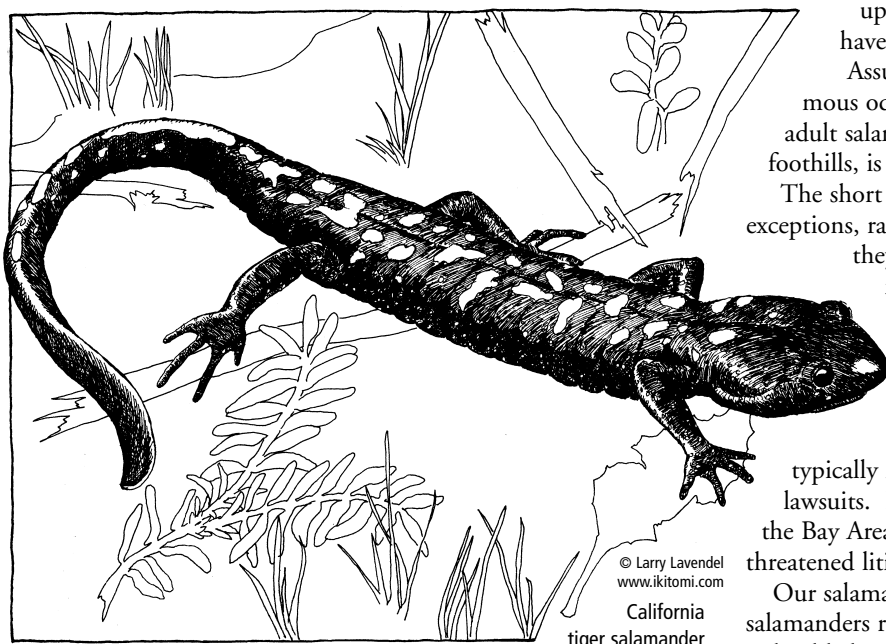




Understanding the Endangered Species Act

The unauthorized biography of a tiger salamander



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www.ikitomi.com
California
tiger salamander

BY BRIAN SCHMIDT

The life and death of a single salamander, even a member of a rare species like the California tiger salamander, would not normally be the subject of a biography. However, federal environmental law has crucial importance for the Committee for Green Foothills' work, and the relationship between the Endangered Species Act (ESA) and the species the law protects may be best explained in a biographical "thought experiment."

This article follows the imagined life of a California tiger salamander from its beginning this year to its end at the ripe old age of seven, with the salamander's life providing a basis for understanding the ESA.

Winter, 2003—2004: *Our salamander hatches in the shallow, seasonal waters of Lake Lagunita on Stanford University land.*

Stanford officials might suggest this is an extremely imaginary salamander, because last winter's rains were poorly timed (from the salamanders' perspective) and Stanford detected no pulse of migrating salamanders from the foothills down to Lake Lagunita. Because Stanford did not detect salamanders, university officials did not direct additional water into the lake and the seasonal water dried

up early. Nevertheless, a small, early migration could have gone undetected and reproduced successfully.

Assuming our salamander egg hatched, survived the enormous odds against it as a tadpole, and lumbered as a young adult salamander across Junipero Serra Road and into the foothills, is it currently protected by the Endangered Species Act?

The short answer is "no," but subject to change. With some exceptions, rare species receive no protection through the ESA until they are "listed" by the federal government. The law requires, in theory, that the government balance several factors in determining whether a species needs to be listed, the most important of which is whether the species' habitat is presently inadequate or under threat.

In practice, the government is rarely proactive, and typically lists species only in reaction to citizen pressure and lawsuits. In recent years, the vast majority of species listings in the Bay Area have resulted from citizen petitions for listing and/or threatened litigation by citizen groups.

Our salamander falls in that majority category. California tiger salamanders require both wetlands and adjacent, undeveloped upland habitat. Their habitats and populations have been under pressure for years. After years of citizen pressure, the Fish and Wildlife Service (FWS) just this year proposed listing the Bay Area population of tiger salamanders as "threatened."

While our salamander is not yet protected by the ESA, Committee for Green Foothills and others are hopeful that it will be, presumably within the next few months. Once the salamander is listed, the ESA will require the federal government to designate the "critical habitat" and prepare a recovery plan for the species, but in practice, the government frequently drags its feet on these steps.

Summer 2006: *Our salamander is curled up asleep for the summer dry season in an abandoned gopher hole in the Stanford foothills. But Stanford officials and the federal government are not asleep.*

Our salamander is now a listed species, having been belatedly listed by FWS in October 2005 after environmentalists threatened renewed litigation. The ESA now protects the salamander by regulating development and other actions that might affect the animal or its habitat.

In July 2006, Stanford has just proposed a major expansion of



COMMITTEE FOR GREEN FOOTHILLS

Committee for Green Foothills is a grassroots 501(c)(3) nonprofit organization working to establish and maintain land use policies that protect the environment throughout San Mateo and Santa Clara County.

Founded in 1962, Committee for Green Foothills is leading the continuing effort to protect open space and the natural environment of the Peninsula and Coast. Through grassroots education, planning and legislative advocacy, CGF works to protect and preserve our local natural resources, views and open space.

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Kathy Switky, with help
from Mahlon Hubenthal

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Bill Murray



From the *Executive Director...*

Having lived and worked on the Peninsula for over 24 years, I've long admired the Committee's history, reputation and influence in preserving open space in San Mateo and Santa Clara Counties. I'm honored and excited to be working with our professional staff, dedicated Board of Directors, devoted volunteers and committed members — all fully engaged in the pursuit of this organization's mission and vision we share for local open space.

Your commitment to our work of protecting local lands, habitats and views is inspiring — and the reason CGF has been a successful organization for more than 42 years. Although I've served as your Executive Director for just four months, I've been fortunate to meet many of you at the Committee's numerous and lively events.

This April, it was my particular pleasure to join CGF members on a hike to the spring flowers of Coyote Ridge, where docent Stu Weiss explained the unlikely connection between the rare flora and fauna that share the land with the not-so-rare cows. An article on page 12 describes this connection and our work to protect this area's serpentine soil habitats.

Also in April, our new Board President Peter LaTourrette and fellow Director Sue (who happens also to be Peter's wife) hosted a gathering of our Foothills Millennium Fund friends. It was a special treat to meet many of the Committee's most generous supporters in the LaTourrettes' beautiful native garden.

The very next month, we moved to a windy meadow in Pacifica, where CGF hosted our Annual Members' Picnic at beautiful San Pedro County Park. Our excellent docents led two fascinating hikes, and we all had a chance to see where the Devil's Slide tunnel will be located — a long-term CGF project that just may become a reality soon.

May was crowned by the gala 90th birthday celebration for CGF's inspirational co-founder, Lois Crozier-Hogle. In the spirit of leadership and passion for which she is known, Lois chose to use this special occasion as an opportunity to fundraise for

CGF and two other favorite organizations, Acterra and Hidden Villa. The beautiful gardens at Hidden Villa, live music, organic local wines and the amazing family of celebrants were all a testament to the huge difference Lois has made for so many in our community.

As her fellow CGF co-founder Wallace Stegner said, *"In leading, and inciting and inspiring so many kinds of people over so many years, Lois has created more than just another environmental group. She has helped create a community of like minds as well as a community of effort."* We are all the richer for it. Happy birthday, Lois!

The Committee's founders, staff, board and members form a legacy of vigilance and effectiveness of which we should all be proud. This is illustrated by a decision in May, when the San Mateo County Planning Commission approved the Devil's Slide Tunnel — an inspiring story of a persistent environmental group that battled the State of California Department of Transportation and prevailed after a 30-year struggle.

CGF began this battle in the 1970's, when a devastating inland bypass was proposed to replace the dangerous stretch of Highway One just south of Pacifica. In 1973, CGF won a lawsuit requiring preparation of an Environmental Impact Statement, including a study of alternatives to this bypass. In 1996, we won the support of voters throughout San Mateo County when the Devil's Slide Tunnel Initiative, Measure T, passed by a landslide. Caltrans expects to break ground on the tunnel by the end of the year, providing a safe, reliable, and permanent solution to the geologically unstable Devil's Slide area while protecting the highly scenic McNee Ranch State Park and Montara Mountain.

This kind of long-term vision and stick-to-it-iveness is a hallmark of Committee for Green Foothills, and one of the reasons I was drawn to this position. I am honored to be working with our dedicated staff, Board of Directors, members and our various partners to protect and preserve open space in all its forms throughout the Peninsula, Coastside and South Bay. **CGF**

The tunnel is just around the corner!

BY LENNIE ROBERTS

May 26 had the appearance of a typical Wednesday afternoon in Redwood City. The County Planning Commission was holding a public hearing, as they do twice a month, year in and year out. Yet this particular public hearing was no ordinary event. It was the final action (barring any appeals) to approve the Coastal Development Permit for the Devil's Slide Tunnel.

The audience and the staff seemed relaxed and mellow; there was a sense of familiar camaraderie among most of the people in the room. This group had, after all, met numerous times under the aegis of Supervisors Ruben Barrales and Rich Gordon since the passage of Measure T, the Tunnel Initiative, in 1996.

As I listened intently to the staff presentation, my attention kept wandering. Like a flashback in a Western melodrama, my mind jumped back in time to 1972, when Committee for Green Foothills took a bold step and went to court to fight the devastating Devil's Slide Bypass project. At the time, I was tremendously impressed by activist Ollie Mayer's eloquent description of the destruction that the bypass would cause to Shamrock Ranch, Montara Mountain, Green Valley, Martini Creek, McNee Ranch, and the coastal communities of Pacifica, Montara and Moss Beach. Ollie had obtained Caltrans engineering drawings that detailed the enormous destruction associated with the Bypass. Caltrans had quietly prepared the Bypass plans and then waited for an emergency so they could get federal funds to build this first segment of a six-lane freeway from San Francisco down the coast to San Luis Obispo.

Committee for Green Foothills, along with Sierra Club, Save Our Shores, Shamrock Ranch and a number of coastal residents sued Caltrans because the agency had not prepared an Environmental Impact Statement for this massive project. Caltrans argued that the project was a state highway, and they didn't have to comply with federal law regarding disclosure of environmental impacts.

Because the project has federal funding, citizens and environmentalists won that first early legal skirmish, but in our jubila-



Rendering courtesy of Caltrans

The public parking near the south portal of the Devil's Slide Tunnels will allow bike and pedestrian access to the adjacent trail.

tion at the time, we had no idea that it would take another 30 years to achieve an environmentally superior solution to the geologic challenge posed by the dangerous Devil's Slide — the Tunnel. As is often the case in Western melodramas, this battle had to be won over and over again.

Bypass opponents had to file four more court challenges, attend hundreds of meetings, raise hundreds of thousands of dollars, and collect over 30,000 signatures to qualify an initiative for the ballot that mandated Caltrans fix the slide or build a tunnel instead of the Bypass. In November of 1996, the voters of San Mateo County settled this melodrama once and for all with a landslide 74% majority approval for the Tunnel.

But this decisive vote was only the beginning of a new phase of the drama. Unlike the frontier, where folks could just go out and dig a new road, the process of approving a complex project today involves numerous agencies and harmonizing potentially conflicting mandates.

As soon as Measure T passed, the County Board of Supervisors established the Devil's Slide Coordination Meetings. All interested parties attended these monthly meetings, where "the good guys and the bad guys" sat down together to address every possible issue, from engineering questions to aesthetics. This process not only

resolved possible problems, but forged new alliances between former adversaries. Even Caltrans, which had originally circled the wagons when confronted with citizens questioning the highfalutin Bypass plans, underwent an attitudinal sea change.

By the time the Planning Commission convened in May to consider the Tunnel's Coastal Development Permit, this project had been scrutinized to the nth degree. In less than two hours, the Tunnel Permit was approved.

The calm demeanor of this hearing was amazing. After it was over, a reporter asked me how I felt. I could only reflect that the quiet of the moment belied the monumentality of the struggle, but it surely felt good.

This is an accomplishment that has given me a great deal of satisfaction. The time, energy and sheer perseverance invested in this effort makes the result even more sweet. Through this long journey, I have honed many skills. Creativity, persuasion, outreach to people not naturally one's allies, not burning bridges with adversaries, all have been invaluable and essential skills for this battle.

It looks as though we might break ground on the Tunnel as early as fall 2004. The ultimate result — a safe, reliable and beautiful tunnel and the preservation of the Montara Mountain area — will be a reality by the year 2010! **CGF**

Three perspectives on the foothill scarring

*As seen by the Hanson
Quarry operator,
Supervisor Kniss and CGF*

For many years, the Hanson Permanente Quarry in Cupertino has served as a landmark in contrasts, a massive industrial project in the midst of the otherwise-protected Santa Clara County foothills.

Recently, CGF launched a campaign to restore some of this scarred landscape to its former beauty by raising community awareness and opening a dialogue with Hanson Permanente and the County to explore ways of reversing the damage from waste rock deposits on prominent ridgelines.

This issue of *Green Footnotes* provides an update on our progress to date, from three perspectives:

- A letter from Stewart Smith, Vice President, Operations, Hanson Permanente Cement
- A letter from Liz Kniss, Santa Clara County Supervisor
- A response from Brian Schmidt, Legislative Advocate, Committee for Green Foothills.



Brian Schmidt

On our tour of the Hanson Quarry, we saw up-close the overburden area that has been planted with the native shrub and tree seedlings that will help the scarred area transition to a more natural state. CGF is asking Hanson to plant shrubs throughout the scarred region, including the areas now covered only with grasses, so as to reduce its visibility from throughout the valley.

THE QUARRY'S PERSPECTIVE

Reclamation status of Hanson Quarry

BY STEWART SMITH, VICE PRESIDENT, OPERATIONS,
HANSON PERMANENTE CEMENT

Staff members of the Committee for Green Foothills toured Hanson Permanente Cement's West Materials Storage Area in response to concerns about visual impact from the Los Altos area. We appreciate the opportunity to demonstrate the steps we are taking, and to respond to members of Committee for Green Foothills about their concerns.

The development of the West Materials Storage Area was approved by Santa Clara County in a 1985 reclamation plan with specific construction and vegetation requirements. It provides a location to hold quarried rock that is presently not economically useful for production of construction materials. Since inception in 1939, our mining and manufacturing operations now incorporate about 330 acres — or less than 10 percent of the 3500 acres our company holds in the Permanente vicinity. We strive to consolidate our activities as close as pos-

sible to the operating quarry. Most of our property is maintained in a natural state, contributing to the open space characteristic of the surrounding public holdings.

Some specific details about the West Materials Storage Area include:

- The storage area developed over the last decade, but construction was conducted out of the viewshed for as long as possible.
- The area exposed to the Los Altos viewshed is about five acres measuring about one-quarter of a mile long (about 1500 feet).
- As the storage area has developed, it has been hydroseeded with native grass mix at least annually.
- If future business opportunities make it feasible, the company may reclaim (or remove) some material from the storage area.

At least part of the structure will be permanent and within the last year, we voluntarily expanded vegetation to include shrubs and trees to that section. About 80 percent of the exposed five acres now has been planted in that wooded vegetation, using an approach that was successful in our reclamation plan for the East Storage Area. We will increase density of the woody vegetation, are supplying water and taking

other steps to accelerate growth in order to diminish the visual distinction from the surrounding hillside. Results of that effort should be visible in three to five years.

The 1985 reclamation plan remains effective to 2010 and includes both the West and East materials storage areas and the quarry. We already have started updating the entire site reclamation approach — required for 2005 — to assure a relevant design will be in place by 2010.

Permanente Cement is an historic and essential materials supplier to northern California construction. Realizing surrounding residential development has created some incompatibilities with our activities, we believe it is good business to do our best to address our neighbors' concerns — as well as to achieve full compliance with our regulatory requirements. We have responded with extensive and voluntary measures in Cupertino to address truck traffic and other issues. We welcome a similar opportunity with the Committee for Green Foothills, or anyone with concerns or questions about our activities.

We look forward to keeping the Committee for Green Foothills abreast of our plans. We encourage your visits to our site. Please contact Community Relations Representative John Giovanola, 408-996-4158 with questions or to

COUNTY RESPONSE

Regulating Hanson Quarry

BY LIZ KNISS, SANTA CLARA COUNTY SUPERVISOR

Since 1939 the Hanson Permanente Quarry has supplied high-grade Portland cement to help build the Bay Area and drive its economic success. Cement from this site has been used for everything from the construction of the Bay Bridge to single family homes. Because the quarry is in the area, less energy is needed to transport the material to the construction site.

However, the quarry also comes at a cost to the County's environment and open space. As a result, it is important that every attempt is made to minimize these impacts.

Committee for Green Foothills is a leader in open space preservation and works tirelessly with public officials as well as landowners to help ensure that the region's scenic beauty will be preserved for generations to come. As the Supervisor for the North County, I am committed to working with CGF to continue this spirit of understanding and cooperation so that our county's environment and economy stay healthy. I applaud Hanson's current efforts to mitigate the impact that the over-

burden pile has on the visual character of the foothills, and I support CGF's hard work to expedite the process and improve the quarry's reclamation efforts.

The cooperation between CGF and Hanson Permanente is an excellent example of how we can work towards environmental and economic sustainability. As more of our open space is threatened by development, the need for preservation becomes more important in order to preserve sensitive habitat, recreational opportunities, and our region's scenic beauty. Finding a sustainable balance between economic and environmental interests isn't an easy task, but by working together it is one that we can achieve. **CGF**

CGF COMMENTS

Our response to quarry and county

BY BRIAN SCHMIDT, CGF LEGISLATIVE ADVOCATE

The Committee for Green Foothills thanks Mr. Stewart Smith from Hanson Permanente Cement and Supervisor Kniss for addressing the issue of the scar from depositing waste rock on the ridgeline overlooking much of the South Bay area. We specifically want to commend Hanson Quarry for their quick response to our efforts. We only wish that all officials were as quick as Hanson Quarry (and Supervisor Kniss, for that matter) to return calls and invite our staff to check out what they are doing.

Plantings of grass and shrubs are a good first step

With Mr. Smith's kind invitation, we had the opportunity to tour the overburden area. From that area, we observed a noticeable difference in the area seeded with grass and the other areas that are mostly bare rock. Up close, we saw the plantings of native shrubs and trees on a portion of the ridgeline that will ultimately remove the visual impact of the overburden where these shrubs have been planted. Installing driplines, as Hanson has done, will accelerate the growth process. All that is to the good, but it is not the entire story, and significant problems remain.

Plantings needed on the ridgetop

Hanson does not plan to install native

shrubs any higher than it has already, and grasses alone will not remove the visual impact from the waste rock. If one looks at the ridgeline now, the brown grass left on the lower part of the ridgeline stands out prominently from the dark green chaparral surrounding the area. Hanson officials have told us that some grassland originally existed on the ridgeline, but then it certainly would have blended in more than the long, straight rectangle that now exists. Fixing this problem would involve simply planting shrubs in some or all of the remaining area.

Phased approach needed to speed restoration

Hanson's plan for depositing waste rock maximizes the length of time that the scarring will be visible, instead of minimizing it. Hanson plans to deposit waste rock across the entire ridgeline until it reaches a specified height limit, and then the quarry operators will complete their revegetation plans.

We have suggested that Hanson instead work exclusively on one subsection of the ridgeline at a time. The quarry would reach its height limit in that area much more quickly and therefore could begin revegetation of that subsection sooner, while shifting the waste rock deposit to another section. Hanson staff has said they will investigate this solution; we look forward to their response.

"Reclamation Plan" sows the seeds for disaster

Most ominously, Hanson wants to make the scarring much, much bigger. Their newly-proposed reclamation plan would raise the existing height limit by 100 feet, nearly

doubling the overall height of the scar on the ridgeline. Along with making the scarring much bigger, the height extension would also make it last for many years longer. It is simply hard to take this proposal seriously — it feels like a bargaining chip that Hanson expects to give up in return for being allowed other actions in their reclamation plan. The simple reaction should be that the height limit set in the unregulated 1980s must remain, and no bargaining should take place.

Property rights violation in question

The key to this discussion remains the likely violations of public property rights by Hanson. Santa Clara County owns an easement on another portion of ridgeline above the quarry, an easement intended to protect against visual impacts from the quarry. Midpeninsula Regional Open Space District (MROSD) owns adjoining land that has been physically destroyed by quarry operators.

Neither the County nor MROSD has answered our request to confirm that public property has been harmed, and we would certainly appreciate a response. If that harm is confirmed, we would ask both agencies to seek a limit to the visual impact from the nearby ridgeline scarring.

Hard work remains

The Committee expects to continue these discussions with the public agencies and with Hanson. Unfortunately, progress on these and many other issues cannot come without a great deal of communication, but we are ready and willing to be involved, and thank Hanson Permanente and Supervisor Kniss for their responses so far. **CGF**



Robert Buettner © 2004

Final approval of Open Space District expansion to Coast not quite final

Battle to preserve coastal open space rages on

BY APRIL VARGAS

While the expansion of the Midpeninsula Regional Open Space District (MROSD) to the Coast won decisive approval from the agency charged with approving boundary changes in such

special districts, the victory to protect coastal open space and agriculture is not yet final.

Thanks to broad public support and an unprecedented effort from a coalition of pro-open space supporters including Committee for Green Foothills, Coastal

Open Space Alliance, and many others, the San Mateo County Local Agency Formation Commission (LAFCo) approved the proposal on April 7 with a 6-1 vote.

LAFCo's approval sets the stage for the extension of District boundaries to include some 140,000 acres west of Skyline. The addition of this region to the District will allow MROSD to purchase and manage lands in this area and create public open space preserves on the Coast, under their proposed Coastsides Protection Program.

This is a huge victory for long term protection of the agricultural and natural resources on the Coast.

Approval follows years of planning, negotiations and compromise

The LAFCo decision followed years of planning, four public hearings and more than nine hours of testimony. In the weeks prior to the vote, MROSD signed agreements with the La Honda-Pescadero School District and San Mateo County Fire services to offset any possible economic impact on these agencies; none of the special districts on the Coast have opposed the expansion.

Also just prior to the vote, landowner fears were alleviated when Gov. Schwarzenegger signed a bill removing MROSD's power of eminent domain in the proposed expansion area — codifying MROSD's "willing sellers only" policy.

Despite the decisive vote by the LAFCo board and strong support from the community, including the Half Moon Bay Coastsides Chamber of Commerce, the San

See MROSD, page 10

A COASTSIDE PROTECTION PROGRAM GLOSSARY

Here's a short glossary of some of the key terms and concepts involved in the process of expanding the boundaries of the Midpeninsula Regional Open Space District to the Coast.

Midpeninsula Regional Open Space District (MROSD)

A special district formed to create a regional greenbelt of open space lands. MROSD was created through the efforts of Committee for Green Foothills members and other conservationists through a voter initiative on the ballot in 1972 that established the District's

boundaries in northwestern Santa Clara County.

In 1976, voters approved annexation — or expansion of the district's boundaries — into southern San Mateo County. In 1992, the District expanded a third time when it annexed a small portion of Santa Cruz County. The District now covers an area of 330 square miles and serves a population of approximately 650,000.

Since its formation in 1972, the District has preserved over 45,000 acres, and manages 24 public open space preserves.

More information: <http://openspace.org>

Special District

A local government agency generally organized to perform a single function, such as managing water, sewer, fire, recreation or parks services. MROSD is a special district.

Annexation

The expansion of a special district boundary. In order to expand the MROSD boundary, additional lands are annexed to the current district. Annexation does not automatically bring lands under the ownership or control of MROSD; it simply gives the district the ability to purchase lands within those boundaries.

Coastsides Protection Program

The entire package of services and programs MROSD proposes to extend the District's boundaries to the Coast in order to preserve open space and local agriculture.

More information: <http://openspace.org/coastsides/intro.htm>

Local Agency Formation Commission (LAFCo)

The agency in each county chartered by the Legislature to encourage the orderly growth and management of cities and special districts in California.

MROSD, from page 6

Mateo County Farm Bureau, and many, many others, the battle to preserve open space and agricultural lands on the San Mateo County Coast rages on.

LAFCo allows citizens' protest

Under LAFCo law, if opponents can within 60 days obtain protest signatures of 25% of the registered voters in the proposed expansion area, the boundary expansion issue will go to a Coastsides-only vote. Signatures of 50% of the voters would cancel the decision outright. In yet another provision unique to LAFCo law, anyone signing a protest petition can withdraw that signature at any time during the protest period.

As opponents worked to collect signatures, Committee for Green Foothills and other supporters of the Coastsides Protection Program, organized through the Coastal Open Space Alliance (COSA), have focused on educating the public about the consequences of signing a protest petition and collecting withdrawals from citizens who realize that they signed in error.

COSA works to inform the Coastsides

CGF, along with other members of COSA, staffed information tables at key public locations, answering citizens' questions and making available withdrawal of protest forms.

COSA's strong neighborhood outreach efforts included letters to editors, newspaper editorials, advertising, mailings and precinct walking.

We also displayed yard signs throughout the Coastsides, encouraging supporters to



Some 75 CGF members and friends gathered in Pacifica's San Pedro Valley Park for our annual Members' Picnic on a blustery Saturday in May. Hike leader Holly Mitten describes the vegetation surrounding one of the county's last remaining spawning areas for migratory steelhead.

Cait Hunk

"Decline to Sign" the protest petitions, with several large signs prominently displayed along Highway 1, at the northern edge of Devil's Slide and along Highway 92.

Next steps and outcome uncertain

The San Mateo County Elections Department and LAFCo officials are now embarking on the process of validating and counting these signatures. To ensure a fair public process, open space supporters are monitoring the process of validating and tallying signatures.

LAFCo has until July 9 to certify the number of valid signatures and determine whether the proposal stands as approved, or

will go to election. As we go to press, we don't know the outcome, but it will likely be news by the time our readers receive this issue of *Green Footnotes*.

CGF will continue to fight for protecting our Coast

The successful expansion of the open space district boundary remains a high priority for Committee for Green Foothills. The MROSD Coastsides Protection Program is the single best way we have to protect our coastal resources, and CGF will continue to work with others toward the implementation of this visionary program. **CGF**

Each LAFCo is comprised of two representatives of cities, two representatives of counties, one member of the public and — in some counties — two representatives of Special Districts.

Because the proposed expansion of MROSD is within San Mateo County, that county's LAFCo had final approval over the Coastsides Protection Program.

Coastal Open Space Alliance (COSA)

An association of organizations and individuals committed to the preservation of open space in San Mateo County, especially in the area of the San Mateo

County Coastsides. COSA is leading the effort to support approval of the Coastsides Protection Program.

Committee for Green Foothills is a founding member of COSA.

More information:
<http://coastalopenspace.org>

Eminent Domain

The right of any government entity to take private property for public use in exchange for payment of that property's fair market value. Although the MROSD board issued a resolution (their "willing sellers only" policy) to eliminate the District's right to use eminent domain in the Coastsides Protection Program

area, residents feared that this decision might be overturned in the future.

On April 1, 2004, Governor Schwarzenegger signed AB1995 into law, making permanent the elimination of MROSD's right to use eminent domain in the 220 square miles of coastsides encompassed by the Coastsides Protection Program.

Measure F

An advisory vote approved by coastsides voters in 1998 to request the expansion of MROSD to the coast, asking:

In order to preserve open space resources on the San Mateo County coast, shall the

Midpeninsula Regional Open Space District extend its boundary west of Skyline to the San Mateo County Coast, from the southern boundary of Pacifica to the Santa Cruz County line?

While the vote passed handily due to strong support from the Midcoast and Half Moon Bay areas, Measure F was "advisory" because it didn't create new law. After the passage of Measure F, MROSD began the six-year process of preparing an Environmental Impact Report and other studies that led to LAFCo's approval of the MROSD Coastsides Protection Program this spring. **CGF**

Foothills Millennium Fund

These generous major donors of \$1000 or more in the past fiscal year have made an extraordinary commitment to local open space protection. We are pleased to recognize them as members of the Foothills Millennium Fund.

Grace Abbott and Nils Nilsson
Jessica Rose Agramonte and Robert Agramonte
Betsy and Nat Allyn
Anonymous (6)
Alan Bagley
Robert Batinovich
Dorothy Bender
Jim Blanchard and Terry Sweeney
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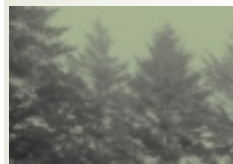
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Settlement from 1998 oil spill benefits local beaches and far-away habitat

BY LENNIE ROBERTS

What do New Zealand, a leaky oil tanker and the San Mateo Coast have in common? The answer highlights the interconnectedness of life, particularly seabird species that migrate long distances between their nesting sites and their feeding areas.

Oil washes up on the San Mateo County Coast

The story begins close to home. In 1998 more than 3,000 gallons of oil washed ashore along the San Mateo County Coast, impacting thousands of seabirds and miles of seashore and impairing human use and enjoyment of beaches.

Chemical sleuthing matched the unique fingerprint of the oil recovered at sea to the cargo carried by the oil tanker Command — the first time this technique had been used to identify the source of an oil spill.

By the time the US Coast Guard apprehended the ship, it was in Panama, thousands of miles from the spill. Scientists were able to match the particular chemistry of the oil in the ship's hold to that of the spill, which led to an early settlement. The owners of the Command agreed to pay \$5,518,000, of which \$3,913,016 was allocated to restore natural resource damages.

Habitat restoration funds established

The funds were placed in a Trustee Account for habitat restoration. The Oil Spill Trustees, who include the US Fish and Wildlife Service, National Oceanic and Atmospheric Administration, California Department of Fish and Game, California Department of Parks and Recreation, and California State Lands Commission, have now selected several restoration projects based on a number of criteria, including their connections to the injured resources, technical feasibility, lack of threat to public health and safety and opportunities for collaboration. Committee for Green Foothills approves of the selected projects, all of which we feel meet the selection criteria



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Funds from the Command oil spill will help protect the sooty shearwater by funding a project to eliminate predators in the shearwaters' winter breeding grounds in New Zealand, where introduced Norway rats are threatening breeding colonies of these and other birds.

and are based on sound science.

Three San Mateo beach areas will benefit from restoration funds. At the Fitzgerald Marine Reserve, a heavily worn staircase to Seal Cove Beach will be replaced; at Half Moon Bay State Beach, a new beach access and pathways will focus public access and protect resources; and at Mirada Surf, funding will help with planning of the Coastal Trail.

But other funds are going further from the source of the oil spill, to mitigate habitat for migratory seabird species that were injured or killed by the oil spill. The most interesting project is in New Zealand.

Protecting the sooty shearwater

One might ask why the Oil Spill Trustees would decide to spend money so far from where the spill occurred. The answer lies in the life cycle of the sooty shearwater, a seabird known for gliding rapidly — or shearing — just above the ocean's surface.

In the summers, these birds aggregate in large conspicuous flocks to feed on shoaling fishes that concentrate in productive coastal shelf waters off the San Mateo Coast and beyond. Shearwaters' feeding territory happens to lie within the shipping lanes of oil tankers, which makes them particularly vulnerable to oil spills.

Their numbers off the California coast have declined precipitously, due to a combination of factors, including pollution.

Although we enjoy watching their continuous feeding activity in the summer, in winter they disappear to New Zealand where they breed on islands of the south coast and are known to the Maori as titi.

The Trustees determined that eliminating predators where shearwaters breed at the Big South Cape Islands would have the most impact in restoring shearwater populations. Norway rats introduced to these islands are the main threat to the breeding colonies of several species of petrels, terns and shearwaters. On Campbell Island, rats had killed virtually every sooty shearwater. The rat elimination project will bring an impressive partnering of native Maori community representatives, the New Zealand Government, the U.S.-based research group Oikonos and independent consultants.

Protecting the fragile web of life

This international effort provides a great illustration of John Muir's observation, "when we try to pick out anything by itself, we find it hitched to everything else in the universe."

The next time you see a teeming flock of shearwaters, think of the huge distance they have come to their feeding grounds and the many threats facing them on their long journey, and appreciate the difference this unusual restoration project is making in the sooty shearwater's survival. **CGF**

BOARD NOTES

The beginning of a fiscal year brings a change in officers for the Committee, and we're pleased to present our new slate of leaders starting this April.

The unanimous election of President Peter LaTourrette, Vice Presidents **Zoe Kersteen-Tucker** and **Karen Kidwell**, Secretary **Chris Powell** and Treasurer **Jeff Segall** brings an experienced and dedicated team to the helm.

Having served as a Board Fellow for the last two years while she studied at the Stanford Business School, **Elena Pernas-Giz** now holds a freshly-minted MBA, and has just been elected as a full-fledged CGF Director.

Together with Development Committee chair **Holly Mitten** and Nominating Committee chair **Sue LaTourrette**, they and the other volunteer directors are working hard to ensure the continued success of Committee for Green Foothills.

Timber protections in San Mateo County threatened

BY LENNIE ROBERTS

San Mateo County's hard-won logging protections are under attack. In a recent ruling directly at odds with a landmark 1995 decision upholding San Mateo County's Timber Buffer Zone regulations, the Sixth District Court of Appeal ruled that local governments may not regulate the location of timber harvest operations.

The Sixth District disagreed with a prior appellate court decision in *Big Creek Lumber v. County of San Mateo*. In that case, the First District Court of Appeal ruled that although state timber regulations preempted county control over the how of timber harvesting, they did not apply to the where of such operations.

This recent decision throws into question a carefully crafted 1,000-foot buffer zone separating logging operations from residences on non-commercial timberlands. Many residential areas of San Mateo County, such as Skyline, La Honda and Loma Mar, where homes are located in residentially-zoned districts within heavily forested areas, could be affected by this decision. Commercial logging operations in these areas could increase fire hazards, landslides and erosion, damaging local water supplies.

San Mateo County's timber buffer ordinance was enacted in the early 1990's in response to protests by CGF and public outcry regarding "cut and run" loggers harvesting trees on parcels as small as five acres. Although *Big Creek Lumber* challenged these protections, the First District Court in 1995 upheld the county's buffer zone.

During the late 1990's, Santa Cruz County sought to restrict logging because



A recent decision by the Sixth District Court may threaten local regulations designed to control logging in San Mateo County and elsewhere.

of complaints from residents in the forested rural areas of the county. Santa Cruz County chose a different set of regulations, including setbacks from riparian corridors, restrictions on helicopter logging and a prohibition of timber harvesting in certain zoning districts. *Big Creek Lumber* sued Santa Cruz County and the California Coastal Commission, contending that state law preempted the regulations. The Court of Appeal agreed with the lumber company.

As requested by Santa Cruz County, the state Supreme Court has agreed to hear the appeal due to conflicting published opinions from two different appellate courts. San Mateo County has indicated it will be defending its ordinance. CGF strongly supports San Mateo County's efforts to uphold its Timber Buffer Zone regulations and ensure the protections of our important forest habitat. **CGF**

Transmission towers threaten San Bruno Mountain

BY LENNIE ROBERTS

When PG&E proposed to install huge transmission towers and power lines across the Peninsula Watershed as part of its project to meet increased demand and avoid outages, Committee for Green Foothills and other environmentalists caught notice — and spoke up for the protection of the views and critical habitat of this area.

After months of consideration and input from huge numbers of citizens and groups, the California Public Utilities Commission (PUC) in June announced a tentative decision to require that lines in the entire southern section of the project (between the Jefferson Substation in Redwood City and Trousdale Avenue in Burlingame) be installed underground.

This is a great victory: the PUC's decision will protect habitat in Edgewood County Park and Natural Preserve as well as in the Peninsula Watershed. Installing this line above ground would have required taller towers and wider foundations, disrupting views for miles around and impacting some of the most important habitat for native species, including the threatened Bay checkerspot butterfly.

Now our attention turns to the northern route of the project, where another prime area of habitat could be jeopardized by a PUC order to study an aboveground route that would place huge transmission towers over San Bruno Mountain.

Committee for Green Foothills and others are following this closely and providing input to ensure that the sensitive habitat and viewsheds of the State and County Park are protected. **CGF**

Robert Buellman © 2004

The Committee is watching...



Peter LaTourrette

... the city of San Jose, which has been stalling development of a county-wide Habitat Conservation Plan (HCP) but has indicated recently that it may finally move forward.

... Cindy Rubin and Ciddy Wordell, who are working hard as co-chairs for our fall gala event, Nature's Inspirations.

... El Granada, where, thanks to funding from the California Coastal Conservancy, the San Mateo County Parks Division has started the planning for the California Coastal Trail segment on the blufftop portion of the now protected 49-acre parcel known as Mirada Surf.

... the Woodside-Atherton Garden Club, which recently honored CGF's Legislative Advocate extraordinaire Lennie Roberts with its 2004 Zone Conservation Certificate of Acknowledgement "in appreciation of her constant surveillance and informed attention to the issues involved in the preservation and conservation of our land."

... The County of Santa Clara, which — at the urging of Supervisor Liz Kniss — is considering incorporation of a General Plan update fee with all its development permit approvals, so that development projects in the County, which change land use and ultimately require the General Plan to be updated, pay their fair share of costs.

... Palo Alto's CityBeat cable TV magazine, which will feature CGF as part of their July issue.

... Gov. Schwarzenegger's new appointments to the Coastal Commission and other environmental agencies, to see whether these appointees are supporting the mandates of their agencies to protect and manage our natural resources.

... Elaine French, Priscilla Hexter, Peter LaTourrette and Peter Lipman, who are serving as the jurors for the Nature's Inspirations art exhibition on October 30.

... the Wavecrest site in Half Moon Bay, where developers continue their quest to build on this wetland habitat despite evidence of its importance for migratory birds and clearly-better locations for development elsewhere.

... local proposed routes for California's high-speed rail to connect the north and south of the state with a fast train system; proposed alignments threaten Henry Coe State Park, open space around Mt. Hamilton, wetlands and protected wildlife areas.

... House Resources Committee Chairman Richard Pombo, R-Tracy, whose efforts to weaken the Endangered Species Act have held up the listing of the Central California population of the California tiger salamander as threatened — a listing that would have ramifications for property owners throughout the Central Valley as well as on the Peninsula.

... the update process for the MidCoast Local Coastal Plan, an important document guiding protection of the coastal zone; the San Mateo County Planning Commission will continue to hold hearings on this issue — and receive public input, including extensive comments from CGF — through 2004.

... the City of Morgan Hill, which may be on the verge of approving the Institute Golf Course project despite environmental concerns and potential violations of the Endangered Species Act; last-minute meetings may determine whether additional mitigations will fix the environmental damage.



Cait Humik

In April, CGF members enjoyed a hike up to the wildflower displays of Coyote Ridge.

Little progress toward protection of rare Coyote Ridge habitat

BY BRIAN SCHMIDT

Over the years, Committee for Green Foothills members have had the special opportunity to visit an endangered habitat that is home to endangered species — the serpentine habitat of Coyote Ridge, south of San Jose. Parts of Santa Clara and San Mateo Counties are fortunate to contain outcrops of this rock type, actually a family of serpent-green minerals created under heat and pressure from pre-existing rocks.

Where this rock meets the earth's surface, as it does at Coyote Ridge, serpentine breaks down into thin soil with fewer plant nutrients than most soils. In this case, poor soil means more rare species. Because certain native plants thrive in this environment — and the exotic species that have taken over much of California's landscape do not — these serpentine outcrops harbor remnants of native flora. Animals such as the threatened Bay checkerspot butterfly in turn have adapted to those specialized plants.

This careful balance is upset by nearby Highway 101 and the automobile exhaust it brings to Coyote Ridge. Pollution from the vehicles eventually falls into the soil and provides nutrition for the non-native grasses that are otherwise unable to survive in the poor soil. Fortified by this pollution, the invasive species outgrow the native plants and reduce the food plants for the checkerspot butterfly.

Surprisingly, riding to the rescue of the serpentine community is a herd of cattle — a slightly unusual cavalry. Cows will eat non-native grasses before they eat the native plants, so if they are properly managed, cattle can effectively erase the advantage non-native grasses have and maximize the serpentine habitat quality. CGF members on our springtime Coyote Ridge hikes have seen the distinct difference in quality between grazed and ungrazed areas of Coyote Ridge. Grazing is one of just a few effective techniques for

See COYOTE RIDGE, page 14



Photos by Mark Bull, MarkBullDesign.com

HAPPY BIRTHDAY, LOIS!

More than 100 friends and family members celebrated the 90th birthday of CGF co-founder and environmental champion Lois Crozier-Hogle at a fundraiser for Committee for Green Foothills, Acterra and Hidden Villa this May.

Planning for San Mateo County's transportation future

CGF endorses Measure A

BY LENNIE ROBERTS

On November 2, 2004, San Mateo County voters will be asked to approve an extension of the County's existing half-cent transportation sales tax. Measure A's reauthorization will improve safety, reduce air pollution and traffic congestion, and provide diverse transit options.

The current Measure A, approved by the voters in 1988, will expire in 2008. Over that 20-year period, each dollar raised through the half-cent sales tax has yielded more than double that amount due to grants and matching funds from state and federal sources.

Measure A's extension will continue the basic 50-50 split between automobile related and transit projects, with the addition of some important guaranteed allocations for bicycle/pedestrian projects as well.

The Transportation Expenditure Plan for "new" Measure A was the result of an extensive process involving input from every city, town and interested group in San Mateo County. The Plan is now being considered for approval by each city, and by early July, the Board of Supervisors is expected to place the measure on the November ballot.

The Expenditure Plan includes:

- 30% for transit including: Caltrain (16%), local shuttle services (4%), paratransit services (4%), Dumbarton Rail station facilities (2%), BART capital investment and operations (2%) and

ferry service matching funds (2%)

- 27.5% for highway improvements, focused on key congested corridors along Highways 101, 280, 92 and 1

- 22.5% for local streets and road improvements, allocated by population and road miles among the 20 cities and the unincorporated areas of the County

- 15% for grade separations to eliminate safety hazards for motorists and pedestrians, while improving the efficiency of Caltrain and local traffic flow

- 3% for bicycles and pedestrian improvements

- 1% for alternative trip reduction measures such as ride sharing, flexible work hours and other commute alternatives, plus funding for intelligent transportation systems that facilitate more efficient use of available highway and transit capacities

- 1% for administrative costs

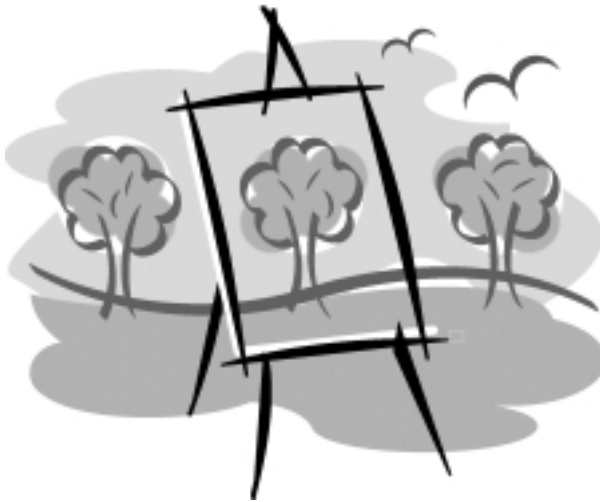
The Expenditure Plan has safeguards to prevent reallocation of funds from one transportation category to another, while maintaining some flexibility for new projects to be considered in the Highway Improvement category.

The projects in the new 25-year plan will help implement the goals of the Countywide Transportation Plan, which are to improve mobility, reduce congestion, increase access, improve air quality, increase economic vitality, improve the coordination of land use and transportation planning, increase reliability and increase safety.

CGF has endorsed Measure A and recommends that voters approve the vital transportation package this November. **CGF**

Nature's Inspirations:

C E L E B R A T I N G T H E A R T S



SATURDAY, OCTOBER 30, 2004 • THE FAMILY FARM, WOODSIDE

Save the date! We'll mail invitations in September.

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Conservation efforts draw inspiration from art

Artists to be honored at fall event

Artists have long played a pivotal role in the protection of open space and natural resources. By appealing to the emotions deep within us all, their work connects and engages us – inspiration that is critical to citizen action.

The western landscape has a particular connection to the arts: as early explorers and pioneers pushed westward, they were often accompanied by painters, photographers and sketchbooks that helped document and, in many cases, protect, the newly-discovered wonders.

This fall, Committee for Green Foothills will honor local artists whose work interprets and conveys the beauty of

the natural world and inspires people to protect our local landscapes and natural resources.

You're invited to join us for **Nature's Inspirations: Celebrating the Arts** and the presentation of the **Jane Gallagher Award** to an artist who, like our beloved Jane, inspires environmental protection through art.

Nature's Inspirations will feature some of Jane Gallagher's original paintings as well as the artwork of the finalists selected for the Jane Gallagher Award. Please plan to join us on the afternoon of Saturday, October 30, to celebrate and honor these special artists and their art. **CGF**

COYOTE RIDGE, from page 12

preserving the serpentine ecosystem.

Protecting this remaining Coyote Ridge habitat has been a long-term priority of the Committee and many other environmental groups. The widening of Highway 101, along with other projects, has forced government agencies to promise some degree of protection, but that potential help could be facing a setback.

Waste Management Incorporated (WMI), the company that owns the Kirby Canyon Landfill on the southern edge of Coyote Ridge, recently purchased a significant portion of land on Coyote Ridge — the same land that government agencies, particularly the Valley Transportation Authority, have been seeking to purchase and protect.

The logical reason for Waste Management's purchase is to expand Kirby Landfill. Fortunately, this doesn't necessitate environmental destruction: if WMI permanently protects the most sensitive areas, it can limit the environmental damage.

Of course, the Committee for Green Foothills and others are already asking whether a major landfill expansion is appropriate on Coyote Ridge.

Meanwhile, government agencies required to mitigate harm to serpentine habitat may have to protect other parts of Coyote Ridge. The biggest remaining question currently concerns the City of San Jose's stalling on the Habitat Conservation Plan (HCP) for Coyote Valley below.

Development of Coyote Valley will certainly cause major damage to Coyote Ridge, but San Jose may deny that in its stampede to permit development before Mayor Gonzales completes his final term of office. San Jose may be stalling the HCP, which would protect the serpentine habitats, so that the HCP does not interfere with the development of Coyote Valley.

By contrast, the Committee for Green Foothills is seeking to ensure that the unwise plan for destroying Coyote Valley farmland does not drag down Coyote Ridge's wildlife habitat along with it.

The Committee is monitoring Coyote Ridge closely, and we will keep our action alert subscribers and *Green Footnotes* readers updated on the protection of this valuable habitat and its many rare species. **CGF**

ESA, from page 1

the Stanford Linear Accelerator Center, somehow bringing miles of accelerator lines across the Stanford foothills. This project involves large amounts of federal money as well as Department of Energy oversight. Because a federal agency is involved, this project must be reviewed under the ESA's section 7, which forbids federal agencies from taking any action that jeopardizes the continued existence of a listed species, or that adversely modifies the species' critical habitat. (Section 9 applies to anyone other than federal agencies.)

This listing means the Department of Energy must consult with FWS to ensure that the project does not jeopardize the species' survival. Let's assume that FWS eventually concludes in a "Biological Opinion" that the accelerator project will not jeopardize the salamander's survival, even when considered in conjunction with increased development throughout the salamander's range.

Environmentalists will examine this conclusion carefully. If they decide it is faulty, they can sue in federal court. While judges are generally deferential to federal agencies, they will sometimes stop projects that risk species' survival.

Summer 2007: *Our small salamander is sleeping, again, in its burrow, something that makes sense for an amphibian that needs moisture to be active. Stanford, meanwhile, considers other options for the foothills.*

Moving forward in time, it is now July 2007. The linear accelerator project was never built, due to its political controversy. Stanford has subsequently suggested the Heartstring-Tugging Institution Project, which for some dubious reason requires constructing a building for a wonderful cause in the foothills rather than on the developed part of the Stanford campus. As planned, this development will destroy a significant amount of salamander habitat. A parking lot will pave over the gopher hole where our salamander is once again sleeping for the dry season.

However, the ESA becomes involved at this point; the Act prohibits "take" of listed species through harming or harassing the species, which is why hunting endangered species is illegal. This prohibition applies to everyone, not just the federal government.

Prohibiting harm to listed species also



Kathy Swifty

California tiger salamanders require wetlands habitat and adjacent undeveloped upland habitat such as this land on the Stanford campus.

prohibits harm to the species' habitat, so Stanford's development project faces a legal hurdle. This "take" of species can be permitted, however, if an applicant like Stanford requests an Incidental Take Permit. The Incidental Take Permit provides an exception to the ESA prohibition for everyone other than the federal government (another provision gives an exception for federal agencies and federal permit-holders).

It turns out that Stanford has been thinking ahead, and for several years prior to 2007 considered applying for an Incidental Take Permit. The university submits the Habitat Conservation Plan (HCP) required by FWS so that the federal agency can determine whether a permit is justified.

In theory, the applicant must minimize and mitigate harm to listed species as much as is "practicable." In practice, many HCPs provide little mitigation for harm to listed species while removing the protections the ESA otherwise provides to the species. Each HCP has to be analyzed to determine if it provides adequate protection; citizens and environmental groups often use litigation to strengthen weak HCPs and help provide necessary protection. Again, environmentalists will scrutinize the HCP prepared for the salamander.

Winter 2010—2011: *Our salamander survived the threat it faced in 2007. Perhaps Stanford's project was decreased in size or moved to a different location; for whatever*

reason, our salamander's habitat was saved.

Two weeks of steady rain have awakened our salamander and its breeding instincts. It makes its way down to wetlands, but not to Lake Lagunita. Instead it encounters the ponds in the foothills that Stanford very laudably constructed years ago, long before salamanders were listed under the ESA.

Our salamander breeds during the night with others, and then instinctively moves away up the hillside in the early dawn. It fails to notice a great blue heron standing motionless in the grass, and never makes it home.

Though our salamander's demise may seem sudden, its life story was actually very successful. Having survived the combined challenges of nature and humanity, it passed along its genes — constituting a success in the natural world.

Vigilance by environmental groups, good will towards the environment by others and compliance with the Endangered Species Act can make successes like this possible. The ESA is just one tool for environmental protection, but it can be a crucial method for keeping our salamander, and members of hundreds of other species, from edging into extinction. **CGF**

Important note: *The preceding article discusses the Endangered Species Act in general terms only, and is not meant to constitute legal advice. Salamanders and other species facing extinction should consult with an attorney.*

UPCOMING EVENT

CGF hike

EXPLORE THE PALO ALTO BAYLANDS

Sunday, August 8, 2004

9:00am — noon

You're invited to join the Committee for a summer morning hike at the Palo Alto Baylands. This special preserve is the Bay's largest tract of undisturbed marshland, and was protected thanks to early efforts by CGF and other local environmental leaders. Many consider this area to be one of the best bird-watching areas on the West Coast.

Hikers will be led on a mostly flat, easy hike along the tidal marsh and levees by environmental leader and longtime marsh champion **Emily Renzel**, who served for many years as a director of Committee for Green Foothills as well as on the Palo Alto City Council.

Together with Emily and CGF Legislative Advocate **Brian Schmidt**, we'll explore the baylands habitats and wildlife and discuss CGF's work to protect this area and surrounding lands. Of particular note will be the Environmental Services

Center proposed for 19 acres of land dedicated as parkland. We'll also view and discuss the foothills scars created by Hanson Quarry more than eight miles away in Cupertino.

Bring sunscreen, water and binoculars, and dress in layers. Feel free to bring a sack lunch to enjoy on the park's picnic tables after our hike.

Space at the hike is limited and reservations are required. RSVP by Wednesday, August 4 with the CGF office at (650) 968-7243 or Hike@GreenFoothills.org.

Directions: From Highway 101, take the Embarcadero Road East exit. Drive east on Embarcadero past the golf course and airport; when the road turns to a T at the stop sign, turn left. Then right at the first opportunity (just across from the airport) and park in the gravel lot just before the park's entrance gate. We'll meet in that lot.



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