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Memorandum

Date: September 3, 2013

To: Fort Ord Reuse Authority
Board of Directors
Mayor Jerry Edelen, Board Chair
Michael Houlemard, Executive Officer

From: Alan Waltner, Esq.

RE: Evaluation of FORA Legislative Land Use Decisions and Development Entitlement Consistency Determinations

I. INTRODUCTION

This memorandum describes the requirements applicable to legislative land use decisions and development entitlement consistency determinations made by the Fort Ord Reuse Authority ("FORA") under the FORA Base Reuse Plan ("BRP"). It evaluates as examples two previous actions – the Seaside General Plan consistency certification, and approval of the East Garrison – Parker Flat "land swap."

We conclude that FORA's procedures for determining consistency correctly interpret and apply the Fort Ord Reuse Authority Act ("Authority Act"), Government Code Sections 67650-67700 and the FORA Master Resolution. Generally, so long as the overall development restrictions of the BRP (such as water use limits, housing units, etc.) are not exceeded, the resulting land uses on an overall basis are generally consistent with those in the BRP, specific requirements of the BRP and Master Resolution are satisfied, and substantial evidence supports these conclusions, FORA consistency determinations and other land use actions would likely be upheld by a reviewing court.[1]

[1] We note that most of the actions taken by FORA to date can no longer be challenged in light of the applicable statutes of limitations. Challenges brought under the California Environmental Quality Act, Public Resources Code Section 21000 et seq. ("CEQA"), must be commenced within 30 days if a notice of determination has been filed, or within 180 days of the agency decision if no notice has been filed. CEQA Section 21167. Where no such action has been brought, the environmental document is conclusively presumed adequate for purposes of its use by responsible agencies, unless the provisions of CEQA Section 21166 apply. CEQA Section 21167.2. Under Section 8.01.070 of the Master Resolution, FORA is considered to be a responsible agency for most of these decisions, with the local member agency serving as lead agency. Other claims against FORA would need to be brought within four years of the action under the "catch all" statute of limitations in Civil Procedure Code Section 343. The two specific actions evaluated as examples in this memorandum were each taken over four years ago. Chapter 8 of the Master Resolution, and the existing BRP, were also adopted over 4 years ago and are not subject to challenge unless modified.

II. OVERVIEW OF APPLICABLE REQUIREMENTS

Actions taken by FORA are governed by the Authority Act and the Master Resolution. In particular, Chapter 8 of the Master Resolution, which served as the basis for the settlement in 1998 of a lawsuit brought by the Sierra Club, contains most of the pertinent provisions.

Many of these requirements are unique to FORA, and any litigation challenging actions by FORA or others would likely present issues of first impression. However, the Authority Act, Master Resolution, and Sierra Club settlement can be analyzed using general principles of statutory construction and contractual interpretation. Case law under analogous provisions of the Planning and Zoning Law, Government Code Section 65000 et seq., is also informative and is presented below. In addition, the validity of FORA actions would be highly fact-specific, and depend upon the nature of, and evidentiary support for, the particular decision. As a result, future actions will need to be evaluated on a case-by-case basis in light of the general principles discussed below.[2]

The Authority Act provides for FORA's involvement in local land use decisions primarily in two contexts. The first is the review and certification of local general plans under the "consistency" standards of Government Code Section 67675.3. The second is the consideration of specific land use entitlements under FORA's appeal jurisdiction set out in Government Code Section 67675.8. The standards for each type of action are distinct and are analyzed separately below.[3]

A. Consistency Certifications

Under the Authority Act, the BRP is to include, among other things, "[a] land use plan for the **integrated arrangement and general location and extent of**, and the criteria and standards for, the uses of land, water, air, space, and other natural resources within the area of the base." Government Code Section 67675(c)(1). (Emphasis added). This language closely mirrors the analogous provision of Section 65302 of the Planning and Zoning Law (a general plan must include a "land use element that designates the proposed **general distribution and general location and extent** of the uses of the land . . . ." (Emphasis added).

Thus, under the Authority Act, only the general locations and extent of land uses need be shown in the BRP. There is nothing in the Authority Act requiring FORA to plan at a

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[2] This memorandum is provided for the benefit of FORA. Third parties, such as local agencies, land owners, developers, and financers, should obtain the advice of their own legal counsel with respect to any specific actions being considered by them.

[3] Section 1.01.050 of the Master Resolution describes the distinction as follows: "'Legislative land use decisions' means general plans, general plan amendments, redevelopment plans, redevelopment plan amendments, zoning ordinances, zone district maps or amendments to zone district maps, and zoning changes." Other local land use approvals such as subdivisions, building permits, etc. are defined and labeled as "Development Entitlements." Specific plans are not included in either definition. However, Master Resolution 8.01.010 includes specific plans with the other legislative land use decisions that are subject to consistency review.

level of detail analogous to that of the zoning ordinances and zoning maps prepared by local jurisdictions under the Planning and Zoning Law. Instead, at the former Fort Ord, this more detailed planning is the responsibility of the local jurisdictions. Government Code Section 67675.5.

Following the adoption of the BRP, all of the local jurisdictions with territory in Fort Ord were required to submit both the then-current general plan as well as general plan amendments to the FORA Board, accompanied with a certification that the plan "applicable to the territory of Fort Ord is intended to be carried out in a manner fully in conformity with [the Authority Act]." Government Code Section 67675.2.[4]

The FORA Board then holds a noticed public hearing and approves and certifies the general plans and amendments applicable to the territory of Fort Ord if it finds that the plan "meets the requirements of [the Authority Act] and is consistent with the [BRP]." Government Code Section 67675.3. The approval and certification is mandatory under the Authority Act if these findings are made. *Id.* ("The board **shall** approve and certify . . .).

Following that approval, zoning ordinances and "other implementing actions" are required to be submitted to the FORA Board, which the Board can only reject "on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified general plan applicable to the territory of Fort Ord." Government Code Section 67675.5. Note that the benchmark for this review of local implementing actions is the certified general plan, not the BRP. [5] Following the original general plan certification, amendments to that local plan only take effect upon certification by the FORA Board. Government Code Section 67675.7.

Section 8.02.010 of the Master Resolution elaborates on the criteria for legislative land use consistency determinations, as follows:

> (a) In the review, evaluation, and determination of consistency regarding legislative land use decisions, the Authority Board shall disapprove any legislative land use decision for which there is substantial evidence supported by the record, that
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> > (1) Provides a land use designation that allows more intense land uses than the uses permitted in the Reuse Plan **for the affected territory**;

[4] The corresponding section of the Master Resolution, Section 8.01.020(b)(3), adds a reference to the BRP to this conformity provision.

[5] Section 8.01.060 of the Master Resolution includes a "supercession" provision making Chapter 8 of the Master Resolution "supreme" over the BRP and other FORA documents. However, this supercession clause does not purport to override the Authority Act. This is most likely in recognition of the fact that provisions inconsistent with the Authority Act would not be authorized or effective. Specifically, Section 67675.8(b)(1) of the Authority Act authorizes the Board **only** to adopt regulations "to ensure compliance with the provisions of this title." (Emphasis added).

> (2) Provides for a development more dense than the density of uses permitted in the Reuse Plan **for the affected territory**;
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> (3) Is not in **substantial conformance** with applicable programs specified in the Reuse Plan and Section 8.02.020 of this Master Resolution.
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> (4) Provides uses which conflict or are incompatible with uses permitted or allowed in the Reuse Plan for the affected property or which conflict or are incompatible with open space, recreational, or habitat management areas within the jurisdiction of the Authority;
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> (5) Does not require or otherwise provide for the financing and/or installation, construction, and maintenance of all infrastructure necessary to provide adequate public services to the property covered by the legislative land use decision; and
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> (6) Does not require or otherwise provide for implementation of the Fort Ord Habitat Management Plan.
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> (b) **FORA shall not preclude the transfer of intensity of land uses and/or density of development involving properties within the affected territory as long as the land use decision meets the overall intensity and density criteria of Sections 8.02.010(a)(1) and (2) above as long as the cumulative net density or intensity of the Fort Ord Territory is not increased**. [6]

(Emphasis Added).

The Master Resolution also allows FORA to apply a "substantial compliance" standard for certification of legislative land use decisions. Section 8.02.010. A similar "substantial conformance" standard also applies to the local agency's compliance with BRP policies, as well as with the programs and mitigation measures listed in Master Resolution Section 8.02.020. Master Resolution Section 8.01.010(a)(3).

The standards for consistency certifications set forth in the Master Resolution are similar to those applied in case law under the analogous Planning and Zoning Law. Although FORA is governed by the Authority Act and is not subject to the Planning and Zoning Law, key terms chosen by the Legislature, such as "consistent" should be interpreted similarly. In referring to "consistency," the Legislature is presumed to have been applying the plain meaning of the word, which is: "agreement or harmony of parts or features to one another or a whole**:** correspondence; *specifically***:** ability to be asserted together without contradiction." Websters-Merriam Online Dictionary. The analogy to the Planning and Zoning Law is further reinforced by the similarity of Section 65302 of

[6] The term "affected territory" is defined by Section 1.01.050 of the Master Resolution to mean "property within the Fort Ord Territory that is the subject of a legislative land use decision or an application for a development entitlement **and such additional territory within the Fort Ord Territory that may be subject to an adjustment in density or intensity of allowed development to accommodate development on the property subject to the development entitlement**." (Emphasis Added).

the Planning and Zoning Law and Section 67675(c)(1) of the Authority Act as discussed above.

Under the Planning and Zoning Law, general plans must be internally consistent, and subsequent land use actions, such as zoning ordinances and project entitlements, must be consistent with the general plan. Applying that standard, "A 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.' 'A given project need not be in perfect conformity with each and every general plan policy. [Citation.] To be consistent, a subdivision development must be 'compatible with' the objectives, policies, general land uses and programs specified in the general plan.'" *FUTURE v. Board of Supervisors* (1998) 62 Cal.App.4th 1332, 1336. See also *Orange Citizens for Parks and Recreation v. Superior Court*, (July 10, 2013) California Court of Appeal for the Fourth District, Slip Opinion, No. G047013 (city's interpretation of its general plan land use map given substantial deference, even where specific land uses differ).

"[S]tate law does not require precise conformity of a proposed project with the land use designation for a site, or an exact match between the project and the applicable general plan. [Citations.] Instead, a finding of consistency requires only that the proposed project be '*compatible* with the objectives, policies, general land uses, and programs specified in' the applicable plan. [Citation.] The courts have interpreted this provision as requiring that a project be 'in agreement or harmony with' the terms of the applicable plan, not in rigid conformity with every detail thereof." (*San Franciscans Upholding the Downtown Plan v. City and County of San Francisco* (2002) 102 Cal.App.4th 656, 678.). "[A] given project need not be in perfect conformity with each and every [general plan] policy," and "no project could completely satisfy every policy stated in [a general plan]." *Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 719. The agency "has broad discretion to weigh and balance competing interests in formulating development policies, and a court cannot review the wisdom of those decisions under the guise of reviewing a general plan's internal consistency and correlation." *Federation of Hillside Associations v. Los Angeles* (2004) 126 Cal.App.4th 1180, 1196.

This is particularly true for broad plan provisions that do not set out specific requirements. *Corona-Norco Unified School Dist. v. City of Corona* (1993) 17 Cal.App.4th 985, 996. For example, in *Sequoyah,* there was substantial evidence that a subdivision project was consistent with 14 of 17 pertinent policies. The three remaining policies were amorphous in nature—they "encouraged" development "sensitive to natural land forms, and the natural and built environment." 23 Cal.App.4th at 719. The Board's consistency finding in that case was upheld.

This contrasts with situations such as that faced in *Murrieta Valley Unified School Dist.* v. *County of Riverside* (1991) 228 Cal. App.3d 1212. There, where the applicable general plan required the local agency to incorporate specific nonmonetary school mitigation measures, the requirement of internal consistency required the adoption of such measures in a general plan amendment. Thus, "the nature of the policy and the

nature of the inconsistency are critical factors to consider." *FUTURE v. Board of Supervisors of El Dorado County* (1998) 62 Cal.App.4th 1332, 1341.

A Board's determination of general plan consistency carries a strong presumption of regularity. *Sequoyah Hills*, *supra,* 23 Cal.App. 4th at 717. This determination can be overturned only if the Board abused its discretion—that is, did not proceed legally, or if the determination is not supported by findings, or if the findings are not supported by substantial evidence. (*Ibid.*) "We review decisions regarding consistency with a general plan under the arbitrary and capricious standard. These are quasi-legislative acts reviewed by ordinary mandamus, and the inquiry is whether the decision is arbitrary, capricious, entirely lacking in evidentiary support, unlawful, or procedurally unfair. [Citations.] Under this standard, we defer to an agency's factual finding of consistency unless no reasonable person could have reached the same conclusion on the evidence before it." (*Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 782.) "'It is, emphatically, *not* the role of the courts to micromanage these development decisions.' [Citation.] Thus, as long as the City reasonably could have made a determination of consistency, the City's decision must be upheld, regardless of whether *we* would have made that determination in the first instance." (*California Native Plant Society v. City of Rancho Cordova* (2009) 172 Cal.App.4th 603, 638.). The challenger has the burden of showing that the agency's consistency determination was unreasonable. *Id.* at 639.

"[C]ourts accord great deference to a local governmental agency's determination of consistency with its own general plan." *San Franciscans Downtown Plan v. City of San Francisco* (2002) 125 Cal. Rptr. 2d 745, 759. "[T]he body which adopted the general plan policies in its legislative capacity has unique competence to interpret those policies when applying them in its adjudicatory capacity. [Citations.] Because policies in a general plan reflect a range of competing interests, the governmental agency must be allowed to weigh and balance the plan's policies when applying them, and it has broad discretion to construe its policies in light of the plan's purposes. [Citations.] A reviewing court's role `is simply to decide whether the city officials considered the applicable policies and the extent to which the proposed project conforms with those policies.' [Citation.]" *Save Our Peninsula Committee v. Monterey County* (2001) 87 Cal.App.4th 99, 142.

The programs and mitigation measures listed in Master Resolution Section 8.02.020 generally only require that those programs and measures be included in the applicable general plan or be considered during development entitlement reviews. Section 8.02.020 does not require full implementation of all of these programs and measures as a condition for either consistency certifications or development entitlement approvals. Most of those programs and measures are also stated in relatively subjective and flexible terms, generally qualified by terms such as "encourage" or "appropriate." Only some of the programs and measures are described in more specific, prescriptive or proscriptive, language.

B. Appeals of Project-Level Entitlements

The certification of local general plans generally transfers land use entitlement authority to the local jurisdiction, subject to appeals to the FORA Board:

> Except for appeals to the board, as provided in Section 67675.8, after the portion of a general plan applicable to Fort Ord has been certified and all implementing actions[7] within the area affected have become effective[8], the development review authority shall be exercised by the respective county or city over any development proposed within the area to which the general plan applies.

Government Code Section 67675.6(a). The Authority Act further provides:

> Subject to the consistency determinations required pursuant to this title, each member agency with jurisdiction lying within the area of Fort Ord may plan for, zone, and issue or deny building permits and other development approvals within that area. Actions of the member agency pursuant to this paragraph may be reviewed by the board on its own initiative, or may be appealed to the board.

Government Code Section 67675.8(b)(2).

The corresponding provision in the Master Resolution, Section 8.01.030, states that:

> After the portion of a general plan applicable to Fort Ord Territory has become effective, development review authority within such portion of territory shall be exercised by the land use agency with jurisdiction lying within the area to which the general plan applies. Each land use agency may issue or deny, or conditionally issue, development entitlements within their respective jurisdictions so long as the land use agency has a general plan certified pursuant to Section 8.01.020 and the decisions issuing, denying, or conditionally issuing development entitlements are consistent with the adopted and certified general plan, the Reuse Plan, and is in compliance with CEQA and all other applicable laws.

After the BRP has been adopted, "no local agency shall permit, approve, or otherwise allow any development or other change of use within the area of the base that is not consistent with the plan as adopted or revised pursuant to [the Authority Act]." Government Code Section 67675.8(b). However, this project-level consistency review only occurs if an appeal is filed or the board reviews the action on its own initiative. Id.

The Master Resolution describes the standards to be applied to development entitlement consistency determinations in Section 8.02.030(a):

> (a) In the review, evaluation, and determination of consistency regarding any development entitlement presented to the Authority Board pursuant to Section

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[7] The Authority Act does not define the term "implementing actions." The Master Resolution likewise does not define or make reference to "implementing actions," including in Section 8.01.030(a), which is the provision of the Master Resolution corresponding to this section of the Authority Act.

[8] All that is required is that the implementing actions "have become effective . . . ." The term "effective" means "ready for service or action" or "being in effect." Websters-Merriam Online Dictionary.

> 8.01.030 of this Resolution, the Authority Board shall withhold a finding of consistency for any development entitlement that:
>
> > **(1) Provides an intensity of land uses, which is more intense than that provided for in the applicable legislative land use decisions, which the Authority Board has found consistent with the Reuse Plan;**
> >
> > **(2) Is more dense than the density of development permitted in the applicable legislative land use decisions which the Authority Board has found consistent with the Reuse Plan;**
> >
> > (3) Is not conditioned upon providing, performing, funding, or making an agreement guaranteeing the provision, performance, or funding of all programs applicable to the development entitlement as specified in the Reuse Plan and in Section 8.02.020 of this Master Resolution and consistent with local determinations made pursuant to Section 8.02.040 of this Resolution.
> >
> > **(4) Provides uses which conflict or are incompatible with uses permitted or allowed in the Reuse Plan for the affected property or which conflict or are incompatible with open space, recreational, or habitat management areas within the jurisdiction of the Authority.**
> >
> > (5) Does not require or otherwise provide for the financing and installation, construction, and maintenance of all infrastructure necessary to provide adequate public services to the property covered by the applicable legislative land use decision.
> >
> > (6) Does not require or otherwise provide for implementation of the Fort Ord Habitat Management Plan.
> >
> > (7) Is not consistent with the Highway 1 Scenic Corridor design standards as such standards may be developed and approved by the Authority Board.
> >
> > (8) Is not consistent with the jobs/housing balance requirements developed and approved by the Authority Board as provided in Section 8.02.020(t) of this Master Resolution.

(Emphasis Added). Under subparagraphs (1) and (2) of this provision of the Master resolution, the intensity of land uses and the density of those uses are measured for consistency against the certified general plan. Under subparagraph (4), more general questions of conflict or compatibility are measured against the BRP.

As a result, local development entitlements can still proceed without revisions to the BRP, even if the land uses and densities differ from those identified in the BRP's land use map, so long as those uses and densities are consistent with the certified general plan and the project satisfies the more general provisions of the BRP and Master Resolution, as supported by substantial evidence in the record. [9]

[9] There is also a provision in Sub-Section 8.01.010(h) of the Master Resolution stating that:

III. EVALUATION OF THE SEASIDE GENERAL PLAN CONSISTENCY CERTIFICATION AND EAST GARRISON – PARKER FLATS "LAND SWAP"

A. Seaside General Plan Consistency Certification

The Seaside General Plan was certified by the FORA Board in 2004 as being consistent with the BRP. The Seaside General Plan itself was supported by an Environmental Impact Report under CEQA, which the FORA Board utilized as a responsible agency under the Master Resolution. Detailed findings were also made by Seaside under CEQA. The FORA Board's action was also supported by extensive additional documentation submitted by the City of Seaside, including a staff report evaluating consistency with the BRP and compliance with the Master Resolution. In certifying the Seaside General Plan as consistent with the BRP, the FORA Board appropriately relied on these submissions.

The FORA Staff Report on the Seaside General Plan action applied the appropriate legal standards under the Authority Act and the Master Resolution. November 19, 2004 Agenda, Item 7d. Specifically, the Staff Report recognized that: "there are thresholds set in the resource-constrained BRP that may not be exceeded, most notably 6101 new

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> No development shall be approved by FORA or any land use agency or local agency after the time specified in this subsection [i.e., no later than January 1, 2013] unless and until the water supplies, wastewater disposal, road capacity, and the infrastructure to supply these resources **to serve such development have been identified, evaluated, assessed, and a plan for mitigation has been adopted** as required by CEQA, the Authority Act, the Master Resolution, and all applicable environmental laws.

(Emphasis Added). Note that this provision does not require consideration of infrastructure beyond that needed for the particular project, and that it also does not require that the infrastructure have been completed at the time of the decision.

Master Resolution Sub-Section 8.02.020(a) states that:

> Prior to approving any development entitlements, each land use agency shall act to protect natural resources and open spaces on Fort Ord territory by **including** the open space and conservation **policies and programs** of the Reuse Plan, applicable to the land use agency, **into their respective general, area, and specific plans.**

(Emphasis Added). Master Resolution Sub-Section 8.02.040 includes a similar but somewhat differently worded limitation:

> No development entitlement shall be approved or conditionally approved within the jurisdiction of any land use agency until the land use agency has taken **appropriate action**, in the **discretion** of the land use agency, to adopt the programs specified in the Reuse Plan, the Habitat Management Plan, the Development and Resource Management Plan, the Reuse Plan Environmental Impact Report Mitigation and Monitoring Plan and this Master Resolution applicable to such development entitlement.

(Emphasis Added).

residential housing units, and a finite water allocation." *Id.*, page 2. The Seaside General Plan was evaluated in detail in relation to these constraints.

The supporting materials also included an analysis of ten specific differences in the land use designations for specific parcels in the Seaside General Plan as compared to the BRP. Those materials acknowledged that the intensities and density of land uses for those specific parcels differed from the BRP, but that the changes reflected a shift in uses and densities rather than an overall change as compared to the BRP. The supporting materials adequately supported the FORA Board's conclusions.

If FORA's consistency certification for the Seaside General Plan had been challenged, it would have been reviewed under very deferential standards as described above. Of course, the applicable statutes of limitation have passed as discussed in footnote 1 above. However, even if they had not, we conclude that FORA's certification action would likely have been upheld by a reviewing court if a challenge had been brought.

B. East Garrison - Parker Flats "Land Swap"

In 2005, FORA entered into a memorandum of understanding with the U.S. Army, Bureau of Land Management, County of Monterey, and Monterey Peninsula College providing for a shift in land uses between the East Garrison and Parker Flats regions. Specifically, a public safety officer training facility was moved to the Parker Flats region from the East Garrison region of former Ford Ord, and residential land uses were moved to the East Garrison region from Parker Flats. This action has been described as the East Garrison – Parker Flats "Land Swap." From a land use perspective, the anticipated uses were in effect modified in these two areas located in Monterey County.

The land swap was supported by an "Assessment East Garrison – Parker Flats Land Use Modifications Ford Ord, California" prepared by Zander Associates in May 2002 ("Assessment"). The Assessment primarily evaluated the effects of the land swap on the "Installation-Wide Multispecies Habitat Management Plan for Former Fort Ord." ("HMP"). The Assessment concluded that: "The goals, objectives and overall intent of the HMP would not be altered and the protections afforded those species addressed in the HMP . . . would not be reduced as a result of the proposed modifications." Assessment, page 1. In fact, the Assessment concluded that the net effects of the land swap on habitat would be beneficial.

The land swap itself was a somewhat novel action not directly contemplated by the Master Resolution. However, the Assessment considered consistency with the BRP and concluded that the modifications for East Garrison would generally conform by providing a mixed-use development plan with a central core village theme. Assessment at 9. Likewise, the Assessment concluded that the land swap would only result in minor adjustments to Parker Flats land uses. Id. at 11. Overall, the land swap reflected a shift in uses and densities, rather than a significant change in comparison to the overall BRP. [10]

[10] Subsequently the land swap was recognized through the certification of Monterey County's East Garrison Specific Plan.

IV. PROSPECTIVE RECOMMENDATIONS, INCLUDING CEQA COMPLIANCE

FORA has not revised the BRP land use map to reflect the differences between that map and most of the certified general plans that have been considered to date. Similarly, the East Garrison – Parker Flats land swap and associated East Garrison Specific Plan consistency approval is not reflected in revisions to the BRP map. In the December, 2012 Final Reassessment Report, under "Category II," a number of potential revisions to the BRP land use map were identified in order to update that map to reflect the uses and densities reflected in consistency certifications and other FORA actions such as the land swap that have occurred since the BRP was adopted. In order to provide a more usable document, FORA is considering updating the BRP's land use map.

Our July 3, 2013 memorandum discussed the actions recommended in connection with potential BRP revisions. The recommendation in that memorandum still applies – that an initial study be prepared to evaluate the environmental effects of those revisions in comparison to the analysis in the BRP EIR (as well as other EIRs supporting FORA actions such as the consistency determinations). As stated in our July 3 memorandum, the ultimate CEQA compliance obligations will need to be based on the specifics of the BRP revisions adopted, which can best be evaluated through an initial study considering the resulting environmental effects in relation to the existing CEQA documentation.