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October 26, 2020
BLM Director (210)
Attention: Protest Coordinator
2850 Youngfield Street
Lakewood, CO 80215
Submitted electronically on www.eplanning.blm.gov

Re: Protest of Cotoni-Coast Dairies Amendment to the California Coastal National Monument Resource Management Plan and Final Environmental Assessment

To the BLM Director and Protest Coordinator:

Pursuant to 43 C.F.R. 1610.5-2 Sempervirens Fund submits the following protest for the Bureau of Land Management's (BLM) Proposed Resource Management Plan Amendment (RMPA) and Final Environmental Assessment (EA) for the Cotoni-Coast Dairies (C-CD) unit of the California Coastal National Monument. Our protest is focused on several specific issues in the Proposed RMPA's Preferred Alternative D.

Interests of Sempervirens Fund

Sempervirens Fund, a non-profit land trust operating in coastal California's Santa Cruz Mountains, has been working for 120 years to ensure the permanent protection of redwoods and other natural and scenic resources in Santa Cruz, San Mateo, and Santa Clara Counties. To date, Sempervirens Fund has protected over 35,000 acres, most of which is now part of Big Basin Redwoods, Henry Cowell Redwoods, Portola Redwoods, Butano, and Castle Rock State Parks. The organization owns over 11,000 acres of redwood forests and other natural lands in this region that we manage for the preservation of its conservation values.

Sempervirens Fund helped lead the campaign to bring Presidential recognition and national monument status to C-CD, with generous support and the active involvement of our board, supporters, foundation funders,



and key partners. As champions of this successful campaign, we have a vested interest in the outcome of the Cotoni-Coast Dairies RMPA and EA. Many of our staff, board, and supporters live near, or adjacent to, C-CD and will be impacted by the visitation that will result from opening this property more broadly to the public. Similarly, our staff, board, and supporters recreate on lands that are near or adjacent to C-CD and will recreate on this property when it is open. In addition, Sempervirens Fund is the co-owner of the adjacent 8,532-acre San Vicente Redwoods property, which is managed for conservation and recreation purposes that are complementary to those at C-CD. As a result, many of the management decisions made on C-CD have direct implications for our property and visitors are expected to regularly move between the two properties. We have worked collaboratively in the past with BLM staff on cross-boundary land management issues and anticipate the need for joint management approaches will intensify when the Record of Decision for this RMPA is finalized.

Sempervirens Fund staff, board members, and supporters participated in every public meeting regarding the C-CD RMPA. On August 2, 2019, Sempervirens Fund submitted comments on the scoping plan for the C-CD RMPA. On April 3, 2020, Sempervirens Fund submitted comments on the draft EA and draft RMPA for Cotoni-Coast Dairies. Sempervirens Fund also submitted a supplemental letter to BLM on September 9, 2020, in response to the catastrophic wildfires that burned over 1,000 acres (nearly 20%) of C-CD, leading to a significant change in circumstances just before the release of the Proposed RMPA. These three prior submissions are attached here for reference.

We have been grateful for the open, constructive dialogue we have had with the local BLM staff regarding the future of this property. We recognize and appreciate greatly that this plan addressed many of the concerns we had previously voiced. There is much that Sempervirens Fund supports about the Proposed RMPA. For that reason, we are limiting our protest to three significant issues in which the plan fails to strike the necessary balance between promoting outdoor recreation and enjoyment of this incredible property while ensuring its ecological, cultural, and historical values are preserved.

Sempervirens Fund's protest addresses the following issues of concern:

- 1) Archery hunting on approximately 40% of C-CD with few limitations.**
- 2) Use of Warrenella Road as a seasonal public road and construction of the Warrenella Road-Top parking lot and facilities.**
- 3) Allowance of e-bikes on all trails designated for mountain bike use.**

Points of Protest

1) Archery hunting on approximately 40% of C-CD with few limitations

In the C-CD Proposed RMPA Preferred Alternative D, BLM describes the following recreational hunting use:

Allow archery hunting in RMZ 2 (approximately 2000 acres) through a permitted special hunt program established by the California Department of Fish and Wildlife (CDFW) in coordination with the BLM and interested parties. Through their special hunt program, CDFW would establish specific days, species, and number of permits issued (2.14.2 Management Actions and Allowable Uses).

Sempervirens Fund protests the allowance of archery hunting on Cotoni-Coast Dairies. We do not think hunting can be accomplished safely on a property that is both so small and surrounded by neighbors, public roads, agricultural lands, and associated farmworkers, and other recreational users. In the Proposed RMPA Sections 3.1.3, 4.1.4, and 4.11.6, BLM outlines archery hunting as recreational use in RMZ2, or approximately 40% of the total area of C-CD. Trails proposed by BLM for RMZ1 and RMZ3 are planned to follow directly along the boundaries of two sides of this hunting zone. A third side of the hunting zone runs along our San Vicente Redwoods property, where hunting is prohibited. It is implausible that hunters in RMZ2 will be kept separate from other recreational users on BLM's trails or prevented from crossing (even inadvertently) onto San Vicente Redwoods.

Appendix A, Figure 5D, illustrates the challenge and implications of cramming too many conflicting uses into such a small property. This map reveals the boundary effects associated with the proposed trail network and how those impacts extend far into RMZ2 and over much of RMZ4, both of which are supposed to serve as C-CD's core wildlife habitat areas. If hunting is also allowed across all of RMZ2, very little of C-CD will remain a functional safe-haven for wildlife. It is well-documented that human presence and even human voices can disturb and deter wildlife species. In this landscape, that is most problematic for mountain lions. Even before the CZU Lightning Complex wildfires (but after the public comment period closed on the draft RMPA), the California Fish and Game Commission voted unanimously to recommend the Central Coast population of mountain lions as candidates for protection under California's Endangered Species Act. This followed an earlier finding by the California Department of Fish and Wildlife that such protections may be warranted. This hunting program, and the accompanying presence of humans, creates more pressure on these lions.

The Proposed RMPA Alternative D gives examples of how CDFW's "Special Hunt" program *might* be limited in RMZ2 (Section 4.1.4), but these examples are only speculative. The RMPA includes no limitations on the number of days hunters might be present, the number of hunters that might be allowed, or the types of wildlife that would be hunted. It is unclear whether hunters would be granted exemptions to camp overnight, build campfires or do other forms of fire-making, or bring their hunting dogs off-trail. The Proposed RMPA Preferred Alternative D also lacks clarity on what sort of buffer zones are needed to ensure public safety or how those buffer zones would be meaningfully enforced.

Requested Remedy – *To ensure public safety, to allow RMZ2 to function as a core wildlife zone, and to keep hunters off San Vicente Redwoods, Sempervirens strongly recommends BLM eliminate archery hunting at C-CD. At a minimum, BLM should include in the Final RMPA: explicit buffer zones between hunters and recreational trails, neighbors and roads; restrictions that affirm hunters will not be allowed to camp overnight or have dogs off-leash; and "not to exceed" limits on the number of hunting days and number of hunters allowed on the property annually.*

- 2) Use of Warrenella Road as a public road and construction of seasonal Warrenella Road-Top parking lot and facilities.

Sempervirens Fund protests any public use of Warrenella Road, as well as the construction of a 49-space parking lot and associated facilities at Warrenella Road-Top (Section 2.14.2). Sempervirens Fund recommends against any portion of Warrenella Road being used for anything other than the BLM's administrative needs and emergency services. Warrenella Road is currently the main private legal access road through C-CD, San Vicente Redwoods, and Molino Creek Farms, and as such, is used by large agricultural and timber operation vehicles. The road, though much improved in recent years, is not well designed for safe public use.

We also object to the placement of a public parking lot and facilities, even if restricted to seasonal, weekend-only day use, at Warrenella Road-Top. This is due, in part, to safety issues related to the public using the ingress/egress of Warrenella Road. It is unclear how hikers, for instance, would be prevented from leaving this parking lot and heading up Warrenella Road into parts of San Vicente Redwoods that are not safe for the public to access.

For all of the reasons outlined above, Sempervirens Fund is also deeply concerned that this sizeable parking lot (it accommodates 49 cars and 2 RV spots) will bring large numbers of

people deep into the heart of the monument and directly adjacent to the boundary with the core wildlife zone in RMZ2. As previously stated, Appendix A, Figure 5D, illustrates the challenge and implications of cramming too many conflicting uses into such a small property. This map reveals the boundary effects associated with the proposed trail network and how those impacts extend far into RMZ2 and over much of RMZ4, both of which are supposed to serve as C-CD's core wildlife habitat areas. If the Warrenella Road-Top parking lot is constructed, very little of C-CD will remain a functional safe-haven for wildlife. It is well-documented that human presence and even human voices can disturb and deter wildlife species. In this landscape, that is most problematic for mountain lions. To limit the negative impacts of human disturbance on mountain lions and other wildlife, we strongly oppose the construction of the Warrenella-Top parking lot.

Requested Remedy - *Warrenella Road should be closed to public use, and Warrenella Road-Top seasonal parking lot and facilities should be eliminated from BLM's Final RMPA.*

3) Allowance of e-bikes on all trails designated for mountain bike use

The Proposed RMPA's Preferred Alternative D allows e-bikes (Sections 2.14.2 and 4.11.6) wherever mountain bikes are allowed on C-CD. Sempervirens Fund protests the use of e-bikes on C-CD. The property is subject to a set of deed restrictions that were put in place when it was conveyed to BLM by the Trust for Public Land in 2014. Among other things, the deed restrictions expressly prohibit motorized off-road vehicles:

The use of motorized off-road vehicles shall not be permitted on the Subject Property outside of established or designated roadways, except to the extent necessary for management of the Subject Property, or to protect public health and safety, or in response to other emergency situation.

Presidential Proclamation 9563, which added C-CD to the California Coastal Monument on January 12, 2017, also explicitly prohibits off-road motorized vehicles. E-bikes (which are both motorized and used off-road) are plainly contrary to the letter and the spirit of the deed restrictions and the Presidential Proclamation associated with C-CD. The RMPA cites Secretarial Order 3376, dated August 29, 2019, "Increasing Recreational Opportunities through the use of Electric Bikes," which provides management guidance to BLM to "expressly exempt all e-bikes as defined in Sec. 4a from the definition of off-road vehicles or motorized vehicles."

This after-the-fact secretarial guidance, however, lacks the authority to overturn or re-interpret the legally binding language of either the deed restrictions or the Presidential Proclamation. Secretarial Order 3376 includes language that describes its own limitations:

This Order is intended to improve the internal management of the Department. This Order and any resulting reports or recommendations are not intended to, and do not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its departments, agencies, instrumentalities or entities, its officers or employees, or any other person. To the extent there is any inconsistency between the provisions of this Order and any Federal laws or regulations, the laws or regulations will control.

As a practical matter, we are concerned that e-bike use on C-CD will encourage the illegal use of e-bikes on the adjacent San Vicente Redwood's trail network. We are particularly concerned that e-bike use on the Molino Bank Loop will inevitably result in the unauthorized entry of e-bike users on San Vicente trails. Signage alone will not be enough to stop this use, and we anticipate BLM will have insufficient enforcement capacity to stop the trespass.

Requested Remedy - Prohibit all classes of e-bikes from being used on C-CD, with particular consideration given to the Molino Bank Loop trail to avoid conflicting use issues with the neighboring San Vicente Redwoods trails.

Conclusion

On August 3, 2020, BLM announced via email its plans to release the Proposed RMPA and Final EA for C-CD within 3-4 weeks. Shortly thereafter, the CZU Lightning Complex fires ignited, burning 20% of C-CD and inflicting even more sweeping damage on the surrounding wildlands. Despite this, the Proposed RMPA and Final EA were released almost immediately after the fires were extinguished. Not surprisingly, the Proposed RMPA and Final EA include very limited acknowledgment and analysis of these changed circumstances. To our knowledge, BLM has not completed the requisite burned area assessments. We do not know what impact these fires have had on wildlife, aquatic species, vegetation, soils, or riparian areas. For example, what might these fires mean for the endangered California red-legged frog and salmonids that rely on this habitat? We also do not know what impacts are yet to come. Santa Cruz County has begun issuing warnings that the Santa Cruz Mountains are at high risk from significant debris

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flows, landslides, and flooding when the winter rains hit this fire-impacted landscape. All of this suggests that the on-the-ground conditions at C-CD are uncertain and unstable.

Given this context, we urge BLM to proceed with even greater caution than would normally be warranted when opening a sensitive landscape to human visitors and human presence. The three items outlined in our protest are all activities that place additional and new pressures on a landscape that is already facing significant stress from the fires. We appreciate your review and consideration of these protest points.

Sincerely,



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cc: The Honorable Anna Eshoo, U.S. House of Representatives
The Honorable Mark Stone, California Assembly
The Honorable Ryan Coonerty, Santa Cruz County Board of Supervisors
Davenport North Coast Association
Rural Bonny Doon Association
Governor Gavin Newsom
Director Charlton Bonham, California Department of Fish and Wildlife
Dan Carl, California Coastal Commission, Santa Cruz Office
Walter Moore, President, Peninsula Open Space Trust

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