

August 28, 2015

Russell M. McGlothlin  
Attorney at Law  
805.882.1418 tel  
805.965.4333 fax  
RMcglathlin@bhfs.com

**VIA ELECTRONIC MAIL AND HAND DELIVERY**

Chair Janet Wolf  
Santa Barbara County Board of Supervisors  
105 East Anapamu Street  
Santa Barbara, CA 93101

RE: Briarcliff Trust's Comment Letter on Las Varas Ranch Project

Dear Chair Wolf and Honorable Supervisors:

On behalf of the Briarcliff Trust ("Trust"), owner of an 11.5-acre parcel ("Property") adjoining the western boundary of the Las Varas Ranch ("Ranch"), we respectfully urge you to dismiss the Planning Commission's denial of the Las Varas Ranch Project ("Project") and to uphold the Project for all of its merits. In addition to providing three public trails and a public parking lot across private property, the Project: (i) reduces the number of existing lots to 7; (ii) identifies with certainty the location of any potential future development on the Ranch through the designation of a single residential development envelope on each reconfigured lot; (iii) is subject to County-enforceable conditions regulating development within the development envelopes and across the Ranch in a coordinated fashion; and (iv) through lot mergers, protects the open wildland areas in the northern mountainous portion of the Ranch.

Not moving forward with the Project abandons the public recreational trail benefits and also subjects the Ranch to ad hoc, lot-by-lot development across the Ranch. Each lot of the Ranch can be developed in its current configuration, without the Project, at a potentially greater intensification than under the Project. This development is legally allowed anywhere on the Ranch and can include expansive residential and agricultural improvements. Although any development on the Ranch will be subject to standard conditions, the Project provides certainly for the level of development that could occur across the Ranch in coordination with extensive conditions applicable to future development, as well as specific conditions and improvements across the Ranch. The Project has been sensitively designed to maintain the existing bucolic and historic landscape that is currently enjoyed. Without the Project, the ad hoc approach prevails and the coordinated approach is lost. For such a vast, prominent and visible property on the Gaviota coast, this is a significant missed opportunity for achieving a defined level of development and prime recreational opportunities.

As part of your Board's consideration of the Project, we also respectfully urge you to include, as a condition of project approval, the dedication of a public trail with the alignment recommended by County staff on the north and south sides of Highway 101 (Alternative 4-A in the Recirculated FEIR) ("Staff Recommended Trail") rather than the alignment along the coastal bluffs (Alternative 4-B in the Recirculated FEIR) ("Bluff Trail"). In prior letters to the Board of Supervisors and the Planning Commission, we have explained the reasons why the Bluff Trail is impractical, illegal, and contravenes multiple state policies, and why the Staff Recommended Trail is a more practical and viable option. (See our letters on behalf of the Trust, dated November 27, 2013, July 28, 2014, and April 27, 2015.) Enclosed with this correspondence is our letter, dated November 27, 2013, which includes a more detailed explanation of the Trust's concerns, including

1020 State Street  
Santa Barbara, CA 93101-2711  
main 805.963.7000

declarations from Brett de Campos, the Trust's property manager, Rosemary Thompson, an environmental consultant opining on the environmental issues associated with the proposed Bluff trail, and Clay Lebow, an archaeological consultant opining on the archaeological issues associated with the proposed Bluff trail. In summary, the Trust's concerns include the following:

- 1. The Staff Recommended Trail Will Likely be Implemented; the Bluff Trail Will Not.** The applicant has indicated that it would accept the Staff Recommended Trail in conjunction with project approval and has repeatedly stated that it will not accept the Bluff Trail. Moreover, an exaction of the Bluff Trail would exceed the nexus and proportionality limits on exactions established by the U.S. Supreme Court. (*Dolan v. City of Tigard* (1994) 512 U.S. 374, 391; *Nolan v. California Coastal Commission* (1987) 483 U.S. 825, 836-37.) Thus, this Board is presented with a choice between a viable and acceptable trail that is likely to be constructed and an impractical trail and illegal exaction that have little chance of being implemented.
- 2. Privacy and Trespass.** The Bluff Trail would place the public in an elevated position overlooking the Briarcliff Trust's property. This would compromise the Trust's reasonable expectation of privacy for a significant portion of its living and recreation areas. As such, the trail would contravene state policy requiring avoidance of unreasonable intrusion of privacy by coastal trails. (Sen. Bill No. 908 (2001-2002 Reg. Sess.) § 1, subd. (b); *see also* Cal. Coastal Act, Pub. Res. Code §§ 3001.5(c), 30210.) The Bluff Trail would also facilitate significant trespass onto the Trust's property. The Staff Recommended Trail avoids these intrusions.
- 3. Sensitive Biological Habitat.** The Bluff Trail would traverse sensitive biological habitat in violation of state policy. (Sen. Bill No. 908 (2001-2002 Reg. Sess.) § 1, subd. (a)(3); *see also* Cal. Coastal Act, Pub. Res. Code §§ 30210, 30212(a).) The Staff Recommended Trail would result in far fewer biological impacts. (Las Varas Ranch Revised Final EIR, pp. 6-51 to 6-57.)
- 4. Native American Archeological Site.** The Bluff Trail would pass directly through a significant Native American archeological site in disregard for County regulations. (County of Santa Barbara Land Use and Development Code, § 35.60.040; County of Santa Barbara Zoning Ordinance, Art. II, § 35-65.) The Staff Recommended Trail avoids disruption of these areas. (Las Varas Ranch Revised Final EIR, p. 6-58.)
- 5. Public Safety.** The Bluff Trail would present public safety risks because of the steep cliffs, a highly active railroad track, and a stream culvert adjacent to the proposed trail. The Staff Recommended Trail involves effectively none of these risks, and thus better aligns with state policy requiring consideration of public safety in the siting of coastal trails. (See Pub. Res. Code § 30212(a).)
- 6. Trail Construction.** The Bluff Trail would require the technical and expensive construction of numerous bridges to span the railroad tracks and wetland areas, as well as the construction of retaining walls and other barriers for public safety. The railroad bridges would prominently impair scenic vistas from the highway and El Capitan State Park. The Staff Recommended Trail would not require construction of such expensive, technically challenging and visually intrusive facilities.

For all of these reasons, we urge you to dismiss the Planning Commission's denial of the Project and approve the Project, including the Staff Recommended Trail. Doing so would provide the public with the opportunity for significant new recreation on the Gaviota coast, establish certainty for development of the Ranch, including conditions for development and cultivation of agriculture across the Ranch, and the

Chair Janet Wolf  
County Board of Supervisors  
Briarcliff Trust's Comment Letter on Las Varas Ranch Project  
Page 3

avoidance of ad hoc, uncoordinated development that could potentially be detrimental to the scenic beauty and surrounding environs that currently exist. Inclusion of the Staff Recommended Trail in the Project will ensure that the privacy of neighboring property owners is respected and the area's unique biological and historical resources are preserved. Denial of the Project will result in a significant loss of benefit to the community, including no traversing trail ever being constructed.

Thank you for considering the Trust's views on this matter.

Sincerely,



Russell M. McGlothlin

RMM/gml

Enclosure: Brownstein Letter to Board of Supervisors dated Nov. 27, 2013

015864\0001\12904278.2

# Attachment

November 27, 2013

Russell M. McGlothlin  
Attorney at Law  
805.882.1418 tel  
805.965.4333 fax  
RMcglathlin@bhfs.com

**VIA ELECTRONIC MAIL AND HAND DELIVERY**

Board of Supervisors  
County of Santa Barbara  
105 East Anapamu Street  
Santa Barbara, CA 93101

RE: Draft Gaviota Coast Plan – Initiation of Environmental Review

SUBJ.: Briarcliff Trust's Opposition to Environmental Review of the Proposed Primary Route of the East-West Coastal Trail Within and Adjacent to the Las Varas Ranch

Dear Chair Farr and Members of the Board of Supervisors:

On behalf of Briarcliff Trust ("Trust"), owner of an 11.5 acre parcel (the "Property") adjoining the western boundary of the Las Varas Ranch between the ocean and the Union Pacific railroad, we respectfully request that the Board of Supervisors ("Board") exclude from environmental review the east-west trail alignment within and adjacent to the Las Varas Ranch identified as the proposed primary route ("Proposed Primary Route") in Figures 4-2 and 4-6 of the draft Gaviota Coast Plan ("Plan"). The Proposed Primary Route is not viable for numerous reasons including economic, environmental, archeological, public safety, and privacy considerations. Specifically, the Proposed Primary Route would:

- Severely compromise the Property's privacy, which was a principle basis for its purchase by the Trust;
- Encourage trespassing onto the Property;
- Harm and threaten sensitive biological habitat in the vicinity of the Property;
- Disturb a significant Native American archeological site, and increase the potential for illicit looting from the site;
- Create several significant public safety risks; and
- Route the Trail in a manner that would be extremely difficult to construct at substantial public expense.<sup>1</sup>

---

<sup>1</sup> We submitted this information previously to the Board of Supervisors with respect to the Las Varas lot-line adjustment project by letter on April 13, 2013, and to the County Planning Commission in relation to its review of the draft Gaviota Plan by letter on June 10, 2013.

1020 State Street  
Santa Barbara, CA 93101-2711  
main 805.963.7000



The Proposed Primary Route is further unjustified because there is a viable alternative east-west trail alignment recommended by the Gaviota Coast Planning Advisory Committee (“GavPac”), which is identified as the proposed secondary route on the Las Varas Ranch in Figures 4-2 and 4-6 of the Plan.

### **Compromised Privacy and Increased Likelihood of Trespass**

The Proposed Primary Route would significantly intrude on the privacy of the Property’s occupants. As explained in the attached Declaration of Brett De Campos (“De Campos Declaration” – Exhibit A), the Proposed Primary Route would create opportunities for the public to view private portions of the Trust’s property (e.g., habitable structures, large windows into the internal portions of the residence, and surrounding sundecks). (De Campos Decl., ¶¶ 6 and 10.) The view of the Property’s residence from the proposed Trail location is shown within the picture attached as Exhibit 1 to the De Campos Declaration. Such privacy intrusion would be inconsistent with the California Legislature’s declaration that “[t]he 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.” (Sen. Bill No. 908 (2001-2002 Reg. Sess.) § 1, subd. (b), attached as Exhibit B; see also Cal. Coastal Act, Pub. Res. Code §§ 30001.5(c) and 30210 [establishing policy for public access and recreational opportunities in the coastal zone consistent with the rights of property owners].)

While the Proposed Primary Route would cause an improper privacy invasion for any property owner, the privacy concerns are amplified here because the Trust’s beneficiary is a well known celebrity, as are many of his guests. As discussed in the De Campos Declaration, the celebrity stature of the Property’s resident has attracted paparazzi seeking to photograph the Property and its occupants, and has caused members of the public to trespass onto the Property, seeking to photograph the property and/or intercept the Trust’s beneficiary and his family. (De Campos Decl., ¶¶ 7, 8, and 9.) His family includes young children whose privacy is of the utmost importance. The placement of a public trail with direct views into the most private portions of the Property would likely cause an increase trespass and other intrusions. In addition to these significant privacy concerns, the resulting trespassing off of the trail would threaten sensitive biological habitat and create severe public safety risks, as discussed below.

### **Sensitive Biological Habitat**

The habitat in the vicinity of the Property along the Proposed Primary Route contains sensitive biological habitat, including abundant growth of a rare plant species — the Santa Barbara honeysuckle — as well as habitat that is well suited for sensitive aquatic species (e.g., California red-legged frog and southwestern pond turtle.) (See Letter Report from Dr. Rosemary Thompson, dated April 12, 2012, titled “Alignment of Alternative Trail at West End of Las Varas Ranch – Biological Issues,” attached as Exhibit C.) This habitat would be compromised by both the Trail construction and the likely trespassing from the Trail by those seeking to photograph or enter the Trust’s Property. (*Id.*) The Proposed Primary Route would also be inconsistent with the California Legislature’s declaration that “[t]he California Coastal Trail should be constructed in a manner that is consistent with the protection of coastal resources.” (Sen. Bill No. 908 (2001-2002 Reg. Sess.) § 1, subd. (a)(3), attached as Exhibit B.; see also Cal. Coastal Act, Pub. Res. Code §§ 30001.5(c), 30210, and 30212(a) [establishing policy for public access and recreational opportunities in the coastal zone consistent with sound resources conservation principles, and protection of natural resource areas and fragile coastal ecosystems from overuse].)

### **Significant Native American Archeological Site**

At the west end of the Las Varas Ranch, the Proposed Primary Route would pass directly through a significant Native American archeological site, which also extends onto the Trust Property. This site,

designated as CA-SBA-81 in the California Historical Resources Information System's Central Coast Information Center, includes the remnants of a prehistoric village. (See Letter Report from Clay Lebow, M.A., RPA, dated April 12, 2012, titled "Cultural Resources on and near Briarcliff Trust Property, El Capitan, Gaviota Coast, Santa Barbara County," attached as Exhibit D.) As reported in Mr. Lebow's letter, prior archeological excavation of the site in 1929 revealed remnants of 13 circular houses, a structure that was possibly a shrine, and a cemetery with no fewer than three hundred interments. (*Id.* at p. 2.) Placement of the Trail in this location would open the site to illicit artifact collecting and looting. (*Id.*) Development of the Trail through this site would also conflict with County law, which requires that any development within an archaeological site be designed to avoid impacts to the site, if possible. (County of Santa Barbara Land Use and Development Code, section 35.60.040; County of Santa Barbara Zoning Ordinance, Article II, Section 35-65.) It would also violate state policy set forth in the California Coastal Act. (See Pub. Res. Code § 30212(a) [providing that public access along the coast shall be provided in new development projects, except where inconsistent with the protection of fragile coastal resources].)

### **Public Safety Risks**

The Proposed Primary Route could also create significant public safety risks. As noted, the celebrity status of the occupants of the Trust Property will likely cause Trail users to venture off of the Trail and trespass onto portions of the Las Varas, Caltrans, and Trust properties outside the Trail corridor. This area contains hazards, including uneven grounds, cliffs, a highly-active railroad track, and a stream culvert under the railroad tracks. As explained in greater detail in the De Campos Declaration, these hazards would present a safety risk for anyone venturing off the Trail. (See De Campos Decl, ¶¶ 12, 13, and 14.) The Proposed Trail Route would again compromise state policy that requires consideration of public safety in siting coastal trails. (See Pub. Res. Code § 30212(a).)

Another safety risk involves the potential for increased mistaken approaches to the Property's entry gate because a trailhead attracts users who are unfamiliar with the area. Confused members of the public routinely approach the Property's entry gate under the mistaken belief that the gate accesses El Capitan State Park, the private campground at El Capitan, or some other beach access. This results in a dangerous situation because the Briarcliff driveway uses an unsignalized at-grade railroad crossing immediately east of a "blind" bend in the railroad track, and there is little room and no ability to make a u-turn outside the gate after crossing the tracks. (De Campos Decl., ¶¶ 15 and 16.) In fact, two train collisions have occurred at this crossing. (*Id.* at ¶ 16.) Placement of a trailhead immediately adjacent to the Property's gate could lead to even greater mistaken efforts to enter the Property than presently occur, which would increase the potential for injuries or fatalities at this crossing.

### **Extremely Difficult and Expensive Trail Construction**

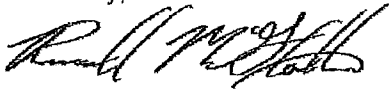
Adding to the policy reasons against the Proposed Primary Route discussed above, construction of the Trail, as proposed, would be extremely difficult. Due to the challenges presented, construction would require the expenditure of exorbitant sums. On April 10, 2012, I joined Hans Keifer, a trail construction consultant with Belfree Contractors, Inc. and Paul Van Leer, manager of the Las Varas Ranch to survey the Proposed Primary Route. Mr. Keifer, who has more than 35 years of trail construction experience, confirmed the extreme challenges and expense associated with the western portion of Proposed Primary Route. The route would require a bridge over the railroad tracks (the bank-to-bank span is more than 130 feet), and likely another extensive bridge to span the wetland areas on the north side of the tracks. In addition to these physical challenges, the Proposed Primary Route would exit onto the Caltrans staging area on the shoulder of Highway 101 that is used by Caltrans for staging and temporary storage of highway construction material. To connect this lot to the bike path on the north side of the freeway between El Capitan Ranch Road and the El Capitan State Park, trail users would walk on or adjacent to the Highway

101 onramp. This would require the construction of barriers for public safety as well as a retaining wall due to the very steep slopes. Each of these aspects creates further significant expenses and public safety risks.

### Conclusion

For the reasons discussed above, the Proposed Primary Route is impractical, inconsistent with state and county law, and would result in an extreme infringement of the Trust's privacy. On these grounds, we respectfully request that the Board of Supervisors exclude the Proposed Primary Route from the environmental review to be initiated for the Plan and instead conduct environmental review of the GavPac's recommended route, identified as the proposed secondary route on the Las Varas Ranch in Figures 4-2 and 4-6 of the Plan.

Sincerely,



Russell M. McGlothlin

### Encls:

Exhibit A – Declaration of Brett De Campos with Exhibits 1-5

Exhibit B – Sen. Bill No. 908

Exhibit C – Letter Report from Dr. Rosemary Thompson, dated April 12, 2012, titled "Alignment of Alternative Trail at West End of Las Varas Ranch – Biological Issues"

Exhibit D – Letter Report from Clay Lebow, M.A., RPA, dated April 12, 2012, titled "Cultural Resources on and near Briarcliff Trust Property, El Capitan, Gaviota Coast, Santa Barbara County"



# EXHIBIT A

**EXHIBIT A**

**DECLARATION OF BRETT DE CAMPOS  
IN OPPOSITION TO PROPOSED ALIGNMENT  
OF THE EAST/WEST LAS VARAS TRAIL**

I, Brett De Campos declare:

1. I have personal knowledge of the facts stated herein and if called upon I can competently testify thereto.

2. I have served as a private security agent for the past nine years, and I am presently employed by a private individual.

3. I have extensive experience providing security for high profile celebrity clients/individuals.

4. I presently provide security services for the 11.5 acre property located at 11000 Calle Real (the "Property"), which adjoins the western boundary of the Las Varas Ranch. The Property is owned by the Briarcliff Trust (the "Trust"). The beneficiary of the Trust is a well known celebrity.

5. In my professional opinion, the alignment of the east/west Las Varas trail proposed by the Santa Barbara Trails Council ("SBTC") would significantly intrude on the privacy of the Property's residents, and would also create substantial safety risks for members of the public using the trail.

6. The SBTC's proposed trail alignment would place the trail in an area where trail users could view private portions of the Property (e.g., residences and sundecks). This would compromise the privacy of the Property, which was a principle basis for its purchase by the Trust. Attached as Exhibit A hereto is a picture of the main residence<sup>1</sup> on the Property taken from the proposed trail location at the west end of the Las Varas Ranch where the proposed trail would veer northeast away from the coastal bluffs. As this photograph demonstrates, the view of the Property would include the main residence and the surrounding sundeck.

7. On several occasions, paparazzi have sought to photograph the residence and the Property's occupants. For example, we have intercepted paparazzi wearing ghillie/camouflage suits that have attempted to photograph the Property from the State Park property that adjoins the

<sup>1</sup> The portion of the picture including the main residence has been blurred for privacy reasons.

1 Property to the west. Paparazzi have also sought to photograph the Property and its occupants from  
2 elevated railroad tracks to the rear of the Property and from the beach. Although illegal, the  
3 paparazzi nearly always employ extremely powerful telephoto lenses.<sup>2</sup>

4 8. We have also arrested paparazzi who have driven into other private properties owned  
5 by the Trust through security gates when temporarily opened to allow entry of authorized vehicles.

6 9. In addition to the privacy impairment from paparazzi, privacy concerns also result  
7 from "obsessive" members of the public that desire to photograph the property or to approach the  
8 Trust's beneficiary and his family. To illustrate, in the last four years that I have worked on the  
9 Property there have been two incidents where individuals have walked onto the property from the  
10 beach, past private property/no trespassing signs. In the first incident, a woman with a camera  
11 sought to photograph the inside of the Property. In the second incident, a woman sought to deliver  
12 paintings, letters and photographs of her children to the Trust's beneficiary. Other security  
13 personnel have intercepted numerous other trespass incidents concerning the Trust's beneficiary and  
14 his family, some including bizarre and disturbing aspects that are not appropriate for public  
15 disclosure.

16 10. Despite these prior trespasses and privacy intrusions, we are able to maintain a  
17 significant degree of privacy for the Property's residences by avoiding activities in the areas of the  
18 Property that are visible from adjacent properties that are accessible to the public. Importantly, the  
19 ocean side of the Property's residence shown in the photograph attached as Exhibit 1 is situated on a  
20 bluff that is largely not visible from the beach, the railroad, or the State Park property to the East.  
21 This side of the house includes large windows and a front sundeck. The proposed trail alignment  
22 would provide a public vantage directly into this private portion of the Property, and effectively  
23 eliminate the most essential privacy at the Property.

24 11. I anticipate that the open view of the Property and the aforementioned private  
25 portions of the residence from the proposed trail alignment would encourage paparazzi and other  
26 members of the public to seek to photograph the Property and its occupants to a far greater extent

27 <sup>2</sup> Pursuant to California Civil Code, section 1708.8, a person may be liable for constructive invasion  
28 of privacy when they photograph another person engaged in a personal or familial activity through  
the use of a visual enhancing device (e.g., telephoto lens).

1 than presently occurs. Such result would substantially impair the benefit that the Trust's beneficiary  
2 and his family and guests (frequently other high profile celebrities) obtain from the Property's  
3 current privacy and solitude.

4 12. In light of past experiences, I also anticipate that paparazzi and other trail users  
5 would not respect the trail boundaries and would attempt to trespass onto the Property. In addition  
6 to the nuisance and intrusion that this would cause to the Property's occupants, such trespassing  
7 could result in significant safety risks since the area around the trail includes uneven grounds, cliffs,  
8 highly-used railroad track, and other hazards.

9 13. One specific hazard is the culvert that drains Las Llagas creek beneath the railroad.  
10 Trail users would be able to access this culvert, which is about 12 feet in diameter, from the trail  
11 and walk through it to where it empties into the estuary on the Trust Property. Not only would this  
12 create a substantial privacy concern in that paparazzi could hide in the culvert, but it would also risk  
13 severe injuries to anyone attempting to access the Property from the culvert since the culvert drops  
14 out onto concrete and rock rip rap. The pictures attached as Exhibit 2 show the upstream and  
15 downstream sides of this culvert.

16 14. Another significant hazard in the area is the railroad. Trail users could easily access  
17 the railroad tracks from the trail. They may do so to proceed west to seek a better vantage of the  
18 rear of the Property. In this vicinity, the railroad bends significantly just west of the Property (see  
19 pictures attached as Exhibit 3). Because of this bend there is little period of sight of eastbound  
20 trains coming from the west, all of which travel at full railway speed in this area. Someone on the  
21 tracks in the vicinity of the Property would only receive approximately seven seconds advance site  
22 of an eastbound train before its arrival. With this short of period, there is a material risk of a person  
23 on the tracks being hit by a train.

24 15. Another similar safety concern involves the entry to the Property. On numerous  
25 occasions, out-of-area visitors have approached the Briarcliff gate under mistaken belief that the  
26 gate was the entry to the El Capitan State Park, the private campground at El Capitan, or other some  
27 other beach access. To access the Property's gate, a vehicle must cross a railroad crossing that is  
28 not equipped with signals or barrier arms (see picture attached as Exhibit 4). There is limited space

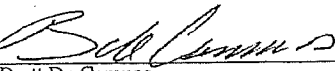
BROWNSTEIN HYATT FARBER SCHRECK, LLP  
21 East Camino Street  
Santa Barbara, CA 93101

1 between the gate and the railroad track at this location, which is immediately eastbound of the  
2 railroad bend discussed above. Further, there is a large crown to the crossing at the track location  
3 which easily high-centers larger RV's and trucks. There is also a dropoff between the tracks that  
4 can immobilize vehicles if a vehicle veers off of the paved crossing. Such result is likely because  
5 there is no room for a u-turn, and thus motorists must negotiate a backing left turn in order to leave  
6 the driveway.

7 16. The mistaken approach of the Briarcliff Trust caused a minivan to be "clipped" by a  
8 train in 2009, but miraculously without injury or extensive property damage. Pictures of the  
9 accident and my filed -police report are attached as Exhibit 5.<sup>3</sup> Many years prior to the Trust's  
10 ownership of the Property, an elderly man was hit in his car at this crossing and killed. I am  
11 concerned that the siting of a public trailhead immediately next to the Property's gate may lead to  
12 even greater mistaken efforts to enter the Property than presently occur, which would increase the  
13 potential for another train accident at this crossing.

14 17. For the privacy and safety reasons discussed above, I believe that it would be highly  
15 ill-advised for the County to approve the alignment of the east/west Las Varas trail proposed by the  
16 SBTC.

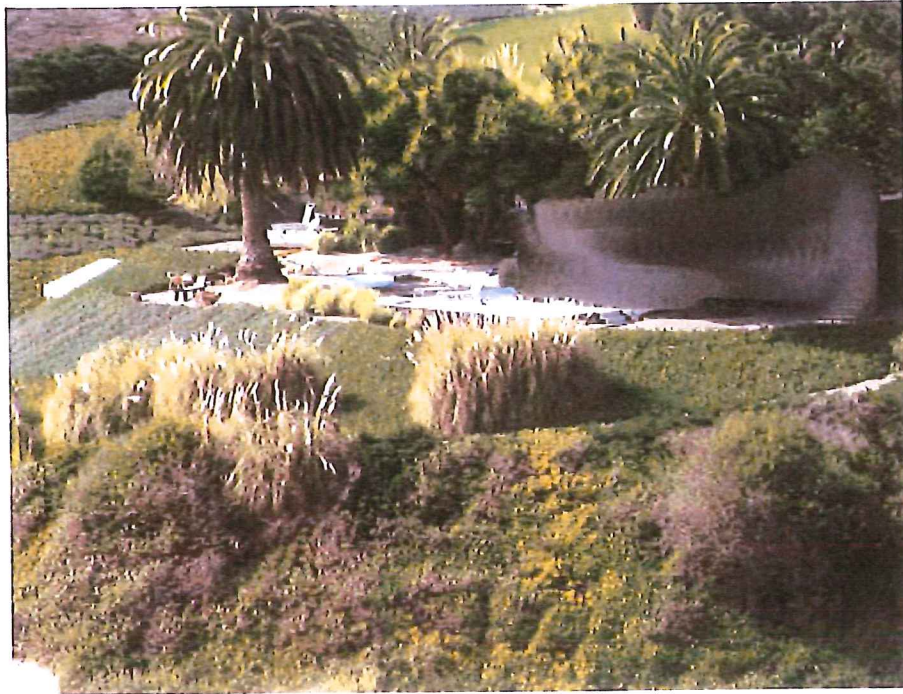
17  
18  
19 Date: June 7, 2013

By:   
Brett De Campos

20  
21  
22  
23  
24  
25  
26  
27  
28 <sup>3</sup> I met with Dan J. Miller, a senior engineer for the Union Pacific Railroad, after this incident, and  
he stated that, from a safety perspective, this crossing concerns him more than perhaps any other.

**EXHIBIT 1**  
**PICTURES OF PROPERTY'S MAIN RESIDENCE FROM PROPOSED TRAIL**

Picture Taken from Proposed Trail Location on Las Varas Ranch



**BROWNSTEIN HYATT FARBER SCHRECK, LLP**  
21 East Carrillo Street  
Santa Barbara, CA 93101

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



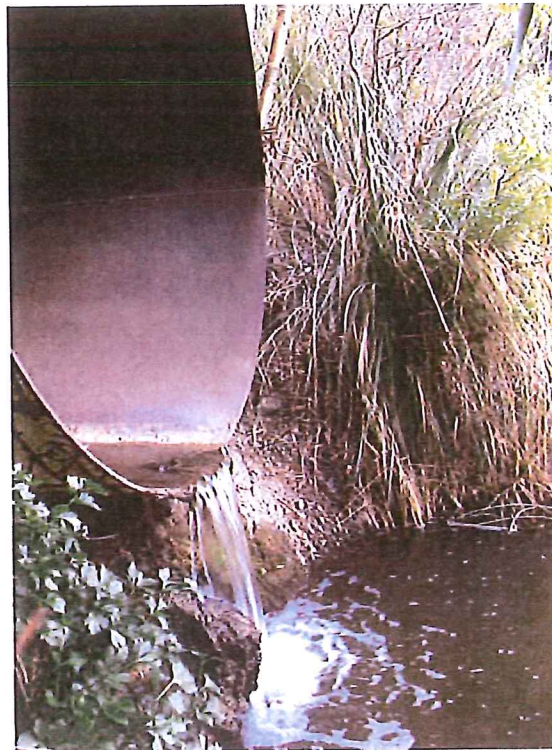
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**EXHIBIT 2**  
**PICTURES OF LLAGAS CREEK CULVERT IN VICINITY OF TRAIL**

From North Entrance (Caltrans Property)



From South Entrance (Briarcliff Trust Property)



BROWNSTEIN HYATT FARBER SCHRECK, LLP  
21 East Carrillo Street  
Santa Barbara, CA 93101

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**EXHIBIT 3**  
**PICTURES OF RAILROAD IN VICINITY OF PROPERTY/PROPOSED TRAIL**





BROWNSTEIN HYATT FARBER SCHRECK, LLP  
21 East Carrillo Street  
Santa Barbara, CA 93101

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**EXHIBIT 4**  
**PICTURES OF PROPERTY'S ENTRY GATE ADJACENT TO RAILROAD**



**EXHIBIT 5**  
**PICTURES OF TRAIN ACCIDENT AND FILED POLICE REPORT**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**BROWNSTEIN HYATT FARBER SCHRECK, LLP**  
21 East Carrillo Street  
Santa Barbara, CA 93101



1 Incident Report:

2 At approximately 1630 on June 22, I was working on the NW corner of the property at  
3 11000 Calle Real. I heard a ringing sound coming from the railroad tracks which indicated to me  
4 that a train was coming. At the same time, I could hear voices emanating from the driveway below,  
5 which alerted me to the fact that people may be near the tracks. Understanding the danger of this  
6 crossing, I immediately ran to the vantage point between the pepper trees and the property fence to  
7 alert anyone present to the oncoming train.

8 As the driveway and crossing came into view, I realized that there was a significant  
9 problem. Below me, I saw a green Tacoma pickup and a white Toyota van pointed into the  
10 driveway at a dead stop. They were locked in a conversation with the Lori Doty and her children as  
11 they were exiting the main gate in their 4wd ATV. I could see that the white van's rear end was  
12 protruding into the railway and that it had virtually no room to pull forward. I immediately  
13 screamed TRAIN! TRAIN and pointed at the blind curve to the west. Lori Doty was the first to hear  
14 and react. She backed her ATV to make room for the other vehicles to pull in. The reactions of the  
15 passenger vehicles were slow. The pickup pulled forward slightly, but the van actually lurched  
16 backwards slightly and stopped. The train then impacted the rear of the van and removed the back  
17 door without moving the van more than a couple of feet. The southbound Amtrak passenger train  
18 came to a stop approximately 600 yards down the track and an engineer walked back to make  
19 contact. I called 911 and reported a non-injury accident with the CHP.

20 After interviewing the parties involved, here are the specifics of the incident. As Lori Doty  
21 was exiting the property, she was met by the 2 vehicles full of lost campers looking for a nearby  
22 campground (This is all too common.) The campers were asking for directions and wanted to know  
23 if they could pull inside the main gate to turn around. ( This is happening directly under the no U  
24 turn sign, see photo) Lori explained that she could NOT let them in and that they would have to  
25 back out. The driver of the white van had put the vehicle in reverse a moment before I showed up  
26 and screamed at them about the oncoming train. Both passenger vehicles were completely loaded  
27 with camping gear and children, plus had all of their northerly and west facing windows rolled up.  
28 This prevented them from hearing either myself or the train. Lori Doty relayed the warning and



1 backed her vehicle, but there was just not enough time for them to process the situation. In their  
2 confusion and lack of awareness, they very nearly lost their lives. Also at great peril was the Doty  
3 family. If the train had caught the van another foot forward, it would have likely propelled it right  
4 through the open ATV with several children standing upright on the seats. This was my worst fear  
5 as I watched the accident happening. Fortunately, nobody was hurt and this accident will hopefully  
6 serve to effect some badly needed changes that will prevent another fatality at this crossing.

7 It seems blatantly obvious that crossing lights and bells are necessary to notify people that a  
8 train could be coming around the blind curve to the north. The train horn cannot be heard soon  
9 enough through the solid earthen walls of the narrow cut that the railway travels through. This,  
10 combined with the noise of the adjacent 101 freeway and ambient noise from one's own vehicle,  
11 cuts the warning time down to the point that it is insufficient to prevent an accident - Especially for  
12 those who are distracted even momentarily with maps, other occupants, phones, etc...

13 Furthermore, the signage at this exit is confusing for those looking for the campgrounds  
14 accessible from exit 117. The sign that reads "State beach next exit" on the El Capitan Ranch  
15 Road exit, leads many minds to believe they are in the right spot, then there is nothing to correct  
16 them on the frontage road. For those armed with modern GPS technology, Google maps shows the  
17 private drive here as "El Capitan State Beach Road", which doesn't help. To the confused,  
18 unfamiliar and even illiterate, the big warning signs at the railroad crossing appear to be the official  
19 looking stuff one would expect to see at a state park, so why bother reading it?. To make matters  
20 worse, many of the lost campers are in large RV's (rented) or are towing trailers they are not  
21 experienced in backing. Under these conditions, more fatalities are inevitable.

22 Personally, I would like to stand in a room with the head of the Railroad, Caltrans and the  
23 Ranchos association to discuss this matter. I would like the opportunity to relay my experience and  
24 understanding of this matter in no uncertain terms. I will do absolutely everything I can to facilitate  
25 the immediate correction of this problem.

26 Sincerely,  
27 Brett

28



# EXHIBIT B

BILL NUMBER: SB 908      CHAPTERED  
BILL TEXT

CHAPTER 446  
FILED WITH SECRETARY OF STATE OCTOBER 3, 2001  
APPROVED BY GOVERNOR OCTOBER 2, 2001  
PASSED THE SENATE SEPTEMBER 13, 2001  
PASSED THE ASSEMBLY SEPTEMBER 10, 2001  
AMENDED IN ASSEMBLY SEPTEMBER 5, 2001  
AMENDED IN ASSEMBLY JULY 10, 2001  
AMENDED IN ASSEMBLY JUNE 26, 2001  
AMENDED IN SENATE JUNE 4, 2001  
AMENDED IN SENATE MAY 2, 2001

INTRODUCED BY Senators Chesbro and Karnette  
(Principal coauthor: Assembly Member Pavley)

FEBRUARY 23, 2001

An act to add Sections 31408 and 31409 to the Public Resources Code, relating to coastal resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 908, Chesbro. State Coastal Conservancy: California Coastal Trail.

Existing law requires the State Coastal Conservancy to implement various coastal protection and preservation programs in coastal areas of the state.

This bill would require the conservancy, in consultation with the Department of Parks and Recreation and the California Coastal Commission, to coordinate the development of the California Coastal Trail, and would require each agency, board, department, or commission of the state with property interests or regulatory authority in coastal areas, to the extent feasible, and consistent with their individual mandate, to cooperate with the conservancy with respect to planning and making lands available for completion of the trail. The bill would authorize the conservancy to award grants and provide assistance to public agencies and nonprofit organizations to establish and expand inland trail systems that may be linked to the California Coastal Trail. The bill would require the California Coastal Trail to 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.

The bill would also require the conservancy, not later than January 31, 2003, in consultation with the California Coastal Commission, the California Conservation Corps, and the Department of Parks and Recreation, to complete a plan for the development of the California Coastal Trail, and to submit to the Legislature a copy of the plan by that date. The provisions of the bill would be implemented only during those fiscal years for which funding is provided for the purposes of the bill in the annual Budget Act.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) The California Coastal Trail, which has been designated a Millennium Trail by the Governor of California, should be completed in a timely manner.

(2) The California Coastal Trail is a trail that, to the extent feasible, should be constructed along the state's coastline from the Oregon border to the border with Mexico.

(3) The California Coastal Trail should be constructed in a manner that is consistent with the protection of coastal resources.

(b) 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.

SEC. 2. Section 31408 is added to the Public Resources Code, to read:

31408. (a) The conservancy shall, in consultation with the Department of Parks and Recreation, and the California Coastal Commission, coordinate the development of the California Coastal Trail.

(b) To the extent feasible, and consistent with their individual mandates, each agency, board, department, or commission of the state with property interests or regulatory authority in coastal areas shall cooperate with the conservancy with respect to planning and making lands available for completion of the trail, including constructing trail links, placing signs and managing the trail.

SEC. 3. Section 31409 is added to the Public Resources Code, to read:

31409. Consistent with the conservancy's authority under this chapter to develop a system of public accessways to, and along, the state's coastline, the conservancy may award grants and provide assistance to public agencies and nonprofit organizations to establish and expand those inland trail systems that may be linked to the California Coastal Trail.

SEC. 4. (a) The conservancy shall, not later than January 31, 2003, in consultation with the California Coastal Commission, the California Conservation Corps, and the Department of Parks and Recreation, complete a plan for the development of the California Coastal Trail that includes all of the following elements:

(1) Determination of a primary hiking route for the trail, including interim and permanent trail alignments where possible.

(2) Description of lands now under public or conservation ownership on which the trail is, or may be, constructed.

(3) A designation of various alternative routes for the trail, where necessary, that would encourage broad support and use of the trail, while protecting coastal resources and reducing conflicts among various users.

(4) A logo and signing program for the trail.

(5) An estimate of the costs for acquisition and construction of missing trail segments.

(6) A description of areas where the trail should connect to inland trail routes, especially where those connections can be utilized by underserved communities as an alternative means of accessing the coast. The plan shall include an estimate of the support and capital outlay costs for completing the trail by January 31, 2008.

(b) Not later than January 31, 2003, the conservancy shall submit to the Legislature a copy of the plan required to be completed pursuant to subdivision (a).

SEC. 5. This act shall be implemented only during those fiscal

years for which funding is provided for that purpose in the annual Budget Act.

# EXHIBIT C



## Memorandum

**Date:** April 12, 2012  
**To:** Santa Barbara County Board of Supervisors  
**From:** Rosemary Thompson  
**RE:** **Alignment of Alternative Trail at West End of Las Varas Ranch – Biological Issues**

Cardno ENTRIX

201 Calle Cesar Chavez  
Suite 203  
Santa Barbara, CA 93103  
USA

Phone 805 962 7679  
Fax 805 963 0412  
www.cardno.com

www.cardnoentrinx.com

On April 7<sup>th</sup> and 10<sup>th</sup> Dr. Thompson visited the potential western segment of the coastal trail route proposed by the Santa Barbara Trails Council and other trail advocates, west of Las Varas Ranch to U.S. 101. This proposed trail segment is located near U.S. 101 on Caltrans property. The area is highly constrained by U.S. 101, associated on/off ramps, the railroad, a Caltrans staging area, various native habitats, steep slopes, and Las Llagas Creek. The trail advocates are proposing that the coastal trail traverse this constrained property. The site visit included visual observations of habitats on western boundary of Las Varas Ranch between the railroad and the coastal bluffs, between the railroad and U.S. 101, as well as Las Llagas Creek upstream and downstream of the railroad tracks.

Biological issues for this potential route are primarily related to native vegetation/habitat that includes rare plants and stream habitat. The fill slope along the north side of the railroad, immediately west of Las Varas Ranch, is too steep to place a trail and has a stand of eucalyptus trees. Therefore, the Santa Barbara Trails Council's proposed trail alignment would need to be located further north of that slope in native habitat. These issues are described below.

1. *Native habitat.* After crossing the railroad, the trail would turn westward through native coastal scrub and coast live oak woodland, cross Las Llagas Creek in riparian woodland/scrub, and then traverse more coastal scrub. On the east side of Las Llagas Creek, the trail would be located in very diverse coastal sage scrub that is dominated by California sagebrush with open areas covered in native grasses. Other common species include Santa Barbara honeysuckle (see #2), gooseberry, lemonadeberry, sticky monkeyflower, lanceleaf liveforever, and poison oak. The slope to the creek has large coast live oak trees that branch from the base as well as smaller trees with an understory of poison oak, canyon sunflower, and other native species. The creek has well defined banks and a cobble bed. On the west side of Las Llagas Creek are dense areas of poison oak with willows, a couple of western sycamore, and lemonadeberry. The area then slopes steeply upward through coastal scrub dominated by coyote brush and Santa Barbara honeysuckle. Part of this area is very steep with some barren soil. To avoid the steepest areas, the trail would have to exit onto the U.S. 101 on ramp approximately 475 feet from the nearest potential parking areas. Trail maintenance would require frequent clearing of poison oak to keep the trail open, and human (plus pet) use would likely introduce weedy species into an area of very diverse coastal scrub that has a very low occurrence of non-native species. Unless fenced, people could wander from the trail and trample the adjacent native vegetation.
2. *Rare plant species.* The coastal scrub in this location contains a rare plant species, Santa Barbara honeysuckle – CNPS list 1B (rare, threatened, or endangered in California and elsewhere) – that is very abundant in places and scattered elsewhere along the proposed trail route. Permanent removal of this



April 12, 2012

species for trail construction and maintenance would require mitigation that could be protected in perpetuity.

3. *Effects on creek habitat and biota.* The trail would cross Las Llagas Creek, requiring a bridge. Construction of this bridge would result in permanent as well as temporary removal of native riparian vegetation. For access from the east, several of the oak trees would need to be pruned, possibly substantially. The stream likely supports sensitive aquatic species (e.g., California red-legged frog, southwestern pond turtle, etc.) that would be impacted by trail construction and public access since both species use the banks and riparian habitats as well as aquatic habitat. The trail approaching Las Llagas Creek from the east and the west would be on slopes where erosion and runoff from the trail could enter the creek with adverse effects on water and aquatic habitat quality. In addition, due to the celebrity ownership of the property on the south side of the railroad, people would be likely to go off the trail into the creek corridor in attempts to reach that property. Although specific surveys have not been performed to verify the presence of sensitive aquatic species (e.g., California red-legged frog and southwestern pond turtle), habitat in the creek and the downstream lagoon is suitable for these species, and red-legged frogs are known to inhabit Gato creek to the east. Human activity in and immediately adjacent to the creek could directly and indirectly affect aquatic species and their habitat.

In conclusion, placement of a coastal trail in the proposed location described above would have the potential for significant impacts on biological resources due to removal of Santa Barbara honeysuckle plants, direct and indirect effects on sensitive aquatic species, and loss of very diverse and undisturbed coastal sage scrub. The trail would also fragment that coastal scrub plant community and could affect coast live oak trees. This route would require thorough environmental review with appropriate mitigation. As a result, I do not recommend this location for the trail.

# EXHIBIT D



VIA EMAIL

515 E. Ocean Ave., Suite G  
Lompoc, CA 93436-6926  
O: (805) 737-4119 | F: (805) 737-4121

April 12 2012

Russell M. McGlothlin  
Brownstein Hyatt Farber Schreck, LLP  
21 East Carrillo Street  
Santa Barbara, California 93101-2706  
[RMcglothlin@bhfs.com](mailto:RMcglothlin@bhfs.com)

RE: Cultural Resources on and near Briarcliff Trust Property  
El Capitan, Gaviota Coast, Santa Barbara County

Dear Mr. McGlothlin:

Per your request, Applied EarthWorks, Inc. completed a study to determine whether cultural resources are present on or near the Briarcliff Trust property along the Gaviota Coast in Santa Barbara County. The study was completed in the context of a possible alignment of an east-west segment of the Las Varas Ranch Coastal Trail proposed by the Santa Barbara Trails Council and other trail advocates (hereafter referred to as the proposed trail route). In this letter we summarize Applied EarthWorks qualifications to complete the study, describe what steps were taken to identify cultural resources, and present our findings.

## QUALIFICATIONS

Established in 1995, Applied EarthWorks is a California corporation that specializes in archaeology and cultural resources management, with offices in Lompoc, San Luis Obispo, Hemet, and Fresno. We are on Santa Barbara County's list of qualified cultural resources consultants. Our staff offers extensive experience in cultural resources consulting under state and federal laws. We have successfully coordinated all phases of cultural resources studies for small- and large-scale projects on behalf of state and federal agencies, public utilities, counties, cities, developers, and construction and engineering firms. Applied EarthWorks provides the full spectrum of cultural resources management services—archival, field, and laboratory research; survey and resource inventory; testing to evaluate resource significance and project effects; data recovery mitigation excavations; and construction monitoring.

Applied EarthWorks designated Clayton Lebow (M.A., RPA) as principal investigator for the Briarcliff Trust study. Mr. Lebow is a Registered Professional Archaeologist (RPA) and is Vice President and Principal Archaeologist with Applied EarthWorks. He has participated in more than 330 archaeological investigations throughout the western United States during his 32-year career, serving as a principal investigator for more than 235 projects. Much of his effort has been focused in California's central coast, including extensive work for Vandenberg AFB, the Santa Barbara Airport, and the University of California at Santa Barbara. During his time on the Central Coast he has directed more than 175 archaeological investigations, primarily to comply with requirements of the California Environmental Quality Act (CEQA), the National Environmental Policy Act (NEPA), and the National Historic



Preservation Act (NHPA). During his career, Mr. Lebow has written more than 200 professional reports or publications documenting cultural resources investigations.

## STEPS TO IDENTIFY CULTURAL RESOURCES

Applied EarthWorks' study for the Briarcliff Trust began with research at the California Historical Resources Information System's Central Coast Information Center (CCIC) at the University of California, Santa Barbara. The CCIC is the official repository for cultural resources records in Santa Barbara and San Luis Obispo counties. That effort, completed by Applied EarthWorks' Leeann Haslouer on April 11 2012; included examining maps showing archaeological site locations and photocopying records associated with identified sites. After examining the records at the CCIC, Ms. Haslouer inspected one of the identified sites to verify its location.

## FINDINGS

Records at the CCIC indicate that an archaeological site, designated CA-SBA-81, is on and adjacent to the Briarcliff Trust property. The proposed trail route passes through the site.

CA-SBA-81 is the remnants of a prehistoric village that was documented by David Banks Rogers in 1929. At that time, Rogers noted dense marine shell, mammal bone, fire-altered rock, and fragments of stone bowls, mortars, and pestles. Excavations revealed remnants of 13 circular houses. Remnants of a different structure suggested the possibility of a shrine. Rogers also identified a cemetery with "no fewer than three hundred" interments.

Applied EarthWorks inspected CA-SBA-81 on behalf of the Briarcliff Trust. We found that the site has been protected from any sort of development and consequently is in very good condition. Fire-altered rock and fragments of ground stone implements are unusually abundant on the surface. If it were to be formally evaluated, CA-SBA-81 would undoubtedly be determined a significant cultural resource.

As noted, the proposed trail route passes through CA-SBA-81. Trail construction would directly impact the site and affect its significant qualities. Furthermore, the site is currently in very good condition because it is protected by the landowners. A trail through the site would allow public access, which would open the site to illicit artifact collecting and looting. In other words, in addition to the direct impacts from construction, the trail would also indirectly impact the site through artifact collecting and looting.

Santa Barbara County has developed resource protection and development policies pertaining to archaeological sites in their Coastal Land Use Plan. In Section 3.10.4, Policy 10-1 states that "All available measures . . . shall be explored to avoid development on significant historic, prehistoric, archaeological, and other classes of cultural sites." Policy 10-2 further indicates that "When developments are proposed for parcels where archaeological or other cultural sites are located, project design shall be required which avoids impacts to such cultural sites if possible." Policy 10-4 states that "Off-road vehicle use, unauthorized collection of artifacts, and other activities other than development which could destroy or damage archaeological or cultural sites shall be prohibited."

It is our opinion that CA-SBA-81 is a significant cultural resource. We further opine that development of the proposed trail route would directly impact the site and would indirectly impact the site by providing



access for illicit artifact collecting and looting. Santa Barbara County policy in the Coastal Zone is to avoid development on significant archaeological sites, and to avoid activities that would lead to illicit artifact collection. Consequently, we consider it unlikely that Santa Barbara County would approve the trail in the vicinity of the Briarcliff Trust property as currently planned. Instead, Applied EarthWorks recommends and the County is likely to require a route that will avoid archaeological site CA-SBA-81.

Sincerely,

Clayton G. Lebow, M.A., RPA  
Vice President/Principal Archaeologist  
Applied EarthWorks, Inc.