

**Rosalyn Charles**

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**From:** Tom Lippe [lippelaw@sonic.net]  
**Sent:** Wednesday, February 12, 2014 1:30 PM  
**To:** FORA Board  
**Subject:** February 13, 2014 Meeting, Agenda Item # 8a: Certification of the 2010 Monterey County General Plan  
**Attachments:** C002 021214 to FORA.pdf

Dear Clerk of the Board:

Attached please find my comment letter on behalf of the Sierra Club regarding Agenda Item # 8b: Certification of the 2010 Monterey County General Plan, for the February 13, 2014 Board Meeting.

Thank you.

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February 12, 2014

Board of Directors  
Fort Ord Reuse Authority  
920 2nd Avenue  
Marina, CA 93933

**Re: February 13, 2104 Meeting, Agenda Item # 8a: Certification of the 2010 Monterey County General Plan**

Dear Chairperson Edelen and Members of the Board:

This office represents the Ventana Chapter of the Sierra Club with respect to the Fort Ord Reuse Authority's ("FORA") pending certification of the 2010 Monterey County General Plan pursuant to Government Code § 67675.3 and FORA Master Resolution sections 8.01.020 and 8.02.010. Board staff have prepared two alternative certification resolutions (Board Packet, Attachments A and E).

**1. The Sierra Club objects to adoption of the draft resolution at Attachment A.**

Attachment A would certify the General Plan as it stands today, without requiring any changes. The Sierra Club continues to object to this course of action for all the reasons set forth in its previous comments letters, including my January 8, 2014, letter.

In drafting its new General Plan, the County altered or omitted many important, mandatory policies and programs of the Base Reuse Plan. These specific, targeted changes cannot be swept under the rug by pretending that the County General Plan incorporates the entire Base Reuse Plan "by reference." The incorporation language of the County General Plan/Fort Ord Master Plan is very specific in this regard, and leaves no doubt that the County intended to, and did, alter or omit these Reuse Plan policies and programs. These alterations and omissions fundamentally change the County's legal obligations when it reviews future development entitlements, because the changes transform mandatory requirements of the Reuse Plan into discretionary decisions by the County. As a result, there is substantial evidence that the County General Plan/Fort Ord Master Plan "is not in substantial conformance with applicable programs specified in the Reuse Plan" and must be disapproved under the mandatory procedural requirements of Master Resolution section 8.02.010.

**2. The Sierra Club objects to Recital K of the draft resolution at Attachment E.**

The Sierra Club appreciates that Board staff prepared an alternative certification resolution (Board Packet, Attachment E) that conditions final certification of the County General Plan on the County's adoption of certain amendments to its General Plan. The Club also appreciates that Board staff have amended this alternative certification resolution in certain respects in response to my

January 8, 2014, letter. As a result, if the Board limits its options to the adoption of either Attachment A or Attachment E, the Sierra Club requests that the Board adopt Attachment E.

However, the Sierra Club also objects to the adoption of Attachment E because it misstates the applicable standard for the Board's certification of local general plans. Recital K of Attachment E states:

The term "consistency" is defined in the General Plan Guidelines adopted by the State Office of Planning and Research as follows: "An action, program or project is consistent with the general plan if, considering all its aspects, it will further the objectives and policies of the general plan and not obstruct their attainment." This includes compliance with required procedures such as section 8.020.010 of the FORA Master Resolution.

The first sentence of this recital states a test developed and adopted by the State Office of Planning and Research ("OPR") for determining the consistency of actions, programs or projects with local general plans. This test is inapplicable to FORA's determination of the consistency of the local general plans with the Fort Order Reuse Plan for many reasons discussed in my January 8, 2014, letter. It is also inapplicable for the following additional reasons.

First, OPR's General Plan Guidelines do not purport to establish a test for determining the consistency of local general plans with military base reuse plans, either in general (i.e., under the Military Base Reuse Authority Act at Government Code section 67840.2(c))<sup>1</sup> or specifically with respect to the Fort Ord Reuse Plan (i.e., under the Fort Ord Reuse Authority Act at Government Code section 67675.3 (c)).<sup>2</sup>

Second, the State Office of Planning and Research ("OPR") simply has no authority to adopt guidelines for determining the consistency of local general plans with military base reuse plans. OPR's authority to issue the General Plan Guidelines stems from Government Code section 65040.2. This section directs OPR to develop and adopt guidelines for several "advisory" purposes. (Section 65040.2, subdivision (c).) The primary directive of section 65040.2 is to "develop and adopt

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<sup>1</sup> "The board shall approve and certify the portions of a general plan or amended general plan applicable to the territory of the base, or any amendments thereto, if the board finds that the portions of the general plan or amended general plan applicable to the territory of the base meet the requirements of this title, and are consistent with the reuse plan." (Government Code § 67840.2(c).)

<sup>2</sup> "The board shall approve and certify the portions of a general plan or amended general plan applicable to the territory of Fort Ord, or any amendments thereto, if the board finds that the portions of the general plan or amended general plan applicable to the territory of Fort Ord meets the requirements of this title, and is consistent with the Fort Ord Reuse Plan." (Government Code § 67675.3 (c).)

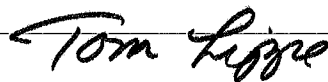
guidelines for the preparation of and the content of the mandatory elements required in city and county general plans.” (Section 65040.2, subdivision (a). ) Section 65040.2 also directs that OPR’s guidelines “shall contain advice including recommendations for best practices to allow for collaborative land use planning of adjacent civilian and military lands and facilities,” *but these directives pertain only to active, not decommissioned, military lands and bases.* (Section 65040.2, subdivisions (e) and (f).)

Nothing in Government Code section 65040.2 authorizes OPR to develop and adopt guidelines defining the term “consistency” for determining the consistency of local general plans with military base reuse plans, either in general under the Military Base Reuse Authority Act or with respect to Fort Ord under the Fort Ord Reuse Authority Act.<sup>3</sup> Instead, the Legislature has delegated the task of developing reuse plans to govern land use planning for decommissioned military bases exclusively to the local reuse authorities established pursuant to the Military Base Reuse Authority Act (see Government Code section 67840), or in the case of Fort Ord, pursuant to the Fort Ord Reuse Authority Act (see Government Code section 67675).

Therefore, the Sierra Club requests that the Board adopt the resolution at Attachment E after revising it to delete Recital K.

Thank you for your attention to this matter.

Very truly yours,



Thomas N. Lippe

C002 021214 to FORA.wpd

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<sup>3</sup> In fact, nothing in Government Code section 65040.2 authorizes OPR to develop and adopt guidelines defining the term “consistency” even for purposes of determining the consistency of actions, programs or projects with local general plans.



## Rosalyn Charles

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**From:** Jennifer McNary [mcnary@stamlaw.us]  
**Sent:** Thursday, February 13, 2014 1:24 PM  
**To:** FORA Board  
**Cc:** Molly Erickson  
**Subject:** February 13, 2014 FORA Board Agenda Item 8a  
**Attachments:** 14.02.13.ltr.to.FORA.Board.re.agenda.item.8a.pdf

Good afternoon,

Attached is a letter regarding agenda item 8a on today's Board agenda. Please distribute this item to the Board prior to the hearing on this matter.

Thank you,

Jennifer McNary  
**STAMP | ERICKSON**  
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February 13, 2014

Jerry Edelen, Chair  
and Members of the Board of Directors  
Fort Ord Reuse Authority  
920 2<sup>nd</sup> Ave., Suite A  
Marina, CA 93933

Subject: February 13, 2014 FORA Board Agenda Item 8a – Consider Certification of 2010 Monterey County General Plan as Consistent with the 1997 Fort Ord Reuse Plan

Dear Chair Edelen and Members of the Board of Directors:

This Office represents Keep Fort Ord Wild and The Open Monterey Project, who object to a finding by FORA of consistency between the Monterey County General Plan and the Fort Ord Master Plan and the Fort Ord Reuse Plan. We presume that the County has provided you with our comment letter submitted last year. However, we have not seen the issues raised in that letter addressed in the FORA board packet to date. We again raise all the same objections to FORA that Keep Fort Ord Wild raised to the County. This letter incorporates the attached letter and all of its objections in its entirety as if fully set forth herein.

The FORA staff position – that the County plans substantially conform with the Reuse Plan – is not accurate. The omission of required Reuse Plan plans, policies and programs from the County plans means that the County plans do not substantially conform with the Reuse Plan.

County General Plan Policies Regarding Water Are Inconsistent With the Fort Ord Reuse Plan

Keep Fort Ord Wild is particularly concerned about the inconsistency between the County plans and the Reuse Plan with regard to water. Potable water supply in Fort Ord is very limited. FORA does not know how much longer the supply will last.

"The general plan is atop the hierarchy of local government law regulating land use. It has been aptly analogized to 'a constitution for all future developments.'" (*Concerned Citizens of Calaveras County v. Board of Supervisors of Calaveras County* (1985) 166 Cal.App.3d 90, 97, quoting *Neighborhood Action Group v. County of Calaveras* (1984) 156 Cal.App.3d 1176, 1183.)

The General Plan is inconsistent with the Reuse Plan with regard to water supply. Specifically, the Fort Ord Reuse Plan requires the County to do as follows:

Adoption of appropriate land use regulations that will ensure that development entitlements will not be approved until there is verification of an assured long-term water supply for such development entitlements.

In response, the County's claim of consistency as to its General Plan is this:

See Public Services Element Policies PS-3.1 and PS-3.2 (pgs. PS-8 and PS-9), the Fort Ord Master Plan Hydrology and Water Quality Program B-1.6 (p. FO-39), and the Agreement between FORA and the Monterey County Water Resources Agency providing rights to a limited amount of groundwater, the use of which is allocated by resolution of the FORA Board and, in turn, the County.

(Reso. No. 13-307, p. 10; Reso. No 13-290, Ex. 1, p. 10.)

The County claims do not support a finding of consistency by the FORA Board. The County policies that the County claims fulfill and are consistent with the Reuse Plan are as follows:

General Plan Policy PS-3.1 says this:

Except as specifically set forth below, new development for which a discretionary permit is required, and that will use or require the use of water, shall be prohibited without proof, based on specific findings and supported by evidence, that there is a long-term, sustainable water supply, both in quality and quantity to serve the development.

This requirement shall not apply to:

- a. the first single family dwelling and non-habitable accessory uses on an existing lot of record; or
- b. specified development (a list to be developed by ordinance) designed to provide: a) public infrastructure orb) private infrastructure that provides critical or necessary services to the public, and that will have a minor or insubstantial net use of water (e.g. water facilities, wastewater treatment facilities, road construction projects, recycling or solid waste transfer facilities); or
- c. development related to agricultural land uses within Zone 2C of the Salinas Valley groundwater basin, provided the

County prepare a report to the Board of Supervisors every five (5) years for Zone 2C examining the degree to which:

- 1) total Water demand for all uses predicted in the General Plan EIR for the year 2030 will be reached;
- 2) groundwater elevations and the seawater intrusion boundary have changed since the prior reporting period; and
- 3) other sources of water supply are available.

If, following the periodic report, the Board finds, based upon substantial evidence in the record, that:

- the total water demand for all uses in Zone 2C in 2030 as predicted in the General Plan EIR is likely to be exceeded; or
- it is reasonably foreseeable that the total water demand for all uses in Zone 2C in 2030 would result in one or more of the following in Zone 2C in 2030: declining groundwater elevations, further seawater intrusion, increased substantial adverse impacts on aquatic species, or interference with existing wells, then the County shall initiate a General Plan amendment process to consider removing this agricultural exception in Zone 2C. Development under this agricultural exception shall be subject to all other policies of the General Plan and applicable Area Plan; or

d. development in Zone 2C for which the decision maker makes a finding, supported by substantial evidence in the record, that the:

- 1) development is in a Community Area or Rural Center and is otherwise consistent with the policies applicable thereto;
- 2) relevant groundwater basin has sufficient fresh water in storage to meet all projected demand in the basin for a period of 75 years; and,
- 3) benefits of the proposed development clearly outweigh any adverse impact to the groundwater basin.

General Plan Policy PS.3.2 says this:

Specific criteria for proof of a Long Term Sustainable Water Supply and an Adequate Water Supply System for new development requiring a discretionary permit, including but not limited to residential or commercial subdivisions, shall be developed by ordinance with the advice of the General Manager of the Water Resources Agency and the Director of

the Environmental Health Bureau. A determination of a Long Term Sustainable Water Supply shall be made upon the advice of the General Manager of the Water Resources Agency. The following factors shall be used in developing the criteria for proof of a long term sustainable water supply and an adequate water supply system:

- a. Water quality;
- b. Authorized production capacity of a facility operating pursuant to a permit from a regulatory agency, production capability, and any adverse effect on the economic extraction of water or other effect on wells in the immediate vicinity, including recovery rates;
- c. Technical, managerial, and financial capability of the water purveyor or water system operator;
- d. The source of the water supply and the nature of the right(s) to water from the source;
- e. Cumulative impacts of existing and projected future demand for water from the source, and the ability to reverse trends contributing to an overdraft condition or otherwise affecting supply; and
- f. Effects of additional extraction or diversion of water on the environment including on in-stream flows necessary to support riparian vegetation, wetlands, fish or other aquatic life, and the migration potential for steelhead, for the purpose of minimizing impacts on the environment and to those resources and species.
- g. Completion and operation of new projects, or implementation of best practices, to renew or sustain aquifer or basin functions.

The hauling of water shall not be a factor nor a criterion for the proof of a long term sustainable water supply.

Fort Ord Master Plan Hydrology and Water Quality Program B-1.6 says this:

The County shall review and monitor development entitlements to ensure that a long-term water supply is available for the proposed development.

None of these policies are consistent with the Fort Ord Reuse Plan requirement as stated at the top of page 2 of this letter.

General Plan Policy PS-3.1 provides a rebuttable presumption of long term sustainable water supplies in Zone 2C, which includes all of developable Fort Ord.

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Nothing in the General Plan states how the presumption can be rebutted and on what standard or basis. To date, the County has never found this presumption to be rebutted, or stated how it could be rebutted. This means that new development such as Monterey Downs can be expected to argue that Monterey Downs does not need to prove water supply, and does not need to limit itself to water demand, because Monterey Downs is subject to the PS-3.1 presumption of long-term sustainable water supply.

The County's purported reliance on the Agreement between FORA and MCWRA is not appropriate and is not material to the consistency determination, because the Agreement is at a much lower level than the General Plan and the Fort Ord Master Plan. As a general rule, agreements are subject to a general plan and area plan, not the other way around. As stated above, "The general plan is atop the hierarchy of local government law regulating land use. It has been aptly analogized to 'a constitution for all future developments.'" (*Concerned Citizens of Calaveras County v. Board of Supervisors of Calaveras County* (1985) 166 Cal.App.3d 90, 97, quoting *Neighborhood Action Group v. County of Calaveras* (1984) 156 Cal.App.3d 1176, 1183.)

Based on this inconsistency alone, the FORA Board should find the County plan to be inconsistent with the FORA Reuse Plan. FORA defines "Reuse Plan" to include the FORA Master Resolution. (Master Resolution, § 1.01.050(a).)

Request: Because the language in the Fort Ord Master Plan Hydrology and Water Quality Program B-1.6 is so general, developers like Monterey Downs can be expected to argue that the General Plan Policy PS-3.1 presumption satisfies the Program B-1.6 language. As a result, if the argument is successful, it is possible that developments will be approved that exceed the truly available wet water, as opposed to a theoretical paper allocation. FORA should prevent that, and should ensure that the two plans are truly consistent. FORA should direct the County to modify the General Plan to state that General Plan policy PS-3.1 does not apply to Fort Ord, and the Fort Ord Master Plan should also make it clear that due to Fort Ord water restrictions that policy PS-3.1 does not apply within Fort Ord.

The Reuse Plan States that Water Is a "Central Resource Constraint" at Fort Ord.  
The County Plan Is Inconsistent with the Reuse Plan.

The Reuse Plan's lengthy section on "Management of Water Supply" states:

Water supply is a central resource constraint for  
development of Fort Ord. Insuring that development does

not exceed the available water supply and safe yield is a major component of the DRMP.<sup>1</sup>

Fort Ord's water supply is severely compromised due to seawater intrusion, as well as groundwater contamination from the former military use.

The Reuse Plan calls water a "scarce resource." The Reuse Plan presents measures that "ensure that development is managed within this resource constraint." The Reuse Plan requires:

- "allocation of the existing potable water supply," with mandatory implementation procedures and an annual report,
- a five-year review, and
- water allocation monitoring.<sup>2</sup>

Pursuant to the Reuse Plan, FORA is required to "monitor" the availability of water to "insure" that water consumption "will not exceed" the water supply within the former Fort Ord.<sup>3</sup> Hydrology and Water Quality Policy B-2 requires the County to "condition approval of development plans on verification of an assured long-term water supply for the projects." The County policy PS-3.1 violates Reuse Policy B-2.

The jurisdiction's general plan is required to be in harmony with the Reuse Plan. That is a fundamental purpose of the consistency determination. ~~The County General Plan and the Reuse Plan are not in harmony, and are facially inconsistent. If there is a conflict between the County General Plan and the Reuse Plan, as exists here, there is no requirement that the more restrictive plan prevails.~~

The County General Plan presumption of long term sustainable water supply would apply to Monterey Downs. As proposed, the Monterey Downs project will require some 825 acre feet per year or more, according to public records. 825 acre feet would far exceed the County's "allocation" at Fort Ord. Under the County General Plan, the County simply will presume that the water exists to serve Monterey Downs. That is not consistent with the Reuse Plan or the very real water supply constraints at Fort Ord.

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<sup>1</sup> Fort Ord Reuse Plan: 3.11.5.4, "Management of Water Supply"; Hydrology and Water Quality Policy B-2.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*

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Fort Ord is supplied by water from a "small" aquifer.<sup>4</sup> FORA is aware that the aquifer is limited in size, and is not being actively recharged. FORA does not know when the aquifer is going to run out of water. FORA has never established the safe yield of the aquifer. FORA has done nothing to address the steadily dwindling small water supply. FORA has never found that Fort Ord has a "long term sustainable water supply" nor has FORA even considered the issue.

The County General Plan Policy PS 3.1 "presumption" of a long term sustainable water supply for all County development on the former Fort Ord places at risk the water supply for the other jurisdictions, including existing developments like California State University Monterey Bay, and the commercial developments along Imjin Road. At particular risk is the entire City of Marina, whose residents and businesses rely on water from the same water source: a "small" and unsustainable aquifer pumped by Marina Coast Water District.

As stated above, in September 2013, Keep Fort Ord Wild submitted detailed comments and exhibits on this point to the County. The County should have provided those comments to you as part of its submission packet. Out of an abundance of caution, KFOW attached that letter and enclosures here, and urges FORA to review the comments and issues carefully. In this letter to FORA, KFOW reiterates and incorporates each and every one of its concerns and comments that were raised in the September 2013 KFOW letter to the County. We ask FORA to review the letter and its enclosures prior to taking any position on the consistency determination for the County plans.

#### FORA Executive Officer Cannot Act as a Legislative Authority

Resolution 14-xx (Attachment E, item 5) provides that the General Plan is denied by the FORA Board, and that the General Plan will be certified if the Board's suggested modifications are adopted and transmitted to the FORA Board by the County, and the Executive Officer "confirms such modifications have been made." In other words, FORA's Executive Officer would be empowered to be part of the legislative decision-making process in determining whether or not the General Plan shall be deemed certified. The resolution's proposal to give such legislative authority to the Executive Officer is an impermissible delegation of legislative authority in violation of the Article III, section 3 of the California Constitution, which provides that "The powers of state government are legislative, executive, and judicial. Persons charged with the exercise of one power may not exercise either of the others except as permitted by this Constitution." An action by FORA to determine whether or not the General Plan shall

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<sup>4</sup> WRIME, Marina Coast Water District Deep Aquifer Study, 2003; United States Geological Services, 2002.



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be deemed consistent should be an entirely legislative process of the FORA board, so that FORA's constituents (the public) can evaluate, monitor, and respond to FORA's action. Allowing the Executive Officer to play a decision-making role in that process improperly circumvents the public process and shortchanges the public.

An additional reason of why Resolution 14-XX (Attachment A) is improper is because it is contrary to the CEQA principle proscribing delegation of certain functions such as assessment of environmental impact. (CEQA Guidelines, § 15025(b).) Delegation is inconsistent with the purpose of the review and consideration function because it insulates the members of the FORA Board from public awareness and possible reaction to the individual members' environmental and economic values. The Executive Officer should not be given the responsibility to participate in determining whether modifications have been made (and consequently participate in determining whether the General Plan should be certified) but he does not have the authority to approve or disapprove the certification. The Executive Officer is not the decision maker.

#### The Language Is Different Between the County Plans and the Reuse Plan

The County has admitted that "the language is different" between the County plans and the Fort Ord Reuse Plan. (October 23, 2013 County letter, p. 1.) The County argues that "there is significant history in the Fort Ord Reuse Plan, and in the FEIR that shape and guide how the policies of the FOMP are interpreted and applied." The County's argument is nonsensical. The County does not explain what the County means by "significant history in the Fort Ord Reuse Plan" or how the "history" modifies the adopted written plans, if at all, or its basis for the claims.

#### Other Concerns

The Veterans cemetery is in the County plans, but is not in the Reuse Plan. The addition of a Veterans cemetery is not consistent with the Reuse Plan plans, policies and maps. The change of land use to a Veterans cemetery has not been subjected to environmental review by any person.

For determination of consistency, FORA should use only the original Reuse Plan, not the "republished" 2001 version. The 2001 version was never adopted and has not have environmental review. The County's public records show that the County relied on the unadopted "republished" 2001 Reuse plan materials when the County prepared its Fort Ord Master Plan.

The General Plan and Fort Ord Master Plan is inconsistent with the Fort Ord Reuse Authority's Development and Resource Management Plan (DRMP). In

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particular, we draw your attention to the policies of the DRMP. We attach the DRMP in its entirety, exactly as provided on the FORA website (pp. 127-136).

#### Proposed Findings

The proposed findings presented to the FORA Board are simply inaccurate and do not correctly present or apply the applicable law and regulations.

#### Procedural Objections


At its October 11, 2013 and November 8, 2013 meetings, the consistency agenda item was not heard. Instead, at the October meeting Chair Edelen announced the item and immediately stated that the matter would be continued in order for FORA staff to work on the letters received. He called for a motion to continue, and after very brief procedural discussion by the Board, the Board unanimously passed the motion to continue the item. In November 2013, the Board hearing was continued due to lack of proper public notice pursuant to the FORA Master Resolution. In January 2014, the item was agendaized under "old business" on the FORA agenda. We question why this item was agendaized under "old business," because at the October 11 and November 8 meetings this item was not opened for public comment or presentation.

We have observed that for items called "old business", the FORA Board does not consistently open the item for a public hearing. For example, at the October 11 2013 FORA Board meeting, Board Chair Edelen called the "old business" item for Mr. Bowden's contract for legal services, then Chair Edelen immediately called for a Board vote. The Board vote took place immediately without any discussion, and without opening the item to public comment. No mention was made of a public hearing, and no earlier public hearing was referenced. The public simply was shut out of the process. The second meeting should also be open for public comment.

A consistency determination is a project subject to CEQA. The consistency determination is a discretionary act by the FORA Board. That act has not been evaluated pursuant to CEQA.

Keep Fort Ord Wild and The Open Monterey Project join in all other comments and concerns submitted to FORA by other groups, agencies, and individuals. We urge you to consider these comments carefully. Thank you.

Very truly yours,

  
Molly Erickson

Attachments (on CD):

- A. FORA Master Resolution, sections 8.02.010, 8.02.020(j)(7)
- B. Fort Ord Reuse Plan, 3.11.5.4, "Management of Water Supply" and Hydrology and Water Quality Policy B-2
- C. Monterey County General Plan policy PS-3.1
- D. KFOR letter to County Board of Supervisors, September 17, 2013 with attachments, re County consistency determination (presented to the County on CD)
- E. Monterey Downs Administrative Draft Environmental Impact Report
- F. Eastside Parkway 90% Improvement Plans
- G. October 7, 2013 letter from FORA
- H. EA/IS for The General Jim Moore Boulevard and Eucalyptus Road Improvement Project
- I. Development and Resource Management Plan excerpts

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- J. History of FORA's illegal changes to Chapter 8 of the Master Resolution, specifically over 100 changes of the word "shall" to the word "may"
- K. FORA Annual Report FY 2012-213, pages 1-16
- L. August 26, 2013 LandWatch letter to County Board of Supervisors
- M. Zone 2C Map
- N. January 7, 2014 KSBW Report

## Rosalyn Charles

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**From:** Scott S. [saltyblood@yahoo.com]  
**Sent:** Sunday, March 02, 2014 7:25 PM  
**To:** FORA Board  
**Subject:** Acquiring materials

Greetings,

I'm wondering if it is possible to purchase/salvage materials that are scheduled for demolition. Specifically, I would like to obtain roofing tiles from the buildings that are North of the CSUMB Sports Center. If they are free all the better. Nonetheless, I would like to have them if possible.

Scott Swanson  
349 Casa Verde Way  
Monterey, CA 93940

## Rosalyn Charles

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**From:** cpearson720@gmail.com  
**Sent:** Monday, March 03, 2014 10:29 AM  
**To:** FORA Board  
**Subject:** Please help our ASB leadership class.

Dear prospective customer,

Hello, my name is Cortney Pearson. I am ASB Secretary at North Salinas High School. As a representative from our leadership class, I am writing this letter to seek support from our local community. Each year a select handful of our leadership class is chosen to go to a conference called CASL, which stands for California Association of Student Leaders. We go to this conference to learn how to become better leaders in our school, and even in our community. The conference also teaches us how to not be afraid to make a positive change to better our school and community. The conference will be held down south this year in Ontario. In the past we've had luck fundraising for this conference and many other conferences we go to, but as we all know times have changed and our school budget is not in its best condition. Our Activities Director is having us sell snack boxes that contain 66 healthy snacks, each snack being \$1. We get half of the \$66 as profit to go to our CASL conference. It's very difficult to try and sell these boxes when 50 other kids are doing it, plus kids from other clubs on our campus, so I've decided to ask for your help. I beg you to take into consideration of buying a whole box to support our future leaders. The snacks can be shared with family members, co-workers, and even friends. **Please contact me if you are willing to support the North Salinas ASB class in fundraising for our annual CASL conference by purchasing a \$66 healthy snack box.**

Sincerely,

**Cortney Pearson**

**ASB Secretary**

**Contact information:**

**Cortney Pearson**

**(831)-620-5277**

**[Cpearson720@gmail.com](mailto:Cpearson720@gmail.com)**

## **Rosalyn Charles**

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**From:** Sarah Loftus [sloftus@csumb.edu]  
**Sent:** Monday, March 03, 2014 11:24 PM  
**To:** FORA Board  
**Subject:** Short interview for class paper

Hello, my name is Sarah and I am a college student majoring in Environmental Studies. I am currently working on a policy analysis paper on a local issue. The purpose of this assignment is to complete an unbiased investigation of a local issue that includes a fair and non-judgmental representation of multiple stakeholder positions to advance my own critical thinking skills. The issue I decided to work on is habitat restoration and protection of the Fort Ord area.

As part of this project we must conduct a short interview to get different stakeholder perspectives. This can be done through a couple emails and will only consist of 5-8 questions. Each of these questions should easily be answered in a few sentences or less. If there is anyone on the Board or a committee that is willing to participate, I would greatly appreciate it. Again, it can be done via email.

Thank you so much for taking the time to read this and I look forward to hearing back from someone.

--

**Sarah Loftus**

Michael W. Stamp  
Molly Erickson  
Olga Mikheeva  
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March 6, 2014

Jerry Edelen, Chair  
and Members of the Board of Directors  
Fort Ord Reuse Authority  
920 2<sup>nd</sup> Ave., Suite A  
Marina, CA 93933

Subject: March 14, 2014 Board Agenda – Consider Certification of 2010  
County General Plan as Consistent with the 1997 Reuse Plan

Dear Chair Edelen and Members of the Board of Directors:

This Office represents Keep Fort Ord Wild and The Open Monterey Project (jointly referred to here as "Keep Fort Ord Wild"). My clients object to a determination by FORA of consistency between (1) the Fort Ord Reuse Plan and (2) the Monterey County 2010 General Plan and the Fort Ord Master Plan. For convenience, we refer to the General Plan and the Fort Ord master plan collectively as "General Plan." This letter presents information to assist you in making an informed decision.

FORA should reject the 2010 General Plan, and FORA should require that the 2010 General Plan is consistent with the 1997 Reuse Plan. The simple solution is this: The Fort Ord Master Plan should state, word for word, the Reuse Plan policies and programs applicable to the County. If the County truly stands by its claim that the County has incorporated the Reuse Plan into the General Plan, then the County will make those changes. If the County is not willing to make the changes, then it will be evident that the County is not willing to enforce the Reuse Plan policies, and does not want development to have to comply with Reuse Plan policies.

The County Can Easily Amend the 2010 General Plan to Include the Omitted Reuse Plan Policies.

The County has a straightforward amendment process. County policy LU-9.6.d states "The Board shall consider two packages of general plan amendments per year." (General Plan p. LU-24, attached to this letter as Exh. A.) The County adopted the General Plan in 2010. Since then, the County could have considered six packages of amendments: two each in 2011, 2012, and 2013. In fact, the County has considered only one package. In February 2013, the Board of Supervisors adopted two sets of amendments to the General Plan and an area plan (the Carmel Valley Master Plan). That process involved a brief public hearing and a five-page EIR addendum for one set of changes and an eleven-page EIR addendum for the other set of changes.

County General Plan policy LU-9.7 states that "Amendments should be considered if there is a demonstrable error or oversight in the adopted plan." (Exh. A to

this letter.) In this case, there are demonstrable oversights in the adopted Fort Ord Master Plan.

1. The amendments the County needs to adopt would be straightforward, because the amendments simply would adopt the Reuse Plan language. An EIR has already been adopted for the Reuse Plan and its policies.
2. The County also should make clear that the County General Plan presumption of long term sustainable water supply (Exh. C) is not applicable in Fort Ord. As Supervisor Lou Calcagno stated at the February 2014 Board meeting, "there's not enough water to supply Fort Ord growth in the future until we develop a new supply." (Exh. B.)

#### FORA Adopted the Specific Language in the 1997 Reuse Plan For Good Reason.

In 1996, FORA released its draft reuse plan and Draft EIR for public review. Public review is an essential part of meaningful public participation in the California Environmental Quality Act process. The public made thousands of comments, orally and in writing, on the Draft EIR. Many comments pointed out that the reuse plan policies were written in a way that would not achieve the hoped-for goals, and/or would allow unanalyzed and unmitigated impacts. In response to those public comments, the Final EIR made significant changes in the language of the reuse plan policies and programs, in order to mitigate for potential impacts that had been identified in the EIR, and to avoid unanalyzed and unmitigated impacts. Pursuant to CEQA, FORA has a duty to mitigate where feasible and enforceable. (Pub. Resources Code §§ 21002, 21002.1, subd. (b), 21060.5, 21081, subd. (b), 21081.6, subd. (b).)

In 1997, FORA then adopted the stronger language of the revised Reuse Plan policies and programs. The public relied on the adopted strong language. Now in 2014, the County General Plan uses the much weaker language of the draft reuse plan – language that would allow for unmitigated and unanalyzed environmental impacts, and would not achieve the goals and objectives of the adopted Reuse Plan. There are many examples of this. We provide one example here, and are prepared to provide other examples, which FORA can easily identify on its own by reviewing the draft reuse plan, the Final EIR, and the adopted 1997 Reuse Plan.

As one example, Public Comment letter 328 was from the Watershed Institute at California State University at Monterey Bay. (Exh. G.) The Watershed Institute made thoughtful expert comments on the draft reuse plan policies. The Watershed Institute stated that the draft EIR's claim that effects on coast live oak woodland "would be reduced" was "an unjustifiable claim given the inadequacies" of the proposed policies and programs in the draft reuse plan. (Exh. G [comment 328-2].) The Watershed Institute stated that the policy language was "far too weak to provide any reason



protection, and criticized the draft plan's use of ineffectual words such as "encourage", "wherever possible," and "should be avoided." (Exh. G [comment 328-11].)

In response to this and other similar comments, the Final EIR agreed, and made changes to the text in the reuse plan policies and programs to make the language stronger. (E.g., Exh. H.) For example, the Final EIR replaced the weak language, "the County shall encourage the preservation and enhancement of oak woodland elements," with the stronger language, "The County shall preserve and enhance the woodland elements." (Exh. H, Policy C-2.) As another example, the Final EIR replaced the weak language "the County shall encourage clustering of development," with the stronger language, "the County shall cluster development." (Exh. H, Policy C-2.1.) The stronger language was added to many policies and programs throughout the reuse plan. The final EIR version of the plan showed this improved stronger language. (Exh. I.)

The stronger language was part of the final 1997 Reuse Plan that was adopted by the FORA Board. (Exh. J.) As to the final Reuse Plan, the FORA Board specifically found as follows:

Finding 19: The Reuse Plan addresses the feasible mitigation measures set forth throughout the FEIR by incorporating policies which mitigate or avoid the significant impacts identified in the FEIR.

Finding 20: Changes have been incorporated into the Reuse Plan which substantially lessen the potential significant environmental effects as identified in the FEIR, those changes being reflected in the final text of the proposed Reuse Plan.

(FORA Board Resolution #97-6, p. 8 [findings 19, 20].)

By strengthening the language of the Reuse Plan and adopting the stronger version, FORA prevented the unmitigated and unanalyzed environmental harm that could have resulted from the weaker language, as the public comments had pointed out. As a result, the public did not challenge the Reuse Plan in a court of law, because the Reuse Plan policies had been substantially strengthened. The weaker draft policies and programs did not withstand CEQA scrutiny, and in 1997 the FORA Board rejected the weaker language. FORA should not go back to the weaker rejected language in 2014, because that language would not be consistent with CEQA or the Reuse Plan.

As the Sierra Club, Ms. Haines, and LandWatch have pointed out, the County General Plan includes many examples of the improper weaker language copied from the rejected draft plan. (See. Exh. K [General Plan Biological Resources Policy C-2.]) Important Reuse Plan policies and programs are included in the County General Plan weakened by material changes to the Reuse Plan language; others are omitted entirely from the General Plan. The County "cut and pasted" the policies and programs from

the draft reuse plan that FORA rejected. Instead, the County should "cut and paste" the policies from the 1997 Reuse Plan adopted by FORA.

The 2010 County General Plan Omits Important Reuse Plan Policies and Programs. Omitted Programs Include Mitigations Required by the Reuse Plan EIR. The Omissions Render the 2010 General Plan Inconsistent with the Reuse Plan.

As stated above, in 1996, FORA released the Draft EIR on the draft reuse plan, and the public commented on the Draft EIR in writing and at public hearings. One of the public comments was that FORA should phase the proposed development of the former Fort Ord because of limitations on water and traffic. (See Ex. D, Public Hearing Comment 21.) The reason was that without phasing of development, the total expected buildout of Fort Ord would far outstrip the available water supply and traffic capacity.

The Final EIR agreed with that comment, and created multiple important policies with regard to water and traffic that required Fort Ord development to be phased based on limitations of water and traffic, and amended other policies and programs. (Ex. E.) Also in response to the comment, the Final EIR created the Development and Resource Management Plan (DRMP), which became part of the 1997 Reuse Plan. (Ex. F.) The Reuse Plan's Development and Resource Management Plan objectives are to limit development due to resource and financial constraints. (§ 3.11.5.1) To carry out the objectives, the Reuse Plan's Development and Resource Management Plan places caps on water use (§ 3.11.5.4(a), Table 3.11-2 [6,600 AFY]) and on residential units (§ 3.11.5.4(b)) until the resource constraints are lifted. (See Ex. F.)

These DRMP policies, programs, and changed language are part of the adopted Reuse Plan, and they are mitigations to the impacts identified in the EIR. FORA has an obligation to carry out, enforce, and monitor the mitigations it adopts pursuant to CEQA.

If FORA determines the General Plan to be consistent with the Reuse Plan, despite the conflict between the plans, FORA would be failing to enforce the EIR mitigations. When FORA adopted the 1997 Reuse Plan and certified the EIR, FORA did not adopt an effective mitigation monitoring and reporting plan pursuant to CEQA and has not enforced the mitigations, both those that were explicitly described as mitigations and those reuse plan changes that were made in response to public comments on the draft EIR and that functioned as mitigations.

FORA is failing to meet its obligations under CEQA as to the Reuse Plan EIR mitigations. Keep Fort Ord Wild and The Open Monterey Project ask FORA to take prompt remedial action to cure these legal violations, and to inform KFOW and TOMP of the steps taken.

**Many County General Plan Policies Are Specifically and Fundamentally Inconsistent with Reuse Plan Policies**

As we explained in our letter of February 13, 2014, the County General Plan policies on water are not consistent with the adopted Reuse Plan. As we and other commenters have pointed out, the General Plan policies will not further the objectives and policies of the Reuse Plan, and will obstruct the attainment of the Reuse Plan objectives and policies. (See *Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200, 238.) The General Plan policies have specific, mandatory and fundamental inconsistencies with Reuse Plan policies. (*Id.* at p. 239.)

**FORA Board Should Not Pave the Way for the Monterey Downs Project: Monterey Downs Seeks to Benefit from the Proposed Finding of Consistency.**

If approved, Monterey Downs would be the largest single development at Fort Ord. Monterey Downs is not consistent with the 1997 Reuse Plan because the Reuse Plan contains policies with which the Monterey Downs project does not comply. Monterey Downs representative Brian Boudreau has made no secret of his desire for FORA to dissolve – and with it, the Reuse Plan. Mr. Boudreau has stated to members of Keep Fort Ord Wild that he is waiting for FORA to go away. Mr. Boudreau is apparently expecting that when FORA goes away, enforcement of the Reuse Plan will go away.

FORA is scheduled to sunset in 2020. The General Plan is intended to be in force until at least 2030. It is likely that the 2030 date will be extended to 2040 or beyond. If FORA sunsets and the Reuse Plan goes away, then all that would be left is a weak General Plan/Fort Ord Master Plan that does not carry out the promises of the Reuse Plan. There are very serious unintended consequences of not having a General Plan that will carry out the Reuse Plan policies. For example, the General Plan does not include restrictions on water use by jurisdiction, the restrictions on the number of housing units, and the requirements to protect oak woodlands and other natural resources.

For example, with regard to water supply, it is common knowledge that Fort Ord has a limited supply. Fort Ord takes its water from the coastal area of the Salinas Valley groundwater basin, which is known to be heavily overdrafted and intruded with seawater.

- The 1997 Reuse Plan states that “water supply is a central resource constraint for development of Fort Ord. Insuring that development does not exceed the available water supply, including safe yield, is a major component of the DRMP.” (§ 3.11.5.4) The Reuse Plan limits water use to 6,600 AFY (Table 3.11-2) and states that “Development beyond the

limits defined in the DRMP will be allowed only upon the augmentation of existing water supplies." (§ 3.11.5.4(d).)

- The Monterey Downs project would require over 850 AFY, according to the administrative draft EIR prepared by Seaside. Neither Seaside nor the County come close to having that amount water in their remaining allocations from the 6,600 AFY limit established in the Development and Resource Management Plan (DRMP).
- The 2010 County General Plan Policy PS-3.1 presumes that all land in Fort Ord has a long term sustainable water supply. (See Ex. C.) The presumption applies to "Zone 2C," which includes Fort Ord.

If the FORA Board finds the General Plan consistent, it is foreseeable that the Monterey Downs project would argue that Monterey Downs is entitled to the presumption of a long term sustainable water supply, and that the General Plan was consistent with the Reuse Plan. In other words, Monterey Downs would argue that FORA's water limitations do not apply to Monterey Downs, because the County General Plan "presumes" a water supply. The FORA Board should prevent that foreseeable argument, and the foreseeable difficult circumstances that would result.

The FORA Board should tell the County that the County General Plan "presumptions" about long term water supply are inconsistent with the planned development at Fort Ord, given Fort Ord's acknowledged water resource restrictions, as described in the Reuse Plan.

#### FORA's Hundreds of Changes from "Shall" to "May"

In December 2009, the staff of FORA suggested making minor changes to the Master Resolution. The changes were for chapters 1 and 2. No changes were proposed for Chapter 8. The FORA Board continued the item. Then there was extensive work done behind the scenes. In March 2010, the proposed changes returned to the Board were numerous and significant – not minor. Instead, there were many hundreds of changes proposed to the language of the Master Resolution. More than a hundred word changes were proposed for Chapter 8, primarily changing the word "shall" to the word "may." FORA's Executive Director and Authority Counsel recommended adopting the changes. The FORA Board approved the changes. The changes were significant and material because they changed specific actions that FORA was required to perform ("shall") to permissive actions that FORA "may" fulfill at FORA's discretion.

FORA had no authority to unilaterally change Chapter 8. Chapter 8 was created when in 1998 FORA approved the settlement agreement with the Sierra Club; pursuant

to the terms of the settlement agreement, FORA was required to adopt the language of the agreement as Chapter 8 of the FORA Master Resolution.

In 2013, members of the public realized that FORA had made drastic changes to Chapter 8, and they alerted the Sierra Club. The Sierra Club promptly put FORA on notice that FORA was in violation of the 1998 settlement agreement that required the original language using the word "shall" throughout. FORA had been required to give the Sierra Club prior notice of the changes to Chapter 8 and perform environmental review (pursuant to CEQA) on the proposed changes. (Settlement Agreement, p. 2, term 4.) FORA violated both requirements: FORA failed to notify the Sierra Club and FORA failed to perform a CEQA review.

The "Shall" to May" Changes Master Resolution Benefitted  
the Monterey Downs Project.

The March 2010 efforts by the FORA – to change mandatory action ("shall") to discretionary action ("may") – were not coincidental or accidental. The Monterey Downs project applicants appeared in Fort Ord in 2009. Public records show that Monterey Downs LLC representatives Brian Boudreau and Beth Palmer were active in 2009 and 2010 meeting with public officials in the County and at FORA and promoting the massive Monterey Downs project. The illegal changes would have benefitted the Monterey Downs project because they would have allowed Monterey Downs to avoid many Reuse Plan policies.

Fort Ord Is Supplied by Water from Overdrafted and Unsustainable Aquifers.

Marina gets its water from the Deep Aquifer, sometimes also referred to as the Deep Aquifers, because it is believed that there are multiple aquifers between approximately 650 and 1200 feet deep. The former Fort Ord gets much of its water from the Deep Aquifer. No public study has investigated the size of the aquifers or how long they may last. Neither FORA nor Marina Coast Water District has any idea how much longer water can be pumped from the Deep Aquifers to reliably supply Fort Ord and Marina. It is commonly acknowledged that the Deep Aquifer is subject to saltwater intrusion. The Deep Aquifer is below sea level.

Seawater Intrusion Is Continuing to Progress Inland.

2011 County records show that seawater intrusion is less than half a mile from the City of Salinas, and is continuing to progress inland. The seawater intrusion data for 2013 show that the intrusion has not stopped. The MCWRA has the raw 2013 data from the monitoring wells that show the inland progression of the salt water. The MCWRA will release maps showing the updated intrusion later in 2014. The MCWRA process is to gather data during odd-numbered years, and to create the maps of the seawater intrusion during the even-numbered years.

**Lack of Compliance with the California Environmental Quality Act (CEQA);  
FORA Should Not Make Consistency Determination**

An action by the FORA Board on a consistency determination is a “project” subject to CEQA. The consistency determination is a discretionary act by the FORA Board. FORA is responsible for enforcing all of its statutes and regulations. The proposed consistency determination has not been adequately evaluated pursuant to CEQA.

As one example, 1997 Reuse Plan did not include a veterans cemetery in the land use concept maps, or the plan policies, or the programs. The Reuse Plan EIR did not evaluate the impacts of a veterans cemetery. The County General Plan/Fort Ord Master Plan added a cemetery in a specific location to the land use concept maps. The General Plan EIR did not evaluate the impacts of the added veterans cemetery. The proposed many-acre Veterans Cemetery complex would be a new land use, and would place extensive development on a hill that contains dense oak woodland. The addition of that new land use to Fort Ord has not been evaluated pursuant to CEQA. The environmental impacts of the Cemetery would include the removal of many thousands of trees, as well as other significant impacts that have not been evaluated. The proposed cemetery would allow more intense and more dense land uses than the uses and density permitted in the Reuse Plan, which designates the land for low density residential use. It is likely that large parts of the site would not have been developed as residential use due to the significant slope of much of the cemetery site, and the highly erodible soils. Instead, the site would have remained undeveloped open space.

If FORA declines to make the consistency determination, that action is exempt under CEQA. (Pub. Resources Code, § 21080(b)(5) [exempting “project which a public agency rejects or disapproves”].) In short, there is safe haven for FORA to go to – deny the consistency determination.

**Claims About the County's "Intent" Are Not Enforceable.**

**The only intent that matters are the ones stated in the 2010 General Plan and the Fort Ord Master Plan.** The County has represented to the FORA Board that the County “intends” to comply with the Reuse Plan, even though the County General Plan does not contain material Reuse Plan language or policies. The FORA Board should not rely on the claims about the County’s “intent.” If FORA wants the County to make the 2010 General Plan consistent with the Reuse Plan, the County must present to FORA a consistent document.

Representations of County staff – or individual County supervisors, or County counsel – are not enforceable. (*Woodward Park Homeowners Assn., Inc. v. City of Fresno*) (2007) 150 Cal.App.4th 683, 729-720 [oral representation by project applicant, even when added to agency's adopted resolution of approval, is not enforceable], *In re*

*Marriage of Bouquet* (1976) 16 Cal.3d 583, 589-590 ["In construing a statute we do not consider the motives or understandings of individual legislators who cast their votes in favor of it"].) The County can adopt or relinquish General Plan policies under limited circumstances and only by strictly complying with specific formalities: a public hearing, environmental review, and an ordinance. As a matter of law, County employees and individual County supervisors have no authority to bind the County in regard to the General Plan or the Fort Ord Master Plan, or to any particular application of County policies with regard to Fort Ord. The County is not bound by statements of its employees or individual supervisors. "No government, whether state or local, is bound to any extent by an officer's acts in excess of his [or her] authority." (*Barchett v. City of Newport Beach* (1995) 33 Cal.App.4th 1472, 1479.) A county will not be legally estopped by the conduct of an employee. (*Los Angeles Equestrian Center, Inc. v. City of Los Angeles* (1993) 17 Cal.App.4th 432, 448-449.) Even if the actions of individual County employees or supervisors were deemed to have been on behalf of the County, they would be void under the County Code and the law. (*South Bay Senior Housing Corp. v. City of Hawthorne* (1997) 56 Cal.App.4th 1231, 1235-1236.) "One who deals with the public officer stands presumptively charged with a full knowledge of that officer's powers, and is bound at his peril to ascertain the extent of his powers to bind the government for which he is an officer. . . ." (*Horsemen's Benevolent & Protective Assn. v. Valley Racing Assn.* (1992) 4 Cal.App.4th 1538, 1564.)

#### No Deference Is Due to FORA's Interpretation of Chapter 8.

No deference is due to FORA's interpretation of Master Resolution chapter 8 because chapter 8 not enacted in the usual legislative sequence. Instead, chapter 8 was adopted by FORA as part of the settlement agreement with the Sierra Club. Former County Counsel Doug Holland represented the County and FORA, and agreed to the language in the settlement agreement.

The Sierra Club has standing under the contract to enforce the terms of the settlement agreement pursuant to contract law. In such enforcement action by Sierra Club, no deference is due FORA as an agency. In addition, there are opportunities for third-party enforcement of the contract's terms.

#### Director Morton's Comments on February 13 Could Not Be Understood.

At the February 13 hearing on this item, Director Gail Morton participated via a speaker phone. The sound on the speaker phone was of such poor quality that attendees at the meeting could not understand what Director Morton said. She spoke at length and apparently with specific citation to sections of FORA's codes and legislation, but her words were essentially unintelligible and therefore not "on the record." Members of Keep Fort Ord Wild present at the meeting could not understand what Director Morton said. My review of the online video at [fora.org](http://fora.org) has confirmed that Director Morton's comments are unintelligible. In general, the quality of the video's

sound recording is poor, even as to the statements of speakers who were present at the meeting.<sup>1</sup> Members of Keep Fort Ord Wild present at the February 13 hearing could not hear some of the comments made by FORA directors on this item.

In order to comply with due process, a fair public hearing, and an accurate record, we ask that at the March meeting Director Morton be asked to repeat the comments that she made at the February meeting, and the directors and public should be allowed time to have a dialogue and comment on her comments.

Director Morton is one of only two attorneys on the FORA Board.<sup>2</sup> Director Morton has experience in drafting legislation, as she drafted a section of state law that was enacted and has remained unchanged for many years. Director Morton has demonstrated her ability to look carefully and analytically at FORA's documents, using her expertise at reading legal documents. She is an appointed member of the FORA Board. The FORA Board and the public are entitled to hear her comments.

The Memos from Mr. Waltner and Mr. Girard Are Not Accurate in Material Ways.

The lengthy memos from outside counsel Mr. Waltner and the County's counsel Mr. Girard are not helpful in some aspects and are not accurate in others because they rely on assumptions and hypothetical scenarios that are not present. Both Mr. Waltner and Mr. Girard goes to great lengths to try to shore up the proposed consistency findings, but they, like the highly erodible sandy soils of Fort Ord, fail to provide the support they seek. The memos have been rebutted in writing by the Sierra Club, LandWatch, and Ms. Haines. Mr. Waltner proposes a very low standard for a consistency determination. (Waltner memo dated December 26, 2012, pp. 1-2.) That low standard does not comport with the specific terms of Master Resolution Chapter 8, which were hammered out in a legal settlement. Mr. Waltner essentially suggests that FORA's Settlement Agreement with the Sierra Club contains illegal terms. (P. 2, fn.3.) Mr. Waltner alludes that the use of the word "and" in the list of six possible bases for rejecting a consistency determination (Waltner memo dated December 26, 2012, p. 2, fn. 4). However, Mr. Waltner fails to disclose that the Master Resolution "Grammatical interpretation" expressly states that "the word 'and' may be read 'or' if the sense requires it" (Master resolution, § 1.01.110).

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<sup>1</sup> On February 24, 2014, we called FORA staff and alerted them to the problems with the sound on the February 14 video recording. Ms. Maras explained that the video crew had changed the system in January and February, that there had been comments about the poor sound quality at the meeting, and that she would look into correcting the situation.

<sup>2</sup> Director O'Connell is the only other attorney on the FORA Board.



Mr. Girard admits that “the printed language set forth in the Master Plan policies does not match word-for-word the language of the adopted reuse Plan.” (January 10, 2014 memo, p. 1) He repeatedly argues that “substantial evidence currently exists” to support a determination of consistency (*id.* at pp. 2, 7, 10), but that is the wrong test. According to the Master Resolution, the proper test for determining consistency is whether “there is substantial evidence” that the General Plan “is not in substantial conformance” with the Reuse Plan. (Master Resolution, § 8.02.010.) Sierra Club, LandWatch, Ms. Haines, and KFOW have presented substantial evidence that shows that the General Plan is not in substantial conformance with the Reuse Plan. The test has been met here, and FORA should not approve the proposed resolution.

Mr. Girard discusses an example of a County policy that differs from the Reuse Plan policy (Biological Resources Policy C-2) and gives his opinion. His opinion fails to discuss the history of the language of Biological Resources Policy C-2 described above in this letter. That history, and that of the other policies and programs, is important to understanding that the language of the Reuse Plan policies was carefully crafted to avoid unanalyzed environmental impacts. The FORA Board did not adopt the draft reuse plan policies that the County put in the County’s General Plan. FORA adopted the final Reuse Plan, as improved as a result of public comment on the Draft EIR.

Mr. Girard admits that the Reuse Plan Policy C-2 “is a stronger mandate” than the weaker language used in the County’s General Plan policy. The County General Plan’s use of weaker language should be rejected, in the same way that weaker language was rejected by the FORA Board and the EIR preparer because the weaker language did not adequately prevent unmitigated and unanalyzed impacts.

#### The County Would Not “Revert” to the Superseded 2001 Plan

Contrary to the County’s suggestions at the February 13 meeting, if the 2010 General Plan is not deemed consistent, the County would not “revert” to the 2001 Fort Ord Master Plan. The 2001 plan is no longer operable. It was superseded when the County adopted the new General Plan in October 2010. If the County wants to re-adopt the 2001 plan, the County then would have to bring that plan to the FORA Board for a new consistency determination.

#### Evidence

We have attached evidence that supports that facts and positions stated in this letter. We will be submitted additional evidence prior to the consideration of this item at the March board meeting. The additional evidence consists of public records.

KFOW also includes as evidence the 1997 Reuse Plan, as adopted in 1997, and the EIR for the Reuse Plan. These are in FORA’s possession and are quite lengthy. If

FORA would like me to submit a copy on this matter for the record, please let me know and I will do so.

Request: FORA Should Reject the Consistency Determination

We urge you to consider these comments carefully. Keep Fort Ord Wild and The Open Monterey Project join in the objections and concerns of the Sierra Club, LandWatch, and Ms. Haines.

The FORA Board should (1) deny a finding of consistency for the County General Plan, and (2) tell the County to make the two plans consistent: the Reuse Plan policies and programs that are applicable to the County should all be present in the Fort Ord Master Plan. Thank you.

Very truly yours,



Molly Erickson

Attachments to March 14, 2014 letter

- A. 2010 County General Plan policies LU-9.6 and LU-9.7
- B. Transcript of Lou Calcagno comments at February 13, 2014 FORA meeting
- C. 2010 County General Plan Policy PS -3.1
- D. Reuse Plan Draft EIR Public Hearing Comment 21
- E. Reuse Plan Final EIR Response to Public Hearing Comment 21
- F. Development and Resource Management Plan. F-1 – 1997 Reuse Plan, pp. 127-136. F-2 – “republished” plan not adopted by FORA Board, pp. 194-203
- G. Reuse Plan Draft EIR Comment Letter 328 from CSUMB Watershed Institute
- H. Reuse Plan Final EIR Response to Comment Letter 328 from CSUMB Watershed Institute – changing language of Biological Resources Policy C-2
- I. Reuse Plan Final EIR – excerpts addressing Biological Resources Policy C-2
- J. 1997 Reuse Plan – excerpts addressing Biological Resources Policy C-2
- K. 2010 Fort Ord Master Plan language re Biological Resources Policy C-2

# 2010 County General Plan policies on General Plan amendments

## LU-9.6

The County shall develop a specific process for general plan amendments recognizing:

- a. The right of an individual to apply;
- b. The need to collectively review plan amendments in a comprehensive, cumulative and timely manner;
- c. A need for an early assessment of plan amendment requests to determine the suitability of the request and provide early feedback to applicants before embarking on an extensive, expensive amendment process; and,



- d. The Board shall consider two packages of general plan amendments per year. Projects deemed complete prior to October 16, 2007 shall not be subject to this limit.

## LU-9.7

The County shall develop criteria for consistently evaluating amendments. Amendments should be considered if:

- a. There is a demonstrable error or oversight in the adopted plan; or,
- b. There is a clear change of facts or circumstances; or,
- c. The amendment better carries out the overall goals and policies of the general plan and the amendment is in the public interest.





**February 13, 2014 FORA Board of Directors Meeting  
Comments by FORA Director Lou Calcagno, County Supervisor  
re: Agenda Item 8a (General Plan Consistency Determination)**

(Starting at 56:10 on the recording)

I've sat back and I've listened. I can support Supervisor Potter's idea that the plans will compliment each other. I can go ahead with that. But, when I hear my friend Ralph Rubio mention that the Army's got so much water that was assigned to them – that was assigned out of 2A. 2A is water from Nacimiento and San Antonio. Everyone else in that basin was assigned water too. **And it's gotten to the point where the basin is being overdrafted. There's not enough water to sustain the growth that we've put upon it. I'll come right out frank and say it, there's not enough water to supply Fort Ord growth in the future until we develop a new supply.**

At present time, the community of Castroville probably won't have water in four to five years. Every time you take water out of the basin and you go further down the valley with a Marina Coast well, you're taking it away from the community of North County where we realized many years ago that there could be no more growth and that we had to put a moratorium – one house per parcel – whether its one hundred acres, two hundred acres or whatever. You know, the General Plan of Monterey County might be comparable, but we're all pulling out of a basin called 2A, 2B and 2C. It belongs to all of us. And **right now, if FORA was to grow with their plans**, you take water away from the City of Salinas. You take it away from Castroville. You take it away from North County and you're already doing that. **There's no water in that basin to sustain this type of growth.**  
(58:00)

**When we planned that at the County, and said there was long term water supply, we were planning that the Rubber Dam was going to work. It's not working.** Because we've got to leave out a hell of a lot more water to get it down to the Rubber Dam so we can get it in our system, and ten times more. And the reason for that is we've got growth in the Salinas Valley and agriculture and they are pumping the water out. We also got trees in the river that are sucking 28,000 acre feet out.

So right now, until we get a water supply – and I'll go along with supporting the action on the floor – but if this body thinks Marina Coast is going to get water for them, unless it comes from desal, it's not going to come from the ground, and you got to understand that. And you know the Salinas Valley is going to fight like hell

if you, if Marina Coast goes another mile up the valley and digs another well to bring water to Fort Ord for growth. We can't afford to have that water. We're going to have agriculture around that's going to be pumping salt. It's already to Cooper Road, for any of you who know where that is, that's seven miles in. It's moving towards Blanco.

**There is no more water. We have no more CSIP. You've got to understand that. And if there's going to be growth you need a water project and you need it fast.** And if it's desalinization, fine. I'm going to go along with this today, but if it gets any further then . . . Growing to take water out until you have a water supply, you're taking it away from my constituents. You're going to create an economy here and kill an economy somewhere else. That can't be. We need more water. (59:49)

In the basin you're pulling out, you need 58,000 acre feet in a year to fill it up. And you're going to need about 28 years to do that before we get it back where it was. You know, you don't need brain science to figure it out. If you want to go on a tour, I'll take you on a tour and show you where it's at. Marina Coast just keeps moving up and moving up and their moving up to the Salinas Valley. The next damn well will be at Spreckels. Castroville can't afford to go to Spreckels to get their water.

**I feel bad because in the General Plan, North County, which includes all the basin that you're pulling water out, we realized there was no water and we said one house per parcel. In the meantime, East Garrison is growing, Marina is growing with houses. That's not fair. That's not fair.** Our General Plan might be a good general plan, but one area is not comparable to another. What we're doing is sacrificing one area so another area can grow. When you've got the water, I'll support it and I'm sure not against any of that. But right now I've got to worry about my people and the people I represent. They don't have water. And they are losing water everyday. If you don't know where your water is coming from, I'll show you where your water is coming from, and it's coming further and further into the Salinas Valley because salt water is already up seven miles. And you're taking it away from communities. (1:01:00)

I don't want to spend much time on it. I'm going with this motion on the floor, but I'll tell you what – **if it goes for any development, until there's a new water supply where my people have water, I'm not supporting any more growth at Fort Ord and I'll lead the charge against it.**



- PS-2.9 The County shall use discretionary permits to manage construction of impervious surfaces in important groundwater recharge areas in order to protect and manage groundwater as a valuable and limited shared resource. Potential recharge area protection measures at sites in important groundwater recharge areas may include, but are not limited to, the following:
- a. Restrict coverage by impervious materials.
  - b. Limit building or parking footprints.
  - c. Require construction of detention/retention facilities on large-scale development project sites overlying important groundwater recharge areas as identified by Monterey County Water Resources Agency.

The County recognizes that detention/retention facilities on small sites may not be practical, or feasible, and may be difficult to maintain and manage.

### *LONG-TERM WATER SUPPLY*

#### **GOAL PS-3**

**ENSURE THAT NEW DEVELOPMENT IS ASSURED A LONG-TERM SUSTAINABLE WATER SUPPLY.**

#### *Policies*

##### PS-3.1

Except as specifically set forth below, new development for which a discretionary permit is required, and that will use or require the use of water, shall be prohibited without proof, based on specific findings and supported by evidence, that there is a long-term, sustainable water supply, both in quality and quantity to serve the development.

This requirement shall not apply to:

- a. the first single family dwelling and non-habitable accessory uses on an existing lot of record; or
- b. specified development (a list to be developed by ordinance) designed to provide: a) public infrastructure or b) private infrastructure that provides critical or necessary services to the public, and that will have a minor or insubstantial net use of water (e.g. water facilities, wastewater treatment facilities, road construction projects, recycling or solid waste transfer facilities); or
- c. development within Zone 2C of the Salinas Valley groundwater basin, provided the County prepares or causes to be prepared a study for the Board of Supervisors regarding Zone 2C, to be completed no earlier than October 31, 2017 and no later than March 31, 2018 that does the following:



- 1) evaluates existing data for seawater intrusion and groundwater levels collected by Monterey County Water Resources Agency as of the date the study is commenced;
- 2) evaluates the total water demand for all existing uses and future uses designated in the General Plan EIR for the year 2030;
- 3) assesses and provides conclusions regarding the degree to which the total water demand for all uses designated in the General Plan for the year 2030 are likely to be reached or exceeded;
- 4) evaluates on an annual basis during the study period groundwater elevations and the seawater intrusion boundary;
- 5) based on historical data and the data produced by the study, evaluates and provides conclusions regarding future trends and any expected movement of groundwater elevations and the seawater intrusion boundary;
- 6) should the study conclude that i) total water demand for all uses designated in the General Plan for the year 2030 is likely to be exceeded; or ii) groundwater elevations are likely to decline by the year 2030 and iii) the seawater intrusion boundary is likely to advance inland by the year 2030, the study shall make recommendations on measures the County could take to address any or all of those conditions; and
- 7) addresses such other matters as the Board of Supervisors determines are appropriate.

Within two months following the completion of the study, the Board of Supervisors shall hold an open and noticed public hearing on the results of the study. If the study reaches the conclusions for Zone 2C identified in subsection 6) i or 6) ii and 6) iii, the Board of Supervisors shall adopt one or more measures identified in the study, or other appropriate measures, to address the identified conditions. This exception for Zone 2C shall be a rebuttable presumption that a Long Term Sustainable Water Supply exists within Zone 2C, and the presumption shall remain in effect until and unless the study reaches the conclusion for Zone 2C identified in subsection 6) i or 6) ii and 6) iii. Development in Zone 2C shall be subject to all other policies of the General Plan and applicable Area Plan.

Following completion of the study described herein, and the adoption of measures as may be recommended in the study, if any, the County shall prepare a report to the Board of Supervisors every five (5) years for Zone 2C that examines the degree to which a) total water demand for all uses predicted in the General Plan EIR for year 2030 will be reached; or b) groundwater elevations, the seawater intrusion boundary have changed since the prior reporting period; and c) other sources of water supply are available.

*(Amended by Board Resolution 13-028)*



18 The short term project should face the realities now rather than some later date. The long term project is 18,000 acre ft which is 25% over all the water the peninsula is presently using, and where will that come from.

19 David Dilworth said this project is too big. This is a slow-motion explosion with 70,000 people, 5 golf courses, 1700 hotel rooms. The no project is the only alternative that is appropriate given the information written so far. What is this we are creating - is it a special district under the laws of California or is it part of the county or is it its own city. Or is this some new district we can't figure out. Can we vote on what goes on here? Before you go forward with this project, we need a vote of the people of all the districts who are represented here and see what they think about it.

20 Ted Ciesla of Casa Ciesla Properties in Monterey - commented on the Comprehensive Business Plan which states it anticipates the needs of 6,500 housing units to 2015 - that equates to 342 units per year. The plan is based on a statistic which is around 5% vacancy rate and that figure is erroneous. We currently have a vacancy rate in rental housing of approx. 1% if not less. Today the Californian reported a 0% vacancy rate. He advises staff to do a critical review of housing vacancy rates and adjust their logic accordingly.

21 John Fisher of Pacific Grove - supports concept of phasing the project in until you know the transportation and water issues are taken care of. There are assumptions about the Hatton Canyon improvement being in place and there are people who do not want this and what happens to this plan then. There is an assumption the 68 freeway will be in place and according to Caltrans that is a 110ft cut or more into BLM property. Which population figures do we use? AMBAG has numbers but the difference in the numbers are great between 2015 and buildout vs AMBAG. Please go very slowly.

Michael Houlemard from UCSC -UC incorporated 605 acres into the UC Natural Reserve System and this should be reflected in the planning documents; conflicts between numbers in the documents; no description of permitted use on the UC parcel between Imjin and Inter-Garrison Roads - *written comment attached see # 34*

Clark Beck -concern over Route 68 alternative alignment traversing Fort Ord; would like extension of York Rd. removed from Fort Ord maps - *written comments attached see # 35*

Yoko Whitaker -request study sessions and public hearings; would like detailed "executive summary" copies available, more copies at public libraries; DEIR too general. lacks details on transportation and water solutions; how are taxpayers to be affected by costs of development - *written comments attached see # 36*

2 Ed Stark from Carmel stated (1) there is not adequate roads and (2) there is not enough water. It sounds like the taxpayers will be forced to pay an exorbitant amount of tax to ensure the developments we need. He would challenge anyone on this Board

18, 19, 20, 21, 22



15 alternatives that are stated, importation, desalination. We all know there is a problem on the peninsula now and we need real solutions to move forward.

16 Becky Tyksinski from Monterey County - stated it is important that the comment period was extended in light of according to CEQA the basic characteristics of an EIR are that it is an unbiased document, that it is adequate and its major objective is a good faith effort toward full disclosure including complete description of the project. Rancho Buena Vista Coalition experience has consistently shown that the best environmental impact report analysis are local community members when provided with adequate time and education to be able to examine EIRs. FORA needs to provide, not only ample time for community examination, workshops as well including at least one in Salinas, preferably on a weekend or an off time. Two examples of public concerns with the adequacy of this draft EIR - one relates to the EIR being an unbiased document - there is a question as to how unbiased this document is when it fails to include as an alternative, a build-out that only uses safe, sustainable yield on-site water, leaving us with the only other alternative as no project at all. Secondly, another concern is that in discussing a program EIR is that a program EIR can have language that is so general concerning its overall plan that later on almost anything specific can be proposed which can be represented to fall within the guidelines of the original EIR and that can lead to a much lower level, if any at all, of further environmental review.

Sal Horquita -EIR needs to mention clean-up of toxic materials, ordinance etc.- *written comments attached*  
*see # 32*

Curt Gandy -request extension of public review because DEIR presents "unusual circumstance", requests public workshops on the DEIR - *written comments attached*  
*see # 33*

7 Barbara Brooks, Peninsula resident - does not believe the comment period has been extended far enough. It will change the face of this peninsula and needs to have as much public participation as possible. Has the process to this point complied with CEQA - it is her understanding it has not, in that, CEQA requires an Executive Summary which would be a number of pages instead of volumes that would detail what is in this project. To this point it has not been prepared and once the clock starts ticking the public should have that document in hand. She requests to get the document out and extend the public comment period a reasonable time after the public receives this document. She challenged the appropriateness of the program EIR- doesn't simplify the process sound like avoid - we should be looking at each thing that comes on line which is done by a staged EIR.

18 Sean Flavin on behalf of CAWS - Committee for Alternate Water Sources- he commends the EIR for recognizing the 2 primary constraints which face the development of Fort Ord which are water and traffic. If the water is not available then what is proposed, what measures would be considered for this project. The only thing reported is accelerate the development of other sources such as importing water, but not told from where it would be imported, and the construction of desalination plant.



## Response to Public Hearing Comment 18

18-1. The commenter requests additional information on water. Refer to response to comment 8-5.

## Response to Public Hearing Comment 19

19-1. Commenter wants to know what Fort Ord will be. The former military base will be sold and distributed to various federal, state and local entities for reuse. Portions will be in the jurisdictions that currently exist, which include Monterey County, Marina, Seaside, UC, CSUMB and the Presidio of Monterey Annex, etc. As established by Senate Bill (SB) 899, FORA is a governing body, formed to accomplish the transfer of the former military base. The basis of FORA's existence is discussed in the Draft EIR (page 1-1). FORA has a mandated life span of 20-years to the year 20014, or until 80 percent of redevelopment has occurred, whichever is first. As it pertains to allowing a vote of all the people regarding future use at Fort Ord, this would be a decision for the FORA Board to make.

## Response to Public Hearing Comment 20

20-1. Comment regarding vacancy rate percentage used in the Comprehensive Business Plan. The vacancy rate referred to applies to the multiple family supply which reflects the short-run constraints in the market. The market projections for all housing types that could be captured at Fort Ord is 9,025 units, including reuse of 1,522 existing units and occupancy by CSUMB of another 1,253 units. The Reuse Plan therefore anticipates market support for 6,250 new units in that period. Refer to Exhibit 3 on page II-7 in Appendix B of the Reuse Plan.

## → Response to Public Hearing Comment 21

21-1. Comment refers to phasing of future development at Fort Ord as it pertains to transportation and water issues.

The Final PEIR identifies an additional mitigation measure to address the phasing of future development at Fort Ord to mitigate potential environmental impacts associated with: 1) traffic and circulation (section 4.7) addressing roadway capacity and capital resources to fund required improvements; 2) hydrology and water quality (section 4.5) including available water supply and seawater intrusion into the aquifer; and capital resources to fund required improvements. The additional mitigation measure is a Development and Resource Management Plan (DRMP) to establish programs and monitor development at Fort Ord to assure that it does not exceed resource constraints posed by transportation facilities and water supply. The



components of the DRMP include: 1) Management of transportation improvements, 2) Management of available water supply, 3) Provision of adequate public services, and 4) Capital Planning. The DRMP requires an annual report on the Development, Resource and Service Levels.

The Reuse plan will be amended to include the additional mitigation measures to provide a DRMP to implement the growth management approach and principles and incorporate the levels of service standards of the Draft Reuse Plan.

Volume I of the Reuse Plan will include a new section 3.11.5 titled FORA's DRMP.

Volume II of the Reuse Plan will include for the individual land use jurisdictions, additional programs for: Section 4.4 - "Public Services, Utilities and Water Supply," and for Section 4.7 - "Traffic and Circulation."

### Changes to the EIR

Amend Section 4.4 - Public Services, Utilities and Water Supply

Page 4-43. Hydrology and Water Quality Program B-1.1. Amend this program to read as follows:

"The City/County, with assistance input from FORA, and the MCWRA MPWMD, shall identify potential reservoir and water impoundment sites on the former Fort Ord and zone those areas for watershed use which would preclude urban development."

Page 4-43. Hydrology and Water Quality Program B-1.2. Amend this program to read as follows:

"The City/County shall work with FORA and the MCWRA appropriate agencies to determine the feasibility of developing additional water supply sources for the former Fort Ord, such as water importation ..."

Page 4-43. Hydrology and Water Quality Program B-1.3. Amend this policy to read as follows:

"The City/County, in conjunction with FORA, shall adopt and enforce ..."

Page 4-43. Hydrology and Water Quality Policy B-1. Add the following new program:

"Program B-1.4: The City/County shall continue to actively participate in and support the development of "reclaimed" water supply sources by the water purveyor and the MRWPCA to insure adequate water supplies for the former Fort Ord."

Page 4-43. Hydrology and Water Quality Policy B-1. Add the following new program:

"Program B-1.5: The City/County shall promote the use of on-site water collection, incorporating measures such as cisterns or other appropriate improvements to collect surface water for in-tract irrigation and other non-potable use."

Page 4-43. Hydrology and Water Quality Policy B-1. Add the following new program:

"Program B-1.6: The City/County shall work with FORA to assure the long-range water supply for the needs and plans for reuse of the former Fort Ord."

Page 4-43. Hydrology and Water Quality Policy B-1. Add the following new program:


"Program B-1.7: The City/County, in order to promote FORA's DRMP, shall provide FORA with an annual summary of the following: 1) the number of new residential units, based on building permits and approved residential projects, within its former Fort Ord boundaries and estimate, on the basis of the unit count, the current and projected population. The report shall distinguish units served by water from FORA's allocation and water from other available sources; 2) estimate of existing and projected jobs within its Fort Ord boundaries based on development projects that are on-going, completed, and approved; and, 3) approved projects to assist FORA's monitoring of water supply, use, quality, and yield."

Page 4-43. Add the following new mitigation:

"Mitigation: A Development and Resource Management Plan (DRMP) to establish programs and monitor development at Fort Ord to assure that it does not exceed resource constraints posed by transportation facilities and water supply shall be established by FORA."

Page 4-84. Add the following new mitigation:

"Mitigation: A Development and Resource Management Plan (DRMP) to establish programs and monitor development at Fort Ord to assure that it does not exceed resource constraints posed by transportation facilities and water supply shall be established by FORA."



### Changes to the Reuse Plan

Volume I. Context and Framework. Section 3.11.4. Insert the following new section 3.11.5 and sequentially renumber existing section 3.11.5 to 3.11.6 and section 3.11.6 to 3.11.7:

#### 3.11.5 FORA's Development and Resource Management Plan (DRMP)



### 3.11.5.1. Objectives of the DRMP

Reuse of the former Fort Ord will utilize the DRMP to restrain development to available resources and service constraints. The DRMP objectives are:

- Development on former Fort Ord lands will be limited by the availability of services;
- Service availability is measured by compliance with Level of Service standards;
- Services are limited by resource and financial constraints. Resource limitations describe holding capacity limitations. Financial limitations are expressed in the Capital Improvement Program (CIP), and its periodic updates, for Base Reuse; and
- Services will be extended to development on a first come first served basis, up to the financial and resource limitations.

### 3.11.5.2 Components of the DRMP

To adequately implement the approach and principles described in sections 3.11.1 through 3.11.4, FORA will establish programs and monitor the following components of the DRMP:

- Management of Transportation Improvements,
- Management of Water Supply;
- Provision of Public Services; and
- Capital Planning.

FORA shall provide an annual report on the Development, Resource and Service Levels.

### 3.11.5.3 Management of Transportation Improvements

The development of transportation improvements is more a financial constraint than a resource constraint. However, the funding of an adequate transportation system must be paired with measurement of current and future traffic congestion to insure compliance with Level of Service standards. Programs to implement this component of the DRMP include:

3.11.5.3 (a) Fair Share Financing Program. FORA shall fund its "Fair Share" of "on-site," "off-site," and "regional" roadway and transit capital improvements based on the nexus analysis of the TAMC regional transportation model. The nexus is described in the Public Facilities Improvement Plan, Volume 3 of the Reuse Plan, as amended from time to time. The nexus has been updated to reflect TAMC's

re-prioritizing of improvements in the network and is reported in the "Fort Ord Regional Transportation Study," prepared by TAMC, January 6, 1997.

**3.11.5.3 (b) Reimbursement Programs for On-site and Off-site Improvements.**

FORA will retain the flexibility to build roadway improvements to the "on-site" and "off-site" network, as described in the Reuse Plan to serve development activities at the former Fort Ord. FORA will participate in reimbursement programs to recover expenses beyond Fort Ord's fair share when alternative programs for financing roadway and transit improvements are established.

**3.11.5.3 (c) Regional Improvements Program.** FORA intends to participate in a regional transportation financing mechanism if adopted by TAMC, as provided in 3.11.5.3 (a). If not, FORA will collect and contribute Fort Ord's "Fair Share" to construction of a roadway arterial network in and around the former Fort Ord. FORA's participation in the regional improvements program constitutes mitigation of FORA's share of cumulative impacts.

**3.11.5.3 (d) Monitoring Transportation Improvements.** Monitoring of transportation improvements will prevent development from exceeding FORA's Level-of-Service Standards.

LAND USE JURISDICTION RESPONSIBILITY. Each Land Use Jurisdiction shall annually provide information to TAMC and FORA on approved projects and building permits with their jurisdiction (both on the former Fort Ord and outside the former base), including traffic model runs, traffic reports, and environmental documents.

FORA RESPONSIBILITY. FORA shall work with TAMC to monitor current and projected traffic service levels on links identified as "on-site" and "off-site" segments in the Reuse Plan.

TAMC RESPONSIBILITY. TAMC shall monitor current and projected traffic service levels on links identified as "on-site," "off-site," and "regional" segments in northern Monterey County that affect the Reuse of the former Fort Ord.

**3.11.5.4 Management of Water Supply**

Water supply is a central resource constraint for development of Fort Ord. Insuring that development does not exceed the available water supply and safe yield is a major component of the DRMP. The following measures ensure that development is managed within this resource constraint.

**3.11.5.4 (a) Water Allocation Program.** FORA has adopted a program for allocation of the existing potable water supply by jurisdiction. The allocation is summarized in Table 3.11-2. The allocation will provide the member agencies the necessary certainty of water supplies to responsibly manage development within each individual land use jurisdiction.

1) Implementation Procedures and Annual Report. FORA shall enter into an allocation agreement or agreements with the member agencies to implement the allocation program and define procedures to address:

(a) the exchanges of water allocations among member jurisdictions;

(b) an annual allocation of the strategic reserve;

(c) mechanisms to assure the jurisdictions remain within their allocation; and

(d) changes to the allocation resulting from changes in the availability of the total existing water supply to the former Fort Ord.

2) 5-Year Review. FORA and the member agencies shall review and, if necessary, revise the water allocation program at least every five years. This review process will be established in FORA's allocation agreement(s) with the member agencies.

3) Water Allocation Monitoring. The water allocation will be monitored at the time of project reviews.

LAND USE JURISDICTION RESPONSIBILITY. Development projects approved by each land use jurisdiction will require a finding by that land use jurisdiction that the project can be served with their jurisdictional water allocation or by water imported to the former Fort Ord from another available water source.

FORA RESPONSIBILITY. If projects approved by the land use jurisdictions cannot be served by water supplied by the FORA water purveyor from the jurisdiction's allocation or by water imported to the former Fort Ord from another available water source, the FORA Board will be required to determine that the project is Not Consistent with the Reuse Plan.

3.11.5.4 (b) Residential Development Program. To prevent using up scarce resource availability, overall residential development limitations must be put in place to save capacity for industrial/commercial land uses and to prevent residential development from outstripping the existing 6600 afy of potable water supply at the former Fort Ord. The land use jurisdictions shall manage and determine the use for their full water allocation. The Residential Development Program limits total residential development that is served by the FORA existing potable water supply, based on the planning projections detailed in Table 3.11-3:

1) Residential Population Limit. Based on the existing potable water supply of 6,600 afy, the total resident population limit at the former Fort Ord is estimated to be 37,370.

2) New Residential Unit Limit. Based on the existing potable water supply of 6,600 afy, the total new residential units within the former Fort Ord shall not exceed 6,160 so that when combined with replacement or occupancy of the 1,813

existing units the total residential units shall not exceed 7,973 (excluding CSUMB and POM Annex housing). FORA's DRMP does not attempt to allocate residential units to the land use jurisdictions.

3) Residential Unit and Population Monitoring. Residential units and population will be monitored to prevent residential development from exceeding available water supplies.

LAND USE JURISDICTION RESPONSIBILITY. Each land use jurisdiction shall annually report to FORA the number of new residential units, based on building permits and approved residential projects, within its former Fort Ord boundaries and estimate, on the basis of the unit count, the current and projected population. The report shall distinguish units served by water from FORA's allocation and water from other available sources.

FORA RESPONSIBILITY. FORA shall incorporate the report on the residential population and units in its annual report.



**TABLE 3.11-2**  
**Allocation of Existing Potable Water Supply**  
**By Jurisdiction**  
**(Based on FORA's April 12, 1996 Resolution)**

<u>JURISDICTION</u>	<u>TOTAL WATER ALLOCATION (AFY)</u>	<u>NOTES</u>
City of Seaside	710	
County/City of Del Rey Oaks	75	Plus reclaimed water for golf course
County/City of Monterey	65	
City of Marina	1,185	
Monterey County	545	
ARMY	1,410	
CSUMB	1,035	Plus reclaimed water for irrigation
UCMBEST	165	Plus reclaimed water for irrigation
County/State Parks and Recreation	45	
County/Marina Sphere Polygon 8a	50	
<b>SUBTOTAL</b>	<b>5,285 AFY</b>	
Line Loss (10%)	530	
FORA Strategic Reserve		
Encumbered Reserve:		
Army - 160 AFY <sup>1</sup>		
CSUMB - 125 AFY <sup>1</sup>		
Seaside - 230 AFY <sup>2</sup>		
Unencumbered - 270 AFY	785	
<b>TOTAL</b>	<b>6,600 AFY</b>	

**ENCUMBRANCES TO FORA'S STRATEGIC RESERVE:**

<sup>1</sup> 160 AFY at the POM Annex and 125 AFY at CSUMB polygon 10 are available upon metering of existing dwelling units.

<sup>2</sup> 230 AFY loaned to Seaside is available to Seaside for golf course irrigation until reclaimed replacement water is provided.

**TABLE 3.11-3**  
**Projected Residential Development Through 2015**  
**(Based on the Existing 6,600 AFY of Potable Water)**

<u>CATEGORY</u>	<u>UNITS</u>	<u>OCCUPANCY</u>	<u>POPULATION</u>
POM Annex	1,590	2.6/unit	4,134
CSUMB Housing <sup>1</sup>	1,253	2.0/unit	2,506
New Housing <sup>2</sup>	6,160	2.6/unit	16,016
Existing Housing	1,813	2.6/unit	4,714
CSUMB on campus students <sup>3</sup>	NA	NA	10,000
<b>TOTAL</b>	<b>10,816</b>	=	<b>37,370</b>

<sup>1</sup> Assumes that no students live in this housing. If students occupy this housing then the estimate for students living on campus would be reduced to avoid double counting.

<sup>2</sup> Single Room Occupancy Units (SRO's) shall be counted as .38 units based on a comparable water demand.

<sup>3</sup> Assumes 80% of 2015 projections of 12,500 FTE.

**3.11.5.4 (c) Industrial and Commercial Job Creation Programs.** The replacement of the 18,000 jobs lost as a result of the closure of Fort Ord is a major goal of the Reuse Plan. Market studies for the Reuse Plan show that the market for industrial and commercial job creation is weak and will, in fact, be the principal limitation on non-residential development. When the estimated jobs within the former Fort Ord boundaries reaches 18,000, the Residential Development Program (3.11.5.4(b) shall be eliminated. The following measures are designed to implement this DRMP component.

**1) Priority Infrastructure Funding.** The CIP shall provide priority funding for infrastructure to serve industrial and commercial development.

**2) Development Tax Fee Burdens.** The financial program shall implement tax and fee burdens that promote industrial and commercial uses. FORA will initiate appropriate proceedings for the implementation of development tax burdens to transfer some infrastructure costs from job-generating uses to residential development.

3) Job Creation Monitoring. Job creation monitoring will provide FORA with information necessary to monitor the effectiveness of the Residential Population and New Unit Limits.

LAND USE JURISDICTION RESPONSIBILITY. Each Land Use Jurisdiction shall prepare an annual estimate of existing and projected jobs within its Fort Ord boundaries based on development projects that are on-going, completed, and approved.

FORA RESPONSIBILITY. FORA shall incorporate the job creation reports into its annual report.

TABLE 3.11-4  
Job Creation Projected Through 2015  
(Based on 6,600 afy Water Supply)

<u>LAND USE CATEGORY</u>	<u>PERCENT BUILDOUT</u>	<u>EMPLOYEES</u>
<u>CSUMB</u>	<u>50%</u>	<u>1,600</u>
<u>POM Annex</u>	<u>100%</u>	<u>310</u>
<u>Industrial/Office/R&amp;D</u>	<u>30%</u>	<u>11,350</u>
<u>Retail</u>	<u>60%</u>	<u>2,372</u>
<u>Hotel (Includes golf and other visitor-serving)</u>	<u>56%</u>	<u>1,155</u>
<u>Parks and Open Space (State Park, etc.)</u>	<u>100%</u>	<u>90</u>
<u>Public Facilities (Schools, MPC, including military)</u>	<u>99%</u>	<u>1,450</u>
<u>Habitat Management</u>	<u>100%</u>	<u>15</u>
<u>TOTAL</u>		<u>18,342</u>

3.11.5.4 (d) Water Supply Management and Augmentation Programs. The management of existing groundwater supplies, water conservation, and providing alternative sources of water supply are all necessary water management measures required to implement the objectives of the Reuse Plan. Development beyond the limits defined in the DRMP will be allowed only upon the augmentation of existing water supplies.

1) Protection of Yield and Quality of Water Supplies. Pumping from the on-site well-water supply for FORA has been shown to effect the extent of seawater intrusion into the shallow aquifers. FORA shall:

(a) participate in on-going water basin management planning;

(b) actively manage the water supply allocation so as to remain within the water resources available to the former Fort Ord under the auspices of the Responsible Regional Agency, the Monterey County Water Resources Agency (MCWRA);

(c) through the water purveyor, monitor chloride levels in the wells supplying the former Fort Ord in order to provide warning of salt water intrusion. If a detected upward trend in chloride levels results in exceeding potable water standards over a five year period, the FORA Board will be notified by the water purveyor in order to take corrective action.

(d) take measures to eliminate extraction of the former Fort Ord's water supply from the 180-foot shallow aquifer by encasing those wells through the shallow aquifer zone.

2) Water Use Efficiency Program. FORA shall establish water efficiency and on-site reuse policies governing development to achieve conservation objectives.

3) Reclaimed Water Source and Funding. FORA shall continue to actively participate in and support the development of reclaimed water supply sources by the water purveyor and the Monterey Regional Water Pollution Control Agency (MRWPCA) to insure adequate water supplies for the former Fort Ord. The CIP shall fund a reclaimed water program adequate for the full development of industrial and commercial land uses and golf course development.

4) On-Site Water Collection Program. FORA shall promote the use of on-site water collection, incorporating measures such as cisterns or other appropriate improvements to collect surface water for in-tract irrigation and other non-potable use.

5) Additional Potable Water Supplies Program. FORA may investigate and provide appropriate augmentation of the potable water supplies to:

(a) assure the long-range water supplies for the needs and plans for the planned uses at the former Fort Ord;

(b) assure the economic viability of the reuse financing measures; and

(c) promote the goals established for FORA in SB-899.

6) Monitoring of Water Supply, Use, Quality, and Yield. Water supply, use, quality, and yield shall be monitored to meet the DRMP objectives.

LAND USE JURISDICTION RESPONSIBILITY. Each land use jurisdiction shall provide FORA with an annual summary of approved projects.

FORA RESPONSIBILITY. FORA shall monitor the availability of potable and non-potable water and compare it with existing use. This monitoring is undertaken to insure that the water consumption at the former Fort Ord will not exceed the contracted, owned, or allocated water supply of FORA or its member agencies for use within the former Fort Ord boundaries.

FORA shall pursue partnerships with MRWPCA and other appropriate agencies to develop sources of reclaimed water available to the former Fort Ord.

WATER PURVEYOR RESPONSIBILITY. The water purveyor shall annually report to FORA on:

(a) the use of water by on-going and existing projects;

(b) consumption rates for potable and non-potable water for typical users; and

(c) chloride levels of the water withdrawn from the former Fort Ord's wells and, if necessary, recommended corrective actions.

MCWRA RESPONSIBILITY. MCWRA shall continue to manage the Salinas River Valley ground water aquifers on a basin-wide basis to ensure an available water supply to FORA.

### 3.11.5.5 Other Public Services

FORA has adopted service levels in the Reuse Plan for wastewater, habitat management and fire protection. FORA shall work with the land use jurisdictions and service providers to assure that development has sufficient public services to meet the adopted service levels.

1) Monitoring of Public Services. The availability of public services will be monitored at the time of project review.

LAND USE JURISDICTION RESPONSIBILITY. Development projects approved by each land use jurisdiction will require a finding by that land use jurisdiction that the project can be served with adequate public services for wastewater, habitat management, and fire protection consistent with FORA's Level-of-Service Standards.

FORA RESPONSIBILITY. If a project approved by a land use jurisdiction does not meet FORA’s Level-of-Service Standards, the FORA Board will be required to determine that the project is Not Consistent with the Reuse Plan.

**3.11.5.6 Capital Planning to Assure Financial Integrity**

FORA’s CIP is the principal mechanism for insuring adequate service levels within resource constraints.

1) Preparation of Annual Update. FORA shall annually update the CIP to reflect the proposed capital projects. The extension of infrastructure shall be made on a first-come-first-served basis consistent with funding capabilities and best engineering practices.

2) Monitoring of CIP Conformance.

LAND USE JURISDICTION RESPONSIBILITY. Each development approval by a land use jurisdiction for a project that will utilize infrastructure included in FORA’s CIP will require a finding by that land use jurisdiction that the project is consistent with FORA’s CIP or can be served by infrastructure provided to the project from outside the former Fort Ord boundaries.

FORA RESPONSIBILITY. If a project approved by a land use jurisdiction cannot be served by adequate infrastructure, the FORA Board will be required to determine that the project is Not Consistent with the Reuse Plan.

**3.11.5.7 Annual Development, Resource and Service Level Report**

Annual monitoring and reporting is a fundamental contributor to the effectiveness and public support for the DRMP. The report shall project demand for services from projected growth and recommend actions that FORA may take to remain within resource capacity or service level standards.

FORA RESPONSIBILITY. FORA shall prepare an annual report on the programs included in the DRMP on the following topics:

Transportation

Available Water Supply

- Water Allocation by Jurisdiction
- Residential Units and Population
- Industrial and Commercial Job Creation.
- Water Supply, Use, Quality, and Yield.

Other Public Services.

CIP.

## Changes to the Reuse Plan

Volume II. Section 4.2.2 - Streets and Roads. 4.2.2.5 - Policies and Programs

Page 4-104. Amend Streets and Roads Policy A-1 to read as follows:

"FORA and each jurisdiction with lands at former Fort Ord shall coordinate with and assist TAMC in providing funding for an efficient regional transportation network to access former Fort Ord and implement FORA's Development and Resource Management Plan (DRMP)."

Page 4-104. Amend Streets and Roads Program A-1.1 to read as follows:

"Each jurisdiction, through FORA's DRMP, shall fund its "fair share" of "on-site," "off-site," and "regional" roadway improvements based on the nexus analysis of the TAMC regional transportation model. The nexus is described in the Public Facilities Improvement Plan, Volume 3 of the Reuse Plan, as amended from time to time. The nexus has been updated to reflect TAMC's re-prioritizing of improvements in the network and is reported in the "Fort Ord Regional Transportation Study," prepared by TAMC, January 6, 1997. FORA and each jurisdiction with lands at former Fort Ord shall provide a funding mechanism to pay for former Fort Ord's share of impact on the regional transportation system. "

Page 4-104. Amend Streets and Roads Program A-1.2 to read as follows:

"FORA will retain the flexibility to build roadway improvements to the "on-site" and "off-site" network, as described in the Reuse Plan to serve development activities at the former Fort Ord. FORA will participate in reimbursement programs to recover expenses beyond Fort Ord's fair share when alternative programs for financing roadway and transit improvements are established."

~~FORA and each jurisdiction with lands at former Fort Ord shall identify specific transportation issues that affect former Fort Ord and support and participate in regional and state planning efforts and funding programs to provide an efficient regional transportation effort to access former Fort Ord.~~

Page 4-104. Amend Streets and Roads Program A-1.3 to read as follows:

"Each jurisdiction, through FORA's DRMP, shall participate in a regional transportation financing mechanism if adopted by TAMC, as provided in 3.11.5.3 (a) the DRMP. If not, FORA will collect and contribute Fort Ord's "fair share" to construction of a roadway arterial network in and around the former Fort Ord. FORA's participation in the regional improvements program constitutes mitigation of FORA's share of cumulative impacts.

Page 4-104. Amend Streets and Roads Program A-1.4 to read as follows:

"In order for FORA to monitor the transportation improvements and to prevent development from exceeding FORA's level of service standards, each jurisdiction shall annually provide information to TAMC and FORA on approved projects and building permits with their jurisdiction (both on the former Fort Ord and outside the former base), including traffic model runs, traffic reports, and environmental documents."

Volume II. Section 4.4.2 - Hydrology and Water Quality. 4.4.2.3 - Policies and Programs

#### City of Marina

Page 4-162. Hydrology and Water Quality Program B-1.1. Amend this program to read as follows:

"The City/County, with assistance input from FORA, and the MCWRA MPWMD, shall identify potential reservoir and water impoundment sites on the former Fort Ord and zone those areas for watershed use which would preclude urban development."

Page 4-162. Hydrology and Water Quality Program B-1.2. Amend this program to read as follows:

"The City/County shall work with FORA and the MCWRA appropriate agencies to determine the feasibility of developing additional water supply sources for the former Fort Ord, such as water importation ..."

Page 4-162. Hydrology and Water Quality Program B-1.3. Amend this policy to read as follows:

"The City/County, in conjunction with FORA, shall adopt and enforce ..."

Page 4-162. Hydrology and Water Quality Policy B-1. Add the following new program:

"Program B-1.4: The City/County shall continue to actively participate in and support the development of "reclaimed" water supply sources by the water purveyor and the MRWPCA to insure adequate water supplies for the former Fort Ord."

Page 4-162. Hydrology and Water Quality Policy B-1. Add the following new program:

"Program B-1.5: The City/County shall promote the use of on-site water collection, incorporating measures such as cisterns or other appropriate improvements to collect surface water for in-tract irrigation and other non-potable use."



Page 4-162. Hydrology and Water Quality Policy B-1. Add the following new program:

“Program B-1.6: The City/County shall work with FORA to assure the long-range water supply for the needs and plans for reuse of the former Fort Ord.”

Page 4-162. Hydrology and Water Quality Policy B-1. Add the following new program:

“Program B-1.7: The City/County, in order to promote FORA’s DRMP, shall provide FORA with an annual summary of the following: 1) the number of new residential units, based on building permits and approved residential projects, within its former Fort Ord boundaries and estimate, on the basis of the unit count, the current and projected population. The report shall distinguish units served by water from FORA’s allocation and water from other available sources; 2) estimate of existing and projected jobs within its Fort Ord boundaries based on development projects that are on-going, completed, and approved; and, 3) approved projects to assist FORA’s monitoring of water supply, use, quality, and yield.”

Volume II. Section 4.4.2 - Hydrology and Water Quality. 4.4.2.3 - Policies and Programs

**City of Seaside**

Program B-1.1: See description of this program under Marina above.

Program B-1.2: See description of this program under Marina above.

Program B-2.3: See description of this program under Marina above.

Program B-2.4: See description of this program under Marina above.

Program B-2.5: See description of this program under Marina above.

Program B-2.6: See description of this program under Marina above.

Program B-2.7: See description of this program under Marina above.

Volume II. Section 4.4.2 - Hydrology and Water Quality. 4.4.2.3 - Policies and Programs

**Monterey County**

Program B-1.1: See description of this program under Marina above.

Program B-1.2: See description of this program under Marina above.

Page 4-162. Hydrology and Water Quality Program B-1.3. Amend this policy to read as follows:

“The County, in conjunction with FORA, shall enforce its existing water conservation ordinance”

Program B-2.4: See description of this program under Marina above.

Program B-2.5: See description of this program under Marina above.

Program B-2.6: See description of this program under Marina above.

Program B-2.7: See description of this program under Marina above.

21-2. Commenter would like to know what population numbers should be used. Refer to Response to comment 1-4 and 1-5.

21-3. The commenter included a comment letter at the hearing. Refer to response to comment 34

21-4. The commenter included a comment letter at the hearing. Refer to response to comment 35

21-5. The commenter comments on the need for study sessions, an executive summary, additional copies in the local libraries, the EIR being too general, and taxpayers to be affected by costs of development. As it pertains to an “executive summary”, refer to response to comment 17-2. As it pertains to additional copies at the libraries, FORA will provide five sets of the Final PEIR at each library that was used as a repository for the Reuse Plan and Draft EIR. As it pertains to the DEIR being too general in its discussion on transportation and water solutions, the comment is not specific enough to warrant a specific response. However, it is felt that FORA has adequately responded to the transportation and water issues in the Final EIR. As it pertains to taxpayers and how they are affected by future development costs, new development on Fort Ord will pay a fair share amount which reflects future Fort Ord impacts on transportation, water, sewer and drainage infrastructure. Existing residents outside of Fort Ord are not assessed any fees for redevelopment.

## **Response to Public Hearing Comment 22**

22-1. The commenter is concerned with transportation infrastructure costs and sources of water. As it pertains to water issues, the reader is referred to response to comment 8-5.

As it pertains to transportation issues, FORA has developed a funding mechanism as a part of the Reuse Plan implementation to fund roadway improvements on a “fair share” basis that are impacted by Fort Ord development.

1997 Reuse Plan adopted  
by FOEA Board - DRMP section

FORT ORD REUSE AUTHORITY



DEVELOPMENT AND RESOURCE  
MANAGEMENT PLAN

### 3.11.5 FORA's Development and Resource Management Plan (DRMP)

#### 3.11.5.1 Objectives of the DRMP

Reuse of the former Fort Ord will utilize the DRMP to restrain development to available resources and service constraints. The DRMP objectives are:

- Development on former Fort Ord lands will be limited by the availability of services;
- Service availability is measured by compliance with Level of Service standards;
- Services are limited by resource and financial constraints. Resource limitations describe holding capacity limitations. Financial limitations are expressed in the Capital Improvement Program (CIP), and its periodic updates, for Base Reuse; and
- Services will be extended to development on a first come first served basis, up to the financial and resource limitations.

#### 3.11.5.2 Components of the DRMP

To adequately implement the approach and principles described in sections 3.11.1 through 3.11.4, FORA will establish programs and monitor the following components of the DRMP:

- Management of Transportation Improvements,
- Management of Water Supply;
- Provision of Public Services; and
- Capital Planning.

FORA shall provide an annual report on the Development, Resource and Service Levels.

#### 3.11.5.3 Management of Transportation Improvements

The development of transportation improvements is more a financial constraint than a resource constraint. However, the funding of an adequate transportation system must be paired with measurement of current and future traffic congestion to insure compliance with Level of Service standards. Programs to implement this component of the DRMP include:

3.11.5.3 (a) **Fair Share Financing Program.** FORA shall fund its "Fair Share" of "on-site," "off-site," and "regional" roadway and transit capital improvements based on the nexus analysis of the TAMC regional transportation model. The



nexus is described in the Public Facilities Improvement Plan, Volume 3 of the Reuse Plan, as amended from time to time. The nexus has been updated to reflect TAMC's re-prioritizing of improvements in the network and is reported in the "Fort Ord Regional Transportation Study," prepared by TAMC, January 6, 1997.

3.11.5.3 (b) **Reimbursement Improvements Programs for On-site and Off-site Improvements.** FORA will retain the flexibility to build roadway improvements to the "on-site," "off-site," and "regional" network, as described in the Reuse Plan to serve development activities at the former Fort Ord. FORA will participate in reimbursement programs to recover expenses beyond Fort Ord's fair share when alternative programs for financing roadway and transit improvements are established.

3.11.5.3 (c) **Regional Improvements Program.** FORA intends to participate in a regional transportation financing mechanism if adopted by TAMC, as provided in 3.11.5.3 (a) and (b). Until such a mechanism is established, FORA will collect and, at its discretion, may use Fort Ord's "Fair Share" for construction of a roadway arterial network in and around the former Fort Ord. FORA's participation in the regional improvements program constitutes mitigation of FORA's share of cumulative impacts.


3.11.5.3 (d) **Monitoring Transportation Improvements.** Monitoring of transportation improvements will prevent development from exceeding FORA's Level-of-Service Standards.

**LAND USE JURISDICTION RESPONSIBILITY.** Each Land Use Jurisdiction shall annually provide information to TAMC and FORA on approved projects and building permits with their jurisdiction (both on the former Fort Ord and outside the former base), including traffic model runs, traffic reports, and environmental documents.


**FORA RESPONSIBILITY.** FORA shall work with TAMC to monitor current and projected traffic service levels on links identified as "on-site" and "off-site" segments in the Reuse Plan.

**TAMC RESPONSIBILITY.** TAMC shall monitor current and projected traffic service levels on links identified as "on-site," "off-site," and "regional" segments in northern Monterey County that affect the Reuse of the former Fort Ord.

#### 3.11.5.4 Management of Water Supply



Water supply is a central resource constraint for development of Fort Ord. Insuring that development does not exceed the available water supply, including safe yield, is a major component of the DRMP. The following measures ensure that development is managed within this resource constraint.



3.11.5.4 (a) **Water Allocation Program.** FORA has adopted a program for allocation of the existing potable water supply by jurisdiction. The allocation is summarized in Table 3.11-2. The allocation will provide the member agencies the necessary certainty of water supplies to responsibly manage development within each individual land use jurisdiction.

- 1) **Implementation Procedures and Annual Report.** FORA shall enter into an allocation agreement or agreements with the member agencies to implement the allocation program and define procedures to address:
  - (a) the exchanges of water allocations among member jurisdictions;
  - (b) an annual allocation of the strategic reserve;
  - (c) mechanisms to assure the jurisdictions remain within their allocation; and
  - (d) changes to the allocation resulting from changes in the availability of the total existing water supply to the former Fort Ord.
- (2) **5-Year Review.** FORA and the member agencies shall review and, if necessary, revise the water allocation program at least every five years. This review process will be established in FORA's allocation agreement(s) with the member agencies.
- (3) **Water Allocation Monitoring.** The water allocation will be monitored at the time of project reviews.

**LAND USE JURISDICTION RESPONSIBILITY.** Development projects approved by each land use jurisdiction will require a finding by that land use jurisdiction that the project can be served with their jurisdictional water allocation or by water imported to the former Fort Ord from another available water source.

**FORA RESPONSIBILITY.** If projects approved by the Land Use Jurisdictions cannot be served by water supplied by the FORA water purveyor from the jurisdiction's allocation or by water imported to the former Fort Ord from another available water source, the FORA Board will be required to determine that the project is Not Consistent with the Reuse Plan.



**TABLE 3.11-2**  
**Allocation of Existing Potable Water Supply**  
**By Jurisdiction**  
 (Based on FORA's April 12, 1996 Resolution)

JURISDICTION	TOTAL WATER ALLOCATION (AFY)	NOTES
City of Seaside	710	
County/City of Del Rey Oaks	75	Plus reclaimed water for golf course
County/City of Monterey	65	
City of Marina	1,185	
Monterey County	545	
ARMY	1,410	
CSUMB	1,055	Plus reclaimed water for irrigation
UCMBEST	165	Plus reclaimed water for irrigation
County/State Parks and Recreation	45	
County/Marina Sphere Polygon 8a	50	
<hr/>		
SUBTOTAL	5,295 AFY	
Line Loss (10%)	530	
FORA Strategic Receive	785	Encumbered Reserve: Army - 160 AFY1 CSUMB - 125 AFY1 Seaside - 230 AFY2 Unencumbered - 270 AFY
<hr/>		
TOTAL	6,600 AFY	

**ENCUMBRANCES TO FORA'S STRATEGIC RESERVE**

1. 160 AFY at the POM Annex and 125 AFY at CSUMB polygon 10 are available upon metering of existing dwelling units.
2. 230 AFY loaned to Seaside is available to Seaside for golf course irrigation until reclaimed replacement water is provided.





3.11.5.4 (b) **Residential Development Program.** To prevent using up scarce resource availability, overall residential development limitations must be put in place to save capacity for industrial/commercial land uses and to prevent residential development from outstripping the existing 6600 afy of potable water supply at the former Fort Ord. The land use jurisdictions shall manage and determine the use of their full water allocation. The Residential Development Program limits total residential development that is served by the FORA existing potable water supply, based on the planning projections detailed in Table 3.11-3:

**TABLE 3.11-3**  
**Projected Residential Development Through 2015**  
**(Based on the Existing 6,600 AFY of Potable Water)**

CATEGORY	UNITS	OCCUPANCY	POPULATION
POM Annex	1,590	2.6/unit	4,134
CSUMB Housing <sup>1</sup>	1,253	2.0/unit	2,506
New Housing <sup>2</sup> 6,160		2.6/unit	16,016
Existing Housing	1,813	2.6/unit	4,714
CSUMB on campus Students <sup>3</sup>	NA	NA	10,000
<b>TOTAL</b>	<b>10,816</b>	<b>_____</b>	<b>37,370</b>

1. Assumes that no students live in this housing. If students occupy this housing then the estimate for students living on campus would be reduced to avoid double counting.
2. Single Room Occupancy Units (SRO's) shall be counted as 38 units based on a comparable water demand.
3. Assumes 90% of 2015 projections of 12, 500 FTE.

1) **Residential Population Limit.** Based on the existing potable water supply of 6,600 afy, the total resident population limit at the former Fort Ord is estimated to be 37,370.



- 2) **New Residential Unit Limit.** Based on the existing potable water supply of 6,600 afy, the total new residential units within the former Fort Ord shall not exceed 6,160 so that when combined with replacement or occupancy of the 1,813 existing units the total residential units shall not exceed 7,973 (excluding CSUMB and POM Annex housing). FORA's DRMP does not attempt to allocate residential units to the land use jurisdictions.
- 3) **Residential Unit and Population Monitoring.** Residential units and population will be monitored to prevent residential development from exceeding available water supplies.

**LAND USE JURISDICTION RESPONSIBILITY.** Each land use jurisdiction shall annually report to FORA the number of new residential units, based on building permits and approved residential projects, within its former Fort Ord boundaries and estimate, on the basis of the unit count, the current and projected population. The report shall distinguish units served by water from FORA's allocation and water from other available sources.

**FORA RESPONSIBILITY.** FORA shall incorporate the report on the residential population and units in its annual report.

**3.11.5.4 (c) Industrial and Commercial Job Creation Programs.** The replacement of the 18,000 jobs lost as a result of the closure of Fort Ord is a major goal of the Reuse Plan. Market studies for the Reuse Plan show that the market for industrial and commercial job creation is weak and will, in fact, be the principal limitation on non-residential development. When the estimated jobs within the former Fort Ord boundaries reaches 18,000, the Residential Development Program (3.11.5.4(b)) shall be eliminated. The following measures are designed to implement this DRMP component.

- 1) **Priority Infrastructure Funding.** The CIP shall provide priority funding for infrastructure to serve industrial and commercial development.
- 2) **Development Tax Fee Burdens.** The financial program shall implement tax and fee burdens that promote industrial and commercial uses. FORA will initiate appropriate proceedings for the implementation of development tax burdens to transfer some infrastructure costs from job-generating uses to residential development.
- 3) **Job Creation Monitoring.** Job creation monitoring will provide FORA with information necessary to monitor the effectiveness of the Residential Population and New Unit Limits.

**LAND USE JURISDICTION RESPONSIBILITY.** Each Land Use Jurisdiction shall prepare an annual estimate of existing and projected jobs within its Fort Ord boundaries based on development projects that are on-going, completed, and approved.

FORA RESPONSIBILITY. FORA shall incorporate the job creation reports into its annual report.

**Table 3.11-4  
Job Creation Projected Through 2015  
(Based on 6,600 afy Water Supply)**

LAND USE CATEGORY	PERCENT BUILDOUT	EMPLOYEES
CSUMB	50%	1,600
POM Annex	100%	310
Industrial/Office/R&D	30%	11,350
Retail	60%	2,372
Hotel (Includes golf and Other visitor-serving)	56%	1,155
Parks & Open Space (State Park etc.)	100%	90
Public Facilities (Schools, MPC, including military)	99%	1,450
Habitat Management	100%	15
<b>TOTAL</b>		<b>18,342</b>

3.11.5.4 (d) **Water Supply Management and Augmentation Programs.** The management of existing groundwater supplies, water conservation, and providing alternative sources of water supply are all necessary water management measures required to implement the objectives of the Reuse Plan. Development beyond the limits defined in the DRMP will be allowed only upon the augmentation of existing water supplies.

- 1) Protection of Yield and Quality of Water Supplies. Pumping from the on-site well-water supply for FORA has been shown to effect the extent of seawater intrusion into the shallow aquifers. FORA shall:

- (a) participate in on-going water basin management planning;
  - (b) actively manage the water supply allocation so as to remain within the water resources available to the former Fort Ord under the auspices of the Responsible Regional Agency, the Monterey County Water Resources Agency (MCWRA);
  - (c) through the water purveyor, monitor chloride levels in the wells supplying the former Fort Ord in order to provide warning of salt water intrusion. If a detected upward trend in chloride levels results in exceeding potable water standards over a five year period, the FORA Board will be notified by the water purveyor in order to take corrective action.
  - (d) take measures to eliminate extraction of the former Fort Ord's water supply from the 180-foot shallow aquifer by encasing those wells through the shallow aquifer zone.
- (2) **Water Use Efficiency Program.** FORA shall establish water efficiency and on-site reuse policies governing development to achieve conservation objectives.
  - (3) **Reclaimed Water Source and Funding.** FORA shall continue to actively participate in and support the development of reclaimed water supply sources by the water purveyor and the Monterey Regional Water Pollution Control Agency (MRWPCA) to insure adequate water supplies for the former Fort Ord. The CIP shall fund a reclaimed water program adequate for the full development of industrial and commercial land uses and golf course development.
  - (4) **On-Site Water Collection Program.** FORA shall promote the use of on-site water collection, incorporating measures such as cisterns or other appropriate improvements to collect surface water for in-tract irrigation and other non-potable use.
  - (5) **Additional Potable Water Supplies Program.** FORA may investigate and provide appropriate augmentation of the potable water supplies to:
    - (a) assure the long-range water supplies for the needs and plans for the planned uses at the former Fort Ord;
    - (b) assure the economic viability of the reuse financing measures; and
    - (c) promote the goals established for FORA in SB-899.
  - (6) **Monitoring of Water Supply, Use, Quality, and Yield.** Water supply, use, quality, and yield shall be monitored to meet the DRMP objectives.

**LAND USE JURISDICTION RESPONSIBILITY.** Each land use jurisdiction shall provide FORA with an annual summary of approved projects.

**FORA RESPONSIBILITY.** FORA shall monitor the availability of potable and non-potable water and compare it with existing use. This monitoring is

undertaken to insure that the water consumption at the former Fort Ord will not exceed the contracted, owned, or allocated water supply of FORA or its member agencies for use within the former Fort Ord boundaries.

FORA shall pursue partnerships with MRWPCA and other appropriate agencies to develop sources of reclaimed water available to the former Fort Ord.

**WATER PURVEYOR RESPONSIBILITY.** The water purveyor shall annually report to FORA on:

- (a) the use of water by on-going and existing projects;
- (b) consumption rates for potable and non-potable water for typical users; and
- (c) chloride levels of the water withdrawn from the former Fort Ord's well and, if necessary, recommended corrective actions.

**MCWRA RESPONSIBILITY.** MCWRA shall continue to manage the Salinas River Valley ground water aquifers on a basin-wide basis to ensure an available water supply to FORA.

#### **3.11.5.5 Other Public Services**

FORA has adopted service levels in the Reuse Plan for wastewater, habitat management and fire protection. FORA shall work with the land use jurisdictions and service providers to assure that development has sufficient public services to meet the adopted service levels.

- 1) **Monitoring of Public Services.** The availability of public services will be monitored at the time of project review.

**LAND USE JURISDICITON RESPONSIBILITY.** Development projects approved by each land use jurisdiction will require a finding by that land use jurisdiction that the project can be served with adequate public services for wastewater, habitat management, and fire protection consistent with FORA's Level-of-Service Standards.

**FORA RESPONSIBILITY.** If a project approved by a land use jurisdiction does not meet FORA's Level-of-Service Standards, the FORA Board will be required to determine that the project is Not Consistent with the Reuse Plan.

#### **3.11.5.6 Capital Planning to Assure Financial Integrity**

FORA's CIP is the principal mechanism for insuring adequate service levels within resource constraints.

- 1) **Preparation of Annual Update.** FORA shall annually update the CIP to reflect the proposed capital projects. The extension of infrastructure shall be made on a first-come-first-served basis consistent with funding capabilities and best engineering practices.

2) **Monitoring of CIP Conformance.**

**LAND USE JURISDICTION RESPONSIBILITY.** Each development approval by a land use jurisdiction for a project that will utilize infrastructure included in FORA's CIP will require a finding by that land use jurisdiction that the project is consistent with FORA's CIP or can be served by infrastructure provided to the project from outside the former Fort Ord boundaries.

**FORA RESPONSIBILITY.** If a project approved by a land use jurisdiction cannot be served by adequate infrastructure, the FORA Board will be required to determine that the project is Not Consistent with the Reuse Plan.

**3.11.5.7 Annual Development, Resource and Service Level Report**

Annual monitoring and reporting is a fundamental contributor to the effectiveness and public support for DRMP. The report shall project demand for services from projected growth and recommend actions that FORA may take to remain within resource capacity or service level standards.

**FORA RESPONSIBILITY.** FORA shall prepare an annual report on the programs included in the DRMP on the following topics:

Transportation.

Available Water Supply.

- Water Allocation by Jurisdiction.
- Residential Units and Population.
- Industrial and Commercial Job Creation.
- Water Supply, Use, Quality, and Yield.

Other Public Services:

CIP.

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**The Selected System of Urban Limit Lines and Procedures for Exceeding the Limits**

Such an arrangement has significant utility for the former Fort Ord and was the selected viable approach. This approach attempts to give the greatest clarity for future infrastructure expansion while preserving the greatest flexibility to respond to opportunities. The elements of this approach include:

- **Areas Currently Served With Infrastructure.** These are areas that can be characterized by the lands currently served or readily served by the infrastructure systems. A definable limit to serve the anticipated program can be made that will accommodate development demands through 2015.
- **Opportunity Locations.** These are areas within the former Fort Ord that can be developed outside the existing (1995) core Fort Ord Network of infrastructure.
- **Flexible (Non-Monolithic) Utility Service Policy.** Areas currently served by existing utilities are allocated costs to upgrade and expand as necessary. Areas not currently served carry the full cost of utility system extension. It is anticipated that, in general, market factors will operate to stage development first on lower “cost to serve” areas, or on those in which a highly marketable product carries higher development costs. Consequently, market-driven and flexible phasing results that will not be limited by jurisdictional boundaries of the land use agencies.
- **Amending Procedures.** The CIP will be regularly amended to reflect FORA’s existing investment in infrastructure and plans for extension and upgrading.

Framework for the Reuse Plan

**3.11.5 FORA’s Development and Resource Management Plan (DRMP)**

**3.11.5.1. Objectives of the DRMP**

Reuse of the former Fort Ord will utilize the DRMP to restrain development to available resources and service constraints. The DRMP objectives are:

- Development on former Fort Ord lands will be limited by the availability of services;
- Service availability is measured by compliance with Level of Service standards;
- Services are limited by resource and financial constraints. Resource limitations describe holding capacity limitations. Financial limitations are expressed in the Capital Improvement Program (CIP), and its periodic updates, for Base Reuse; and



- Services will be extended to development on a first come first served basis, up to the financial and resource limitations.

**3.11.5.2 Components of the DRMP**

To adequately implement the approach and principles described in sections 3.11.1 through 3.11.4, FORA will establish programs and monitor the following components of the DRMP:

- Management of Transportation Improvements;
- Management of Water Supply;
- Provision of Public Services; and
- Capital Planning.

FORA shall provide an annual report on the Development, Resource and Service Levels.

**3.11.5.3 Management of Transportation Improvements**

The development of transportation improvements is more a financial constraint than a resource constraint. However, the funding of an adequate transportation system must be paired with measurement of current and future traffic congestion to insure compliance with Level of Service standards. Programs to implement this component of the DRMP include:

**3.11.5.3 (a) Fair Share Financing Program.** FORA shall fund its “Fair Share” of “on-site,” “off-site,” and “regional” roadway and transit capital improvements based on the nexus analysis of the TAMC regional transportation model. The nexus is described in the Public Facilities Improvement Plan, Volume 3 of the Reuse Plan, as amended from time to time. The nexus has been updated to reflect TAMC’s re-prioritizing of improvements in the network and is reported in the “Fort Ord Regional Transportation Study,” prepared by TAMC, January 6, 1997.

**3.11.5.3 (b) Reimbursement Programs for On-site and Off-site Improvements.** FORA will retain the flexibility to build roadway improvements to the “on-site” and “off-site” network, as described in the Reuse Plan to serve development activities at the former Fort Ord. FORA will participate in reimbursement programs to recover expenses beyond Fort Ord’s fair share when alternative programs for financing roadway and transit improvements are established.

**3.11.5.3 (c) Regional Improvements Program.** FORA intends to participate in a regional transportation financing mechanism if adopted by TAMC, as provided in 3.11.5.3 (a). If not, FORA will collect and contribute Fort Ord’s “Fair Share” to construction of a roadway arterial network in and around the former Fort Ord. FORA’s participation in the regional improvements program constitutes mitigation of FORA’s share of cumulative impacts.





**3.11.5.3 (d) Monitoring Transportation Improvements.** Monitoring of transportation improvements will prevent development from exceeding FORA's Level-of-Service Standards.

**Land Use Jurisdiction Responsibility.** Each Land Use Jurisdiction shall annually provide information to TAMC and FORA on approved projects and building permits with their jurisdiction (both on the former Fort Ord and outside the former base), including traffic model runs, traffic reports, and environmental documents.

**FORA Responsibility.** FORA shall work with TAMC to monitor current and projected traffic service levels on links identified as "on-site" and "off-site" segments in the Reuse Plan.

**TAMC Responsibility.** TAMC shall monitor current and projected traffic service levels on links identified as "on-site," "off-site," and "regional" segments in northern Monterey County that affect the Reuse of the former Fort Ord.



#### **3.11.5.4 Management of Water Supply**

Water supply is a central resource constraint for development of Fort Ord. Insuring that development does not exceed the available water supply and safe yield is a major component of the DRMP. The following measures ensure that development is managed within this resource constraint.



**3.11.5.4 (a) Water Allocation Program.** FORA has adopted a program for allocation of the existing potable water supply by jurisdiction. The allocation is summarized in Table 3.11-2. The allocation will provide the member agencies the necessary certainty of water supplies to responsibly manage development within each individual land use jurisdiction.

- 1) **Implementation Procedures and Annual Report.** FORA shall enter into an allocation agreement or agreements with the member agencies to implement the allocation program and define procedures to address:
  - (a) the exchanges of water allocations among member jurisdictions;
  - (b) an annual allocation of the strategic reserve;
  - (c) mechanisms to assure the jurisdictions remain within their allocation; and
  - (d) changes to the allocation resulting from changes in the availability of the total existing water supply to the former Fort Ord.
- 2) **5-Year Review.** FORA and the member agencies shall review and, if necessary, revise the water allocation program at least every five years. This review process will be established in FORA's allocation agreement(s) with the member agencies.



- 3) **Water Allocation Monitoring.** The water allocation will be monitored at the time of project reviews.

**Land Use Jurisdiction Responsibility.** Development projects approved by each land use jurisdiction will require a finding by that land use jurisdiction that the project can be served with their jurisdictional water allocation or by water imported to the former Fort Ord from another available water source.

**FORA Responsibility.** If projects approved by the land use jurisdictions cannot be served by water supplied by the FORA water purveyor from the jurisdiction's allocation or by water imported to the former Fort Ord from another available water source, the FORA Board will be required to determine that the project is Not Consistent with the Reuse Plan.



**3.11.5.4 (b) Residential Development Program.** To prevent using up scarce resource availability, overall residential development limitations must be put in place to save capacity for industrial/commercial land uses and to prevent residential development from outstripping the existing 6600 afy of potable water supply at the former Fort Ord. The land use jurisdictions shall manage and determine the use for their full water allocation. The Residential Development Program limits total residential development that is served by the FORA existing potable water supply, based on the planning projections detailed in Table 3.11-3:

- 1) **Residential Population Limit.** Based on the existing potable water supply of 6,600 afy, the total resident population limit at the former Fort Ord is estimated to be 37,370.
- 2) **New Residential Unit Limit.** Based on the existing potable water supply of 6,600 afy, the total new residential units within the former Fort Ord shall not exceed 6,160 so that when combined with replacement or occupancy of the 1,813 existing units the total residential units shall not exceed 7,973 (excluding CSUMB and POM Annex housing). FORA's DRMP does not attempt to allocate residential units to the land use jurisdictions.
- 3) **Residential Unit and Population Monitoring.** Residential units and population will be monitored to prevent residential development from exceeding available water supplies.

**Land Use Jurisdiction Responsibility.** Each land use jurisdiction shall annually report to FORA the number of new residential units, based on building permits and approved residential projects, within its former Fort Ord boundaries and estimate, on the basis of the unit count, the current and projected population. The report shall distinguish units served by water from FORA's allocation and water from other available sources.





**Table 3.11-2**

**Allocation of Existing Potable Water Supply by Jurisdiction \***  
(Based on FORA's April 12, 1996 Resolution)

JURISDICTION (AFY)	TOTAL WATER ALLOCATION <sup>3</sup>	NOTES
City of Seaside	710	
County/City of Del Rey Oaks	75	Plus reclaimed water for golf course
County/City of Monterey	65	
City of Marina	1,185	
Monterey County	545	
ARMY	1,410	
CSUMB	1,035	Plus reclaimed water for irrigation
UC MBEST	165	Plus reclaimed water for irrigation
County/State Parks and Recreation	45	
County/Marina Sphere Polygon 8a	50	
<b>SUBTOTAL</b>	<b>5,284 AFY</b>	
Line Loss (10%)	530	
FORA Strategic Reserve		
<b>Encumbered Reserve:</b>		
Army - 160 AFY <sup>1</sup>		
CSUMB - 125 AFY <sup>1</sup>		
Seaside - 230 AFY <sup>2</sup>		
Unencumbered - 270 AFY	785	
<b>TOTAL</b>	<b>6,600 AFY</b>	

\* Subject to subsequent action of the FORA Board.

Encumbrances to FORA's Strategic Reserve:

<sup>1</sup> 160 AFY at the POM Annex and 125 AFY at CSUMB polygon 10 are available upon metering of existing dwelling units.

<sup>2</sup> 230 AFY loaned to the City of Seaside is available to Seaside for golf course irrigation until replacement water is provided.

<sup>3</sup> These water allocation numbers have been superseded by Board Action on August 14, 1998. Changes to the water allocation by jurisdiction include: City of Marina - 1,175 AFY; Monterey County - 560 AFY; UC MBEST - 230 AFY; and County/Marina Sphere Polygon - 10 AFY. This resulted in a subtotal of 5,315 AFY for jurisdictions and a reduction in the encumbered reserve from 785 AFY to 755 AFY.

**Table 3.11-3**

**Projected Residential Development Through 2015**  
(Based on the Existing 6,600 AFY of Potable Water)

CATEGORY	UNITS	OCCUPANCY	POPULATION
POM Annex	1,590	2.6/unit	4,134
CSUMB Housing	1,253	2.0/unit	2,506
New Housing <sup>2</sup>	6,160	2.6/unit	16,016
Existing Housing	1,813	2.6/unit	4,714
CSUMB on campus students <sup>3</sup>	NA	NA	10,000
<b>TOTAL</b>	<b>10,816</b>	<b>-</b>	<b>37,370</b>

Notes:

<sup>1</sup> Assumes that no students live in this housing. If students occupy this housing then the estimate for students living on campus would be reduced to avoid double counting.

<sup>2</sup> Single Room Occupancy Units (SRO's) shall be counted as .38 units on a comparable water demand.

<sup>3</sup> Assumes 80% of 2015 projections of 12,500 FTE.



**FORA Responsibility.** FORA shall incorporate the report on the residential population and units in its annual report.

**3.11.5.4 (c) Industrial and Commercial Job Creation Programs.**

The replacement of the 18,000 jobs lost as a result of the closure of Fort Ord is a major goal of the Reuse Plan. Market studies for the Reuse Plan show that the market for industrial and commercial job creation is weak and will, in fact, be the principal limitation on non-residential development. When the estimated jobs within the former Fort Ord boundaries reaches 18,000, the Residential Development Program (3.11.5.4(b)) shall be eliminated. The following measures are designed to implement this DRMP component.

- 1) **Priority Infrastructure Funding.** The CIP shall provide priority funding for infrastructure to serve industrial and commercial development.
- 2) **Development Tax Fee Burdens.** The financial program shall implement tax and fee burdens that promote industrial and commercial uses. FORA will initiate appropriate proceedings for the implementation of development tax burdens to transfer some infrastructure costs from job-generating uses to residential development.
- 3) **Job Creation Monitoring.** Job creation monitoring will provide FORA with information necessary to monitor the effectiveness of the Residential Population and New Unit Limits.

**Land Use Jurisdiction Responsibility.** Each Land Use Jurisdiction shall prepare an annual estimate of existing and projected jobs within its Fort Ord boundaries based on development projects that are on-going, completed, and approved.

**FORA Responsibility.** FORA shall incorporate the job creation reports into its annual report.

**3.11.5.4 (d) Water Supply Management and Augmentation Programs.**

The management of existing groundwater supplies, water conservation, and providing alternative sources of water supply are all necessary water management measures required to implement the objectives of the Reuse Plan. Development beyond the limits defined in the DRMP will be allowed only upon the augmentation of existing water supplies.

- 1) **Protection of Yield and Quality of Water Supplies.** Pumping from the on-site well-water supply for FORA has been shown to effect the extent of seawater intrusion into the shallow aquifers. FORA shall:
  - (a) participate in on-going water basin management planning;
  - (b) actively manage the water supply allocation so as to remain within the water resources available to the former Fort Ord under the auspices of the Responsible Regional Agency, the Monterey County Water Resources Agency (MCWRA);



**Table 3.11-4**  
**Job Creation Projected Through 2015**  
(Based on 6,600 AFY Water Supply)

LAND USE CATEGORY	PERCENT BUILDOUT	EMPLOYEES
CSUMB	50%	1,600
POM Annex	100%	310
Industrial/Office/R&D	30%	11,350
Retail	60%	2,372
Hotel(includes golf and other visitor-serving)	56%	1,155
Parks and Open Space (State Park, etc.)	100%	90
Public Facilities (Schools, MPC, including Military)	99%	1,450
Habitat Management	100%	15
<b>TOTAL</b>		<b>18,342</b>

- (c) through the water purveyor, monitor chloride levels in the wells supplying the former Fort Ord in order to provide warning of salt water intrusion. If a detected upward trend in chloride levels results in exceeding potable water standards over a five year period, the FORA Board will be notified by the water purveyor in order to take corrective action.
  - (d) take measures to eliminate extraction of the former Fort Ord's water supply from the 180-foot shallow aquifer by encasing those wells through the shallow aquifer zone.
- 2) **Water Use Efficiency Program.** FORA shall establish water efficiency and on-site reuse policies governing development to achieve conservation objectives.
  - 3) **Reclaimed Water Source and Funding.** FORA shall continue to actively participate in and support the development of reclaimed water supply sources by the water purveyor and the Monterey Regional Water Pollution Control Agency (MRWPCA) to insure adequate water supplies for the former Fort Ord. The CIP shall fund a reclaimed water program adequate for the full development of industrial and commercial land uses and golf course development.
  - 4) **On-Site Water Collection Program.** FORA shall promote the use of on-site water collection, incorporating measures such as cisterns or other appropriate improvements to collect surface water for in-tract irrigation and other non-potable use.
  - 5) **Additional Potable Water Supplies Program.** FORA may investigate and provide appropriate augmentation of the potable water supplies to:



- (a) assure the long-range water supplies for the needs and plans for the planned uses at the former Fort Ord;
  - (b) assure the economic viability of the reuse financing measures; and
  - (c) promote the goals established for FORA in SB-899.
- 6) Monitoring of Water Supply, Use, Quality, and Yield.** Water supply, use, quality, and yield shall be monitored to meet the DRMP objectives.

**Land Use Jurisdiction Responsibility.** Each land use jurisdiction shall provide FORA with an annual summary of approved projects.

**FORA Responsibility.** FORA shall monitor the availability of potable and non-potable water and compare it with existing use. This monitoring is undertaken to insure that the water consumption at the former Fort Ord will not exceed the contracted, owned, or allocated water supply of FORA or its member agencies for use within the former Fort Ord boundaries.

FORA shall pursue partnerships with MRWPCA and other appropriate agencies to develop sources of reclaimed water available to the former Fort Ord.

**Water Purveyor Responsibility.** The water purveyor shall annually report to FORA on:

- (a) the use of water by on-going and existing projects;
- (b) consumption rates for potable and non-potable water for typical users; and
- (c) chloride levels of the water withdrawn from the former Fort Ord's wells and, if necessary, recommended corrective actions.

**MCWRA Responsibility.** MCWRA shall continue to manage the Salinas River Valley ground water aquifers on a basin-wide basis to ensure an available water supply to FORA.

**3.11.5.5 Other Public Services**

FORA has adopted service levels in the Reuse Plan for wastewater, habitat management and fire protection. FORA shall work with the land use jurisdictions and service providers to assure that development has sufficient public services to meet the adopted service levels.

- 1) Monitoring of Public Services.** The availability of public services will be monitored at the time of project review.

**Land Use Jurisdiction Responsibility.** Development projects approved by each land use jurisdiction will require a finding by that land





use jurisdiction that the project can be served with adequate public services for wastewater, habitat management, and fire protection consistent with FORA's Level-of-Service Standards.

**FORA Responsibility.** If a project approved by a land use jurisdiction does not meet FORA's Level-of-Service Standards, the FORA Board will be required to determine that the project is Not Consistent with the Reuse Plan.

**3.11.5.6 Capital Planning to Assure Financial Integrity**

FORA's CIP is the principal mechanism for insuring adequate service levels within resource constraints.

- 1) **Preparation of Annual Update.** FORA shall annually update the CIP to reflect the proposed capital projects. The extension of infrastructure shall be made on a first-come-first-served basis consistent with funding capabilities and best engineering practices.
- 2) **Monitoring of CIP Conformance.**

**Land Use Jurisdiction Responsibility.** Each development approval by a land use jurisdiction for a project that will utilize infrastructure included in FORA's CIP will require a finding by that land use jurisdiction that the project is consistent with FORA's CIP or can be served by infrastructure provided to the project from outside the former Fort Ord boundaries.

**FORA Responsibility.** If a project approved by a land use jurisdiction cannot be served by adequate infrastructure, the FORA Board will be required to determine that the project is Not Consistent with the Reuse Plan.

**3.11.5.7 Annual Development, Resource and Service Level Report**

Annual monitoring and reporting is a fundamental contributor to the effectiveness and public support for the DRMP. The report shall project demand for services from projected growth and recommend actions that FORA may take to remain within resource capacity or service level standards.

**FORA Responsibility.** FORA shall prepare an annual report on the programs included in the DRMP on the following topics:

- Transportation;
- Available Water Supply
  - Water Allocation by Jurisdiction



- Residential Units and Population
- Industrial and Commercial Job Creation
- Water Supply, Use, Quality, and Yield;
- Other Public Services; and
- CIP.

**3.11.6 Implementation Process and Procedures**

This section provides for the process and procedures for Plan Amendments, Consistency Determinations, and Development Entitlements and Appeals, pursuant to California Government Code Section 67675.

**Fort Ord Reuse Plan**

1. In accordance with Government Code Section 67675.8, any revision or other change to the Reuse Plan which only affects territory lying within the jurisdiction of one member agency may only be adopted by the FORA Board if one of the following conditions is satisfied:
  - 1.1 The revision or other change was initiated by resolution adopted by the legislative body of the affected member agency and approved by at least a majority affirmative vote of the FORA Board;
  - 1.2 The revision or other change was initiated by the FORA Board or any entity other than the affected member agency and approved by at least a two-thirds affirmative vote of the FORA Board.
2. All property transferred from the federal government to any user or purchaser, whether public or private, shall be used only in a manner consistent with the adopted or revised reuse plan, with the following exceptions:
  - 2.1 Property transferred to:
    - California State University; or
    - University of California; and
    - that is used for educationally related or research oriented purposes
  - 2.2 Property transferred to:
    - California State Parks and Recreation Department

Notwithstanding any provision of law allowing any city or county to approve development projects, no local agency shall permit,

Framework for the Reuse Plan



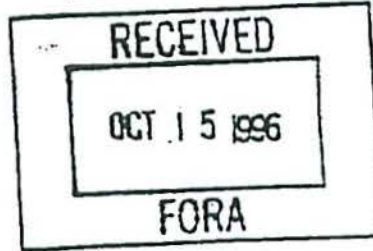
CALIFORNIA STATE UNIVERSITY, MONTEREY BAY

The Watershed Institute

100 CAMPUS CENTER  
SEASIDE, CA 93955-8001



fax rec'd Oct 11



October 11, 1996

Mr. Les White, Executive Director  
Fort Ord Reuse Authority  
100 12th Street, bldg. 2880  
Marina, CA 93922

Dear Mr. White,

This represents the comments of CSUMB's Watershed Institute on the DEIR for the Fort Ord Reuse Plan. The Watershed Institute is a component of the Earth Systems Science and Policy Institute at CSUMB, and is comprised of planners, scientists, educators, farmers, and public officials dedicated to restoring the degraded watersheds of the Monterey Bay area. We use restoration, education, research, and policy approaches with a focus on on-the-ground restoration demonstration projects that illustrate the feasibility and broad benefits of restoring and protecting wet corridors.

We have found the DEIR to be unacceptably flawed relevant to proposed water requirements, scope of buildout, and loss and degradation of unique habitats. On nearly every front, it fails to fulfill the requirement of the California Environmental Quality Act (CEQA) that an EIR be "a good faith effort at full disclosure of the impacts of a stable, finite project description." Particularly disturbing is the consistent lack of specifics in project descriptions, potential impacts, and requirements with which to hold project operations accountable. We therefore recommend a substantial revision of the DEIR, with development scaled far back to better accommodate the real needs and limitations of surrounding cities and the Monterey Peninsula, and the extraordinary environmental legacy of former Fort Ord.

For specific comments related to water use, water quality, wastewater treatment, transportation issues, and buildout plans, we refer to the comments of the Association of Monterey Bay Area Governments, the City of Salinas, the Monterey County Board of Supervisors, the Sierra Club, and the California Native Plant Society. The essence of these agencies' comments are that a) the DEIR has not adequately described where the additional 12,000 acre-feet of water in addition to that existing on-site, will be found, b) the projected increase in wastewater and traffic is not workable, and c) the scope of buildout far exceeds the capacity of the Monterey Peninsula, in keeping with FORA's objectives as defined by Congress, and Monterey County plans.

Specific comments related to loss and degradation of habitat are as follows:

1. pg. 2-14. There is no basis on which to conclude that the impact on HMP habitats and maritime chaparral in the No Project alternative will have "more potential for degradation/isolation from lack of active habitat management," given that the No Project alternative would result in less overall disturbance. The implication that "isolation" of habitat is a drawback in terms of habitat integrity is unfounded.

328-1



2. pg. 2-14- 2-15. The statement that effects on coast live oak woodland and removal of sensitive species not addressed in HMP "would be reduced with required policies and programs" is an unjustifiable claim given the inadequacy of the proposed policies and program, detailed below in comment number 11.



3. pg. 4-10. In the Land Use Compatibility Impacts section, the described mitigation is not adequate to the impact of proposed developments on adjacent open space areas. Having Monterey County "review each development project" and "require suitable open space buffers" as a condition of project approval is un reassuring. No specifications are made as to review criteria or open space buffer requirements; as written, such criteria are at the complete discretion of the reviewer. Will the county have the staff and time to sufficiently review project applications, and will natural resource management agencies have any oversight of project plans?

3

4. pg. 4-12. The mitigation described for the expansion of highway 68 is not specific to the site, thus is irrelevant to the project. The text must present a defensible mitigation or declare the highway expansion an unmitigatable impact.

4

5. pg. 4-49. Golf courses are not a "park-like setting"; this language should be changed to realistically portray golf courses as an intensive suburban use. The DEIR does not adequately describe how Frog Pond will be protected from water quality and other impacts related to the golf course and hotel. "Addressing nonpoint source groundwater contamination...during separate environmental review" is inadequate as a mitigation measure.

5

6. pg. 4-52. It is preposterous to speculate that "a net increase in overall recharge could potentially be achieved with urbanization." Please cite evidence that this has occurred elsewhere and thus is in the realm of possibility.

6

7. pg. 4-127. The text fails to describe how "no further mitigation beyond the HMP should be required to satisfy the US Fish and Wildlife Service and the federal ESA." Has USFWS formally agreed to allow for the taking of listed species in areas not under HMP protection? If so, please include this MOU as an appendix, or refer to where it is housed; if no such agreement exists, the text must include species and areas for which section 7 consultation may take place. Also, the text must acknowledge the possibility that more threatened, endangered, or candidate species will be found in proposed development areas, for example the black legless lizard. Projects may be derailed or moved if such species are found at proposed development sites.

7

8. pg. 4-129. The language used in Biological Resources Policy A-7 is far too weak to be likely to provide any benefit to HMP species in areas slated for development. Development in areas with HMP species should be scaled back and clustered.

8

9. pg. 4-136. Removal of 63% of coastal sage scrub habitat at former Fort Ord is a significant impact.

9

10. pg. 4-136. A 36% reduction of annual grassland at former Fort Ord is a substantial reduction and should be deemed a significant impact. Biological Resource Policy B-2 is a woefully inadequate measure to protect sensitive species dependent upon grasslands, especially wide-ranging territorial species such as golden eagle, loggerhead shrike, northern harrier, and prairie falcon. Have burrowing owl nesting colonies been identified, and if so, are they located in grasslands to be preserved or those slated for development?

10



11. pg. 4-137. It is preposterous to conclude that the impact on coast live oak woodlands as a result of the preferred alternative would be "less than significant." The project proposes to demolish 34% of the total acreage at former Fort Ord, which harbors the most significant stand of this habitat type in the state. At least five special status species are very dependent upon these woodlands: the dusky-footed woodrat, the horned lizard, the legless lizard, the Monterey ornate shrew, and the Cooper's hawk.

11 ←

Oak woodlands are among the most ecologically significant and threatened habitat types in California. As the DEIR acknowledges, California Senate Concurrent Resolution Number 17 mandates that native oak woodlands are to be protected to the maximum extent feasible. Locally, Monterey County Ordinance no. 3420 specifically addresses oak woodland preservation. Therefore, the extent of loss proposed in the preferred alternative is unacceptable.

In addition to the unacceptable loss of acreage, the Biological Resource Policies provided in the DEIR for the protection of oak trees and woodlands in the development setting are far too weak to provide for any real protection. Language such as "encourage clustering of development", "wherever possible", and "should be avoided" render ineffectual these policies. No real requirements or standards are described; only suggestive guidelines.

←

12. pg. 4-141. DEIR must more fully describe how wetlands evaluations on potential development sites are to be conducted, who is to do them, and under what authority wetlands loss and mitigation will occur.

12

13. The Biological Resources Policies described to lessen the loss of sensitive species not addressed in the HMP are inadequate. "Striving" to avoid loss of sensitive species, and making "reasonable effort to avoid habitat occupied by these species," in development projects does not constitute real protection. This renders indefensible the DEIR's conclusion of a "less than significant" impact.

13

14. pg. 6-16 - 6-22. The No Project Alternative. As stated in the DEIR, "although termed No Project, this alternative would include a significant amount of development within the former Fort Ord." Based on the level of development described under this alternative, there appears to be no justification for calling this "No Project" under CEQA. This alternative represents a substantial project.

14

In the Biological Resources section, the claim that "the overall impact on biological resources for the No Project Alternative could be greater than under the Proposed Project" is completely without grounds. It is extremely unlikely that the "lack of active habitat management" would result in greater harm to biological resources than removal of habitat associated with development. This argument should be removed where it appears throughout the DEIR.

15

This concludes our comments. We look forward to a timely and appropriate response from FORA and other relevant public officials. Thank you for your time and attention.

Sincerely,

Anna Weinstein  
Policy Analyst

323-3



cc: Ray Bransfield, USFWS  
Deborah Hillyard, CDFG  
Terry Palmisano, CDFG  
Tami Grove, Coastal Commission  
Maggie Fusari, UC Santa Cruz Natural Reserve System  
Frank Barron, AMBAG  
Chris Tennyne, Audubon Society  
Steve Addington, BLM  
Art Mittedorf, Sierra Club  
Corky Matthews, California Native Plant Society

328-4

## Response to Letter 327

327-1. The commenter states that the EIR needs to be revised because of an inadequate cumulative discussion in the EIR. The EIR cumulative discussion is considered to be adequate for the decision makers to base their decision on. If a more specific discussion on the subject of cumulative impacts were submitted by the commenter a more specific response could have been provided.

## Response to Letter 328

328-1. The commenter submits an opinion that is contrary to the conclusion in the EIR that caretaker status associated with the "No Project" alternative would result in degradation of habitat through lack of management. Comment noted.

328-2. The commenter states that the language contained in numerous programs pertaining to coast live oak woodland is insufficient to adequately protect the remaining woodlands area and the language of the programs is insufficient for them to be considered mitigations under CEQA. Refer to the Changes to the EIR and Changes to the Reuse Plan sections below for amended text.

### Changes to the EIR

Page 4-137 and 4-138. Amend programs to read as follows:

#### "Biological Resources Policy C-2 (City of Marina):

Program C-2.1: The City shall protect the small patches of oak woodland located along the bluffs in Polygon 1c unless project-specific plans for development in those areas cannot proceed without selective tree removal. Where trees are removed, new trees of the same stock as those found on Fort Ord shall be planted in the immediate vicinity.

Program C-2.2: ~~Where~~ Development shall incorporate oak woodland elements into ~~the its~~ design and the City shall provide the following standards for plantings that may occur under oak trees; 1) plantings may occur within the dripline of mature trees, but only at a distance outside of the drip line of five feet from the trunk and 2) plantings under and around oaks should be selected from the list of approved species compiled by the California Oak Foundation (see *Compatible Plants Under and Around Oaks*).

Program C-2.4: The City shall require the use of oaks and other native plant species for project landscaping. To that end, the City shall require collection and propagation of acorns and other plant material from former Fort Ord oak woodlands to be used for restoration areas or as landscape material.

#### Biological Resources Policy C-2 (Seaside):




Program C-2.1: The City shall adopt an ordinance specifically addressing the preservation of oak trees. At a minimum, this ordinance shall include restrictions for the removal of oaks equal to or greater than six inches in diameter 2 feet off the ground of a certain size, requirements for obtaining permits for removing oaks of the size defined, and specifications for relocation and/or replacement of oaks removed. During construction, trees or groups of trees that may be affected by construction activities shall be fenced off at the dripline.

Program C-2.2: When reviewing project plans for developments within oak woodlands, the City shall encourage cluster ing of development wherever possible so that contiguous stands of oak trees can be maintained in the non-developed natural land areas.

Program C-2.4: The City shall require the use of oaks and other native plant species for project landscaping. To that end, the City shall require recommend collection and propagation of acorns and other plant material from former Fort Ord oak woodlands to be used for restoration areas or as landscape material.

Program C-2.6: The City shall require that paving within the dripline of preserved oak trees be avoided wherever possible. To minimize paving impacts, the surfaces around tree trunks shall should be mulched, paving materials shall should be used that are permeable to water, aeration vents shall should be installed in impervious pavement, and root zone excavation shall should be avoided.

 **Biological Resources Policy C-2:** The County shall preserve encourage the preservation and enhance ment of oak the woodland elements in the natural and built environments.

Program C-2.1: The County shall encourage cluster ing of development wherever possible so that contiguous stands of oak trees can be maintained in the non-developed natural land areas.

Program C-2.2: The County shall apply certain restrictions for the preservation of oak and other protected trees in accordance with Chapter 16.60 of Title 16 of the Monterey County Code (Ordinance 3420). Except as follows: No oak or madrone trees removed

Program C-2.3: The County shall require the use of oaks and other native plant species for project landscaping. To that end, the County shall collection and propagate ion of acorns and other plant material from former Fort Ord oak woodlands to be used for restoration areas or as landscape material.

Program C-2.5: The County shall require that paving within the dripline of preserved oak trees be avoided wherever possible. To minimize paving impacts, the surfaces around tree trunks shall should be mulched, paving



materials ~~shall~~ ~~should~~ be used that are permeable to water, aeration vents ~~shall~~ ~~should~~ be installed in impervious pavement, and root zone excavation ~~shall~~ ~~should~~ be avoided.

### Changes to the Reuse Plan

Volume II. Page 4-186. Add the following new program for Marina.

"Program C-2.4: The City shall require the use of oaks and other native plant species for project landscaping. To that end, the City shall require collection and propagation of acorns and other plant material from former Fort Ord oak woodlands to be used for restoration areas or as landscape material."

Volume II. Page 4-193. Amend Program C-2.2 to read as follows:

"Program C-2.2: When reviewing project plans for developments within oak woodlands, the City shall ~~encourage~~ cluster ~~ing~~ of development wherever possible so that contiguous stands of oak trees can be maintained in the non-developed natural land areas."

Volume II. Page 4-204. Amend Program C-2.1 to read as follows:

"Program C-2.2: The County shall encourage cluster ing of development wherever possible so that contiguous stands of oak trees can be maintained in the non-developed natural land areas."

328-3. The commenter states that the language of the programs is insufficient for them to be considered mitigations under CEQA. The language contained in the Reuse Plan is adequate for the local jurisdictions to evaluate each project individually and respond with the appropriate buffer zone. For example, an athletic field adjacent to residential uses should have a greater setback than an athletic field adjacent to a commercial land use and/or open space. The language in the Reuse Plan provides the local jurisdictions with adequate flexibility to address the set back issue. Therefore, the language contained in the Reuse Plan is appropriate. However, as it pertains to Habitat Management areas, a greater degree of protection may be warranted. Refer to the Changes to the EIR and Changes to the Reuse Plan sections below for amended text.

### Changes to the EIR

Page 4-10. Amend program B-2.1 to read as follows:

"The County of Monterey shall review each future development project for compatibility with adjacent open space land uses and require that suitable open space buffers are incorporated into development plans of incompatible land uses as a condition of project approval. When buffers are required as a condition of approval adjacent to Habitat Management areas, the buffer shall

be at least 150 feet. Roads shall not be allowed within the buffer area except for restricted access maintenance or emergency access roads."

### Changes to the Reuse Plan

Volume II. Page 4-71. Amend program B-2.1 to read as follows:

"The County of Monterey shall review each future development project for compatibility with adjacent open space land uses and require that suitable open space buffers are incorporated into development plans of incompatible land uses as a condition of project approval. When buffers are required as a condition of approval adjacent to Habitat Management areas, the buffer shall be at least 150 feet. Roads shall not be allowed within the buffer area except for restricted access maintenance or emergency access roads.

328-4. The commenter states the mitigation for the Highway 68 Bypass is not specific enough and therefore is irrelevant to the Bypass project. On the contrary, the mitigation is in the context of a very specific impacts statement, therefore it is specific to the Bypass.

328-5. The commenter addresses golf courses and adequacy of mitigations. The first has to do with likening golf courses to a "park-like setting" and the second to do with the adequacy of mitigations pertaining to the frog pond. In response, the golf course is a park-like setting and second, the programs pertaining to the frog pond are adequate to protect it from stormwater runoff associated with future development.

328-6. The commenter states that recharge of the groundwater will not result in a net increase in overall recharge. Refer to the Changes to the EIR section below for amended text.

### Changes to the EIR

Page 4-48. Amend program A-2.1 to read as follows:

"[...] The gauging program shall should be partially or entirely funded by Fort Ord development fees".

Page 4-51 and 4-52. Amend the last sentence on page to read as follows:

"Urbanization of former Fort Ord could would also off-set, to some extent, tend to increase the loss of groundwater recharge from leaky pipes and through irrigation return flow in landscaped areas. Also, by concentrating recharge in small areas, thereby decreasing evapotranspiration losses, where recharge is most likely to occur due to geologic conditions, a net increase in overall recharge could potentially be achieved if an aggressive recharge program throughout Fort Ord is implemented, with urbanization".



slopes. The coastal scrub at former Fort Ord is of the type which is locally abundant on the west side of the Santa Lucia Range between Monterey and Point Conception (USACE, 1992). It also integrates with many of the other plant communities in the area and therefore does not support any special status species that would not be found in other habitat types at former Fort Ord. Under the proposed project, areas of coastal scrub habitat would be preserved within the habitat management area NRMA, the Salinas River Habitat Area and Marina Habitat Area #2. The *Draft Fort Ord Reuse Plan* incorporates policies and programs addressing the preservation and management of these habitat areas, and also includes measures to preserve pockets of native habitat where feasible in compliance with the requirements of the HMP and its Implementing/Management Agreement. These policies are described further under Impact 1 above.

Due to the common occurrence of the coastal scrub habitat type found at former Fort Ord, and the preservation of portions of this habitat within the habitat management area NRMA, Salinas River Habitat Area and Marina Habitat Area #2, removal of coastal scrub as proposed by the proposed project would not be considered a significant impact.

**Mitigation:** None required

#### **4. Impact: Affecting up to Approximately 1,525 Acres of Annual Grassland**

Implementation of the proposed project would result in the loss of up to approximately 1,525 acres of annual grassland. This represents approximately 36% of the total acreage of this community at former Fort Ord. A substantial portion of the annual grasslands at former Fort Ord would be preserved within the habitat management areas NRMA. The retained grasslands would continue to provide foraging and nesting habitat for a wide variety of common and sensitive species including loggerhead shrike, tricolored blackbird, horned lark, burrowing owl, northern harrier, short-eared owl, prairie falcon, golden eagle and American badger. Moreover, the preserved grassland areas would occur in the context of an approximately 15,000 acre open space area.

Since the majority of the grasslands at former Fort Ord would be preserved within the habitat management areas NRMA, the habitat type would not be eliminated or substantially reduced as a result of the proposed project. Where grassland areas would be removed by development, measures to reduce impacts on sensitive species that use them would be in place through land use policy (Biological Resources Policy B-2) dealing directly with sensitive species. Therefore, removal of the annual grasslands would not be considered a significant impact.

**Mitigation:** None required.

#### **5. Impact: Affecting up to Approximately 1,584 Acres of Coast Live Oak Woodlands**

Implementation of the proposed project would result in the loss of oak trees within an area of approximately 1,584 acres, due to new construction and development. This represents approximately 34% of the total acreage of this community at former Fort Ord. This would potentially degrade important habitat values and visual qualities over large areas of former Fort Ord. Of the approximately 5,000 acres of existing coast live oak woodland on former Fort Ord, about 1,800 acres of this habitat would be preserved within the habitat management areas NRMA and an additional 750 acres would be included within conservation areas and corridors; the remainder would occur amidst land uses of varying density. The largest contiguous areas of coast live oak



woodland are currently within the central portion of former Fort Ord between Reservation Road and Eucalyptus Road. Although implementation of the HMP would preserve some of this woodland within conservation areas and corridors, the ~~Draft Fort Ord Reuse Plan~~ proposes to preserve an additional contiguous stand of oak woodland that connects to the areas preserved by the HMP. This would maintain the value of this habitat in the central portion of former Fort Ord.

The Conservation Element of the ~~Draft Fort Ord Reuse Plan~~ incorporates policies and programs that establish an oak woodland conservation area connecting the open space lands of the habitat management areas ~~NRMA~~ on the south, the oak woodland corridor in the County of Monterey RV park and East Garrison area on the east, and the oak woodlands surrounding the former Fort Ord landfill on the north. The Conservation Element also includes policies and programs for the preservation and enhancement of oak woodland elements in the natural and built environments. The following policies and programs establish the oak woodland conservation area and preservation of oak woodland elements.

### Conservation Element

**Biological Resources Policy C-2 (City of Marina):** The City shall encourage the preservation and enhancement of oak woodland elements in the natural and built environments.

Program C-2.1: The City shall protect the small patches of oak woodland located along the bluffs in Polygon 1c unless project-specific plans for development in those areas cannot proceed without selective tree removal. Where trees are removed, new trees of the same stock as those found on Fort Ord shall be planted in the immediate vicinity.

Program C-2.2: ~~Where~~ Development shall incorporate oak woodland elements into ~~the~~ its design and the City shall provide the following standards for plantings that may occur under oak trees; 1) plantings may occur within the dripline of mature trees, but only at a distance outside of the drip line ~~of five feet from the trunk~~ and 2) plantings under and around oaks should be selected from the list of approved species compiled by the California Oak Foundation (*see Compatible Plants Under and Around Oaks*).

Program C-2.3: The City shall require that paving within the dripline of preserved oak trees be avoided wherever possible. To minimize paving impacts, the surfaces around tree trunks should be mulched, paving materials should be used that are permeable to water, aeration vents should be installed in impervious pavement, and root zone excavation should be avoided.

Program C-2.4: The City shall require the use of oaks and other native plant species for project landscaping. To that end, the City shall require collection and propagation of acorns and other plant material from former Fort Ord oak woodlands to be used for restoration areas or as landscape plants material. However, this program does not exclude the use of non-native plant species.

**Biological Resources Policy B-2 (City of Seaside):** As site-specific development plans for a portion of the Reconfigured POM Annex Community (Polygon 20c) and the Community Park in the University Planning Area (Polygon 18) are formulated, the City shall coordinate

with Monterey County, California State University, FORA and other interested entities in the designation of an oak woodland conservation area connecting the open space lands of the habitat management lands NRMMA on the south to the landfill polygon (8a) in the north.

Program B-2.1: For lands within the jurisdictional limits of the City that are components of the designated oak woodland conservation area, the City shall ensure that those areas are managed to maintain or enhance habitat values existing at the time of base closure so that suitable habitat is available for the range of sensitive species known or expected to use these oak woodland environments. Management measures shall include, but not be limited to maintenance of a large, contiguous block of oak woodland habitat, access control, erosion control and non-native species eradication. Specific management measures should be coordinated through the CRMP.

Program B-2.2: For lands within the jurisdictional limits of the City that are components of the designated oak woodland conservation area, the City shall monitor, or cause to be monitored, those areas in conformance with the habitat management compliance monitoring protocol specified in the HMP Implementing/Management Agreement and shall submit annual monitoring reports to the CRMP.

**Biological Resources Policy C-2:** The City shall encourage the preservation and enhancement of oak woodland elements in the natural and built environments.

Program C-2.1: The City shall adopt an ordinance specifically addressing the preservation of oak trees. At a minimum, this ordinance shall include restrictions for the removal of oaks equal to or greater than six inches in diameter 2 feet off the ground of a certain size, requirements for obtaining permits for removing oaks of the size defined, and specifications for relocation and/or replacement of oaks removed. During construction or groups of trees that may be affected by construction activities shall be fenced off at the dripline.

Program C-2.2: When reviewing project plans for developments within oak woodlands, the City shall ~~encourage~~ clustering of development wherever possible so that contiguous stands of oak trees can be maintained in the non-developed natural land areas.

Program C-2.3: The City shall require project applicants to submit a plot plan of the proposed development which: 1) clearly shows all existing trees (noting location, species, age, health, and diameter); 2) notes whether existing trees will be retained, removed or relocated, and 3) notes the size, species, and location of any proposed replacement trees.

Program C-2.4: The City shall require the use of oaks and other native plant species for project landscaping. To that end, the City shall require ~~recommend~~ collection and propagation of acorns and other plant material from former Fort Ord woodlands to be used for restoration areas or as landscape materials.

Program C-2.5: The City shall provide the following standards for plantings that may occur under oak trees; 1) plantings may occur within the dripline of mature trees, but only at a distance of five feet from the trunk and 2) plantings under and around oaks should be selected from the list of approved species compiled by the California Oak Foundation (see *Compatible Plants Under and Around Oaks*).

Program C-2.6: The City shall require that paving within the dripline of preserved oak trees be avoided wherever possible. To minimize paving impacts, the surfaces around tree trunks ~~shall~~ ~~should~~ be mulched, paving materials ~~shall~~ ~~should~~ be used that are permeable to water, aeration vents ~~shall~~ ~~should~~ be installed in impervious pavement, and root zone excavation ~~shall~~ ~~should~~ be avoided.

**Biological Resources Policy B-2 (County of Monterey):** As site-specific planning proceeds for Polygons 8a, 16, 17a, 19a, 21a and 21b, the County shall coordinate with the Cities of Seaside and Marina, California State University, FORA and other interested entities in the designation of an oak woodland conservation area connecting the open space lands of the habitat management lands ~~NRMA~~ on the south, the oak woodland corridor in Polygons 17b and 11a on the east and the oak woodlands surrounding the former Fort Ord landfill in Polygon 8a on the north.

Program B-2.1: For lands within the jurisdictional limits of the County that are components of the designated oak woodland conservation area, the County shall ensure that those areas are managed to maintain or enhance habitat values existing at the time of base closure so that suitable habitat is available for the range of sensitive species known or expected to use those oak woodland environments. Management measures shall include, but not be limited to maintenance of a large, contiguous block of oak woodland habitat, access control, erosion control and non-native species eradication. Specific management measures should be coordinated through the CRMP.

Program B-2.2: For lands within the jurisdictional limits of the County that are components of the designated oak woodland conservation area, the County shall monitor, or cause to be monitored, those areas in conformance with the habitat management compliance monitoring protocol specified in the HMP Implementing/Management Agreement and shall submit annual monitoring reports to the CRMP.



**Biological Resources Policy C-2:** The County shall ~~preserve~~ encourage the preservation and enhancement of oak ~~the~~ woodland elements in the natural and built environments.

Program C-2.1: The County shall ~~encourage~~ encourage clustering of development wherever possible so that contiguous stands of oak trees can be maintained in the non-developed natural land areas.

Program C-2.2: The County shall apply ~~certain~~ restriction for the preservation of oak and other protected trees in accordance with Chapter 16.60 of Title 16 of the Monterey County Code (Ordinance 3420).

Program C-2.3: The County shall require the use of oaks and other native plant species for project landscaping. To that end, the County shall ~~require~~ propagate collection and ~~propagation~~ propagate of acorns and other plant material from former Fort Ord oak woodlands to be used for restoration areas or as landscape plants material. However, this program does not exclude the use of non-native plants species.

Program C-2.4: The County shall provide the following standards for plantings that may occur under oak trees; 1) plantings may occur within the dripline of mature trees, but only at

a distance of five feet from the trunk and 2) plantings under and around oaks should be selected from the list of approved species compiled by the California Oak Foundation (see *Compatible Plants Under and Around Oaks*).

Program C-2.5: The County shall require that paving within the dripline of preserved oak trees be avoided wherever possible. To minimize paving impacts, the surfaces around tree trunks ~~shall should~~ be mulched, paving materials ~~shall should~~ be used that are permeable to water, aeration vents ~~shall should~~ be installed in impervious pavement, and root zone excavation ~~shall should~~ be avoided.

The proposed project includes the establishment of an oak woodland conservation area, in addition to the preservation of oak woodlands within the habitat management lands ~~NRMA~~ and other conservation areas and corridors established by the HMP, which would result in the retention of large contiguous areas of oak woodland habitat. Because the proposed policies and programs would minimize loss of oak trees through careful site design in development areas and effectively require a 1:1 replacement for all trees removed (as called for in the Monterey County Ordinance), effects on oak woodlands would be considered a less-than-significant impact.

**Mitigation:** None required

#### **6. Impact: Affecting up to Approximately Six Acres of Native Perennial Grassland**

Implementation of the proposed project would result in the loss of up to approximately six acres of native perennial grassland. This represents approximately 1% of the total acreage of this community at former Fort Ord. The majority of native perennial grassland on former Fort Ord (470 acres) will be protected within the habitat management lands ~~NRMA~~ lands. As a result, the potential loss of 6 acres within the development envelope would not eliminate this plant community from the vicinity and therefore would not be considered a significant impact.

**Mitigation:** None required

#### **7. Impact: Loss of vernal ponds, riparian corridors and other wetland areas**

Through implementation of the proposed project, there is a potential that vernal ponds, riparian corridors or other wetland could be affected. The only wetland area that has been identified as potentially being lost is the approximately five acres of riparian forest habitat within the proposed corridor for SR 68, which would be affected by construction of the road. The affected riparian habitat would probably not be considered jurisdictional wetlands, but may be considered jurisdictional waters of the United States. All vernal ponds and most other riparian corridors and wetlands currently mapped for former Fort Ord occur within the habitat management lands ~~NRMA~~ and would therefore be preserved. However, there is potential for additional wetland areas to be identified through site-specific surveys in undeveloped natural lands in the future.

Filling of vernal ponds, streams and other wetland areas may be subject to regulation by the U.S. Army Corps of Engineers pursuant to Section 404 of the Clean Water Act. Similarly, the alteration of streams and ponds is regulated by the California Department of Fish and Game. Should wetland areas occur on a project site, future landowners would have to comply with Section 404 of the Clean Water Act if the placement of dredged or fill material is proposed in wetlands or other waters of the





Fort Ord Reuse Plan

2001

"republished" Reuse Plan - not adopted by FORA board

Program B-3.1: The County shall require that, prior to any development activities within the watersheds of riparian drainages, vernal ponds or other important wetlands in the habitat management areas or other habitat conservation areas, a watershed management plan be prepared to assure that such activities do not adversely affect the flow to or water quality of those drainages, ponds or wetlands.

Program B-3.2: The County shall evaluate areas proposed for new development during the site planning process to determine whether wetlands occur. In the event that wetlands are present, the County shall require that they either be avoided or replaced so that there is no net loss to wetland resources as a result of development on the site. Wetlands replacement/mitigation plans should be coordinated through the CRMP.

Program B-3.3: The County should incorporate wetland features into stormwater control facilities to the extent practicable.

Program B-3.4: The County shall coordinate with the State Department of Transportation in the design of SR 68 to assess the feasibility of avoiding the riparian forest within the alignment. Where riparian forest removal is unavoidable, the County shall request CalTrans to compensate at a 2:1 ratio of newly created habitat to lost habitat or a 4:1 acreage ratio of enhanced habitat to lost habitat. Compensation and restoration could occur on other areas of Toro Creek.

Objective C: Avoid or minimize disturbance to natural land features and habitats through sensitive planning, siting and design as new development is proposed in undeveloped lands.

Biological Resources Policy C-1: The County of Monterey shall encourage that grading for projects be designed to complement surrounding topography, minimize habitat disturbance.

Program C-1.1: The County shall encourage the use of landform grading techniques for 1) projects involving major changes to the existing topography, 2) large projects with several alternative lot and roadway design possibilities, 3) projects with known geological problem areas, or 4) projects with potential drainage problems requiring diverters, dissipaters, debris basins, etc.

Biological Resources Policy C-2: The County shall encourage the preservation and enhancement of oak woodland elements in the natural and built environments. Refer to Figure 4.4-1 for general location of oak woodlands in the former Fort Ord.

Program C-2.1: The County shall cluster development wherever possible so that contiguous stands of oak trees can be maintained in the non-developed natural land areas.

Program C-2.2: The County shall apply certain restriction for the preservation of oak and other protected trees in accordance with Chapter 16.60 of Title 16 of the Monterey County Code (Ordinance 3420).

Reuse Plan Elements



not the adopted 1997 Plan language





**Biological Resources Policy C-1:** *The County of Monterey shall encourage that grading for projects to be designed to complement surrounding topography and to minimize habitat disturbance.*

**Program C-1.1:** *The County shall encourage the use of landform grading techniques for 1) projects involving major changes to the existing topography; 2) large projects with several alternative lot and roadway design possibilities; 3) projects with known geological problems areas; or 4) projects with potential drainage problems requiring diverters, dissipaters, debris basins, etc.*

**Biological Resources Policy C-2:** *The County shall encourage the preservation and enhancement of native oak woodland elements in the natural and built environments. Refer to Fort Ord Reuse Plan Figure 4.4-1 for general location of oak woodlands of the former Fort Ord.*

**Program C-2.1:** *The County shall encourage clustering of development wherever possible so that contiguous stands of oak trees can be maintained in the non-developed natural land areas.*

**Program C-2.2:** *The County shall apply certain restriction for the preservation of oak and other protected trees in accordance with Chapter 16.60 of Title 16 of the Monterey County Code (Ordinance No. 3420).*

**Program C-2.3:** *The County shall require the use of oaks and other native plant species for project landscaping. To that end, the County shall recommend collection and propagation of acorns and other plant materials from the former Fort Ord oak woodlands to be used for restoration or as landscape material.*

**Program C-2.4:** *The County shall provide the following standards for plantings that may occur under oak trees: 1) planting may occur within the drip line of mature trees, but only at a distance of five feet from the trunk; and 2) plantings under and around oaks should be selected from the list of approved species compiled by the California Oak Foundation (see Compatible Plants Under and Around Oaks).*

**Program C-2.5:** *The County shall require that paving within the drip line of preserved oak trees be avoided wherever possible. To minimize paving impacts, the surfaces around tree trunks should be mulched, paving materials should be used that are permeable to water, aeration vents should be installed in impervious pavement, and root zone excavation should be avoided.*

**Biological Resources Policy C-3:** *Lighting of outdoor areas shall be minimized and carefully controlled to maintain habitat quality for wildlife in undeveloped natural lands. Street lighting shall be as unobtrusive as practicable and shall be consistent in intensity throughout development areas adjacent to undeveloped natural lands.*

not the adopted 1997 Reuse Plan language - uses weaker language