

P-19

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Dear Mr. McCue,

Following are my comments on the Partially Revised Draft Environmental Impact Report for the Pebble Beach Company's Del Monte Forest Preservation and Development Plan, with a focus on impacts on Yadon's piperia (*Piperia yadonii*). All comments are intended to address the adequacy of the PRDEIR rather than the merits of the proposed project. My concerns can be summarized as follows:

- 1) *No assurance is given that the proposed conservation easements will provide for preservation in perpetuity without any kind of further development or possible amendment.* | 1
- 2) *Additional preservation areas offered as mitigation do not adequately provide buffered habitat or room for expansion for Yadon's piperia.* | 2
- 3) *The Piperia Plan (BIO-D1-4) and Resource Management Plan (BIO-D1-5) are not fully outlined and are experimental in nature, making it difficult to assess their value as mitigation measures and providing inadequate information for the reader to evaluate the merits of the project after mitigation.* | 3
- 4) *Contingencies/remediations have not been established in the event that mitigation measures BIO-D1-4 and BIO-D1-5 do not meet their success criteria.* | 4
- 5) *Cumulative impacts have not been fully addressed, especially with respect to the potential future development of Area Y.* | 5
- 6) *The significance determination is partially based upon experimental mitigation measures (BIO-D1-4; BIO-D1-5) that require further study.* | 6

1) Proposed conservation easements:

As part of their project plan, the applicant has proposed to preserve as open space some of its properties supporting Yadon's piperia: Bristol Curve preserve and Areas B, F-3, G, H, I-1, J, K, L, and PQR. Mitigation Measure BIO-D1-3 requires the applicant to preserve additional lands: expanded Bristol Curve preserve, area F-1, additional acreage in J and K, acreage occupied by Yadon's piperia in Old Capitol and Aguajito (undetermined). Language in the PRDEIR indicates that all of these areas are to be "permanently dedicated ... for preservation". Preservation of these areas is to be achieved through the use of conservation easements.

While this preservation package is commendable and shows a willingness on the part of the applicant to try to address the impacts of the proposed project on Yadon's piperia, I am concerned that the proposed easements may include language allowing future restricted development of the preserved areas for recreational or other use, and/or that they will be able to be amended in the future to change use restrictions. These concerns are based upon current proposed mitigation for development of the Sawmill site. In the proposed project, relocation of the equestrian center requires mitigation (LU-A2) to amend use permits and conservation easements held by the County, the Coastal Commission, and the Del Monte Forest Foundation that were imposed during the development of the Spanish Bay Resort (DEIR 3.1-19-23). The DEIR (3.1-8-9) states that the amendments "... would reverse restoration efforts and result in the removal of this land [Sawmill site] from preservation.... The permit conditions and easement language would seem to indicate that, at the time, it was contemplated that the Sawmill site be restored to its natural function and protected, in general, from further development (County Sawmill Use Permit conditions 8, 9, 10, and 31; CC permit conditions 5 and 28, easement language). Further, rehabilitation and dedication of the upper Sawmill site easement was required as a condition (County Permit Condition 28) of approval of the Spanish Bay Resort in order to offset the impacts of [development]... However, the language of the conservation easements seems to allow some potential for recreational use, though the specific intensity of that use is not explicitly identified in the easement."

Ambiguity in language and intent in the Sawmill site use permit and easements appears to allow for ambiguity in their interpretation. It is this ambiguity as well the ability to amend conservation easements imposed as mitigation that should to be avoided in any of the easements proposed in the current project. Transparency with respect to this issue is necessary in order for reviewers of the EIR to determine whether the preservation components of the project and mitigation package are dependable and inviolable in perpetuity without the possibility of amendment. The value of the preservation package rests in the assertion in the PRDEIR that the acreage is to be permanently dedicated for preservation. A definition of "preservation" and guarantee of easement security should be provided in the FEIR. This can be done by publishing the full language of the proposed easements in the FEIR, along with a legal analysis of their limitations and conditions, if any.

2) Additional preservation areas:

Mitigation measure BIO-D1-3 establishes additional preservation areas for Yadon's piperia. Preservation areas at the Old Capitol and Aguajito sites are to include all patches of extant piperia and all unoccupied acreage 50 feet out from the edges of each patch.

While preservation is the best form of mitigation for the proposed project after avoidance and minimization, my concern is that the preservation of piperia patches aims at the protection of small islands of the orchid that have little room for future expansion or shifts in distribution due to changes in microhabitat. Given the large direct and indirect impacts of the proposed project and the fact that this species is federally endangered, endemic to Monterey county, with its center of distribution in the project area, Yadon's piperia needs to have not only individuals, but potentially occupied habitat and buffers preserved. One large area should be preserved at Old Capitol that contains all of the piperia and suitable but unoccupied habitat, along with additional areas slated for enhancement. A similar strategy at Aguajito would be appropriate.

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3) Piperia Plan (Mitigation Measure BIO-D1-4):

The Piperia Plan cannot be adequately evaluated because it has not been fully developed and presented in its final form, in large part due to its experimental nature and the need for further study prior to methods development. The Plan's lack of specificity and experimental nature make it an unsuitable form of mitigation for project impacts, since there is no guarantee that it will work. No credibly designed studies have been done to assess transplantation success of Yadon's piperia, and no work has been done on enhancement relating to this species. The PRDEIR (P2-16) states that: "The primary success criteria for the Piperia Plan is to achieve no net loss of Yadon's piperia due to the Proposed Project". This is a very bold success criterion for a mitigation that is experimental in nature. If this mitigation measure is to be incorporated into the proposed project and considered in the final determination of significance, I suggest that the success criterion be altered to reflect the experimental nature of transplantation and enhancement. It should be very clear to the reader that it is unknown whether replacement of salvaged tubers or any degree of population expansion will result from this mitigation measure.

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As noted, the main problem with the Piperia Plan is that it is experimental in nature and requires further study. This deficiency is apparent in: the lack of fully developed methods for transplantation and enhancement that have a proven success rate; the lack of specific, quantitative measures of success; the lack of a mitigation monitoring plan; and the language that allows for change in these parameters over time. Following are aspects of the Piperia Plan that are of particular concern:

- a) How is the "primary success criteria" of "no net loss" to be measured? In terms of numbers of individual plants, occupied acreage, or some other metric? How does "no net loss" relate in a quantitative manner to other "objectives" or "metrics" listed on PRDEIR P2-16 and addressed below in (b) and (c)?
- b) Enhancement is supposed to result in a "sustained expansion of piperia range in terms of 'occupied habitat' at each required enhancement treatment area..." and transplantation is meant to create "self-sustaining populations of piperia". How are these "objectives" to be measured and how do they relate to "no net loss"? Quantitative methods for measuring whether these objectives have been met need to be presented. The use of "objective", "metric", and "success criteria" in this section is confusing and in need of clarification.

c) "Success will only be achieved if transplantation or enhancement treatment areas contain the percent of cover, density, and percent flowering not significantly different from those found in control sites within adjacent existing piperia populations." How are control sites to be chosen? How does this success criterion relate to the objectives presented above in (a) and (b)? This particular success criterion would not be an adequate measure of sustained range expansion or self-sustaining populations. Please clarify what all of the success criteria and measures of success are for the Piperia Plan.

d) On PRDEIR P2-17 lines 16-22, there is language stating that the County and Adaptive Management Team may alter methods and objectives of the Piperia Plan: "The specific measures used to evaluate the success criteria and these objectives will be further developed within the Piperia Plan. As the Piperia Plan's research and analysis proceeds, the County and AMT will likely develop improved measures to assess how replacement efforts are meeting the primary success criteria and these objectives. The County and the AMT may determine that the objectives should be different than those articulated above based on an expanded understanding of Yadon's piperia".

Although such fluidity is realistic given the avowed experimental nature of the Plan, it is not appropriate in a mitigation measure designed to offset significant impacts to piperia. The Plan is not fully formulated and cannot be fully formulated because it requires further study. Therefore the PRDEIR does not provide readers with enough information with which they can evaluate this mitigation measure and its contribution to the final significance determination. Does the quote in the previous paragraph also mean that the County can alter the success criteria, as is implied on lines 30-31 on PRDEIR P2-18? This would be very worrisome in terms evaluating the Plan as mitigation, given that the success criteria should be clear, specific, measurable, and available for evaluation in the FEIR.

e) Under the section on Piperia Plan Phasing (PRDEIR P2-17), the experimental nature of the Plan is fully disclosed. Phase 1A involves Research and Testing. Phase 1B consists of Salvage and Transplantation. Can the County please clarify the relative timing of these two phases (the timeline given in the TEAM plan of the DEIR is no longer applicable)? How much time is to be spent in the research phase before moving on to salvage and transplantation? Salvage means that ground is broken for the installation of the golf course. This is the largest impact of the proposed project on piperia. This comment is just to highlight the fact that the largest impact is made before adequate research can evaluate whether the Piperia Plan mitigation measure is even feasible or has any chance of success. This does not make biological sense and makes it very apparent how little this mitigation measure should be relied upon in the significance determination. In order to determine whether transplantation and enhancement can be successful forms of mitigation that can meet the stated success criteria, years of well-designed research would be needed and these should take place before ground is broken in MNOUV.

f) Under Phase 3: Success Demonstration, it appears that only the success criteria listed in (c) above is being addressed. What of the other "objectives" of the Piperia plan listed in (b) above, and the primary success criteria of "no net loss"?

3 (cont.)

g) The adequacy of enhancement as mitigation cannot be evaluated. This is because it is experimental and because the amount of acreage available for enhancement cannot be determined and presented for review without further research into the habitat preferences of the piperia. Please clarify whether these figures will be available in the FEIR.

3 (cont.)

h) The required mitigation monitoring program for BIO-D1-4 is not presented and should be available in the FEIR.

4) Resource Management (Mitigation Measure BIO-D1-5):

The resource management mitigation measure cannot be evaluated because measures of success, site-specific resource management plans, and mitigation monitoring have not been developed and are not presented for review.

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5) If mitigation measures are not successful:

Given the experimental nature of mitigation measures BIO-D1-4 and -5, it is appropriate to present a contingency/remediation plan in the event that success criteria for these measures are not met.

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6) Cumulative Impacts: Boundaries of PQR and Area Y:

Area Y consists of 20 acres of Monterey pine forest that is not owned by the applicant and has residential development potential (20 units). It is contiguous with the proposed preservation Area PQR. It is known (or suspected) to support Yadon's piperia and could be surveyed in 2005 to determine this. Acquisition and preservation of Area Y by the applicant would be appropriate mitigation to offset impacts on Yadon's piperia and would be of much greater value than the experimental mitigation measures BIO-D1-4 and -5. The value of this parcel is very great given that it is contiguous with preservation Area PQR which supports one of the two largest extant occurrences of Yadon's piperia. If the proposed golf course is approved, PQR will be the largest occurrence of the orchid anywhere in its range. Large populations are buffered against many threats compared to smaller populations, making an increase in the size of the PQR occurrence very valuable. In addition, acquisition and preservation of Area Y would prevent future development of it that would have indirect but potentially very large impacts on the Yadon's piperia occurrence in PQR. Since PQR may be the largest remaining occurrence of the orchid, and because its preservation is a critical piece of the preservation package in the proposed project, it is very important that this site remain protected from the effects of development on adjacent lands. Acquisition and protection of Area Y would accomplish this. With or without the presence of the orchid in Area Y, acquisition and preservation of the parcel would be appropriate mitigation as a buffer to PQR and for direct impacts on Monterey pine.

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7) Significance determination:

The direct and indirect impacts of the proposed project on Yadon's piperia are very large and were determined to be significant before mitigation. The mitigation package includes two measures that implement transplantation and enhancement (BIO-D1-4) and resource management (BIO-D1-5) plans. These are untested, experimental measures that have no guarantee of success and which do not have fully developed methods or specific,

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quantitative measures of success that have been presented for review. It is not biologically tenable to reduce the project impact to nonsignificance based on mitigation measures that require further study and development. In addition, it remains unclear how irrevocable the conservation easements will be on lands slated for preservation (BIO-D1-3). Given these limitations to the mitigation measures presented, it does not appear that the PRDEIR provides enough information to enable reviewers to adequately assess the merits of the project after mitigation. It would be helpful if the County would clarify the language and lasting nature of the easements, and if they would address the experimental nature of mitigation measures BIO-D1-4 and -5 in their final significance determination.

7 (cont.)

Thank you for your time and consideration.

Sincerely,

Alison Graff PhD