than previously thought, especially in certain portions of the species range and particularly where CRF exist in low numbers. In response to the need for new guidance, the Service has prepared this *Revised Guidance on Site Assessment and Field Surveys for the California Red-legged Frog* (Guidance).

Similar to the 1997 Guidance, two procedures are recommended in the new Guidance to accurately assess the likelihood of CRF presence in the vicinity of a project site: (1) an assessment of CRF locality records and potential CRF habitat in and around the project area and, (2) focused field surveys of breeding pools and other associated habitat to determine whether CRF are likely to be present.

Because CRF are known to use aquatic, riparian, and upland habitat, they may be present in any of these habitat types, depending on the time of year, on any given property. For sites with no suitable aquatic breeding habitat, but where suitable upland dispersal habitat exists, it is difficult to support a negative finding with the results of any survey guidance. Therefore, this Guidance focuses on site assessments and surveys conducted in and around aquatic and riparian habitat.

This Guidance was developed by the Service's Sacramento Fish and Wildlife Office in coordination with the Ventura Fish and Wildlife Office. Input by field biologists and scientists experienced in surveying for the CRF was also used in the development of this Guidance.

If the following Guidance is followed in its entirety, the results of the site assessments and surveys will be considered valid by the Service for two (2) years, unless determined otherwise on a case-by-case basis by the appropriate Service Fish and Wildlife Office. After two (2) years, new surveys conducted under the most current Service Guidance may be required, if deemed necessary by the appropriate Service Fish and Wildlife Office.

Modifications of this Guidance for specific projects or circumstances may be approved by the appropriate Fish and Wildlife Office; however, we strongly recommend that all modifications be reviewed and approved by the Service prior to implementation.

II. Permit Requirements

Unless otherwise authorized, individuals participating in site assessments and surveys for CRF may **NOT** take the California red-legged frog during the course of site assessments or survey activities. Take may only be authorized via section 7 or section 10 of the Endangered Species Act of 1973, as amended. Typically, take associated with survey activities is authorized via issuance of section 10(a)(1)(A) permits. For reference, an application for a section 10(a)(1)(A) permit is available through the appropriate Fish and Wildlife Office or online at: http://forms.fws.gov/3-200-55.pdf.

The site assessment and survey methods recommended in this Guidance do NOT require the surveyor to have a permit. As stated below, the surveyor must be otherwise qualified to conduct the surveys.

It is the responsibility of the surveyor to ensure all other applicable permits are obtained and valid (*e.g.*, state scientific collection permits), and that permission from private landowners or land managers is obtained prior to accessing a site and beginning site assessments and surveys.

III. Site Assessments

To prevent any unnecessary loss of time or use of resources, it is essential that completed site assessments be submitted to the appropriate Service Fish and Wildlife Office for review in order to obtain further guidance from the Service before conducting surveys.

Surveyors are encouraged to implement the decontamination guidelines provided in Appendix B before conducting a site assessment to prevent the spread of parasites and diseases to CRF and other amphibians.

Careful evaluation of the following information about CRF and their habitats in the vicinity of a project or other land use activities is important because this information indicates the likelihood of the presence of CRF. This information will help determine whether it is necessary to conduct field surveys.

To conduct a site assessment for CRF, complete the data sheet in Appendix D and return it with any necessary supporting documentation to the appropriate Service Fish and Wildlife Office for review prior to initiating surveys. The following information is critical to completing a proper site assessment:

1. Is the site within the current or historic range of the CRF?

Since knowledge of the distribution of the CRF is likely to change as new locality information becomes available, biologists are expected to contact the appropriate Fish and Wildlife Office (see section IV below) to determine if a project site is within the range of this species.

2. Are there known records of CRF at the site or within a 1.6-kilometer* (1-mile) radius of the site?

The biologist should consult the California Natural Diversity Data Base (CNDDB) maintained by the California Department of Fish and Game's (CDFG) Natural Heritage Division as a starting point to determine if there are reported localities of CRF within a 1.6-kilometer (1-mile) radius of the site. Information on the CNDDB is attached to the end of this document. Data entry into the CNDDB is not always current nor do all surveyors submit reports to the CNDDB, thus it is essential that other information sources on local occurrences of CRF be consulted. These sources may include, but are not limited to, biological consultants, local residents, amateur herpetologists, resource managers and biologists from municipal, State, and Federal agencies, environmental groups, and herpetologists at museums and universities. The biologist should report to the Service all known CRF records at the project site and within a 1.6-kilometer (1-mile) radius of the project boundaries. One-point-six (1.6) kilometers (1 mile) was selected as a proximity radius to a project site based on telemetry data collected by Bulger *et al.* (2003), rounded to the nearest whole mile. This distance may be subject to change when new data becomes available, or based on site-specific conditions, so it is advised that surveyors check with the appropriate Service Fish and Wildlife Office to ensure they are using the most up-to-date information.

> *** IMPORTANT**: One-point-six (1.6) kilometers (1 mile) radius is a general guideline. The appropriate Service Fish and Wildlife Office will advise surveyors of the most appropriate distance for each specific project location on a case-by-case basis.

3. What are the habitats within the project site and within 1.6 kilometers* (1 mile) of the project boundary?

In order to properly characterize the habitat within 1.6 kilometers (1 mile) of the project site, individuals conducting site assessments must visit the project site and as much of the surrounding habitat within 1.6 kilometers (1 mile) of the project site as possible. Aerial photographs, maps, and other resources should be consulted as well to ensure all possible accessible habitats are considered. Based on this reconnaissance assessment, the surveyor shall describe the upland and aquatic habitats within the project site and within 1.6 kilometers (1 mile) of the project boundary. The aquatic habitats should be mapped and characterized (*e.g.*, ponds vs. creeks, pool vs. riffle, ephemeral vs. permanent (if ephemeral, give date it goes dry), vegetation (type, emergent, overhanging), water depth at the time of the site assessment, bank full depth, stream gradient (percent slope), substrate, and description of bank). The presence of

bullfrogs (*Rana catesbeiana*) and other aquatic predators such a centrarchid fishes (bass, perch, sunfish) should be documented even though their presence does not negate the presence of CRF. Upland habitats should be characterized by including a description of upland vegetation communities, land uses, and any potential barriers to CRF movement. The information provided in Appendix A serves as a guide to the features that will indicate possible CRF habitat.

4. Report the results of the site assessment

A site assessment report shall be provided to the appropriate Fish and Wildlife Office for review. Reports should include, but are not limited to, the following information:

1) Copies of the data sheet provided at Appendix D;

2) Copies of field notes and all other supporting documentation including:

   A. A list of all known CRF localities within 1.6 kilometers* (1 mile) of the project site boundaries;
   B. Photographs of the project site (photopoints shall be indicated on an accompanying map);
   C. A map of the site showing all of the habitat types and other important features as well as the location of any species detected during the site assessment within 1.6 kilometers (1 mile) of the project site boundaries. Maps shall be either copies of those portions of the U.S. Geological Service 7.5-minute quadrangle map(s) *or* geographic information system (GIS) data;
   D. A description of the project and/or land use that is being proposed at the site.

Based on the information provided in the site assessment report, the Service will provide guidance on how CRF issues should be addressed, including whether field surveys are appropriate, where the field surveys should be conducted, and whether incidental take authorization should be obtained through section 7 consultation or a section 10 permit pursuant to the Endangered Species Act.

IV. Field Surveys

<u>Surveyors are encouraged to implement the decontamination guidelines provided in Appendix B before conducting surveys to prevent the spread of parasites and diseases to CRF and other amphibians.</u>

To avoid and minimize the potential of harassment or harm to CRF, no additional surveys will be conducted in an area once occupancy has been established, unless the surveying effort is part of a Service-approved project to determine actual numbers of frogs at a site.

<u>The Service should be notified in writing (*e.g.*, email) by the surveyor within three (3) working</u>

days once a CRF is detected. The Service will provide guidance to the surveyor regarding the need to collect additional information such as population size, age class, habitat use, *etc*.

A. Qualifications of Surveyors

Surveyors must be familiar with the distinguishing physical characteristics of all life stages of the CRF, other anurans of California, and with introduced, exotic species such as the bullfrog and the African clawed frog (*Xenopus Laevis*) prior to conducting surveys according to this Guidance.

Surveyors must submit their qualifications to the Service along with their survey results.

A field guide should be consulted (*e.g.*, Wright and Wright 1949; Stebbins 2003) to confirm the identification of amphibians encountered during surveys. Surveyors also should be familiar with the vocalizations of the CRF and other amphibians found in California. Recordings of these vocalizations are available through various sources (*e.g.*, Davidson 1995). Surveyors that do not have experience with the species are required to obtain training on locating and identifying CRF adult, larval and egg stages before survey results are accepted. Training may include attendance at various workshops that have an emphasis on the biology of the California red-legged frog, accompanied by an appropriate level of field identification training; field work with individuals who possess valid 10(a)(1)(A) permits for the CRF; and experience working with ranids and similar taxa.

In some localities more intensive surveys (*e.g*., dip-netting larvae and adults) may be desirable to document the presence of CRF. In order to conduct such focused surveys a valid section 10(a)(1)(A) permit is required (refer to introduction section for information on how to apply for a section 10(a)(1)(A) permit). Applicants will be considered qualified for a section 10(a)(1)(A) permit if they meet the Service's most current qualification requirements. At a minimum, prospective applicants must:

1) Possess a Baccalaureate degree in biology, ecology, a resource management-related field, or have equivalent relevant experience;
2) Have completed course work in herpetology and study-design/survey-methodology or have equivalent relevant experience;
3) Have verifiable experience in the design and implementation of amphibian surveys or research or have equivalent relevant experience;
4) Have verifiable experience handling and identifying a minimum of 10 CRF, or similar ranid species, comprised of a minimum of 5 adults and a combination of larva and juveniles;
5) Obtain a minimum of 40 hours of field experience through assisting in surveys for the CRF during which positive identification is made;
6) Have familiarity with suitable habitats for the species and be able to identify the major vegetative components of communities in which California red-legged frog surveys or

research may be conducted.

7) Have familiarity with and be able to identify native and non-native amphibians that may co-occur with the listed species.

B. Survey Periods

Surveys may begin anytime during January and should be completed by the end of September. Multiple survey visits conducted throughout the survey-year (January through September) increases the likelihood of detecting the various life stages of the CRF. For example, adult frogs are most likely to be detected at night between January 1 and June 30, somewhere in the vicinity of a breeding location, whereas, sub-adults are most easily detected during the day from July 1 through September 30.

Due to the geographic and yearly variation in egg laying dates, it is not possible to specify a range of dates that is appropriate for egg surveys throughout the range of the CRF. The following table summarizes the best approximated times to survey for CRF egg masses.

Geographic Area	Best Survey Period*
Northern California along the coast and interior to the Coast Range (north of Santa Cruz County)	January 1 and February 28
Southern California along the coast and interior through the Coast Range (south of, and including Santa Cruz County)	February 25 and April 30
Sierra Nevada Mountains and other high-elevation locations	Should not begin before April 15

Site specific conditions may warrant modifications to the timing of survey periods, modifications must be made with the Service's approval prior to conducting the surveys.

Survey Methodology

This Guidance recommends a total of **up to** eight (8) surveys to determine the presence of CRF at or near a project site. Two (2) day surveys and four (4) night surveys are recommended during the breeding season; one (1) day and one (1) night survey is recommended during the non-breeding season. Each survey must take place at least seven (7) days apart. At least one survey must be conducted prior to August 15th. The survey period must be over a minimum period of 6 weeks (*i.e.*, the time between the first and last survey must be at least 6 weeks). Throughout the species' range, the non-breeding season is defined as between July 1 and September 30.

If CRF are identified at any time during the course of surveys, no additional surveys will be conducted in the area, unless the surveying effort is part of a Service-approved project to determine actual numbers of frogs at a site.

The following methodology shall be followed unless otherwise specified, or approved by the

appropriate Service Fish and Wildlife Office:

1) Upon arrival at the survey site, surveyors should listen for a few minutes for frogs calling, prior to disturbing the survey site by walking or looking for eye shine using bright lights. If CRF calls are identified, the surveyor should note this information on the survey data sheet and note the approximate location of the call. Once the survey begins, the surveyor should pay special attention to the area where the call originated in an attempt to visually identify the frog.

2) The most common method of surveying for CRF is the visual-encounter survey. This survey is conducted either during daylight hours or at night by walking entirely around the pond or marsh or along the entire length of a creek or stream while repeatedly scanning for frogs. This procedure allows one to scan each section of shore from at least two different angles. Surveyors should begin by first working along the entire shoreline, then by entering the water (if necessary and no egg masses would be crushed or disturbed), and visually scanning all shoreline areas and all aquatic habitats identified in the site assessment. Generally, surveyors shall focus on all open water to at least 2 meters (6.5 feet) up the bank. When wading, surveyors must take maximum care to avoid disturbing sediments, vegetation, or larvae. When walking on the bank, surveyors shall take care to not crush rootballs, overhanging banks, and stream-side vegetation that might provide shelter for frogs. Surveys must cover the entire area, otherwise the remaining survey area must be surveyed the next day/night that weather conditions allow (both visits would constitute one day/night survey).

3) Day surveys may be conducted on the same day as a night survey.

   The main purpose of day surveys during the breeding season is to look for larvae, metamorphs, and egg masses; the main purpose of day surveys during the non-breeding season is to look for metamorphosing sub-adults, and non-breeding adults. Daytime surveys shall be conducted between one hour after sunrise and one hour before sunset.

4) Night surveys

   The main purpose of night surveys is to identify and locate adult and metamorphosed frogs. Conditions and requirements for conducting night surveys are as follows:

   A. Night surveys must commence no earlier than one (1) hour after sunset.
   B. Due to diminished visibility, surveys should not be conducted during heavy rains, fog, or other conditions that impair the surveyor's ability to accurately locate and identify frogs.
   C. Nighttime surveys shall be conducted with a Service-approved light such as a Wheat Lamp, Nite Light, or sealed-beam light that produces less than 100,000 candle watt. Lights that the Service does not accept for surveys are lights that are either too dim or too bright. For example, Mag-Light-type lights and other

types of flashlights that rely on 2 or 4 AA's/AAA's, 2 C's or 2 D batteries. Lights with 100,000 candle watt or greater are too bright and also would not meet Service requirements.

D. The Service approved light must be held at the surveyor's eye level so that the frog's eye shine is visible to the surveyor.
E. The use of binoculars is a must in order to effectively see the eye shine of the frogs. Surveys conducted without the use of binoculars may call in to question the validity of the survey.

5) Weather conditions.

Weather and visibility conditions must be consistent throughout the duration of the survey; if weather conditions become unsuitable, the survey must be completed at another time when conditions are better suited to positively locating and identifying frogs. Suitable conditions are as follows:

A. Air temperature at the survey site must be at least 10 degrees Celsius (50 degrees Fahrenheit). Frogs are less likely to be active when temperatures are below 10 degrees Celsius (50 degrees Fahrenheit).
B. Wind speed must not exceed 8 kilometers/hour (5 miles/hour) at the survey site. High wind speeds affect temperatures and the surveyor's ability to hear frogs calling.
C. Surveys must be conducted under clear to partly cloudy skies (high clouds are okay) but not under dense fog or during heavy rain, as stated above. Surveys may be conducted during light rains.

Surveyors should carefully consider weather conditions prior to initiating a survey. Ask yourself, "Can I collect accurate, reliable data under the existing weather conditions" prior to proceeding with the survey. Weather conditions will be taken into account when the data is reviewed by the appropriate Service Fish and Wildlife Service Office.

6) Decontamination of equipment

In an effort to minimize the spread of terrestrial and aquatic pathogens, all aquatic survey equipment including chest waders, wet suits, float tubes, kayaks, shall be decontaminated before entering potential CRF habitat using the guidelines in Appendix B. Careful attention shall be taken to remove all dirt from boots, chest waders, wetsuits, float tubes, kayaks, and other equipment before placing equipment into the water.

7) Unidentified larvae, sub-adults, and adults

If the larval life stage is the only life stage detected and the larvae are not identified to species (or similarly, if sub-adult or adult frogs are observed but not identified to

species), the surveyor must either return to the habitat to identify the frog in another life stage or obtain the appropriate permit (*e.g.*, section 10(a)(1)(A) permit) authorization allowing the surveyor to handle CRF and larvae. In order for the Service to consider a survey to be complete, all frogs encountered must be accurately identified.

8) Reporting results of the surveys

A species survey report shall be provided to the appropriate Fish and Wildlife Office for review. Reports should include, but are not limited to, the following information:

1. Copies of the data sheets provided at Appendix E;

2. Copies of field notes and all other supporting documentation including:

   A. Photographs of all CRF observed during the survey and of the habitat where each individual was located, if possible without harming or harassing the individual;
   B. A map of the site showing the location of any species detected during the survey. Maps shall be either copies of those portions of the U.S. Geological Service 7.5-minute quadrangle map(s) *or* geographic information system (GIS) data;

Based on the information provided in the site assessment report and the survey results, the Service will provide guidance on how CRF issues should be addressed through the section 7 or section 10 processes.

All information on CRF distribution resulting from field surveys shall be sent to the California Natural Diversity Database (CNDDB). CNDDB forms shall be completed, as appropriate, for each listed species identified during the survey(s) and submitted to the California Department of Fish and Game, Wildlife Habitat Data Analysis Branch, 1807 13th Street, Suite 202, Sacramento, California 95814, with copies submitted to the appropriate Service Fish and Wildlife Office. Each form sent to the CDFG shall have an accompanying 1:24,000 scale USGS map (or an exact scale photocopy of the appropriate portion(s) of the map) -or- Global Information System (GIS) data coverage of the site. Copies of the form can be obtained from the CDFG at the above address (telephone: 916-324-3812) or online at: http://www.dfg.ca.gov/whdab/html/animals.html. Additional information about the CNDDB is available in Appendix C.

The Service may not accept the results of field surveys conducted under this Guidance for any of the following reasons:

A. if the appropriate Service Fish and Wildlife Office was not contacted to review the results of the site assessment prior to field surveys being conducted;
B. if field surveys were conducted in a manner inconsistent with this Guidance or with

survey methods not previously approved by the Service;

C. if field surveys were incomplete;
D. if surveyors were not adequately qualified to conduct the surveys;
E. if the reporting requirements, including submission of CNDDB forms, were not fulfilled.

IV. Service Contacts

There are three Service Fish and Wildlife Offices within the range of the CRF (see Map 1). The appropriate office to contact regarding site assessments or survey authorization depends on the location where the surveys are to be conducted.

For project sites and land use activities in Santa Cruz, Monterey, San Benito, San Luis Obispo, Santa Barbara, and Ventura Counties, portions of Los Angeles and San Bernardino Counties outside of the Los Angeles Basin, and portions of Kern, Inyo and Mono Counties east of the Sierra Crest and south of Conway Summit, contact:

Ventura Fish and Wildlife Office,
2493 Portola Road, Suite B
Ventura, California, 93003
(805/644-1766).

For project sites and land use activities in all other areas of the State south of the Transverse Ranges, contact:

Carlsbad Fish and Wildlife Office
Attn: Recovery Permit Coordinator
6010 Hidden Valley Road
Carlsbad, California, 92009
(760/431-9440).

For project sites and land use activities in all other areas of the State, contact:

Sacramento Fish and Wildlife Office
2800 Cottage Way, Suite W-2605
Sacramento, California 95825
(916/414-6600).
(916/414-6713, fax)

For information on section 10(a)(1)(A) recovery permits, contact:

Regional Office,
Eastside Federal Complex
911 N.E., 11th Avenue
Portland, Oregon 97232-4181
(503/231-6241)

* These are independent offices overlapping with the Sacramento Fish and Wildlife Office. Their work primarily focuses on salmonid restoration, fishery monitoring and Forest Plan Implementation.

Map 1. Map of California showing jurisdictional boundaries of Service Fish and Wildlife Offices.

References

Davidson, C. 1995. Frog and toad calls of the Pacific Coast: Vanishing Voices. Library of Natural Sounds, Cornell Laboratory of Ornithology, Ithaca, New York. 27 pp. +1 cassette.

Stebbins, R.C. 2003. A field guide to western reptiles and amphibians. Third edition. Houghton Mifflin Company, New York, New York. 533 pp.

Wright, A.H. and A.A. Wright. 1949. Handbook of frogs and toads of the United States and Canada. Third Edition. Comstock Publishing Company, Ithaca, New York. xii+640 pp.

Appendix A.
California red-legged frog identification and ecology.

1. Identification

The following information may aid surveyors in the identification of California red-legged frogs and similar species. However, all surveyors are expected to consult field guides (Wright and Wright 1949; Davidson 1995; Stebbins 2003) for further information.

General Description
The California red-legged frog (*Rana aurora draytonii*), is a relatively large aquatic frog ranging from 4 to 13 centimeters (1.5 to 5 inches) from the tip of the snout to the vent. From above, the California red-legged frog can appear brown, gray, olive, red or orange, often with a pattern of dark flecks or spots. The skin usually does not look rough or warty. The back of the California red-legged frog is bordered on either side by an often prominent dorsolateral fold of skin running from the eye to the hip. The hindlegs are well-developed with large webbed feet. A cream, white, or orange stripe usually extends along the upper lip from beneath the eye to the rear of the jaw. The undersides of adult California red-legged frogs are white, usually with patches of bright red or orange on the abdomen and hindlegs. The groin area can show a bold black mottling with a white or yellow background.

Adults
Positive diagnostic marks should be used to accurately distinguish California red-legged frogs from other species of frogs that may be observed. A positive diagnostic mark is an attribute of the animal that will not be found on any other animal likely to be encountered at the same locality. The following features are positive diagnostic marks that, if observed, will distinguish California red-legged frogs from foothill yellow-legged frogs (*Rana boylii)* and bullfrogs *(Rana catesbeiana)*:

a. Prominent dorsolateral folds (thick upraised fold of skin running from eye to hip) on any frog greater than 5 centimeters (2 inches) long from snout to vent. Young yellow-legged frogs can show reddish folds; these usually fade as the frogs mature.

b. Bright red dorsum.

c. Well defined stripe as described above running along upper lip.

Since California red-legged frogs are often confused with bullfrogs, surveyors should note those features that might be found on bullfrogs that will rarely be observed on California red-legged frogs. These features are:

a. Absence of the dorsolateral fold.
b. Bright yellow on throat.
c. Uniform bright green snout.
d. Tympanum (ear disc) distinct and much larger than eye.

Please note that some frogs may lack all of the above characteristics given for both California red-legged frogs and bullfrogs. Surveyors should regard such frogs as unidentified, unless it is clearly identified as another species.

California red-legged frogs are cryptic because their coloration tends to help them blend in with their surroundings, and they can remain immobile for great lengths of time. When an individual California red-legged frog is disturbed, it may jump into the water with a distinct "plop." The California red-legged frog may do this either when the surveyor is still distant or when a surveyor is very near. Bullfrogs exhibit similar behavior but will often emit a "squawk" as they dive into the water. Because a California red-legged frog is unlikely to make such a sound, a "squawk" from a fleeing frog will be considered sufficient to positively identify the frog as a bullfrog.

Larvae
Tadpoles may be trapped and handled only by those with a valid 10(a)1(A) permit. California red-legged frog larvae range from 14 to 80 millimeters (0.5 to 3.25 inches) in length. They are greenish to generally brownish color with darker marbling and lack distinct black or white spotting or speckling. Large California red-legged frog larvae often have a wash of red coloration on their undersides and a very small single row of evenly spaced whitish or gold flecks along the side where the dorsolateral fold will develop. Other features to look for to identify California red-legged frog larvae include: eyes set well in from the outline of the head (contrasts with treefrogs (*Hyla* spp.)), oral papillae on both the sides of the mouth and the bottom of the mouth (contrasts with *Bufo* spp.), well developed oral papillae on the sides of the mouth (contrasts with other subspecies of red-legged frogs (*Rana aurora* spp.) and spadefoot toads (*Scaphiopus* spp.)), generally mottled body and tail with few or no distinct black spots on tail fins (contrasts with bullfrogs), and two to three tooth rows on the top and bottom (contrasts with foothill yellow-legged frogs).

Eggs
California red-legged frogs breed during the winter and early spring from as early as late November through April and May. Adults engage in courtship behaviors that result in the female depositing from 2,000 to 6,000 eggs, each measuring between 2 and 3 millimeter (0.1 inches). California red-legged frog eggs are typically laid in a mass attached to emergent vegetation near the surface of the water, where they can be easily dislodged. However, egg masses have been detected lying on the bottom of ponds. The egg mass is well defined and

about the size of a softball. Eggs hatch within 6 to 14 days after deposition at which time the newly hatched larvae are delicate and easily injured or killed. California red-legged frog larvae transform into juvenile frogs in 3.5 to 7 months.

During the time that red-legged frog egg surveys are conducted, other amphibian eggs may be found including those of Pacific treefrogs, spadefoot toads, California tiger salamanders, and newts. Bullfrogs and foothill yellow-legged frogs lay their eggs later in the season. Field guides should be consulted for additional information on egg identification.

2. Habitat

California red-legged frogs occur in different habitats depending on their life stage, the season, and weather conditions. Rangewide, and even within local populations, there is much variation in how frogs use their environment; in some cases, they may complete their entire life cycle in a particular habitat (*i.e.,* a pond is suitable for all life stages), and in other cases, they may seek multiple habitat types (U.S. Fish and Wildlife Service 2002).

Breeding habitat
All life history stages are most likely to be encountered in and around breeding sites, which are known to include coastal lagoons, marshes, springs, permanent and semi-permanent natural ponds, ponded and backwater portions of streams, as well as artificial impoundments such as stock ponds, irrigation ponds, and siltation ponds. California red-legged frog eggs are usually found in ponds or in backwater pools in creeks attached to emergent vegetation such as *Typha* and *Scirpus*. However, they have been found in areas completely denuded of vegetation. Creeks and ponds where California red-legged frogs are found most often have dense growths of woody riparian vegetation, especially willows (*Salix* spp.) (Hayes and Jennings 1988). The absence of *Typha*, *Scirpus*, and *Salix* at an aquatic site does not rule out the possibility that the site provides habitat for California red-legged frogs, for example stock ponds often are lacking emergent vegetation yet they provide suitable breeding habitat. California red-legged frog larvae remain in these habitats until metamorphosis in the summer months (Storer 1925; Wright and Wright 1949). Young California red-legged frogs can occur in slow moving, shallow riffle zones in creeks or along the margins of ponds.

Summer habitat
California red-legged frogs often disperse from their breeding habitat to forage and seek summer habitat if water is not available. In the summer, California red-legged frogs are often found close to a pond or a deep pool in a creek where emergent vegetation, undercut banks, or semi-submerged rootballs afford shelter from predators. California red-legged frogs may also take shelter in small mammal burrows and other refugia on the banks up to 100 meters from the water any time of the year and can be encountered in smaller, even ephemeral bodies of water in a variety of upland settings (Jennings and Hayes 1994; U.S. Fish and Wildlife Service 2002).

Upland habitat
California red-legged frogs are frequently encountered in open grasslands occupying seeps and

springs. Such bodies may not be suitable for breeding but may function as foraging habitat or refugia for dispersing frogs. During periods of wet weather, starting with the first rains of fall, some individuals make overland excursions through upland habitats (U.S. Fish and Wildlife Service 2002).

3. Movement

California red-legged frogs may move up to 3 kilometers (1.88 miles) up or down drainages and are known to wander throughout riparian woodlands up to several dozen meters from the water (Rathbun *et al.* 1993). Dispersing frogs have been recorded to cover distances from 0.40 kilometer (0.25 mile) to more than 3.2 kilometers (2 miles) without apparent regard to topography, vegetation type, or riparian corridors (Bulger 1998). California red-legged frogs have been observed to make long-distance movements that are straight-line, point to point migrations rather than using corridors for moving in between habitats. Dispersal distances are considered to be dependent on habitat availability and environmental conditions. On rainy nights California red-legged frogs may roam away from aquatic sites as much as 1.6 kilometers (1 mile). California red-legged frogs will often move away from the water after the first winter rains, causing sites where California red-legged frogs were easily observed in the summer months to appear devoid of this species. Additionally, California red-legged frogs will sometimes disperse in response to receding water which often occurs during the driest time of the year.

References for Appendix A

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Wright, A.H. and A.A. Wright. 1949. Handbook of frogs and toads of the United States and Canada. Third Edition. Comstock Publishing Company, Ithaca, New York. xii+640 pp.

Appendix B.
Recommended Equipment Decontamination Procedures

In an effort to minimize the spread of pathogens that may be transferred as result of activities, surveyors should follow the guidance outlined below for disinfecting equipment and clothing after entering a pond and before entering a new pond, unless the wetlands are hydrologically connected to one another:

i. All organic matter should be removed from nets, traps, boots, vehicle tires and all other surfaces that have come into contact with water or potentially contaminated sediments. Cleaned items should be rinsed with clean water before leaving each study site.

ii. Boots, nets, traps, hands, *etc*. should be scrubbed with either a 75% ethanol solution, a bleach solution (0.5 to 1.0 cup per 1.0 gallon of water), Quat-128™ (1:60), or a 6% sodium hypochlorite 3 solution. Equipment should be rinsed clean with water between study sites. Cleaning equipment in the immediate vicinity of a pond or wetland should be avoided (*e.g.*, clean in an area at least 100 feet from aquatic features). Care should be taken so that all traces of the disinfectant are removed before entering the next aquatic habitat.

iii. Used cleaning materials (liquids, *etc.*) should be disposed of safely, and if necessary, taken back to the lab for proper disposal. Used disposable gloves should be retained for safe disposal in sealed bags.

iv. Additionally, the surveyors shall implement the following when working at sites with known or suspected disease problems: disposable gloves should be worn and changed between handling each animal. Gloves should be wetted with water from the site or distilled water prior to handling any amphibians. Gloves should be removed by turning inside out to minimize cross-contamination.

Appendix C.
General instructions for filling out CNDDB field survey forms

The Natural Diversity Data Base (NDDB) is the largest, most comprehensive database of its type in the world. It presently contains more than 33,000 site specific records on California's rarest plants, animals, and natural communities. The majority of the data collection effort for this has been provided by an exceptional assemblage of biologists throughout the state and the west. The backbone of this effort is the field survey form. We are enclosing copies of Natural Diversity Data Base (NDDB) field survey forms for species and natural communities. We would greatly appreciate you recording your field observations of rare, threatened, endangered, or sensitive species and natural communities
(elements) and sending them to us on these forms.

We are interested in receiving forms on elements of concern to us; refer to our free publications: *Special Plants Lis*t, *Special Animals List*, and *Natural Communities List* for lists of which elements these include. Reports on multiple visits to sites that already exist in the NDDB are as important as new site information as it helps us track trends in population/stand size and condition. Naturally, we also want information on new sites. We have enclosed an example of a field survey form that includes the information we like to see. It is especially important to include a xeroxed portion of a USGS topographic quad with the population/stand outlined or marked (see back of enclosed example).

Without the map, your information will be mapped less accurately, as written descriptions of locations are frequently hard to interpret. Do not worry about filling in every box on the form; only fill out what seems most relevant to your site visit. Remember that your name and telephone number are very important in case we have any questions about the form.

If you are concerned about the sensitivity of the site, remember that the NDDB can label your element occurrence "Sensitive" in the computer, thus restricting access to that information. The NDDB is only as good as the information in it, and we depend on people like you as the source of that information. Thank you for your help in improving the NDDB.

Copies of the NDDB form can be obtained from the CDFG at the above address (telephone: 916-324-3812) *or* online at: http://www.dfg.ca.gov/whdab/html/animals.html.

Appendix D.
California Red-legged Frog Habitat Site Assessment Data Sheet

This data sheet is to assist in the data collection of California red-legged frog habitat in the vicinity of projects or other land use activities, following the August 2005, *Revised Guidance on Site Assessment and Field Surveys for California Red-legged Frogs* (Guidance), issued by the U.S. Fish and Wildlife Service. Prior to collecting the data requested on this form, the biologist should be familiar with and understand the Guidance.

The "Site Assessments" section of the Guidance details the data needed to complete a site assessment. When submitting a complete site assessment to the Service (one that has been done following the Guidance), one data sheet should be included for each aquatic habitat identified. If multiple aquatic habitats are identified within the project site, then multiple data sheets should be completed. A narrative description of the aquatic, riparian, and upland habitats should be provided to characterize the breeding habitat within the project site and the breeding and dispersal habitat within 1.6 kilometers (1 mile) of the project site. In addition to completing this data sheet, field notes, photographs, and maps should be provided to the appropriate Fish and Wildlife Service Office, as requested in the "Site Assessments" section of the Guidance.

Appendix D.
California Red-legged Frog Habitat Site Assessment Data Sheet

Site Assessment reviewed by_____ _____ _____
(FWS Field Office) (date) (biologist)

Date of Site Assessment: _____
(mm/dd/yyyy)

Site Assessment Biologists: _____ _____
(Last name) (first name) (Last name) (first name)

_____ _____
(Last name) (first name) (Last name) (first name)

Site Location:_____
(County, General location name, UTM Coordinates or Lat./Long. or T-R-S).

****ATTACH A MAP** (include habitat types, important features, and species locations)**

Proposed project name: _____
Brief description of proposed action:

1) Is this site within the current or historic range of the CRF (circle one)? YES NO

2) Are there known records of CRF within 1.6 km (1 mi) of the site (circle one)? YES NO
If yes, attach a list of all known CRF records with a map showing all locations.

GENERAL AQUATIC HABITAT CHARACTERIZATION

(if multiple ponds or streams are within the proposed action area, fill out one data sheet for each)

POND:

Size: _____ Maximum depth: _____

Vegetation: emergent, overhanging, dominant species: _____
_____
_____

Substrate: _____
_____

Perennial or Ephemeral *(circle one)*. If ephemeral, date it goes dry: _____

Appendix D.
<u>California Red-legged Frog Habitat Site Assessment Data Sheet</u>

STREAM:

Bank full width: _____
Depth at bank full: _____
Stream gradient: _____

Are there pools (circle one)? YES NO
If yes,
Size of stream pools: _____
Maximum depth of stream pools: _____

Characterize non-pool habitat: run, riffle, glide, other: _____
_____
_____
Vegetation: emergent, overhanging, dominant species: _____
_____
_____
Substrate: _____
_____
Bank description: _____
_____
_____

Perennial or Ephemeral *(circle one)*. If ephemeral, date it goes dry: _____

Other aquatic habitat characteristics, species observations, drawings, or comments:

Necessary Attachments:

1. All field notes and other supporting documents
2. Site photographs
3. Maps with important habitat features and species location

Appendix E.
California Red-legged Frog Survey Data Sheet

This data sheet is to assist in the data collection during surveys for California red-legged frogs in areas with potential habitat. This data sheet is intended to assist in the preparation of a final report on the field surveys as detailed in the August 2005, *Revised Guidance on Site Assessment and Field Surveys for California Red-legged Frogs* (Guidance) issued by the U.S. Fish and Wildlife Service (Service). Before completing this data sheet, a site assessment should have been conducted using the Guidance and the Service should have been contacted to determine whether surveys are required. Prior to collecting the data requested on this form, the biologist should be familiar with and understand the Guidance. To avoid and minimize the potential of harassment to California red-legged frogs, all survey activities shall cease once an individual California red-legged frog has been identified in the survey area, unless prior approval has been received from the appropriate Service Fish and Wildlife Office. The Service shall be notified within three (3) working days by the surveyor once a California red-legged frog is detected, at which point the Service will provide further guidance. Surveys should take place in consecutive breeding/non-breeding seasons (*i.e.*, the entire survey period, including breeding and non-breeding surveys should not exceed 9 months). It is important that both the breeding and non-breeding survey be conducted during the time period specified in the Guidance. Site specific conditions may warrant modifications to the timing of survey periods, modifications must be made with the Service's approval. The survey consists of two (2) day and four (4) night surveys during the breeding season and one (1) day and one (1) night surveys during the non-breeding season.

All California red-legged frog life stages should be surveyed for. Surveyors may detect larvae but not be able to identify this life stage to species as handling any life stage of the California red-legged frog necessitates a valid 10(a)(1)(A) permit. If the larval life stage is the only life stage detected and the larvae are not identified to species, the surveyor must either return to the habitat to identify the frog in another life stage or have a valid 10(a)(1)(A) permit allowing the surveyor to handle California red-legged frogs and larvae. In order for the Service to consider a survey to be complete, all frogs encountered must be accurately identified.

Appendix E.
<u>California Red-legged Frog Survey Data Sheet</u>

Survey results reviewed by_____ _____ _____
(FWS Field Office) (date) (biologist)

Date of Survey: _____ **Survey Biologist:** _____
(mm/dd/yyyy) **(Last name) (first name)**
Survey Biologist: _____
(Last name) (first name)

Site Location:_____
(County, General location name, UTM Coordinates or Lat./Long. or T-R-S).

****ATTACH A MAP** (include habitat types, important features, and species locations)**

Proposed project name: _____
Brief description of proposed action:

Type of Survey (circle one): **DAY NIGHT** **BREEDING NON-BREEDING**

Survey number (circle one): **1 2 3 4 5 6 7 8**

Begin Time:_____ **End Time:**_____

Cloud cover:_____ **Precipitation:**_____

Air Temperature:_____ **Water Temperature:**_____

Wind Speed:_____ **Visibility Conditions:**_____

Moon phase:_____ **Humidity:**_____

Description of weather conditions: _____
_____

Brand name and model of light used to conduct surveys: _____

Were binoculars used for the surveys (circle one)**? YES NO**
Brand, model, and power of binoculars: _____

Appendix E.
<u>California Red-legged Frog Survey Data Sheet</u>

AMPHIBIAN OBSERVATIONS

Species	**# of indiv.**	**Observed (O) Heard (H)**	**Life Stages**	**Size Class**	**Certainty of Identification**

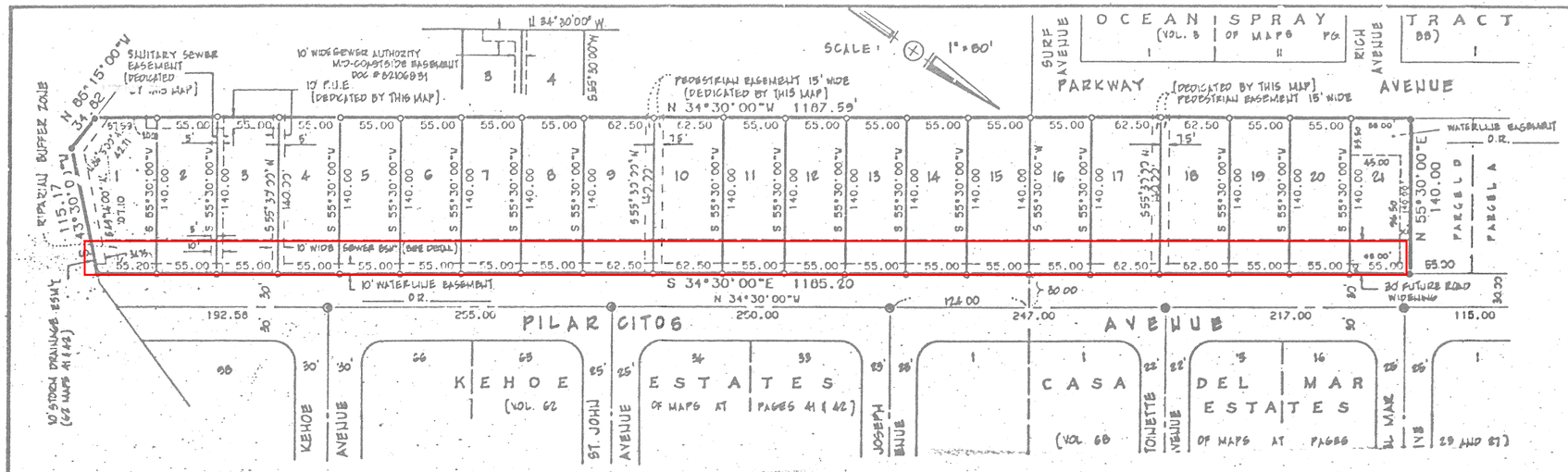
Describe potential threats to California red-legged frogs observed, including non-native and native predators such as fish, bullfrogs, and raccoons: _____
_____
_____
_____
_____

Other notes, observations, comments, *etc*.

Necessary Attachments:

4. All field notes and other supporting documents
5. Site photographs
6. Maps with important habitat features and species locations

118/44



BASIS OF BEARINGS

THE BEARING NORTH 34°30'00" WEST OF THE CENTERLINE OF PILARCITOS AVENUE AS SHOWN ON MAP OF "KEHOE ESTATES HALF MOON BAY, SAN MATEO COUNTY, CALIFORNIA" FILED IN VOLUME 62 OF MAPS AT PAGE 41 AND 42 SAN MATEO COUNTY RECORDS WAS TAKEN AS THE BASIS OF BEARINGS FOR THIS MAP.

SOILS REPORT

THE SOILS REPORT HAS BEEN PREPARED BY THE FIRM OF TERRASEARCH, INC. DATED AUGUST 17, 1976 AND SIGNED BY HASSAN AMER REGISTERED CIVIL ENGINEER NO. 19,674, STATE OF CALIFORNIA.

NOTES AND LEGEND

ALL DIMENSIONS ARE SHOWN IN FEET AND DECIMALS THEREOF.
THE AREA WITHIN THE DISTINCTIVE BOUNDARY CONTAINS AN AREA OF 3.8484 ACRES.
LOT 1 : CONTAINS AN AREA OF: 9,437 SQUARE FEET
LOTS 1-8, 11-16 AND 19-21 CONTAINS AN AREA OF 7,700 SQUARE FEET
LOTS 9, 10, 17 AND 18 CONTAIN AN AREA OF 8,750 SQUARE FEET

- ◉ INDICATES FOUND STANDARD CITY MONUMENT
- ● INDICATES FOUND 3/4" IRON PIPE, AS NOTED
- ○ INDICATES 3/4" IRON PIPE, TO BE SET W/TAG RCE # 13,776
- ——— INDICATES DISTINCTIVE PERIMETER BOUNDARY LINE

OWNER'S STATEMENT

WE HEREBY STATE THAT WE ARE THE OWNERS OF, OR HAVE SOME RIGHT, TITLE OR INTEREST IN AND TO THE REAL PROPERTY INCLUDED WITHIN THE SUBDIVISION SHOWN UPON THIS MAP, AND WE ARE THE ONLY PERSONS WHOSE CONSENT IS NECESSARY TO PASS CLEAR TITLE TO SAID PROPERTY, AND WE HEREBY CONSENT TO THE MAKING AND RECORDING OF SAID MAP AND SUBDIVISION AS SHOWN WITHIN THE DISTINCTIVE BORDER LINE.

WE HEREBY DEDICATE TO PUBLIC EASEMENT USE THOSE STRIPS OF LAND SHOWN HEREON AS PEDESTRIAN EASEMENT, SANITARY SEWER EASEMENT AND PUBLIC UTILITY EASEMENT (P.U.E.). SAID SANITARY SEWER EASEMENT AND PUBLIC UTILITY EASEMENT BEING DEDICATED SUBJECT TO THE CONDITION THAT ALL FACILITIES BE INSTALLED UNDERGROUND OR FLUSH WITH THE GROUND.

WE ALSO HEREBY RELINQUISH THE RIGHT TO BUILD ANY STRUCTURES WITHIN THE RIPARIAN BUFFER ZONE AS SHOWN ON THIS MAP.

AS OWNER:
ILWOOD CORPORATION, A CALIFORNIA CORPORATION

BY: William W. Crowell — WILLIAM W. CROWELL BY: Eleanore H. Crowell — ELEANORE H. CROWELL

AS BENEFICIARY TO A DEED OF TRUST UNDER DOCUMENT NO. 88028612
BAY AREA BANK, A CALIFORNIA CORPORATION

BY: [signature] ITS: Vice President BY: ____ ITS: ____

AS BENEFICIARY TO A DEED OF TRUST UNDER DOCUMENT NO. 88055337
WILLIAM W. CROWELL AND ELEANORE H. CROWELL

BY: William W. Crowell — WILLIAM W. CROWELL BY: Eleanore H. Crowell — ELEANORE H. CROWELL

OWNER'S ACKNOWLEDGEMENT

STATE OF Calif.)
) SS.
COUNTY OF San Mateo

MARILYN J. WILLOUGHBY
NOTARY PUBLIC - CALIF.
SAN MATEO COUNTY
My Commission Expires Sept 7, 1988

ON May 31, 1988, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED William W. Crowell AND Eleanore H. Crowell KNOWN TO ME (OR PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE Pres AND Secy OF THE CORPORATION THAT EXECUTED THE WITHIN INSTRUMENT, AND KNOWN TO ME (OR PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE PERSONS WHO EXECUTED THE WITHIN INSTRUMENT ON BEHALF OF THE CORPORATION NAMED WITHIN, AND ACKNOWLEDGED TO ME THAT SUCH CORPORATION EXECUTED THE WITHIN INSTRUMENT PURSUANT TO ITS BY-LAWS, OR BY A RESOLUTION OF ITS BOARD OF DIRECTORS, AS OWNER.

WITNESS MY HAND AND OFFICIAL SEAL.

MY COMMISSION EXPIRES: 9/7/88 SIGNATURE: Marilyn J. Willoughby — NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE

BENEFICIA

STATE OF C
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MY COMMISSION
9/7/8

BENEFICIA

STATE OF C
) SS.
COUNTY OF San Mateo

ON May 31, 1988, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED William W. Crowell AND Eleanore H. Crowell PERSONALLY KNOWN TO ME (OR PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE PERSONS WHOSE NAMES ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED THAT THEY EXECUTED THE SAME, AS BENEFICIARY.

WITNESS MY HAND AND OFFICIAL SEAL:

MY COMMISSION EXPIRES: 9/7/88 SIGNATURE: Marilyn J. Willoughby — NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE

MARILYN J. WILLOUGHBY
NOTARY PUBLIC - CALIF.
SAN MATEO COUNTY
My Commission Expires Sept 7, 1988

Rec'd and examined by: S. Maxwell
Indexed by: S. maxwell

xxxxx	SUBDIVISION MAP		ASSESSMENT MAP
	LIC. LAND SURVEY MAP		PARCEL MAP

REQUEST OF North American Title Ins co

DATE June 30, 1988 TIME 4:14 pm AM/PM SERIAL NO. 88083774 FEE $5.00 RF $1.00 RF

TITLE (Sub and/or Tract) St JohnSubdivision Unit No. 3 being a resubdivision of Lots 99, 100, 101, 102 103, and 104 Kehoe Estates recorded in Volume 62 of Maps at Pages 41 and 42 and a portion of Parcel E as shown on Map entitled "Casa Del Mar Estates" Recorded in Volume 68 of Maps at Pages 25 and 26, San Mateo County Records. City of Half Moon Bay.

VOL NO. 118	(MAPS)	PAGE NO. 44
VOL NO.	(LIC. LAND SURVEY MAP)	PAGE NO.
VOL NO.	(ASSESSMENT MAP)	PAGE NO.
VOL NO.	(PARCEL MAP)	PAGE NO.

COUNTY RECORDER'S STATEMENT

FILE NO.
FEE
FILED FOR RECORD THIS ____ DAY OF ____, 198__ AT ____ M. IN BOOK ____ OF MAPS AT PAGE ____ RECORDS OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA, AT THE REQUEST OF

WARREN SLOCUM, COUNTY RECORDER BY: Susan Maxwell — DEPUTY

...NEER'S STATEMENT

...EY A. KANGAS, A REGISTERED CIVIL ENGINEER WITH LAND SURVEY PRIVILEDGES IN THE ...CALIFORNIA, STATE THAT THIS FINAL MAP AND SURVEY WERE MADE UNDER MY DIRECTION; ...E SURVEY WAS DONE DURING THE MONTH OF OCTOBER, 1976 IS TRUE AND COMPLETE AS SHOWN; ...THE MONUMENTS ARE OF A CHARACTER AND OCCUPY THE POSITIONS INDICATED, OR WILL BE ...UCH POSITIONS ON OR BEFORE APRIL 1988 AND THAT SUCH MONUMENTS ARE SUFFICI... ...E THE SURVEY TO BE RETRACED.

5/19/88 Stanley A. Kangas
STANLEY A. KANGAS R.C.E. ...76
REG. EXP. DATE: 3-31-89

REGISTERED PROFESSIONAL ENGINEER STANLEY A. KANGAS No 13776 EXP. 3-31-89 CIVIL STATE OF CALIFORNIA

...ENGINEER'S STATEMENT

...I STATE THAT I HAVE EXAMINED THE FINAL MAP OF THE ST. JOHN SUBDIVISION UNIT NO 3, THAT ...VISION AS SHOWN HEREON IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP AND ANY APPROVED ALTERATIONS, THAT ALL PROVISIONS OF THE SUBDIVISION MAP ACT AND CAL ORDINANCE APPLICABLE AT THE TIME OF THE TENTATIVE MAP, HAVE BEEN COMPLIED WITH, I AM SATISFIED THAT SAID MAP IS TECHNICALLY CORRECT.

6/17/88 William G. Smith
WILLIAM G SMITH, CONSULTING CITY ENGINEER
R.C.E. # 10,189 EXP DATE: 6-30-89
CITY OF HALF MOON BAY

CITY CLERK'S STATEMENT

I, RALPHELIA GUEST, THE CITY CLERK OF THE CITY OF HALF MOON BAY, SAN MATEO COUNTY, CALIFORNIA, HEREBY STATE THAT THE CITY COUNCIL OF SAID CITY OF HALF MOON BAY, BY A RESOLUTION #33-88 ADOPTED AT A REGULAR MEETING OF SAID COUNCIL, HELD ON THE 17th DAY OF May 1988, DID DULY APPROVE THE ACCOMPANYING MAP AND DULY ACCEPT ALL EASEMENTS UNDER OR OVER THOSE CERTAIN STRIPS OF LAND DESIGNATED AS PUBLIC EASEMENT (P.U.E.), PEDESTRIAN EASEMENTS AND SANITARY SEWER EASEMENT AS SHOWN ON SAID MAP WITHIN SAID SUBDIVISION, AS STATED IN THE STATEMENT SHOWN HEREON.

DATED: 6/17/88 Ralphelia Guest
RALPHELIA GUEST, CITY CLERK CITY OF HALF MOON BAY
SAN MATEO COUNTY, CALIFORNIA

CITY OF HALF MOON BAY INCORPORATED JULY 15, 1959 CALIFORNIA

ST. JOHN SUBDIVISION UNIT NO. 3

BEING A RESUBDIVISION OF LOTS 99, 100, 101, 102, 103, AND 104, KEHOE ESTATES RECORDED IN VOLUME 62 OF MAPS AT PAGES 41 AND 42 AND A PORTION OF PARCEL E AS SHOWN ON MAP ENTITLED "CASA DEL MAR ESTATES" RECORDED IN VOLUME 68 OF MAPS AT PAGES 25 AND 26, SAN MATEO COUNTY RECORDS

* CITY OF HALF MOON BAY * * SAN MATEO COUNTY * * CALIFORNIA *

SCALE: 1"=80' DATE: MAY 1988

BRIAN • KANGAS • FOULK
CONSULTING ENGINEERS
540 Price Avenue, Redwood City, CA 94063
(415) 365-0412 (408) 733-8450

SHEET 1 OF 1
C-76103-3