

U.S. Department of
Homeland Security

United States
Coast Guard



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11000
March 30, 2006

Mr. James J. Colangelo
City Manager
300 Forest Avenue
Pacific Grove, CA 93950

Dear Mr. Colangelo:

I am the acting Chief of the Civil Engineering Division for the Coast Guard Maintenance and Logistics Command, Pacific, and as such I am responsible for the Coast Guard's real property portfolio for all of the West Coast. I am writing to you concerning a property of mutual interest and concern: the Point Piños lighthouse property.

In compliance with § 349 of the Maritime Transportation Security Act of 2002, Public Law 107-295, the Coast Guard is working to convey a fee simple interest in 67.4 acres of land surrounding the Point Piños lighthouse to the City of Pacific Grove at no cost, while retaining unrestricted rights to access any aid to navigation remaining on the site. It is now three and a half years since the MTSA was signed into law, and for the Coast Guard this process actually predates the MTSA; we first began the divestiture process in 1999 anticipating passage of the National Historic Lighthouse Preservation Act of 2000.

There remains one issue to resolve, for which I ask your help.

The Coast Guard, and before that the Lighthouse Service, routinely painted its lighthouses with paint that contained lead, commonly referred to as lead-based paint or LBP. Over time the LBP is presumed to have chipped or flaked off the lighthouses, and sometimes been scraped or blasted off during periodic maintenance or repainting and fallen onto the soil around the lighthouses. The buildup of lead in the soil, even if it is very gradual, can have health consequences for children or workers depending on the concentration of lead in the soil and the degree to which they are exposed to the soil in a manner that it is breathed as dust or taken into the mouth by dirty hands.

In November of 2005 the Coast Guard sampled the soils in the drip line of the Point Piños lighthouse and tested them for lead. The report on the results of soil sampling was finalized in January 2006. A copy of this report is enclosed for your review. Based on this report Coast Guard engineers estimate that 39 cubic yards of soil

surrounding the Point Piños lighthouse were affected by LBP chipping, flaking, scraping, or blasting residue at a rate of a little more than 1 pound of lead per year. The Coast Guard estimates that between 1855 and now approximately 152 pounds of lead has accumulated within the affected area. By law, this constitutes a release of a hazardous substance into the soil surrounding Point Piños lighthouse.

As the federal agency managing the Point Piños lighthouse property, the Coast Guard is required by law to select the appropriate remedial action to protect human health and the environment. Two choices are available: (1) dig up the soil around Point Piños lighthouse for treatment or replacement, or (2) leave the soil undisturbed but within the deed prohibit certain activities on the soil for the protection of public health.

What kind of threat does the residual LBP in the soil pose to human health and the environment at Point Piños? Given that there is no bare play area soil or bare residential soil involved, we don't believe that it poses any threat so long as sits undisturbed in soil beneath a bed of sod or under a sidewalk or parking lot, as is the case at the Point Piños lighthouse. The federal statute that identifies the City of Pacific Grove as the recipient of the Point Piños lighthouse parcel forecloses the possibility of the parcel ever being used as a residence or developed as residential property.

For this reason the Coast Guard desires to leave the soil around the Point Piños lighthouse undisturbed, and put a special restriction against certain activities into the deed. This course of action is called a Land Use Covenant or LUC.

California recognizes LUCs for federal land conveyances and specifies the applicable procedure in the California Administrative Code at 22 Cal. Admin. Code § 67391.1(e). That section requires the Coast Guard to obtain Department of Toxic Substances Control approval of any LUC in California. Our legal staff has been in contact with DTSC's Office of Military Facilities, Federal Facilities Unit on this matter.

Given the present and future uses intended for the Point Piños parcel, digging up the soil around Point Piños lighthouse is not necessary because human health and the environment are already protected by sod, vegetation, and sidewalks. This protection can be satisfactorily maintained through a LUC. Enclosed you will find a copy of our draft quitclaim deed with the LUC found on page 8, in paragraph 10. We envision a LUC that simply requires the owner to maintain a vegetation or grass cover on the soil.

As an added protection for you, as recipient of the property, the quitclaim deed also contains the Coast Guard's covenant that any additional remedial action found to be

necessary after the date of the transfer will be conducted by the United States. This covenant is required by law under 42 U.S. Code, Section 9620(h), and is found in the quitclaim deed on page 11 at paragraph 12.

I therefore request a letter from the City of Pacific Grove stating its position whether (1) it agrees that a LUC is satisfactory to protect the health of Point Piños visitors and workers now, and in the future; and (2) whether the language of the current draft LUC is satisfactory for this purpose. In addition to the draft quitclaim deed, I have enclosed for your convenience both of the lead-based paint environmental survey of the property.

My point of contact for this issue is Mr. Richard Beyer, an attorney on our legal staff. He can be reached at (510) 437-3355 to discuss the language of the quitclaim deed and LUC.

Sincerely,



Roderick Smith

RODERICK SMITH
MLCPAC Civil Engineering Division

Copy: The Honorable Sam Farr
100 W. Alisal Street
Salinas, CA 93901

Encl: (1) Draft Quitclaim Deed with Land Use Covenant
(2) Phase II Lead Contamination Assessment, Point Piños Light Station