

November 22, 2004

Ms. Julia Baigent
Concar Enterprises
470 Concar Drive
San Mateo, California 94402

Dear Ms. Baigent:

Discing Operations at Wavecrest Site
Half Moon Bay, San Mateo County

The Department of Fish and Game (Department) has recently been notified that there has been a reinitiation of agricultural activity at the Wavecrest site in Half Moon Bay. It is our understanding that the operation is to plant a hay crop in the northeastern portion of the property, an activity that took place on an annual basis prior to the submittal of the development application. This letter is to clarify the Department's position on this activity.

To comply with the Fish and Game Code, agricultural activities on this property must be carried out in a manner that avoids harming San Francisco garter snakes (SFGS). We are concerned that the timing of the recent activity increases the potential for a "take" of SFGS that may be found on the property. Such take, if it were to occur, would result in a violation of the California Endangered Species Act (CESA) and other provisions of the Fish and Game Code. As you know, both the Department and the U. S. Fish and Wildlife Service (USFWS) consider the Wavecrest site to be potential habitat for both SFGS and California red-legged frogs. The former species is listed as Endangered under CESA and is also considered a Fully Protected species, pursuant to Section 5050 of the Fish and Game Code. CESA prohibits any take that is not authorized under State law, and Section 5050 prohibits all take of SFGS except for scientific study or recovery purposes.

At this time of year, any SFGS occupying the property are likely to be underground in burrows and not visible. In addition, any SFGS in burrows will be unable to take flight from

Ms. Julia Baigent

November 22, 2004

Page 2

agricultural activity. Therefore, if any SFGS are in the area of the discing, they are likely to be killed in violation of Fish and Game Code sections 2080 and 5050. This concern is reinforced

by reports that at least three garter snakes (species unknown) have already been killed by the discing carried out to date. The presence of a biological monitor would have no real impact on the situation, as a monitor would not be able to detect the presence of underground snakes in the discing area and therefore would be unable to ensure SFGS are not harmed. It is evident from the facts available at this time that the measures undertaken to prevent a take of SFGS at the site are ineffective.

Based on this information, the Department recommends that discing activities cease until a more complete evaluation of avoidance measures is developed in concert with the Department and USFWS and which is consistent with any applicable local, State or Federal laws.

Finally, please be aware that establishment of an agricultural use will not significantly change the Department's existing evaluation that the site should be considered habitat. This determination was made based on a number of factors, only one of which is the actual physical condition of the property.

Questions regarding this letter and further coordination on these issues should be directed to Dave Johnston, Environmental Scientist, at (831) 475-9065; or Scott Wilson, Habitat Conservation Supervisor, at (707) 944-5584.

Sincerely,
Original signed by

Robert W. Floerke
Regional Manager
Central Coast Region

cc: See Next Page

Ms. Julia Baigent
November 22, 2004
Page 3

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Ms. Julia Baigent

November 22, 2004

Page 4

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