RESOLUTION - ACTION REQUESTED 2012-383

MEETING: July 17, 2012

TO: The Board of Supervisors

FROM: Peter Rei, Public Works Director

RE: Request to Abandon Trail Easements in Don Pedro

RECOMMENDATION AND JUSTIFICATION:

Deny the request to abandon trail easements in Don Pedro. Staff recommends denial of the request to abandon Pedestrian and Equestrian Trail Easements in Don Pedro Unit 2M by David and Mary Anne Taylor (Lot # 638) and Raymond and Eleanor Duste (Lots # 636 and 637).

This request was heard by the Don Pedro Pedestrian and Equestrian Trails Advisory Board at their March 1, 2012, meeting. The Advisory Board voted 5-1, with Mr. Taylor casting the lone vote, in support of abandoning the easements.

Mr. And Mrs. Taylor, and their neighbors the Dustes, are requesting an additional abandonment of the 30 foot Pedestrian and Equestrian easement along the southerly frontage of their property which fronts onto Banderilla Drive. This easement location is adjacent to Banderilla Drive and is flat and easily accessible.

In a letter to Public Works Director Peter Rei, dated April 21, 2012, the Taylors and Dustes again requested these easements be abandoned.

On June 11, 2012 a response letter was sent to the Taylors and Dustes informing them that their request was denied citing the March 1, 2012, action of the Don Pedro Pedestrian and Equestrian Trails Advisory Board. In the letter to the Taylors and Dustes they were informed that they have the right to request that the Board consider their request.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

In 2011 Mr. And Mrs. Taylor received approval from the Board of Supervisors to abandon the 30 foot wide Pedestrian and Equestrian easement along the westerly frontage of their property. The reason for the original abandonment request was for safety reasons as that easement location is very steep and not a viable trail location. As directed by the Board this easement was formally abandoned.
Resolution - Action Requested 2012-383

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

The Board could choose to approve the abandonment of the Pedestrian and Equestrian easements. Staff would then process the abandonments as directed.

ATTACHMENTS:
Letter dated June 11, 2012 from Peter Rei (PDF)
Letter dated April 21 from Taylor-Dust (PDF)
Letter from Lake Don Pedro Trailblazers (PDF)
Letter Dated May 4, 2012 from PG&E(PDF)
Letter dated April 28, 2012 from LDP Service Dist(PDF)
Letter dated May 8, 2012 from AT&T (PDF)

CAO RECOMMENDATION
Requested Action Recommended

Rick Benson, County Administrative Officer

RESULT: ADOPTED [UNANIMOUS]
MOVER: Lyle Turpin, District II Supervisor
SECONDER: Jim Allen, District V Supervisor
AYES: Stetson, Turpin, Bibby, Cann, Allen
Mr. and Mrs. Taylor
9228 Banderilla Drive
P.O. Box 128
La Grange, CA 95329

Mr. and Mrs. Duste
9236 Banderilla Drive
La Grange, CA 95329

Re: April 21, 2011 letter concerning abandonment of lots #636, 637 and 638 in Don Pedro Subdivision 2M

Mr. and Mrs. Taylor and Mr. and Mrs. Duste:

I am in receipt of your April 21, 2011 letter requesting abandonment of the Equestrian Trail easement along the frontage of lots #636, 637 and 638 in the Don Pedro Subdivision 2M.

As you recall the Trails Committee denied your request for their support of abandoning the Equestrian easement that fronts your properties at their March 1, 2012 meeting. The protocol for Public Works staff to bring an item to the Board of Supervisors to abandon an Equestrian easement calls for the Trails Committee to first endorse a particular abandonment. In this case since the Trails Committee did not endorse your request staff is not in a position to forward the item on to the Board as you have requested. Hence, I am returning the checks that were included in that letter to you unopened.

From discussion with our County Counsel he advises that you have the right as a citizen to work through the Clerk of the Board of Supervisors to ask that an item be put on the Board’s agenda. I would encourage you to call Margie Williams at 966-3222 if you would like to pursue this option.

Sincerely,

Peter Rei
Director of Public Works
County of Mariposa
April 21, 2012

Peter Rei, Director
Public Works Department
Mariposa County
4639 Ben Hur Road
Mariposa, CA 95338

Dear Mr. Rei,

We are writing to request abandonment of the Lake Don Pedro (L. D. P.) Pedestrian and Equestrian (P&E) Trail south side of the Lots 636, 637 and 638, 2M, for the following reasons:

1. This section of trail has not been used during the 31 years we have been L. D. P. residents and dead-ends on the south-west corner of Lot 638
2. The L. D. P. Trailblazers and the L. D. P. Homeowners’ Association Board agreed to place a marker at Lot 635 to designate the dead-end and re-route the existing P & E trail on 635. The trail is now being used in this manner (see attached memo from Terrie Booten to Mariposa County Board of Supervisors)
3. This will remove potential liability
4. It will prevent further trespassing onto other lots
5. Abandonment of trails such as this falls under California Streets and Highway Codes 8320-8325 and 8333

We met with the P&E Advisory Board for Mariposa County in March, 2012. They voted not to support the abandonment stating only that 50 to 100 years in the future someone purchasing one of these lots might want a P & E access there.

Please note the following statistics:
- The L. D. P. subdivision has 3,125 lots.
- Of these, there are roughly 300 lots around the golf course with no direct access to a P & E trail (note: Lots 636, 637 and 638 are near the golf course).
- 2,825 lots are on or near a P & E trail.
- Less than 10% of the occupied homes of these 2,825 lots have horses.
- If 10% wanted to purchase one of these three lots in the future and wanted trail access, they would merely walk across the road in front of the house- the same as some other lots on Jalisco
- Already in effect is the placement of an equestrian sign in front of Lot 637 for east-bound traffic.

Following five months of deliberation, research and legal review, the L. D. P. Homeowners’ Association determined that they have no involvement in the abandonment of P&E trails.
We ask that this matter be put on the agenda for review by the Mariposa County Board of Supervisors, please.

Sincerely,

David A. Taylor

Mary Anne Taylor

Lot #638
9228 Banderilla Drive
P.O. Box 128
La Grange, CA 95329
(209) 852-22295

Raymond Dusté

Eleanor Dusté

Lots #636 & 637
9236 Banderilla Drive
La Grange, CA 95329
(209) 852-2230
Lake Don Pedro Trailblazers  
5182 Fuentes de Flores  
La Grange, CA 95329  
(209)-852-9459

TO: Mariposa County Board of Supervisors  
    David Taylor, Property Owner of Lot 638, Lake Don Pedro Estates

FROM: Terrie Booten  
    Director, The Lake Don Pedro Trailblazers

RE: Abandonment of Dedicated Easement on Lot 638, 2M

To whom it may concern,

The Lake Don Pedro Trailblazers have reviewed the request for abandonment of the above dedicated easement. Based on the concerns of safely crossing the roadway mentioned during our meetings, visiting the site to look at alternatives, and alternatives we have discussed, we are in concurrence of abandoning this section of trail.

In this area, if the dedicated easement on Lot 638 was eliminated, we have found other safe alternate routes to use.

Respectfully Submitted,  
Terrie Booten

Terrie Booten, Acting President  
Lake Don Pedro Trailblazers  
5182 Fuentes de Flores  
La Grange, CA 95329  
209-852-9459  
Email: ldptrailblazers@gmail.com  
www.ldptrailblazers.com

cc: LDPOA Board of Directors  
    Trail Advisory Committee  
    Supervisor Lyle Turpin
May 4, 2012

Peter Rie
Public Works Director
County of Mariposa
4639 Ben Hur Road
Mariposa, CA 953338

RE: Abandonment of the 10' PUE on the South side of lots 636, 637, and 638 of the Lake Don Pedro Unit No. 2. APN #’s, 020-160-022, 020-160-023 and 020-160-024.

Dear Mr. Rie:

PG&E has no utility facilities within the PUE proposed to be abandoned. Therefore, we do not object to the abandonment. PG&E has no interest in the 30’ P & E Trail in the same location.

Upon approval of the vacation by the Board of Supervisors, please send a copy of the Resolution of Vacation to:

   Pacific Gas and Electric Company
   Gage Fleming
   Land & Environmental Management
   650 O Street, Mail Bag #23
   Fresno, CA 93760

If you have any questions, please contact me at (559) 263-7374. Thank you for your cooperation.

Sincerely,

Gage Fleming
Land Agent
To: Mr. Rie  
From: Dan Tynan  
Date: 4/28/2012  
Subject: Interest in P an E trail  
Purpose: LDPCSD no interest in P and E trail  

Dear Mr. Rie,

The Lake Don Pedro CSD does not have an interest in the 30' P and E trail located on lots 636,637,638 of the Lake Don Pedro Unit Number 2; APN# 020-150-001 and 020-160-024. On the Southside.

If you have any questions please contact me at (209) 852-2331

[Signature]

Thank you,  
Dan Tynan  
Interim General Manager
May 8, 2012

RE: Abandonment of Pedestrian and Equestrian trail, Lake Don Pedro Subdivision
Unit # 2-M, running along the South side of Lots 636, 637 & 638.

To Whom it may concern:

Pursuant to your recent request for abandonment of the above mentioned trail. Our engineer has reviewed the area and finds we have no facilities now, nor do we plan to utilize the trail in the future.

Therefore, we have no objection to your request for abandonment of the above mentioned trail.

Thank you, for your consideration in this matter. Should you need further assistance or have additional questions relative to this matter, please do not hesitate to contact me on (209) 549-5832

Sincerely,

[Signature]

PORFI OSNAYA
Right of Way Manager
AT&T California