

MidCoast Community Council
P.O. Box 64
Moss Beach, CA 94038

August 2, 1992

Mr. Thomas Casey
San Mateo County Council
County Government Center
Redwood City, CA 94063

Re: Access to McNee State Park through Corado Property: Ocean View Farms

Dear Mr. Casey:

Corado, Inc. is currently seeking formal approval from the Planning Department for certain improvements to their stables at the north end of Ocean View Farms. At some time during the past few months, Corado decided to close "the gate", located on their property near the washed out bridge, thereby linking their improvements to the neighborhood access from Montara through Corado property to McNee State Park.

The MidCoast Community Council was asked by the Planning Commission to hear the issue, which we did at our June 24, 1992 meeting. Corado was represented by Mr. Carl Hoffman and Mr. Larry Kinsella. An animated discussion/ debate took place, and an informational meeting was scheduled to review the facts and current status. This meeting was held on July 2, 1992 at the County offices and an attempt was made to clarify the numerous issues, (summary report is attached) - to date we have received no further word from the County staff. On July 17, 1992 Council member Campbell met with Ranger Carol Nelson of McNee State Park (summary report is attached).

Attached is a Memorandum dated August 2, 1992 summarizing certain facts upon which there seems to be agreement by a number of members of our community. What is not clear are the following:

- 1 Whether Pedro Mountain Road has been vacated or abandoned, or is still a public right-of-way. Is Cal Trans still involved in the right-of-way.
- 2 Whether the land easterly of Martini Creek on which the deviation described in the attached Memorandum has occurred is privately owned, and if so, whether it is subject to any documented public easement or right. A "conservation" easement has been mentioned as a possibility with reference to Martini Creek. Also, the location of the boundaries of McNee Ranch State Park and other public property in the area by comparison with the area of the deviation needs to be ascertained.
- 3 Exactly when the Pedro Mountain Road bridge over Martini creek washed

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out, when Montara State Beach was established and when McNee Ranch State Park was established.

4 When the owner of the land first constructed or reconstructed buildings on the land and erected fences, gates, and signage.

5 Whether the public has acquired the right to use the deviation even though there may be no document as establishing a public easement or right.

6 Whether any of such public easements or rights can be lost by a failure to take action when the easement or right is obstructed, and if so, when did the present obstruction commence (we know it to have been fairly recent - it was in effect by the time of our meeting on June 24,1992).

7 Whether any planning document, such as the Local Coastal Plan, is relevant to a clarification of public rights in this area.

8 What rights, easements does the State Park have in relation to access or to Martini Creek in the area.

In conjunction with the attached Memorandum, three issues are listed that seem to us to need legal analysis.

ISSUES

A Does the public have the right to continue to use Pedro Mountain Road easterly of Martini Creek.

B Does the public have the right to continue to use the deviation from Pedro Mountain road easterly of Martini Creek between Pedro Mountain road and the creek crossing upstream of the washed out bridge site.

C If the conclusion is that the public has the right to continue to use the road and the deviation, will the prevention or attempted prevention of public use of the road and deviation by Corado have any effect on the continuance in the future of the right of the public use. Can the right of public be lost by failure of the public to take appropriate action at the time the right is obstructed or foreclosed.

We will, of course, attempt to supply additional facts when we are asked and that are necessary to enable legal conclusions to be reached. As to the facts listed above that are not clear, we believe that the County may be in a better position than we to ascertain them, but again, we seek to ascertain them ourselves if we are asked. We will appreciate County staff aid in determining the facts listed above and the County Council advice on the three issues listed above.

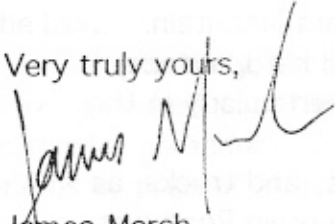
The MidCoast Community Council would like to express or appreciation to the

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Lasters for their help in the preparation of this information.

We believe resolution these issues is important to the public trail system in the Montara area. The access issues need resolution and may or may not play a part in the ongoing permit situation with the Planning Commission regarding certain stable improvements. We are certain that there exist win-win solutions to all these issues once all the facts are on the table.

Very truly yours,



James Marsh

MidCoast Community Council, Park & Recreation Committee

cc Honorable Supervisors, Board of Supervisors
Mr. Richard Silver, Clerk of the Board of Supervisors
Mr. Carl Hoffman, Coradø Inc.
Ms. Carol Nelson, McNee State Park
Mr. & Mrs. Laster

end Memorandum dated 8/2/92
Half Moon Bay Review article of 7/29/92
Committee for Green Foothills letter of 9/13/89
Meeting summary 7/6/92
Meeting summary 7/17/92

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MEMORANDUM

Re: Blocking of public access between the Montara area and Montara State Beach, McNee ranch State Park and other public area relate to Montara Mountain.

Facts: 1 Old Pedro Mountain Road was the predecessor to State Highway 1, providing public road access between the Montara and southerly midcoast areas and San Francisco by a narrow winding hard surfaced road over Montara Mountain.

2 Pedro Mountain Road still exists as much deteriorated hard surface, readily usable road for hikers, joggers, equestrians and bicyclists, particularly in the areas in question.

3 A wider improved gravel road suitable for automobiles and trucks, as well as pedestrians, equestrians and bicyclists intersects Pedro Mountain Road just before Pedro Mountain Road commences its climb up Montara Mountain and extend to State Highway 1. It intersects the highway immediately opposite the low buff area that is part of Montara State Beach. The road provides access between Pedro Mountain road and Montara State Beach and public automobile parking areas along State Highway 1.

4 Pedro Mountain Road climbs the western flank of Montara Mountain and is the major access to McNee Ranch State Park and other public areas related to Montara Mountain.

5 The Pedro Mountain Road bridge over Martini Creek was washed out in a rainy year in the early to mid 1970's and has not yet been replaced. Martini Creek carries runoff from Montara Mountain through a large culvert constructed under State Highway 1 after having itself been washed out in a rainy year in the early 1980's. the usable portion of Pedro Mountain Road coming from Montara terminates on the easterly bank of Martini Creek at the location of the former bridge and commences again on the westerly bank of Martini Creek. The intersection with the gravel road from state Highway 1 is westerly of Martini Creek.

6 The banks of Martini Creek at the location of former bridge are steep, high and covered with poison oak. The washout of the bridge effectively prevented continued public use of the Pedro Mountain right-of-way across Martini Creek.

7 However, public use of Pedro Mountain Road did not cease with the bridge washout. The creek is less deep further upstream. Upon reaching Martini Creek from Montara along the paved section, public use continued uphill east of the Creek until crossing at any of several upstream crossings. At the time of the bridge washout, no signs fences or gates prevented or regulated this practice. For all that a user knew, the land used for the deviations was part of the creek, the use of which could not be obstructed, or was public land, particularly since the establishment of McNee Ranch State Park.

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8 A few years ago, but several years subsequent to establishment of the state park, a controversy arose between the owner of the land upon which the deviation on the easterly side of Martini Creek occurs and public users of this deviation. The owner reconstructed some buildings and fenced, gated and signed the pathway. This occurred within the last 3 to 5 years - see the unanswered letter from The Committee for Green Foothills to the State Attorney General dated 9/23/92. The controversy was apparently settled with continued public use of the deviation with the gate remaining open, but with signs informing the public of the private ownership of the land.

9 Recently, the owner has closed and locked the gate in an apparent effort to prevent and educate the public about continued use of the deviation. An attachment to this Memorandum from the July 29, 1992 Half Moon Bay Review, describes the origins and present effect of the most recent controversy.

Midcoast Community Council

July 17, 1992

To: All Council Members

Re: Access to McNee Ranch State Park (Prescriptive Easement to use existing trail)

From: Sally Campbell/Angela Meyer

We have had several discussions with Supervisor Anna G. Eshoo's office regarding the prescriptive easement issue, with specific reference for access to the park from Montara. Aide Karen Chapman suggested we contact Ted Lemperts office, which we did. Ted Lemperts aide was in touch with Carol Nelson of the State Parks & Rec., which we were told was most interested in discussing this issue and working with the Midcoast Community Council. Carol Nelson phoned Campbell on July 16 and made an appointment for the following day.

Campbell met with Carol Nelson this date from 11:00AM to 12:30PM., at McNee Ranch State Park. To discuss access to the park from the existing road/trail from Montara to the park.

The problem that exists now, is in part, due to the bridge that was over Martini Creek that washed out in the mid seventies and the County's lack of funds to rebuild it. Since that time people have continued to use this access route by walking up the creek to a shallow point, crossing over the creek a gaining access to the park. Ocean View Farms has a fence and gate over the trail and have recently locked the gate. San Mateo County owns the rights to this road or trail. As explained by Carol Nelson, Prescriptive Easement rights do exist, and everyday the gate is locked the clock is ticking, and if anything is to be done it should be started now.

A Conservation Easement is owned by the State of California on the Ocean View Farms side of the creek (Carol was not certain whether it was 50' or 75') A Conservation Easement means that the State has purchased the right to disallow any building or changes in the land. However, Ocean View Farms still owns the property and has the right to allow or not allow for other uses. Please note that Prescriptive Easement does exist on the alternate trail that was established when the original bridge washed out in the mid seventies. And also note, that this trail lies within the boundaries of the Conservation Easement.

Carol Nelson is going to contact the owners of this property in an attempt to negotiate a good neighbor policy and attempt to make a deal between Ocean View Farms and the State. For permanent access of this trail for public use. The State would then build a foot bridge where the trail exists now, over the shallow part where the boards are. She is also hopeful that a fence could be build between the trail and Ocean View Farms property on the Conservation Easement line. She did say that the State would not pay for this.

She will report back to the Midcoast Community Council once she has any information to report. She stated herself that time is of essence, since the gate has been locked. We would suggest that the subcommittee for Parks and Rec. take this matter under their supervision.

Carol Nelson may be contacted at: (415) 726-0588