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To: Thom McCue, Senior Planner
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Subject: Del Monte Forest Preservation and
 Development Plan - Partially
 Recirculated Draft Environmental
 Impact Report - (PR-DEIR) - Comment One.

Sir:

To set my groundwork, I am a full time resident of Del Monte Forest since 1985 (nearly twenty years), and have been deeply involved with forest politics, policies, and governance since 1988 when I gave a lengthy briefing to the Forest's DMFPO on the LUP recently released and relatively unknown to all at that time. Since then it's been, for me, a fairly steady stream of conferences, public hearings, scoping meetings, DEIR

Comments, public testimonies, working
 tours, lot plan changes submitted, LUP
 amendments passed, Coastal Committee
 presentations - all centering around
 a private property owner (PBCo) seeking
 to exercise his constitutional rights to
 acquire, hold, develop, and dispose of
 private property within a framework
 of environmental rules & regulations.

And now, let's turn to the superb PROEIR.
 Thick and rich with tables, hard data,
 and references, it is as well organized
 and readable as its predecessor OEIR.
Congratulations to your staff and the
 consultants who toiled and advocates who
 circled.

I'll comment on the seven headings,
 individually and then collectively:

P-1- Water Supply

The PROEIR fails to clearly
 attribute to the PBCo its ^{singular} role in
 providing (by underwriting the
 bond issue financing some)
 some 5000 AF of reclaimed water
 during the period '95 thru '03.

thus freeing up a matching amount of potential for disposition by the WMO. As I recall, local, and state, and federal politicians judiciously acclaimed this action by the PBCs as "noble", "public spirited", "first of a kind", etc. The PROEIR gives no mention or credit to this \$34,000,000 deed by the PBCs.

1 (cont.)

P-2 Yadon's Piperia

No comment, but an observation. The PROEIR lists some 50 "special status plants" occurring or "having the potential to occur" in the forest. Only twelve have Federal protection, twelve have state protection, and 44 (!) have NPS protection, according to the table. Lumping "protectors" USA, CA, and NPS together in the same table would suggest, to some, that these three entities have equal status, authority, and enforcement rights. Not so. The NPS is a private organization, anyone may join and pay dues, and, unless I'm sadly mistaken, has no ^{law-based} authority to classify plants than you - I do. This should be made clear to the decision makers.

2

P-3 Green Horse Trail

No comment, but an observation. There are many horse trails in the forest (blue, white, yellow, etc). Since the Green Trail ^{is} the only trail receiving special attention in the PROEIR, is it safe to assume that the other trails are ^{100%} environmentally acceptable?

P-4 Traffic

The PROEIR opens up the DEIR's traffic Corridor to include Liveways 68, 1, 101, and 156, and finds impacts from the Forest Plan upon them, even as far away as Prunedale! Traffic Engineering is an acceptable branch of engineering and I respect the numbers, but Prunedale is a "stretch". You wanted to strain the numbers a bit more I-5, Pomona, could eat the bit!

PBCs, the applicant, must put up, in advance in the order of \$704,000 to mitigate these remote traffic impacts. This is hard for me to swallow. The rationale and legality of this massive imposition on a private party needs more discussion.

P-5 Noise

No comment. But I was amused by your author's use of the phrase "sensitive receptors". I assume they are the folks who live on Bristol Circle/Curve and listen to things?

5

P-6 Cumulative Effects

No comment.

P-7 Cumulative Effects Overall

No comment.

Summary:

Trying to sum^{up} the PROEIR, it appears to me that the EIR will OK, or find environmentally acceptable the PBC's Plan if, and only if, the PBC does two big things:

- #1. Pay \$704,000 for highway upkeep.
- #2. Underwrite the \$11 Water Reclamation Plant for \$30,000 or thereabouts, and put it in operation.

6

This situation has many of the elements of a "taking", covered in Amendment V of the U.S. Constitution

The elements are closely found in the Supreme Court case No 93-518, Dolan v. City of Tigard, argued 23 March 1994. It seems Mrs. Dolan, a kindly elderly lady, wanted ^{to} expand her hardware store, add space to its paved parking lot, and build a small additional shed. Tigard City Council said it would approve her project but, to get it, she would have to dedicate some of her land to the city. Mrs. Tigard and her attorney soon cried "foul", and "taking". The Supreme Court agreed, reversed the judgment of the Oregon Supreme Court, and remanded the case for further proceedings.

6 (cont.)

Judge Behrman wrote the majority opinion, writing "We see no reason why the Takings Clause of the Fifth Amendment, as much a part of the Constitution's Bill of Rights as the First and Fourth Amendments, should be relegated to the status of a poor relation in these Compromised Circumstances."

The Supreme Court Case 97-1235, City of Monterey v. Del Norte Dunes at Monterey Ltd, et al, 70 Ch 1998 is also quite relevant to the issue at hand.

Thank you for your consideration. I apologize for the hand-writing but I lack secretarial services and a computer.

John F. Voorney.