

Hearst Ranch Conservation NOW

Hearst Ranch Conservation Project Vote the Coast Response, Web Site Posting and Response

Dated 8-28-2004

August 30, 2004



Hearst Ranch Conservation NOW is an independent group of individuals with varied and extensive land trust and environmental experience. We are not affiliated with the American Land Conservancy or the Hearst Corporation

Our website is
www.hearstranchconservation.org

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Hearst Ranch Conservation NOW

Response to Vote the Coast, as posted on their website, Dated 8-28-2004

Vote the Coast an organized group of individuals dedicated to protecting coast that consist of the following individuals on their board of directors.

*Garry Brown, Burt Brinckerhoff, Mel Nutter,
Mark Massara, Bruce Reznik, Ozzie Silna,
Pam Slater, Steve Uhring, April Vargas,
Larry Wan, Sara Wan*

They have posted 11 points of concern about the Hearst Ranch Conservation Project.

The tables below summarize their concerns.

The responses are based on our knowledge of working land trusts, the transaction documents themselves, or other related documentation.

Specific transaction document references (e.g., Independent Appraisal Review (Tab 2)) relate to document links on the California Resources Agency web page, www.resources.ca.gov/hearst_ranch_docs_toc.html/.

We believe that we have adequately addressed there concerns in this document and the project should continue to move forward.

Vote the Coast Concerns

Objection	Response	Reference(s)
<p>1.a: Conservation Easement Language must be written prior to funding</p> <p>The terms of the easement do not yet contain the specific policies identifying what the resources are or how they will be protected.</p>	<ul style="list-style-type: none"> • Of course the conservation easement language must be completed prior to funding. That is a standard requirement for all conservation projects funded by the State. In the case of this project many other documents must be completed prior to funding. <p>Some of the documents include:</p> <ol style="list-style-type: none"> 1. Conservation Easement 2. Baseline report must be reviewed and approved by the WCB and DFG prior to funding. (WCB Grant Agreement section 2, page 1 3. WCB must review and approve the monitoring protocol prior to funding, (WCB Motion, 8-12-2004) <ul style="list-style-type: none"> • Most of the required documents can be found on the Resources Agency Web Site • The easement combined with the Baseline Report does define what is to be protected. 	<p>http://resources.ca.gov/hearst_ranch.html</p>

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<p>1.b There is no Management Plan. . These terms are proposed to be written by the Hearst Corporation and will be presented to the State a year after the funding of the transaction. It is fiscally irresponsible for the State to enter into an agreement and fund it without knowing what it is funding</p>	<ul style="list-style-type: none"> • The East Side Conservation Easement by itself provides protection for the resources to be conserved. • Many conservation easements do not have required management plans and virtually none are prepared prior to funding the easement.. • The management plan addresses <i>how</i> resources are to be protected, not <i>what</i> is to be protected. Hearst should be allowed to manage their land in a reasonable way as long as they achieve the requirements of the easement. • The Wildlife Conservation Board will review and comment on the management plan (and any amendments) before the California Rangeland Trust approves it • The Eastside Conservation Easement also has criteria for items to be included in the Management Plan under the Section 6 (Resource Stewardship). • Also there is a interim management Criteria which should be followed during the development of the overall management plan 	<p>East Side Conservation Easement (Tab 3C)</p> <p>Hearst Ranch Conservation Project, Viewpoint and Response to Comments, Attachment 1</p> <p>East Side Conservation Easement (Tab 3C), (Sections 6(a), 6(b), 6(c)) pages 12 and 13</p> <p>WCB Grant Agreement (Tab 3B, pg 4)</p> <p>East Side Conservation Easement (Tab 3C), (Sections 6(a), 6(b), 6(c)) pages 12 and 13</p>

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<p>2: Terms of the Easement must be fully enforceable The State will have no direct enforcement of the Conservation Easement. The WCB may only effect enforcement indirectly through the voluntary cooperation of the Easement Holder. The WCB must be a direct party to the Conservation Easement with full enforcement and monitoring authority in order to protect the public's investment.</p>	<ul style="list-style-type: none"> • Most conservation transactions are monitored and enforced via a 3rd party agreement. However, the 3rd party must submit annually monitoring reports to the WCB for their review, and a summary of the report must be made available to the public annually • Every five years an audit of this monitoring will be conducted, which is a new and unprecedented policy among land trusts. • If at any time it is found that the California Rangeland Trust is not doing its job on monitoring and enforcement of the easement, the WCB has the right to reassign the easement to another party • In addition, the Monitoring Protocol must be reviewed and approved by the WCB prior to funding. (WCB Motion, 8-12-2004). 	<p>Viewpoint and Response to Comments, Attachment 1</p> <p>WCB Grant Agreement (Tab 3B, section 3.5).</p> <p>(WCB Grant Agreement, Tab 3B, Section 4).</p> <p>WCB Hearing Motion, Aug. 12, 2004</p>

Objection	Response	Reference(s)
<p>3: There must be full and public monitoring and oversight on the implementation of the agreement</p> <p>The public has no effective mechanism for overseeing what is a public asset, purchased with public money. The agreement terms allow the easement holder to keep monitoring information confidential and allows the Hearst Corp. to have sole discretion over who receives approval to enter the property.</p>	<ul style="list-style-type: none"> • Most conservation transactions are monitored and enforced via a 3rd party agreement. However, the 3rd party must submit annually monitoring reports to the WCB for their review, and a summary of the report must be made available to the public annually • Every five years an audit of this monitoring will be conducted, which is a new and unprecedented policy among land trusts. • If at any time it is found that the California Rangeland Trust is not doing its job on monitoring and enforcement of the easement, the WCB has the right to reassign the easement to another party • In addition, the Monitoring Protocol must be reviewed and approved by the WCB prior to funding. (WCB Motion, 8-12-2004). 	<p>Viewpoint and Response to Comments, Attachment 1 WCB Grant Agreement (Tab 3B, section 3.5).</p> <p>(WCB Grant Agreement, Tab 3B, Section 4).</p> <p>WCB Hearing Motion, Aug. 12, 2004</p>

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<p>4. Public access west of Highway One must be improved and expanded.</p> <p>Access to five of the 18 miles along the ranch would be severely limited. Access to areas that the public now enjoys would be restricted. Ragged Point and Pico Cover would be limited to quarterly tours of 20 people each, i.e. only 80 people a year would be permitted limited access to these areas. San Simeon Point, heavily used by the public currently, would be restricted to 100 people per day, which could be entirely taken up by the paying guests at the Hearst's 100 room hotel.</p> <p>.</p>	<ul style="list-style-type: none"> • The access currently available to the public is under CC 813, and is revocable at any time. We have done an extensive comparison on the West Side access, and it is greatly increased as a result of the conservation transaction. The study is available at http://www.hearstranchconservation.org/Hearst%20Ranch%20West%20Side%20Access%20Comparison%207-27-04-Ver-8.pdf • This document has been reviewed by the State Coastal Conservancy Staff and found consistent with what they believe. • The hotel guests are above and beyond the 100 person limit as stated in questions 17 in the response from July 15th Cayucos meeting. <p>17. Q: Hearst: Regarding Point San Simeon: Does the 100 person per day limit include hotel guests? Access to the Point trail is on hotel property. Will non-guests have easy access? Will there be enough parking?</p> <p>A: The hotel guests (if and when the hotel is built) will be able to access outside of the 100 person easement limits pursuant to Hearst's ability to allow permissive access. The recommended access plan posted for San Simeon Point proposes a parking area open to the public at the base of San Simeon Point near OSSV, providing easy access to the Point. Adequacy of parking will be addressed in the planning process and permitting process.</p>	<p>State Parks Public Access Easement (Tab 4C, Exhibits D1A-C)</p> <p>West Side Access Comparison</p> <p>Janet Diehl, State Coastal Conservancy</p> <p>Resources Web Site, Questions and Answers from the Cayucos hearing</p>

Objection	Response	Reference(s)
<p><i>(4. Continued)</i> The Coastal Trail will bypass San Simeon Point and be routed primarily along the highway</p>	<ul style="list-style-type: none"> • A book published by Coast Walk shows the Coastal Trail on nearly the same alignment (pages 100 and 104 are included here as Attachment 3). • In addition, relative to the Coast Walk trail guide, more of San Simeon Point will be available to hikers via 2 miles of spur trails • The actual route on State owned property will be determined by California State Parks and must meet all CEQA requirements 	<p>Hiking the California Coastal Trail, Vol. 2 by Bob Lorentzen and Richard Nichols, 2000</p>
<p>5. Provisions must be made for access east of Highway One. There is no provision for public access on the east side of Highway One. Historic trails that once existed and are marked and numbered on U.S. Forest Service maps, were extinguished by Hearst, must be re-established.</p>	<ul style="list-style-type: none"> • Public access has not been required on other transactions concerning working ranches, primarily because public access usually interferes with ranching operations of the Ranch. • As part of this transaction, there is a requirement for four non-profit events each year to be held on the Ranch. • The easement also does not preclude the granting of access east of highway 1 in the future, if we can show we can work with the landowner to achieve common goals. • The Forest Service is currently looking at an alternative alignments for trails along the San Carpoforo Creek 	<p>Viewpoint and response, Attachment 1</p> <p>East Side Conservation Easement, Section, 14.(g), page 20</p> <p>East Side Conservation Easement, Section, 14.(e), page 19</p>

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<p>6. Development rights must be retired upon funding of the purchase Under the current proposal the Hearst Corp. does not have to retire development rights until they get the approvals it seeks for building permits. In addition, development locations can be moved if more than one predetermined application is denied, delayed or even conditioned.</p>	<ul style="list-style-type: none"> • The development rights are being retired as a result of this transaction. • The number of new owner homesites will never exceed 27 no matter what is decided in the normal planning process, that is a reduction of 400 potential homes that can be built today under the current zoning requirements • The other potential sites are being retained, because current zoning does not allow for this homesite configuration. • Hearst must apply for the land use change for this configuration. • But in all cases the maximum number of new owner homesites is 27. • Even if the development sites are moved because of denial by the planning agency they still must meet the strict sighting, and environmental criteria of the original picked building envelopes. • This ensures the protection of habitat and viewshed of the Hearst Ranch as seen from Highway 1 and Hearst Castle 	<p>(Ease Side Easement, Tab 3C, page 4. Exhibit H, Section Page 5, section B).</p> <p>Exhibit H, Section (B), Page 6, referencing Exhibit H Section A(3)Page 2</p>
<p>7- Water transfers and/or sales should not be allowed Water may be transferred off the property with no enforceable conservations standards. This could compromise the very natural resources this deal is supposed to protect.</p>	<ul style="list-style-type: none"> • Water can only be moved off the property with the permission of the easement holder and the easement holder has determined that it will not impair conservation values, particularly fish and wildlife, of on the easement area. • WCB must also be notified of the transfer request • Also at the WCB hearing the definition of impairment will be clarified prior to funding. 	<p>(East Side Easement, Tab 3C, Section 12, page 18)</p> <p>WCB Grant Agreement, (Tab 3B, Section 3.6, page 4) WCB Hearing Motion, August 12, 2004</p>

Objection	Response	Reference(s)
<p>8- A complete Baseline study must be performed The ecological conservation values of the Ranch are only generally defined and the baseline study of existing sensitive habitat is not complete and will be kept secret when it is finished</p>	<ul style="list-style-type: none"> • The baseline report must be reviewed and approved prior to funding as a condition of the WCB Grant agreement. • The review will be done by WCB and the DFG. • Releasing the baseline report to the general public is not consistent with existing conservation transactions and a completed baseline report sometimes is not required at all prior to funding. • Because Baseline Reports will contain sensitive information such as the location of archeological sites, areas for rare and endangered birds, plants, and other animals this document should not be released to the general public to prevent destruction or damaging of these sensitive sites. • However, in this transaction a summary of the baseline report has been released for public review. These documents can be found at: http://www.resources.ca.gov/hearst_docs/OtherDocuments_5A-Resources_Information_Summary.pdf http://www.resources.ca.gov/hearst_docs/OtherDocuments_5B-West_Side_Public_Lands_Environmental_Assessment.pdf 	<p>WCB Grant Agreement (Tab 3B, pg 1)</p> <p>WCB Hearing Motion, August 12, 2004</p> <p>Viewpoint and Response, Attachment 1</p> <p>Resources Information Summary (Tab 5A)</p> <p>West Side Resources Summary (Tab 5B)</p>

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<p>9- The standards for protection of habitats must be based on the Coastal Act The standards proposed for protection of sensitive habitats are weaker than policies of the Coastal Act and LCP which currently apply. The definition of wetlands is less protective than what currently exists under the Coastal Act and allows destruction of areas that may be ESHA, again inconsistent with the protections that currently exist.</p>	<ul style="list-style-type: none"> • The conservation easement does not circumvent the Coastal Act or any other planning document when it comes to development or habitat protection. 	

Objection	Response	Reference(s)
<p>10- Maximum protection of agricultural lands must be provided for</p> <p>The Conservation Easement provides very little protection of agricultural lands beyond existing agricultural zoning and related LCP requirements. It allows for over 675 acres of residential estate development on approximately 3400 acres of ranchland. This could not be approved under the current regulatory process without a conservation easement over the remaining agricultural lands. Therefore the public is paying for an easement that would be required for the proposed development any way. In addition, visitor-serving and non-agricultural development under existing conditions and regulations is limited, again bringing into question the value of the agricultural conservation easement</p>	<ul style="list-style-type: none"> • At present there are no restrictions on agricultural lands encompassing 82,000 acres. • Traditionally, Hearst has had intensified agriculture on over 10,000 acres. • The conservation easement limits the maximum amount of intensified agriculture to 3000 acres maximum, which includes a maximum of 300 acres of vineyards, and 300 acres of orchards. • This is less than 4% of the Ranch. These agricultural uses are subject to protection of conservation values, including water supplies • The owner of productive ag land should be allowed flexibility in their ag operations • Any agricultural permitting that is required must meet regulatory requirements. 	<p>East Side Easement, (Tab 3C Section 9, page 15)</p>

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<p>11-Visual impacts and erosional issues related to Highway One must be resolved.</p> <p>The scenic resource protection standards for the proposed residential development sites are significantly weaker than the current LCP. Views from the realigned Highway One, California Coastal Trail, and public beaches and coastal waters are not protected by the agreement.</p> <p>The proposed Highway One Realignment Area does not appear wide enough to encompass all reasonable alternative locations for the highway, thereby prejudicing the alternative alignment review process and opportunities to avoid future shoreline armoring and maintenance of Highway One as a scenic rural Highway.</p>	<ul style="list-style-type: none"> • Caltrans, a State Agency, determined the realignment area for Highway 1. This is the best agency for determining the needs of Highway 1, who has been maintaining this road since its inception. • The viewshed of Highway 1 has been protected as a result of the Caltrans easement limiting the location of vineyards, and orchards. • The sighting criteria for the 27 homesites also protects the viewshed of Highway 1. • As a condition of the Caltrans conservation easement, there has been a condition placed that protects the viewshed of Highway 1 even after any realignment (This includes homes, vineyards and orchards). • The conservation easement does not pre-approve any development. It only limits what can be built. • All development must follow the standard development process which will include the County of San Luis Obispo and the Coastal Commission as appropriate. 	

Objection	Response	Reference(s)
<p><i>(11- Continued)</i> The public will receive title to land that includes areas expected to be abandoned to shoreline erosion in the future, limiting its value as a public benefit.</p>	<ul style="list-style-type: none"> • Beach erosion is a know fact and applies to all public and private beaches 	

References:

View Point and Response, Attachments

ATTACHMENT 1: Comparison of Recent Coastal Conservation Transactions

ATTACHMENT 2: Public Access Analysis of West Side Parcels

ATTACHMENT 3: Trail Maps from Coast Walk Book on the California Coastal Trail