

**LOW EFFECT**  
**HABITAT CONSERVATION PLAN**  
**for the**  
**Francis Parcel -- APN 074-323-031**  
**Los Osos, California**

Prepared by:

Ronald L. and Catherine M. Francis  
1380 14th Street  
Los Osos, CA 93402

and

Quattro Biological Services  
John H. Davis IV  
2796 Yearling Place  
Oxnard, CA 93036

Submitted to:

U.S. Fish and Wildlife Service  
Attn: Diane K. Noda  
2493 Portola Road, Suite B  
Ventura, CA 93003  
(805) 644-1766

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## EXECUTIVE SUMMARY

Ronald L. and Catherine M. Francis are seeking an incidental take permit (ITP), under section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended, to cover the incidental take of the Morro shoulderband snail (*Helminthoglypta walkeriana*) associated with the future construction of a single-family residence on an undeveloped lot (APN 074-323-031) located at the corner of Via Vistosa Road and Bayview Heights Drive, Los Osos, County of San Luis Obispo, California..

The 5-year permit terms is requested to address incidental take of Morro shoulderband snail associated with the construction and maintenance of a single-family residence on the 0.57-acre parcel. Project implementation could result in incidental take of Morro shoulderband snail, in all life stages, within this site.

The Morro shoulderband snail is federally endangered terrestrial invertebrate that is endemic to the Los Osos, Baywood Park, and southern Morro Bay areas of central coastal San Luis Obispo County. While several federally-listed species are known to occur in this area, only the Morro shoulderband and Morro manzanita (*Arctostaphylos morroensis*), a federally-threatened plant species, have the potential to be affected by development and maintenance of a single family house, landscaping, and fuel modification. Due to the project's small size and location within an existing residential development, the project is not anticipated to significantly affect the persistence of Morro shoulderband snail population as a whole.

The conservation strategy within this Habitat Conservation Plan (HCP) is consistent with the recovery criteria for the Morro shoulderband snail. Measures to minimize and mitigate take of the species includes the following:

1. Pre-construction surveys to identify individual Morro shoulderband snails;
2. Capture and relocation of identified Morro shoulderband snails to a pre-selected receptor site;
3. Pre-construction Environmental Awareness Training to all construction personnel;
4. Construction monitoring;
5. Select fuel modification;
6. Funding of Morro shoulderband snail recovery task actions on conserved lands within the known range of the species.

Implementation of measures 1 through 6 will be conducted under a project-specific incidental take permit and through the deposit of \$9,300 into the Impact Directed Environmental Account (IDEA) administered by the National Fish and Wildlife Foundation (NFWF). The project is also subject to County of San Luis Obispo permit requirements to ensure compliance with the California Environmental Quality (CEQA) and Coastal Acts, both of which will be conditioned to require that the ITP and funding be in place prior to the award of necessary County permits.

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**Appendices**

Appendix A Morro Shoulderband Snail Habitat Assessment for APN 074-323-031, Los Osos, California (Quattro Biological Services, 2009)

Appendix B National Fish and Wildlife Foundation Letter of Direction for Deposit into the National Fish and Wildlife Foundation, Morro Shoulderband Snail In-Lieu Fee Account

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## **1.0 INTRODUCTION**

### **1.1 Overview and Background**

This HCP is intended to provide the basis for issuance of an ITP for the take of Morro shoulderband snail, a federally endangered species, that may result from the construction and occupation of a single-family residence on a 0.57-acre existing, legal parcel (County of San Luis Obispo Assessor Parcel Number (APN) 074-323-031) located in the community of Los Osos, San Luis Obispo County, California. It has been prepared pursuant to the requirements of section 10(a)(1)(B) of the Federal Endangered Species Act of 1973, as amended (Act). Surveys conducted in 2008 and 2009 identified the presence of the Morro shoulderband snail on the subject parcel (Quattro Biological Services 2009).

### **1.2 Permit Holder and Duration**

Ronald L. and Catherine M. Francis request an ITP to cover incidental take of Morro shoulderband snail for a period of 5 years commencing upon the date of approval by the U.S. Fish and Wildlife Service (Service).

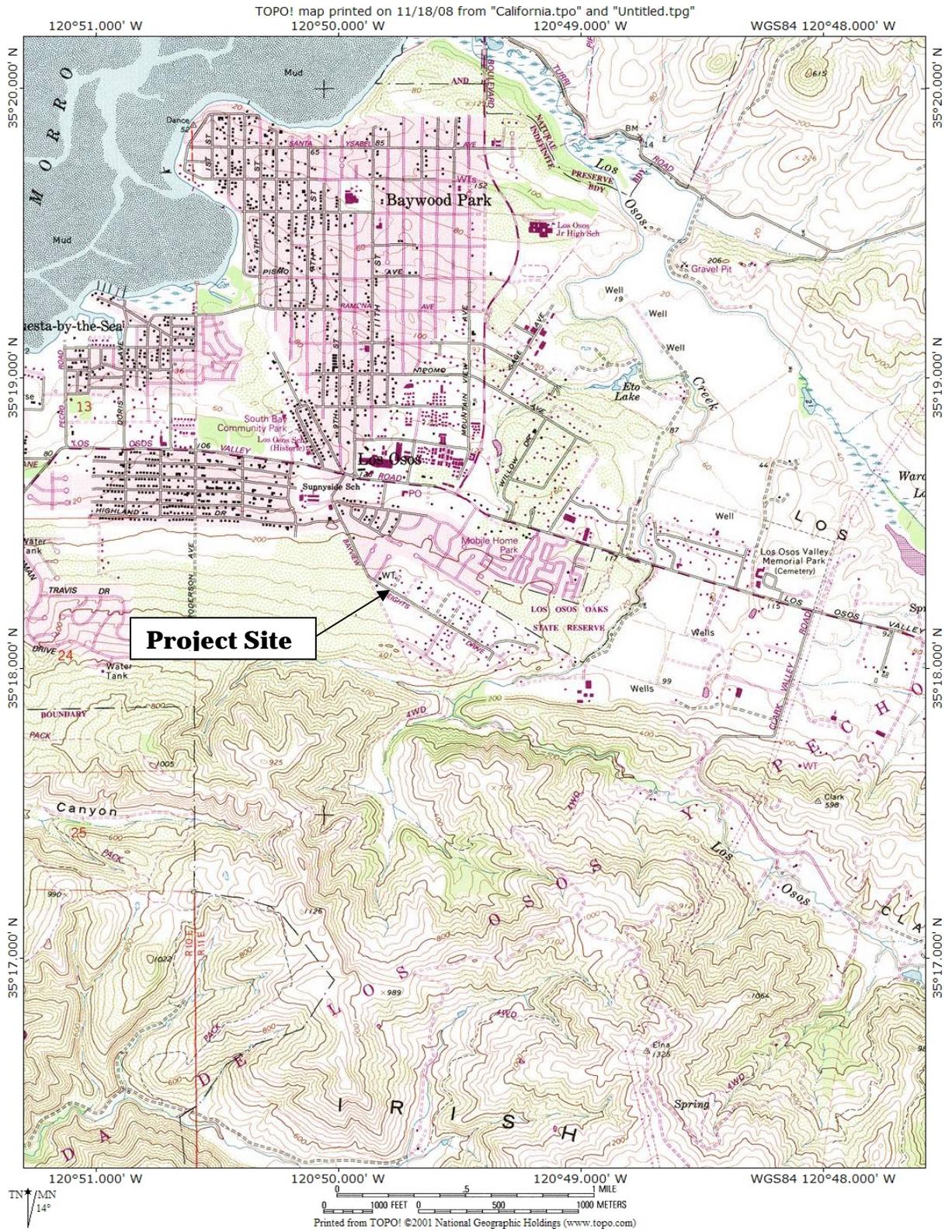
This HCP addresses the proposed development and maintenance of a single-family residence to include landscaping and hazard abatement.

### **1.3 Covered Lands**

The Francis parcel is approximately 0.57-acre (24,492 square feet) in size and located at the corner of Bayview Heights Drive and Via Vistosa Road in the community of Los Osos, an unincorporated portion of San Luis Obispo County, California (Figure 1). Bayview Heights Drive forms the southern boundary, Via Vistosa Road forms the western boundary, and developed residential parcels border the property to the north and east. Undeveloped native habitat is located directly across the street, with the conserved open space of Morro Dunes State Ecological Reserve found just beyond. The Los Osos Oaks State Reserve and the Los Osos Creek Watershed are located further to the southeast (Figure 2). The property is found on the United States Geological Survey (USGS) Morro Bay South 7.5 minute quadrangle map.



**FIGURE 1**  
**Project Vicinity**



**FIGURE 2**  
**Parcel Site**

## **1.4 Covered Species**

The Morro shoulderband snail is the only species proposed to be covered in the HCP. A single Morro manzanita is present along the northern lot boundary; however, it is not likely to be impacted by future development. As such, it is not addressed as a covered species in this HCP.

## **1.5 Regulatory Framework**

### **1.5.1 Federal Endangered Species Act**

The Service's responsibilities include administering the Endangered Species Act of 1973, as amended (Act). Section 9 of the Act prohibits the take of any federally listed endangered or threatened species. Take is defined in Section 3(18) of the Act as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." Service regulations in 50 CFR 17.3 further define harm to include significant habitat modification or degradation that actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering. Harassment is defined as an intentional or negligent action that creates the likelihood of injury to wildlife by annoying a species to such an extent that its normal behavioral patterns (e.g., breeding, feeding, or sheltering) are significantly disrupted. The Act provides for civil and criminal penalties for the unlawful taking of listed species. Exemptions to the prohibitions against take may be obtained through coordination with the Service in two ways. If a project is to be funded, authorized, or carried out by a Federal agency and may affect a listed species, the Federal agency must consult with the Service pursuant to section 7(a)(2) of the Act.

In order to comply Federal law, private individuals and State and local or other entities who propose an action that is likely to result in the take of federally listed species and for which there is no Federal nexus, may achieve compliance with the Act by applying for an incidental take permit pursuant to section 10(a)(1)(B) of the Act. Such permits are issued by the Service when take is not the intention of and is incidental to otherwise legal activities. An application for an incidental take permit must be accompanied by a HCP. The regulatory standard under section 10(a)(1)(B) of the Act requires that the effects of authorized incidental take be minimized and mitigated to the maximum extent practicable. Under section 10(a)(1)(B) of the Act, a proposed action also must not appreciably reduce the likelihood of survival and recovery of the species in the wild. Adequate funding of identified actions to minimize and mitigate impacts must also be ensured.

Section 7(a)(2) of the Act requires that Federal agencies ensure that their actions, including permit issuance, do not jeopardize the continued existence of listed species or destroy or adversely modify listed species' critical habitat. Pursuant to 50 CFR 402.2, "Jeopardize the continued existence of" means to engage in an action that would reasonably be expected, directly or indirectly, to appreciably reduce the likelihood of both the survival and recovery of a listed species in the wild by reducing

the reproduction, numbers, or distribution of that species. Issuance of an incidental take permit by the Service, pursuant to section 10(a)(1)(B) of the Act, constitutes a Federal action that is subject to the requirements of section 7. As such, as a Federal agency issuing a discretionary permit, the Service must prepare an internal consultation to address this action.

### **1.5.2 The Section 10(a)(1)(B) Incidental Take Permit Process**

The process for obtaining an ITP has three primary phases: (1) development of the HCP; (2) processing of the permit; and (3) post-issuance compliance. During development of the HCP, the project applicant prepares a plan that integrates the proposed project or activity with protection of listed species. Every HCP submitted in support of an incidental take permit application must include the following information: (1) those impacts likely to result from the proposed taking of the species for which permit coverage is requested; (2) measures that will be implemented to monitor, minimize, and mitigate impacts; funding that will be made available to undertake such measures; and procedures to deal with unforeseen circumstances; (3) alternatives to the proposed action that would not result in take; and (4) any additional measures Service may require as necessary or appropriate for purposes of the plan.

The public is notified of permit issuance by means of publication in the Federal Register. The HCP development phase concludes and the permit processing phase begins when a complete application package is submitted to the appropriate permit-issuing office. A complete application package consists of 1) an HCP, 2) an Implementing Agreement (IA) if applicable, 3) a permit application, and 4) a \$100 fee from the applicant. The Service must also publish a Notice of Availability of the HCP package in the Federal Register to allow for public comment. The Service also prepares an Intra-Service Section 7 Biological Opinion; and prepares a Set of Findings, which evaluates the Section 10(a)(1)(B) permit application as in the context of permit issuance criteria (see below). An Environmental Action Statement, Environmental Assessment, or Environmental Impact Statement serves as the Service's record of compliance with the National Environmental Policy Act (NEPA), which has gone out for a 30-day, 60-day, or 90-day public comment period. An implementing agreement is required for HCPs unless the HCP qualifies as a low-effect HCP. A Section 10(a)(1)(B) incidental take permit is granted upon a determination by the Service that all requirements for permit issuance have been met. Statutory criteria for issuance of the permit specify that: (1) the taking will be incidental; (2) the impacts of incidental take will be minimized and mitigated to the maximum extent practicable; (3) the taking will not appreciably reduce the likelihood of survival and recovery of the species in the wild; (4) the applicant will provide additional measures that the Service requires as being necessary or appropriate; and (5) the Service has received assurances, as may be required, that the HCP will be implemented.

During the post-issuance phase, the Francis', their legal successors, and any other responsible entities will implement the HCP. The Service will monitor compliance

with the HCP as well as its long-term progress and success. The public is notified of permit issuance through a publication in the Federal Register.

### **1.5.3 National Environmental Policy Act**

The purpose of the National Environmental Policy Act (NEPA) is two-fold: to ensure that Federal agencies examine environmental impacts of their actions (in this case deciding whether to issue an incidental take permit) and to utilize public participation. NEPA serves as an analytical tool on direct, indirect, and cumulative impacts of the proposed project alternatives to help the Service decide whether to issue an incidental take permit (ITP or section 10(a)(1)(B) permit). Compliance with NEPA is required of the Service for each HCP as part of the incidental take permit application process.

### **1.5.4 National Historic Preservation Act**

All Federal agencies are required to examine the cultural impacts of their actions (e.g. permit issuance). This requires consultation with the State Historic Preservation Office (SHPO) and appropriate American Indian tribes. All incidental take permit applicants are requested to submit a Request for Cultural Resources Compliance form to the Service. To complete compliance, the applicants may be required to contract for cultural resource surveys and possibly mitigation.

### **1.5.5 Other Relevant Laws and Regulations**

#### **1.5.5.1 California Endangered Species Act**

The California Endangered Species Act (CESA) generally parallels the main provisions of the Federal Act and provides for the designation of native species or subspecies of plants, fish, and wildlife as endangered or threatened. Section 2080 prohibits the take of state listed endangered or threatened species but allows for the incidental take of such species as a result of otherwise lawful development projects under section 2081(b) and (c). The Morro shoulderband snail is not listed under CESA; therefore, a state incidental take permit is not required for the Francis project.

#### **1.5.5.2 California Environmental Quality Act**

The California Environmental Quality Act (CEQA) is a state statute that is generally analogous to NEPA on the Federal level in requiring the completion of an environmental review for projects that may impact environmental resources. It requires public agencies to review the environmental impacts of proposed projects, prepare and review environmental impact reports, negative declarations, or mitigated negative declarations, and to consider feasible alternatives and mitigation measures that would substantially reduce significant adverse environmental effects. It applies to a broad range of environmental resources including any state and federally listed

wildlife and plant species, as well as sensitive natural communities. Impacts to such species and natural communities must be evaluated under CEQA.

The County of San Luis Obispo is the local (i.e., lead) agency responsible for conducting CEQA review and ensuring compliance for projects in the community of Los Osos. As such, they will evaluate the Francis project development application and ensure compliance with CEQA. Impacts to the Morro shoulderband snail represent one aspect of a CEQA review; however, the potential for impacts to other environmental resources is also reviewed as part of the CEQA compliance process.

### **1.5.5.3 California Coastal Act of 1976**

A California voter initiative, Proposition 20 (i.e., the Coastal Zone Conservation Act), passed in 1972, creating the California Coastal Commission (Commission). It was later made permanent through the passage of the California Coastal Act of 1976. The Commission is a state environmental agency charged with ensuring that all development within California's coastal zone (CZ) is consistent with the provisions of the Coastal Act of 1976. Commission jurisdiction within the CZ is broad and applies to both private and public entities and addresses almost all types of development activities inclusive of division of land, changes in the intensity of use of state waters, and of public access to the waters. The regulatory role of the Commission is facilitated through their review of development projects and the issuance of Coastal Development Permits (CDP) that typically include conditions of approval that, if met, will bring the development into compliance with the Coastal Act. In circumstances where a Local Coastal Program (LCP) has been prepared by a local agency and certified by the Commission, it is, in effect, the environmental review. In such cases, the issuance of a CDP is the responsibility of the local agency. The Commission retains ultimate oversight and responsibility for compliance through an appeal process. The CZ encompasses waters three miles seaward from the coastline and generally extends inland 1,000 yards from the mean high tide line except in developed urban areas where the boundary is often less than 1,000 yards. In significant estuarine habitat and recreational areas the CZ extends inland to the first major ridge line, or five miles from the mean high tide line. By virtue of its proximity to the Morro Bay Estuary, the entire community of Los Osos, including the Francis project site, lies within the CZ. One of the primary provisions of the Coastal Act is to preserve, protect, and enhance environmentally sensitive habitat areas (ESHA). Section 30107.5 of the Coastal Act defines an ESHA as "Any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments."

#### **1.5.5.3.1 San Luis Obispo County LCP**

A LCP, prepared by the County of San Luis Obispo and certified by the Commission, is in effect for areas of San Luis Obispo County located within the CZ. The County of San Luis Obispo is the lead agency regarding Coastal Act compliance and is

responsible for reviewing the Francis project for compliance with their LCP and for issuing a Minor Use Permit/CDP for any future project.

## **2.0 PROJECT DESCRIPTION AND COVERED ACTIVITIES**

### **2.1 Project Description**

The proposed project involves the construction and maintenance of a single-family house and landscaping on the subject parcel. The covered activities include permanent and temporary impacts that are either direct or indirect in their effects to the Morro shoulderband snail and its habitat during and after construction of the project. Specific covered activities are listed below under the two impact categories.

#### Permanent Impacts

- Grading of building pad and driveway (direct)
- House foundation and other hard surfaces (driveway, patio, etc.) (direct)
- Landscaping (i.e. habitat alteration)

#### Temporary Impacts

- Staging area (direct)
- Trenching for utilities (direct)
- Excavation of septic system (direct)
- Hazard abatement activities as required by local fire protection agency (e.g. CALFIRE; direct)
- Dust, chemical overspray during construction (indirect)
- Invasive veldt grass removal (indirect)

All activities described above are legal actions as long they abide by the County of San Luis Obispo ordinances and permit requirements.

### **2.2 Covered Activities**

An ITP is requested to cover take of Morro shoulderband snail that could result from those activities identified in section 2.1 above. These include site preparation (e.g., grading, excavation, trenching), foundation installation, electric/gas and sewage connections, installation and maintenance of landscaping, compliance with hazard abatement activities, maintenance of remaining natural vegetation (oak trees and native plant species), and occupation of the residence.

## **3.0 ENVIRONMENTAL SETTING AND COVERED SPECIES**

### **3.1 Environmental Setting**

#### **3.1.1 Climate**

The community of Los Osos experiences a coastal Mediterranean climate characterized by long, dry, summers and short, wet, mild winters. Fog is common during the late spring and summer months and moderates summer temperatures. Temperatures range from 48 F to 69 F during the summer, with an average of 58 °F and from 42 °F to 66 °F during the winter months, with an average temperature of 53 °F. On average the warmest month is October and the coolest month is January. Rainfall is highly variable within and between winter seasons with an average of 49 days with measurable precipitation annually. The average annual precipitation in Los Osos is 17.6 inches with most of the precipitation occurring from November to April and highest rainfall occurring in February.

#### **3.1.2 Topography/Geology**

The Francis parcel is found within an area of rolling, stabilized, pre-Flandrian-aged dunes located at the southern end of the Morro Bay Estuary. Underlying soils consist of well-drained sandy loam in the Baywood fine sand (2 to 9 percent slopes) series (USDA, 1984). The above mean sea level elevation at the project site is approximately 270 feet (Quattro Biological Services 2009).

#### **3.1.3 Hydrology/Streams, Rivers, Drainages**

The Francis parcel occurs within the southwestern region of the Morro Bay watershed and is located approximately 0.6 miles from the southern shore of the Morro Bay Estuary. The site lies within a watershed area that drains directly into the Morro Bay Estuary.

#### **3.1.4 Existing and Surrounding Land Uses**

The property is located at the corner of Bayview Heights and Via Vistosa Road within the community of Los Osos, San Luis Obispo County, California (see Figure 2). Bayview Heights Drive forms the southern boundary. Via Vistosa Road forms the western boundary, and developed residential lots border the property to the north and east.

### **3.2 Covered Species**

The only species requested for coverage in this HCP is the Morro shoulderband snail, also known as the banded dune snail. This section summarizes the limited body of

biological and ecological information currently available for the species, including its status, ecology, range, and distribution on the Francis site.

### **3.2.1 Status and Distribution of the Species**

The Morro shoulderband snail is a native gastropod endemic to the Los Osos, Baywood Park, and southern Morro Bay region of coastal central San Luis Obispo County, California. It was federally-listed as endangered on December 15, 1994 (59 FR 64613; Service 1994). The original listing recognized two subspecies or interspecific variations of the Morro shoulderband snail, *Helminthoglypta walkeriana* and *H. walkeriana* var. *morroensis*. At the time of listing *H. walkeriana* and *H. w. morroensis* (= *H. w. var. morroensis*) were classified as a single species under the taxonomic classification prescribed in Roth (1985). A re-examination of the taxonomic status of the two variants by Roth and Tupen (2004) resulted in their classification as separate species: *H. walkeriana* (the Morro shoulderband snail) and *H. morroensis* (the Chorro shoulderband snail). At the time of the listing, the range of the Morro shoulderband snail was described as being restricted to sandy soils of coastal dune and coastal sage scrub communities near Morro Bay and included areas south of Morro Bay, west of Los Osos Creek, and north of Hazard Canyon. The current known range is slightly expanded and encompasses approximately 7,700 acres, extending from Morro Strand State Beach in northern Morro Bay southward to Montaña de Oro State Park and inland to at least Los Osos Creek in eastern Los Osos (Roth and Tupen 2004; Service 2006). In June 2004, based on the preliminary findings of Roth and Tupen, the Service issued a position statement announcing that the unintended protection of the Chorro shoulderband snail under the Act would be discontinued. Protection under the Act is still provided for the Morro shoulderband snail which is that species restricted to sandy soil substrates in and around the community of Los Osos.

A recovery plan for the species, *Recovery Plan for the Morro Shoulderband Snail and Four Plants from Western San Luis Obispo County, California*, was published on September 26, 1998 (Service 1998). In the plan, four Conservation Planning Areas are identified in which conservation and habitat protection efforts will be focused to facilitate the recovery of the Morro shoulderband snail and the four plant species also addressed in the plan. Critical habitat for Morro shoulderband snail was designated on February 7, 2001 (66 FR 9233) (Service 2001). The designation includes three separate units consisting of a total of 2,566 acres of coastal dune, coastal dune scrub, and maritime chaparral habitats in and around the community of Los Osos and the Morro Bay Estuary (Service 2001). A five-year status review for the Morro shoulderband snail was prepared in the Fall of 2006 (Service 2006). The status review concluded that the Morro shoulderband snail population is stable and that threats to the species have been reduced considerably. Recovery criteria for delisting the species have; however, not yet been fully achieved. For this reason, the review recommends only downlisting of the species from endangered to threatened status. The five-year status review also recommends delisting for the Chorro shoulderband snail.

### 3.2.2 Natural History

Despite increased attention due to its status as a federally endangered species, relatively little is known about the demographics and ecology of the Morro shoulderband snail. The species is associated with sandy soils that support coastal dune, coastal dune scrub, and open maritime chaparral plant communities in the Los Osos and Morro Bay region of Central California. Morro shoulderband snails typically inhabit dense, shrubby, or prostrate vegetation that has considerable contact with the ground. The early successional stages of these native plant communities are thought to offer more favorable habitat than mature stands, which may have branches that are too high off the ground to offer good cover (Roth 1985). Within such habitat, Morro shoulderband snails are typically found in shaded areas with accumulated plant litter or on the undersides of low shrub branches. These areas provide a microclimate that moderates temperature and moisture loss, and provides refuge from the desiccating effects of wind. It has been suggested that vegetation on north-facing slopes is slightly more dense and shrubby than on south-facing slopes and therefore may support a substantially greater abundance of the species (Roth 1985). Within the known range, the Morro shoulderband snail is most commonly found in coastal dune and coastal sage scrub vegetation on sandy soils. The dominant scrub commonly associated with Morro shoulderband snail habitat is mock heather (*Ericameria ericoides*). Other shrubs including coastal buckwheat (*Eriogonum parvifolium*), giant eriastrum (*Eriastrum densifolium*), dune bush lupine (*Lupinus chamissonis*), dudleya (*Dudleya* spp), and in more inland locations, California sagebrush (*Artemisia californica*), black sage (*Salvia mellifera*), Morro manzanita (*Arctostaphylos morroensis*), pygmy coast live oak (*Quercus agrifolia* var. *frutescens*), and coyote brush (*Baccharis pilularis*) also provide suitable habitat for *H. walkeriana*. The optimal habitat for Morro shoulderband snail is beneath the canopy of immature shrubs in the early successional stages of community development in areas away from the immediate coast (Service 1998). Morro shoulderband snail also inhabits areas where vegetation is dense and prostrate (low-growing) or where there is an ample supply of logs or other debris that offers cover. Non-native Morro shoulderband snail habitat consists of mats of invasive iceplant species (*Carpobrotus* spp.), under the thatch of veldt grass (*Earhart calycina*), and on select anthropogenic-created structures and debris such as the base of fence-posts, and beneath cardboard and other litter.

Morro shoulderband snails are most active during wet conditions and most feeding, reproduction, and individual growth is thought to occur during the rainy season (Roth 1985). During prolonged dry periods Morro shoulderband snail are inactive and are presumed to enter a state of aestivation (summer dormancy). The species becomes active during rain, as well as periods of heavy fog and dew. Individuals may be particularly active during the evening, night, early morning hours when they emerge to feed and disperse to new habitats. The feeding habits of the Morro shoulderband snail are not well studied, however the mouth parts of the species are consistent with other snail species that feed on decaying matter and mycorrhizae. Hill (1974) indicated that, although feeding on decaying plant matter occurs, the primary food source for Morro

shoulderband snail was probably fungal mycelia that grow on decaying plant matter. Moisture is reported as important in facilitating the feeding of Morro shoulderband snail (Service 2003). Walgren (2003) reported that the Morro shoulderband snail will eat live vegetable matter when presented in the lab, however, the species is not considered to be a garden pest (Service 2006).

Threats to Morro shoulderband snail identified in the listing rule included degradation of its habitat due to invasive, non-native plant species (e.g., veldt grass), structural changes in its habitat resulting from the maturation of dune vegetation, habitat degradation from recreational activities (e.g., off-road vehicle use), and the habitat loss resulting from development (Service 2001). Additional threats to the snail were thought to include competition for resources with the introduced brown garden snail, the introduction of non-native predatory snails (e.g., *Oxycheilus* sp.), the small and isolated nature of the remaining snail populations, fire, and parasitization by sarcophagid flies (Roth 1985; Service 2001). Morro shoulderband snails are vulnerable to mortality caused by snail bait. It was suggested that predators may include deer mice, alligator lizards, and beetles (Roth 1985). Another factor that may contribute to egg mortality is seasonal drought and/or heat. The results of the 2006 status review by the Service found that recreational use (off-highway vehicles) and parasitism by sarcophagid flies were no longer considered to be threats to the continued existence of the species (Service 2006). Off-highway vehicle use is no longer allowed in habitat areas where the activity was once considered a threat and the sarcophagid flies were identified as belonging to a group in which a majority of the files are not parasitic (Service 2006). No evidence has been found that indicates there is competition for resources with the introduced brown garden snail (Service 2006).

### **3.2.3 Distribution of Morro Shoulderband Snail Onsite**

John H. Davis IV conducted Service protocol surveys for the Morro shoulderband snail on the property pursuant to Service guidelines and in accordance with the condition of his recovery permit for Morro shoulderband snail. Mr. Davis IV is authorized under Service permit TE 110095-1 to conduct habitat assessments, protocol surveys, and habitat restoration activities for Morro shoulderband snail in the Los Osos and Morro Bay area. Based on the known range of Morro shoulderband snail, identification of suitable habitat on the property, and conversations with Service biologist Julie Vanderwier, it was determined that the property has potential to support Morro shoulderband snail. A letter requesting authorization to conduct protocol surveys for the property was submitted to the Service on November 24, 2008. On November 26, 2008, the Service responded with the authorization to proceed with surveys.

Field surveys followed the Protocol Survey Guidelines for the Morro Shoulderband Snail (Service, 2003) and direction from the Service's Ventura Field Office. A total of five focused surveys for the Morro shoulderband snail were conducted between December 15, 2008 and March 22, 2009. The full survey report is included as Appendix A. The surveys were conducted at least one week apart during or

immediately following rain events. During the surveys, the entire property was thoroughly examined to determine whether live Morro shoulderband snail or empty Morro shoulderband snail shells were present. Extra focus was given to key habitat features including wood, rocks, detritus, and leaf litter accumulation under trees, shrubs, and ground cover plants. If a live snail or empty shell was found, the diameter of the shell was measured, the age class was determined, and the Universal Transversal Mercator (UTM) coordinates were recorded using a Garmin GPS unit. Based on shell diameter, age classes of live snails were placed into the following categories: juvenile, sub-adult, and adult. Empty shells were classified according to Roth's (1985) categories for older shells. Approximate age [from time of animal death] of the empty shell was also determined from the shell's condition. Description of the categories includes:

- Category A. With periostracum intact or nearly so, shell about as in life although generally with some loss of luster and translucency. Age is approximated to be less than 1.0 year old.
- Category B. With periostracum mostly or entirely missing, shell retaining brown pigmentation. Age is approximated to be between 0.5 year and 2.0 years old.
- Category C. With periostracum missing, shell white, all or nearly all brown pigment removed by erosion or bleaching. Age is approximated to be from 1.5 years to 10.0 years old, possibly older.

“A fresh shell shows the characteristics of a living snail's shell: glossy interior, full color inside and out, intact periostracum, and a certain translucency of the shell substance which is soon lost from empty shells in the wild (Roth, 1985).”

A total of 31 empty Morro shoulderband snail shells were found on the property during field surveys (Appendix A). Based on Roth's empty shell classification (1985), 8 shells exhibited category B characteristics and 23 exhibited category C characteristics. Of the category B shells, 7 represented adult sized snails and 1 represented a subadult sized snail. The category C shells observed included 12 adults, 6 subadults, and 5 juvenile sized snails. No shells were fresh or exhibited category A characteristics. The majority of empty Morro shoulderband snail shells were observed at the base of mock heather, buck brush, black sage, and coast horkelia shrubs within leaf and branch detritus or low erect to decumbent leaf (coast horkelia) in the maritime chaparral and ruderal vegetation communities. A few shells were found under the thatch of veldt grass. No shells were observed under pygmy coast live oak trees or under iceplant. No live Morro shoulderband snails were observed.

Weather conditions were met during each field survey (i.e., surveys were conducted in the rain or immediately after a rain event to maximize the potential for detecting live snails). San Luis Obispo County has experienced drought conditions for three consecutive years. Pacific Gas and Electric recorded only 23.04 cm (9.07 inches) of rain for the 2009 rain season (July 1, 2008 to June 30, 2009) at their Diablo Canyon Power Plant, which is approximately 6.25 miles south of the property. Average annual rainfall for this weather station is approximately 61 cm (24 inches). Although

low rainfall was recorded this year, the absence of live snails on the property was likely due to habitat alteration (fuel reduction), invasive plant species dominance, and urban development (i.e., surrounding neighborhood and paved roads) and less likely the result of insufficient precipitation.

The results of the completed Service protocol surveys on the property determined the presence of shells belonging to the Morro shoulderband snail. As stated in the protocol guidelines “if live Morro shoulderband snails or empty Morro shoulderband snail shells are found at any time during the five survey visits, presence has been established...” However, the absence of live Morro shoulderband snail individuals indicates that the property, in its current condition, is not occupied by Morro shoulderband snail (i.e., live snails using onsite habitat), nor does it supports a viable population of the species. Based on the shell categories observed, live snails were present as recent as last year (category B shells) or between 2.0 and 10.0 years plus (category C shells). These age ranges are only estimates, however, the greater amount of C shells indicates that live snails may not have utilized this parcel for years. In addition, only empty shells of the brown garden snail (*Helix aspera*) were found further indicating that this parcel is now a sink to dispersing snails.

## **4.0 BIOLOGICAL IMPACTS AND TAKE ASSESSMENT**

### **4.1 Direct and Indirect Biological Impacts**

Construction and occupation of a single-family residence could result in direct and indirect impacts to up to 0.57- acre of habitat for the Morro shoulderband snail.

#### Permanent Impacts

- Grading of building pad and driveway (direct)
- House foundation and other hard surfaces (driveway, patio, etc.) (direct)
- Landscaping (i.e. habitat alteration)
- Change in soil moisture due to irrigation system (direct)
- 

#### Temporary Impacts

- Staging area (direct)
- Trenching for utilities (direct)
- Excavation of septic system (direct)
- Fuel modification (direct)
- General parcel maintenance (direct)
- Dust, chemical overspray during construction (indirect)
- Invasive veldt grass removal (indirect)
- Change in vegetation outside of landscaping areas (indirect)

## **4.2 Anticipated Take of Morro Shoulderband Snail**

Take of Morro shoulderband snail in all life stages could occur as a result of the removal of habitat associated with development within the 0.57-acre parcel. It is anticipated that take of adult Morro shoulderband snails would be predominantly in the form of capture and relocation to a receptor site (out of harm's way) during pre-construction activities. Due to the fact that pre-construction surveys will be performed, it is anticipated that only a few individuals (likely less than 5) would be subject to take in the form of injury or mortality during preparation or construction of the house. Take of Morro shoulderband snail eggs and juveniles in the form of mortality is also anticipated to occur due to the fact that these life stages are very cryptic and detection difficult.

## **4.3 Effects on Critical Habitat**

As previously stated, critical habitat for Morro shoulderband snail was designated in February 2001. The project area is not located within any critical habitat as designated and, as such, project implementation will not result in the adverse modification or destruction of critical habitat for the species.

## **4.4 Anticipated Effects of the Taking**

Take of Morro shoulderband snail that is anticipated to result from implementation of those actions necessary to complete the proposed project is considered to be insignificant in terms of the species' overall survival. The actual number of animals subject to incidental take is expected to be low (and predominantly in the form of capture), little or no native habitat for the species will be impacted, and the project site is located in an area that is not considered important to the recovery of species. For these reasons, the level of take of the Morro shoulderband snail that would result from the Francis project is considered negligible.

## **4.5 Cumulative Impacts**

In contrast with the analysis of cumulative impacts under section 7, section 10 of the Act and HCPs analyze cumulative impacts as incremental impacts of the action on the environment when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. The geographic area for analysis should be defined by the manifestation of direct or indirect impacts as a result of covered activities. Cumulative impacts under section 10 of the Act can result from individually minor but collectively significant actions taking place over a period of time.

The effects of project implementation on the persistence of the Morro shoulderband snail are very low, owing not only to the relatively small size of the project area but

the highly degraded nature of the habitat and its location in an existing residential neighborhood. Construction and occupation of a new single-family residence will result in minor cumulative effects to Morro shoulderband snail. Even though as much as 0.57-acre (24,492 square feet) of highly degraded coastal dune scrub habitat may be permanently removed along with small numbers of Morro shoulderband snail, these losses are not expected to negatively affect the range-wide survival of the species due to its occurrence in suitable habitat at nearby locations, as well as elsewhere throughout its geographic range. Take of individual Morro shoulderband snails will be mitigation by contribution of \$9,300 of in-lieu fees into an Impact-Directed Environmental Account held by the National Fish and Wildlife Federation (Appendix B). These fees will be used to effect specific recovery actions for Morro shoulderband snail that have been identified in the *Recovery Plan for the Morro Shoulderband Snail and Four Plants from Western San Luis Obispo County, California* (Service 1998).

## **5.0 CONSERVATION PROGRAM MINIMIZATION AND MITIGATION MEASURES**

### **5.1 Biological Goals and Objectives**

Section 10(a)(2)(A) of the Act requires that an HCP specify the measures that the permittee will take to minimize and mitigate to the maximum extent practicable the impacts of the taking of any federally-listed animal species as a result of activities addressed by the plan.

As part of the “Five Point” Policy adopted by the Services in 2000, HCPs must establish biological goals and objectives (65 *Federal Register* 35242, June 1, 2000). The purpose of the biological goals is to ensure that the operating conservation program in the HCP is consistent with the conservation and recovery goals established for the species. The goals are also intended to provide to the applicant an understanding of why these actions are necessary. These goals are developed based upon the species’ biology, threats to the species, the potential affects of the covered activities, and the scope of the HCP.

Avoidance of take is not considered feasible on the Francis project site because the parcel size is not of sufficient size to make any onsite conservation of habitat biologically-meaningful such that it would contribute to recovery of the Morro shoulderband snail. The goals below were developed based upon the species’ biology, threats to the species, the potential effects of the covered activities, and the scope of the HCP.

**Goal 1: Minimize take of Morro shoulderband snail within the project site.**

**Objective 1.1: Conduct pre-construction surveys for Morro shoulderband snail.**

Prior to any site-disturbing activity, the permittee will retain a Service-approved biologist (i.e., a person in possession of a valid recovery permit for Morro shoulderband snail) to conduct pre-construction surveys for Morro shoulderband snail. These surveys will be completed prior to the initiation of any and all phases of construction as a measure to minimize lethal take of the species. This condition will be included in both the Minor Use and Coastal Development permits that are required to obtain grading and construction permits from the County of San Luis Obispo. The objective of pre-construction surveys is to locate as many Morro shoulderband snails as possible and move them out of harm's way.

**Objective 1.2: Relocation of Morro Shoulderband Snail**

All live Morro shoulderband snails of all life stages that are identified during the pre-construction surveys or construction monitoring shall be relocated to a Service-approved receptor site. Capture and relocation activities will be performed by a Service-approved permitted biologist whose recovery permit includes, as a permit condition, authorization for species relocation.

**Objective 1.3: Conduct pre-construction Environmental Awareness training**

A Service-approved biologist knowledgeable about the Morro shoulderband snail and its habitat shall conduct a pre-construction training session for all personnel who will work onsite during construction. This session is intended to inform construction crews, field supervisors, and equipment operators about the status and presence of the species, grading and construction-activity restrictions, and those avoidance and minimization measures specified in the HCP. This condition will be included in both the Minor Use and Coastal Development permits that are required to obtain grading and construction permits from the County of San Luis Obispo.

**Objective 1.4: Construction Monitoring**

A Service-approved permitted biologist whose recovery permit includes, as a condition, authorization to relocate the species shall be present daily during the installation of construction fencing, demolition of existing structures, and initial grading and excavation activities (e.g., clearing of vegetation and stripping of the surface soil layer) to monitor for the presence of Morro shoulderband snail. Any live Morro shoulderband snails in any life stage that are encountered during these monitoring events shall be relocated to a Service approved site by the authorized monitor. The monitor shall have the authority to order any reasonable measure necessary to avoid the take of Morro shoulderband snail and to immediately stop any work or activity that is not in compliance with the conditions set forth in the incidental take permit. The Service office in Ventura shall be notified of any "stop work" order and the order shall remain in effect until the issue has been resolved. Upon completion of site grading activities, the monitor will periodically (not less than once a week) visit the project site throughout the construction period to ensure that impacts to the project site are permit. During periods of rain or heavy fog/dew the monitor will

conduct daily pre-activity surveys to ensure no Morro shoulderband snails have migrated into the work area. No construction work will be initiated until the monitor determines that the work area is clear of Morro shoulderband snails. This condition will be included in both the Minor Use and Coastal Development permits that are required to obtain grading and construction permits from the County of San Luis Obispo.

**Goal 2: To fully mitigate unavoidable take of Morro shoulderband snail by effecting recovery actions as identified in the *Recovery Plan for the Morro Shoulderband Snail and Four Plants from Western San Luis Obispo County, California*.**

**Objective 2.1: Unavoidable take of the Morro shoulderband snail shall be mitigated through the funding of recovery task actions on conserved lands within the known range of the species.**

A primary objective of this mitigation strategy is to facilitate the collection of data that will address some of the remaining recovery task needs for downlisting (and potential de-listing) of the Morro shoulderband snail. Data resulting from the research will also be useful in the development of habitat management strategies that will be necessary for the eventual delisting of the species. The level of funding provided in this HCP for mitigating take of Morro shoulderband snail is expected to facilitate (1) implementation of population surveys on conserved lands within the range of the Morro shoulderband snail, (2) the compilation and analysis of the data collected, and (3) the preparation of a final report presenting study results and Morro shoulderband snail population estimates.

A priority task entails determining the status of populations of the species present on these conserved lands. Currently there are minimal data available for estimating Morro shoulderband snail population levels on these lands. The recovery plan specifies that downlisting of the species can be considered when sufficient populations and suitable occupied habitats from all four Conservation Planning Areas (Morro Spit, West Pecho, South Los Osos, and Northeast Los Osos) are secured and protected. The five-year status review for the Morro shoulderband snail (Service 2006) indicates that sufficient habitat blocks have been secured and protected to satisfy the criterion for downlisting; however, existing Morro shoulderband snail population information is based largely on presence/absence surveys prompted by applications for changes in land use (*e.g.*, residential development) and does not produce data suitable for estimating population estimates. Activities on conserved lands do not generally trigger Morro shoulderband snail surveys, so many of the parcels have not been surveyed and it is unknown whether the species is present. On the conserved parcels where Morro shoulderband snail presence has been established there is little or no information regarding population size or viability. To consider downlisting, the Recovery Plan also specifies that Morro shoulderband snail populations must be large enough to minimize the short-term (next 50 years) risk of extinction in any of the four Conservation Planning Areas. Therefore, additional data suitable for population estimation would greatly

improve the means of assessing whether sufficiently large populations exist to meet the recovery criteria.

Examples of the conserved parcels on which recovery activities may be undertaken are listed in Table 1 below.

**Table 1: Conserved Parcels in the Los Osos Area**

Assessor Parcel Number	Name	Ownership	Size (acres)	Conservation Planning Area	Critical Habitat Unit
038-711-016	BLM	BLM <sup>1</sup>	4.7	Northeast Los Osos	3
038-711-016	Powell I	CDPR <sup>2</sup>	15.6	Northeast Los Osos	3
067-012-011	Powell II	CDPR	50.6	Corridor Area <sup>5</sup>	3 <sup>6</sup>
038-721-024	Pismo	CDPR	10.9	--	--
074-022-003	Butte	CDPR	18.9	West Pecho	--
074-022-061	Hotel	CDPR	42.4	West Pecho	1
074-229-010	Sweet Springs I	MCAS <sup>3</sup>	24.0	--	--
074-229-009	Sweet Springs II	MCAS	~8	--	--
038-711-015	Attman	LCSLO <sup>4</sup>	11.2	Northeast Los Osos	3
038-711-004	Garris	LCSLO	~4	Northeast Los Osos	3
074-224-019	Los Osos Oaks	CDPR	~90	A <sup>5</sup>	--

1 Bureau of Land Management

2 California Department of Parks and Recreation, San Luis Obispo Coast

3 Morro Coast Audubon Society

4 Land Conservancy of San Luis Obispo

5 Designated as “Other Habitat Area” in Recovery Plan

6 A portion is within critical habitat

## 5.2 Monitoring

Monitoring tracks compliance with the terms and conditions of the HCP, Implementing Agreement (IA), and permit. There are three types of monitoring: (1) compliance monitoring tracks the permit holder’s compliance with the requirements specified in the HCP, IA, and permit; (2) effects monitoring tracks the impacts of the covered activities on the covered species; and (3) effectiveness monitoring tracks the progress of the conservation strategy in meeting the HCP’s biological goals and objectives (includes species surveys, reproductive success, etc.). Monitoring provides information for making adaptive management decisions.

### **5.2.1 Pre-construction Monitoring**

A Service-approved biologist knowledgeable about the Morro shoulderband snail and its habitat shall conduct a pre-construction training session for all personnel who will work onsite during construction. This session is intended to inform construction crews, field supervisors, and equipment operators, about the status and presence of the species, grading and construction-activity restrictions, and those avoidance and minimization measures specified in the HCP.

### **5.2.2 Construction Monitoring**

A Service-approved permitted biologist whose recovery permit includes, as a permit condition, authorization to relocate the species shall be present daily during the installation of construction fencing, demolition of existing structures, and initial grading and excavation activities (e.g., clearing of vegetation and stripping of the surface soil layer) to monitor for the presence of Morro shoulderband snail. Any live Morro shoulderband snails in any life stage that are encountered during these monitoring events shall be relocated to a Service-approved receptor site by the authorized monitor. The monitor shall have the authority to order any reasonable measure necessary to avoid the take of Morro shoulderband snail and to immediately stop any work or activity that is not in compliance with the conditions set forth in the incidental take permit. The Fish and Wildlife Service office in Ventura shall be notified of any “stop work” order and the order shall remain in effect until the issue has been resolved. Upon completion of site grading activities, the monitor will periodically (not less than once a week) visit the project site throughout the construction period to ensure that impacts to the project site are permit. During periods of rain or heavy fog/dew the monitor will conduct daily pre-activity surveys to ensure no Morro shoulderband snails have migrated into the work area. No construction work will be initiated until the monitor determines that the work area is clear of Morro shoulderband snails.

### **5.2.3 Access to Project Site**

The permittee shall allow representative from the Service access to the project site to monitor compliance with the terms and conditions of the HCP and project effects.

## **5.3 Reporting**

Annual Reports will be submitted to the Service by December 31 each year and include: (1) a brief summary or list of project activities accomplished during the reporting year (e.g. this includes development/construction activities, and other covered activities); (2) project impacts (e.g. number of acres graded, number of buildings constructed, etc.); (3) a description of any take that occurred for each covered species (includes cause of take, form of take, take amount, location of take and time of day, and deposition of dead or injured individuals); (4) a brief description of conservation strategy implemented; (5) results of monitoring results (compliance,

effects and effectiveness monitoring) and survey information (if applicable); (6) a description of circumstances that made adaptive management necessary and how it was implemented; (7) a description of any changed or unforeseen circumstances that occurred and how they were addressed; (8) all funding expenditures, balance, and accrual; and (9) a description of any minor or major amendments.

## **6.0 PLAN IMPLEMENTATION**

### **6.1 Plan Implementation**

The project will be implemented by the applicants (or legal successors) and their contractors. Precise timing of the project will depend upon the timing of permit issuance (i.e., ITP and County of San Luis Obispo MUP/CDP).

### **6.2 Changed Circumstances**

#### **6.2.1 Summary of Circumstances**

Section 10 regulations [(69 *Federal Register* 71723, December 10, 2004 as codified in 50 Code of Federal Regulations (C.F.R.), Sections 17.22(b)(2) and 17.32(b)(2))] require that an HCP specify the procedures to be used for dealing with changed and unforeseen circumstances that may arise during the implementation of the HCP. In addition, the HCP No Surprises Rule [50 CFR 17.22 (b)(5) and 17.32 (b)(5)] describes the obligations of the Francis' or their legal successors and the Service. The purpose of the No Surprises Rule is to provide assurance to the non-Federal landowners participating in habitat conservation planning under the Act that no additional land restrictions or financial compensation will be required for species adequately covered by a properly implemented HCP, in light of unforeseen circumstances, without the consent of the Francis' or their legal successors.

Changed circumstances are defined in 50 CFR 17.3 as changes in circumstances affecting a species or geographic area covered by an HCP that can reasonably be anticipated by plan developers and the Service and for which contingency plans can be prepared (e.g., the new listing of species, a fire, or other natural catastrophic event in areas prone to such event). If additional conservation and mitigation measures are deemed necessary to respond to changed circumstances and these additional measures were already provided for in the plan's operating conservation program (e.g., the conservation management activities or mitigation measures expressly agreed to in the HCP or IA), then the Francis' or their legal successors will implement those measures as specified in the plan. However, if additional conservation management and mitigation measures are deemed necessary to respond to changed circumstances and such measures were not provided for in the plan's operating conservation program, the Service will not require these additional measures absent the consent of the Francis' or their legal successors, provided that the HCP is being "properly implemented" (i.e., the commitments and the provisions of the HCP have been or are fully implemented).

Foreseeable changed circumstances within the project area include the listing of new species or the discovery of another federally-listed animal species.

### **6.2.1.1 Newly Listed Species**

If a species that is not covered by the HCP, but may be affected by activities covered by the HCP is discovered onsite or listed under the Act during the term of the ITP, the permit will be re-evaluated by the Service. Based upon the results of this review, covered activities may be modified to ensure that they are not likely to jeopardize or result in take of this species or adversely modified its critical habitat. The Francis' or their legal successors shall implement those modifications to covered activities identified by the Service as necessary to avoid the likelihood of jeopardy to or take of the newly listed species and/or adverse modification designated critical habitat. The Francis' or their legal successors shall continue to implement such modifications until such time as the Francis' or their legal successors have applied for and the Service has approved an amendment of the Section 10(a)(1)(B) permit, in accordance with applicable statutory and regulatory requirements, to cover the newly listed species or until the Service notifies the Francis' or their legal successors in writing that the modifications to the HCP covered activities are no longer required to avoid the likelihood of jeopardy of the newly listed species or adverse modification of newly designated critical habitat.

### **6.2.1.2 Newly Discovered Listed Species**

In the event that one or more other already listed species is discovered at the project site during the term of the permit, the permittee shall cease project activities that are likely to result in take and work with the Service to develop a permit amendment to address said species. For this particular project, it is extremely unlikely that any other listed species will be discovered at the project site due to the highly degraded nature of the habitat and the short duration of the project.

## **6.3 Unforeseen Circumstances**

Unforeseen circumstances are defined in 50 CFR 17.3 as changes in circumstances that affect a species or geographic area covered by the HCP that could not reasonably be anticipated by plan developers and the Service at the time of the HCP's negotiation and development and that result in a substantial and adverse change in status of the covered species. The purpose of the No Surprises Rule is to provide assurances to non-Federal landowners participating in habitat conservation planning under the Act that no additional land restrictions or financial compensation will be required for species adequately covered by a properly implemented HCP, in light of unforeseen circumstances, without the consent of the Francis' or their legal successors.

In case of an unforeseen event, the Francis' or their legal successors shall immediately notify the Service staff that has functioned as the principal contacts for the proposed action. In determining whether such an event constitutes an unforeseen circumstance,

the Service shall consider, but not be limited to, the following factors: size of the current range of the affected species; percentage of range adversely affected by the HCP; percentage of range conserved by the HCP; ecological significance of that portion of the range affected by the HCP; level of knowledge about the affected species and the degree of specificity of the species' conservation program under the HCP; and whether failure to adopt additional conservation measures would appreciably reduce the likelihood of survival and recovery of the affected species in the wild.

If the Service determines that additional conservation and mitigation measures are necessary to respond to the unforeseen circumstances where the HCP is being properly implemented, the additional measures required of the Francis' or their legal successors must be as close as possible to the terms of the original HCP and must be limited to modifications within any conserved habitat area or to adjustments within lands or waters that already set-aside in the HCP's operating conservation program. Additional conservation and mitigation measures shall involve the commitment of additional land or financial compensation or restrictions on the use of land or other natural resources otherwise available for development or use under original terms of the HCP only with the consent of the Francis' or their legal successors.

## **6.4 Amendments**

### **6.4.1 Minor Amendments**

Minor amendments are changes that do not affect the scope of the HCP's impact and conservation strategy, change amount of take, add new species, and change significantly the boundaries of the HCP. Examples of minor amendments include correction of spelling errors or minor corrections in boundary descriptions. The minor amendment process is accomplished through an exchange of letters between the permit holder and the Service's Field Office.

### **6.4.2 Major Amendments**

Major amendments to the HCP and permit are changes that do affect the scope of the HCP and conservation strategy, increase the amount of take, add new species, and change significantly the boundaries of the HCP. Major amendments often require amendments to the Service's decision documents, including the NEPA document, the biological opinion, and findings and recommendations document. Major amendments will often require additional public review and comment.

## **6.5 Permit Suspension or Revocation**

The Service may suspend or revoke their respective permits if the Francis' or their legal successors fail to implement the HCP in accordance with the terms and conditions of the permits or if suspension or revocation is otherwise required by law.

Suspension or revocation of the Section 10(a)(1)(B) permit, in whole or in part, by the Service shall be in accordance with 50 CFR 13.27-29, 17.32 (b)(8).

## **6.6 Permit Renewal**

Upon expiration, the Section 10(a)(1)(B) permit may be renewed without the issuance of a new permit, provided that the permit is renewable, and that biological circumstances and other pertinent factors affecting covered species are not significantly different than those described in the original HCP. To renew the permit, the Francis' or their legal successors shall submit to the Service, in writing: (1) a request to renew the permit; reference to the original permit number; (2) certification that all statements and information provided in the original HCP and permit application, together with any approved HCP amendments, are still true and correct, and inclusion of a list of changes; (3) a description of any take that has occurred under the existing permit; and (4) a description of any portions of the project still to be completed, if applicable, or what activities under the original permit the renewal is intended to cover.

If the Service concurs with the information provided in the request, it shall renew the permit consistent with permit renewal procedures required by Federal regulation (50 CFR 13.22). If the Francis' or their legal successors file a renewal request and the request is on file with the issuing Service office at least 30 days prior to the permits expiration, the permit shall remain valid while the renewal is being processed, provided the existing permit is renewable. However, the Francis' or their legal successors may not take listed species beyond the quantity authorized by the original permit. If the Francis' or their legal successors fail to file a renewal request within 30 days prior to permit expiration, the permit shall become invalid upon expiration. The Francis' or their legal successors must have complied with all annual reporting requirements to qualify for a permit renewal.

Permit expiration is likely to occur from 1) no activity (economic climate reduces sale of parcel or initiation of project design), 2) delay in project design, 3) timing of County and Coastal permits, or 4) construction not complete.

## **6.7 Permit Transfer**

In the event of a sale or transfer of ownership of the property during the life of the permit, the following will be submitted to the Service by the new owner(s): a new permit application, permit fee, and written documentation providing assurances pursuant to 50 CFR 13.25 (b)(2) that the new owner will provide sufficient funding for the HCP and will implement the relevant terms and conditions of the permit, including any outstanding minimization and mitigation. The new owner(s) will commit to all requirements regarding the take authorization and mitigation obligations of this HCP unless otherwise specified in writing and agreed to in advance by the Service.

Transfer of the permit related to the project would be required if, after obtaining the HCP, the owner sells the parcel to another party, who would then implement the HCP.

## 7.0 FUNDING

### 7.1 HCP Implementation Costs

Costs to implement the conservation strategy described in the HCP are provided in Table 2. With the exception of construction monitoring, all costs are considered to constitute one-time events.

**Table 2: Cost of HCP Implementation**

<b>Item/Activity</b>	<b>Unit Cost</b>	<b>Total Cost</b>
Pre-construction surveys for Morro shoulderband snail	\$250.00	\$250.00
Capture/Relocation of Morro shoulderband snail	\$500.00	\$500.00
Environmental Awareness Training	\$200.00	\$200.00
Construction Monitoring for Morro shoulderband snail	\$750.00	\$2250.00 (cost for three events)
In-Lieu Mitigation Fee	\$9,185.00	\$9,185.00
<b>Subtotal</b>	<b>\$11,435.00</b>	<b>\$12,385.00</b>
<b>Reporting</b>	<b>\$1,250.00</b>	<b>\$1,250.00</b>
<b>Total Costs</b>	<b>\$12,685.00</b>	<b>\$13,685.00</b>

### 7.2 Funding Source(s)

Ronald L. and Catherine M. Francis will be responsible for the full cost of implementing the minimization and mitigation measures as described in section 5.1 above as well as those changed circumstances described in section 6.2.1.1 above. A copy of the receipt for payment of the in-lieu fee will be provided to the Service’s Ventura Field Office and the County of San Luis Obispo as a condition of use and reliance on any necessary permits associated with project implementation (e.g., grading permit).

## 8.0 ALTERNATIVES

Section 10(a)(2)(A)(iii) of the Endangered Species Act of 1973, as amended, [and 50 CFR 17.22(b)(1)(iii) and 17.32(b)(1)(iii)] requires that alternatives to the taking of species be considered and reasons why such alternatives are not implemented be discussed. In addition to the proposed project (Parcel Build-Out), two alternatives were considered. The effects of the proposed project have been discussed previously in section 4. The No Project and Project Redesign alternatives are discussed below.

## 8.1 No Project Alternative

Under the No Project alternative, the proposed project (i.e., the construction and occupation of a single-family residence) would not be implemented. As a result, incidental take of Morro shoulderband snails would not occur and an ITP would not be required. It is anticipated that absent the HCP/ITP and its conservation strategy, habitat quality would continue to decline such that no Morro shoulderband snails would persist. Because no permit would be required, no mitigation in the form of funding would be committed to effect recovery actions for the Morro shoulderband snail. As such, the no-action alternative is determined to be of lesser conservation value to the species than the proposed project with its accompanying HCP. It would also result in an unnecessary economic burden on the applicants. For these reasons, this alternative was rejected.

## 8.2 Project Re-Design

This alternative would involve design of a project that would reduce or avoid altogether take of Morro shoulderband snail. This alternative was not selected because the parcel is surrounded by single-family residences or parcels with zoning for same and exists as a fragment of habitat that is generally isolated from suitable habitat by the existing residences and Bayview Heights and Via Vistosa roads, neighborhood and roadways. As such, conservation of a small portion of the project site would not contribute to recovery of the Morro shoulderband snail.

## 9.0 LITERATURE CITED

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## **APPENDICES**

Appendix A Morro Shoulderband Snail Survey Report for APN 074-323-031 Los Osos, California, prepared by Quattro Biological Services

Appendix B National Fish and Wildlife Foundation Letter of Direction for Deposit into the National Fish and Wildlife Foundation, Morro Shoulderband Snail In-Lieu Fee Account