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Via Email Submission

Board of Supervisors of Marin County
3501 Civic Center Drive Room #329
San Rafael, CA 94903
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**Re: Comments on Staff Report Prepared for November 8, 2016 Board Hearing re
Vegetation and Biodiversity Management Plan and Final Tiered
Programmatic Environmental Impact Report**

Dear Members of the Board of Supervisors:

I am writing on behalf of Community Venture Partners and Sustainable Tam/Almonte to comment upon the staff report prepared for the Board of Supervisors' November 8, 2016 hearing on the Marin County Parks Open Space District's ("District") Vegetation and Biodiversity Management Plan ("Plan") and Programmatic Environmental Impact Report ("EIR").

The staff report recommends the County pursue a new action, which is to instead simply "[a]ccept the plan" but "not certify the EIR." According to the staff report, the Board would accept the plan as a "reference document," according to which staff would rely on the Plan "only for background information" and would not "use these documents to implement specific projects." The staff report claims that by 'accepting' rather than 'adopting' the plan, the District has not committed itself to any particular management direction, and thus the proposed action would not qualify as a CEQA 'project.' See Staff Report, p. 2 ("[T]he term 'approval' refers only to a public agency decision that" "...commits the agency to a definite course of action in regard to a project.")

Based on our review, we believe that the Board's *acceptance* of the Plan would constitute a CEQA project and thus may not be accomplished without CEQA compliance, *i.e.*, in this case the completion and certification of an EIR.

The reason that CEQA review is required in this instance is that the Plan is not simply a collection of background information and study, but instead sets the future direction for the District's vegetative management strategy. Here, the purpose of the Plan is to initiate a "new approach" due to the district's "limited capacity to fund an increasing volume of vegetation

management activities.” The Plan will “replace existing preserve-specific vegetation plans” and provide a “foundation for replacing year-to-year program fluctuations with a more systematic and consistent approach.” The Plan is to be used as a “vehicle for decision making about vegetation management projects on the MCOSD lands.”

The Plan’s direction for future vegetation management actions by the District is problematic, given its findings that herbicides will be a core component of the District’s new approach, including such determinations as:

- When herbicides are carefully selected, appropriately applied, and used in moderation, they can significantly increase worker safety, reduce invasive plant infestations and related program costs, and reduce the need for long-term follow-up because the invasive plant infestations will be controlled or eliminated.
- placing limits on chemical control techniques (herbicides) as a part of an IPM strategy greatly increased overall costs, and for numerous invasive plants reduced control treatment effectiveness, thereby exponentially increasing future operational costs.

The staff Report characterizes the County’s IPM approach as “using the least harmful effective method and the use of herbicides as a last resort and for critical uses only.” However, the Plan describes the IPM approach as the “judicious use of herbicides” in order to keep “the highest value habitat intact and free from invasive plants, and by prioritizing funding and resources towards early detection and rapid removal districtwide.” Indeed, to accomplish these latter objectives, the Plan does not characterize herbicide use as a ‘last resort’ but instead as a first and desired option. *See e.g.*, Plan, p. 7-20 (First Listed BMP for Invasive Plant Removal is “Implement an Integrated Pest Management (IPM) Approach with Herbicide Application, Notification, and Signage Procedures.”)

Given the clear intent in the Plan to expand the use of herbicides to address the District’s growing concern over invasive species and fuel reduction, we strongly question how there is any difference for CEQA purposes between the District ‘adopting’ as opposed to ‘accepting’ the Plan and referring to it as the District implements future site specific projects. Here, the Plan either exists and constitutes a plan which the District will follow or it does not exist because the District never took any action with respect to it’s directives.

In our view the only available option, should the District wish make the correct decision to back away from the Plan’s commitment to herbicide use as a major component of future management activities, is for the Board to *decline either to adopt or accept the Plan* and its accompanying flawed EIR.

In the alternative, any District action either to adopt or accept the Plan in its present form will require CEQA review and accompanying substantial revisions to the current EIR. *See e.g.*, *Tara v. City of West Hollywood* (2008) 45 Cal.4th 116, 130–131 (“To be consistent with CEQA’s

purposes, the line [for conducting CEQA review] must be drawn neither so early that the burden of environmental review impedes the exploration and formulation of potentially meritorious projects, nor so late that such review loses its power to influence key public decisions about those projects.”)

Here, the District was correct that its decision to change herbicide use from a measure of last resort to a first preferred option in order to control costs in combating weed infestations and reducing fuel loads required a programmatic CEQA review process. The staff report’s recommendation in contrast, to ‘accept’ such a Plan without the required review process, violates CEQA.

Yours Truly,

Michael Graf

On behalf of Community Venture Partners and Sustainable Tam/Almonte