



Trail Committee response to Coastal Conservancy's comments on proposed planning process for CCT through Big Sur area, 11/30/09.

Committee responses are in context in *bold italics*.

**Date:** November [2], 2009

**To:** Assemblymember Bill Monning for distribution to Big Sur Coastal Trail master plan stakeholders.

**From:** Trish Chapman

**Re:** **Comments on the Community Proposal**

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As agreed to at our September 28<sup>th</sup> meeting, below are my comments on behalf of the Coastal Conservancy on the "Proposed Process For Writing The Master Plan For The Big Sur Portion Of The California Coastal Trail" (the community proposal). I am also providing input on the Conservancy's goals/needs/priorities for the BSCT in a separate memo.

**Overarching comments:**

1. The community proposal process is almost entirely focused on community involvement and input, and community is defined as the residents and landowners of Big Sur. ***Incorrect statement. Community involvement is emphasized, but the central focus is on a collaborative approach with involvement by the community, the general public, and agency representatives. The Conservancy is apparently referring to the defined term "Big Sur Community," which is used in the document when it refers only to the Big Sur community specifically (e.g., when it talks about approval of the proposed process by the Big Sur Community). However, the document emphasizes that at all levels, public participation and agency representative involvement is encouraged.*** Residents and landowners are two important to groups of stakeholders for the Coastal Trail, but there are many others. A truly collaborative process needs give all stakeholders equal opportunity to participate and give equal respect to that participation. ***Exactly what we propose. Our process would offer the public far more opportunity to participate than the hearing(s) the Conservancy would provide in a contractor-based process.***
2. Authority of the plan – I think it is critical that we set realistic expectations about the scope and authority of the plan to be developed from the outset. The master plan will serve as a guide for future development of the coastal trail in Big Sur, but it will have no formal authority unless adopted by an agency. ***No conflict. This is consistent with the proposed process.*** If adopted by an agency, any authority to "enforce" the plan would be specific to the workings of the agency and the terms of its adoption of the plan. ***No conflict. This is consistent with the proposed process.*** Given the agencies and underlying statutes involved, I would not expect there to be a citizen enforcement option if adopted by any of the involved agencies. ***It is not clear what the Conservancy means by citizen enforcement. The word***

**"enforce" does not appear in the document.** Also note that in order for an agency to formally adopt the plan, environmental review pursuant to CEQA or NEPA would have to be undertaken. **No conflict. This requirement is independent of the process used to plan the trail.** Environmental review is beyond the scope of the Conservancy's effort and would require additional funding. **No conflict. This expense is independent of the process used to plan the trail.**

Some possibilities for adopting the plan: **None of the following present a conflict and all are independent of the process used to plan the trail.**

- a. County, with Coastal Commission approval – incorporate into LCP
  - b. USFS – incorporate into forest plan
  - c. State Parks – incorporate into the individual general plans for each park in the area.
  - d. TAMC – incorporate into the Regional Transportation Plan.
3. To provide some context, the master plan process initiated by the Conservancy in 2006 envisioned a regional scale planning effort for the 75-mile stretch between the Carmel River and San Carpoforo Creek. At this scale, many project level details would be outside the scope of the planning effort. **No conflict with the proposed process. The Conservancy may think the Conservancy's contractor-based process is not capable of this level of detail. However, the community's proposed process addresses this with the working group concept, which splits the trail into manageable segments that can be planned with participation by people familiar with that segment. By accessing this level of detailed knowledge of the area for each segment, project level details can be addressed. Instead of one 75-mile segment of the CCT, it becomes essentially 8 segments, from 5 to 15 miles long.** These include project level design and impact details, getting commitments for trail management, securing funding commitments, etc. Some suggestions in the community proposal are not appropriate at the regional planning scale. **The issue of level of detail of the planning process was discussed at length during trail process meetings. It was decided that it would be a mistake to not consider all aspects of the trail at once (e.g., alignment, design, management and maintenance). If the trail is to be constructed, all of these aspects must be addressed. It was decided they should be considered as a whole and the entire project worked out at once. The segment planning process makes this possible.**
4. Together we stand, divided we fall – or a slight restatement, together we succeed, divided we fail. I think this is a crucial concept to remember. In order for this planning process to be successful for the Coastal Conservancy, it has to be successful for all of the other participants too. I think this can be said of every stakeholder involved. **No conflict.** Therefore, we all need to strive for a process that works for all, and that will likely require some give and take. **No conflict.**

### **More specific comments**

5. The general format of having local work groups along with a broader committee makes good sense. But the makeup and decision making process of those committees as outlined in the community proposal is not ideal for a collaborative process. Some specific suggestions:

- a. **Make-up of the local work groups** should be open and unrestricted. *No conflict. Participation in the local work groups is open and unrestricted.* Again, residents and landowners are important stakeholders, but there are others. For instance, in certain segments other user groups such as Ventana Wilderness Alliance, surfers, or disabled access groups, etc, may have a particular interest and may want to participate at this subcommittee level. Or business owners or workers may be interested in participating in the local groups. The process needs to be inclusive at every level. *No conflict. The process states: "All Local Workgroup meetings shall be open to the public. The intent is to make participation in Local Workgroup meetings as inclusive as possible."* It is blatantly *exclusive* to say that the meetings are open to all, but that only some folks are allowed to actually be part of the group. *This is a misstatement. The meeting process is open and inclusive. All points of view can be expressed. The goal is consensus.*
- b. **Decision making process of the local work groups.** The community proposal is ambiguous on how decisions will be made – it sets consensus as the decision making process, but also designates voting and non-voting members. Again, participation should be open to all, and there should not be two classes of participants (i.e., voting and non-voting, or workgroup member and “the public”). Anybody who makes the effort to participate should be treated as an equal participant in the process. *The community process offers a more level playing field than the Conservancy's contractor-based process (where all final decisions would be in the hands of the contractor and the Conservancy). The community process comes closer to fulfilling PRC section 30006 than the Conservancy process.<sup>1</sup> However, it is true that if consensus cannot be reached, the community process puts the final decision for what goes into the plan in the hands of those who must live with the result, those who live in the area. It is important to understand however that this is only the final decision on what goes into the plan drafted by the proposed process. The final decision on whether the plan is used at all is in the hands of the Coastal Conservancy, which can pursue its own process if the community-based plan is not acceptable to the Conservancy.*

For areas of the alignment where consensus can't be reached, this should be noted and the various points of view documented. *No conflict. The process states, "Local Workgroups shall keep minutes of each meeting including a record of motions and decisions."* If there isn't consensus, it is likely because there are valid concerns about the various options and it may be inappropriate to make a decision until those concerns have been investigated and addressed. Note that further investigation may be outside the scope of this initial planning effort. *Assuming this means the Conservancy or another agency will make the final determinations on trail alignment if there is disagreement in a workgroup, this is not acceptable.*

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<sup>1</sup> "Section 30006 Legislative findings and declarations; public participation

*The Legislature further finds and declares that the public has a right to fully participate in decisions affecting coastal planning, conservation and development; that achievement of sound coastal conservation and development is dependent upon public understanding and support; and that the continuing planning and implementation of programs for coastal conservation and development should include the widest opportunity for public participation."*

- c. **Purpose and product of the local groups.** The community proposal gives authority to the local groups to determine the alignment and attributes of the BSCT through their segment. This is too much authority for groups that will be difficult for a broad range of stakeholders to participate in. The local groups should be thought of as working subcommittees. In that context, the local groups would bring recommendations back to a broader group for discussion. *The trail committee discussed this concept at length and rejected it as inferior to a grass roots process. Given that local workgroup meetings will be open to everyone, taking decisions away from workgroups and making them at a higher level would not make them representative of a "broader" perspective. Rather, it would take decision-making away from those who are willing to invest the time in workgroup meetings and give it to others who may not have been willing to participate. Note however that the process provides that local workgroups can choose to ask the executive committee for help with decisions.*<sup>2</sup> Some things may get kicked back to the local work group for further investigation/ consideration.

The reality is that many key stakeholders are not likely to be able to attend multiple local work group meetings. The process needs to have an avenue for those stakeholders to participate in a meaningful way. *No conflict. This is the role for the web site, which is not mentioned in the proposal, but can be added, and which will be interactive, enabling comments to be made from anywhere.*

6. **Public Agency involvement.** As was discussed at the meeting on September 28, 2009, there is a difference between participation in the process with conceptual approval of a plan by an agency staff member(s), and actual "approval" or "adoption" of that plan by the agency (be it landowners, land managers, regulators, funders, etc.). It is important to remember this distinction so that folks have realistic expectations about where the plan is in an approval process and what authority the plan realistically has. That said, input and buy-in by agency staff is highly critical to achieving eventual formal buy-in by any particular agency. *No conflict. This is a stated provision in the proposed process, "Public agency participation shall include, but not be limited to (within the spirit and scope of this proposal), ensuring that trial alignment and design is consistent with all applicable requirements of the pertinent agency. Public agency representatives will facilitate the Trail Master Plan process within the scope of their authority and expertise, subject to the formal approval by the agency."*<sup>3</sup>

I have several suggestions about how to be more successful in getting participation in the planning process and support for the plan from agency staff, and eventually agencies: **Generally no conflicts in a - d below.**

- a. Don't marginalize agency involvement in terms of labels or actual roles.
- b. Recognize the constraints on agency staff time and design a process that allows for

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<sup>2</sup> *"Local Workgroups should make decisions by consensus to the extent possible. If agreement cannot be reached after reasonable attempts at resolution, members of the Local Workgroup may request that the Executive Committee resolve the disagreement." (Page 3.)*

<sup>3</sup> *This provision was written primarily by representatives from the Forest Service and Caltrans.*

meaningful input without the need to attend an abundance of meetings. Specific suggestions that evolve from this concept are:

- i. Get agency input on needs, goals, constraints, issues of concern, etc. early on (this process is now underway)
  - ii. Minimize the number of meetings that staff members need to attend in order to participate in meaningful way.
    1. Have less frequent meetings of the overarching group
    2. Look for input through other forums – conference calls, review and comment via email, etc.
  - iii. Use subcommittees (like the local work groups) to investigate and summarize the issues for consideration, and provide recommendations. The subcommittees’ products should be shared while still in the draft stage so that there is still room for input and re-evaluation of recommendations before the subcommittee members get overly attached to their ideas.
- c. Don’t wait to ask for agency input on concepts until the very end. This can lead to frustration all of the way around.
- d. Avoid absolutes – these are very difficult for public agencies to agree to. ***The community proposal contains few absolutes. Those it does contain (e.g., that the trail will not be on private land unless through voluntary invitation) are consistent with SB 908 and not unreasonable given the amount of public land in the area. The intent is to get firm commitments through broad participation, including participation by agencies, so everyone knows what has been agreed to.*** A plan that includes recommendations, preferred approaches, guidelines, etc. will be much more likely to get agency buy-in than one that says “it must be done this way,” or “under no circumstances”, etc. This will not provide absolute certainty to other stakeholders about agency actions. However, those stakeholders will have more certainty about agency actions if the agencies have bought off on a “softer” plan than if they simply walk away from the table – which is one likely outcome of absolutes. ***The process contemplates agency participation during plan development. The result is intended to be acceptable to agencies due to their continued involvement. If not, the plan would have no authority to force any person or agency to do anything they do not want to do.***

7. **Steering Committee/Executive Committee.** In terms of a steering committee or executive committee, I’m not sure that we need a top decision making group. ***No conflict. This is consistent with the grass roots local workgroup concept. However, there are other needs for higher levels as explained in the proposal.*** I think a hierarchy like that could lead to resentments from the other participants. I would rather see decisions made as consensus with notation of unresolved issues. Or perhaps for those areas where consensus can’t be reached, the plan would include the concept favored by the majority, while also detailing the alternative point(s) of view. ***No conflict. This is consistent with the process. Local workgroups should make decisions by consensus to the extent possible. As stated in the process, "If agreement cannot be reached after reasonable attempts at resolution, members of the Local Workgroup may request that the Executive Committee resolve the***

*disagreement."*

All that said, I do think it would be useful to have a coordinating group that includes representatives from a broad range of stakeholders. In my opinion this group should include representatives from: Big Sur residents and landowners, the business community, public agencies (landowners, regulators, funders), potential entities (public or private) to manage the CT in Big Sur, trail and bike user groups, elected officials (as reps of broader community). *All of the foregoing are encouraged to participate. The proposed process is inclusive and grass roots, with final resolution of conflicts (if any) decided by people from the Big Sur community, those who will live with the result.* The group that met with Assemblymember Monning is a start in that direction.

8. **Guidelines for Public Outreach** – Outreach should be led by the coordinating committee. Outreach roles and responsibilities can be agreed to among that group. *No conflict. With regard to outreach, the plan states, "the Executive Committee shall be responsible for communicating the information to the public."*

9. **Guideline's for the trail's alignment**

- a. I think that there are several of these guidelines that as goals for the alignment the Conservancy could agree to, but that as absolutes we would not be able to agree to. To avoid a protracted argument about abstract concepts, I would suggest that we develop a list of goals and objectives for the trail. Then if we discover there are specific segments that conflict with those goals, we can discuss how to address the specific issues which may be easier than trying to solve all of the possible issues in the abstract. Specific comments follow.

*With regard to the comments in section b. below, there is a conflict between the Conservancy's position and the proposed process. Over 75% of the land in Big Sur is currently owned by public agencies. Over the last 20 years, one third of private land in the area has been acquired by public agencies. We cannot compromise on the issue of planning the trail only over public land. The mission statement in the process reiterates this point when it says, "Our mission is to guide the planning and implementation of the California Coastal Trail through Big Sur, in a way that protects the ecosystems of the Big Sur Coast, and the Big Sur Community, for the benefit of our visitors, residents, and landowners alike." Moreover, the Conservancy's desire to plan the trail over private land violates the express intent of SB 908.<sup>4</sup>*

- b. A.4 and B – I have a few concerns about these two guidelines
  - i. First, I think it is confusing that the two are separated. One guideline says unequivocally that the trail will only use existing public land or public easements. The other says that landowners may voluntarily have the trail cross

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<sup>4</sup> SB 908 Section 1(b) reads, "The California Coastal Trail shall be developed in a manner that demonstrates respect for property rights and the proximity of the trail to residential uses, and that evidences consideration for the protection of the privacy of adjacent property owners."

- their property. I would like to see one clear statement about the issue of private property versus public property.
- ii. The Coastal Conservancy, and I would imagine other public agencies, are not going to be able to commit to never acquiring additional land for the trail. But there are things that I think the Conservancy could commit to in relation to this issue:
    - 1. Placing priority on siting the alignment on existing public land, existing public easements, and private land of willing participants.
    - 2. Only acquiring new public trail land rights (fee or easements) over existing private property from willing landowners/sellers (i.e., no condemnation)
    - 3. Only acquiring new public trail land rights after completing an agreed upon public review process (e.g., community meetings or other actions). In this process, community members could identify specific concerns (fire, trail management, loss of residential capacity, loss of grazing or other economic capacity, etc.) regarding a proposed trail project (including an acquisition). The Conservancy would then consider design and/or alignment alternatives that would both meet the project objectives and address community concerns.
  - iii. I have concerns about the statement that “in no case shall a portion of the alignment be left undecided if it would imply a future alignment over private land.” I think it would be difficult to define when an undecided segment implies a future alignment over private land and when it is just a hard to figure out segment (because of physical constraints, land ownership, or other issue). Again, avoid the absolutes.
- c. A7 – This is a level of detail that is probably not realistic for the entire 75 mile route at this planning level. ***It is not a problem for our group to map the trail with detail. We have developed a process using GPS and Google Earth to readily locate both the trail alignment and land ownership. Though survey work may be needed in some locations, it should be minimal.***
- d. C – this guideline about sensitive habitats brings up two important issues: 1) we won't have good enough data to identify all of the sensitive resource areas that currently exist; and 2) sensitive resource areas will change over time. When it actually comes to implementing projects, the trail may need to deviate from the master plan alignment to avoid significant impacts that weren't identified at the time the master plan was adopted. Thus, the master plan will be the best plan that can be developed with the available information, but it will not be a “set in stone” alignment. I think it is important that this be communicated to participants. ***The trail group has discussed this issue at length and believes it is important to locate the trail with specificity, including routing it to avoid impacts to sensitive habitats. The process for biological surveys is well known. Biological surveys can be conducted for tentative alignments to ensure they avoid sensitive habitats. This is required before the trail can be constructed and therefore needs to be considered as the trail is planned.***

- e. D – The Conservancy does not have funding for land surveys. That is beyond the scope of a regional planning effort. Surveys, if needed, are typically done at the project implementation level. ***The trail committee discussed this issue and it was decided that land surveys can and should be done at the planning level, at least in locations where there could be conflicts (e.g., where the trail could conflict with respect for private property rights or privacy). Planning the trail to avoid conflicts with private property rights and privacy is consistent with the requirements of SB 908.***<sup>5</sup>

## 10. Guidelines for the trail's design and management

- a. This section begins to talk about a Trail Management Plan. This is a step or more beyond a regional planning effort. I do not think that developing one trail management plan for the entire Big Sur region will be successful and it is probably not a good use of time. USFS and State Parks are going to follow their own internal policies for trail management. I think a better approach would be to develop a set of recommendations for how the trail be managed. Over time it might be possible to integrate those recommendations into the forest plan or the various State Park general plans. ***The proposed process addresses this issue by stating, "Public agency participation shall include, but not be limited to (within the spirit and scope of this proposal), ensuring that trail alignment and design is consistent with all applicable requirements of the pertinent agency." The intent is for the resulting trail plan to be consistent with agency policy so it can readily be integrated into agency plans.***
- b. B – This guideline is far too prescriptive, particularly when talking about how public agencies choose to manage the trail on their own property. The concept that the trail needs to be managed is a reasonable one and should be a goal or guideline. But this item is far too specific and intrusive into landowners' rights regarding management of their own property. ***Good point. However, the trail committee expressed concern about issues such as wildfire ignitions, contamination of drinking water supplies, and trash (for example, it has recently been discovered that small plastic fragments from trash are killing young Condors). Consequences of failure to manage and maintain trail use are too great to ignore addressing the issue.***

## 11. Guidelines for the Trail Management Plan's Content

- a. I don't think we should be trying to draft such a plan -- See comment above.. The Conservancy would not see this as a good use of our staff time. ***The Conservancy is welcome to participate in the planning process or not as it thinks best. For the reasons expressed above the trail committee believes it is critical to address management of the trail concurrent with deciding its alignment and design.***
- b. Several of the guidelines under this section could also apply to a master plan, but are highly problematic or completely unacceptable. These include:

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<sup>5</sup> See footnote 4.

- i. 3, 4, 5 – How the trail is paid for is a question for the implementation phase, not the planning phase. No State or Federal agency is going to make these commitments at this time. ***No conflict. These guidelines do not require a commitment from any agency to pay future costs at the time the plan is completed. All it requires is that the plan state that these costs will be paid by the state or federal government. The intent is to make clear that the money needed for these activities will not be coerced from private individuals.***
- ii. 6, 7 – These statements could be recommendations in the plan, but this plan will have no authority to enforce them. That would have to be pursued through the County and the Coastal Commission. ***Correct, however, the point is that community support for the plan will be contingent on statements being included in the plan (e.g., no viewshed expansion) and being followed by the county and coastal commission.***
- iii. 8 – too vague. Isn't approval achieved through a collaborative consensus process? That said, the community could pursue some process to endorse the plan (or not endorse it), but that would not be binding on the actions of other participants (this will not be a binding plan unless it is incorporated into the LCP). ***The ultimate goal is a collaboratively developed plan that has broad community support. Only a community-wide endorsement process of the completed plan can ensure that goal was successfully achieved. Nothing described in this process is binding on any agency. It is critical however that there be a process for determining whether or not the community supports the resulting plan.***
- iv. 9 – The Master Plan should explain the process for developing it, which would include describing the community involvement. A changed plan would not be the same plan and thus could not claim the prior community involvement. Perhaps including a statement from community members that participate in the project would address the concern reflected in this item. ***The concern addressed in this section (community support for plan amendments) is best addressed by the process described in this section.***
- v. 10 – implementation phase, not master planning phase. Master plan should include a list of recommendations of what needs to be in place before a segment of the trail is opened. But we are not likely to be able to identify a manager for every segment of the 75 mile stretch at this time. ***If no manager can be found for a segment of the trail, the plan should provide that the segment will not be constructed until a manager can be found. This is appropriately addressed at the plan writing stage.***
- vi. 14 – Carrying capacity is dependent on many factors which can change over time. Plan could include a recommended carrying capacity for each segment under current conditions. But the plan will not have the authority to “trigger closures.” ***It is appropriate that the plan state when closures of the trail should take place due to over capacity use. Anything less leaves the trail a prospective threat to the environment/resources.***