



Scenic Pacifica

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February 19, 2009

Cay C. Goude
Assistant Field Supervisor
Endangered Species Program
US Fish and Wildlife Service
Sacramento Fish and Wildlife Office
2800 Cottage Way W-2605
Sacramento, California 95825

Subject: Response to Reference No. 1-1-96-F-163-2

Dear Ms. Goude:

This letter is in response to your letter dated February 2, 2009. I would first like to clarify the City of Pacifica's ("City") role with regard to the Waste Vegetable Oil Recycling Facility ("Biodiesel Facility") at the Calera Creek Water Recycling Plant ("City Plant"). Whole Energy is the owner of the Biodiesel Facility and obtained its own Coastal Development Permit for the project. Because the Biodiesel Facility involved no actions by any federal agencies, it did not require any formal consultation under section 7 of the Endangered Species Act. While the Biodiesel Facility will be located on an existing concrete pad on the City Plant, and Whole Energy will be compensating the City for use of the City Plant site with electricity produced by the Biodiesel Facility, it is not a City project. . Therefore, now that the permits have been issued, any issues or concerns regarding the Biodiesel Facility should be directed to Whole Energy separately.¹

With respect to the City Plant, the City is working diligently to implement the conditions adopted by the California Coastal Commission ("CCC") and contained in your agency's biological opinion. Pacifica's Calera Creek restoration is one of the State's most successful California Red Legged Frog ("CRLF") repopulations and resulted in the riparian restoration of a now flourishing 30 acres of uplands. The City spent over 15 years in planning and constructing this wetland restoration with \$4 million in City funds. The City's restoration included the planting of over 150,000 one gallon native plants, the removal of over 50,000 cubic yards of garbage, and the removal and reshaping of over 200,000 yards of rubble fill that had been placed in the historic wetlands during almost 300 years of quarry operation. The wetlands are flourishing. The Alders have trunk diameters that exceed 8 inches. The CRLF population has grown from three to thousands.

Consistent with the City's goals to restore the creek area and comply with the required conditions, the City invited personnel from your agency, the United States Army Corp of Engineers, the California Department of Fish and Game and CCC to

¹ USFWS was sent the documents referenced in the second paragraph of your letter during the permitting process for the Biodiesel Facility.



meet on January 16, 2009 to discuss the requirements and plan for implementation of Coastal Development Permit Nos. 1-95-40 and 1-95-59 and the conditions in the biological opinion. At that meeting, there was a consensus that the only conditions the City had not undertaken were 1) the monitoring of the San Francisco Garter Snake (SFGS), the California Red Legged Frog (CRLF) and the Pacific Tree Frog (PTF) as specified on Page 10, Section VI, Part D and on Page 11, Table 1 of the "Monitoring Plan for the Depressional Wetland Areas Constructed For Snake Habitat, Calera Creek Wetland Restoration, City of Pacifica, California²," 2) design and implementation of a Long-Term Management and Maintenance Plan for the Restored SFGS Habitat Area; and 3) design and implementation of a Long-Term Management and Maintenance Plan for the Restored Creek. Item 1 is Special Condition No. 6 of CDP No. 1-95-59 as well as Special Condition No. 3d(i) of the Biological Opinion dated October 31, 1996. Item 2 is Special Condition No. 8 of CDP No. 1-95-59, and Item 3 is Special Condition No. 7 of CDP No. 1-95-40. It was agreed that the City will embark on performing all three items as soon as possible.

Specifically, the City proposes that it complete the following:

- Implement Long-Term Management and Maintenance Plan for the Restored Creek and Snake Ponds.
- Provide Habitat and Faunal Support monitoring for the SFGS, CRLF and PTF around the snake ponds this year and the next 2 years of the permit. Due to some misunderstanding, these studies were not performed in the Monitoring reports prepared by Thomas Reid and Associates. After LC Lee and Associates closed their business, Thomas Reid and Associates has been preparing the monitoring reports for the City. For the next two years, the City will perform quarterly frog surveys and two annual snake surveys. The City has sent out an RFP (Request for Proposal) for qualified herpetologist to perform the monitoring of the RLF, SFGS and Pacific Tree Frog. We expect the work to begin as soon as possible.
- Restocking: The City agreed in the Coastal Commission conditions to restock the habitat with CRLF if necessary. Based on the six Monitoring Reports conducted over an 8 year period, there has been a steady increase in numbers of CRLF and PTF on site. Monitoring reports have indicated that the CRLF population has been very successful and exceeds the ability of the habitat to support additional population. Therefore, restocking has not shown to be necessary.

² While your letter mentions a SFGS sighting in April 2008, that siting was not made by a licensed herpetologist and was based only on a visual description of the snake sited. Recent extensive surveys conducted by the current owner of property adjacent to the City Plant property have identified numerous CRLF but no SFGS. These surveys are still in draft form and are not available to be published. However, the results of these surveys have been circulated and are widely known. The monitoring the City will have conducted by a qualified expert will provide valuable information about the SFGS.

- Maintenance of the “Snake Ponds”: The “Snake Ponds” represent less than 2% of the total restoration. The initial monitoring reports have shown the lowest number of egg masses in these ponds. The macro depressions to the east of the “snake pond” have shown the greatest number of egg masses. Based on consultation with biological experts, the City does not believe that the “Snake Ponds” are necessary to support the habitat for the CRLF (and therefore the SFGS). The snake ponds are a contrived habitat located on a hillside with plenty of sunlight that will gradually fill in if not drained and dredged every 5 to 10 years. Given that these very small ponds (only 2 of over 30) are not essential to the long term survival of the CRLF and that the disturbance associated with draining and dredging will create more disturbance and harassment to the species than allowing nature to take its course and have the ponds fill in naturally, the City does not recommend draining and dredging the ponds every five years and would like to discuss this further with the CCC and USFWS.
- Repair of the Fence along the bike trail: This fence was not constructed as a habitat barrier. It was constructed to keep dogs and people out of the habitat until the vegetation density increase to the point that it was no longer necessary. The fence fabric is only 12 inches high and does not restrict the migration of the CRLF and SFGS. The fabric is torn in places but the fence has served its purpose as an initial barrier to unleashed dogs and is no longer necessary. People using the trail also respect the new dog leash laws that we implemented after the trail was constructed. Therefore, the City believes that repair of the fabric is no longer necessary.

Given that it appears the original Memorandum of Agreement between the City and USFWS has expired, we would recommend entering into a new agreement that clarified the actions the City will take to implement these conditions. Thank you for your time, and we look forward to meeting with you on February 26, 2009.

Sincerely,



Dave Gromm, Director of Wastewater
City of Pacifica

Cc:

Michelle Havens, Melisa Helton, Chris Nagano, USFWS
Mark D'Avignon, Nina Cavett, Ian Liffmann, USACE
Jo Ginsberg, Nancy Cave, Ruby Pap, California Coastal Commission
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