

Attachment E
Comments on
Initial Study/
Negative Declaration

REF130072

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Weaver

Monterey County Planning Department
C/o Mike Novo, Planning Director, and David Mack., Planner
Via email: novom@monterey.ca.us, mackd@monterey.ca.us

Re: Project Name: Oaks Memorandum of Understanding (MOU)
File Number: REF130072
Assessor's Parcel Number: 161-013-011-000, 161-013-001, -004, -005, -006, -007,
-008, -009, 013, -014
Address: East side of San Benancio Road

October 10, 2013

Dear Mr. Novo and Mr. Mack,

Here are some important environmental issues, and possible code enforcement issues that need to be considered in your Initial Study evaluation and Negative Declaration on this proposed M.O.U.

1) I believe there was a switcheroo done on the Ferrini Oaks building lots, in that three of the lots were approved with specific SFD building plans, including conditions, in a public hearing by the Monterey County Zoning Administrator, Mr. Jeff Main, in year 2007. However, the three Oaks Subdivision lots that have been built on are not the lots subject to Mr. Main's ZA Hearing and approval.

The Planning Dept. Design Approval Numbers (DA) are for lots #1, #4, and #7, the APN's that the Planning Dept approved for three houses to be constructed. (With Conditions on those APN's regarding drainage, maintnance, oak trees, and such). I know about these approvals because I discussed these DA applications with Mr. Main prior to the hearing date.

All three Zoning Administrator approved "Design Approval" APN's are currently listed as vacant land on the Monterey County Assessor's office site.
The aerial map from the assessor's office shows them as vacant.

DA070351 = APN 161-013-001-000 = 24300 Rustic Lane, Salinas, 93908 (Lot #1)

DA070352 = APN 161-013-004-000 = 15110 Big Sky Lane (Lot #4)

DA070353 = APN 161-013-007-000 = 15135 Big Sky Lane (Lot #7)

ALL THE ABOVE ARE EMPTY LOTS

The lots that are built on are lots #5, #8, and #9
The APN's for the lots that are built on are the following. Also included are the physical addresses:

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161-013-005-000. Address is 15125 Big Sky Lane, Salinas, 93908. This is the house at the highest part of the hill, (Lot #5)

161-013-008-000. Address is 15115 Big Sky Lane (Lot #8)

161-013-009-000. Address is 15105 Big Sky Lane (Lot #9)

So, the ZA Design Approvals (DA) in 2007 were for lots #1, #4, and #7, these were approved for the respective building envelopes with conditions regarding drainage, maintenance, oak trees, and such.

The lots that were built on are lots #5, #8, and #9. Were there additional hearings? Where are the records of this? Is there drought tolerant landscaping? Where are the landscape plans? Where are the drainage plans?

San Benancio neighbors report that lots 5,8, and 9 had as many as thirty oak trees removed, root balls dug up, and all hauled away in trucks. Additionally neighbors report that fill dirt was brought in to level and create building pads on Lots 5, 8, and 9. Some of the fill used was apparently the broken asphalt from San Benancio Road when the Oaks sewer and Cal Am Ambler water mains were installed.

2) Is there a current shortage of Ambler Park Water Utility storage tank capacity? According to Cal Am-Ambler, there may be, as they are processing yet another application for larger water storage tanks for Ambler Water. Ambler Water total storage tank capacity should be evaluated and included in the I.S. and Negative Declaration. For example, Monterey County Planner Valerie Negrete states she is processing an I.S. and Negative Declaration for considerably larger Ambler water storage tanks above the Meadows of Corral Tierra. This project is titled. Meadows Community Association. The File Number is PLN080527. This is a part of the Cal Am Ambler water system.

However, why haven't the storage tank(s) that were supposed to be originally built on the Oaks Subdivision NOT ever been constructed? The recorded Final Map for the Oaks Subdivision shows an easement for water tanks on what is referred to as Parcel 3, this is east of Lot #9. There are no water storage tanks there.

For these reasons and more, this M.O.U. needs to be rejected, or at a minimum, significantly more environmental analysis needs to be done, in which case, it would need to be re-circulated for public review.

Sincerely,
Mike Weaver
484-6659

Stamp

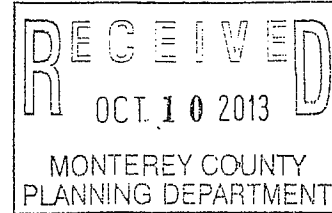
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October 10, 2013



Via Email

Mike Novo, Planning Director
David Mack, Associate Planner
County of Monterey
168 W. Alisal Street, 2d Floor
Salinas, CA 93901

Subject: Comments on the Ferrini Oaks Negative Declaration (REF130072)

Dear Mr. Novo and Mr. Mack:

This Office represents The Open Monterey Project. We submit the following comments on the proposed Negative Declaration and initial study ("the environmental documents") for the Ferrini Oaks project.

- The environmental documents do not adequately address whether Cal Am has water rights that would allow Cal Am to pump additional water from the overdrafted Toro Basin in order to supply the Ferrini Oaks project. It is not disputed that Cal Am would pump additional water from the Toro Basin to supply Ferrini Oaks. This is true regardless of any "payback," if any is made, of water from the Oaks well. The lack of water rights would make the project illegal. Water rights are relevant and should be discussed in the environmental documents.
- The environmental documents state that "County staff arranged" for the water treatment by the Cal Am treatment plant. There is no discussion of any discretionary review of that past action, any environmental review, or the plumbing and piping that was put in place then. That was apparently an unpermitted and previously undisclosed County action for which the public was not notified. The current environmental documents conclude that the current project will not have certain environmental impacts because the plumbing and piping already exist. To the extent that these are the plumbing and piping that County staff apparently authorized years ago without public disclosure and without adequate environmental review, the current environmental documents are inadequate because they fail to address the whole of the action under CEQA. The whole of the action includes the plumbing and piping.

- The environmental documents repeatedly mention that exportation of water from Zone 2C is prohibited. In response to our requests, the County and MCWRA stated they have no records that address the issue of exportation of water out of Zone 2C. The environmental documents are inadequate because they are unsupported by evidence.
- The environmental documents contain no analysis of the project under the applicable 2010 General Plan, including the policies on long term sustainable water supply, water quality, and other Public Service policies. For example, General Plan policy PS-3.1 requires all discretionary approvals to have a long term sustainable water supply in terms of quantity and quality. The proposed project is discretionary, involves the placement of pipelines and plumbing, would enable construction, and would intensify water demand in the B-8 zone. Projects in Zone 2C are given a rebuttable presumption that they have a long term sustainable water supply in terms of quantity and quality. Ferrini Oaks is in Zone 2C. As shown from the evidence, Ferrini Oaks does not have a long term water supply in terms of water quality. In other words, the presumption has been rebutted. The environmental documents fail to identify this issue or discuss or mitigate the environmental impacts thereof. The proposed project does not comply with policy PS-3-1. The Cal Am Ambler treatment plant is outside of Zone 2C, and is not entitled to the presumption. The project envisions that Cal Am will intensify pumping in the B-8 zone. As another example, the environmental documents fail to address General Plan policy PS-1.3 [No discretionary application for new development shall be approved unless the County finds that APFS for that use exist or will be provided concurrent with the development] or PS-1.4 [New development shall pay its fair share of the cost of providing APFS to serve the development]. There is no evidence that Ferrini Oaks paid for the pipelines and plumbing required to enable the proposed project.
- Pursuant to the records of past County approvals and requirements, Cal Am committed to provide records to MCWRA on a quarterly basis, with such monitoring to begin as soon as the first property is occupied. The evidence shows that three homes in the Ferrini Oaks subdivision are occupied and have received water service from Cal Am. In response to requests, the MCWRA and the County admitted that there are no records of the required Cal Am reports. The County's response was that the County has no information as to whether water has been provided to the three houses, or the amount. The County suggested our Office ask Cal Am for the information. We did. Cal Am did not respond. It is undisputed that Cal Am has exported water from the B-8 zone to the three occupied homes in the Oaks subdivision. The complete amount of water provided in the past should be disclosed, supported by evidence showing the

metered production from Cal Am to the Ferrini Oaks houses and the Ferrini Oaks system. Until and unless there is a requirement for the Oaks subdivision to repay the entire exported amount to the B-8 zone, the B-8 zone and the Toro Basin will be permanently imbalanced as a result, and the project will have potentially significant and unmitigated impacts.

- The environmental documents fail to quantify the amount of water that foreseeably would be expected to be involved in the proposed project, at buildout, when all nine lots are fully built out. Without this information, the extent of the potential impacts are unknown, and the impacts are not adequately mitigated.
- The County's responses to our Office's requests for records were to illegally deny access to records under the California Public Records Act. As one example, the County said it had no records of past project approvals within the Oaks subdivision. After independent research, our Office has obtained records that show that three projects have been approved, and three houses have been built. However, comparisons of the records of approvals with the site of the actual construction indicate that the houses may not have been built on the lots for which they were approved. Perhaps this confusion is due to the County's records. The County has a duty to look into this. If any of the Oaks subdivision houses were built in violation of the County's zoning approvals, under the County Code the County cannot consider new discretionary approvals like this project without resolving the violation.
- The environmental documents do not include any map of the project, which is a significant informational omission. There is no map of the physical location of the Ferrini Oaks subdivision, or the location of the Oaks well, or the location of the three houses currently receiving Cal Am water, or the location of the pipes, or the location of the Cal Am Ambler treatment center, or the B-8 zoning boundaries or the Zone 2C boundaries. All of this information is critical to an adequate understanding of the proposed project. Without it, the public and The Open Monterey Project cannot adequately comment on the environmental documents.
- The project does not include a discussion of who would pay for the expense of treating the arsenic water from Ferrini Oaks. To be consistent with the County General Plan policies, the discussion should be included in the environmental documents.
- There is no guarantee that Cal Am will actually treat any Zone 2C water that is imported. Even if the Zone 2C water were treated by Cal Am, there is no guarantee that Cal Am would actually use it in the Ambler system.

Cal Am could dispose of the Zone 2C water without ever treating it or ever using it in the Ambler system to provide potable water to customers. There is ample evidence that Cal Am is not to be trusted. Cal Am has been illegally exporting water from the B-8 zone to the three houses for years, without any accountability, without measuring and reporting the water, in violation of Cal Am's promise to MCWRA. Given Cal Am's lack of reliability on this point, it is reasonably foreseeable that Cal Am will not comply with any future requirement, either. The environmental documents have not adequately addressed this, or the potentially significant environmental impacts of this foreseeable occurrence. The project would involve Cal Am's pumping more water from the B-8 zone and from the overdrafted Toro basin without the water rights to pump more water. This is a pattern with Cal Am (e.g., the Cal Am can and will serve letter to the Corral de Tierra Shopping Center, which would require more pumping in an overdrafted basin, without proof of water rights). Instead of treating and using the water, Cal Am could dump the water that Cal Am gets from the Ferrini Oaks, and therefore there would be no "balance" even on paper of the water. Until and unless the project is conditioned to require specific treatment and use of the Zone 2C water within the potable Ambler system, the project foreseeably would not provide a balance between the B-8 and Zone 2C areas, and would foreseeably intensify water production in the B-8 zone. That intensification is prohibited, is not analyzed, and would have potentially significant unmitigated impacts. As further evidence of Cal Am's lack of reliability, the County has no record of Cal Am's disposal of arsenic sludge from its Ambler treatment plant. We understand that Cal Am has refused to produce this information to the public. The refusal to disclose these records raises reasonable doubt that the treatment is happening as claimed at the Ambler plant, and that the treatment would be made to the Oaks water as proposed in this project. The addition of the Oaks water would increase the amount of arsenic that the Cal Am Ambler plant would be required to remove and dispose. The environmental documents do not address the amount by which the new arsenic would increase the total arsenic sludge at the Cal Am plant. The disposal of the additional sludge would have potentially significant impacts that have not been evaluated adequately.

- The environmental documents fail to address system loss and other unaccounted for water in the exchange between the Oaks well and the Ambler treatment system and the users of the Cal Am Ambler water. This is important information in the calculation of impacts. In smaller systems in Monterey County, unaccounted for water is often over 10%.

Mike Novo, Planning Director
David Mack, Associate Planner
October 10, 2013
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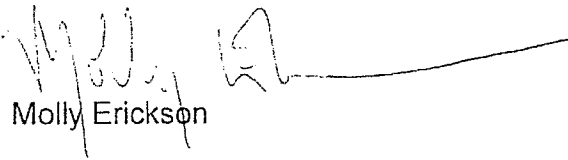
For each of the above reasons, the proposed environmental documents are inadequate under CEQA.

Please place this Office on the distribution and notification list for anything to do with this project. Please email notices to erickson@stamplaw.us and mache@stamplaw.us.

Thank you.

Very truly yours,

LAW OFFICES OF MICHAEL W. STAMP

A handwritten signature in black ink, appearing to read "Molly Erickson", with a long horizontal line extending to the right from the end of the signature.

Molly Erickson

Mack, David x5096

Rieger

From: Bob Rieger [brieger68@aol.com]
Sent: Tuesday, October 08, 2013 11:18 AM
To: Mack, David x5096
Subject: RE: Oaks Memorandum Of Understanding (MOU) (REF130072) Extension of Review Period on Negative Declaration

David J. R. Mack, Associate Planner

mackd@co.monterey.ca.us

RE: Oaks Memorandum Of Understanding (MOU) (REF130072) Extension of Review Period on Negative Declaration

The original agreement had water storage tanks for fire protection. If this truly is a Satellite Stand Alone System with neutral water transfer then those tanks need to be a condition of the Memorandum of Understanding.

There also needs to be accountability for the arsenic removed from the Oaks water and how it is being disposed of that needs to be in each quarterly report.

Finally this is still a violation of the B8 zoning which is still in effect for the San Benancio area.

Bob Rieger

68 San Benancio Road

Salinas, Ca 93908

831-484-5353



Edmund G. Brown Jr.
Governor

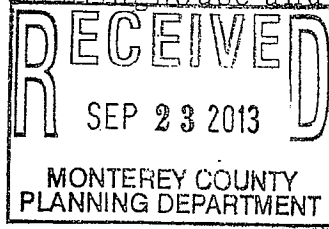
STATE OF CALIFORNIA

Governor's Office of Planning and Research
State Clearinghouse and Planning Unit

Clearinghouse



Ken Alex
Director



September 18, 2013

David J. R. Mack
Monterey County
168 West Alisal Street, 2nd Floor
Salinas, CA 93901

Subject: The Oaks / CA American Water Company Memorandum of Understanding (MOU)
SCH#: 2013081054

Dear David J. R. Mack:

The State Clearinghouse submitted the above named Negative Declaration to selected state agencies for review. The review period closed on September 17, 2013, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

Please call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

Sincerely,

Scott Morgan
Director, State Clearinghouse

Document Details Report
State-Clearinghouse Data Base

SCH# 2013081054
Project Title The Oaks / CA American Water Company Memorandum of Understanding (MOU)
Lead Agency Monterey County

Type Neg Negative Declaration
Description A Memorandum of Understanding (MOU) between CA American Water Company, Monterey County Water Resources Agency and the County for the provision of safe potable water to the approved nine-lot Oaks subdivision (Ferrini Oaks) due to the high arsenic levels in the subdivision (Oaks) well water.

Lead Agency Contact

Name David J. R. Mack
Agency Monterey County
Phone 831 755 5096 **Fax**
email
Address 168 West Alisal Street, 2nd Floor
City Salinas **State** CA **Zip** 93901

Project Location

County Monterey
City Salinas
Region
Lat / Long
Cross Streets San Benancio Road / SR 68
Parcel No. 161-013-011-000
Township **Range** **Section** **Base**

Proximity to:

Highways Hwy 68
Airports
Railways
Waterways
Schools San Bonancio MS
Land Use Low Density Residential [LDR/B-6-D(24"), LDR/B-6-D] and Resource Conservation (RC/B-6-D)

Project Issues Water Quality; Water Supply; Landuse

Reviewing Agencies Resources Agency; Department of Conservation; Department of Fish and Wildlife, Region 4; Department of Parks and Recreation; Department of Water Resources; California Highway Patrol; Caltrans, District 5; CA Department of Public Health; State Water Resources Control Board, Division of Financial Assistance; Regional Water Quality Control Board, Region 3; Department of Toxic Substances Control; Native American Heritage Commission

Date Received 08/19/2013 **Start of Review** 08/19/2013 **End of Review** 09/17/2013

LAW OFFICES
RICHARD H. ROSENTHAL
A PROFESSIONAL CORPORATION

OF COUNSEL
JENNIFER ROSENTHAL IVERSON

27880 DORRIS DRIVE, SUITE 110, CARMEL, CA 93923
P.O. BOX 1021, CARMEL VALLEY, CA 93924
(831) 625-5193
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482.13.10.04.LTRTODAVIDMACK

7 October, 2013

Mr. David Mack
Monterey County Planning Department

VIA EMAIL

Re: The Oaks/California American Water Company Memorandum of Understanding

Dear Mr. Mack:

Save Our Peninsula Committee (SOP) and the Highway 68 Coalition have the following comments relating to the Initial Study on the above project and the planning department's subsequent recommendation that the MOU be approved subject to a Negative Declaration. Prior to the comments, SOP would like to provide you with some background with the facts and circumstances leading up the Board's December 4, 2012 hearing where environmental review of the MOU was requested by the Board. In that regard, I have attached to my comments the transcript of the Board's December 4, 2012 hearing and SOP's comments provided to the Board for said hearing and the July 10, 2012 transcript of the Richardson appeal heard by the Board of Supervisors. The transcripts and documents revealed pursuant to these hearings are necessary prerequisites for the preparation of a legally adequate Initial Study (IS). It is clear the IS failed to consider the environmental concerns raised by the transcripts and documents in its preparation and the planning department's determination that a negative declaration is appropriate for the instant project. Upon review of the transcripts and SOP's submittal for the Board's 12/4/12 hearing, the following becomes clear:

1. The Board was concerned about how Cal Am Ambler water got onto the eastside of San Benancio Canyon Road (12/4/12 Transcript Calcagno, p. 15). The Initial Study ignores this issue.
2. The Board was concerned about the slippery slope the agreement could provide and that the Board did not want the agreement to set a precedent (12/4 Transcript, p. 17, Parker). The Initial Study is silent on this subject.
3. That a high level of CEQA review may be necessary. (12/4 Transcript, p. 17, Parker)

FOR U.S. MAIL DELIVERY: P.O. BOX 1021, CARMEL VALLEY, CA 93924
FOR EXPRESS MAIL DELIVERY: 27880 DORRIS DRIVE, SUITE 110, CARMEL, CA 93923

4. That the El Toro Groundwater Basin is currently in overdraft. (12/4 Transcript, p. 8, Tim Miller)
5. Cal Am has the absolute right to provide water to any customer within its service boundaries. (Miller 12/6/12 letter, pp. 3-4)
6. That there is a lot of development pressure to build new houses in the El Toro water basin controlled by the B-8. (7/10 Transcript, p. 8, Parker).
7. That Cal Am has connected the Oaks subdivision and WUSD to the Ambler system in violation of the B-8. Cal Am is providing water to more than 300 children and employees of the school district. (7/10 Transcript, p. 9)
8. That the Broccoli and Encina Hills subdivisions and the Washington Unified School District have been annexed to Ambler Water District. (7/10 Transcript, p. 9).
9. Supervisor Calcagno asked for information whether there is any potable water in 2C, 2A area. (12/4 Transcript, p. 15).
10. Further ways to control Cal Am must be investigated. (7/10 Transcript, pp. 23-25-So you're moving forward with the staff recommendation and they are coming back on the 31st um, with information uh, regarding the restrictions that may or could be imposed, if any)

The above reflects facts and circumstances that require a high degree of CEQA review in light of this precedent setting proposal and Cal Am's ability to use this scheme to provide potable water to the Encina Hills, Broccoli and other subdivisions that are currently moving through the approval process. A higher degree of CEQA review is also required because of the overdrafted condition of the El Toro Water Basin.

Project Description

Focusing on the Initial Study, the project is described as a Memorandum of Understanding (MOU) between CalAm Water Company and the County Water Resources Agency and County of Monterey for the provision of safe potable water to the approved nine-lot Oaks subdivision due to high arsenic levels in the subdivisions well water. See p. 1 Notice of Completion, p. 1 of Negative Declaration and p. 1 of Notice of Intent to Adopt Negative Declaration. This description omits the components of the MOU that must be undertaken to provide the potable water to the Oaks. The entire project must be assessed including its integral components. The scope of environmental review cannot be limited by artificially narrowing the

project description. A complete project description is necessary to ensure that all of the project's environmental impacts are considered. The integral components of the MOU that require further assessment are:

1. Transfer of B-8 zoned water out of the Toro Water Basin to the Oaks subdivision located in the Monterey County Water Resources Agency's Zone 2-C Benefit Assessment.
2. Transfer of Zone 2-C water out of Monterey County Water Resources Agency's Benefit Assessment 2-C to Ambler Treatment Plant located in the B-8 Zone.
3. CalAm's installation of a water line from Ambler Utility Water Pumps located behind the Meadows of Corral de Tierra down Paseo de Vaqueros Street and up San Benancio Road and hooking up to the Oaks subdivision. This was undertaken in 2006 without approval, in violation of the Oaks' project approval, and without environmental review. (This line now provides more than 4 acre feet of B-8 water a year to Washington Unified School District located on the East Side of San Benancio Canyon in Zone 2-C. It is an illegal transfer of B-8 water to Zone 2-C. See Initial Study, p.3
4. CalAm's purported installation of a return water line from the Oaks subdivision to the Ambler Arsenic Treatment Plant.
5. Equalization of B-8 water and 2-C water on a quarterly basis.
6. Submittal of quarterly water audit report, review thereof, and purported actions if there is overage.
7. Ambler's ability to treat and dispose of additional arsenic tainted water.

Environmental Setting:

The Initial Study correctly notes that the Ambler's pumping facility lies in the Toro Area Groundwater basin controlled by the B-8 Zoning Statute. However, it fails to note that the groundwater basin is in overdraft and the consequences of being in over draft since 1992 on adjoining wells and water supplies. In 1992, citing "severe water constraints," the County Board of Supervisors (Board) placed a "B-8" zoning overlay on a large swath of the Toro Area. When the Board adopted the B-8 zone in 1992 they made findings that the public health and welfare was at issue. Since 1999, the water table in 90% of wells in Toro has dropped, and the average rate of drop is 1.8 acre feet per year (AFY). (El Toro Groundwater Study, GeoSyntec, 2007.) The Monterey County Water Resources Agency and Monterey County Environmental Health have stated that the Toro Area does not have a long term sustainable water supply. No water supply project has been proposed for the Toro area. In an overdrafted groundwater basin, there is no water available for appropriation. The doctrine of correlative overlying rights applies where no surplus water is available for new appropriators except by prescription. (Katz v. Walkinshaw (1903) 141 Cal. 116.) In as much as the groundwater basin is overdrafted, what legal rights does CalAm have to provide overdrafted water to the Oaks subdivision in violation of the B-8 and under a precedent setting scheme that was illegal and in violation of County Ordinance and subdivision approval in the first instance? Water rights should be adequately discussed at the inception of the project.

The Environmental Setting should also set out the process and capacity of Ambler's arsenic treatment plant and sewage disposal.

Likewise, the IS discussion of the MCWRA 2-C zone indicates that water cannot be transferred out 2-C. IS. p.3. There is no other discussion regarding Zone 2-C. Why can't water be transferred out? What is the current status of the Zone 2-C providing potable water for subdivisions like the Oaks and why isn't the providing it? What are the boundaries of Zone 2-C.

The environmental setting should also set out the current and future projects that may impact an overdrafted aquifer (some in violation of the B-8 Zoning restrictions). Some of these include:

1. Providing water to Washington Unified School District that lies on the east side of San Benancio Rd, in Zone C-2. CalAm provides more than 4 acre feet of water per year from the overdrafted Toro Water Basin. See WUSD water bills attached.

2. Providing water to three homes in the Oaks' subdivision in violation of the Oaks' project approval. Although the water was supposed to be metered, it wasn't. The IS should specify the amount of overdrafted water provided by Ambler to the Oaks subdivision.

3. CalAm (Ambler) has extended its boundaries into Zone 2-C with Advice Letters for Washington Unified School District, Oaks, and Broccoli, and Encina Hills subdivisions. The proposed scheme, no net transfer, may be used to provide water to Broccoli and Encina Hills subdivisions.

4. CalAm expanded its storage tank capacity at Upper Rimrock from 40,000 gallons to 125,000 gallons. This requires more pumping from an overdrafted aquifer. CalAm is currently seeking approval to increase its 2 Paseo Privado water storage tanks of 55,000 gallons each to two 200,000 gallon water storage tanks. Again, this requires more pumping from an overdrafted aquifer.

Finally, the environmental setting should consider the development pressures that exist in the Toro planning areas as noted by Chairperson Parker.

Baseline Conditions:

The IS should specify the current conditions on the ground dealing with each of the above referred to items so that an accurate impact analysis may be undertaken to determine environmental impacts, appropriate mitigation measures and feasible alternatives. For instance, there should be a baseline analysis of the amount of water CalAm was entitled to pump at the time the aquifer was determined to be in overdraft and the B-8 Zone was implemented compared with the amount of water currently being pumped to determine the impacts to the overburdened

aquifer and other wells in the Toro Water Basin. Likewise, a baseline analysis should be undertaken of available C-2 water that could be used for the Oaks.

Growth Inducing Impacts:

CalAm's position is quite clear. Once they have extended boundaries they are free to provide water to projects within their boundaries. (Miller 12/6/12 letter, pp.3-4). CalAm has extended their boundary to include the Oaks and WUSD and are providing water to these projects in violation of the B-8. Other potential projects include the Broccoli and Encina Hills subdivisions. The IS needs to assess potential impacts, both direct and indirect, from these projects. The IS also should assess the precedent setting nature of this MOU and potential impacts not only in the Toro and 2-C areas, but Countywide.

Mitigation Measures

The MOU lacks any enforcement mechanism if CalAm breaches the MOU. See MOU paragraphs 5 and 8. Enforceable mitigation measures must be considered and assessed for effectiveness.

SOP provided the Planning Department in a 12/26/12 memo a detailed description of the transgressions leading to Ambler providing water to the Oaks subdivision. I have provided a copy of the letter and exhibits attached thereof for the record. Now it has come to light that the three units actually built by the developer are not on lots that received design approval. This set of circumstances must be investigated, if for no other reason, to determine if the County will be in a position to monitor the MOU if approved.

Oaks EIR Must Be Supplemented

The Oaks subdivision was approved by the Board on May 8, 2001 requiring a stand alone well and infrastructure to supply potable water for the project. Conditions 34 and 35 of the project approval were not implemented. Instead CalAm dug a trench up San Benancio Road and provided B-8 water to the project in violation of the conditions of project approval and the B-8 Zoning Ordinance. The MOU modifies the conditions of project approval. The approval of the MOU is a discretionary action.

The changes proposed by the MOU are substantial and may impact an overdrafted aquifer. The project has County-wide implications because it's precedential, the first of its kind in the County. Substantial changes are proposed by the MOU. Substantial changes have occurred with the project. New information, of substantial importance, was not known at the time the EIR was certified and the project approved. CEQA Guidelines 15162 and 15163 require further environmental review.

7 October, 2013
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If you have any questions or would further like to discuss the matter, please feel free to call.

Sincerely,

LAW OFFICES RICHARD H. ROSENTHAL
A PROFESSIONAL CORPORATION

BY: *Richard H. Rosenthal*
RICHARD H. ROSENTHAL

- Attachments: 1) 11/16/12 letter to Board of Supervisors and Exhibits 1-13
2) 12/04/12 Board Hearing Transcript of Item 20
3) 7/10/12 Board Hearing Transcript-Richardson Appeal
4) Documents that support preparation of Environmental Impact Report
5) Washington Union School District's Water Bills

LIST OF ATTACHMENTS

Number	Document
1	11/26/2012 letter to Board of Supervisors and Exhibits 1-13
2	12/04/2012 Board Hearing Transcript of Item 20
3	7/10/2012 Board Hearing Transcript – Richardson Appeal
4	Documents supporting preparation of Environmental Impact Report
5	Washington Union School District's Water Bills

ATTACHMENT 1

LAW OFFICES
RICHARD H. ROSENTHAL
A PROFESSIONAL CORPORATION

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(831) 625-5193
FAX (831) 625-0470

456.12.11.26.bos.ltr

November 26, 2012

Monterey County Board of Supervisors
168 West Alisal Street
Salinas, CA 93901

Re: Save Our Peninsula's Response to Planning Department Board Report, File No. 12-941, Dated: October 2, 2012; Calendared for December 4, 2012

I. Summary

CEQA requires adherence to a strict statutory process that requires the assessment of environmental impacts from a project, the mitigation of significant impacts where feasible and a procedure to ensure that mitigation measures adopted are implemented. The purpose of CEQA is frustrated if there is no mechanism to insure that mitigation measures and conditions of project approval required to mitigate significant environmental impacts are fully implemented. CEQA mandates that mitigation measures and conditions of project approval are fully implemented and places the obligation on the public agency approving the project and EIR to ensure that they are fully implemented. *Public Resources Code* § 21081.6 (a)(b). Consistent with CEQA's mandates, the Subdivision Map Act (Act) requires a subdivider to satisfy all conditions of approval attached to a tentative map. The Act requires disapproval of a final map if it fails to meet or perform any of the conditions imposed by the Act or local ordinance. *Government Code* § 66473. *Lincoln Park Tenants Assn. v. City of LA* (2007) 155 Cal App 4th 425, 447, 450 (conditions enforceable covenants) The County failed to ensure that conditions of project approval of the Oaks subdivision were fully implemented.

The Oaks subdivision was approved by the Board May 8, 2001 requiring a stand alone well and infrastructure (system) to supply water for the project. This system was to be conveyed to Ambler Park Water Utility (Ambler) pursuant to condition 35 of project approval. In or about February 2004 Whitson Engineering prepared the drawings for the Oaks Subdivision Water System. The drawings were approved by Cal Am in March of 2004 and then submitted to the County's Public Work's department. The drawings showed the Oaks was going to get its potable water supply from Ambler. Cal Am was going to put a line from Ambler down

FOR U.S. MAIL DELIVERY: P.O. BOX 1021, CARMEL VALLEY, CA 93924
FOR EXPRESS MAIL DELIVERY: 27880 DORRIS DRIVE, SUITE 110, CARMEL, CA 93923

20 December, 2012

Page 4

transported out of the B-8 Zone nor that zone 2-c water was going to be shipped into the B-8 zone. (to Ambler for treatment). See Exh. 5, where Mr. LeWarne, from the Health Department, was asking representatives from Planning and Water Resources what was going on and the only response was from Ms. Dennis.

The record is clear. The water system plans that were used to comply with Conditions 34 and 35 were different than the system that was approved by the Board. See Exhibit 1, January 26, 2005 letter from Kelton to Lawrence, Exhibit 2, Cover page of Oaks Subdivision Water System dated March 2004. It should have been noted because the condition had not been met. The installed water system is also different than what is depicted on the Vesting Tentative Map. Exhibit 3, Vesting Tentative Map. The Final Map is substantially different than the vesting tentative map and inconsistent with the Oaks Water System Plan submitted to Public Works in March 2004. The Final Map should not have been approved by Board in June of 2006.¹ See Exhibit 4, Final Map.

As of 2006 there was no condition compliance check off of condition 35. Mr. Kelton went to John Hodges, an employee in the Health Department, and reminded him of conversations they had in mid-October regarding the correspondence Kelton sent to Lawrence in September 05, Exhibit 6. Mr. Hodges then, informed Mr. Osorio that condition 35 was fully implemented and requested it to be check off. See Exhibit 6, Hodges email to Osorio. Mr. Hodges apparently had no knowledge of the project's conditions of project approval, nor that the project modified its source of water supply in violation of the B-8 Zoning Ordinance. This is apparent from Ms. Dennis' August 16, 2006 email which states that "water to supply the Oaks would come from a B-8 area (Ambler Park) to a new subdivision. This was not to be allowed until the follow-up study to the Fugro report was conducted." Exhibit 5, Dennis August 16, 2006 email. Mr. Osorio had to be prodded by Mr. Lombardo's office to issue the final check off. Exhibit 7, February 27, 2006 Kelton email to Osorio.

2. Pg. 2 (Exhibit B Staff Report). "... Staff arranged with Cal Am through Monterey District Amber Park water system to serve the new lots on the basis Cal Am would draw from the Oaks well, treat the water at the Ambler treatment plant, and return to the Oaks lots...."

There is no evidence that any county employee approved this scheme. To the contrary, the scheme was hatched in secret. See response to 1 above.

There was no County policy in effect then or now that would have provided this exception to the B-8 zoning ordinance. Furthermore, any such scheme to transfer contaminated

¹ Although Mr. Holm and others state the Oaks substantially complied with conditions of approval, there is no basis in fact or law to support such a contention. Legally, whether a Final Map complies with a tentative map is a ministerial act only if all conditions of project approval have been complied with. *Government Code* § 66437.

water to the Ambler system for treatment required a permit amendment application with a technical report submitted to the California Department of Public Health (CDPH) for review. The permit review would require a full CEQA review. See Exhibit 8, September 2, 2010 Moltrup follow-up email to Leslie Jordan. Neither Cal Am nor the County informed CDPH of this scheme until September 2, 2010.

3. Pg. 1: "In 2006, Cal Am committed to monitoring production from the Oaks well and water consumption of the Oaks' lots for this purpose."

It is true that Cal Am sent Curtis Weeks a letter indicating that they would monitor. On August 29, 2006, Curtis Weeks responded to a letter from Sherri Damon indicating he had no problem with the scheme because it was located in 2-C. Mr. Weeks was evidently clueless about what was being transported out of the B-8 zone. Furthermore, after more than three years of illegal transfers of water no monitoring reports have been submitted by Cal Am nor has the County demanded them.

4. Pg. 4. August 10, 2006 - "... Work allowed to proceed based on staff understanding that water from Ambler treatment plant and water from Oaks well will be in balance."

Response: This is a misstatement of fact. See 1 above. There is no document that indicates that any County employee approved this scheme. To the contrary, it was expressly prohibited. See Exhibit 5, Dennis August 16, 2006 email. Furthermore, as noted above, this new "scheme" had not been considered, or evaluated by the Board, was in violation of the B-8 zoning statute, and required permits and CEQA review by the CHDP. Exhibit 9, September 9, 2010 email.

Pg. 6: "County has violated the Settlement Agreement."

SOP contends that Conditions 34 and 35 and 54 and 55 have not been complied with and the County violated PR 21081.6(a)(b) and its Departmental Procedures when the project was permitted to continue in light of non-compliance with conditions of project approval. The County had been in violation of §3 of the Settlement Agreement by not requiring the Oaks to comply with conditions of project approval after a noticed public hearing. The County was also in violation of the Map Act. *Government Code* § 66499.36. Inasmuch as the County agreed to the noticed public hearing, they are now in compliance with that provision of the Settlement Agreement but have failed to meet the legal obligation pursuant to the Map Act. *Id.* Any resolution pursuant to the noticed hearing must comply with CEQA. In this case, inasmuch as the developer has failed to implement a condition of project approval, violated a zoning ordinance and his current actions constitute a continuing public nuisance and that staff is recommending precedent setting actions, a full EIR must be undertaken to determine the infeasibility of the alternatives assessed by staff and to determine the environmental impacts of

the proposed "no net transfer" scheme proposed by the MOU. See *Save Our Peninsula v. Monterey County* (2001) 87 Cal App. 4th 99, 131, *Lincoln Place Tenants v. City of Los Angeles* (2005) 130 Cal.App. 4th 1491, 1505-1509. The County must also comply with the Map Act. *Government Code* §§ 66499.36 and 66499.34.

Pg. 6: "On June 27, 2012, SOP filed a motion to enforce the conditions of the Settlement Agreement."

The motion was to compel a hearing on the Oaks project and to require the County to finish the ten (10) reports that were due on December 22, 2011 and still outstanding in June 2012. After the motion was filed, additional reports were filed. There are still outstanding issues relating to the ten project "Reviews."

The motion is calendared for January 4, 2013. The motion will be amended to add the County's failure to comply with §9 of the Settlement Agreement where the County was to provide SOP with notice of a proposal for the expansion of electronic data system has been completed. (to track mitigation measures and conditions of project approval). If a proposal was not completed by November 1, 2012 then within ten days the County is to provide a written explanation to SOP describing its best efforts used to complete a proposal. SOP has not been made aware of either a proposal for expansion or a written explanation why there is no proposal. SOP will request the Court to compel the County to fully comply with this provision.

Pg. 7: "Because Cal Am will offset the water it supplies to the Oaks subdivision by an equal transfer of water from the Oaks' well into the Ambler system, Ambler's service to the Oaks does not result in intensification of water use in B-8 zone...."

This net transfer scheme is not a County policy, has never been considered nor evaluated by the Board and violates the B-8 zoning overlay. There is no such exception in the B-8 zoning ordinance. See Exhibit 10, B-8 Zoning Ordinance. If approved by the Board, the "no net transfer" scheme may be precedent for future development requesting use of B-8 water. The growth inducing and cumulative impacts of such a policy has never been considered. Further consideration of this scheme requires a full blown EIR. *Save Our Peninsula v. Monterey County* (2001) 87 Cal App. 4th 99, 131. Although the "no net transfer" scheme has neither been adopted nor assessed for CEQA, Cal Am argues it applies when requesting extension of its boundaries outside the B-8 zone. See Exhibit 8, Cal Am legal briefs to PUC. Cal Am also represented to the CPUC that the County Resolution No. 01-107, Oaks subdivision approval, approved the provision of water service to the Oaks Subdivision by Cal Am. See Exhibit 12, January 11, 2005 letter to CPUC. The County also supported the export of B-8 water. Exhibit 14.

Pg. 7: Options for providing clean and potable to Oaks lot.

the Program. The Program on page 1 specifically states that its purpose is to fulfill the requirements of CEQA and sets forth the responsibilities of various County land use departments for various aspects of mitigation monitoring, reporting, and enforcements in order to ensure full compliance with conditions of project approval. Paragraph II D. 3, page 2, requires the County land use department to notify P&BI if there is non compliance with a mitigation measure or condition of project approval by way of a Verification/Non Verification form. PB&I is then required to take the action specified in Section III.D.2. Paragraph III. D, p. 5, specifies "procedures to ensure that mitigation measures are fully and consistently enforced through permit conditions and compliance relating thereto, agreement, or other acceptable and legal measures." Paragraph D. 3, states that PB&I shall issue a "Stop Work Order", a "Notice of Violation", or a notice of County's intent to pursue a Code Enforcement action. Paragraph III. D. 3 requires the applicant (RPI in this case) to consult with PB&I within 15 days and failure to take remedial action to the satisfaction of the Director shall result in Code Enforcement Action.²

On February 14, 2011, Petitioner filed a Petition for Writ of Mandate and Complaint for Declaratory Relief in this case (number M110694) against the County of Monterey and the Monterey County Board of Supervisors and others (Respondents) to compel compliance with Public Resources Code ("PR") § 21081.6 and Title 14, § 15097 of the California Code of Regulations. Petitioner alleged that since the County revised its CEQA Guidelines and adopted Resolution 01-391 as required by the Judgment, the County routinely failed, and continues to fail, to comply with such Guidelines, Resolution 01-391, PR 21081.6(a) (b) and California Code of Regulations, Title 12, section 15097 to ensure that mitigation measures adopted at the time of project approval are fully complied with and implemented. Prior to filing the Petition, Petitioner undertook an eighteen month audit of Respondents' land use departments' records and concluded that Respondents have failed to comply with these laws, regulations and County adopted departmental CEQA procedures adopted pursuant to the Judgment entered in Case No. M47847.

In case number M110694, Petitioner sought declaratory relief as to the Respondents' actions in failing to comply with the referenced statutes, Resolution 01-391 and regulations and injunctive relief ordering Respondents to refrain from approving any project to which PR § 21081.6, Title 14, § 15097 of the California Code of Regulations, Monterey County's CEQA Guidelines and Resolution 01-391 pertaining to CEQA are applicable until such time as Respondents are in compliance with PR § 21081.6, Title 14, § 15097 of the California Code of Regulations and the County's resolutions and policies implementing those laws. The action also sought a writ of mandate ordering Respondents to review all projects approved by the County since October 9, 2001 for compliance with conditions and/or mitigation measures imposed on the projects at the time of project approval, to take such action as necessary to fully implement any

² County failed to follow its own departmental procedures in dealing with the Oaks.

20 December, 2012

Page 9

conditions and/or mitigation measures that are found to have not been fully implemented, and to report on these actions to the public.

On September 22, 2011 a Judgment was entered which provided for the entry of a final judgment which incorporates the provisions of the Settlement Agreement which provides for the adoption by the County of procedures that will ensure that (1) Respondent County complies with CEQA and with its own procedures, (2) that adopted mitigation measures and conditions of project approval are fully complied with and implemented, and (3) that the County's actions relating to mitigation monitoring and condition compliance are easily reviewed and monitored by the public by expansion of the County data tracking system. The County obligated itself to review ten projects for condition compliance. Regarding the data tracking system, the County was obligated to use its best efforts to expand its electronic database by November 1, 2012. The County was to notify SOP when the proposal to expand the data system was completed. If the proposal was not completed by November 1, 2012, within ten days of November 1, 2012 the County is to provide SOP with a written explanation describing the best efforts used to complete a proposal, an explanation of why a proposal has not been completed and the date when a proposal will be completed.

The Board's consideration of these matters would be greatly appreciated.

Richard H. Rosenthal
On behalf of Save Our Peninsula Committee

EXHIBIT "1"

EXECUTIVE OFFICE

September 15, 2005

2718 OCEAN PARK BLVD., SUITE 3006
SANTA MONICA, CALIFORNIA 90405-5207
PHONE (310) 399-4514
FAX (310) 399-0062

Via Facsimile (831-755-4557)

Laura Lawrence
Monterey County Department of Health
Division of Environmental Health
1270 Natividad Road
Salinas, CA 93906

Re: The Oaks Subdivision - Conditions 34 & 35

Dear Laura:

We very much appreciate your time and efforts in connection with our project.

We would like to confirm with you the status of these two conditions.

Condition 34: Attached is the revised memorandum of agreement that was signed by both parties concerning the water system for this project. It is our understanding and expectation that this memorandum of agreement satisfies this condition.

Condition 35: As you know, one of the requirements of this condition is that you be provided with documentation that CalAm has reviewed and approved our water system plans. We have a copy in our files of an approval letter from CalAm to you dated March 26, 2004. We've attached a copy for your ease of reference. Other than needing to post the bond, it is our understanding that we have met all of the requirements necessary to satisfy this condition.

We would appreciate it if you would confirm the above at your earliest convenience.

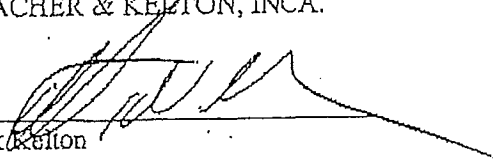
Should you have any questions concerning the above, please do not hesitate to give me a call.

Once again, many thanks for your ongoing assistance.

Sincerely,

BOLLENBACHER & KELTON, INCA.

By:


Mark Kelton
Executive Vice President

MEMORANDUM OF AGREEMENT CONCERNING THE WATER SYSTEM FOR THE OAKS SUBDIVISION

This Agreement for the transfer, operation and maintenance of the well and water distribution system of the Oaks Subdivision Water System ("Agreement") is made between Bollenbacher and Kelton, Inc. a California corporation (the "Developer") and California-American Water Company, a California corporation and a California public utility ("Cal-Am"), with reference to the following:

RECITALS

A. Developer is the owner of certain real property commonly known as the Oaks, in the County of Monterey, State of California, more particularly described in Exhibit "A" attached hereto (the "Oaks Subdivision"). The tentative map for the Oaks Subdivision was approved by Monterey County Resolution 01-197 on May 8, 2001. Condition 34 of the approval requires that prior to filing the final map, that the Developer provide a written agreement for the transfer of the well and water system to Ambler Park Water Utility (APWU) and Condition 35 of the approval requires that the water system plans be designed in accordance with Title 22 and approved by APWU.

B. Ambler Park Water Utility was acquired by Cal Am. Cal-Am is a California corporation engaged in the business of providing Water Service and Water Related Services to customers in portions of Monterey County.

C. Developer is in the process of planning the capital improvements necessary for the water system to serve the Oaks Subdivision.

D. As a condition of approval of the final Subdivision Maps for the Oaks Subdivision, the County of Monterey (the "County") is requiring that a water system be designed and constructed to service the lots within the Oaks Project (the "Water System") capable of meeting the standards of Title 22 of the California Administrative Code and California Public Utility Commission Standards.

AGREEMENT

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Developer and Cal-Am agree as follows:

ARTICLE 1.

1. Developer agrees to construct a well and water distribution infrastructure for domestic and fire flow water supply (collectively "Water System") for the Oaks Subdivision in accordance with plans and specifications approved by Cal Am. There shall be no cost to the existing customers of Cal Am for the construction of the Water System.

Revised 9/2/04

2. Developer agrees to design the water system improvements to meet Title 22 of the California Code of Regulations and as found in the Residential Subdivision Water Supply Standards. Cal Am acknowledges that Developer has already submitted engineered plans for the Water System improvements, attached as Exhibit A, and incorporated herein by reference, that it has reviewed and approved by Cal Am and that it has received any associated fees for this review and approval. Developer further agrees to comply with AWWA and/or CPUC standards in the final design of the Water System.

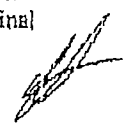
3. Developer agrees to execute such documentation, including but not limited to a main extension agreement, and take such further actions and steps, such as seeking annexation, as required by Cal Am to implement the transfer of the Water System to Cal Am and Cal Am agrees to accept the Water System upon the approval of such annexation and execution of a main extension agreement by Developer, in exchange for Cal Am's agreement to operate and maintain the Water System as either a stand alone or satellite system providing domestic and fire flow water supply to the property and uses located within the Oaks Subdivision. Developer reserves the right to utilize any and all capacity of the Water System, above that capacity necessary to provide domestic and fire flow water supply to the property and uses located within the Oaks Subdivision.

4. Cal Am and Developer agree to take all acts and execute all documents necessary to implement this Agreement in a timely manner, including, without limitation, execution of a bill of sale for the Water System, Annexation of the Oaks to the former Arambler Park Water Utility service area, and/or execution of a main extension agreement. Developer agrees to pay for any costs associated with transfer of the system to Cal Am.

5. Cal Am agrees that if at any point in the future, the Toro B-8 zoning overlay is removed, and this stand alone system is consolidated with any other system, pumping of water produced by the Water System outside of Monterey County Water Resources Agency zones 2 & 2 A is prohibited except in the case of an emergency.

6. After the recording of the final map for the subdivision, Developer agrees to provide Cal Am with an 80' x 100' tank site easement on Lot 6 subject to the provisions of the County's Scenic Easement and scenic easement ordinances. In the event that Cal Am is not able to locate another more suitable tank site. The tank site easement will be at an elevation of approximately 550 feet and is depicted on Exhibit B to this Agreement.

7. This Agreement may be executed in counterparts and all counterparts together shall be construed as one document. A facsimile signature shall be treated as an original signature.



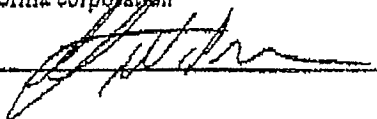
8. Except as provided in this Agreement, this Agreement may be amended in whole or in part only by a further written agreement executed by all of the parties.

9. This Agreement shall be effective upon the recordation of the Final Map for the Oaks Subdivision. Nothing herein shall be deemed to require the Developer to prepare, process or record a Final Map for any part of the Oaks Subdivision.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the respective dates set forth below.

Bollenbacher and Kelton, Inc.
a California corporation

Date: 10/30/04

By: 

CALIFORNIA-AMERICAN WATER
COMPANY, a California Corporation and
a California Public Utility

Date: _____

By: _____
Vice President

8. Except as provided in this Agreement, this Agreement may be amended in whole or in part only by a further written agreement executed by all of the parties.

9. This Agreement shall be effective upon the recordation of the Final Map for the Oaks Subdivision. Nothing herein shall be deemed to require the Developer to prepare, process or record a Final Map for any part of the Oaks Subdivision.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the respective dates set forth below.

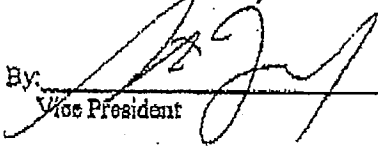
Bollenbacher and Kelton, Inc.
a California corporation

Date: _____

By: _____

CALIFORNIA-AMERICAN WATER
COMPANY, a California Corporation and
a California Public Utility

Date: 10/28/04

By:  _____
Vice President



California American Water

March 26, 2004

Laura Lawrence
Monterey County Health Department
Division of Environmental Health
1270 Natividad Road
Salinas, CA 93906

Subject: Oaks Subdivision Water System

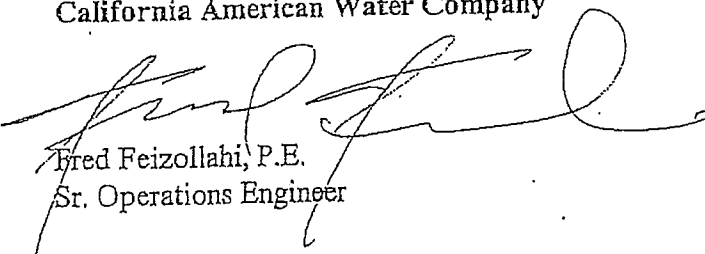
Dear Ms. Lawrence:

This letter is to inform you that California American Water has reviewed and approved the plans for the Oaks Subdivision Water System, dated February 2004, prepared by Utility Services.

Should you have any question regarding the above, please do not hesitate to contact me directly at (831) 646-3261.

236-7538 (cell)

Sincerely,
California American Water Company


Fred Feizollahi, P.E.
Sr. Operations Engineer

FF/DN/la

Cc: Ken Whitson, Whitson Engineers.

Attachment
Oak Subdivision-Water System Drawings - Sheet 1 to 5

cond. #35
(part)

EXHIBIT "2"

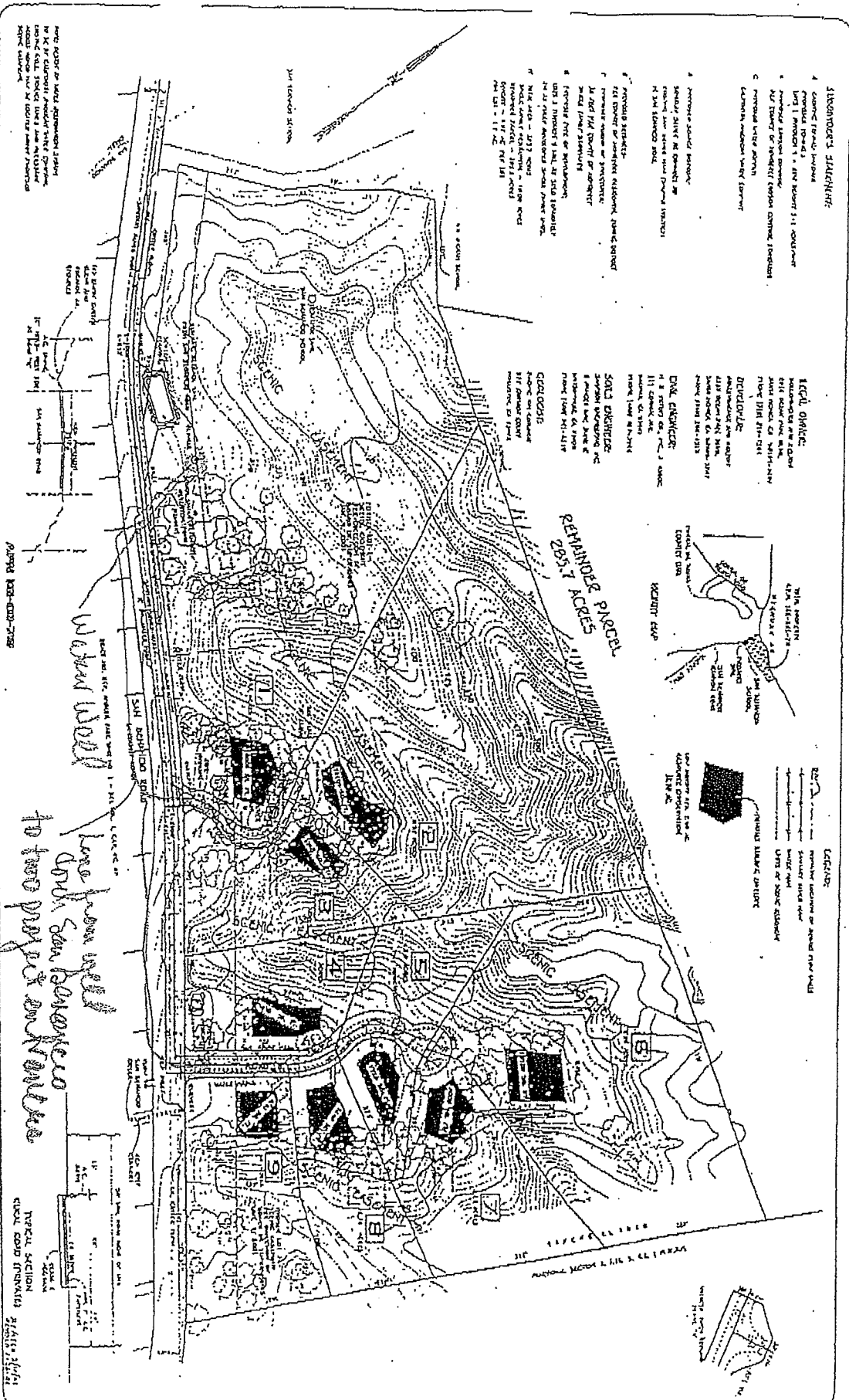
EXHIBIT "3"

H D R E R S C O
 CONSULTING ENGINEERS ARCHITECTS PLANNERS

THE KENNEDY CORP
 SUBDIVISION

WESTBARK
 TENTATIVE MAP

SCALE OF 1" = 40' EXCEPT WHERE NOTED OTHERWISE
 DATE: 04/28/2011



THIS MAP IS A TENTATIVE MAP AND IS NOT A GUARANTEE OF THE ACCURACY OF THE INFORMATION CONTAINED HEREIN. THE USER OF THIS MAP SHALL BE RESPONSIBLE FOR VERIFYING THE ACCURACY OF THE INFORMATION CONTAINED HEREIN.

Line from well down San Benito River to two pairs of manholes

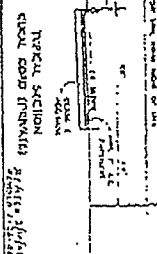
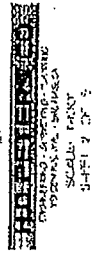


EXHIBIT "4"

SH00028239 N 2105791 E 576502 VOL.23 C&T PG.32

TRACT 1176 THE OAKS SUBDIVISION

(A PRIVATE ROAD SUBDIVISION)
SITUATE IN
RANCHO EL TORO
MONTEREY COUNTY, CALIFORNIA
ALEX. MCKAY, JR.
PREPARED FOR
FERRIS OAKS, LLC

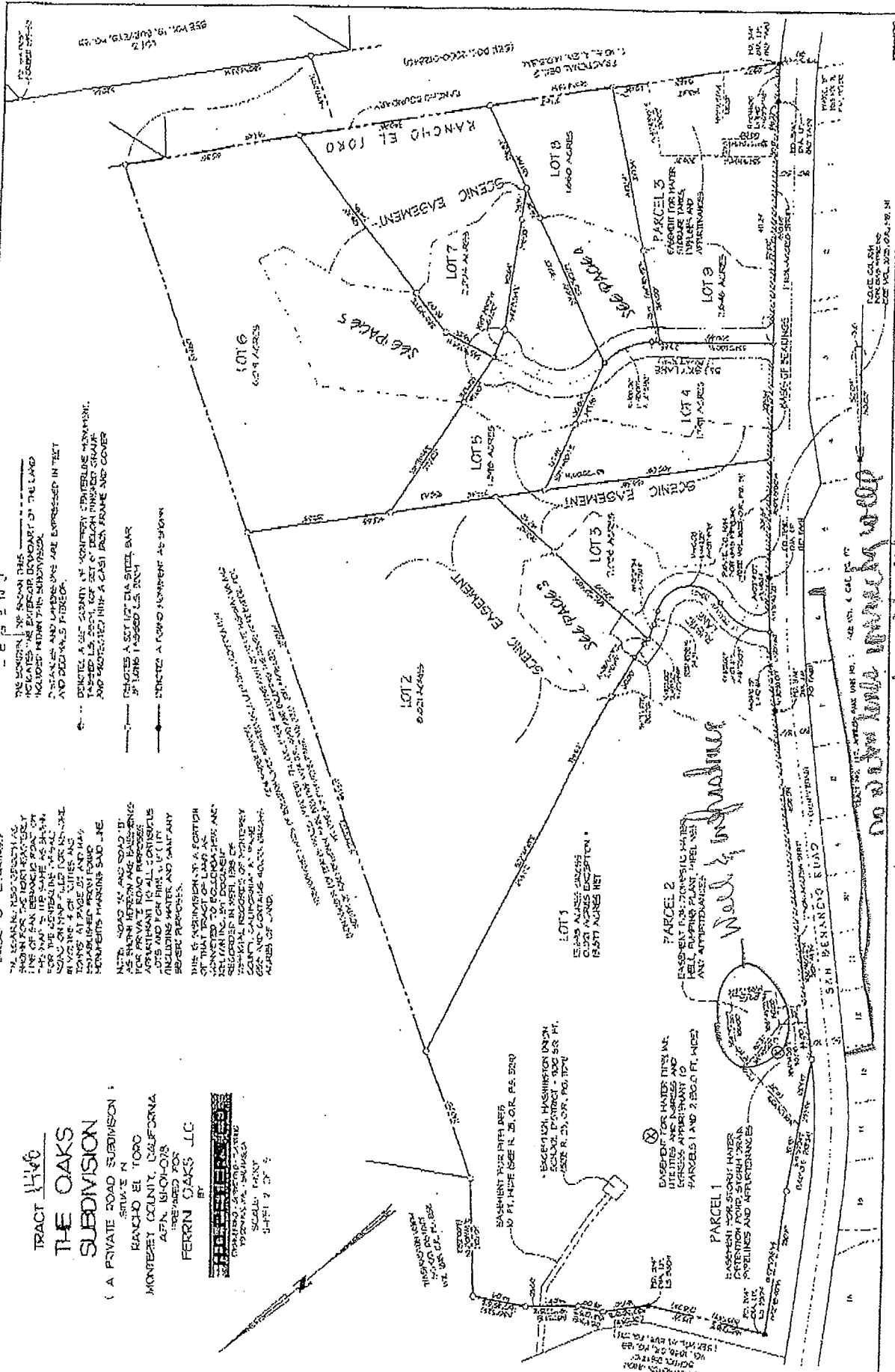


BASES OF BEARINGS

THE BEARINGS AND DISTANCES AS SHOWN ON THIS MAP WERE OBTAINED BY MEASUREMENTS MADE BY THE SURVEYOR IN THE FIELD FOR THE GENERAL AND PARTICULAR LOTS AND FOR THE BOUNDARIES INCLUDING WATER AND GATEWAY BEYOND THEREOF.
THIS IS A SUBDIVISION OF A PORTION OF TRACT 1176, AS SHOWN ON MAP 1176, MONTEREY COUNTY, CALIFORNIA, AS RECORDED IN REEL 108 OF THE PUBLIC RECORDS OF MONTEREY COUNTY, CALIFORNIA, A TRUE AND CORRECT COPY OF WHICH IS ON FILE IN THE OFFICE OF THE COUNTY CLERK OF SAID COUNTY, CALIFORNIA.

DEFINITIONS

THE WORDS "TO BEARINGS" INDICATES THE BEARING OR DIRECTION OF THE LINE, "DISTANCES" INDICATES THE LENGTH OF THE LINE, "TO BEARINGS" AND "DISTANCES" ARE EXPRESSED IN FEET AND DECIMALS THEREOF.
THE WORDS "TO BEARINGS" INDICATES THE BEARING OR DIRECTION OF THE LINE, "DISTANCES" INDICATES THE LENGTH OF THE LINE, "TO BEARINGS" AND "DISTANCES" ARE EXPRESSED IN FEET AND DECIMALS THEREOF.
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DO NOT BUILD WITHIN 100 FT TO TRAILER PARKING

EXHIBIT "5"

VanHorn, Roger W. x4763

From: Dennis, Mary Anne x4557
Sent: Wednesday, August 16, 2006 4:43 PM
To: LeWarne, Richard x4544; Weeks, Curtis Ext.4896; Lundquist, Ron Ext.4831; Novo, Mike x5192
Cc: 100-District 5 (831) 647-7755; Stroh, Allen J. x4539; Ramirez, John x4542; VanHorn, Roger W. x4763
Subject: Correction RE: water and sewer work on San Benancio

To All:

not correct
I want to set the record straight regarding the e-mails below. I gave Richard the wrong information. Both the Oaks and Ambler Park wells are in Zone 2. The issue is that water to supply the Oaks would come from a B-8 area (Ambler Park) for a new subdivision. This was not to be allowed until the follow-up study to the Fugro report was conducted.

In addition, a concern that Cal-Am would ultimately connect the Ambler park water system and the Toro water service has been addressed in an Agreement between the Ambler Park water system and the Oaks developers, B&K, that states that this Zone 2 water will not be transported out of Zone 2.

I apologize for the confusion. Staff from EH and WRA will meet in the field tomorrow morning to investigate further.

-----Original Message-----

From: LeWarne, Richard x4544
Sent: Wednesday, August 16, 2006 8:32 AM
To: Weeks, Curtis Ext.4896; Lundquist, Ron Ext.4831; Novo, Mike x5192
Cc: 100-District 5 (831) 647-7755; Stroh, Allen J. x4539; Ramirez, John x4542; Dennis, Mary Anne x4557
Subject: FW: water and sewer work on San Benancio
Importance: High

To All:

Mary Anne talked to Gary Hofshire with Cal Am. He confirmed that Cal Am has hired Chapin Co. to install water lines between the Ambler Treatment plant and the Oaks subdivision. The water from the well that was to be the water source for the Oaks subdivision is being piped back to the Ambler Park treatment plant to balance the water that is being transferred from Zone 2 (Ambler Park). Mary Anne also asked if meters were being installed to make sure that the water being transferred from Zone 2 was being balanced by water from the Oaks. Mr. Hofshire confirmed that meters were being installed. Has this been approved? If it has been approved is there a reporting mechanism in place to monitor and ensure the water balance transfer?

-----Original Message-----

From: LeWarne, Richard x4544
Sent: Tuesday, August 15, 2006 5:04 PM
To: Weeks, Curtis Ext.4896
Cc: 100-District 5 (831) 647-7755; Novo, Mike x5192; Lundquist, Ron Ext.4831; Ellis, Dale x5191
Subject: RE: water and sewer work on San Benancio
Importance: High

Curtis:

Please read e-mails below. From what we can find out from Chapin Company who is installing the water lines between Ambler Park Water System (Zone 2) and The Oaks subdivision is as follows: Chapin Company is installing a water line that will transfer water from the treatment system of the Ambler Water Treatment facilities to the Oaks subdivision. The water from the Oaks subdivision well is to be then piped to the Ambler Water System. Apparently to balance the water being sent from the Ambler Park Water System. We have yet been able to verify if that is the case with Cal Am. We are continuing attempting to contact a knowledgeable representative at Cal Am. Is your Agency

aware of this "water transfer" from Zone 2 and back?

Chapin Co. indicates that they have plans approved by Public Works.

-----Original Message-----

From: 100-District 5 (831) 647-7755
Sent: Tuesday, August 15, 2006 4:38 PM
To: LeWarne, Richard x4544; 100-District 5 (831) 647-7755; Novo, Mike x5192; Ellis, Dale x5191; Lundquist, Ron Ext.4831
Subject: RE: water and sewer work on San Benancio

Richard, Mike, Dale and Ron,

I wanted to pass on additional information that was left on our voicemail, and we have received 2 more calls of concern about this topic. Your input is greatly appreciated.
Kathleen

From a San Benancio Road resident "Oaks subdivision they have started work on and they are running a water line up San Benancio to connect to the Oaks which is going across the B-8 line. BoS minutes says the statement is that the Oaks is on a stand-alone water system run by Cal-Am. Just this last week Don Chapin Co. say they are running a water line to share water between Ambler Park and Oaks subdivision. DP should also know there is a shopping center at the bottom of Corral De Tierra are paying for some type of study to get water. Should be looked in to. He and many others are concerned."

-----Original Message-----

From: LeWarne, Richard x4544
Sent: Tuesday, August 15, 2006 10:44 AM
To: 100-District 5 (831) 647-7755; Novo, Mike x5192; Ellis, Dale x5191; Lundquist, Ron Ext.4831
Subject: RE: water and sewer work on San Benancio

We are following up on this. We are getting some conflicting information from Chapin Co. and CalAm. We are working on resolving the understanding of what the work is about. Once we find out we can discuss appropriate actions.

-----Original Message-----

From: 100-District 5 (831) 647-7755
Sent: Tuesday, August 15, 2006 8:47 AM
To: Novo, Mike x5192; Ellis, Dale x5191; Lundquist, Ron Ext.4831; LeWarne, Richard x4544
Subject: FW: water and sewer work on San Benancio

Mike, Dale, Ron and Richard,

I am surprised that we haven't received more calls on this one because usually this topic generates a lot of contacts to our office. Could you kindly let me know of a status on this issue and what the best response to [REDACTED] would be?

Thank you in advance for your help.
Kathleen

-----Original Message-----

From: [REDACTED]
Sent: Tuesday, August 15, 2006 8:28 AM
To: 100-District 5 (831) 647-7755
Subject: water and sewer work on San Benancio

Water and sewer lines are being installed on San Benancio road near hwy 68. This is part of a piecemeal development that includes the "San Benancio Oaks" and "Encina Hills". They are connecting Amber Park water with the San Benancio Oaks water. This violates both the conditions of sale of Ambler Park to Cal Am and the conditions of the Oaks approval.

They are connecting to a sewer system that is already 25% over capacity. A system run by Calif. Utilities Services and Mr. Adcock,

who routinely ignores regulations. The county planning office staff
that we have been interacting with has left, and it is not clear what if
any oversight remains.

Since the county is not willing or able to supervise developers, is
litigation our only recourse?

Thanks for any information you might have.

EXHIBIT "6"

Osorio, Luis x5177

From: Hodges, John S. x4584
Sent: Tuesday, January 31, 2006 12:27 PM
To: Osorio, Luis x5177; Hori, Bryce Ext.4920
Cc: 'MKelton054@aol.com'; 'razorharrod@sbcglobal.net'; 'rubyneumann@hotmail.com'
Subject: FW: PC94170 (Kelton) The Oaks Subdivision Conditions 34 & 35

Luis: DEH cond no.34 has been satisfied, and cond no. 35 has been satisfied except for the bond.

Bryce: Please let us know when the subdivision improvements have been bonded; I understand from Mr. Kelton that the engineer's estimate for all needed improvements was prepared and submitted (to PW?)

Sincerely, JH

-----Original Message-----

From: Hodges, John S. x4584
Sent: Monday, January 23, 2006 3:40 PM
To: Osorio, Luis x5177
Subject: FW: The Oaks Subdivision Conditions 34 & 35

Luis;

I will have to review the file to refresh my memory, but the below statement sounds familiar.

John Hodges, REHS
PBI / MCHD Liaison
Division of Environmental Health
Resource Management Agency

-----Original Message-----

From: MKelton054@aol.com [mailto:MKelton054@aol.com]
Sent: Monday, January 23, 2006 3:27 PM
To: Hodges, John S. x4584
Cc: razorharrod@sbcglobal.net; rubyneumann@hotmail.com
Subject: The Oaks Subdivision Conditions 34 & 35

John,
hope u had a great holdiy season and that all is good with u.
back in late September and early October '05 we had a couple of telephone conversations (and voicemail exchanges) regarding the status of the above conditions. After u had time to review the material we sent to Larua Lawrence you had informed us that these conditions were cleared - other than the need to post the bond required per condition 35. If u could please comunicate this to Luis Osorio (and cc us) that would be very much appreciated. If u have any questions or comments please don't hesitate to give me a call 310 968-1450 or 396-4514 or drop me an email.
thanks again for your efforts and assistance

EXHIBIT "7"

Osorio, Luis x5177

From: MKelton054@aol.com
 Sent: Monday, February 27, 2006 6:27 PM
 To: Osorio, Luis x5177
 Cc: derinda@lomgil.com; razorharrod@sbcglobal.net; rubyneumann@hotmail.com
 Subject: PC 94170

Luis,
 we are in receipt of your last email. From the tone of your email it is clear that u are feeling pressured by the weight of your current workload. We know that u have a lot on your plate and for this reason we were very disappointed to learn that the coordination of our condition compliance had been transferred to u from Joanne Leon. Joanne was very responsive and had a very good understanding of the matter. As you know, Joanne had prepared a color-coded condition compliance matrix. When Ray Harrod met with u recently, he gave u a copy of Joanne's spreadsheet. The only unsatisfied items that were preconditions for the recordation of the Final Map were shaded in purple. They were items 5, 15, 18, 33, 34 & 35. They have each been satisfied as follows:

- #5 inclusionary fee has been paid and notice of payment sent to u 2/1/06 by Marti Noel.
- #15 Scenic Easement Deed - a copy was signed and notarized by Ferrini Oaks, LLC and delivered to Joanne in January 2006.
- #18 Debris Flow Wall Notice - a copy was signed and notarized by Ferrini Oaks, LLC, and delivered to Joanne in January 2006. Agreed upon note has been added to final map.
- #33 This condition is satisfied other than the posting of the bonds.
- #34 Condition cleared by John Hodges. You were copied with John's confirming email.
- #35 Condition cleared by John Hodges (other than posting of the bonds). You were copied with John's confirming email.

In addition, u have raised a concern regarding the notices and other documents that were previously executed by Bollenbacher & Kelton, Inc. We have gone thru each of the conditions and the following is a list of those items and the description of the status of each item.

- #2 Indemnity Agmt - this agmt was recorded 2/6/03. It expressly states that it shall "bind" any successors.
- #3 Notice that states that the subdivision was approved "subject to 71 conditions of approval which run with the land". This was recorded 1/22/03 and expressly "runs with the land"
- #21 Mitigation Monitoring Agmt - recorded 1/22/03. The agmt expressly states that it "runs with the land" and that it is binding upon any successors in interest.
- #30 & 31 Required notices have been re-executed by Ferrini Oaks, LLC and recorded. A copy of the recorded notices were delivered to Bryce Hori with a confirming email sent to u from Bryce.
- #42 A copy of this agmt has been re-signed and notarized by Ferrini Oaks, LLC and delivered to u along with a clearance letter from Chuck Pugh.
- #46 A copy of the approved CC&R's have been re-signed and notarized by Ferrini Oaks, LLC and delivered to u.

Luis, we appreciate your efforts in connection with the original processing of the VTM. We are sorry that this matter has fallen on your desk at a time when you feel so overwhelmed. Please understand that we are at least as frustrated as you are with the period of time and the tremendous amount of our time that it has taken to clear these conditions. Even if you view this as an "oddball" project, we would very much appreciate your taking the brief amount of time required to verify the above and notify the appropriate party that upon our submission of the bonds together with the subdivision improvement agreement (both to be supplied by the end of this week), the final map should be scheduled for Board approval.

The bright side of all of this is that with just a little more of your time, The Oaks map will finally be recorded and you will have one less project requiring your attention. Please let us know if there is anything else we can do to assist you. Once again, thank you very much for your ongoing efforts.

04/10/2006

EXHIBIT "8"

From: VanHorn, Roger W. x4763
Sent: Monday, January 10, 2011 1:42 PM
To: Pinson, Wm Ted 796-1297
Subject: FW: Oaks Well and Ambler Park Project

*Roger Van Horn, R.E.H.S.
Senior Environmental Health Specialist
Monterey County Health Department,
Environmental Health Bureau
Environmental Health Review Land Use
1270 Natividad, Rm 42B
Salinas, CA 93906
Phone: 831.755-4763
Fax: 831.755.8929*

-----Original Message-----

From: VanHorn, Roger W. x4763
Sent: Thursday, September 02, 2010 1:18 PM
To: LeWarne, Richard x4544; Sandoval, Cheryl L. x4552
Subject: FW: Oaks Well and Ambler Park Project

Here's Cal Am response

Roger

-----Original Message-----

From: Leslie.Jordan@amwater.com [mailto:Leslie.Jordan@amwater.com]
Sent: Thursday, September 02, 2010 9:50 AM
To: Moltrup, Querube (CDPH-DDWEM)
Cc: VanHorn, Roger W. x4763; Sweigert, Jan (CDPH-DDWEM); Craig.Anthony@amwater.com
Subject: Re: Oaks Well and Ambler Park Project

Engineering/WQ/Operations is finishing up the packet for submittal. I am using the checklist from the Bishop Well 03 as a guideline.
Leslie

From: "Moltrup, Querube (CDPH-DDWEM)" [Querube.Moltrup@cdph.ca.gov]
Sent: 09/02/2010 09:37 AM MST
To: Leslie Jordan
Cc: <vanhornrw@co.monterey.ca.us>; "Sweigert, Jan (CDPH-DDWEM)" <Jan.Sweigert@cdph.ca.gov>; Craig Anthony
Subject: Oaks Well and Ambler Park Project

Hi Leslie,

Roger VanHorn from the Monterey County Environmental Health Department called me to ask about the status of the Oaks Well project. He explained that this is a well that will serve a new small subdivision off of San Benancio Rd., and

the plan is to treat the water from this well at the Cal Am Ambler Park water system arsenic removal plant and then return treated water back to the subdivision.

Please be aware that as proposed this project would require a permit amendment application with a technical report to be submitted to the Department for review. The permit application would require a full CEQA review also. Cal Am cannot treat the water from the "Oaks Well" at the Ambler Park treatment plant without first obtaining a permit to do so from the Department. I am not aware that a permit amendment application has been submitted to our office so far.

In addition, please note that Section 64556 of Title 22 requires an application for a permit amendment for any additions or change in treatment. Adding a new source with different water quality to be treated at the Cal Am Ambler Park treatment plant constitutes a change and requires a permit amendment application to be reviewed by the Department.

Please confirm that Cal Am has plans to treat water from Oaks Well at the Ambler Park treatment plant and what is the status of the project.

Thanks,

Querube Moltrup
Sanitary Engineer
CDPH - Drinking Water Field Operations
Monterey District
One Lower Ragsdale Drive, Bldg 1, Ste 120
Monterey, CA 93940
(831) 655-6936
FAX - (831) 655-6944

Due to Executive Order S-12-10 and the Governor's Proclamation of a State of Emergency, the Monterey District office (CDPH Drinking Water Field Operations Branch) will be closed on the second, third, and fourth Friday of each month.

EXHIBIT "9"

VanHorn, Roger W. x4763

From: VanHorn, Roger W. x4763
Sent: Thursday, September 09, 2010 9:56 AM
To: Leslie.Jordan@amwater.com
Cc: 'Moltrup, Querube (CDPH-DDWEM)'; LeWarne, Richard x4544; Sandoval, Cheryl L. x4552
Subject: Oaks / Harper Cyn water system

Hi Leslie,

A quick e-mail on our phone conversation yesterday, letter will follow

The conditions for both subdivisions were that the Oaks and Harper Cyn water system must be run as a stand-a-lone water system, not a part of the Ambler Park system, Cal Am is to own and operate the system. Cal Am will need to make an application to EHB for the permit. Also as we discussed, Cal Am must submit monthly meter reading for the flow from the Oaks and Harper Cyn wells (when it comes on line) into the Ambler Park treatment plant and the flow going back to the Oaks/Harper Cyn water system. The reason is water going from zone 2C (both Oaks and Harper wells are in zone 2C) into the B8, more detail in follow up letter.

If you have any questions please call

Thanks, Roger

*Roger Van Horn, R.E.H.S.
Senior Environmental Health Specialist
Monterey County Health Department,
Environmental Health Bureau
Environmental Health Review Land Use
1270 Natividad, Rm 42B
Salinas, CA 93906
Phone: 831.755-4763
Fax: 831.755.8929*

EXHIBIT "10"

ATTACHMENT B

ORDINANCE NO. 03647

AN ORDINANCE AMENDING TITLE 21 OF THE MONTEREY COUNTY CODE TO RECLASSIFY CERTAIN PROPERTIES IN THE EL TORO CREEK, CORRAL DE TIERRA AND CALERA CANYON SUBAREAS OF THE TORO AREA IN THE COUNTY OF MONTEREY.

County Counsel Synopsis

This ordinance rezones certain properties in the El Taro Creek, Corral De Tierra and Calera Canyon subbasins of the Taro Area, as depicted in the attached map, to add a combining "B-8" zoning designation.

The Board of Supervisors of the County of Monterey ordains as follows:

SECTION 1. FINDING AND DECLARATION

A. FINDING: Additional development or intensification of land use, as defined in Section 21.42.030 (H) of the Monterey County Code, on certain parcels in the El Toro Creek, Corral de Tierra and Calera Canyon subbasins of the El Toro area which are depicted in the attached map, would be detrimental to the health, safety and welfare of residents of the area.

EVIDENCE: Public testimony before the Planning Commission on May 27 and September 30, 1992, and the Board of Supervisors on November 24, 1992, indicates severe water constraints in the subject areas. In addition, the Staal, Gardner and Dunne report (SGD) titled "Hydrogeologic Update; El Toro Area, Monterey, California," concludes that "at build-out, the Corral de Tierra, El Toro Creek and Calera Canyon subareas are projected to display water supply deficits of 359, 10 and 450 acre-feet respectively" (SGD, p. 19). The specific recommendations made by SGD are prefaced by a statement indicating that "local groundwater problems exist and will occur in additional areas unless build-out densities are reduced or reapportioned" (SGD, p. ES2). Continued development or intensification of land use, except as provided in Section 21.42.030 (H) of the Monterey County Code, despite the water constraints in the areas affected would be detrimental to the

health, safety and welfare of residents residing in these subareas.

SECTION 2. Certain properties in the El Toro Creek, Corral de Tierra and Calera Canyon subbasins of the Toro area are rezoned to add a Combining B-8 Zoning District as shown in the map attached to and incorporated into this ordinance.

SECTION :3. This ordinance shall take effect thirty (30) days after its adoption.

PASSED AND ADOPTED this 24th day of November, 1992, by the following vote:

AYES: Supervisors Pennycook, Shipnuck, Perkins, Karas and Strasser Kauffman

NOES: None

ABSENT: None.

Christine Strasser Kauffman
Chair, Board of Supervisors

ATTEST:

ERNEST K. MORISHITA
Clerk of the Board

By *Nancy Russell*
Deputy

Attachment: "B-8" Zoning District Boundaries for the Toro Area

EXHIBIT "11"

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Highway 68 Coalition,
Complainant

v.

California-American Water Company
(U210W)
Defendant

Case No. 10-08-022
(Filed August 31, 2010)

**COMMENTS OF CALIFORNIA-AMERICAN WATER COMPANY (U210W) ON THE
ASSIGNED ADMINISTRATIVE LAW JUDGE'S PROPOSED DECISION**

I. INTRODUCTION

Pursuant to Rule 14.3 of the California Public Utilities Commission's Rules of Practice and Procedure, California-American Water Company ("California American Water") files the following comments on the proposed decision resolving the above-referenced complaint, issued on August 9, 2011 ("Proposed Decision"). California American Water is pleased that the Proposed Decision dismisses the Highway 68 Coalition's ("Coalition") complaint due to a lack of evidence, and finds that Advice Letters 545 and 617 were duly approved. California American Water is also encouraged that the Proposed Decision finds as fact that the purpose of Ordering Paragraph 9 of D.98-09-038 was to prohibit California American Water from diverting water from its Ambler system to its Monterey system to help solve the Peninsula's longstanding water supply problem. California American Water is concerned, however, that if the Commission adopts the Proposed Decision without changes, it will: (a) implicitly modify D.98-

09-038; and (b) modify the approval of Advice Letters 545 and 617 by adding new requirements to California American Water's provision of service to the annexed territory.

California American Water submits these comments to ensure that the Commission adopts requirements that can be implemented and that the Company's obligations with respect to future proposed annexations to its Ambler Park system are clear. As set forth below, the Proposed Decision goes too far in restricting California American Water's ability to serve new customers and the Commission should remove the Proposed Decision's prohibition of the "net export" of water from the original Ambler service territory. Furthermore, the Commission should modify the Proposed Decision to eliminate any reporting requirement and instead recognize that California American Water is already required to report Ambler Oaks well production to the Monterey County Water Resources Agency.

II. CLARIFICATIONS TO THE PROPOSED DECISION

A. The Purpose of Ordering Paragraph 9 was to Prohibit California American Water from Interconnecting Ambler to Its Monterey Main System

Although Finding of Fact 4 states that the "main purpose" of Ordering Paragraph 9 was to address customers' concerns that Cal-Am would divert water from Ambler to its Monterey Main system, the record in application ("A.") 97-07-058 shows that was the *only* purpose of Ordering Paragraph 9. As California American Water pointed out in its brief, the Commission was clear in D.98-09-037 as to why Ordering Paragraph 9 was added:

Richard Hughett requests, among other things, that as a condition of approval of the transfer of ownership of Ambler's water system, the Commission prohibit any interties between Ambler's water system and CalAm's other water systems.

We have verified Richard Hughett's assertion and have added the appropriate Finding of Fact and Ordering Paragraph to

other water systems.¹

Thus, the *only* purpose of Ordering Paragraph 9 was to prohibit California American Water from connecting the Ambler Park system to the Main Monterey system and no other purpose. Accordingly, Finding of Fact Four in the Proposed Decision should be revised to reflect the clear facts from A.97-07-058.

B. The Proposed Decision Goes Too Far in Restricting Expansion

1. There is No Record to Support the Proposed Decision's Prohibition Against Future Growth Without Findings on the Water Supply

There is nothing in the record that supports Conclusion of Law 1 of the Proposed Decision, which concludes that "D.98-09-038 does not prohibit the shared use of the Ambler Park water treatment plant, so long as there are no net exports from the Ambler Park service territory existing at the time D.98-09-038 was issued." The record from proceeding A.97-07-058 is clear that the Commission purposefully refused to limit California American Water's future annexation of territory to the Ambler system, choosing to defer such analysis to the facts of any future advice letters making such a request, stating:

Next, we will consider Highway 68 Coalition's concern about expansion of Ambler's service area to the property owned by Bollenbacher and Kelton, Inc. Highway 68 Coalition is surmising that CalAm has a hidden agenda to expand its service area. It has not provided any basis to lead us to the same conclusion. **However, even if Highway 68 Coalition's assumption regarding service area expansion is correct, CalAm will still have to seek approval of the Commission for expansion of its service through an advice letter. Adequacy of water supply would be one of the factors considered by the Commission before authorizing the expansion of the service area.** We will not adopt Highway 68 Coalition's recommendation regarding placing a

¹ *Id.* at pp.11-12 (emphasis added).

moratorium on service connections as a condition of approving the transfer of the water system.²

Furthermore, the plain language of Ordering Paragraph 9 only prohibits California American Water from creating an “intertie” between the Ambler system and *any other system of California American Water*. It does not prohibit the expansion of the Ambler system and it does not contain the statement “net export.” Thus, the Proposed Decision has the effect of modifying the D.98-09-038.

The “interpretation” in the Proposed Decision imposes practical problems with no evidence or findings to support the need for this restriction. By way of example, the Washington School District has requested California American Water to provide potable water service to San Benancio School because the school’s existing well does not meet the arsenic standard.³ California American Water’s water main passes right in front of San Benancio School, but is supplied by the existing Ambler wells. California American Water cannot use the Oaks well to serve this property. Hence, the “no net export” restriction would prevent the Company from providing potable water service to this school, even though it could provide such service in compliance with the County’s B-8 zoning restrictions.⁴ This problem would likely occur with other services in the area, including Washington School District’s interest in similar services from California American Water to other schools in the area. The Proposed Decision effectively prevents California American Water from helping Washington School District provide potable

² *Id.* At pp.7-8. (emphasis added).

³ San Benancio School is immediately adjacent to the Oaks subdivision (but not within the historical Ambler service area), is not in Monterey County’s 2C-zone and is not subject to the B-8 development restrictions. The school wishes to maintain ownership and use of its existing well for irrigation purposes, but obtain potable water from California American Water’s Ambler system.

⁴ While the school could dedicate its well to California American Water, the school needs to maintain its well for irrigation because the school cannot afford to pay potable rates for irrigation. In fact, it would be cheaper for the school district to provide bottled water for student consumption than to irrigate with potable water.

EXHIBIT "12"



California-American Water Company

4701 Beloit Drive • Sacramento, CA 95838-2434 / P.O. Box 15468 • Sacramento, CA 95851-0468 • (916) 568-4200 • FAX (916) 568-4260

JAN 12 2005

PUBLIC UTILITIES COMMISSION
WATER DIVISION

January 11, 2005

ADVICE LETTER NO. 617

TO THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

California American Water Company (Cal-Am) (U210W) hereby submits for filing the following tariff sheets applicable to its Monterey District which are attached hereto:

<u>C.P.U.C. Sheet No.</u>	<u>Title of Sheet</u>	<u>Canceling Sheet No.</u>
4293-W	MONTEREY DIVISION SERVICE AREA DETAIL MAP 8	3036-W
4294-W	MONTEREY DIVISION SERVICE AREA INDEX MAP	4041-W
4295-W	Schedule No. MO-1AB Monterey Peninsula District Tariff Area GENERAL METERED SERVICE AMBLER PARK AND BISHOP SERVICE AREA	4259-W
4296-W	TABLE OF CONTENTS (continued)	4291-W
4297-W	TABLE OF CONTENTS	4292-W

The purpose of this advice letter filing is to update and to extend Cal-Am's Monterey District Ambler Park service area to include a new subdivision, Oaks Subdivision.

This subdivision is contiguous to the Ambler Park Service area and construction is in the final approval stages with the County of Monterey. The County of Monterey Resolution No. 01-197 approves the provision of water service to the Oaks Subdivision by Cal-Am (formerly Ambler Park Water Utility). The subdivision is intended for residential service. A completed Water Supply Questionnaire is being provided to the Commission staff as part of the supporting documentation. A letter to the Department of Real Estate is not being requested at this time.

In accordance with Section III of General Order No. 96-A, a copy of this advice letter is being sent to those entities listed in Exhibit A. A copy has also been provided to Monterey County LAFCO in accordance with a previous Commission directive.



Advice Letter No. 617
January 11, 2005
Page 2 of 3

Copies of the detailed workpapers and the documents supporting this Advice Letter have been furnished to the Commission Staff.

The actions requested in this advice letter are not now the subject of any formal filings with the California Public Utilities Commission, including a formal complaint, nor action in any court of law.

This filing will not cause the withdrawal of service, nor conflict with other schedules or rules.

Protests and Responses:

A protest is a document objecting to the granting in whole or in part of the authority sought in this advice letter. A response is a document that does not object to the authority sought, but nevertheless presents information that the party tendering the response believes would be useful to the Commission in acting on the request.

A protest must be mailed within 20 days of the date the Commission accepts the advice letter for filing. The filing date is the date the advice letter was placed on the Commission's Calendar. The Calendar is available on the Commission's website at www.cpuc.ca.gov. Click on **SEARCH SITE** (upper left corner). Uncheck all but **Daily Calendar**. Enter "**WATER 617-W**" (include the quotation marks) and click **SEEK**. A protest must state the facts constituting the grounds for the protest, the effect that approval of the advice letter might have on the protestant, and the reasons the protestant believes the advice letter, or a part of it, is not justified. If the protest requests an evidentiary hearing, the protest must state the facts the protestant would present at an evidentiary hearing to support its request for whole or part denial of the application.

All protests or responses to this filing should be sent to:


California-Public Utilities Commission, Water Division
505 Van Ness Avenue
San Francisco, CA 94102
Fax: (415) 703-4426
E-Mail: water_division@cpuc.ca.gov

And to this utility to:

David P. Stephenson
Director - Rates & Planning
4701 Belolt Drive
Sacramento, CA 95838
Fax: (916) 568-4260
E-Mail: dstephen@amwater.com

Advice Letter No. 617
January 11, 2005
Page 3 of 3

If you have not received a reply to your protest within 10 business days, contact this person at (619) 409-7712.

CALIFORNIA AMERICAN WATER

David R. Stephenson
Director - Rates & Revenues

rlj:

CC: Rod Jordan- California American Water

EXHIBIT A
 MONTEREY DISTRICT SERVICE LIST
 ADVICE LETTER 617

Frances M. Farina
 Attorney at Law
 7532 Fawn Court
 Carmel, CA 93923

Lou Haddad
 5 Deer Stalker Path
 Monterey, CA 93940

Darby Fuerst
 General Manager, MPWMD
 PO Box 85
 El Dorado Street
 Monterey, CA 93942

David C. Laredo
 Attorney at Law
 DeLay & Laredo
 606 Forest Ave
 Pacific Grove, CA 93950

Dana Appling
 California Public Utilities Commission
 Office of Ratepayer Advocates
 Water Division
 505 Van Ness Ave.
 San Francisco, CA 94102

Lenard Weiss
 Attorney at Law
 Steefel, Levitt & Weiss
 One Embarcadero Center Suite 3000
 San Francisco, CA 94111

Richard Andrews
 Pebble Beach Community Services District
 Forrest Lake and Lopez Roads
 Pebble Beach, CA 93953

Executive Officer
 LAFCO of Monterey County
 P.O. Box 1369
 Salinas, CA 93902

Alco Water Service
 249 Williams Road
 Salinas, CA 93902

Fort Ord Reuse Authority
 100 12th Street, Bldg 2880
 Marina, CA 93922

San Jose Water Company
 374 W. Santa Clara St
 PO Box 229
 San Jose, CA 95196

California Water Service
 1720 No. First Street
 PO Box 1150
 San Jose, CA 95108

Clerk To The Board
 County of Monterey
 PO Box 1728
 Salinas, CA 93902

County Counsel
 County of Monterey
 230 Church Street, Building 1
 Salinas, CA 93901-5101

Sheri L. Damon
 Attorney at Law
 Lombardo & Gilles, PC
 PO Box 2119
 Salinas, CA 93902-2119

EXHIBIT "13"

*Before the Board of Supervisors of the
County of Monterey*

RESOLUTION NO. 01-391

Resolution Adopting a Mitigation Monitoring and)
Reporting Program for the County of Monterey)
In Accordance with the California Environmental)
Quality Act("CEQA") and the CEQA Guidelines)

This resolution is adopted with reference to the following facts and circumstances:

A. The California Environmental Quality Act (Public Resources Code §21000 *et seq.*, "CEQA") and its implementing regulations in Title 14 of the California Code of Regulations commencing in Section 15000 *et seq.*, "CEQA Guidelines") contain provisions requiring public agencies approving projects based upon a mitigated negative declaration or an EIR to adopt a monitoring or reporting program designed to ensure compliance with mitigation measures imposed as conditions of project approval.

B. On April 19, 2000, Ed Leeper and Save Our Peninsula Committee filed a petition for writ of mandate (*Leeper, et al. v. County of Monterey, et al.*, Superior Court Case No. M 47847, "Leeper") alleging the County was not in compliance with the mitigation and monitoring requirements of CEQA and the CEQA Guidelines.

C. County denied the allegations of the petition. However, at or about the time of the filing of the lawsuit, the County was already in the process of effecting various changes to the County's land use procedures and practices, including the implementation of a Mitigation Monitoring Program under CEQA; accordingly, the Leeper lawsuit was settled under an agreement whereby the County committed to, among other things, adopting departmental procedures for compliance with CEQA's mitigation monitoring and reporting requirements.

D. As part of the County's compliance with the Leeper settlement agreement, the Board of Supervisors adopted the most recent version of the CEQA Guidelines into the Monterey County Code by enacting Ordinance No. 04087; and, the County Planning and Building Inspection Department retained a CEQA consultant to assist in adopting departmental procedures for compliance with CEQA, is in the process of completing an audit of previously approved development projects to determine compliance with mitigation monitoring and requirements under CEQA, and, as early as July 2000, continued to develop, refine, and implement a Mitigation Monitoring Program.

Board of Supervisors Resolution
October 9, 2001
Page 3

On motion of Supervisor Potter, seconded by Supervisor Pennycook, the foregoing resolution is adopted this 9th day of October, 2001, by the following vote:

AYES: Supervisor(s) Armenta, Pennycook, Calcagno, Johnsen and Potter.
NOES: None.
ABSENT: None.

I, SALLY R. REED, Clerk of the Board of Supervisors of the Monterey County Water Resources Agency, hereby certify that the foregoing is a true copy of an original resolution of said Board of Supervisors duly made and entered in the minutes thereof at page -- of Minute Book 70, on October 9, 2001.

SALLY R. REED, Clerk of the Board of Supervisors
of the Monterey County Water Resources Agency

By Nancy Luckenbill
Deputy

County of Monterey
Mitigation Monitoring and/or Reporting Program
Pursuant to Public Resources Code §21081.6
and CEQA Guidelines §15097

I. PURPOSE.

A. The CEQA Guidelines in Title 14, Chapter 3, Section 15000 *et seq.*, of the California Code of Regulations, contain provisions for local agencies' monitoring and reporting of mitigation measures imposed on projects for which a mitigated negative declaration ("MND") or an environmental impact report ("EIR") has been prepared pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 *et seq.*, "CEQA"). On December 5, 2000 the Monterey County Board of Supervisors adopted Ordinance No. 04087, thereby incorporating into the Monterey County Code the existing State CEQA Guidelines and as they may be amended from time to time. Ordinance No. 04087 became effective on January 5, 2001.

B. This Mitigation Monitoring and/or Reporting Program ("Program") fulfills the requirements of CEQA and the CEQA Guidelines for monitoring and/or reporting of implementation of mitigation measures imposed under CEQA, and provides detailed procedures to be followed by County land use departments. This Program is intended to guide project-specific mitigation monitoring and/or reporting programs and sets forth the responsibilities of County land use departments for various aspects of mitigation monitoring, reporting, and enforcement in order to ensure full compliance with conditions of project approval.

II. IMPLEMENTATION RESPONSIBILITIES.

A. Planning and Building Inspection Department. The Planning and Building Inspection Department ("P&BI"), through the Director of Planning and Building Inspection ("Director") and his duly appointed subordinates, shall have the primary responsibility for implementation, compliance, and enforcement of this Program. If the Director finds that there is reasonable cause to believe that non-compliance with this Program exists, he or she shall take such measures as necessary or expedient, pursuant to existing enforcement provisions of the Monterey County Code, to enforce and secure compliance with the provisions of this Program.

B. Mitigation Monitoring and Reporting Program Supervisor. A Mitigation Monitoring and Reporting Program Supervisor ("MMRPS") within the PB&I may assist the Director in implementing this Program. The County may charge reasonable fees to recover the cost of the Program. Such fees shall be imposed to recover the costs of implementation and enforcement of mitigation measures that require field inspection, continuous or long-term monitoring, or the preparation and/or review of reports by County staff. Any such fees shall be approved by the Board of Supervisors before being imposed.

C. Other County Land Use Departments. All departments, officials, and public employees of the County, involved in processing, reviewing, recommending, or approving applications for permits or land use entitlements for projects requiring an MND or an EIR, including the

Department of Public Works ("DPW"), the Environmental Health Division ("EHD") of the Health Department, and the Monterey County Water Resources Agency ("MCWRA"), shall implement, enforce, and assist the Director in implementing and enforcing, the provisions of this Program as set forth herein. Each of the foregoing County land use departments shall report to the Director regarding each and every project's compliance with conditions of approval and CEQA mitigation measures imposed, as provided herein. For purposes of this Program, the foregoing departments shall be referred to as "responsible land use departments."

1. Where a particular CEQA mitigation measure or condition of project approval recommended by a County land use department is imposed, the recommending responsible land use department shall be primarily responsible for ensuring that the mitigation measure or condition of approval is fully implemented in accordance with the procedures and timelines, if any, specified in the Mitigation Monitoring and/or Reporting Plan ("MMRP") adopted at the time of project approval.

2. When a project applicant has fulfilled all requirements associated with a mitigation measure or measures imposed as a condition of project approval, the responsible land use department which recommended the condition and which was given the responsibility to monitor and/or report on condition compliance, shall fill out a "Verification of Condition Compliance/Non-Compliance Form" ("VCCNC") prepared by the P&BI. The VCCNC shall specify the project name and number, and condition/mitigation measure number, as well as provide a description of the mitigation measure, the date the condition was satisfied, how it was satisfied, and the County employee or officer of the responsible land use department who deemed the condition satisfied. The responsible land use department completing the VCCNC shall promptly forward the VCCNC to the P&BI. The P & BI shall enter a print copy of the VCCNC in the P & BI's official files and in the Department's computerized project tracking system, if any. A copy of the VCCNC shall be filed in the originating responsible land use department's project file.

3. In the event the applicant has not fully complied or refuses to comply with a mitigation measure or condition of approval within the schedule or reporting deadline(s) specified in the MMRP adopted as a condition of project approval, or within a reasonable time if no timeline is specified, the responsible County land use department that recommended the mitigation measure or condition shall promptly fill out a VCCNC which provides detailed information about the mitigation measure and the basis for finding that the applicant has failed to comply with the mitigation measure; and how compliance could be achieved within a specific date or schedule. The land use department involved shall promptly forward the VCCNC to the P&BI, which shall then decide whether to take any of the actions specified in Section III.D.2 herein.

4. In the event any type of action, including a Code enforcement action, is taken by the Director pursuant to the VCCNC, all documentation associated with corrective enforcement shall be incorporated in the P&BI's official project files. The files shall reflect the final action taken by the County to achieve compliance with this Program.

5. Each responsible land use department shall maintain a file for each project for which that department has recommended a condition of approval or CEQA mitigation measure which is later incorporated into an MMRP. The file shall contain all communications, records, and documents pertaining to each project's compliance with conditions of approval and CEQA mitigation measures imposed.

D. **Program Availability.** The Director shall provide a copy of this Program with the attached *Agreement to Implement a Mitigation Monitoring and/or Reporting Plan*, to County staff, project applicants, attorneys, consultants working on behalf of project applicants, and any member of the public requesting a copy. P. &BI may consider other means of making this Program available to the public. Copies of these documents shall also be available to the public at the Planning and Building Inspection Department's public counter.

E. **Revisions to the Program.** Any revisions to this Program of a substantial nature shall be submitted to the Board of Supervisors for approval.

III. PROCEDURES.

A. **Procedures to ensure that mitigation measures identified in an EIR or an MND are imposed as enforceable conditions at the time of project approval.**

1. Findings and Conditions of Project Approval. Findings and conditions of project approval recommended by P & BI and each land use department named in Paragraph II.C, herein, and approved by any County decision-making body pursuant to an MND or an EIR, shall be in accordance with the *Monterey County Planning and Building Department Standard Conditions of Approval, Findings and Evidence* adopted July, 1994 and updated December, 1998.

2. Agreement to Implement a Mitigation Monitoring and/or Reporting Plan. Each applicant for a project approved pursuant to an MND or an EIR shall be required to enter into an Agreement (attached herewith) with the County to implement an MMRP for the project so approved.

3. Mitigation Measures. The MMRP shall list every mitigation measure approved by the decision-making body that adopted the MND or certified the EIR. The MMRP shall be prepared by P&BI staff and incorporated within the report recommending project approval to the decision-making body. Each mitigation measure shall be clearly written and include the following, as applicable:

a. A schedule for implementation of each mitigation measure. If a mitigation measure requires continuous or frequent (e.g. annual/daily) monitoring, the frequency and duration of required monitoring shall be specified (e.g. for five years/during construction);

b. The standard or measure used to determine the adequacy of the mitigation (e.g. a threshold adopted by a state or regional agency, General Plan policy, Monterey County Code or regulation);

c. Identification of the person or agency responsible for carrying out the field inspection, monitoring of a mitigation measure, or preparation of a report on the status of a mitigation measure or final approval;

d. The County department responsible for carrying out the implementation, monitoring, and reporting tasks required under each mitigation measure imposed;

e. If a consultant is assigned the task of monitoring or reporting, the consultant's area of expertise (e.g. licensed engineer, certified arborist) shall be specified in the MMRP. Consultants shall be qualified professionals, and their qualifications shall be presented to County P & BI staff as soon as they are selected by the project applicant.

B. Procedures to ensure compliance with the mitigation monitoring and reporting requirements of CEQA.

1. Once the Director of Planning and Building Inspection or his duly appointed subordinate determines that a project is not categorically exempt and will require certification of an EIR or adoption of an MND, County P & BI staff shall:

a. Provide a copy of the Program to the applicant or consultant.

b. Work with the MMRPS and the responsible land use departments to ensure that mitigation measures developed by any consultant(s) or by County staff are adequately and clearly written to mitigate significant impacts to the environment. Measures shall be written so that the effectiveness can be monitored and quantified, and the mitigation measure can be enforced.

1) The MMRPS and/or appropriate P & BI and responsible land use departments staff shall attend project scoping meetings, or meetings specially convened for the particular project, including Interdepartmental Review (IDR) to provide guidance and direction on working with the requirements of Public Resources Code §21081.6 and CEQA Guidelines, §15097.

2) The MMRPS and/or appropriate P & BI and responsible land use department staff shall work with consultants and responsible agencies, as required, to ensure compliance with the Program.

3) Projects with an Initial Study that result in a Mitigated Negative Declaration or with an underlying EIR requiring certification shall be reviewed by appropriate P & BI and responsible land use department staff and, as necessary, by the Office of County Counsel to determine that the mitigation measures are enforceable before recommending the project to the Minor Subdivision Committee, Subdivision Committee, Zoning Administrator, Planning Commission, or Board of Supervisors.

2. P & BI staff shall provide training, as necessary, to those staff responsible for the preparation of a MMRP, and/or agencies/or individuals and consultants who either prepare mitigation measures or must provide field inspections, monitoring or the preparation and/or review of reports related to Public Resources Code §21081.6 and CEQA Guidelines, §15097.

C. Procedures to ensure that mitigation monitoring or reporting programs are imposed and adopted at the time of project approval.

1. No recommendation for approval shall be delivered to the Minor-Subdivision Committee, Subdivision Committee, Zoning Administrator, Planning Commission, or Board of Supervisors for any project requiring a Mitigation Monitoring and/or Reporting Plan pursuant to CEQA unless a copy of the MMRP is attached. No such MMRP shall be submitted to the Minor Subdivision Committee, Subdivision Committee, Zoning Administrator, Planning Commission, or Board of Supervisors unless P & BI staff has approved it.

2. County P & BI staff shall ensure that any final resolution of the Minor Subdivision Committee, Subdivision Committee, Zoning Administrator, Planning Commission, or Board of Supervisors approving a project based upon an MND or an EIR, contains language which specifies adoption of the Mitigation Monitoring and/or Reporting Plan for the project.

D. Procedures to ensure that mitigation measures identified in an EIR or MND and incorporated into a mitigation monitoring or reporting program are fully and consistently enforced through permit conditions and compliance relating thereto, agreement, or other acceptable and legal measures.

1. No project requiring a Mitigation Monitoring and/or Reporting Plan pursuant to CEQA, shall be recommended to the Minor Subdivision Committee, Subdivision Committee, Zoning Administrator, Planning Commission, or Board of Supervisors unless it also includes, as a condition of project approval, that the project applicant agree to enter into an *Agreement to Implement a Mitigation Monitoring and/or Reporting Plan* (see attachment). This Agreement shall be executed and recorded by the applicant no later than sixty (60) days after project approval or prior to the issuance of the first ministerial permit or commencement of construction on the project, whichever event occurs first. In no event shall an applicant be deemed to have fully satisfied all conditions of approval of a project unless this Agreement has been executed and recorded.

2. If the applicant fails to comply with any adopted mitigation measure, or an adopted Mitigation Monitoring and/or Reporting Plan, County P&BI staff shall issue a "Stop Work Order," a "Notice of Violation," or a notice of County's intent to pursue a Code Enforcement action. An applicant who desires to remedy the non-compliance shall be given an opportunity to consult with the P&BI to determine the extent of the violation and to take any necessary remedial action.

3. The project applicant shall consult with P&BI within 15 days of the issuance of a "Stop Work Order," a "Notice of Violation," or a notice of County's intent to pursue a Code Enforcement action. Failure of the applicant to take remedial action to the satisfaction of the Director shall result in Code Enforcement action through the Environmental Health Division or through any appropriate County law enforcement agency.

Attachment:

- *Agreement to Implement a Mitigation Monitoring and/or Reporting Plan*
January 1, 2001/jg/mw; Revised February 5, 2001/mw; Revised April 20, 2001/mw; Revised June 13, 2001/mw; Revised Sept. 21, 2001.
F:\WPWIN60\XT\LT\500\Leeper\Mitigation Monitoring Final 921.doc

Recording Requested by and
When Recorded, Mail To:

Monterey County Planning and
Building Inspection Department
P. O. Box 1208
Salinas, CA 93902

AGREEMENT TO IMPLEMENT A MITIGATION
MONITORING and/or REPORTING PLAN

IN ACCORDANCE with Section 21081.6 of the California Public Resources Code, and Section 15097 of Title 14, Chapter 3 of the California Code of Regulations, this Agreement is made by and between the County of Monterey, a political subdivision of the State of California (herein, A COUNTY@), and _____ (herein A OWNER@), upon the following facts and circumstances:

A. OWNER is the owner of certain real property located at _____, more particularly described in A Exhibit 1@, attached hereto and incorporated herein by reference.

B. On _____, 2001, pursuant to County Resolution No. PLN _____, subject to the conditions listed therein, the County _____ adopted a Mitigated Negative Declaration/ certified an Environmental Impact Report, approving a _____ Permit, File No. PLN _____, and adopted a Mitigation Monitoring and/or Reporting Plan (hereafter A the Plan@). The Plan is attached hereto as Exhibit 2 and incorporated herein by reference. Resolution No. PLN _____ is on file in the Department of Planning and Building Inspection.

C. As required by the California Environmental Quality Act, the Owner agrees to implement a Mitigation Monitoring and/or Reporting Plan.

NOW, THEREFORE, in consideration of the County=s above-referenced ADOPTION OF A MITIGATED NEGATIVE DECLARATION/ CERTIFICATION OF AN EIR and approval of a _____ Permit, File No. PLN _____, OWNER agrees as follows:

1. Mitigation Monitoring and/or Reporting Plan. OWNER hereby agrees to implement the Plan, attached hereto as Exhibit 2.

1.01 Cost of Monitoring and/or Reporting. At OWNER=s sole cost and expense, OWNER shall be responsible for the monitoring and/or reporting as may be required by the Plan.

1.02 Alternative Mitigation Measure(s). If, for any reason, any mitigation measure specified in the Plan cannot be implemented due to factors beyond the control of the Owner and/or County, the Director of the County Department of Planning and Building Inspection may, after good faith negotiation with OWNER, recommend substitution of another mitigation measure at a noticed public hearing before the decision-making body which originally approved the Permit herein.

2. Binding Effect. This Agreement shall be construed as a covenant running with the land and shall

bind and benefit COUNTY, its successors and assigns, and OWNER and its successors in interest.

3. Specific Performance. The parties acknowledge that the obligations of Owner under this Agreement are unique and that, in the event of a breach of this Agreement by Owner, the remedy of damages or any other remedy may be inadequate to fulfill the purpose of this Agreement. Therefore, the parties agree that in addition to any other remedies available to COUNTY, COUNTY shall be entitled to the remedy of specific performance.

4. Severability. In the event any provision of this Agreement is found to be invalid or unenforceable, such determination shall not affect the validity and enforceability of any other provision of this Agreement.

5. Interpretation. It is agreed by the parties that this Agreement has been arrived at through negotiation and neither party is to be deemed the party which prepared this Agreement for the purposes of California Civil Code Section 1654.

6. Amendments. This Agreement may be amended only by a written document signed by all the parties.

7. Recordation. Upon execution of this Agreement, the parties shall cause recordation thereof with the Monterey County Recorder's Office.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year set out opposite their respective signatures.

OWNER(s)

DATED: _____

NAME OF OWNER

DATED: _____

NAME OF OWNER

COUNTY OF MONTEREY

DATED: _____

By: _____

Director, Planning and
Building Inspection

Approved as to Form:

ADRIENNE M. GROVER
County Counsel

By: _____
Deputy County Counsel

Attachments:
Exhibit 1: Legal Description of Property
Exhibit 2: Mitigation Monitoring and/or Reporting Plan

Verification of Condition Compliance/Non-Compliance
 MONTEREY COUNTY
 PLANNING AND BUILDING INSPECTION DEPARTMENT

PLN SH PC ZA SB MS # _____

PROJECT NAME: _____

CONDITION NO. _____

CONDITION DESCRIPTION: _____

SCHEDULE/REPORTING DEADLINES: _____

<i>VERIFIED BY DOCUMENT/DATE:</i> _____	
<i>Other Evidence of Compliance (Field Visits, Letters, Phone Calls, Reports)</i> _____	
<i>(Attached/Number of Pages)</i> _____	

VERIFIED BY STAFF MEMBER: _____
(Name/Dept.)
(Phone No.)
(Date)

OR

<i>BASIS OF FINDING FAILURE TO COMPLY:</i>	

<i>RECOMMENDED COMPLIANCE AND SCHEDULE:</i>

VERIFIED BY STAFF MEMBER: _____
(Name/Dept.)
(Phone No.)
(Date)

Original - Planning & Building Inspection Dept. Project File
Copy - Clearing Department's Project File
Copy - County Counsel

ATTACHMENT 2

1
2
3
4
5
6
7 INTERVIEW WITH MONTEREY BOARD OF SUPERVISORS

8 Q=Dave Potter

9 Q1=Carl Holm

10 Q2=Richard LeWarne

11 Q3=(Bill Clivern)

12 Q4=Richard Rosenthal

13 Q5=Amy White

14 Q6=Mike Weaver

15 Q7=(Bob Reager)

16 Q8=(Karen Reager)

17 Q9=(Lauren King)

18 Q10=Tim Miller

19 Q11=Wendy Strempling

20 Q12=Eric Sabolsice

21 Q13=Lou Calcagna

22 Q14=(Jane)
23
24

25 Q: That will then move us on then to Item Number 20, which is the scheduled
26 hearing in regards to uh, state potable water for uh, improved nine lots
27 subdivision. I believe Mr. Holm and company are presenting. Carl.
28

29 Q1: Morning Mr. Chair, members of the Board. I am Carl Holm with Resource
30 Management Agency. I am joined here with uh, Richard LeWarne from the
31 Environmental Health Bureau and Wendy Strempling from County Counsel's
32 office. Uh, today we're here to talk about uh, an item that's on the agenda. It -
33 it starts out that we have a settlement agreement between county and Save Our
34 Peninsula Committee. Uh, it requires the county to monitor and document
35 mitigation measures for - for projects that are approved. Uh, there's ten
36 projects specifically identified that the county is to audit uh, as part of that
37 agreement. Uh, the Oaks subdivision is one of the projects within that audit
38 and is the subject of the hearing today. Uh, the Oaks subdivision is a nine lot
39 vesting tentative subdivision map. It was approved by the Board uh, in 2001
40 subject to 71 conditions. The final map was accepted in 2006 at which time
41 the county determined that the conditions were met uh, and uh, the map was
42 allowed to be uh, filed and recorded. Uh, so that was over - over six years
43 ago. Uh, the agreement included that the county would conduct a public
44 hearing uh, at - in front of the Board of Supervisors if it was determined that
45 we were non-compliant with the settlement agreement. Uh, Save Our

46 Peninsula Committee contends that the county is not compliant uh, relative to
47 the Oaks subdivision for Conditions 34 and 35 specifically relative the water
48 system. Uh, the county finds - the county staff feels that we have complied
49 with these conditions. Um, however, we agreed to conduct a hearing here in
50 front of the Board of Supervisors. Uh, we noticed for the public hearings for
51 uh, uh, before the Board for October 9. However, that item was continued to
52 this date and time. Uh, we feel that the record uh, adequately shows that the
53 county has reasonably complied with the - the conditions of this subdivision
54 map and there has been no failure to comply. Uh, at this time I'm gonna turn
55 the uh, call over to Richard LeWarne who's gonna speak a little bit more to
56 those conditions and how we feel that they have been complied with.
57

58 Q2:

59 On August 2000 uh, a sample was taken from the Oaks well and the arsenic
60 level at that time was 35 parts per million - per billion. Uh, at that time the
61 uh, federal maximum contaminant level was 50 parts per billion. So it was in
62 compliance with the federal uh, water uh, standards at that time. In May of
63 two thou- May 8, 2001 the Board of Supervisors approved the uh, vesting in
64 uh, the vesting tentative map for the Oaks subdivision and there was two
65 conditions uh, regarding the water system. Condition 34 provided that uh, the
66 recorda- recordation of the parts or the recordation of the final map. The
67 subdivider shall provide a signed agreement between the Ambler Park water
68 utility and the subdivider and the subdivider would convey a newly
69 constructed well with a water system, a distribution infrastructure and fire
70 flow uh, water supply and that the Ambler Park water system to operate the
71 system at the satellite or standalone providing domestic water and fire flow to
72 the subdivision in accordance with Title 22 and a California public utility
73 commission standards. And there's some more language about the (eight) in
74 uh, Zone 2C. Condition 35 uh, requires that the design of the water system
75 improvements to meet the standards as found in Title 22 of California Code of
76 Regulations and the residential subdivision water supply standards and submit
77 engineering plans for the water system improvements and the associated fees
78 to APW for review, approval prior to installing or bonding the improvements
79 and provide evidence to APW has reviewed and approved the plan. An
80 applicant shall pay all end use review. On uh, February 22, 2002 the federal
81 maximum contaminant level for arsenic was lowered from 50 parts per
82 million to ten parts per million. And there was a five year implementation
83 plan uh, uh, time for it actually been effective and the water systems had to
84 comply. On January 20 - on January 31, 2006 uh, environmental staff notified
85 planning that Conditions 34 and 35 had been complied with and that was
86 based on and an agreement executed on October 2004 by Cal Am, which
87 satisfies uh, Condition 34. And it was - and then Condition 35 had been uh,
88 uh, considered complied with uh, based on a letter dated March 26, 2004 from
89 Cal Am stating that Cal Am reviewed and approved plans dated February
2004 for the old subdivision water system. So at that point uh, based on uh,

90 these two documents, Environment Health considers those two conditions
91 fully uh, satisfied and complete and signed off on them.
92

93 Q1: So as - as Richard noted uh, Condition 34 and 35 are really performance
94 measures that were to be completed prior to recording the final map. And
95 there was no ongoing monitoring requirement uh, in - stated in those. Uh,
96 they were not mitigation measures out of the EIR. Uh, we've - as Richard
97 noted, there are - were some unique conditions out there. There was a
98 preexisting well meaning preexisting to adoption of the tentative map and -
99 and the final map. Uh, in this case now we have a preexisting subdivision
100 map that's been recorded. Uh, through the process there were some standards
101 that changed relative to arsenic levels. Uh, and since the map was recorded,
102 three lots have sold and have built homes on those lots. Uh, so for the - for
103 the purposes of today within the staff reports, staff has identified a few
104 possible alternatives for the Board to consider at this time. Uh, the Board is at
105 - at the discretion to uh, consider if you want to do anything at this point. Uh,
106 if you do, staff would recommend a n- a memorandum of understanding as the
107 preferred alternative to move forward with. Uh, as an administrative fix it
108 would help provide clarity of the unique conditions in this case. Uh, we've
109 provided a draft MOU within the staff report that illustrates the intent of
110 where we wanna go but we still have some work to do on finalizing that. So
111 it's not for your consideration today. But if you would like to move that
112 direction, we would request that the Board provide direction to the staff to
113 return with an MOU for your consideration. Uh, (unintelligible), you wanna
114 add anything? That will conclude staff's presentation.
115

116 Q: All right. Are there any questions by the Board members or staff at this time
117 before I open it up for the public hearing? Okay. See no one. Okay. This is
118 a public hearing and I'll open it up for public testimony. Those wishing to
119 speak do come forward. State your name for the record. There is a three-
120 minute limitation on testimony.
121

122 Q3: Okay. I'm not very good at this so...

123
124 Q: That's quite all right.
125

126 Q3: ...try to bear with me. But my name is (Bill Clivern) and I live right across
127 from this uh, villa Oaks deal. And uh, I hiked up there all the time he's
128 building it and it were supposed to have a system all itself and I really didn't
129 question it and their tanks and all of that. And they say it's been (through).
130 There's no system over there. That's Ambler Park water and one water wasn't
131 supposed to come to the other side to the other and somehow it happened. So
132 we're gonna give an okay to keep making a bad mistake. So my question is is
133 okay, you do that and you let 'em - you're opening the door for more and
134 more. A line somehow got over to the school on our side too. But uh, you got

135 this level of arsenic and you're gonna send it over there and say you're gonna
136 filter it out. But the problem is if you do a little research on arsenic, it has to
137 be the reverse osmosis or you borrow - boil the water to get it down because a
138 normal filter only does from 40 to 70%. And good old arithmetic tells you
139 you can't get this down to a legal amount. And my other question is is the
140 type of filter in Ambler Park is my understanding it back flushes, what
141 happens to the arsenic? Does it go down the sewer or is it dumped in the
142 creek or what because now it's concentrate. But the whole thing is they were
143 supposed to have an (infracture) in with the water system and tanks and
144 somehow it just got all blah, blah and now we're gonna have a memorandum
145 of understanding. If you read that, it's wrong from the start and it's like they're
146 trying to talk yourself into making this right and it's really not right. So I'm
147 just too nervous to really talk anyway but I had a lot more. But still the whole
148 thing's wrong and you're gonna make it more wrong. And if you can pass
149 water across from one side to the other side that you're not supposed to, I have
150 a really good well and maybe I could sell them water. Yeah.

151
152 Q: Thank you (Bill). Next speaker. This is steady down at the (unintelligible).
153 So if there are other speakers after Mr. Weaver, maybe you could line up in
154 the front row and we could save some travel time.

155
156 Q4: Uh, good morning Mr. Chair and members of the Board. Richard Rosenthal
157 on behalf of Save Our Peninsula. Uh, Mr. Holm mentioned the settlement
158 agreement that is the uh, that it was the subject matter of the preparation of the
159 review that is part of this hearing today. Save Our Peninsula has for the last
160 12 years attempted to get the Board and the Planning Department to comply
161 with (unintelligible) mandate to fully ensure that conditions and mitigation
162 measures of project approval are implemented - fully implemented. Uh, we
163 had a settlement agreement in 2001 uh, that was uh, violated on - in - in - in
164 SOPs opinion. A new liti- new petition was filed in 2011 and a new
165 settlement agreement that uh, required this review. The Oaks subdivision is
166 clearly out of compliance with its conditions of project approval. Uh, there
167 can be no question about that. And the Planning Department's nuanced
168 interpretation of substantial compliance when you change a water system and
169 that change in the water system - in the water delivery system is a violation of
170 the V8 ordinance. Uh, we start have to asking ourselves questions how did
171 this come about. And uh, although the - the title of today's hearing is -
172 alternatives uh, to consider for the Oaks subdivision, I would c- ask the Board
173 to consider investigating into how this situation came about, how did the
174 tentative map, final map and the water system maps can all be inconsistent yet
175 public works issued an encroachment permit to have Cal Am go down (San
176 Demancia) road to the Oaks subdivision, which was then initially stopped by
177 public works and then permitted to finish off. These are questions. They
178 should be answered. Uh, the staff report, which was not brought out here,
179 rationalizes the substantial compliance with the notion of no net transfer

180 policy. That is because the Oaks is gonna get water from the V8 and the then
181 Oaks well is gonna ship water back for purification. Uh, there is no loss of V8
182 water therefore no impacts. Uh, I'm not aware of this being a uh, exception to
183 the V8. And I'm not aware that the Board has ever considered or evaluated
184 that policy. And if that is gonna be something that's considered and it's gonna
185 be part of the alternatives considered uh, as part of the staff report. Uh, then
186 uh, this Board uh, should order a full-blown EIR on that precedent policy.

187
188 Q: Thank you Mr. Rosenthal.

189
190 Q4: Uh, if I may Your Honor.

191
192 ((Crosstalk))

193
194 Q4: This is - this is ilk. I'm part of this hearing and I spent a lot of time preparing
195 for this.

196
197 Q: I - I'm - I'm aware of that.

198
199 Q4: I would like a couple more minutes if you don't mind.

200
201 Q: And I'm allowing you...

202
203 ((Crosstalk))

204
205 Q: ...suspect it would be helpful if you'd speak a little faster.

206
207 Q4: Yes I will. Uh, so it's the net - uh, net transfer policy that we're concerned
208 about. Uh, we're also concerned and we also learned from Cal Am with their
209 letter to the Board what their position is. And it's quite similar to (Sala) Palin
210 - Sarah Palin. It's drill, drill, drill and use V8 water wherever they want to
211 because of the no net transfer policy that is not in place. Now Cal Am argues
212 th- uh, state preemption to the PUC and I'm sure the uh, uh, the County
213 Counsel has plenty of authorities uh, to counter that argument. But I wanna
214 leave the Board with - and the public with this thought in mind. Cal Am and
215 the developer of this project has been operating this public nuisance violation
216 of condition of project approval. Sending V8 water to the Oaks without any
217 return back like they were supposed to. And the reason there's been no return
218 back or one of the reasons why water hasn't been shipped back illegally from
219 2C to V8 is because the CDHP, California Department - Health Department
220 requires a permit and a full sequel review on bringing contaminated water into
221 the Ambler system. Now Cal Am indicates that they have applied to the
222 CDHP uh, for that application - that's what - that's what they imply in their - in
223 their uh, letter to the Board. Uh, and I'd wanna submit Exhibit 16 and I have a
224 full set of the (unintelligible) and a uh, uh, a counter to the staff report. But

225 Exhibit 16, which I'm now putting into the record is as of November 21, 2012.
226 CDHP is unaware of any applications that Cal Am has made. So with that in
227 mind uh, I would request the Board to uh, undertake an investigation on what
228 happened her. And before any alternatives are considered uh, and approved, a
229 fully EIR is undertaken. Thank you.

230
231 Q: Thank you sir. Next speaker.

232
233 Q5: Good morning Chair (Potter), members of the Board. My name is Amy
234 White, Executive Director of LandWatch. The action before you today, as
235 you know, is to consider alternatives for the provision of so- of state potable
236 water to (free) Oaks and to provide direction to staff. Uh, although the staff
237 report recommends an MOU with Cal Am after environmental review, the
238 staff report fails to discuss what we think is the fundamental issue at hand,
239 which is transferring water out of a basin illegally. The report essentially puts
240 a stamp of approval on a no net transfer policy uh, which would have big
241 impacts for the V8 and uh, Zone 2C areas. But such a policy has never been
242 considered by the Board as Mr. (Rosen) states - uh, Rosenthal states. So we
243 hope that when you decide how you're gonna give direction to staff you
244 consider these comments and really think about that fundamental issue of - of
245 what it means to transfer water out of the V8 and the Zone 2C areas, which is
246 illegal in the County of Monterey. Thank you.

247
248 Q: Thank you Ms. White. Next speaker.

249
250 Q6: Good morning Mike Weaver with the Highway 68 Coalition. I'd just like to
251 call a few things to your attention. This meeting (unintelligible) long overdue.
252 It's six years overdue. Uh, things could have been processed far differently.
253 The ostensible annexation of the Oaks uh, as you all know, you - you can't
254 axxe- you can't annex a private water company. You can annex a district.
255 Ambler water is not a district. So this 617 annexation that Cal Am is talking
256 about uh, annexing Oaks to - to the Cal Am Ambler system, how do you
257 annex a private water company if - if it can't be done. And the CPU seat did
258 not fully understand that because uh, evidence was not allowed to be entered.
259 The Monterey County Water Resources Agency was supposed to monitor and
260 measure the well on the site as to production and quality and back and forth.
261 There was a memo that was sent to (Curtis) at the time. But Monterey County
262 - a public request to the Monterey County Water Resources Agency has
263 revealed there's no records. And incidentally (Lasco) has no records of an
264 annexation of - of this ostensible 617. Uh, the uh, statements that have been
265 made that paperwork has been filed with the state regarding this no net loss
266 transfer. As Mr. Rosenthal pointed out, as of November 21 the California
267 Department of Public Health has no record of - of any application or - or - or
268 request to alter an application for the transfer of water. Hasn't happened. Uh,
269 from the incurrent Ambler service customers, 388 current service customers

270 w- is it in their best interest to have arsenic laced water introduced into their
271 system for treatment? Uh, as you heard the current well still sits on the
272 property. No infrastructure has ever been built, no water (wins), (no) lots
273 were ever put in or tried. Uh, no storage tanks were ever built for fire
274 protection. We concur with Mr. Rosenthal that we encourage the Board to do
275 research on these issues and we'd come back with them four weeks from
276 today. Thank you very much.

277
278 Q: Thank you Mr. Weaver. Next speaker.

279
280 Q7: Good morning. My name's (Bob Reager) and I live right across the street
281 from the Oaks. And I went through all of the processes of when - of putting
282 the subdivision in and never did it say that they were gonna take V8 water.
283 And I talked to county hydrologists and they said thou shall not transfer water
284 across a V8 zone. And I was just shocked when Don Chapin Company was
285 putting the system in the road and I was talking to the foreman and the
286 foreman said oh, we're gonna run this line down in (Tampa Parnikin). We're
287 putting this four inch line down and we're gonna have meters on both ends.
288 And I came right to this podium while they were doing that and I asked these
289 questions. And I talked to Mr. (Potter)'s office. And I asked the same
290 questions. And then all of a sudden everything is done. I mean as a citizen I
291 mean this is what I was supposed to do. I was supposed to come in and say to
292 the Board of Supervisors that I think something has gone afoul here from what
293 the original agreement was. I had the original agreement. I know what 34
294 and 35 said. And everything just, you know, got washed underneath or I don't
295 know what happened but I think that's what you need to find out is how did
296 this happen. How can something that seems to be all the way through the
297 whole process from I guess '99 this probably started through all of county
298 processes. It was never stated that you could transfer water. They always said
299 this has got to be a standalone. They gotta put their own well in. They had
300 their storage tanks on the map. Everything was set in place. And I asked the
301 foreman, I said, "Well where's the - where's the storage tanks going?" He
302 looked at me like what. He said, "No. We're gonna get the water over there."
303 So what you need to do is find out how this happened. What happened in the
304 back room? And then stop this. This is illegal. And I asked the question at
305 one of the hearings could I buy a lot across the street and bring water over to
306 my lot 'cause I'm in V8 zone and I was told no. You cannot tr- and the line
307 goes up (San Vernanca) Road. That's a county decision. Right up the middle
308 of (San) - but now the school is hooked up to illegal water. They have their
309 own well (San Vernanca) School. But now they're hooked up to it. So it's just
310 starts compounding. So you need to really get to the bottom of this and then
311 you need to stop this and set up a policy that this doesn't happen in the future.
312 Thank you.

313
314 Q: Thank you sir. Next speaker.

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316 Q8:

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324 Q:

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Hi. My name is (Karen Reager). I live at 68 (San Vernancio) Road. Uh, I think all the speakers before me have very aptly put what our concerns is. My question is to you the Board of Supervisors do you - are you intending to condone the crossing of the V8 zone? They were to have a standalone system. We all heard it. And they're coming across and taking water that's in an overdraft anyway. Do you condone that? Because I will be disappointed to say the least. And as my husband said, it's illegal. So thank you very much.

Thank you (Karen).

Good morning. I'm (Lauren King) and I live in the Ambler Park water district. Have for 36 years. Uh, and I'm very concerned that this proposal for even though it (unintelligible) not happening right now but the idea of bringing arsenic laden water to our neighborhood 'cause we live very near to where the treatment plant is. That's a crazy idea. That seems very dangerous. Where does that arsenic go after the water would be treated if it were to be treated? But in the meantime they are just taking water from Ambler Park wells across the V8 line into this other zone, which is as pointed out illegal. So y- again, what is the precedent? Are - are you going to be setting one? And uh, so we definitely hope that you'll consider all these uh, uh, all the discussions that's going on this morning. So thank you.

(Unintelligible).

Uh, good morning Chair and Board members. Uh, Tim Miller, Corporate Counsel for California American Water. Heard some legitimate concerns from some of the members of the public that I think it's important to address, first and foremost all of our customers are receiving water in compliance with the federal arsenic standard. Water delivered to the tap does not exceed the federal arsenic standard. That's why there's the treatment plant there. Tr- arsenic that is removed from the treatment plant is disposed of in accordance with all environmental laws as a sludge that's left over from the treatment process. So no arsenic waste is being deposited in creeks or sent to uh, the sewer system and increasing public cost from that perspective. Mm, Cal Am as we expressed in our letter shares the concerns of the community over the state of the El Toro Groundwater Basin. You have a study that you've had for five years that recommends certain things be looked at to improve the state of the basin. But as we indicated, simply restricting development in the particular area is not going to reverse an existing condition of overdraft. The development that's there ostensibly exceeds the natural safe yield of the basin. You need to come up with - up with a physical solution to fix that, not just stop what's happening because the basin will continue to be depleted. Uh, but from our perspective that just raises a more interesting issue which is does the V8 zoning restrict Cal Am's existing operations that predate the V8 zone and

360 continue to be there? My read of the V8 zone - zoning ordinance uh, doesn't
361 lead me to conclude that our wells are subject and our commercial operation is
362 subject to the V8 zoning to begin with. And even if it does in terms of our
363 service to the Ambler Oaks subdivision, that matter's been addressed by the
364 Public Utilities Commission, was decided by the Public Utilities Commission
365 and that is a final non-appealable order. ~~So from Cal Am's perspective we~~
366 ~~understand that people may have concerns about how this particular~~
367 ~~subdivision went through the approval process uh, from Cal Am's perspective~~
368 ~~that's between the county and the developer.~~ We were asked to do specific
369 things. We were asked to provide water service. We were asked to review
370 the plans. We approved the plans (there). If the county approved those plans,
371 that's up to the county to determine whether or not that was in compliance
372 with uh, uh, (condition approval) and per county laws. And I'll quickly
373 address one more thing about this whole issue that uh, the Highway 68
374 Coalition (unintelligible) with how territory is annexed into public utility
375 system uh, territory. There is a process specified. We explained that to the
376 Highway 68 Coalition in the proceeding at the Public Utilities Commission.
377 ~~It's a final non-appealable action by the Public Utilities Commission that the~~
378 ~~Oaks subdivision is part of our Ambler service area.~~ Thank you.

379
380 Q: Thank you Mr. Miller. Are there others wishing to speak today? Okay.
381 (Seeing no), I'm gonna close the public comment per- period, bring it back to
382 staff. Staff, any closing comments?

383
384 Q2: Uh. Richard LeWarne. Uh, there are a couple of uh, issues that have been
385 brought up I'd like to respond to. Uh, one of the questions (that was) uh, the
386 uh, operate the Ambler - well the (ninth) Oaks water system either uh, uh,
387 operating as a standalone or satellite system. ~~Uh, right now we can consider it~~
388 ~~being operated as a satellite system so it would be in conformance with the~~
389 ~~conditions.~~ Uh, some questions wa- were raised about the arsenic treatment.
390 Uh, Mr. Miller uh, answered the question about where does uh, arsenic that's
391 been removed go. So I won't deal with that. Uh, one thing that needs to be
392 uh, understood though is that the wells that serve Ambler Park, the water
393 coming out of them, the well water exceeds the arsenic maximum contaminant
394 level. They are average around 35 to 35 parts per billion and which is
395 (excedence) of the ten parts per billion. So when Mr. Miller indicates that
396 they are serving water that uh, meets the - uh, meets the standard uh, system
397 uh, standards, that is because there is an arsenic - arsenic treatment system on
398 the Ambler Park system that ensures that that water is meeting the standards
399 delivered to the customers. So uh, so they have their - their own wells are uh,
400 exceeding the standards. When uh, the uh, uh, s- subdiv- nine unit
401 subdivision was first approved, it met the standards. During that time the
402 standards were lowered. Our concern as the Environmental Health
403 Department is uh, a nine-unit subdivision cannot meet the financial
404 requirements to be able to create their own arsenic treatment system. It's a

405 highly expensive. It takes a lot of uh, management and infrastructure and
406 training to keep that working co- uh, working. It was a common sense
407 approach to have the wa- to have the water treated in the Ambler Park uh,
408 arsenic treatment system that's already existing treating water from the
409 Ambler Park well and send it back and have this uh, balance of water.
410 Unfortunately when uh, the original agreement that was agreed to as far as uh,
411 making sure the uh, intensification of the water from V8 and uh, the transfer
412 from 2C was going to be monitored and make sure there was no net gain. It
413 didn't happen. In 2010 prior to the concerns that happened here uh, the county
414 staff found out that the monitoring had not happened, that the wells were uh,
415 the well of the V8 water from Ambler Park was being sent to the three uh,
416 three lots that had been developed. We immediately contacted Cal Am. We
417 put a stop on any development on the other lots while we got this worked out.
418 We were working with Cal Am to uh, get something that was actually
419 functional uh, at the time. Our efforts were stopped with the coalition uh,
420 Highway 68 Coalition then uh, put a complaint to the PUC. So we having
421 been working trying to address with this when we f- when it came to our
422 attention in 2010. So it got delayed as far as working uh, onto a - a solution
423 when the complaint of the PUC happened.
424

425 Q1: Uh, Mr. Chair, this is Carl Holm. I'm gonna speak a little bit to uh, the V8
426 zoning and what that uh, states relative to the zoning code to the - to restrict
427 development or intensification for the development within the V8 area.
428 Generally within the area where - where the V8 uh, was established. Uh, it
429 uh, it uh, defines intensification as a change in the use of the building site uh,
430 or the - but it does not apply to increasing (band) or would affect construction
431 of the first single-family residence. Uh, so we - we have here is what we tried
432 to come up with a solution to where we had a preexisting subdivision uh, was
433 approved. It was recorded prior to this uh, coming to light. Uh, we had
434 existing lots. We were looking at this equal transfer of water in order to
435 substantially comply with the intent of the conditions of the original
436 subdivision map, which had been accepted and - and recorded. Uh, we came
437 up with this solution uh, for the - as an MOU as an administrative fix to this
438 unique condition of being a preexisting condition on the recorded map. And
439 then uh, Wendy, did you wanna add anything more? Maybe I'll - I'll stop
440 there and then see what (unintelligible).
441

442 Q11: I - I wanted to respond to a couple of legal points. First of all uh, I want to uh,
443 draw a distinction between setting a new policy and an adjudicative
444 implementation of the condition. When you adopt a general plan uh, which
445 you're familiar with, or adopt a zoning regulation, you are functioning in your
446 legislative capacity. But there's a distinction between legislative capacity and
447 making decisions about particular permits. In that situation you're functioning
448 adjudicatively and you're looking at this permit before you on a case-by-case
449 basis evaluating in on a case-by-case basis. In this case the issue about

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Conditions 34 and 35 is really about the manner of implementation of a condition. It's not setting a new policy. And within your police power, you have authority to implement the condition of sanctioned staff implementation of the condition as long as it is not inconsistent with the general plan or zoning. You've heard from staff that staff's interpretation is that this manner of implementation, the no net transfer is consistent with the V8 zoning. V8 zoning provides for no - that development would not intensify water use. In this case it's - certainly there's substantial evidence and (it's really) (unintelligible) interpretation that if you uh, have, you know, water - you have a no net transfer, that's not an intensification. So the zero plus two minus two equals zero and sort of mathematically thinking about it - certainly a reasonable interpretation that that is uh, not intensification. But it is in your discretion to weigh that and decide based on the testimony you heard whether you think there may be an issue of intensification. Uh, so I just I do wanna point out if - eh, if uh, it's not - you're not setting a policy. This situation is very unique uh, and certainly uh, even the draft and (rule) that's been presented is con- is using wording that says it's confined to its particular circumstances. Well here you have a final map that was recorded. The statute of limitations has passed on uh, challenging that final map in court. So - and those - once a final map is recorded, lots can be sold. In this case lots have been sold. And in fact in addition to the uh, I think a new subdivider owns some of it but there are three lots that have been sold into individual ownership. And there's a reason why in the law - there's a reason for statute of limitations. It has to do with finality. And so if somebody is going to challenge a final map, they had to do that within the period of statute of limitations. That period has passed. So at this point the - the legal issue in court is about implementation of the monitoring uh, litigation measures under (SEAQWA). It's really not an attack on the final map because that's beyond reach at this point. Uh, but because the final map is recorded, that also creates certain limitations now on what the Board can do in terms of its options in - at this moment to ensure the no net transfer. Uh, or - because in order to amend the final map, you have to find that there's no burden on the existing owners and so that would be the threshold you'd have to find and that's explained in the October 9 uh, staff report. And then finally I do want to reiterate what Mr. LeWarne said that once staff found out uh, and it wasn't because of (unintelligible) but due to other uh, issues they - they discovered that uh, Cal Am was serving (its) new lots and the Oaks well had not been brought into Cal Am's system. They discovered that around 2010. And at that moment there was a pending action at the Public Utilities Commission - the Highway 68 Coalition at the Public Utilities Commission. The Highway 68 Coalition had filed a complaint with the PUC challenging Cal Am's uh, arguing that the service to the Oaks was a violation of Cal Am's purchase of Cal - of Ambler. And so until that issue got resolved at the PUC, we w- we uh, the county staff put a hold on the building permits and uh, had to wait to see what the PUC would decide. And that decision came out roughly at the end of 2011. Uh,

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495 following that uh, Cal Am could serve the Oaks subdivision is not a violation
 496 of the - its purchase of Ambler. So uh, I guess in short uh, you v- you have
 497 various options in front of you. We'd be happy to address any other questions
 498 you have uh, but was also presented a draft resolution. This is not a
 499 commitment to any action. It would be giving direction to staff so staff could
 500 proceed to do an environmental review on the preferred alternative.

501
 502 Q: And a possible MOU that would outline...

503
 504 Q11: Yes.

505
 506 Q: ...all of these unique circumstances and address the possible precedence
 507 setting issue.

508
 509 Q11: Exactly right.

510
 511 Q: Okay. Questions of staff or comments? (Unintelligible).

512
 513 Q14: Thank you Mr. Chair. Actually uh, I have a question for Cal Am uh, first.
 514 My concern is and my question is uh, you know, when this arsenic rule first
 515 changed that was a surprise. But even by the time the final map was approved
 516 uh, and certainly by now, it's been ten years since the law was passed uh, it's,
 517 you know, it isn't a surprise anymore. So uh, I guess my question for Cal Am
 518 is uh, you know, why haven't - why didn't you apply for the proper permitting
 519 to make sure that you're in compliance with the PUC rules uh, and making
 520 sure that uh, the - you weren't uh, illegally transporting water out of the uh,
 521 Ambler Park system into Zone 2C?

522
 523 Q: Mr. Miller.

524
 525 Q10: Thank you for the opportunity to address your question. Uh, I - I don't know
 526 the specific facts as to the timing of - of when service was started to the Oaks
 527 subdivision versus when we made our application to the Department of Public
 528 Health. Uh, I do wanna take the opportunity to uh, invite county staff to call
 529 Jan Sweigert at the local branch of the Department of Public Health and
 530 confirm that they do have paperwork from Cal Am requesting authorization to
 531 add the Oaks well to our distribution system. And in fact what it is waiting -
 532 what the DPH is waiting on is approval from the county of - on something
 533 along the lines of this MOU that we're talking about. So but for the
 534 controversy surrounding the - the Oaks well created by the Save Our
 535 Peninsula Committee, we would have a permit issued by DPH and we would
 536 be implementing uh, this already. Uh, uh, otherwise I don't know exactly uh,
 537 the - the timing as I sit here right now in terms of when applications needed to
 538 be made to DPH. I will tell you that our experience with DPH has been that
 539 because of state budget cutbacks and all of - and the similar fiscal issues with

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540 the state, it is taking the state a very long time to process applications that Cal
541 Am makes. In fact we have a regular dialog with DPH staff because of the
542 backlog of our applications where we basically say based on what's going on
543 in our system. Well we need you to move this application in front of another
544 application that was made earlier because we need authorization so that we
545 can operate our system properly. We had uh, dialog with that - uh, with DPH
546 when it came to the Monterey Peninsula Water Management District's uh,
547 ASR wells. When we needed to be able to use those to product water, we had
548 to basically sit down with staff and ask them to move the permit to use that
549 well in front of other permits we had pending before that so we could make
550 use of those wells for production. So there's uh, a lot that goes into the timing
551 of getting a permit from DPH. Thank you.
552

553 Q14: It does seem to me that uh, at least by 2006 uh, Cal Am was committing to use
554 water from the Oaks well uh, and that that would have been the moment to
555 start the process to get the permits in place. And maybe it does take a long
556 time at the state but uh, it just concerns me that uh, you know, uh, I don't
557 know the level of controversy in 2006 but just seems to me that uh, you know,
558 I just have concerns about the lackadaisical way that this seems to have been
559 approached uh, probably on all sides. Uh, then so now I have a couple
560 questions uh, related to - if we - if we were to move forward - thank you uh,
561 Mr. Miller. Uh, if we were to move forward with an MOU linking the - the -
562 the two - the - the Oaks well with Ambler Park uh, I - what would be the
563 impact uh, in terms of the cost of treating that water? Would the Ambler - the
564 existing Ambler Park residents uh, water users uh, see an increase in their
565 pricing uh, and is there a mechanism by which we can ensure that the uh, that
566 the Oaks subdivision folks are the ones paying for any incremental increase in
567 the cost? And may- maybe that's - maybe that's Cal Am again.
568

569 Woman: I've heard representations from Cal Am on that question but there was
570 (unintelligible) it would be (deminimus) so probably would not assess their
571 ratepayers but I think they need to speak to that question.
572

573 Q14: Okay. And sort of uh, not quite equivalent but related uh, the arsenic levels,
574 the - perhaps the arsenic levels already being treated in the Ambler system are
575 equivalent or very similar but would there be kind of a - uh, what, a marginal
576 increase in the actual uh, arsenic levels in everybody's water due to having to
577 treat more uh, water. }
578

579 Q: And perhaps supervisor that's something you'd like incorporated into the
580 MOU uh, as an issue that needs to be addressed. Uh, Eric, do you have
581 thoughts?
582

583 Woman: No.
584

585 Q: Have a cost issue?
586

587 Q12: My name is Eric Sabolsice. I'm the Director of Operations for - for Cal Am.
588 And to answer the question on arsenic concentrations, we would not expect
589 based on the design of the plan - it is designed to be able to accept this small
590 amount of additional water. We would not see any increase in arsenic
591 concentrations on the effluent of the plan. And it would be maintained for
592 both systems well below the MCL of ten parts per billion.
593

594 Q14: Thank you. And then I just have uh, uh, uh, just one more uh, question kind
595 of. Eh, if we do go ahead with this MOU uh, eh, how do we build in the
596 ability to track and monitor uh, the - the fact that water is going uh, from the
597 Oaks well to the Ambler system and that water is going back again uh, to the
598 Oaks uh, subdivision. It seems to me that uh, that's something that was
599 promised in the past uh, wasn't followed through on very well and uh, is there
600 a way to uh, make it clear in the MOU that we expect that and is there the
601 possibility for a uh, some sort of uh, severe penalty if it's not kept up with?
602

603 Q12: In the uh, draft agreement that we put together, there is a requirement of
604 quarterly reports based on metering. Uh, right now they have uh, a metering
605 on the three lots that's there and there's an irrigation system they have a meter
606 on. We'd be having that. We'd have uh, the uh, meter showing how much
607 water is being sent back and it'd have to be uh, basically a no net sum as part
608 of that. Uh, as far as the enforcement, as far as uh...
609

610 Q11: Well the - the reported - there's a draft MOU and again it's preliminary uh, but
611 attached to the October 9 staff report. And it goes into a lot of detail actually
612 about sort of making sure it's equal in ter- including uh, accounting for what -
613 they call that transportation wide.
614

615 Q12: Right.
616

617 Q11: And uh, monitoring uh, commitments to monitor, to provide reports, what -
618 what environmental would - health would do when it gets the report and that
619 there so I think staff intent is to spell that out in great detail. And then when it
620 comes back to you for your review uh, you would want to, you know, you
621 would definitely have uh, discretion at that point to make sure you're
622 comfortable with the wording and if you felt that you wanted even more in
623 there, you could as the elected body ask for that.
624

625 Q14: Thank you. And then just one little question for Mr. LeWarne. Uh, apart
626 from the arsenic levels uh, the water in the Oaks well tests uh...
627

628 Q2: It meets the standards.
629

- 630 Q14: Meets the potable standards?
631
- 632 Q2: Yeah. It meets the standards. The only one that was a problem was the
633 arsenic.
634
- 635 Q14: Mm-hm. Great. Thank you. Those are my questions.
636
- 637 Q: Supervisor Calcagna.
638
- 639 Q13: Going back and just making this very simple. And, you know, we - we - we
640 made it very complicated. When - when we approved the nine unit
641 subdivision and we've heard that many a times than over the years that we
642 were approving it because the water was coming from 2A because we (knew)
643 the property - we (knew) the property had - had liked it to be part of 2A and
644 was part of 2A and paid all the fees. So water was coming from 2A. Uh, that
645 was pretty simple. And - and the - (unintelligible) that were on the other side
646 in (San Vernanca) basically were in 2B and there was some - they were very,
647 very concerned that we're gonna have a - some type of problem there. We
648 agreed that the water was coming out of 2C or 2A, whatever you wanna call it
649 and - and that was agreed on. The thing that bothers me is how we
650 intertwined Cal Am into the picture and allowed Cal Am to get on that side of
651 the road and intermix the water. That - that - that bothers me Number 1.
652 Number 2. Now we're trying to - to help a situation that b- that brings water -
653 is there good water on - on - on the nine-lot subdivision? Can w- can you get
654 good water on - on the 2C side without interfering and going to the other side?
655 Shouldn't have that been the first option? Uh, I - I - I can see where people
656 could lose trust in us when we - when we do this type of stuff. You know
657 what I - I've been sitting here listening and - and this is one of those ish- issues
658 where we're trying to solve a problem but we're - we're making it so messy.
659 Just think ten years from now what's gonna come of this. People will look
660 back on this record and there'll be another situation similar and this will carry
661 some (unintelligible). So did we actually look to see if there's any more water
662 in the 2C, 2A area that would be good water for this project like we originally
663 promised when we approved it?
664
- 665 Q2: And I look to the - with our uh, well staff. Uh, almost all the wells on the side
666 of where the uh, uh, nine uh, subdivision existed uh, arsenic is a problem
667 almost in every lot. Uh, on every lot that we've looked at that we have uh,
668 regulatory uh, authority over.
669
- 670 Q: Does that answer your question?
671
- 672 Q13: No. It doesn't because then that tells me from the beginning when we
673 approved the subdivision we said the water was coming out of 2C and - and -

674 and 2A and if it would have been coming out of (Salinas) Valley water when
675 we had arsenic.
676
677 Q2: Well we - we had uh, it's coming out of 2C - I mean 2C right now the wells
678 are Oaks and it's exceeding the arsenic level. So it is coming out of 2C. And
679 the other - the other wells...
680
681 Q13: The line is on 2C but the water is coming from 2B.
682
683 Q: So we have professional differences of opinion here. Without staff getting its
684 head cut off.
685
686 Q2: I'm fine.
687
688 Q: *Parker* All right. Uh, unless there's any (added) discussion, I - I'm prepared to move
689 uh, that we direct staff to go ahead and to craft - craft the MOU. Uh, for me
690 very specifically outlining the unique circumstances here so we don't set a
691 precedent for the (unintelligible). So I agree with Supervisor Calcagna, you
692 know, it's a slippery slope. But on the other hand, I don't want these people
693 sitting there with a system that does not have uh, safe drinking water. I also
694 think that this no net transfer is - is valid. That it's a gallon in, it's a gallon. So
695 uh, this is a public health matter. But I do think that the MOU and directing
696 you to the appropriate level of environmental review are - are the most
697 appropriate steps to take here. So if there's a second.
698
699 Man: Second.
700
701 Q: All right.
702
703 Q11: Chair, if I may jump in. There is a draft resolution that uh, you know,
704 incorporates basically that uh, you know, incorporates basically that
705 suggestion and so with your motion including adoption of the draft resolution.
706
707 Q: (Yeah). Subject to any other comments that were made today.
708
709 Q11: Okay.
710
711 Q: And I think you're pretty clear on what those comments are (unintelligible).
712 Uh, (Parker) had quite a few also.
713
714 Q11: Okay.
715
716 Q: All right. (Jane).
717

718 Q14: Thank you. Uh, I, you know, I'm of two minds uh, on this because I do think
719 that this whole question of knowing that transfer of the whole way this thing
720 came about it's just very, very, very problematic. Uh, but uh, you know, I'm -
721 I'm prepared to support the motion. I do think that uh, really limiting this as
722 much as possible. I'm just very worried about the slippery slope...

Police

723
724 Q: Mm-hm.

725
726 Q14: ...uh, aspect of this. Uh, so uh, I hope I can get more comfortable about that.
727 I also think that uh, because there - this is a policy issue that we really haven't
728 grappled uh, probably adequately that uh, pretty high level of (SEAQWA)
729 review uh, may be necessary. And then I also wonder if there's a mechanism
730 in addition to uh, making sure there are ways to uh, uh, make sure that - that
731 the whole system is operating the way it's supposed to. I wonder about the
732 possibility of having the water uh, that has been being pumped out of the V8
733 uh, area be replaced in some way while you work on things. Thank you.

*uh
slowly*

734
735 Q: Okay. We're motioned and section - any other uh, second. Any other
736 discussion? All those in favor say aye.

737
738 Man: Aye.

739
740 ((Crosstalk))

741
742 Q: Opposed. All right. We're going to uh...

743
744 Q13: I'm not - I'm not supporting it.

745
746 Q: All right. We have uh, Calcagna (dissenting). It's four to one. Uh, we're
747 gonna go back...

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749
750 This transcript has been reviewed with the audio recording submitted and it is an accurate
751 transcription.
752 Signed _____

ATTACHMENT 3

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MONTEREY COUNTY BOARD OF SUPERVISORS PUBLIC HEARING

- Q=(Amenta)
- Q1=Ramon Montano
- Q2=Mike Novo
- Q3=Jane Parker
- Q4=Mike Weaver
- Q5= Wendy Strimling
- A=Katherine Richardson
- A=(Jane Haines)
- A1=(Topio Chandren)
- A2=(Ed Mitchell)
- A3=(Chris Schott)
- A4=(Louis Richardson)
- A5=(Aman Gonzales)

Q: ...time to consider the denial of appeal by Katherine Richardson from the Planning Commission's adoption of the Negative Declaration of Approval of an Application by the Cal- California American Water Company for a Combined Unite, uh, Development Permit and, uh, look to planning staff for that report.

Q1: Where did it go?

Woman: It should be (unintelligible).

Q1: Good afternoon Chair (Amenta) and members of the Board, Ramon Mantano, RMA Planning Staff, to present the registered appeal of the CalAm Water, uh, Tank Application. The property is located at 24522 Rimrock Canyon Road, Assessor's Parcel No. 416 601-011-000. As indicated in the, um, visual, the property is adjacent to the Harper Canyon Road and is within the Toro Area Plan. The property consists of a Combined Development Permit, consisting of (1) the Use Permit to - for California American Water Company to replace two 20,000-gallon water tanks at the upper Rimrock site with one 120,000-gallon water tank and this will include a designer pool; (2) a Use Permit to - pursuant to Section 21.62.030B of the Monterey County Code to exceed the 15-foot height limit of the Zoning District and to allow a water tank to be constructed to a height of 18 feet; (3) a Use Permit for the removal of a protected tree, a 1-inch oak tree. The project as described is located on

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approximately 0.40 acres, um, on a water tank easement within a residential zoning district. Um, this project is located within the Harper Canyon subdivision. The image, ah, before you indicates, um, the Rimrock, uh, Service Area. The arrow indicates the tank site itself. Uh, let's see. Okay, this is a close-up of the tank itself -- the tank site -- and the registered residents, uh, adjacent at the lower part of this lot. Um, the tank is at the uppermost part of the parcel. This, uh, simply illustrates the topography of the proposed tank - water tank -- site and it will... As you can see, it's at the top of this knoll and to the - I believe the n- northerly arrow is not on there, but it - it, as the arrows indicate on the cross-section, to the right of "A" would be the, uh, easterly direction. And that's the - the probably the most significant downslope, uh, of the project area. These - these i- images are simply to illustrate the - the netting and the visibility of the tank, um, and that the, um, the stake in these, uh, images where, um, ph- photographs were taken from Rimrock Road, which is, uh, not a public road and, uh, simply highlight that, uh, that this is not, uh, considered ridgeline development because the visibility is within the subdivision, not from public viewing areas.

A number of contentions were raised in the appeal. The Staff has, uh, responded to those in detail in the Staff Report. Today's presentation will focus on the fee waiver, the safety of the tank, growth-inducing impacts, and B-8 zoning intensification.

1. The Fee Waiver Request: Because the Appellant has not paid the appeal fees based on the - an alleged inability to pay, as of the writing of this Staff Report, the Appellant has not provided evidence demonstrating inability to afford the filing fees and therefore Staff recommends denial of the fee waiver request.

Item 2: Safety of the Tank: As stated in the combined, uh, Geotechnical Report and Geological Hazard Report prepared by Pacific Coast Engineering and (Zen Geology), the results of the - of the slope, uh, stability analysis indicate that the computed factors for safety meet or exceed the minimum industry standards requirements stipulated for surface, um, failure under static-simulated, um, and static-simulated conditions and that the potential for liquefaction or lateral spread is also very low. Therefore, the site is suitable, um, for a structure of this size and type to be built. Regarding risk: According to the geotechnical and geological investigation, the Upper Rimrock Canyon Tank Site Prepared Report prepared for - by, uh, Pacific Coast Engineering, uh, discussed ordinary risk as it applies to the vast majority of structures. Most commercial industrial buildings, uh, small hotels and apartment building, and single-family residences, characteristic of this level of risk include but are not limited to significant to no significant potential for loss or injury and that damage would not be limited to repairable damages in most cases.

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Item 3: Growth Inducing: California American Water requested this upgrade to ensure that adequate water supply and fire protection could be provided in the Upper Rimrock radiant. The increase in capacity will correct existing deficiencies in domestic storage and fire flow capacity within an area identified as the Upper Rimrock Radiant. The increase in water tank capacity is not limited - capacity is not growth-inducing because the water supply from the Ambler Water System is not increasing the proposed - it's not increasing - is not increasing. The proposed tank replacement is needed for fire safety for the, uh, to serve existing connections and the project will rely on existing water. No expansion of the service area or new connections is - are proposed. Therefore, the project will not result in a growth-inducing affect or a cumulative impact.

Item 4: B-8 Zoning In- Intensification: Per Monterey County Code Section 21.42.030H, intensification means the change in use of a building site which increases the demand upon the constraint. The proposed water tank replacement does not increase domestic water demand because based on water use for the Rimrock Subdivision, a water system has already been established. The proposed water tank does not include any new connections or intensification of the existing domestic supply. Therefore, the project did not violate the B-8 Zoning.

Conclusion: Staff recommends that the Board of Supervisors take the following action: (a) Deny an appeal by Katherine Richardson from the Planning Commission's Adopted - Adoption of a Negative Declaration of Approval of an Application by California American Water Company for a Combined Development Permit; (b) - (b) The Appellant's request to waive the - deny the Appellant's request to waive the appeal fee and require the Appellant to pay the appeal fee; Item (c) Adopt the Negative Declaration prepared for the project; and (d) Approve the Combined Development Permit consisting of (1) a Use Permit for the California American Water Company to replace two 20,000-gallon water tanks at the Upper Rimrock site with one 120,000-gallon water tank and design approval; (2) a Use Permit pursuant to Section 21.62.030B of the Monterey County Code to exceed the 15-foot height limit of the Z- Zoning District to allow a water tank 18 feet high, and (3) a Use Permit for the removal of one protected 8-inch oak tree.

This concludes the Staff's presentation. Staff is available for questions. Thank you.

Questions or Comments on the Board's side? Supervisor Jane Parker.

Q:

Thank you, Mr. Chair. I do have a couple of questions. Um, in the rep- in the, uh, Appeal there were a number of questions raised about, um, whether we have accurate information from CalAm about, um, the capacity of the water

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Q1:
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Q1:

tanks in the Toro area, um, and wh- which properties are served by which tanks. There was a fair amount of discussion of - in the - in the Board report about that. Do we - do we know for sure how many homes are served by these particular tanks?

Um, yes. The Staff, um, received from CalAm, um, several maps, um, indicating - indicating, um, where the service connections were located and one - in fact one of the maps received, uh, also provided a - a kind of a - a site - a line plan of the - the main - the water main system that serves the Rimrock upper and lower, uh, gradients. Um, as far as, uh, any more evidence than that, uh, it's - we're subject to what they've submitted in the - in the Application.

Mm. Mm-hm. Um, and then, okay, so according to what they've given you, you have a sense for how many homes these tanks are serv- are serving. In the materials I saw three different numbers. Uh, something in the 40s, uh, 61, 69, and depending which document you read, um, it - it varies. Is - i- do we know the reason for that, and have we come up with what the number really is?

Yes. Um, my apologies for the, um, the discrepancy. Uh, it's not - essentially when the, um, when the initial study was, uh, drafted, um, CalAm had provided, uh, a number, uh, that they thought was the correct number. They had stated that to be 41. Uh, that number, uh, later proved, um, to be different, uh, when we actually counted the, uh, the service connections and outlined them on a map. And that number, ah, was indicated in the revision that went to the Planning Commission, um, to be 69. So, uh, I'm not quite certain where the 61 came from and a- as referenced in the Staff Report, uh, but the count did begin at 41 and - and, um, when we, um, calculated, uh, based on the connections on the map, uh, we - we ul- ultimately came up with the 69, uh, service connections.

Okay. And then, um, and so, um, you - you also have a sense then for do we know the capacity of the water tanks in the - in the greater region and the - and their - and the - and the properties that they serve?

The scope of the analysis for this project did not include, um, the entirety of the Ambler Water System.

Mm-hm. Um, so now I have a couple of questions about, um, fire suppression. Uh, their - the - in the letter from the, um, Fire District, they did a computation of how many gallons per minute at what kind of pressure for what length of time. Um, is that a standard computation? I mean is that - is that for everywhere?

Well, uh, it's my understanding the way this, uh, calculation was made by that district was it's based on occupancy and the fire load. So, ah, i- that may not

181
182
183
184 Q3:: be standard because the - those cer- those conditions would change through
185 the county.
186
187 Mm-hm. Okay. And - and, um, I - I also - I believe it was in that same letter
188 that I read, uh, th- that the fire suppression in the tanks is largely, uh, to
189 provide, um, fire suppression for homes that don't have sprinkler systems, uh,
190 built in as their own, um, way of putting fires out. Do we know how many
191 homes in the area have sprinkler systems?
192 Q1: No. Um, this, ah, subdivision has been in existence since the 1970s.
193 Mm-hm.
194 Q1: There is no actual count that I saw from the fire jurisdiction as to which
195 houses, uh, have been upgraded to include fire sprinklers since that's not a - a
196 requirement that was made at those times. Um, so there - to answer your
197 question, we don't have a count of how many residences have them.
198
199 Q3:: But the Fire District might? I mean do they keep track of that?
200 That information was not provided to Staff.
201 Q1:
202 Mm-hm.
203 Q3::
204 Uh, Mike Novo with the Planning Department. The Fire District might but I
205 Q2: really don't know if they have tracked that. Uh, I know that it's been a
206 requirement in recent construction for many areas of the County, um, but it - it
207 was not a standard for...
208
209 Back then...
210 Q3::
211 ...a century or so.
212 Q2:
213 Mm-hm.
214 Q3::
215 Um, I wanted to clarify a little bit more about your question on the Fire
216 Q2: District's letter and whether the numbers in there are kind of standard. There
217 is a number of factors that go into, uh, determining the gallon-per-minute flow
218 and the number of, uh, minutes or hours that they need that flow to occur. Uh,
219 land use is one of the main factors. For commercial industrial facilities, they
220 ask for more than 1000 gallons per minute -- I think up to 3000 gallons per
221 minute -- depending on the type of use. Uh, when you have sprinkler systems
222 for houses, they can reduce the - the flow, uh, gallons-per-minute, uh, capacity
223 of the system as well. So there's a number of things. Plus there's also, um,
224

225 line loss. There's, uh - I'm not sure of the term. I think it's called pressure
226 zones or something like that...

227

228 Q3:: Mm-hm.

229

230 Q2: ...where they'd have to accommodate for... From an engineering standpoint,
231 they have to accommodate for, uh, changes in pressure differential based on
232 the topography and the elevation of the tanks versus the elevation of the house
233 that's being served, so that could also affect the numbers. So there's a lot of
234 factors that go into...

235

236 Q3:: Mm-hm.

237

238 Q2: ...designing a - a fire flow system.

239

240 Q3: Thank you. Um, and so, I just have essentially two more questions. Um, one is
241 that it seems odd to me that, um, that this subdivision's been there for a while.
242 We've had this 40,000-gallon, uh, capacity for a number of years. Um, and it
243 just seems a - a little bit, um, surprising that if - if the standards have been
244 there for all this time, that somehow 40,000 gallons was okay, and now
245 it's - now we need 120,000 gallons. I mean, um, it - it is - are there ways that
246 this - that this, uh, set of properties c- could be served by - by other tanks? I
247 mean how did they deal with this in the past?

248

249 Q1: Uh, well, th- there's several elements to this that'll answer this question.
250 And - and, uh, the first part is that, um, it's referred to as an upper gradient, so
251 the storage, um, that's contained on - on the site at the highest point of
252 this - this area - this part of the subdivision is to serve only that upper
253 gradient. And that system, uh, from a piping perspective -- plumbing -- uh, is
254 isolated to, um...

255

256 Q3:: Mm-hm.

257

258 Q1: ...the rest of the system. It - and what - what that basically means is the water
259 is served from that tank to serve, um, those units in the upper gradient. It
260 doesn't leave the upper gradient for reasons that it - that the pressure
261 differences, okay, that Mr. Novo, um...

262

263 Q3:: Mm-hm.

264

265 Q1: ...spoke of. Um, th- the second part of this is that, um... Uh, I'm sorry. W-
266 would you state the last part of your question again please?

267

268 Q3:: Um, are there - are there other, um, aspects of the water system that can serve
269 this area or have served them in the past? W- why...

270
271 Q1: It - it - I - it's n- for that reason i- other, uh, aspects of the Ambler System
272 couldn't serve this, uh, system, um, because the - the storage capacity that's
273 being, um, provided there for fire flow in the proposed, uh, tank replacement
274 is to - to correct that deficiency.
275
276 Q3:: Mm-hm.
277
278 Q1: Now, um, to begin this again, um, th- as you said -- pointed out -- this
279 subdivision has been in for a long time. Why has this continued? This water
280 system with those two 20,000-gallon tanks was managed, um -- my
281 understanding from, um, discussions with CalAm -- was managed by a
282 private, uh, water, um, company and, um, apparently there wasn't m- much
283 progress in the way of - of the maintenance or, um, progression of, you know,
284 upkeep of those tanks.
285
286 Q3:: Mm.
287
288 Q1: And, um, part of the reason why these tanks are being replaced is - began
289 with, uh, one of the tanks which is, um, severely eroded is beginning - has
290 been leaking for a number of years.
291
292 Q3:: Mm-hm.
293
294 Q1: So r- replacement would be required. When the, um, CalAm, um, presented a,
295 um, uh, a planning, uh, uh, design for, um, the replacement of those tanks to
296 the - to the POC, they, um, they incorporated this, um, the expansion of that
297 system to accept the capacity for fire flow and domestic water supply. Um,
298 because their, um, their purchase of the system and wanting to upgrade the
299 system to where it should be today was the trigger which began all of this and
300 their - their plan to, uh, design their water system...
301
302 Q3:: Mm-hm.
303
304 Q1: ...and bring them up to date.
305
306 Q3:: Okay. Thank you. And then, um, in -- I think it's also a- again in the Fire
307 District's letter -- there's a reference to, um, this phase. Um, and I wonder if
308 you can explain what that might mean.
309
310 Q1: Give me a moment to look at this letter because I can't remember that.
311
312 Q3:: (Unintelligible).
313
314 Q1: Okay.

315
316 Q3:: Okay.
317
318 Q1: Okay. Um, th- what - what that may be referring to, um, is that, um, there is
319 another application currently for the (Meadows), um, Subdivision. There's a
320 water tank within that subdivision. They wanted to increase, um, the capacity
321 similarly for the same reasons they have done on the - in the Rimrock
322 Subdivision. Uh, and that's - I believe that's what the reference to that is.
323
324 Q3:: Mm-hm.
325
326 Q1: It's simply that there is another water tank application.
327
328 Q3:: Okay. Thank you. And, you know, the reason I'm asking you these questions
329 is there's a - there is a lot of, um, development pressure in that area. There's
330 not a lot of water...
331
332 Man: Yes.
333
334 Q3:: ...to go around, and so, um, it - this, uh, you know, to me, just on the face of it,
335 it looks like somebody's getting prepared to put in a bunch more houses and
336 run a bunch of this water over to 'em. So it's, um, and - and if that's going to
337 happen, then this is the kind of thing that would, um, require an EIR because it
338 would be growth-inducing, um, so it's, um, you know, it's definitely
339 something that we want to make sure we're taking a close look at. So, thank
340 you.
341
342 Q: Okay. Any other Board comments or questions? If not, I'll open the Public
343 Comment period.
344
345 Man: (Unintelligible).
346
347 Q4: Good afternoon, Board of Supervisors. Mike Weaver representing the
348 Highway 60 Coalition. I have a lot of information to give you today. I, uh, I'm
349 going to try to narrow it down to the Readers Digest version. Um, in - in
350 addition to the, uh, concerns we had with the, uh - the Monterey Planning
351 Commission Hearing, we'd like to add th- to this de novo hearing today,
352 CalAm is burdening the easement on the Richardsons' property. It is growth-
353 inducing. Um, for example, CalAm's Urban Water Management Plan for Toro
354 has a 2009 Toro Comprehensive Study showing lots of growth in the Ambler
355 area. Uh, no County departments were given this study.
356
357 Man: Do we know what study that is? We still don't know. Okay.
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359 Woman: It may be something (unintelligible).

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361 Q4:
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387 Q3::
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398 Woman:
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400 Q4:
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I think you'll see there's substantial growth. Uh, immediately next door to these tanks is the 440 acres that, uh, CalAm has annexed, uh, through the CPUC. That's the Encino Hills/Harper Canyon property. Below that they've annexed the, uh, San Benancio Oaks property and recently annexed the, uh, school district property. Um, what evidence is there that increased capacity is solely for fire? Increased capacity can be used for anything unless prohibited by conditions. Um, we find the Negative Declaration insufficient. Uh, we requested a baseline study, a cross-baseline study. Haven't had it yet. This - this is a helpful, uh, um, map. It's a Google map, but I'm gonna try and explain. This is where the Richardsons live here, and there's two tanks up here. There's also another two tanks here on the ridge. A total of four tanks. That's - that's how water has been supplied. A total of eight tanks in the Ambler system serving essentially the same number of people as when, um, bought - CalAm bought Ambler in 1998. You - you have two entrances into Encino Hills -- here and here. Back about 1980 when Con Cronin owned this, uh, uh, there was a water main run up Meyer Road here, made a right turn in front of where (Lowell), uh, uh, (Webster) lives now, and ran up to these two tanks. This is the boundary of the Ambler system. This is the new annex to the system over here. Um, those l- those lines have never been recorded. The point I'm making is water can go both directions and on the crest, the apex of this mountain here, water does flow down to the end, uh, Rimrock, uh, homes below, most - most of which are served with a fire sprinkler system. And water also flows the other direction. This is - this is the current schematic of the Ambler system obtained from the CPUC. The missing part here is this section that goes from here, the end of Ambler, uh, to the tanks.

Mm-hm.

We have another, uh, schematic here again into Meyer Road, um, where the tanks are. This is - this is the driveway into the adjacent, uh, property that the (Greens) own, which is right here. Uh, the, uh, and, uh, y- you noted there's no easement. I brought - I brought that with me today. It's too large to show up here. But there's - there's no easement that's been recorded across the (Greens) for those lines. Of course the existing B-8, uh, the current Rimrock is, uh, uh, grandfathered in. That was approved some time ago, the current B-8 zoning.

(Unintelligible).

Here we have a very helpful map. The yellow if you can see it here is the location of the, uh, the current tanks, which is going to be replaced. Immediately on the other side is a proposal for the subdivision Harper Canyon and th- the (Brockley) property. Um, the tank - the question came up. The property owner raised the question: "Well, what are you going to do for water

405 when the tank's taken out?" And the answer from the CalAm representative
406 was, "Oh, we have another piece of property just on - on the other side of
407 the - the barbed wire fence there in the Encino. We're going to put a tank
408 there and then run a water main to that tank while we're doing this tank and
409 then - and then it will be hooked up, back up to this tank." And, "Well, what
410 happens to the other tank?" "Well it's - it's probably temporary." We -
411 that - that isn't in the Staff Report. There is no conditions requiring any of
412 this. There is no - there is no, uh, construction plan for any of this.
413
414 Man: (Unintelligible) for what?
415
416 Woman: I don't know.
417
418 Q4: We have here the, uh, Application to the, uh, Public Utilities Commission
419 back in 2000 by, uh, by CalAm -- they bought the system in 1998 -- um,
420 requesting annexation of the Harper Canyon Subdivision and say that, uh, it's
421 all set to go, ready to begin construction. Um, a letter memo from our
422 (LABCO) Board, uh, stating they don't have any information on this. They
423 weren't notified by CalAm nor the CPUC as to this annexation. We have the
424 San Benancio Oaks property and (Ferini) Ranch depicting a new, uh, location
425 for a, uh, tank up here. Again, um, uh, apparently gonna be hooked up to
426 Ambler water somehow. This is the current location of the well that's never
427 been hooked up, never been used, uh, crossing out of the Oaks Subdivision,
428 uh, into the property, uh, east of that. A letter to the California Department of
429 Public Health pointing out the discrepancies in the reports to the various
430 agencies and departments, the discrepancies in the gallons stored in the, um,
431 uh, various storage tanks. Um, haven't gotten an answer back yet. Our
432 Monterey County Public Works, uh, Encroachment Permit, um, allowing a
433 water main to cross out of the B-8 across San Benancio Road to San Benancio
434 Oaks, which has an easement for tanks that have never been built.
435
436 Q3:: (Unintelligible).
437
438 Q4: Doesn't seem to be any concern about building tanks that aren't there as much
439 as concern about increasing the capacity of tanks that are there. And then,
440 finally, of course, the Final Environmental Impact Report for the (Cora Lee
441 Tell) Neighborhood. Sh- Retail Village and the Staff's response to a concern
442 about adequate water storage was that, uh, was that the, uh, proposed tanks
443 above San Benancio -- these tanks, um, will, uh, provide additional fire
444 suppression capability. There is intercon activity in the Ambler System. There
445 is intercon activity in the separate system next door in Toto. I have lived in the
446 area all my life. I know these systems. I know the locations of the tanks. I
447 watched 'em go in. I know the location of the wells. I know a lot about it.
448 There is intercon activity. Water runs downhill. And where they're talking
449 about pressure zones: Um, every house has a pressure reduction valve on the

450 side of it that reduces pressure down to about 40 or 50 pounds going into it.
451 The point of having these tanks up high is to feed extra pressure so in the
452 event of a fire, the, uh, um, it will serve the, uh, um, the fire hydrants.
453
454 Man: (Unintelligible).
455
456 Q4: And then finally, um, the folks in San Benancio know a lot about, um, big
457 storms and slides and erosion and, um, I just brought a news - a couple of
458 newspaper articles from The Herald in January of 1997, but the Highway 68
459 Coalition has a couple -- at least a couple, maybe several dozen, uh --
460 photographs of different slide areas in San Benancio over the years. Um, on
461 request I'd be happy to share them with the Planning Department. Thank you
462 very much.
463
464 Q1: Hey, Mike. Mike, uh, could you leave those documents if you want them part
465 of the record? If you, you know, if you have...
466
467 Q4: Yes. I made copies for the Supervisors today. I am going to make an a- I'm
468 going to take these with me and make another three copies and take them to
469 (Gayle) personally tomorrow.
470
471 Q1: Okay.
472
473 Q4: Thank you very much.
474
475 Q: Okay. The other thing is that we didn't honor a three-minute limit, so I
476 apologize for that. Also, uh...
477
478 Q4: Yeah. I (unintelligible). I - I thank you for your patience.
479
480 Q: Right.
481
482 Q4: And if you should - if you should have any questions, I'd be happy to answer
483 them, sir.
484
485 Man: Right. Okay.
486
487 Q: Okay. I - after Public Comment, I will give the Appellant and the Applicant,
488 uh, the opportunity, uh, uh, so, any further Public Comment, uh, limited to
489 three minutes?
490
491 Man: (Unintelligible).
492
493 A: Good afternoon. Katherine Richardson. Members of the Board: I respectfully
494 request the Board of Supervisors...

495
496 Q: (Unintelligible). Okay. Ma'am...
497
498 A: ...if the negative...
499
500 Q: Ma'am...
501
502 A: ...if the nega- if the negative - can't hear me?
503
504 Q: Yeah, I'm sorry...
505
506 A: Hear better?
507
508 Q: I'm sorry. Are you the Ap- Appellant?
509
510 A: I think so.
511
512 Q: Okay. So you might d- how much time do you think you might need?
513
514 A: I - it's very short.
515
516 Q: Okay.
517
518 A: It's very short. Not three minutes for sure.
519
520 Q: All right. You could have a little more probably. I think the Chair would grant
521 you a little more as the Appellant, so, if you need it.
522
523 A: Okay. Thank you. Thank you. Um, I respectfully request the Board of
524 Supervisors, if the Negative Declaration is upheld, to prohibit the use of the
525 water from the 120,000-gallon replacement tank to be used for anything but
526 for the protection and water consumption for the Rimrock area residents.
527
528 Q: Can you try to use the microphone also a little bit? Thank you.
529
530 A: Okay. Okay. This is the said purpose for the replacement. Water storage tanks
531 can be used for many things. Where the condition - where the condition that it
532 only be used by the Rimrock - where is the condition that it only be used by
533 the Rimrock area residents? The stated purpose - purpose in the Staff Re-
534 Staff Report is unclear. I never agreed to drop this appeal, an indemnification
535 which was proposed to me by CalAm. We did have some conversations
536 regarding this, but when I finally got the indemnification, I had to drop the
537 appeal, and I was not willing to do that. Um, an indemnification for what?
538 Being sued by my neighbors should the tank ever go over the cliff face in the
539 event of an earthquake or wet winter storm. I note the County asked for

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A1:

indemnification if they are sued. I also request that the land be re- resurveyed as property and easement were established at a time when there were no residences there. Previous owners of houses next to the (Barcolli) property have had their places re-surveyed before, so there is precedent. At the time those tanks were put in in that location, it was a kind of free-for-all. The property line for that easement might be out in space due to sloughing over the years. All this - all this perhaps can be resubmitted to the Planning Commission for review. Thank you for your consideration.

My name is (Jane Haines), and um, I note that the agenda says that item B is d- is a public hearing for denial of the applicant's request to waive the appeal fee and requiring the appellant to pay the appeal fee. Um, presumably that's pursuant to this resolution that you just amended that has no provisions in here applicable to what's going on right now, other than it says um, the planning commission shall request - shall consider all requests for fee waivers not meeting the above criteria. So, I don't understand why this isn't before the planning commission if you're following this resolution that you just approved an amendment to. But in any case, um, someone said earlier in the earlier discussion that \$5,048 is excessive. Well, is an excessive fee for an appeal fee. It's not really. I mean, I - I looked into it. I - I believe Mike Novo when he says it costs \$8,000 on average to prepare something like this.. This is what went into this. Um, there was - there's a 19-page staff report that, ya know, I - I don't think should happen if you're not gonna do de novo, but you're doing de novo. So you have a 19-page staff report. You pay \$153 a hour. That's how you figure your appeal fees. It's at \$153 per hour for staff. If instead, you let the appellant prepare these records, just gave 'em a - a - a - a checklist, and they p- pre- prepare these records, and you did this so that it wasn't de novo's, so no new staff report would be required, and it would take care of Supervisor (Calcanyo)'s concern about a mom and pop operation not bein' able to hire attorneys and so on and so forth because if it's not de novo, new issues cannot be raised. It's confined to what happened in the planning commission. That's what happens in a court of law. When you appeal things, you can't throw in new issues when you go up on appeal court. You're stuck with what happened below. So they'd be stuck with the planning commission. So 215 pages. I believe it costs \$8,000 of staff time to prepare this, but if you would read that recommendation that I made in my letter about getting rid of de novo hearings, it - it could be done for less than \$1,000, and the county wouldn't be putting anything into this. So, I think you oughta go back to the planning commission. I mean, you just amended a resolution that says it's only the planning commission that can consider a fee waiver. So, if you're gonna follow the - the resolution that you just amended, it seems to me you oughta go back to the planning commission 'cause that's - that's what it says. Thanks.

Q:

Other public comment?

585
586 A2: Good afternoon. My name is (Topio Chandren). I - I live on Rimrock right uh,
587 practically right below the - where the tank is gonna be. Uh, and I - I have
588 three short informational comments. One. The tank is in what's - what's
589 known as Upper Rimrock which has 12 homes which uh - uh, developed in
590 the 1990, not 1970, and I believe uh, all of them except possibly one has
591 sprinkler system. And uh, my last comment is in 1997 there was a fairly large
592 landslide not too far from where - where the tank is. Uh, road was completely
593 - uh, road were completely covered with uh - uh, mud and the drainage uh,
594 pipes were all completely clogged up. We had to work two days to clean that
595 all up. Thank you.
596
597 Q: Thank you.
598
599 A3: I'm (Ed Mitchell) representin' (Ferndale) Neighbors Group. Uh, BA8 areas
600 are not limited to the Toro Park area or the Toro area. Um, they are
601 throughout the county. So, what our concern was from readin' through the
602 package is that a precedent not be approved or allowed uh, for a utility to be
603 able to export, move or transfer uh, B8 water out of the B8 area to non-
604 grandfathered units. The grandfather - fathered units uh, for this previous and
605 old development may be 69 units, and the water has been approved for uh,
606 servicing them uh, and it may come out of a B8 source and go to them. That -
607 that's a grandfathered situation. But for new developments, uh, coming
608 forward, um, I recommend that you specify that this water tank's uh, water
609 cannot be used for the housing purposes because the source is comin' from
610 B8. It's not appropriate for a utility to threaten the safety and welfare of the
611 aquifer of a B8 area because they're claiming interconnectivity. And when
612 they're really tryin' to do is service more units downstream. Emergency
613 situations for fire, that's a different situation. But they should not be doing
614 connections that use that supply source for the new units. Thank you.
615
616 Q: Other public comment. If not, I'll...
617
618 Man: Mr. Chairman, Wendy Strimling, Senior Deputy. I wondered if the applicant
619 wanted to speak at all.
620
621 Q: Yes.
622
623 Man: Okay. Thank you.
624
625 Q: I was just tryin' to get...
626
627 Man: Just making sure he has an opportunity. Thank you.
628

- 629 Q: ...done with public comment. Is no other public comment, we'll go ahead and
630 close public comment and uh, okay.
- 631
632 A4: Well, this may or may not be appropriate for this particular meeting. I don't
633 know, but I'm still appalled that uh, ya know, the rules and regulations are in
634 place in this county. Right? It said 15 feet. Anybody comes in, ya know, and
635 you guys just let it go. It doesn't seem to matter. Right? Eighteen feet is just
636 fine. This just creates disrespect for the law. Right? Maybe I should just - I
637 can speed. Right? Ya know? Put in a r- request here for bein' able to go 80
638 mph on Highway 68. Right? I mean, based on what I've seen and the way this
639 uh, group operates, you'd uh, be just fine with that, particularly if I were
640 somebody from CalAm. Um, it's truly distressing for me to see this. Ya
641 know? The law's in place. Comply with the law. As to previous comments on
642 the uh, the use of water in anyplace that's out of the currently defined B8 and
643 not grandfathered in, if uh, if any a that water does end up goin' there, and I
644 tell ya what, I'm gonna be up there watchin' this construction operation go on,
645 I will be back here in spades. This is not right, and CalAm basically is sort of
646 threatened the system here by saying oh, ya know, we got a fire problem. Ya
647 know, we gotta make sure we do this right. Well, I don't understand why if it
648 wasn't done right before, ya know, ex post facto law. I mean this is - this is
649 not the way it should be. So, they're basically threatening to do this. So, that
650 water should not go anywhere else, be used in any other development. Period.
651 Thank you.
- 652
653 Q: Your name for the record, sir?
- 654
655 A4: (Chris) Schott.
- 656
657 Q: Okay.
- 658
659 A4: (Chris) Schott. S-C-H-O-T-T. I'm a resident of Upper Rimrock.
- 660
661 Q: Okay.
- 662
663 A4: Right next to uh, (John Chandrun).
- 664
665 A5: Okay. (Louis Richardson) again. Um, couple a issues. Um, Mr. Montano sort
666 of referred to this. When they put in this tank back in the 80s, and I forget the
667 man's name, but it was before CalAm was being sort of a rough operation.
668 Well, some of the neighbors will tell you it was kind of a cowboy operation.
669 Frankly, I hope before this thing happens, if you allow it to happen, and I have
670 very little doubt that you will allow it to happen, I have a couple things I
671 would ask for. That it be resurveyed because that hill has sloughed. When I'm
672 up there, I don't know what the setback should be from a property line, but
673 going toward my neighbor's talk house, there - there can't be ten feet from the

674 edge of the hill and that water tank. And yet, everybody goes it's fine because
675 we have a seismic study. Well, that, ya know what, that's really great. But I
676 mean, common sense would tell me that if I'm a person on a side of a hill, ten
677 feet from the side, we've had sloughing which I'm sure has changed that
678 property line, it needs to be resurveyed. The other thing I want, if you approve
679 this, I want from CalAm, which offered it to us, an indemnification. Now the
680 only problem with the indemnification was, this might feel like coercion to
681 you - I hope it does - um, I had to drop the appeal. Now, does that seem
682 reasonable and fair to you gentlemen and Miss (Parker)? I mean, drop the
683 appeal, and we'll give you an indemnification just like the one we gave the
684 county. They drafted one. We have it. Excuse me. I'm getting a little excited.
685 We had one somewhere. So, I mean, I'm really upset about that. So, I wanna
686 resurvey at a minimum, and I want uh, an - an indemnification. Mr. Montano
687 has done an outstanding job. You can be really proud of what he does for the
688 county. Frankly, Mr. (Gonzales) has done a great job, but I am offended with
689 what I call a bribe. Thank you.

690 Thank you. Any other public comment? If not, I'll close public comment. Do
691 Q: we have the applicant here?

692

693

694 A6: Afternoon, members of the board. Uh, my name is (Aman Gonzales). I'm the
695 project manager for this project. I work for California American Water.

696

697 Q: And how much time do you need, Mr. (Gonzales)?

698

699 A6: Uh, couple minutes.

700

701 Q: Okay.

702

703 A6: Just first of all, I wanted to say that I do appreciate the (Richardsons)' concern
704 regarding this project, and that considering that we will continue to have to
705 operate these tanks, we will be neighbors with them. Um, these tanks serve
706 not only their property but also 68 other properties in the Rimrock
707 subdivision. Um, what I can offer in regards to safety of this project is that all
708 new tanks now are designed to the AWWA standards, American Water Works
709 Association standards. These standards have been developed over the last 40
710 years, and the performance of tanks under these standards has been excellent.
711 Um, these standards have taken a critical look at all of the elements that have
712 failed in the past, in the 60s and in the 50s, with tanks. Um, and they've - and
713 they've recommended um, requirements that provide strengthening and - and
714 look at - at the overall collapse of structures and ways to mitigate against that.
715 So those standards will be used in the design of this tank. Um, finally that the
716 uh, the Water Works Standards are considered acceptable as written uh, per
717 the - the International Building Code and also the California Building Code.
718 So they are pretty much codes working in conjunction with each other when

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we design these tanks. Um, just to address uh, Supervisor Parker, a couple questions that you had earlier. Um, why the 120K - why the 120,000 gallons now? Basically, this subdivision has had no fire protection since - since these tanks were established. You've only had 40,000 gallons of fire protection. If you talk to the fire department, they need two hours of 1,000 gallons per minute, which is 120,000 gallons. They have not had any fire protection up there, and these are - these are s- these are pretty good size homes. Um, I- many of them are more than 2,000 square feet. Um, regarding the issue with the phase. Um, the word phase that you saw in some of the documentation. When we talked to the fire department, they wanted uh, 120,000 gallons reserved just for fire protection. That does not include the everyday domestic demands that all of the 69 homes generate. Ya know, flushin' their toilets, using uh, washers. Um, so basically, this 120,000 gallon tank is less than what is truly required up on that hill. S when we talked to the fire department, we said because we have pumps that feed these tanks, they would allow for us to only put in the 120,000 gallon tanks, and possibly in the future, we could go to the PUC and ask them to supplement - to basically uh, meet all of the demands, both the fire protection demand and the potable demand. So, we're actually comin' in for less than what they really need up on the hill, and a lotta that has to do with site constraints. We are operating within the easement and within setbacks that were given to us by the county, so we only have a limited amount of space to put tanks up on that easement. Um, we did um, offer the (Richardsons) an indemnification agreement, and what we understood was that their concerns would be um, could be mitigated with an indemnification agreement, and so after hearing that, we offered them an indemnification agreement. Never did we say if you - if you engage in this indemnification agreement, we'll um - um, we'll - please drop the appeal. That was never made. Um, we basically said if uh, I - I - I dis- respectfully disagree with the way that they think that this occurred, but basically um, our understanding was that they had concerns about the tank and it sloughing off of that hill, and that their concerns would be um, resolved with an indemnification agreement. So, we subsequently offered them that indemnification agreement, and we have made attempts by email to communicate with them on the particulars of that indemnification agreement. So um, that's all I can say about that issue. And basically, that's - that's all I wanted to share with you guys today.

Q: Thank you. Okay. I'll bring ya back to the board and staff. Staff do you have anything to add or clarify?

Q5: Yes. Um, to the Chair. Staff would like to re- um, cap on the section of the discussion r- regarding growth inducing. And uh, in summary, the - CalAm had requested the uh, increase in capacity for fire protection as stated uh, for um, domestic water supply. Uh, the crease - increase in capacity is not changing uh, the water that's increasing the intensity of water or that's coming into that uh, the Rimrock - Upper Rimrock area. It's, therefore, the expansion

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- the - there is no expansion of the service area or new service connections. Therefore, the project would not result in - is in - not a grow- uh, results in growth inducing effects or a cumulative effects. Um, I think that's um, and uh, I think that's all staff would like to say with regards to the number three out of that growth inducing.

Q2:

And I wanted to address uh, a few - few of the points. Mike Novo at the planning department. Um, one thing when we look at new development, especially subdivision in the area, is uh, we look at the water supply in the ground, not water storage and tanks. So, what we do in - in the proof of water required by our subdivision ordinance is not looking at what's - what's in the tanks, so this doesn't help uh, from that growth inducing standpoint uh, to alleviate those concerns. We all know the Toro area. We've got groundwater studies that show it's an overdraft, and that has limitations already. In - in reflection of that, the 2010 general plan established lots a record policy for this. The 2009 study that Mr. - I think Mr. (Weaver) put up on the screen. Uh, I haven't seen the study, but it did predate our general plan and our lots of record policies. So, they may have assumed growth in the area that our general plan does not allow anymore. Um, Mr. Schott talked about the height. The 18 feet is um, is disrespecting law or vil- violating the law. Actually, our zoning ordinance require - allows a um, exceedance of the height with a use permit. That is required by the law. So, it - they are in compliance with the law. The use permit is one of the processes in order to achieve those things, so it's not a violation of the law. Um, the other thing that was brought up is moving B8 water out of that area, into this area which is not in the B8 district, and those pipes were established, from my understanding, many years before the B8 was established for the area. So the water system's been in place a lotta years. The subdivision's been in place for lot of years. There's no um, new development being served by water in the B8 district that wasn't uh, originally uh, planned that way and approved that way when the subdivision and water systems were first put in place uh, prior to the B8 district being established. So, I hope that answers uh, or at least gives ya a full picture of what you need to weigh today. Thank you.

Q:

Okay. I'll bring it back to the board for further comments or questions or direction.

Woman:

Mr. Chair. Um, I have a question uh, maybe county counsel can help with. Um, i- at this stage when uh, CalAm is saying we're just tryin' to bring things up to code and, of course the water's only gonna be for that particular subdivision that we say it's gonna be for, um, I think it's in all of our best interests particularly with the B8 uh, and all of that, to do what we can to make sure that um, that continues to be true over time. What is the extent of the county's authority to require that the water from uh, this proposed 120,000

808 gallon tank uh, be used for the purposes that it is said it will be used for - for
809 the Upper Rimrock?
810
811 Q2: Uh, maybe I can add a little bit uh, before county counsel weighs in on that.
812 Uh, this permit was for the water tanks not for the water system. The water
813 system was established many years ago, so um, ya know, I'm not sure that we
814 have a nexus for that, but I'll let you uh, weigh in on that.
815
816 Man: Yeah. I think that's a good - that's a good place to address it as actually the
817 system itself, whatever requirements are put on the system by the original
818 permits I - and the original obligations of CalAm in relation to our overall uh,
819 planning authority I think is what would govern it. Um, we might have some
820 ways to address uh, limitations in the future uh, but it would be - I think we'd
821 be uh, under some tight constraints about how we would do that. In other
822 words, if we were lookin' at s- uh, ya know, if we - if we have a legitimate
823 resource constraint in an area, how we can make sure that that is addressed
824 through appropriate limitations I think is somethin' we can bring back to look
825 at in the future. I'm not sure we could do anything here, but in the future.
826
827 Woman: I think um, I think that would be valuable uh, for us um, in - in this - in - in
828 this case and - and possibly, you know, certainly in this area, it's something
829 that we need to have a way to track I think pretty carefully, since we do have -
830 we do have resource constraints there.
831
832 Man: Right. We have resource constraints and - and CalAm has an obligations to
833 serve the - the - the - their uh, customers in the area that - that they have, ya
834 know, that they've set up the system for...
835
836 Woman: Who are there. Mm.-hm.
837
838 Man: ...and have approved the system.
839
840 Woman: Right. Thank you.
841
842 Q: Other board comments or questions or direction.
843
844 Man: So that uh, (unintelligible) I think uh, concern that I had, so there is no weight
845 currently that we could, if we approve this, to limit the use of this water to the
846 Rimrock area? 'Cause I - I heard a couple a speakers request that - that - we
847 could. If this is gonna happen, then make sure that it stays uh, isn't used for
848 any other purpose.
849
850 Q2: Uh, I - well, I think, ya know, I'm - I'm - I'm not completely familiar with
851 how the, ya know, where they're getting the water supply for these tanks, but

852 the, ya know, there's not - we're talkin' about a permit for the tanks to put in
853 the tanks, and it's - that's different than the overall water system. Yeah.

854 Mr. Chairman, Wendy Strimling, Senior Deputy. I think I agree with the
855 Q5: county counsel. We'd have to take a look at that because CalAm, their permit
856 is with the State Department of Public Health. That's who has jur- that's the
857 permitting agency for CalAm. So we would have to take, this is just for the
858 storage uh, and so we would need to, you know, at least if you wanted to put
859 that kind of restriction on it, then um, we'd have to take a - do a continuance
860 so we could take a look at that because I don't - I don't know that we would
861 have that kind of jurisdiction, and we'd have to research that.

862 Okay. Other board comments or questions or what's the pleasure of the board
863 Q: at this time?

864 W- well, Mr. Chair, if - if we were to ask staff to look into this question to see
865 Q5: um, what the appropriate um, level of um - um, what, restraint we could uh,
866 put on the use of this water, how - how much time would that take to look into
867 whether - what our different options are?

868 I suspect not very long 'cause I have a pretty good idea of the answer, but I
869 Q2: don't wanna necessarily say that you're completely restricted. I think that the
870 point here is that it's - that the permit here is for this tank...

871 Right.

872 Q5: ...and it's not for that water system.

873 Q2: Right.

874 Q5: And as - as Wendy Strimling pointed out is that the - who has jurisdiction
875 Q2: over um, permeating these kinds of systems...

876 Q5: Mm-hm.

877 Q2: ...large water systems um, is generally with the state.

878 Q5: Right. So I think um, it sounds like it's two separate issues in a sense. Um, so
879 um, I - I would be uh, curious and if um, if there's a way to look into yes, we -
880 we know it's probably - that CalAm is regulated by the state, but if there is a
881 way for us to uh, petition uh, the state uh, department of health to say, ya
882 know, we've got - we got some serious conditions here. What can you do to -
883 to help us? I mean, that would be uh, or to find out if that's - if that's possible
884 to do. I think that would - that could be useful for us uh, in - in this Toro area
885 as well as uh, possibly some others.

897
898 Q2: Okay. And I'm not - and I'm not - maybe I'm missing it, but I'm not sure
899 exactly that they're talkin' about per using this water that widely, but maybe
900 I'm mistaken.

901
902 Q5: Right. My point is that they aren't - they - right now they're saying oh, it's
903 just gonna be for the people who are there. It's all fine. Um, sometimes things
904 that people say in one moment change over time, and so, what is our ability to
905 uh, track that? Um, ya know uh, set some requirements in place.

906
907 Q2: Mm-hm.

908
909 Q5: Uh, with - with the assistance of the, ya know, the state regulatory agency or -
910 or whatever.

911
912 Q2: Right. Probably fairly limited, ya know?

913
914 Q5: Mm-hm.

915
916 Q2: It - my guess is that we'd also be getting into the water supply issues with the
917 state water board, too on that - on that side of it.

918
919 Q5: That would be (unintelligible). You could look into it, that'd be great.

920
921 Man: Mr. Chairman.

922
923 Q: Yes.

924
925 Man: I - I c- I can understand the issue, and uh, ya know, I - I sympathize with uh,
926 Supervisor (Parker) on this one. Uh - uh, you - you - you've got a B8 zone and
927 then the water company basically comes in and takes over an area and - and
928 starts incorporatin' that B8 zone with other adjoining own- areas that are not
929 in a B8. I can see that that could create major problems. Uh, we're - our - and
930 our B8 language doesn't have some constraints that would oversee that?

931
932 Q: (Wendy), do you have a thought...

933
934 Q5: Yeah.

935
936 Q: ...on that one?

937
938 Q5: Our B8 language has no intensification of water use, but this is not, I mean the
939 - as the facts as they stand now, it's not uh, CalAm is not proposing an
940 intensification of water use. They're simply increasing their storage capacity.
941

942 Man: But - but...

943

944 Q5: They said it's only to provide fire. So, but in answer to the question, how long
945 would it take in terms of if you wanted to do a continuance, I think at least
946 three weeks backing up the fact that you like your staff reports - the staff
947 reports for July 24 are basically due today. I think two hours ago. So um, if
948 you want the answer and have one, have time to digest it, I would say
949 probably the second week of August, possibly July 31. Those would be the
950 (unintelligible) um, shaking your...

951

952 Q: I like the second week of August...

953

954 Q5: ...besides there's so many in August.

955

956 Q: ...since they're - since they're off.

957

958 Q5: So the last meeting, right. Last - I'm thinking planning commission. Last
959 week in - last week in July would be I think the earliest it, ya know?

960

961 Q: Yeah.

962

963 Q5: Um, if - if w- and it - and depending on if there w- if there isn't jurisdiction,
964 that's faster. If there is j- some kind of jurisdiction, then that takes longer to
965 craft. Conditions and change, ya - so then that's a little bit longer, but - but I
966 think w- c- July 31 would be the - the earliest to continue it to in that case.

967

968 Q2: Yes.

969

970 Q: Yeah. I'm - I'm tryin' to, if I may, to understand with why we could not move
971 forward today as proposed by staff. Isn't s- sometin' like this somethin' that
972 we have professional planning staff would uh, anticipate possibly that this
973 may or may not be a concern?

974

975 Q2: Well again, it's in the jurisdiction of the board and the discretion of the board
976 as to what they wanna do. If they uh, wanna go with staff's recommendation
977 that's before you and ready for action. If you want us to look at uh, potential
978 limitations on those water tanks to keep that water within the Rimrock
979 subdivision, then that's somethin' we'll have to go back and look at. So, it's
980 just in the discretion of the board and which - which way you wanna go.

981

982 Q: So, it - it's not related specifically to an area as we - as proposed in the staff
983 report in moving forward?

984

985 Q2: Right. I think - I think the answer to that is correct because the - the
986 application here is for the storage tanks, not necessarily how to serve a
987 particular area with the water system.

988 Q: Well, but that's - I - I see that's a separate issue, a separate concern. We're -
989 we're - when - when we talk about concerns for int- in- intensification and
990 further growth, we're not talking about that today. That's not what is before us
991 here today. It seems like that - that is a concern...

992 Man: He's right.

993 Q: ...but we can address that concern if anybody ever tries to submit an
994 application. In the last ten or 12 years, people have attempted to do that in this
995 general area, nothing ever happened.

996 Q2: And - and I think that - I - I would agree with that as far as what's before the
1000 board, and I think the concern though is that is there uh, is there a physical
1001 ability to actually just ma- move the water outside of that subdivision. And if
1002 there is, is that something that is aw- um, they're allowed to do under the
1003 current uh, permitting or - and/or is there a way to limit the uh, water
1004 purveyor's ability to do that or - or uh...

1005 Q5: Yeah. Mr. Chair, I think uh, I agree that on some way - in some ways it is a
1006 separate issue, but this is the moment that we have something before us where
1007 we might be able to um, to have some uh, ability that we might not have in the
1008 future if we just uh, permit the - the um, the tank.

1009 Q: Well - well, I believe that ability even will continue to exist beyond today.

1010 Q5: Okay.

1011 Q: I - i - i - if it's s- such a strong major concern, then it's - it's - it sh- it woulda
1012 been addressed in the staff report.

1013 Q2: Yeah.

1014 Q: And - and even if we move forward today with a staff recommendation, and
1015 we find out afterwards uh - uh - uh - it - it - it doesn't mean it - it - by what
1016 we're doin' today we're - we're not giving anybody authority to do anything
1017 else than what's in the staff report. (Unintelligible) request.

1018 Q2: And the other - the other op- uh, option might be to - to inquire of California
1019 American about what um, limitations they currently have and/or may be
1020 willing to put on that system.

1021
1022
1023
1024
1025
1026
1027
1028
1029

1030 Man: Mr. Chair, I - I think you're - you're correct, so with that I'm - I'm prepared to
1031 move the staff recommendation with the uh, I guess, the uh, the request that
1032 we look at this to see what we can do uh, in the future with - with this kinda
1033 issue.
1034
1035 Man: I'll go ahead and second that.
1036
1037 Q2: Although I have concerns on the other issue, I can see 'em as two separate
1038 issues, and r- they'll have to be addressed at one time or another. There's no
1039 doubt about that.
1040
1041 Q: Any further comments or questions? If not, all that's in favor.
1042
1043 Q5: Uh, just a quick uh, clarification. So we're asking that uh, staff come back on
1044 the 31st of July with a preliminary um, look at...
1045
1046 Man: No:
1047
1048 Q5: ...what we might be able to do.
1049
1050 Man: This is just to move forward with the project. They - we can certainly request
1051 that they bring back information...
1052
1053 Q5: Right. Right. Right.
1054
1055 Man: ...(unintelligible) issue.
1056
1057 Q5: No. Y- we're a- we're - we're approving staff's recommendation with the
1058 request that staff is gonna come back um - uh, county counsel on the 31st to
1059 let us know what our options are on the - on the other? All right. Thank you.
1060
1061 Q2: Can I see?
1062
1063 Q: Okay.
1064
1065 Q2: The CalAm representative there. I don't know if you wanna hear from him.
1066
1067 Q: Uh, Mr. (Gonzales). Uh, you wanted to say sometin'?
1068
1069 A6: No. Yes. Thank you. Uh, just wanted to emphasize that there are no additional
1070 demands proposed as part of this project. So, I'm not so clear as to why the
1071 restriction would be done at this time or looked at as part of this project. I
1072 think that there are other opportunities if another developer came in and tried
1073 to um, build more homes or subdivide property that that would be the
1074 appropriate time to look at restricting water use um, in this area. So uh, I

1075 would - I would say that um, we're not creatin' any additional demand with
1076 these tanks, and we're - we're serving a deficiency that's there already. So, I
1077 would ask that you consider that. Thank you.

1078
1079 Q: Thank you. Okay. We got that on the record. So, we got a motion to second
1080 and move forward. All that's in favor?

1081
1082 All: Aye.

1083
1084 Q: All that's opposed? Okay. So...

1085
1086 Q5: So, Mr. Chair, excuse me.

1087
1088 Q: Yes.

1089
1090 Q5: Just - just to clarify. So you're moving forward with the staff recommendation
1091 and they are coming back on the 31st um, with information uh, regarding the
1092 restrictions that may or could be imposed, if any.

1093
1094 Q2: Right.

1095
1096 Q5: On the water (unintelligible).

1097
1098 Q2: That wouldn't necessarily be on this project, but at the - but in general as far
1099 as those kinds of um - uh - uh, opportunities might arise for the board to - to
1100 enact those kinda reg- uh, regulations or restrictions.

1101
1102 Q5: Okay. Great. Thank you for that clarification.

1103
1104 Q: Okay. Are we clear? Okay. All right. Then uh - they we're at the end of uh,
1105 today's agenda and I'll - I'll look to county counsel (unintelligible) from
1106 closed session.

1107
1108
1109 This transcript has been reviewed with the audio recording submitted and it is an accurate
1110 transcription.
1111 Signed _____

ATTACHMENT 4

***DOCUMENTS THAT SUPPORT
PREPARATION OF EIR***

Authored by:

**Richard H. Rosenthal
Richardsons**

Monday, October 07, 2013

Date	Full Name	Bates - Begin
Tue 09/07/1993	Resolution No. 93-364	600-602
Tue 09/07/1993	Ordinance No. 3704	603-604
Fri 02/10/1995	Letter: Monterey County Health to Slimmon Jr.	605-606
Tue 03/27/2012	Cal Am to Public Utilities Commission	607-613
Mon 02/06/2012	Email from Cal Am to California Department of Health with storage tanks and sizes	614
Tue 11/06/2012	Letter: Cal Am to Carl Holm	615-631
Fri 05/25/2012	Cal Am to Michael D. Cling, Esq.	632
Wed 05/30/2012	Michael Cling to Monterey County Planning	633-634
Wed 08/16/2006	Email string from Mary Ann Dennis	635-637
Tue 05/15/2012	Email from Richard H. Rosenthal to Wendy Strimling	638
Thu 06/14/2012	Letter from Richard H. Rosenthal to Les J. Girard	639-641
Thu 02/08/1996	Letter: Cal Am to Ambler Customers	642
Tue 01/11/2000	Letter: Lemoine to Osorio	643
Thu 02/09/2012	Notice of Determination: Corral de Tierra Neighborhood Retail Village	644-646
Tue 02/07/2012	Findings in the matter of Omni Resources Inc. PLN110077: Resolution 12-040	647-648
Fri 02/10/1995	Letter: Monterey County Health to Slimmon Jr.	649-650
To Be Determined	Blank	651
Tue 09/28/2010	Letter: Monterey County Health to Cal Am	652-653
Thu 02/03/2011	Letter: Monterey County Health to Ray Harrold Jr.	654-655
Mon 03/21/2011	Harper Canyon Realty opening brief in the matter of Highway 69 Coalition v. Cal Am	656-659
Wed 01/12/2005	Advice Letter No. 617	660-662
Wed 02/29/2012	Advice Letter 934	663-666
Tue 01/08/2013	Notice of Lis Pendens: Monterey County Superior Court Case Number M121354	667-669

*Before the Board of Supervisors in and for the
County of Monterey, State of California*

Resolution No. 93-364--
Resolution by the Monterey County
Board of Supervisors Making
Findings Supporting The Amendment
to Section 21.42.030(H) of Title 21
(PC-93043) To Allow For Construction
On Vacant Commercially Zoned Lots
of Record Where Such Construction
Can Be Found to Not Adversely Affect
The Constraints Which Caused The
"B-8" District To be Applied To The
Property.

WHEREAS, the Planning and Building Inspection Department
submitted for consideration to the Board of Supervisors
("Board") the proposed ordinance contained here in which
would amend Section 21.42.030(H) of Title 21, and

WHEREAS, the proposed ordinance contained herein was
introduced at the meeting of August 24, 1993 and
considered by the Board of Supervisors at a public hearing
on September 7, 1993, and

WHEREAS, public testimony has been taken and considered
during the hearing process, and

WHEREAS, the Board of Supervisors has determined, on the
basis of materials contained in File PC-93043 and comments
received during the public hearing that there is no
substantial evidence that the amendment to Title 21 will
have a significant effect on the environment.

NOW, THEREFORE, BE IT RESOLVED that the Board of
Supervisors hereby adopts Ordinance No. 3704 which amends
Section 21.41.030(H) of Title 21 to allow development on
vacant commercially zoned lots of record within the B-8
zoning district where such construction can be found to
not adversely affect the constraints which caused the
"B-8" district to be applied to the property subject to
the following findings and evidence:

- 1. FINDING: The proposed amendment to Section
21.42.030(H) of Title 21 is consistent with Policies of
the Monterey County General Plan and the various area
plans which affect properties outside of the coastal zone.

EVIDENCE: All policies of the Monterey County General
Plan and the various area plans have been reviewed by
Planning staff. The proposed amendment would allow for
development on vacant lots of record within the "B-8"
zoning district which are designated for a commercial use
where such construction can be found to not adversely
affect the constraints which caused the "B-8" district to
be applied to the property.

2. FINDING: The proposed ordinance amendment will not have a significant effect on the environment.

EVIDENCE: There are no applications pending for commercial development within a "B-8" district. Future proposals for such development would be evaluated on a case-by-case basis to determine potential environmental impacts.

3. FINDING: Considering the record as a whole, there is no evidence that the project will have potential for adverse effect either individually or cumulatively on wildlife resources as defined in Section 759.2 and 711.2 of the Fish and Game Code.

EVIDENCE: The administrative record as a whole, which contains the following information supports the above finding since there will be no impact on fish, wildlife or plant life resources. No development is proposed at this time and no development would be allowed should this amendment be approved. Applications for future development would be required and reviewed on a case by case basis to determine if fish, wildlife or plant resources would be impacted.

4. FINDING: The Board of Supervisors considered the following documents and made them available to the general public prior to its deliberations: Title 21 (Monterey County's Zoning Ordinance); letters, documents and materials contained in Planning Department File No. PC-93043.

EVIDENCE: Planning Department File PC-93043

5. FINDING: The Board of Supervisors considered public testimony during the public hearing on August 24 and September 7, 1993.

EVIDENCE: File PC-93043 and the transcripts and minutes of the Board of Supervisors hearings on August 24 and September 7, 1993.

6. FINDING: The adoption of this amendment to the B-8 zoning district regulations will not under the circumstances of this case be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in Monterey County and specifically the Toro area.

EVIDENCE: This finding is supported by the above findings and evidence.

Upon motion of Supervisor Johnson, seconded by Supervisor

000601

Perkins, and carried by the following vote:

AYES: Supervisors Salinas, Shipnuck, Perkins, Johnson and Karas

NOES: None

ABSENT: None

I, ERNEST K. MORISHITA, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof at page 27 of Minute Book 67, on Sept. 7, 1993
Date: Sept. 7, 1993

ERNEST K. MORISHITA, Clerk of the Board of Supervisors, County of Monterey, State of California.

By

Amelia Olivas

Deputy

000602

ORDINANCE NO. 3704

AN ORDINANCE OF THE COUNTY OF MONTEREY AMENDING SECTION 21.42.030.H. B-8 1 OF THE MONTEREY COUNTY CODE RELATING TO ESTABLISHMENT OF COMMERCIAL USES IN B-8 ZONING DISTRICTS.

County Counsel Synopsis

This ordinance amends section 21.42.030.H. B-8 1 of Chapter 21.42 of Title 21 of the Monterey County Code to restate that the establishment of new commercial uses in B-8 zoning districts is not precluded under the Code so long as such commercial uses do not adversely affect the constraints which caused the B-8 district to be applied to the property.

The Board of Supervisors of the County of Monterey ordains as follows:

SECTION 1. Section 21.42.030.H. B-8 1 of Chapter 21.42 of Title 21 of the Monterey County Code is amended to read as follows:

H. B-8 1. The purpose of the "B-8" Zoning District is to restrict development and/or intensification of land use in areas where, due to water supply, water quality, sewage disposal capabilities, traffic impacts or similar measurable public-facility type constraints, additional development and/or intensification of land use is found to be detrimental to the health, safety, and welfare of the residents of the area, or the County as a whole.

For the purpose of this section "intensification" means the change in the use of a building site which increases the demand on the constraint(s) which caused the "B-8" District to be applied over that use existing at that time the "B-8" district is applied to the property. The "B-8" district does not affect: (1) the construction of the first single family dwelling on a building site or additions to dwellings, guesthouses, or non-habitable structures accessory to a dwelling

use; (2) construction or expansion of commercial uses where such construction or expansion can be found to not adversely affect the constraints which caused the "B-8" district to be applied to the property.

SECTION 2. EFFECTIVE DATE. This ordinance shall become effective on the thirty-first day following its adoption.

PASSED AND ADOPTED by the Monterey County Board of Supervisors this 7th day of September, 1993, by the following vote:

AYES: Supervisors Salinas, Shipnuck, Perkins, Johnson & Karas

NOES: None

ABSENT: None

Barbara Shipnuck
BARBARA SHIPNUCK
Chairwoman, Board of Supervisors

ATTEST:

ERNEST K. MORISHITA
Clerk of said Board

By *Parula Olivas*
Deputy

MONTEREY COUNTY

DEPARTMENT OF HEALTH

ROBERT J. MELTON, M.D., M.P.H., Director

FAMILY AND COMMUNITY HEALTH
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☐ 1180 BRADWAY, KING CITY, CALIFORNIA 93930 (408) 385-4360



PLEASE REPLY TO ADDRESS CHECKED

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FEB 17 1995

WATER RESOURCES
AGENCY

February 10, 1995

Robert Slimmon, Jr.
Director of Planning and Building Inspection
P.O. Box 1208
Salinas, California 93901

RE: Hold On New Building Permits, State Imposed Service Moratorium On Toro Water Service, HWY. 68 and Corral De Tierra Area

Dear Mr. Slimmon:

Recently, our Department was notified by California Department of Health Services, Drinking Water Field Operations Branch (DHS) that they have imposed a service connection moratorium on Toro Water Service (Toro). A copy of this notification is attached for your review. The moratorium has been imposed in response to a critical water supply shortage in that system. The DHS has determined that Toro can reliably serve 237 service connections in its current configuration, based on source capacity and storage calculations. Toro currently serves 344 active connections, 107 more than the system can reliably serve with existing operable wells.

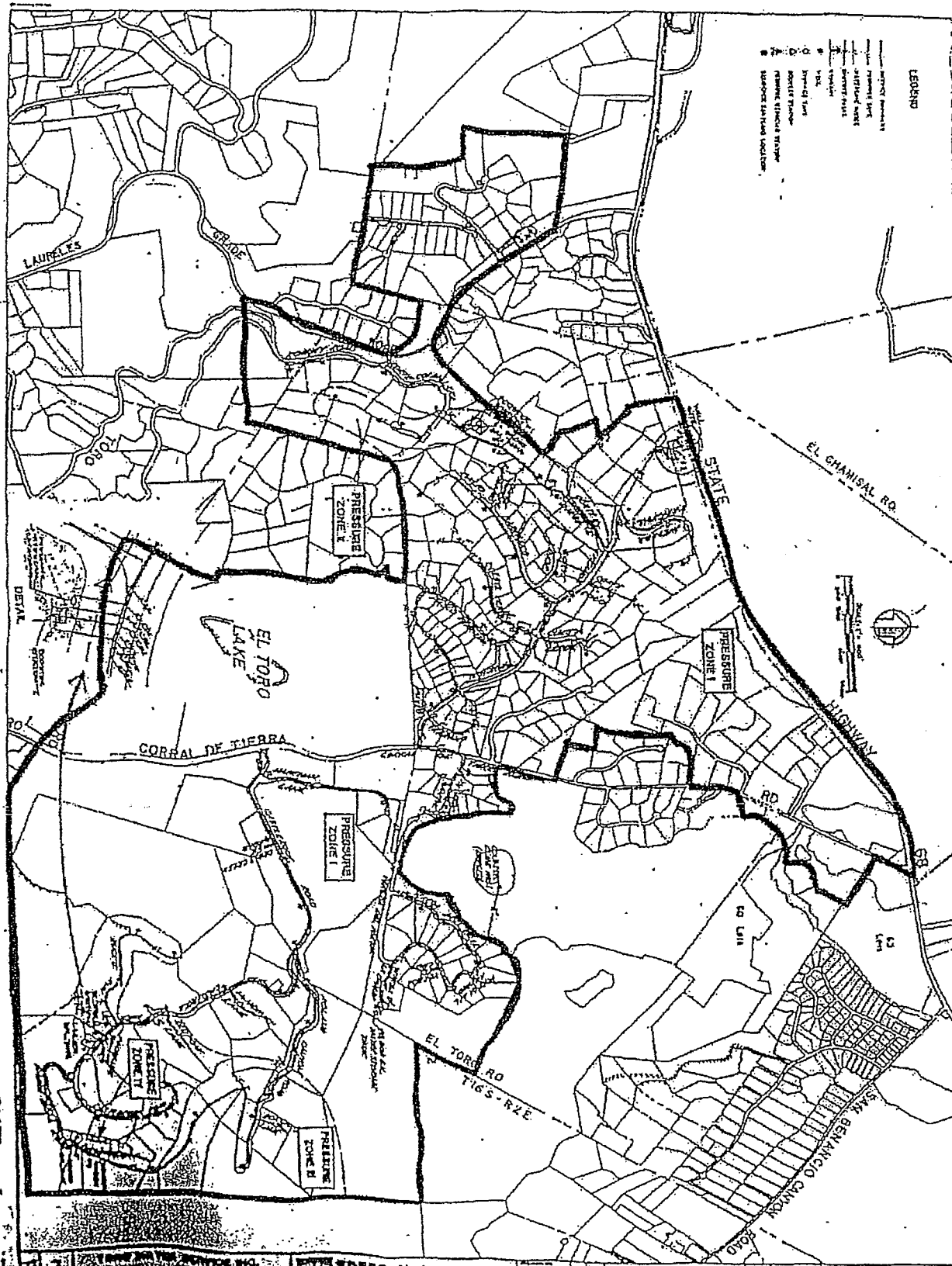
The Toro service area is depicted in the attached map that is enclosed for your review. However, it should be noted that there are county permitted water systems and private individual water systems interspersed within Toro's service area.

In an attempt to meet existing water system demands and lift the DHS imposed moratorium, Toro water service has applied for an amended water system permit from DHS to drill a new well. Once Toro has meet DHS requirements, DHS will reevaluate Toro's source capacity and determine the number of service connections the system can reliably serve.

As a result of these actions taken by DHS, please advise your staff that the Health Department will be enforcing the service connection moratorium by holding county building permit applications that have been determined by staff to be additional service connections to Toro's water system.

18

000605



LEGEND

- Water Resources
- Road
- Railroad
- Power Line
- Water
- Canal
- Creek
- Dam
- Reservoir
- Substation

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000606



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March 27, 2012

Rami Kahlon
Director, Division of Water and Audits
California Public Utilities Commission
505 Van Ness Avenue, 3rd Floor
San Francisco, CA 94102

Re: Reply to Mike Weaver's Protest of Advice Letter 934

Dear Mr. Kahlon:

I. Introduction

By this letter, California-American Water Company ("California American Water") responds to the protest to Advice Letter 934 filed by Mike Weaver on March 20, 2012. In Advice Letter 934, California American Water requested authorization to extend service to the San Benancio Middle School, which is contiguous to California American Water's Ambler service area. This project is both important and urgent. It is important because it is the most expedient solution for Washington Unified School District to comply with the California Department of Public Health compliance order to remedy the high levels of arsenic in the school's current water supply. It is urgent because Washington Unified School District is both competing with other projects for grant funds to pay for the necessary improvements to connect to California American Water's system and is seeking to complete construction prior to the commencement of the 2012-2013 school year. Any delay occasioned by Mr. Weaver's baseless protest threatens the award of grant funds to this project and delays its completion. In his protest, Mr. Weaver argues that the Commission should convene a hearing on this advice letter. Mr. Weaver's protest is flawed in multiple respects, the most important of which is that Mr. Weaver provided no evidence to support his protest. Individually and cumulatively, the allegations and innuendo contained in Mr. Weaver's letter do not warrant a hearing and provide no justification to delay this urgent project that will remedy a public health emergency affecting approximately 350 school children. California American Water will respond to Mr. Weaver's allegations as closely as possible to the order in which they are presented.

II. Reply To Protest of Mike Weaver

A. California American Water Properly Noticed Advice Letter 934

Mr. Weaver alleges that California American Water did not properly give notice of this advice letter because none of the "smaller mutual water systems were given notice of the advice letter." Section D of Standard Practice U-14-W specifies the entities that must be served with an advice letter to extend a water utilities service area. That notice does not require a water utility to serve the advice letter on surrounding mutual water systems. As evidenced by the proof of service

000607

filed with the Commission, Advice Letter 934 was served as required by Standard Practice U-14-W. Accordingly, Mr. Weaver's first alleged basis for holding a hearing on this advice letter incorrectly states the applicable standard and is factually incorrect.

B. Advice Letter 934 Does Not Violate A Statute or Commission Order

Mr. Weaver also alleges that the authorization requested by the advice letter would violate a Commission order, referring to proceeding C.10-08-022. There are multiple flaws with Mr. Weaver's claims. Factually, Mr. Weaver incorrectly characterizes the Washington Unified School District service extension as being similar to that complained of in C.10-08-022. In C.10-08-022, Mr. Weaver complained of California American Water providing service to a new subdivision that lies within the Monterey County 2C benefit zone established by the Monterey County Water Resources Agency, when that service would involve water being transported from a well within Zone 2C, treated in California American Water's Ambler treatment plant outside of Zone 2C, and then returned to the subdivision. Here, California American Water will source the water for San Benancio Middle School from its existing Ambler wells outside of Zone 2C. The 2C benefit zone is not implicated by this service, as evidenced by the letter from the Monterey County Water Resources Agency submitted with the workpapers for Advice Letter 934. If there were any debate as to California American Water's service to the subdivision at issue in C.10-08-022, that debate ended when Monterey County determined that California American Water's service is not a code violation. A letter from Monterey County to Mr. Weaver advising him of their findings is attached as Attachment One to this reply.

Legally, Mr. Weaver's characterization of the proceedings in C.10-08-022 is deceptively incorrect. In D.11-09-01, the Commission dismissed the Highway 68 Coalition's¹ complaint for lack of evidence that California American Water was violating Condition 9 of D.98-09-038 relating to the export of water from the Ambler system. Mr. Weaver alleged there that California American Water was not allowed to extend service to new territory adjacent to its Ambler system, and the Commission rejected that argument. The record of that proceeding shows that California American Water is allowed to extend service to new territory through advice letters such as Advice Letter 934. To date, D.11-09-01 has not been modified by the Commission. Pursuant to Commission Rule of Practice and Procedure 16.1, that order is effective even while an Application for Rehearing is pending. Therefore Mr. Weaver incorrectly and deceptively asserts that Advice Letter 934 conflicts with D.11-09-01.

C. The Analyses Supporting Advice Letter 934 Are Correct and Complete in all Material Respects

Mr. Weaver's third basis for his protest alleges that the analysis, calculations or data in the advice letter contain material errors or omissions. He then refers to his Attachment One. Attachment one, in turn raises numerous issues, which we will address in order.

1. Mr. Weaver first implies that, because correspondence sent from the school district to the then-current general manager of California American Water's Monterey Division, and that person is no longer employed by California American Water, the correspondence is

¹ The Complaint was filed by Mike Weaver on behalf of the Highway 68 Coalition. No person other than Mr. Weaver appeared on behalf of the Coalition.

000608

misleading. Mr. Weaver neither provides evidence to contradict the statements nor disputes any material fact in these letters. More importantly, what Mr. Weaver misses is that the recipient of the letter is not relevant to the content of the letter; it is the sender whose credibility is important, and Mr. Weaver does not allege that Superintendent Dee Baker lacks credibility.

2. Mr. Weaver then questions the basis for Washington Unified School District's decision to choose to connect to California American Water's Ambler system to resolve the California Department of Public Health's compliance order; however, the school district's reasoning is irrelevant because neither Standard Practice U-14-W nor General Order 96-B requires the Commission to review a party's justification for choosing to be served by the utility. Nevertheless, attached to this reply as Attachment 2 is the Axiom Engineers study prepared for the school district that discusses their analysis of solutions to the compliance order.
3. Mr. Weaver also appears to suggest that there is inadequate evidence of an arsenic problem in the underlying groundwater. While the need to connect to California American Water's system is not a criteria the Commission considers in approving advice letters pursuant to Standard Practice U-14-W, and the compliance order issued by the California Department of Public Health is more than adequate to prove the existence of arsenic contamination, California American Water also notes that the Axiom Engineers report discusses the actual concentrations in the San Benancio Middle School well. In addition, this Commission has authorized California American Water to spend significant money to construct and operate arsenic treatment plants in both its Ambler and the adjoining Toro systems. Finally, the Geosyntec groundwater study that Mr. Weaver attached to his complaint in C.10-08-022 states that "arsenic concentrations exceed the primary maximum contaminant level of 10 µg/l in 33% (27 of 82) wells with available data." There is more than adequate evidence that there is an arsenic contamination problem that must be remedied.
4. In Attachment One to his protest, Mr. Weaver also make irrelevant claims regarding statements made by a local developer regarding the developer's plans to provide water to a planned subdivision. None of the statements Mr. Weaver questions were made by either Washington Unified School District or California American Water. California American Water's service to that subdivision was reviewed and found proper in D.11-09-01, and the County of Monterey has found that our service does not violate the Monterey County Code. See Attachment 1.
5. Mr. Weaver goes on to allege that the distribution storage sources listed in the workpapers for Advice Letter 934 are different from those allegedly submitted to other agencies. Mr. Weaver confuses the requirements of the various filings. In one instance, California American Water reported a physical tank volume, which is 25,000 gallons. In another instance, California American Water reported the usable storage volume. Due to the location of outlet pipes and other operational considerations, these numbers may be different. As to the information requested in the Water Supply Questionnaire, the work papers submitted with Advice Letter 934 are correct.
6. Mr. Weaver also attempts to show that, based on the demand calculations in the workpapers, California American Water providing service to San Benancio Middle

School will adversely induce overdrafting of the groundwater basin. Both the San Benancio Middle School Well and the Ambler Wells were included in the El Toro Groundwater Basin study. There is no evidence that shifting the school's historic pumping from the on-site well to the Ambler Park wells will adversely affect the groundwater basin.

7. Mr. Weaver also suggests that the addition of San Benancio School to the Ambler service area may increase rates. As the Commission found in D.11-09-01, the addition of customers to an existing service area tends to reduce rates, as the fixed costs are now spread among more customers. There is no evidence that the addition of San Benancio School will result in additional costs.
8. Mr. Weaver attacks the letter submitted by Lozano Smith regarding the progress by Washington Unified School District to implement this project. Mr. Weaver fails to grasp the import of this letter; it is required by Standard Practice U-14-W to show reasonable progress toward completion. The fact that LAFCO approval is not required, as Mr. Weaver points out, demonstrates that there are fewer impediments to this project than the typical service area expansion. The school district is making reasonable progress and therefore the Commission should authorize the requested service area extension.
9. Mr. Weaver suggests that the fire hydrants used to determine the current fire flow capacity of the Ambler system are somehow tainted by recently filed litigation. Attached to this reply as Attachment 3 is the settlement agreement in that litigation. As can be seen, it does not involve California American Water. The link Mr. Weaver misleadingly makes is that Monterey County agreed to audit the development condition compliance of the Ferrini Oaks subdivision, which Mr. Weaver unsuccessfully challenged in proceeding C.10-08-022. Monterey County found that the Ferrini Oaks subdivision had complied with all of its conditions, and, as noted previously, has found that California American Water's service to that subdivision is not a violation of the Monterey County Code, as Mr. Weaver alleges. There is no evidence that the hydrant flow calculations supporting Advice Letter 934 are in anyway incorrect.
10. Mr. Weaver challenges the Washington Unified School District's use of an exemption from the California Environmental Quality Act ("CEQA") for this project, alleging that the shifting of the school district's historic pumping from the San Benancio School well to California American Water's Ambler wells will result in a significant effect on the environment. Such a determination is irrelevant to the Commission's decision here. Pursuant to Section 7.6.1 of General Order 96B, the determination made here is ministerial; California American Water does not need Commission approval to extend service to San Benancio Middle School, but must demonstrate to the Commission that it can provide adequate service to customers in the extended service area. As a "ministerial" act, that action is not subject to CEQA.²
11. Mr. Weaver's penultimate claim in Attachment #1 is that because correspondence exchanged between California American Water and the Monterey County Water Resources Agency were authored by Curtis Weeks, the former General Manager of the

² See Public Resources Code Section 21080(b)(1) and 14 C.C.R. § 15369.

Monterey County Water Resources Agency and addressed to Craig Anthony, the former General Manager of California American Water's Monterey Division, the information contained in the letter is not reliable. Mr. Weaver's innuendo does not prove that the letter contains material errors or omissions and Mr. Weaver neither provides evidence to contradict the statements nor disputes any material fact in these letters.

12. Finally, Mr. Weaver describes a phone conversation between himself and Cheryl Sandoval from the Monterey County Department of Environmental Health regarding the e-mail correspondence regarding whether California American Water's service to San Benancio Middle School would implicate Monterey County's B-8 zoning restrictions. Despite the clear statement in those e-mails that Monterey County's B-8 zoning does not apply to school facilities, Mr. Weaver attempts to create controversy where none exists by suggesting that California American Water's service to San Benancio Middle School is somehow related to an adjoining subdivision. In addition to the written statements by Ms. Sandoval, the San Benancio Middle School site is designated as a Quasi-Public/Public for land use purposes. Quasi-Public/Public land uses are not subject to the B-8 overlay zone, and therefore Mr. Weaver's claims are irrelevant.

D. The relief sought in Advice Letter 934 is not pending before the Commission in another proceeding.

Mr. Weaver also claims that the relief sought in this advice letter is pending before the Commission in proceeding C:10-08-022. In proceeding C:10-08-022, Mr. Weaver complained of prior annexations to California American Water's Ambler service area; he wants to stop annexations territory to California American Water's Ambler service area. In fact, Mr. Weaver has advocated for that in multiple proceedings before the Commission. Each time the Commission has rejected his request for a moratorium. Thus, Mr. Weaver's statements are factually incorrect because California American Water's request to annex the San Benancio Middle School site is not pending before the Commission in another proceeding.

Mr. Weaver also asks the Commission to hold a formal hearing on this advice letter and suggests that it is otherwise inappropriate for relief to be granted by advice letter. Mr. Weaver bases this claim on his assertion that the Commission's action here would violate CEQA and that California American Water's service would violate Monterey County's B-8 zone. As previously noted, the Commission's action here is not subject to CEQA because it is a ministerial act. As respects B-8 zoning, California American Water will not belabor the B-8 zoning issue; Mr. Weaver has presented no evidence that the B-8 zone applies to the San Benancio Middle School site.

California American Water also notes that Mr. Weaver has not complied with General Order 96B in his request for hearing. Section 7.4.1 of General Order 96B states:

If the protestant believes that the Commission should hold an evidentiary hearing, the protest must expressly request and explain the need for an evidentiary hearing. The explanation must identify material disputed facts and say why a hearing must be held. Any right a protestant may otherwise have to an evidentiary hearing

will be waived if the protestant does not follow this procedure for requesting one.

Mr. Weaver does not identify material disputed facts or state why a hearing must be held. Therefore, Mr. Weaver has waived his right to an evidentiary hearing pursuant to General Order 96B.

E. The Relief Sought in Advice Letter 934 is Just, Reasonable, and Not Discriminatory

Finally, Mr. Weaver claims that the relief requested in advice letter 934 is unjust, unreasonable or discriminatory. Mr. Weaver bases these claims on Attachment #2 and his allegations that there was an inadequate consideration of alternatives to California American Water extending service to San Benancio School, that the correspondence in the workpapers for this advice letter "are signed by persons since disgraced in Monterey County, or no longer working for CalAm, (sic) or are out of date because of recent discoveries of significant information." Mr. Weaver also claims that the advice letter discriminates against small mutual well and water system owners as it further threatens their sustainable water supply.

Attachment #2 is composed of mostly irrelevant allegations regarding projects unrelated to California American Water's service to San Benancio Middle School, or in some instances, simply incorrect information regarding the scope of work of the proposed service extension. The sole allegation in Attachment #2 that applies to San Benancio Middle School is the allegation that there was inadequate consideration of alternatives. California American Water has already addressed this issue by reference to the Axiom Engineers report.

In addition, California American Water has already debunked Mr. Weaver's claim that the work papers for this advice letter are inaccurate, and has previously noted that there is no evidence that shifting the groundwater pumping from the San Benancio School Well to the Ambler wells will have any effect on the groundwater basin. Accordingly, Mr. Weaver gives the Commission no basis to reject this advice letter.

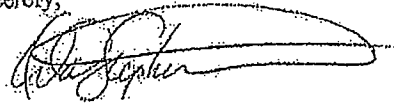
Finally, California American Water notes that this criterion for protesting an advice letter uses the same language as Public Utilities Code section 453. That statute prohibits unjust and unreasonable rates, or discrimination in service by the utility. Mr. Weaver offers no evidence that California American Water's rates will become unjust or unreasonable by the approval of Advice Letter 934, or that California American Water will unreasonably discriminate between customers.

III. Conclusion

As respects Advice Letter 934, Mr. Weaver has presented no evidence to support his claims that a valid basis exists for the Commission to reject Advice Letter 934. The proposed extension is to serve an area contiguous with the existing Ambler service area. As stated in Standard Practice U-14-W, California American Water does not need Commission authorization to make such an extension, but must demonstrate to the Commission that it can provide adequate service to existing customers and the customers in the newly serviced area, as well as delineate the new service area. California American Water has made that showing.

Mr. Weaver has repeatedly filed complaints and protests regarding California American Water's service in its Ambler system. Each time Mr. Weaver inaccurately characterizes both the facts and law applicable to the proceeding. Mr. Weaver has also protested the activities of other utilities in the area, all without success. These baseless and misleading protests waste valuable utility and Commission resources, and should not receive serious consideration by the Commission. Given the multiple, baseless and misleading complaints and protests Mr. Weaver has filed against multiple utilities, California American Water also requests the Commission to consider whether additional procedural protections should be put in place to avoid the future waste of utility and Commission resources, all of which increase the costs for utility customers.

Sincerely,



David P. Stephenson
Director, Rates & Regulation
California American Water

³ See Resolution B-4360, dated August 13, 2010, regarding Pacific Gas and Electric's Advice Letter 3665-E.

000613

Richard Rosenthal

From: Michael Weaver [michaelweaver@mac.com]
 Sent: Wednesday, February 06, 2013 12:32 PM
 To: Richard H. Rosenthal
 Cc: lawoff Assistant
 Subject: Fwd: Storage Volumes in California American Water's Ambler System

Begin forwarded message:

From: John.Kilpatrick@amwater.com
 Date: January 24, 2012 12:55:59 PM PST
 To: Jan.Sweigert@cdph.ca.gov
 Cc: michaelweaver@mac.com, Travis.Peterson@amwater.com, Julio.Gonzalez@amwater.com, Lesley.Silva@amwater.com
 Subject: Storage Volumes in California American Water's Ambler System

Jan,

Below is a summary of the current tank volumes in Ambler Park.

Ambler Park Tanks

Tank Name	Volume (Nominal)	Material	Height	Diameter
Ambler Park Clearwell	20,000	Steel (welded)	NA	NA
Lower Paseo Privado #1	55,000	Steel (welded)	12	28
Lower Paseo Privado #2	55,000	Steel (welded)	12	28
Upper Paseo Privado	21,722	Steel (bolted)	16	15
Meyers Pneumatic	845	Steel (welded)	NA	NA
Lower Rimrock #1	20,715	Steel (bolted)	8.2	21.5
Lower Rimrock #2	20,715	Steel (bolted)	8.2	21.5
Upper Rimrock #1	20,715	Steel (bolted)	8.2	21.5
Upper Rimrock #2	20,715	Steel (bolted)	8.2	21.5

Total Storage 235,427

California American Water currently has two tank replacement projects in progress in the Ambler system as follows:

- 1) Replace Upper Rimrock #1 and Upper Rimrock #2 with a single 120,000 gallon tank, and
- 2) Replace Lower Paseo Privado #1 and Lower Paseo Privado #2 with two (2) 200,000 gallon tanks.

Let me know if you have any further questions.

Regards,

John T. Kilpatrick, P.E.

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EXHIBIT B


CALIFORNIA
AMERICAN WATER

Timothy J. Miller
1033 B Avenue
Suite 200
Coronado, CA 92118
tim.miller@amwater.com

P 619.522.6371
F 619.522.6391

November 6, 2012

Carl Holm, Director of Resource Management
County of Monterey
168 West Alisal St., Third Floor
Salinas, CA 93901

Re: California American Water's Response to Staff's Report Regarding a Safe Potable Water Supply for the Oaks Subdivision

Dear Mr. Holm:

I. INTRODUCTION AND SUMMARY

On October 2, 2012, County staff presented the Board of Supervisors with report to facilitate a public hearing to "consider alternatives for the provision of safe potable water to the approved nine-lot Oaks subdivision due to the high arsenic level in the subdivision well water" ("Staff Report"). California American Water understands that the County and the Save Our Peninsula Committee ("SOPC") are embroiled in litigation regarding the County's practices to verify that projects comply with the conditions of approval imposed by the County when the County issues various discretionary approvals. Included in an audit of the County's practices are certain conditions relating to the water supply for the Oaks subdivision.

The Oaks subdivision is within California American Water's certificated Ambler service area, effective with the California Public Utilities Commission's ("CPUC") approval of Advice Letter 617 on February 17, 2005. California American Water is currently providing water service to three lots within the Oaks subdivision as well as the common areas. California American Water is awaiting authorization from the California Department of Public Health ("CDPH") to introduce water from the Oaks well into the distribution system. California American Water has read the Staff's Report and generally supports staff's recommendation with one minor revision: the MOU should be between California American Water and the Water Resources Agency, not the County. California American Water also provides the following comments and analyses for the Board's consideration.

In summary, once the Oaks wells is a permitted source through CDPH, the Oaks system will be a "satellite" system in compliance with Condition No. 34 of the Oaks' Conditions of Approval. To the extent SOPC contends the County needs to explore other sources of supply, this appears to be the result of SOPC's focus on the system being a "stand alone" system, even though the conditions of approval are written disjunctively and allow the system to be operated

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either as a satellite or a stand alone system. Regardless of SOPC's motivation, because the Oaks subdivision is within California American Water's Ambler service territory and California American Water is providing service to that subdivision, the County does not have the authority to regulate California American Water's service to those customers or to order California American Water to implement any of the proposed infrastructure projects sought by SOPC. The County's authority is preempted by the CPUC's jurisdiction over water utilities. Thus, any analysis of those projects will be a fruitless effort. Moreover, even if the County could order such projects, California American Water's estimates of the project costs, when spread among ten customers using standard water utility ratemaking principles, show that implementing these projects would result in astronomical water bills. Such rates are unlikely to be authorized by the California Public Utilities Commission. Most importantly, such projects are unnecessary; the existing Ambler water treatment plant has more than adequate treatment capacity to serve the estimated water needs of the Oaks subdivision, and upon being permitted by CDPH as an allowed water source, the operation of the Oaks well pursuant to staff's MOU will avoid any issues with the Water Resources Agency's "zones of benefit."

If the heart of SOPC's concern with the Oaks subdivision is the state of the El Toro Groundwater Basin ("the Basin"), this concern is supported by the 2007 Geosyntec study of the Basin, which concludes that the Basin is in overdraft. Both the County and SOPC have a flawed approach to solving the Basin's overdraft problem. This flawed approach has been to restrict new development that could increase the demand for water. Despite decades of development restrictions, the Basin remains in overdraft. That is an obvious result; stopping additional development only affects the *rate of depletion* of the aquifer, it does not *reverse* existing overdraft. Absent significant conservation measures that would drastically reduce existing customers' consumption, the basin will remain in overdraft because existing consumption ostensibly exceeds the basin's natural safe yield.¹ The true solution to this problem is to augment the Basin's natural supplies. As demonstrated by the Salinas and Seaside basins, implementing such a solution is a significant effort that takes many years. California American Water recommends that the Board of Supervisors for the Water Resources Agency direct the Water Resources Agency to begin the process of exploring the recommendations in the 2007 Geosyntec study. California American Water and its 422 customers in the Ambler service area are dependent on the continued viability of the Basin as a source of water and the Water Resources Agency has the authority to take on that challenge. In the absence of such leadership, the likely result is the adjudication of the Basin and implementation of a physical solution by court order rather than local policymakers.

II. ONCE THE OAKS WELL IS A PERMITTED SOURCE, THE OAKS SYSTEM WILL BE A SATELLITE SYSTEM; STAFF'S MOU WILL CLARIFY THE REPORTING REQUIREMENTS

As noted in the Staff Report, when the County approved the Oaks subdivision, it conditioned that approval on, among other things, that Ambler Park Water Utility (California American Water's predecessor in interest) "operate the system as a satellite or stand alone system providing domestic and fire flow water supply to the subdivision in accordance with Title 22 and California Public Utility Commission standards." This condition is written in the disjunctive; the system must be operated *either* as a "satellite" *or* a "stand alone" system.

¹ California American Water's understanding of the Geosyntec study suggests that when the planning area is "built-out," the rate of overdraft will be 25 to 50 percent of the overall demand from the Basin. It is unclear if this level of conservation can be achieved in practice.

SOPC appears to be focusing only on the notion of a "stand alone system" and not what it means to operate as a "satellite system." The third definition of satellite is: something that depends on or accompanies something else. Hence, satellite and "stand alone" are mutually exclusive and cannot logically be considered synonymous. Accordingly, because the Oaks water distribution system "depends on" the Ambler system, once CDPH issues a permit allowing water from the Oaks well to be included in the distribution system, the Oaks system will be operated as a satellite system; it will have an independent water source including sufficient water supply for both domestic consumption and fire protection, but will depend on the Ambler system to ensure that water from that source meets Title 22 standards and that there is adequate fire storage in accordance with CPUC standards. Condition No. 34 gives both the developer and County staff the discretion to approve the water distribution system plans as a "satellite" system, not just a stand alone system. Because the developer paid for the improvements to connect the Oaks subdivision to the existing treatment plant and existing fire flow facilities, such plans were in compliance with Condition No. 34 of the Conditions of Approval as a satellite system. Ostensibly, County staff interpreted Condition No. 34 to have this effect because the County approved the system as it is currently constructed and the developer properly incurred the costs for the necessary improvements. The actions of the County are presumed to be correct, and great weight is afforded to an agency's contemporaneous interpretation of its decisions.

In 2006, California American Water agreed to report to the Monterey County Water Resources Agency the quarterly production of the Oaks well to address issues relating to Water Resources Agency "zones of benefit." California American Water stands by that commitment and is awaiting approval from CDPH to operate the Oaks well as an authorized source of supply before drawing water from the Oaks well. To the extent that the Water Resources Agency needs additional assurances that water from the Oaks well is not providing a benefit outside the Agency's zones of benefit, California American Water is willing to perform the water accounting contained in the proposed MOU. To the extent that the County seeks the MOU to enforce B-8 zoning restrictions, as discussed subsequently, the County does not have authority to enforce those provisions against California American Water. If the County will gain incidental benefit from an MOU between California American Water and the Water Resources Agency, California American Water has no objection to Monterey County being a signatory to the MOU.

III. MONTEREY COUNTY DOES NOT HAVE THE AUTHORITY TO REGULATE CALIFORNIA AMERICAN WATER'S AMBLER SYSTEM, INCLUDING THE OAKS WELL

SOPC has requested County staff to analyze various projects as a means to provide "safe potable water" to the Oaks subdivision. Such analyses would be fruitless because, even if the County wanted California American Water to pursue such projects, the County does not have the authority to regulate California American Water's Ambler distribution system or order California American Water to implement such projects.

A. The County Cannot Order California American Water to Disconnect Oaks Customers From the Ambler Treatment Plant Because Any Such Order is Barred by Public Utilities Code Section 1759

The Public Utilities Code states:

No court of this state, except the Supreme Court and the court of appeal, to the extent specified in this article, shall have jurisdiction to review, reverse, correct, or annul any order or decision of the commission *or to suspend or delay the execution or operation thereof*, or to enjoin, restrain, or interfere with the commission in the performance of its official duties, as provided by law and the rules of court.²

In D.11-09-001, the CPUC addressed the use of the Ambler treatment plant to serve customers in the Oaks subdivision. In that decision, the CPUC ruled that California American Water's use of the Ambler treatment plant was an appropriate use of that treatment facility under the terms of California American Water's acquisition of the Ambler Park water system. An order by the County purporting to prohibit California American Water from using that treatment plant for Oaks customers would have the effect of suspending or delaying the operation of CPUC decision D.11-09-001 allowing such use. The County does not have the authority to suspend or delay the operation of decision of the CPUC; only the Supreme Court has that authority.³

Because an order of the County purporting to prohibit California American Water from using the Ambler treatment plant for the Oaks subdivision would have the effect of delaying or suspending the operation of CPUC decision D.11-09-001, any such order by the County is barred by Public Utilities Code section 1759. Thus, the County cannot order California American Water to implement any of the projects suggested by the Committee. Accordingly, analyzing projects to alter the existing service to the Oaks subdivision would be fruitless.

B. The County Is Expressly Preempted Under State Law From Regulating The Operation of California American Water's Ambler System and the Rates Charged By Utilities

Article XII, Section 8 of the California Constitution states that a city, county, or other public body may not regulate matters over which the Legislature grants regulatory power to the Commission. Sections 451 and 770 of the Public Utilities Code specify the Commission's authority to require adequate service by regulated utilities. The Commission is empowered to do "all things ... necessary and convenient in the exercise of such power and jurisdiction."⁴ In addition, the Commission is authorized and obligated to regulate all aspects of utility facilities and infrastructure: no water utility may construct any major water facility without first obtaining a certificate of public convenience and necessity ("CPCN") from the Commission;⁵ the Commission must fix the rules, practices, equipment, appliances, facilities, service or methods to be observed, furnished, constructed enforced or employed; the Commission must order extensions of existing facilities or extension of new facilities where the Commission finds it will

² Public Utilities Code § 1759(a)(emphasis added).

³ Public Utilities Code section 1759 vests the authority to review CPUC decisions in the Supreme Court or the court of appeal. Subdivision (f) of Public Utilities Code section 1756 requires most petitions to review decisions relating only to water corporations to be filed in the Supreme Court.

⁴ Cal. Pub. Util. Code § 701; and see *Consumers Lobby Against Monopolies v. Public Utilities Com.* (1979) 25 Cal.3d 891, 905 [the Commission's powers are liberally construed].

⁵ Cal. Pub. Util. Code § 1001.

promote the security and convenience of the public or ensure adequate service,⁶ and the Commission may establish rules and regulations to require public utilities to construct and maintain its plant, system and facilities so as to promote the health and safety of the utility's customers, employees and the public.⁷ The CPUC has, in fact, exercised that authority when it adopted General Order 103A, which specifies the minimum standards for water quality, distribution system design, and system operation.

The courts have interpreted Article XII, § 8 broadly. In *Southern California Gas Co. v. City of Vernon* (1995), 41 Cal. App.4th 209, a gas utility challenged the city's denial of an encroachment permit to install pipelines under city streets. The court affirmed judgment for the gas utility, holding that the City could not regulate matters over which the state public utilities commission was accorded exclusive regulatory power under the state constitution and that the utility was entitled to issuance of a permit as a matter of law.

Here, under Article XII, Section 8 of the California Constitution, any effort by the County to order California American Water to provide alternate service to the Oaks subdivision has multiple fatal flaws. First, above and beyond the CPUC's authority under the Public Utilities Code, the CPUC has adopted General Order 103A, which contains standards regarding water quality as well as the design and operation of water distribution systems. Therefore the Commission clearly has regulatory power, and has exercised regulatory power, that preempts the County. Second, as noted previously, the CPUC issued order D.11-09-001 regarding the use of the Ambler treatment plant and that order is final. Hence, to the extent that the CPUC has actually exercised its regulatory power regarding service to the Oaks subdivision through the Ambler treatment plant, the County is expressly preempted under Article XII, § 8 of the California Constitution as a separate basis from Public Utilities Code § 1759. Accordingly, any effort by the County purporting to order California American Water to implement a capital project or apply the County's B-8 zoning to California American Water's service to the Oaks subdivision is expressly preempted by Article XII, § 8 of the California Constitution.

C. The California Public Utilities Code Fully Occupies the Field of Regulating Water Utilities.

The County's authority is preempted not only because it is expressly unconstitutional under Article XII, Section 8 of the California Constitution, but also because the State has fully occupied the field of regulation of privately owned water utilities.

Relying on the breadth of the Public Utilities Code, courts have consistently held that local or municipal regulation of public utilities is impliedly preempted by the Commission's jurisdiction. The Commission has "paramount jurisdiction in cases where it has exercised its authority and its authority is pitted against that of a local government involving a matter of statewide concern."⁸ In other words, there is no room for local regulation of public utilities.

⁶ Cal. Pub. Util. Code § 762.

⁷ Cal. Pub. Util. Code § 768.

⁸ *Public Utilities Com. v. Energy Resources Conservation & Dev. Com.*, 150 Cal. App. 3d 437, 451-452 (Cal. App. 1st Dist. 1984); *Harbor Carriers, Inc. v. City of Sausalito* (1975) 46 Cal.App.3d 773, 775; *Orange County Air Pollution Control Dist. v. Public Util. Com.* (1971) 4 Cal.3d 945, 953 at fn. 7.

In *San Diego Gas and Electric v. City of Carlsbad*, (1998) 64 Cal.App.4th 785 ("SDG&E"), an electric utility challenged the City of Carlsbad's requirement that the electric utility obtain a permit for dredging sand to maintain seawater flow for a power plant. The City was purporting to act under the authority of the planning and zoning law. The Court of Appeal overturned a Superior Court ruling that the City could require such a permit, finding that the conditions placed in the permit placed "a significant physical and economic burden on [the utility's] operation and maintenance of its facilities" and that the City intruded "into a field that is significantly and fully occupied by the state in such a manner as to indicate clearly that a paramount state concern will not tolerate further or additional local action."

In *California Water & Telephone Co. v. County of Los Angeles*, (1967) 253 Cal.App.2d 16 ("*California Water & Telephone*"), the court struck down as unconstitutional a county ordinance that required any person that supplied domestic water to more than one customer to obtain a permit as a condition precedent to the construction of any portion of the water system.⁹ The purported purpose of the ordinance was to promote fire safety, an area otherwise within a municipality's authority over health and safety. Nevertheless, the court found that "the construction, design, operation and maintenance of public water utilities is a matter of state-wide concern."¹⁰ The court reasoned that the control of design and construction of water utility facilities "is not a municipal affair subject to a checkerboard of regulations by local governments" and is within the exclusive statewide jurisdiction of the Commission.

Similarly, in *Los Angeles Ry. Corp. v. Los Angeles*, (1940) 16 Cal. 2d 779, a City of Los Angeles ordinance was found unconstitutional on the grounds that the ordinance, which required crews of at least two persons on all streetcars in the city, conflicted with a Railroad Commission order authorizing operation of streetcars by one person.

The proposals demanded by SOPC would place Monterey County in a situation analogous to the City of Carlsbad and Los Angeles County, whose regulatory efforts were struck down in *SDG&E* and *California Water & Telephone*, respectively. As in *SDG&E*, the County is exercising its power here pursuant to the Planning and Zoning law, and the *SDG&E* court found that the CPUC's jurisdiction was paramount to the City's. As in *California Water & Telephone*, the B-8 zoning is enrolled as a health and safety regulation. As the court noted in that case, however, while the regulation of health and safety is otherwise a legitimate area of municipal concern, it is invalid if it encroaches on the Commission's jurisdiction. Here, the County is ostensibly being asked to order California American Water to construct specific capital improvements and modify the manner in which the Company is providing service to the Oaks subdivision pursuant to the County's authority under the Planning and Zoning law or general police power.¹¹ Clearly the Commission's broad authority over water utility facilities leaves no room for such additional and conflicting municipal regulation. As the court in *California Water & Telephone* stated "[n]o profound exegesis of the Water Ordinance... the Public Utilities Code, and the [C]ommission's regulations promulgated pursuant thereto is necessary to conclude that the Water Ordinance as applied to [the public utility] conflict with general law."¹² So, too, here, no profound exegesis is required to determine that Monterey County would be intruding into the

⁹ *California Water & Telephone Co. v. County of Los Angeles*, 253 Cal.App.2d 16, 21 (1967).

¹⁰ *California Water & Telephone Co. v. County of Los Angeles*, 253 Cal.App.2d 16, at 30 (1967).

¹¹ California American Water also understands that, under the Planning and Zoning law, the County cannot order additional improvements by the developer because the County approved the final subdivision map.

¹² *California Water & Telephone Co. v. County of Los Angeles*, supra, 253 Cal.App.2d at 26.

CPUC's jurisdiction if the County ordered capital improvements and changes to California American Water's operations or attempted to order a change in California American Water's operations pursuant to the B-8 zoning.

D. Municipal Law Is Preempted Where It Conflicts with the Commission's Authority Over Public Utilities

Even where local legislation is otherwise valid, it is void if it interferes with the Commission's jurisdiction. In *Harbor Carriers v. City of Sausalito*, (1975) 46 Cal.App.3d, 773, 775, ("*Harbor Carriers*") the court found a city zoning ordinance preempted by a Commission certificate of public convenience and necessity ("CPCN") as it applied to the location of a harbor ferry terminal and docking facility. The court held that "to the extent that the city's zoning ordinance is applied to prevent establishment of any terminal in Sausalito, it must give way to the [Commission's] grant of the right to operate a service to and from Sausalito." The court further concluded that a city terminal site was necessarily contemplated by the commission's CPCN and ordered the city to afford the opportunity for a reasonable terminal site.

Here, any effort by Monterey County to implement SPOC's proposal or otherwise apply the B-8 zoning restrictions to the operation of the Ambler treatment plant would conflict with CPUC decision D.11-09-001 and the CPUC's approval of Advice Letter 617 regarding service to the Oaks subdivision. Accordingly, the County's authority must yield to Commission's jurisdiction.

IV. THE PROJECTS PROPOSED BY THE SAVE OUR PENINSULA COMMITTEE ARE TOO COSTLY AND WOULD RESULT IN UNREASONABLE RATES OR ARE INFEASIBLE.

Again, SOPC has requested the County to analyze certain capital improvements that appear to result in the Oaks subdivision having a "stand alone" water system. What is not clear is how those capital projects would be funded. Only the CPUC can authorize rate modifications that would be paid by California American Water's customers to fund capital improvements.¹³ Thus, even if the County had the authority to order California American Water to implement one of SOPC's projects, the CPUC would still have to approve the recovery of those costs from California American Water's customers.¹⁴

As summarized in Attachment One, the bill impact to ten customers associated with the improvements proposed by SOPC range from \$801 per month to over \$5,000 if fire protection improvements are implemented to in the Oaks subdivision a independent water system.¹⁵ It is important to note that the actual rate impact varies with the number of customers in the Oaks subdivision actually receiving service. Currently, California American Water has four customers

¹³ See Public Utilities Code section 451.

¹⁴ Requiring California American Water to construct these projects without allowing those costs to be recovered in rates would be a taking of Company property in violation of the United States and California Constitutions. Accordingly, recovery of these costs is essential to any order to implement these projects.

¹⁵ These estimated were prepared by California American Water's in-house project management team, composed of licensed civil engineers experienced in the construction of water distribution system infrastructure.

with a maximum of ten in the subdivision.¹⁶ Until the subdivision is fully built out, the actual rate impacts would be greater than outlined below.

A. The Addition of a Second Treatment Plant Would Result In Unreasonable Rates.

Attachment 2 is an estimate of the various capital improvements to install a second treatment plant, as suggested by SOPC, as well as the operation and maintenance costs for the treatment plant.¹⁷ That exhibit shows that under standard utility ratemaking principles, California American Water would have to receive annual revenue of \$63,414.29 in the first year of operation to offset the estimated capital costs. It is important to note that this excludes the costs to acquire additional land so that there is adequate room to safely operate and maintain the plant; it is not clear that there is adequate room at the existing well site for the treatment equipment as well as the necessary electrical facilities and the well. The annual operation and maintenance costs are an additional \$52,900, for a total annual revenue requirement of \$116,314.29. These total annual costs spread among ten customers would result in a monthly bill impact of \$969.29, in addition to existing utility charges of approximately \$42. This would result in the average bills for the Oaks residents being \$1,011.29 assuming those residents' bills would otherwise be similar the typical Ambler customers' bill.

In addition, if California American Water were to completely disconnect the Oaks subdivision from the Ambler system, additional storage would be necessary for equalization and fire protection. Attachment 3 details the estimated cost of \$1,285,000, exclusive of property acquisition costs, to construct such improvements. Under standard utility ratemaking principles, California American Water would need to recover \$183,571.43 in revenue to pay for these improvements. This would result in a monthly bill impact, when spread among ten customers of \$1,529.76.¹⁸

Depending on whether fire flow improvements are necessary, the bill impact associated with constructing a new treatment plant ranges from \$969.29 to \$2,299.05 per month, exclusive of property acquisition costs and other, regular monthly bill charges and assuming that these costs are spread among ten customers. These are clearly unreasonable water rates that are unlikely to be approved by the CPUC.

B. Adding a Connection To Another Water Utility Would Result In Unreasonable Rates.

Attachment 4 shows the capital costs and purchase water costs to provide water to the Oaks subdivision via a connection to California Water Service's closest service area. It is important to note at the outset that any analysis of this option assumes that California Water Service has sufficient source capacity to supply not only its existing and future customers, but

¹⁶ There are nine lots, plus one irrigation meter for common areas.

¹⁷ These estimates were prepared by California American Water's in-house project management team, composed of licensed civil engineers experienced in the construction of water distribution system infrastructure.

¹⁸ There would be a \$100,000 reduction in the costs for the treatment plant, as this tank would eliminate the need for a separate hydroneumatic tank at the treatment plant. This would reduce the revenue requirement for the treatment plant to \$49,128.57. The resulting bill impact would drop from \$1,076.98 to \$944.71.

also to supply the Oaks subdivision, and that there are no legal restrictions on California Water Service's sources that would prohibit exporting water to the Oaks subdivision. Assuming that California Water Service has adequate, legal sources to provide water to the Oaks subdivision, the total estimated capital cost of a pipeline and related improvements is \$2,695,550.00. This results in a first year revenue requirement of \$385,078.57. Added to these capital costs are the costs to purchase water from California Water Service, estimated to be \$219.79 per month, per lot based on average annual consumption from existing Oaks customers. Dividing the capital costs among ten customers and adding the purchased water costs, the monthly bill impact associated with obtaining service from California Water Service is \$3,428.78. California American Water would then need to add its costs associated with customer service, which would further increase these bills.

Similar to the treatment plant proposal, if SOPC's goal is to completely separate the Oaks subdivision from California American Water's Ambler system, the same fire flow improvements necessary for the treatment plant would need to be constructed to receive water from California Water Service. Again, Attachment 3 shows the estimated cost of \$1,285,000, exclusive of the costs to acquire a tank site, with a resulting bill impact of \$1,529.76.74. When added to the monthly bill impact from the pipeline and purchased water costs, the total monthly bill impact would be \$4,958.54.

C. Trucked Water Would Result in Additional Capital Costs And Degrade Traffic Conditions and Air Quality

County staff's report for this item opines that trucked water is not an option because it is inconsistent with various County policies. In addition, California American Water is unaware of any such system being authorized as a permanent means of providing public water supply, and is not certain that such a system could be authorized under State law. California American Water notes that an additional hurdle this option faces is determining the source of trucked water, and the resulting purchased water costs. In the absence of an identified source that can legally export water to the Oaks subdivision, any analysis of this option is going to be incomplete and speculative.

Setting aside the fact that SOPC omits the critical details of supply source and purchased water costs, there are a number of other flaws with the trucked water proposal that make this option infeasible.

1. *Trucked Water System Would Require Large Capital Costs Associated With Truck Acquisition, Property Acquisition and Booster Costs*

While a trucked water supply has a low probability of being implemented because of legal impediments associated with CPUC jurisdiction and County policies, assuming for the sake of argument such an alternative could be implemented, it would be at a very high cost. The system would have to have sufficient storage to meet customer demands as well as fire flow requirements based on an assumed delivery schedule. This would mean that multiple trucks would have to be purchased at an unknown capital cost and there would have to be a site where the trucks could be staged, and safely navigate the site. Hence, there will be property acquisition costs that could not be determined until the number of trucks and the requirements for safely navigating the trucks is determined. In addition, the system would have to be pressurized. This would likely require a hydropneumatic tank to be constructed at

approximately \$100,000. The bill impact associated with only the hydro-pneumatic tank would be \$119.04 per month.¹⁹ The complete bill impact is not capable of being determined because the cost and number of trucks necessary to provide adequate water are unknown, as are the property acquisition costs and purchased water costs.

2. *Trucking Water Would Result In An Increase in Local Large Truck Traffic and Diesel Emissions*

Assuming that the large capital costs and uncertainties associated with a legal water supply can be addressed, a trucked water supply will adversely affect two other aspects of the local environment: traffic and air quality. These effects are the result of the increase in large truck traffic on Highway 68 and San Benancio Road associated with imported water trucks. California American Water does not have data on traffic levels of service associated with the potential impacted roadways, but California American Water understands that there are colloquial reports of traffic on Highway 68 being a concern. In addition, the trucks that would have the horsepower to haul large volumes of water would likely be diesel-fueled trucks that will increase the levels of nitrogen oxide emissions as well as toxic diesel particulate. These impacts would have to be analyzed against established thresholds of significance to determine the effect on the local environment; however, it is unclear how the County could justify these environmental impacts when there is a treatment plant capable of serving the Oaks subdivision at reasonable rates with negligible capital improvements.²⁰

D. **The Addition of a Second Well Is Likely Infeasible and Would Result In Unreasonable Rates**

California American Water agrees with County staff that the addition of a second well is unlikely to result in the Oaks subdivision becoming a stand alone system, as opposed to a satellite system, because all of the available data suggests that the water from that well would also exceed the arsenic Maximum Contaminant Level, requiring additional treatment. Thus, all of the bill impacts associated with a second treatment plant and fire flow improvements would be exacerbated by adding the capital costs of a second well.

In addition to providing no benefit to the water quality, the addition of a second well will increase the costs of water service and result in unreasonable rates. Attachment 5 is an estimate to construct a second well. The total cost of a second well (excluding property acquisition costs) is \$673,340. Under standard utility ratemaking principles, California American Water would need to recover \$96,191.43 in revenue the first year to pay for these improvements. The resulting bill impact would be \$801.60. Again, if the goal is to have the Oaks system be an independent system, adding a second well will require fire flow improvements and will likely require the construction of a treatment plant, at the substantial costs described previously. The total bill impact associated with a second well, treatment plant and fire flow improvements would be \$3,300.65. Clearly, these are unreasonable water rates.

¹⁹ $((\$100,000/7)/10)/12 = \119.04

²⁰ As will be discussed subsequently, to implement staff's proposed MOU, California American Water will need to install meters to track well production. These costs would be subsumed in already approved CPUC budgets, so there would be no additional rate impacts associated with those improvements.

V. THE WATER RESOURCES AGENCY NEEDS TO PLAN AND IMPLEMENT A PHYSICAL SOLUTION TO THE OVERDRAFT PROBLEM IN THE EL TORO GROUNDWATER BASIN

In 2007, the Water Resources Agency obtained a report from the consulting firm Geosyntec regarding the El Toro watershed. Section 6 of that report analyzed the trends in water inflows and outflows, and concluded that the Basin is in overdraft, and suggests that the rate of overdraft was increasing from a 25-year average of 500 acre-feet per year to a rate of approximately 1,000 acre-feet per year at the time of the study. The Study also estimated consumption at "build out" to be just over 2,000 acre feet per year. The study also concluded that 280,000 acre-feet of water was being stored in the Basin in 2007.

If the rate of outflow from the Basin exceeded the rate of inflow in 2007 while at the same time there has been no change in water consuming behavior of water users in the Basin, it stands to reason that water levels in the groundwater basin have decreased since the study was prepared. It also stands to reason that if current water use exceeds the natural safe yield of the basin, no amount of restriction on *future* increases in demand will reverse the current trend. There are only two ways to *reverse* the trend of overdraft – impose water restrictions on existing water uses or augment the water supplies.

If the estimated rate of overdraft and the water demand at build out are both correct, it appears that the water demand at "build out" will be twice the natural safe yield, requiring water conservation measures to reduce consumption by 50 percent. California American Water's main Monterey system customers have reduced their demand by at least 20 percent. So while some reduction in consumption can be achieved, it is difficult to predict whether water conservation measures could result in water demand being in balance with the natural safe yield of the Basin. Accordingly, some means of augmenting the Basin's supply is appropriate.

The Geosyntec study included recommendations for augmenting water supplies in the Basin, including evaluating water reclamation for golf course irrigation, retaining surface runoff and enhancing aquifer recharge, as well as impounding water in the upper Calera Canyon area to augment water supplies. California American Water is not aware of any efforts to conduct the recommended feasibility studies or otherwise develop a physical solution to the Basin's overdraft problem. While the available data suggests there is adequate water for 280 years, assuming the estimates of storage and overdraft rates are correct, there remains the possibility of near-term impacts to well production as the water level drops.

VI. CONCLUSION

California American Water's service to the Oaks subdivision will comply with Condition of Approval No. 34 once CDPH approves the Oaks well as a potable water source because the Oaks will be a "satellite" system.

To the extent that SOPC seeks to have the County analyze various other options for providing potable water to the Oaks subdivision, such analyses would be fruitless because the County does not have the authority to order California American Water to implement any such projects, and the costs for such projects, when divided among nine customers under standard utility ratemaking practices, would result in water rates that would be unreasonable and unlikely to be approved by the CPUC.

Carl Holm, Director of Resource Management
County of Monterey
November 6, 2012
Page 12 of 12

To the extent that SOPC is concerned about the state of water resources for the Basin, none of SOPC's proposals will improve the water supply, only a physical solution augmenting water supply will reverse overdraft. California American Water recommends that the Water Resources Agency perform the feasibility studies proposed in the 2007 Geosyntec report.

California American Water fully intends to honor its commitment to the Water Resources Agency to monitor production from the Oaks well. To the extent that the Water Resources Agency desires additional protections on production from the Oaks well relating to its Zones of Benefit, California American Water is willing to enter into the proposed MOU and implement additional water accounting measures when CDPH approves the Oaks well as a water source. With that modification, California American Water supports staff's recommendation.

Best Regards,



Tim Miller
Corporate Counsel

att:
cc:

Wendy Strimling, Esq.

Project	Estimated Capital Cost	O&M Costs	Revenue Requirement	Estimated Bill Impact for 10 Customers
Construct Second Treatment Plant	\$ 443,900.00	\$ 52,900.00	\$ 116,314.29	\$ 969.29
Piped Supply From Salinas	\$ 2,695,550.00	\$ 219.79	\$ 385,078.57	\$ 3,428.78
Second Well	\$ 673,340.00	\$ -	\$ 96,191.43	\$ 801.60
Stand Alone Fire Flow Improvements	\$ 1,285,000.00	\$ -	\$ 183,571.43	\$ 1,529.76

Treatment Plant Capital Cost	
Treatment System (minimum) ¹	
Filter System	\$ 130,000.00
Mobilization/Demobilization	\$ 10,000.00
Labor	\$ 20,000.00
Well to Plant Piping	\$ 10,000.00
Electrical	\$ 10,000.00
Mechanical	\$ 10,000.00
Design	\$ 10,000.00
Inspection	\$ 20,000.00
SCADA	\$ 10,000.00
Contingency	\$ 69,000.00
Project Management	\$ 29,900.00
Treatment System Subtotal	\$ 328,900.00
Hydroneumatic Tank	\$ 100,000.00
Property Acquisition - Treatment Plant	TBD
Plant to Distribution System Piping	\$ 15,000.00
Treatment Plant Capital Cost ²	\$ 443,900.00
First Year Revenue Requirement	\$ 63,414.29
Per Month Per Lot Capital Surcharge	\$ 528.45

Annualized Treatment Plant O&M Costs	
Filter Media Replacement (once per year) ³	\$ 13,000.00
Labor (T2 operator, 1 hr/day, 365 days)	\$ 33,600.00
Treatment Chemicals (2,400 lbs/month)	\$ 6,000.00
Electricity (plant only, 250 kwh/mo, \$0.10/kwh)	\$ 300.00
Annualized Treatment Plant O&M Costs	\$ 52,900.00
Monthly Rates for O&M	\$ 440.83

Monthly Bill Impact \$ 969.29

1. Assumes use of titanium dioxide treatment media. Depending on the silica concentrations in the groundwater, a titanium dioxide system may not be feasible because the titanium dioxide system treats silica the same as arsenic, requiring frequent media changes, raising O&M costs to the point of infeasibility. If titanium dioxide is not feasible due to silica, a coagulation system will be required at approximately 3 times the capital cost, in addition to creating a "sludge" waste stream, an additional O&M cost.

2. Excludes property acquisition costs.

3. Depending on water quality, the actual schedule may be different.

Fire Flow Improvements	
Storage (140,000 gal. tank)	\$ 700,000.00
Plant to Tank Booster Station	\$ 185,000.00
Plant to Tank Pipeline	\$ 200,000.00
Tank to Distribution System Pipeline	\$ 200,000.00
Property Acquisition - Tank Site	TBD
Fire Flow Capital Costs	\$ 1,285,000.00
First Year Revenue Requirement	\$ 183,571.43
Per Month Per Lot Capital Surcharge	\$ 1,529.76
Monthly Bill Impact	\$ 1,529.76

California Water Service Pipeline Costs	
Pipeline Capital Costs	
Pipe and Labor 6,800 lf @ \$200/ft)	\$ 1,360,000.00
Bridge Crossing at El Toro Creek (permits/construction)	\$ 204,000.00
Caltrans Permit/Traffic Control (Hwy 68)	\$ 136,000.00
Booster Station	\$ 185,000.00
Contingency	\$ 565,500.00
Project Management	\$ 245,050.00
Total Capital Costs	\$ 2,695,550.00
First Year Revenue Requirement	\$ 385,078.57
Per Month Per Lot Capital Surcharge	\$ 3,208.99

Purchased Water Costs	
Estimated Monthly Volumetric Charge/Lot ¹	\$ 207.05
Monthly Per Lot Meter Charge ²	\$ 12.74
Monthly Purchased Water Costs	\$ 219.79

Monthly Bill Impact (Surcharge plus Purchased Water) \$ 3,428.78

1. Calculated by taking the average annual consumption of the existing Oaks lots, in 100 cubic feet multiplied by California Water Service's Non-Residential Metered Rate for Meters of 6" or less (1.9993/100 cubic feet) and divided by 12

2. Assumes 2" meter charge; this rate will need to be negotiated with California Water Service because California American Water will likely require a compound meter to address small volumes of water passing through the large pipes necessary to mitigate friction losses over long distances. California Water Service does not have a compound meter rate approved by the CPUC.

Additional Well	
Property acquisition	TBD
Surveying, engineering	\$ 20,000.00
Site development, grading, fencing	\$ 10,000.00
Well, 12 inch, 700 ft deep, ss casing	\$ 250,000.00
Pump, submersible, 400 gpm	\$ 15,000.00
Column piping (400 lf)	\$ 4,000.00
Interconnecting piping (500 lf)	\$ 100,000.00
On-Site Electrical, SCADA	\$ 100,000.00
Electrical Connection	\$ 15,000.00
Subtotal	\$ 514,000.00
Overhead	\$ 56,540.00
Contingency	\$ 102,800.00
Second Well Capital Costs	\$ 673,340.00
First Year Revenue Requirement	\$ 96,191.43
Per Lot Per Month Surcharge	\$ 801.60
Monthly Bill Impact	\$ 801.60



CALIFORNIA
AMERICAN WATER

California American Water P 831 646 3291
611 Forest Lodge Road F 831 378 4367
Suite 100
Pacific Grove, CA 93950
www.calamwater.com

May 25, 2012

Michael D. Cling, Esq.
313 Main Street, Suite D
Salinas, CA 93901

Owner: Harper Canyon Realty, LLC

Service Address: =Assessor's Parcel Number: 416-621-001, 416-621-002, 416-621-003,
416-621-004, 416-621-005, 416-621-006, 416-621-007, 416-621-008, 416-621-009,
416-621-010, 416-621-011, 416-621-012, 416-621-013, 416-621-014, 416-611-001, 416-611-002

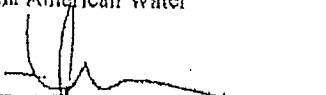
To Whom It May Concern:

This letter serves as notification that the above-referenced property (the "Service Address") is located within the California American Water ("CAW") water service area. CAW will provide water service to the Service Address pursuant to the rules, regulations, and tariffs of the California Public Utilities Commission (CPUC), and in accordance with all applicable federal, state and local laws, regulations, rules, ordinances and restrictions.

California American Water has not yet determined what system improvements, if any, are necessary to provide service. Those improvements may include, without limitation, source of supply, treatment, distribution, storage, or any combination thereof. Unless otherwise provided in our tariffs, the property owner must pay California American Water the costs to construct any necessary system improvements, or must construct those improvements to California American Water standards and contribute those improvements to the utility.

A party wishing to initiate water service (the "Applicant") must comply with all CAW Tariff Schedules that are on file with the CPUC, as they may be amended from time to time. Among other things, the Tariff Schedules require that the Applicant submit an application to CAW, obtain all required permits, and pay all required fees as a condition of initiation of service. CAW's Tariff Schedules are available on its website, www.calamwater.com. Availability of water service to the Service Address is subject to change before the Applicant has applied for water service and has received all required permits and paid all applicable fees required to initiate such service.

Sincerely,
California American Water

By: 
Eric J. Sabolsice
General Manager
Central Division

MICHAEL D. CLING
 ATTORNEY AT LAW
 319 MAIN STREET, SUITE 10
 SALINAS, CALIFORNIA 93901
 TELEPHONE (831) 771-2040
 FAX (831) 771-2050
 EMAIL: mdc@michacling.com

May 30, 2012

HEALTH DEPARTMENT
 MAY 31 2012

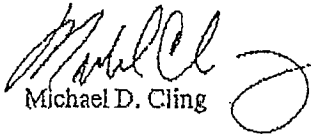
Monterey County Planning and Building Inspection
 Post Office Box 1208
 Salinas, CA 93902
 Attn: Taven Kennison Brown

Re: Harper Canyon Realty, LLC
 Combined Development Permit No. PLN 000696

Dear Mr. Kennison Brown:

As requested by the Monterey County Health Department at our meeting of January 20, 2012, I am forwarding herewith the updated Can and Will Serve Letter dated May 25, 2012 from California American Water with respect to the above project.

Very truly yours,


 Michael D. Cling

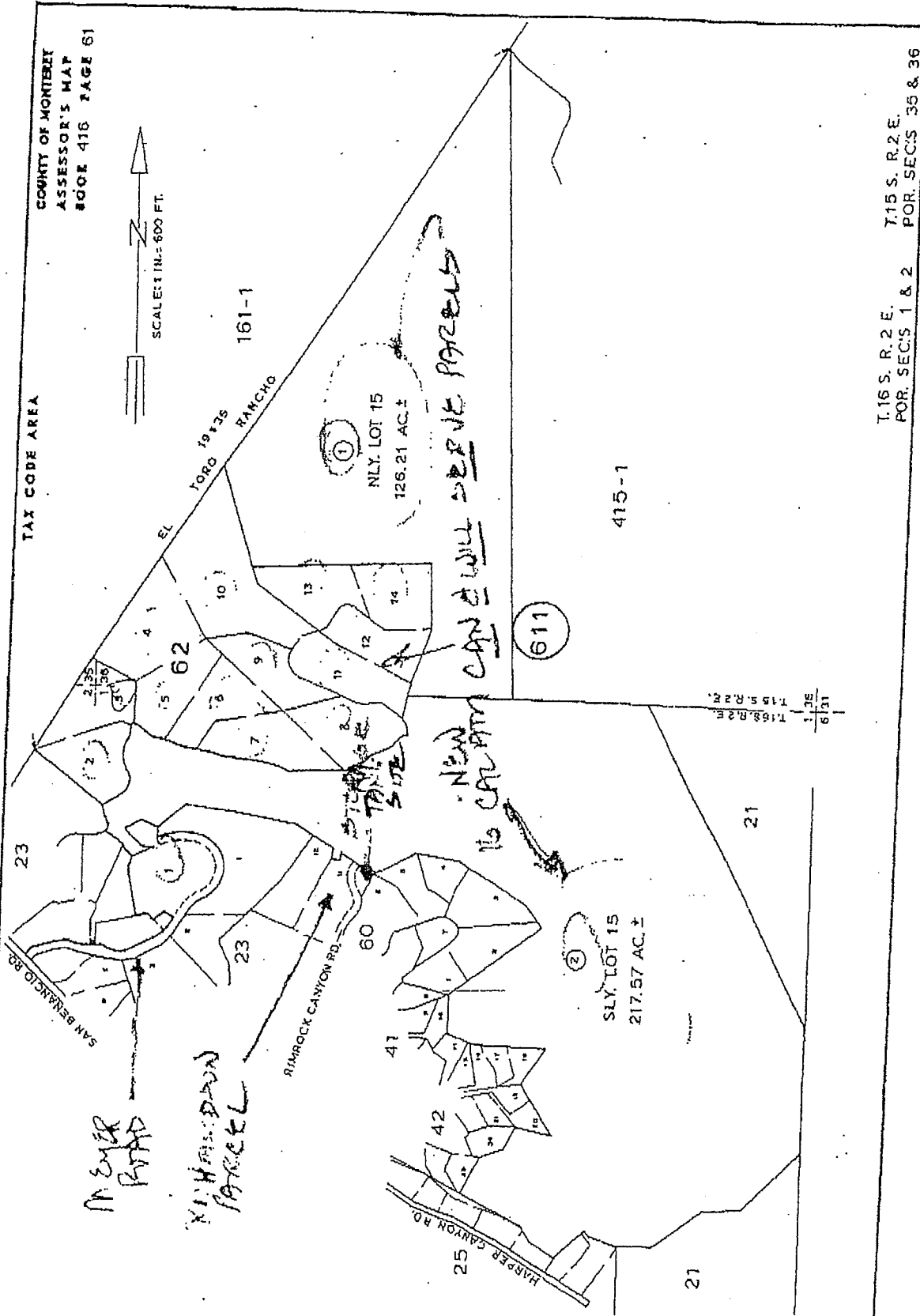
MDC/nmb

cc: Richard LeWarne
 Roger VanHorn
 Burt Forrester
 Debbie Arveson

COUNTY OF MONTBERT
ASSESSOR'S MAP
BOOK 416 PAGE 61

SCALE 1 IN. = 600 FT.

TAX CODE AREA



T.16 S. R.2 E.
POR. SEC'S 1 & 2

T.15 S. R.2 E.
POR. SEC'S 35 & 36

000684

VanHorn, Roger W. x4763

From: Dennis, Mary Anne x4557
Sent: Wednesday, August 16, 2006 4:43 PM
To: LeWarne, Richard x4544; Weeks, Curtis Ext.4896; Lundquist, Ron Ext.4831; Novo, Mike x5192
Cc: 100-District 5 (831) 647-7755; Stroh, Allen J. x4539; Ramirez, John x4542; VanHorn, Roger W. x4763
Subject: Correction RE: water and sewer work on San Benancio

To All:

not correct
I want to set the record straight regarding the e-mails below. I gave Richard the wrong information. Both the Oaks and Ambler Park wells are in Zone 2. The issue is that water to supply the Oaks would come from a B-8 area (Ambler Park) for a new subdivision. This was not to be allowed until the follow-up study to the Fugro report was conducted.

In addition, a concern that Cal-Am would ultimately connect the Ambler park water system and the Toro water service has been addressed in an Agreement between the Ambler Park water system and the Oaks developers, B&K, that states that this Zone 2 water will not be transported out of Zone 2.

I apologize for the confusion. Staff from EH and WRA will meet in the field tomorrow morning to investigate further.

-----Original Message-----

From: LeWarne, Richard x4544
Sent: Wednesday, August 16, 2006 8:32 AM
To: Weeks, Curtis Ext.4896; Lundquist, Ron Ext.4831; Novo, Mike x5192
Cc: 100-District 5 (831) 647-7755; Stroh, Allen J. x4539; Ramirez, John x4542; Dennis, Mary Anne x4557
Subject: FW: water and sewer work on San Benancio
Importance: High

To All:

Mary Anne talked to Gary Hofshire with Cal Am. He confirmed that Cal Am has hired Chapin Co. to install water lines between the Ambler Treatment plant and the Oaks subdivision. The water from the well that was to be the water source for the Oaks subdivision is being piped back to the Ambler Park treatment plant to balance the water that is being transferred from Zone 2 (Ambler Park). Mary Anne also asked if meters were being installed to make sure that the water being transferred from Zone 2 was being balanced by water from the Oaks. Mr. Hofshire confirmed that meters were being installed. Has this been approved? If it has been approved is there a reporting mechanism in place to monitor and ensure the water balance transfer?

-----Original Message-----

From: LeWarne, Richard x4544
Sent: Tuesday, August 15, 2006 5:04 PM
To: Weeks, Curtis Ext.4896
Cc: 100-District 5 (831) 647-7755; Novo, Mike x5192; Lundquist, Ron Ext.4831; Ellis, Dale x5191
Subject: RE: water and sewer work on San Benancio
Importance: High

Curtis:

Please read e-mails below. From what we can find out from Chapin Company who is installing the water lines between Ambler Park Water System (Zone 2) and The Oaks subdivision is as follows: Chapin Company is installing a water line that will transfer water from the treatment system of the Ambler Water Treatment facilities to the Oaks subdivision. The water from the Oaks subdivision well is to be then piped to the Ambler Water System. Apparently to balance the water being sent from the Ambler Park Water System. We have yet been able to verify if that is the case with Cal Am. We are continuing attempting to contact a knowledgeable representative at Cal Am. Is your Agency

aware of this "water transfer" from Zone 2 and back?

Chapin Co. indicates that they have plans approved by Public Works.

-----Original Message-----

From: 100-District 5 (831) 647-7755
Sent: Tuesday, August 15, 2006 4:38 PM
To: LeWarne, Richard x4544; 100-District 5 (831) 647-7755; Novo, Mike x5192; Ellis, Dale x5191; Lundquist, Ron Ext.4831
Subject: RE: water and sewer work on San Benancio

Richard, Mike, Dale and Ron,

I wanted to pass on additional information that was left on our voicemail, and we have received 2 more calls of concern about this topic. Your input is greatly appreciated.
Kathleen

From a San Benancio Road resident "Oaks" subdivision they have started work on and they are running a water line up San Benancio to connect to the Oaks which is going across the B-8 line. BoS minutes says the statement is that the Oaks is on a stand-alone water system run by Cal-Am. Just this last week Don Chapin Co. say they are running a water line to share water between Ambler Park and Oaks subdivision. DP should also know there is a shopping center at the bottom of Corral De Tierra are paying for some type of study to get water. Should be looked in to. He and many others are concerned."

-----Original Message-----

From: LeWarne, Richard x4544
Sent: Tuesday, August 15, 2006 10:44 AM
To: 100-District 5 (831) 647-7755; Novo, Mike x5192; Ellis, Dale x5191; Lundquist, Ron. Ext.4831
Subject: RE: water and sewer work on San Benancio

We are following up on this. We are getting some conflicting information from Chapin Co. and CalAm. We are working on resolving the understanding of what the work is about. Once we find out we can discuss appropriate actions.

-----Original Message-----

From: 100-District 5 (831) 647-7755
Sent: Tuesday, August 15, 2006 8:47 AM
To: Novo, Mike x5192; Ellis, Dale x5191; Lundquist, Ron Ext.4831;
LeWarne, Richard x4544
Subject: FW: water and sewer work on San Benancio

Mike, Dale, Ron and Richard,

I am surprised that we haven't received more calls on this one because usually this topic generates a lot of contacts to our office. Could you kindly let me know of a status on this issue and what the best response to [REDACTED] would be?

Thank you in advance for your help.
Kathleen

-----Original Message-----

From: [REDACTED]
Sent: Tuesday, August 15, 2006 8:28 AM
To: 100-District 5 (831) 647-7755
Subject: water and sewer work on San Benancio

Water and sewer lines are being installed on San Benancio road near hwy 68. This is part of a piecemeal development that includes the "San Benancio Oaks" and "Encina Hills". They are connecting Amber Park water with the San Benancio Oaks water. This violates both the conditions of sale of Ambler Park to Cal Am and the conditions of the Oaks approval.

They are connecting to a sewer system that is already 25% over capacity. A system run by Calif. Utilities Services and Mr. Adcock,

000636

who routinely ignores regulations. The county planning office staff that we have been interacting with has left, and it is not clear what if any oversight remains.

Since the county is not willing or able to supervise developers, is litigation our only recourse?

Thanks for any information you might have.

--


000637

Richard Rosenthal

From: Richard Rosenthal [RRosenthal62@sbcglobal.net]
Sent: Tuesday, May 15, 2012 3:07 PM
To: Wendy Strimling (strimlingw@co.monterey.ca.us)
Cc: 'Girard, Leslie J. x5365'; 'lawoffrhrpc@sbcglobal.net'; 'Michael Weaver'
Subject: Oaks Subdivision/Settlement Agreement review/audit

Wendy: Les has forwarded me to you to discuss the ongoing issues relating to the Ferrini Oaks' subdivision. Evidently Les has a potential conflict inasmuch as his wife works for Cal Am and Cal Am owns Ambler Water that is currently providing water to the Oaks' subdivision in violation of the B-8 Zoning Overlay in the Toro Area.

I will get to the point. It looks as if the Final Map was issued on this project without many of the conditions of project approval fully implemented. As part of the recent settlement in the SOP v. Monterey County case, the County was to go back and audit/review ten projects, one of which was the Oaks'. The review provided in March was incomplete. Mr. Weaver inspected County books and records in an attempt to audit the review twice in April to no avail. There were no documents to review regarding the County's review or matrix prepared and produced to Petitioner. In the mean time, on March 26, 2012 Carl Holm responded to a letter from Mr. Weaver indicating that there is no code violation. This is contrary to Mr. Holm's letter of February 3, 2011 to Mr. Ray Harrod, Jr. indicating that the subdivision may not be in compliance with the subdivision's water system requirements. To the say least, the project is not in compliance with the subdivision's water conditions. It is also in violation of the County's B-8 zoning overlay that prohibits any further draw down of water in the designated area which this project is located. Furthermore, investigating the water system, it was determined that water is being supplied to the subdivision by Ambler Water pursuant to a water line that was installed up San Benancio Road pursuant to an encroachment permit intended for a sewer line for CUS. This encroachment permit was issued without any environmental review by Public Works, in violation of the subdivision approval and conditions of project approval, and in violation of the B-8 zoning. Furthermore, it seems as if conditions 54 and 55 dealing with fire protection were improperly signed off because the well and infrastructure that was going to be turned over to Ambler Water (condition 34) were never undertaken or completed. Condition 55 requires the plans for the water system shall be received and approved by the Salinas Rural Fire District and tested prior to the issuance of any building permits. Building permits were issued, but the well and infrastructure were never completed nor turned over to Cal Am.

Les is in the process of investigating some of these matters and providing SOP with further back up material. However, it is SOP's position that the Oaks' project is not in compliance with conditions of project approval, the Final Map may have been issued with conditions of project approval outstanding, and the project and is currently in violation of B-8 zoning.

The Settlement Agreement requires certain actions by the County to take place if conditions of project approval have not been fully implemented per the review. Although the review has been totally inadequate to date, it does indicate that many condition of project approval have not been complied with and the project may be in violation of a County ordinance.

Therefore, SOP requests the County to comply with the Settlement Agreement and continue not to issue any further building permits until the issues have been resolved regarding the violation of the B-8 zoning and that all conditions of project approval are fully complied with and are documented with supporting documentation.

If you have any questions or would further like to discuss the matter please feel free to call.

RHR

000638

11/21/2012

LAW OFFICES

RICHARD H. ROSENTHAL
A PROFESSIONAL CORPORATION

27880 DORRIS DRIVE, SUITE 110, CARMEL, CA 93923
P.O. BOX 1021, CARMEL VALLEY, CA 93924
(831) 625-5193
FAX (831) 625-0470

456.12.06.14.girardletter

June 14, 2012

Leslie J. Girard
Assistant County Counsel
County of Monterey
168 W. Alisal Street, 3rd Floor
Salinas, CA 93901

Re: *Save Our Peninsula Committee v. County of Monterey, et al.*
Monterey County Superior Court, Case No. ML10694

Dear Les:

I understand from Wendy that you had some days off a couple of weeks ago. I hope you enjoyed them.

As you know, Mr. Weaver and I met with Wendy on June 1, 2012 at my office. She brought additional documents relating to Conditions 34/35 and 54/55. Evidently, she did not bring the documents that Mr. Weaver requested at the last meeting with you. Wendy indicated she would track them down and get them to Mr. Weaver. That has not happened.

Regarding Conditions 34/35, it was Wendy's position that the condition was complied with pursuant to an agreement between the developer and Cal Am to transfer the stand alone well and infrastructure. When I pressed Wendy how Cal Am got permission to put a water main up San Benancio Road to deliver B-8 water to the Oaks project, there were no satisfying answers to the question. Wendy indicated that it was her understanding that there is a two way system at the Oaks, one to send B-8 water to the project, the other to take contaminated water from the Oaks well, back to Ambler for treatment. We asked for verification. None has been forthcoming. Mr. Weaver has investigated the matter extensively and is confident there is no return system. Therefore, as I have previously indicated, the project is being supplied B-8 water inconsistent with project approval and in violation of the B-8 zoning ordinance and is therefore a public nuisance per County Code.

The more troubling aspect of this project is the County's failure to know what is happening factually with the project let alone ensuring implementation of conditions of project approval. A time line of events presents a clearer picture. The project was approved in 2001

FOR U.S. MAIL DELIVERY: P.O. BOX 1021, CARMEL VALLEY, CA 93924
FOR EXPRESS MAIL DELIVERY: 27880 DORRIS DRIVE, SUITE 110, CARMEL, CA 93923

000639

18 June, 2012

Page 2

requiring a stand-alone well and infrastructure to supply water for the project. This system was to be conveyed to Ambler Water. In July of 2003, Cal Am and the developer entered into a Memorandum covering the water system. This Agreement purportedly meets Condition 35. In a September 15, 2005 letter from Mark Kelton to Laura Lawrence, Mr. Kelton confirms the status of Conditions 34 and 35. Regarding Condition 35 Mr. Kelton indicates that Cal Am sent Ms. Lawrence a letter dated March 26, 2004. The March 2004 letter indicates that Cal Am reviewed and approved the plans for the Oaks Subdivision Water System dated February 2004. The Oaks Subdivision Water System drawings dated February 2004 shows a water main running up San Benancio Road from Ambler Water System located on Paseo Vaqueros. This map was submitted to Public Works on March 25, 2004. The applicable encroachment permit for the water line up San Benancio Road was submitted on June 29, 2006 along with the Oaks Subdivision Water System plans.

The record is quite clear. The water system plans that were used to comply with Condition 35 were different than the system that was approved. It should have been noted because the condition had not been met. The installed water system is also different than what is depicted on the Vesting Tentative Map and the Final Map.

Furthermore, the time line illustrates that it was the developer's and Cal Am's intention from the outset to use Ambler's water and construct a water main up San Benancio Road notwithstanding the clear wording of the B-8 zoning statute, the representations of the developer during project approval and the conditions of project approval.

The bottom line is that there has been a major change in the project. This ongoing major change and its ongoing environmental impact have not been addressed notwithstanding the County's knowledge thereof since at least February of 2003.¹

The failure to comply with Condition 35 and convey a well and operating infrastructure to Cal Am puts into question the Salinas Valley Rural Fire Department compliance check off of Condition 55 that required "plans for the water system installation shall be reviewed and that the water system shall be tested and accepted." This obviously could not have happened since there is an illegal water system in place that is not a component of the project approval, the Certified EIR or the Mitigation Monitoring Program. I suspect that Salinas Rural Fire District was provided documents that were inconsistent with the project approval.²

¹ See January 10, 2011 Moltrup (California Department of Health) to Cal Am indicating permit and CEQA review required.

² I have previously noted displeasure with Mr. Holm's March 26, 2012 letter to Mr. Weaver indicating the Oaks project was in full compliance.

000640

18 June, 2012

Page 3

For these reasons, SOP is requesting that the County undertake proceedings pursuant to § 3 of the Settlement Agreement to require compliance with Conditions 34/35, 54/55. SOP previously informed the County that they believed the County was not in compliance with the Settlement Agreement. SOP will move the Court for an Order requesting compliance with the Settlement Agreement. Hopefully we can resolve the stalemate prior to the motion.

In addition to the above, documents received from public record requests reflect the County's Planning and Health Departments supporting efforts to transfer B-8 water outside of the B-8 zone. In particular, efforts are underway to permit the transfer of B-8 water to the Washington Union School District, Oak's subdivision and Harper Canyon without proper environmental review and in violation of the B-8.

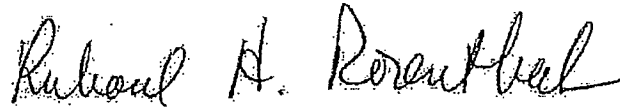
One last point. I have previously requested backup information regarding the nine other projects that were submitted at the end of February. You have acknowledged that they were not previously available, that you were going to have planning get them together and provide them to me more than two weeks ago. The reports with backup supporting data are more than six months delinquent. It is hard for me to fathom what the problem is considering Ms. Bernal's February 29, 2012 cover letter sent with reports that outlined the audit procedures.

In the motion to the Court, I am going to request an Order that the backup documents to the remaining nine project reviews be produced.

If you have any questions, please feel free to call me.

Sincerely,

LAW OFFICES OF RICHARD H. ROSENTHAL
A PROFESSIONAL CORPORATION

By: 
RICHARD H. ROSENTHAL

RHR/sls

Cc: Wendy Strimling

000641

AMBLER PARK WATER UTILITY

46 PASEO DE VAQUEROS
SALINAS, CALIFORNIA 93908
(408)484-1445



Monterey Division
50 Ragsdale Dr, Suite 100, P.O. Box 951 • Monterey, CA 93942-0951
(408) 373-3051 FAX (408) 375-4367

February 8, 1996

TO: Ambler Park Water Utility Customers:

It has become obvious at the California Public Utilities Commission (CPUC) informal hearing on the rate application for Ambler that there is considerable misinformation regarding the sale of the Company to Cal-Am and water allocation.

Let us address both issues.


Ambler and Cal-Am have entered into a contract for the sale/purchase of Ambler. Cal-Am will be filing an application with the CPUC for the purchase. Each customer will be advised and a hearing may be held. Cal-Am will operate the water company as a separate production unit—the same as Hidden Hills and Ryan Ranch.

Rates will be those approved by the Commission on the current application.


Regarding water allocation, the County of Monterey established the El Toro area as a B-8 Zone (Resolution No. 92-177). This was done after a "hydrogeological Update" of the El Toro area. The study concluded that at buildout the Corral de Tierra, El Toro Creek and Calera Canyon sub-areas are projected to display water supply deficits of 359 acre feet, 10 acre feet and 450 acre feet, respectively—this does not include the service area of Ambler. However, under Title 21.24.030 of Zone B-8, it "does not affect construction of the first single-family dwelling on a building site," but prohibits construction of subdivisions, guest houses or caretaker dwellings.

Hopefully, this information will assure the customers of Ambler that the water allocated within the basin is for development of lots of record and will not be exported out of the basin as has been rumored.

AMBLER PARK WATER
UTILITY

By: 
Con Cronin, President

CALIFORNIA-AMERICAN
WATER COMPANY

By: 
L. D. Foy, Vice President

000642

MEMORANDUM
 MONTEREY COUNTY HEALTH DEPARTMENT
 Division of Environmental Health



January 11, 2000

TO: Luis A. Osorio, Associate Planner
 FROM: Jerry LeMoine, Supervising Environmental Health Specialist
 SUBJECT: Oaks subdivision draft EIR, File No. PC94170

This Department has completed a review of the subject document and has the following comment:

During the course of staff review of the proposed project, the water source alternated back and forth from a joint water system venture with the local school, to a "can and will serve" letter from Ambler Park Water District. Existing hydrology reports and studies for the general area were adequate. The applicants did not drill a well and prove water quantity as they were relying upon the "can and will serve" letter from Ambler Park and involved with the school district to develop a joint shared water system.

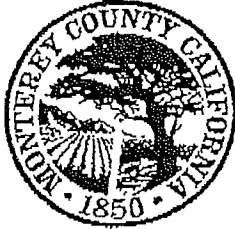
Because of the proposal to use the school well, Environmental Health staff asked for and witnessed a pump test of that well. As previously alleged, the Health Department did not agree that the school well would be used as proof of water simply because the school well was nearby and within the same aquifer.

Rather late in the hearing process, the proposed agreement between the school and developer fell through. Also, it was finally accepted that the "can and will serve" from Ambler Park was inappropriate. In an attempt to immediately deal with this water supply issue, condition #14 was expanded to address significant concerns of the public and the Health Department. Shortly after that, the Board of Supervisors ordered a focused EIR for the project.

Condition #14 in its final version does a great deal towards ensuring a long term sustainable safe water supply for the development. However, it is now clear that the applicant has not proven water as required by the subdivision ordinance. Given the current circumstances, the applicant must drill a well to prove water quantity and quality before being allowed to proceed further.

cc: Walter Wong, Director, Environmental Health
 Mary Anne Dennis, Branch Chief, Environmental Health

000643



COUNTY OF MONTEREY
RESOURCE MANAGEMENT AGENCY - PLANNING DEPARTMENT
168 WEST ALISAL ST, 2ND FLOOR
SALINAS, CALIFORNIA 93901

FILED

FEB 09 2012

NOTICE OF DETERMINATION

STEPHEN L. VAGNINI
MONTEREY COUNTY CLERK
DEPUTY

2012-0014

TO: State of California
Office of Planning and Research
P.O. Box 3044
Sacramento, CA 95812-3044

FROM: County of Monterey
Resource Management Agency
Planning Department
168 West Alisal, 2ND Floor
Salinas, CA 93901

TO: County Clerk
County of Monterey
168 West Alisal, 1ST Floor
Salinas, CA 93901

SUBJECT: Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.

State Clearinghouse Number: 2007091137

Property Owner: Omni Resources LLC

Project Applicant: Omni Resources LLC

Project Title: Corral de Tierra Neighborhood Retail Village

Project Location: 5 Corral de Tierra Road, Southeast corner of State Highway 68 and Corral de Tierra Road, Salinas area (map attached)

Project Description: County File Numbers PLN110077 and PLN020344. Combined Development Permit consisting of 1) Use Permit 2) General Development Plan; and 3) Design Approval for development of a 99,970 square foot retail center known as the Corral de Tierra Neighborhood Retail Village and 4) Lot Line Adjustment to modify the lot line between two existing parcels (5.6 acres and 5.38 acres in area) to create Parcel A (1.12 acres) and Parcel B (9.86 acres)

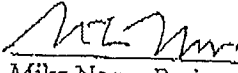
This NOTICE advises that the Board of Supervisors of the County of Monterey, as lead agency, has approved the above described project on February 7, 2012, and has made the following determinations regarding the above described project:

1. The project will have a significant effect on the environment.
2. An EIR was prepared and certified for this project pursuant to the provisions of CEQA and the County of Monterey CEQA Guidelines.
3. Mitigation measures were incorporated into the project as conditions of approval to reduce any potential impact to a level of insignificance.
4. A mitigation monitoring and reporting plan was adopted for this project.

000644 AR1

- 5. A statement of Overriding Considerations was adopted for this project.
- 6. Findings were made pursuant to the provisions of CEQA.

This is to certify that the Environmental Impact Report, with comments and responses and record of project approval, is available to the General Public at the Monterey County Resource Management Agency (RMA) – Planning Department, 168 West Alisal, 2nd Floor, Salinas, CA 93901.



Mike Novo, Project Planner
Date: February 8, 2012

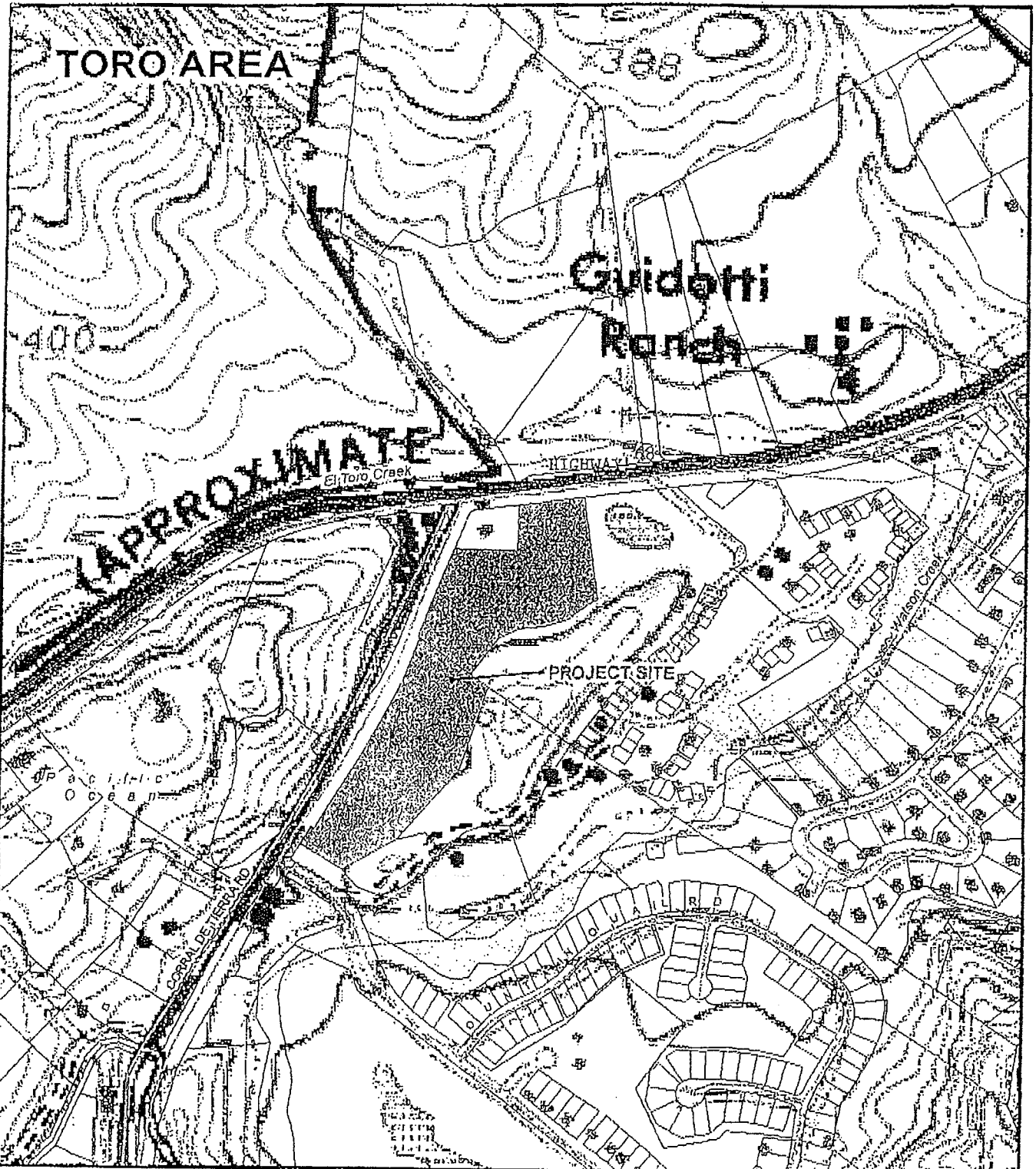
Ph: (831) 755-5192

Date Received for filing at OPR _____

Rev. 02-07-2012





000645

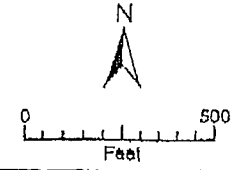
AR2



APPLICANT: OMNI RESOURCES LLC USGS Quadrangle: Spreckels

APN: 161-571-003-000 & 161-581-001-000 FILE # PLN110077

 Water
  2500' Limit
  300' Limit
  City Limits



PLANNER:

000646 AR3

Before the Board of Supervisors in and for the County of Monterey, State of California

In the matter of the application of: Omni Resources Inc. (PLN110077 Appeal of PLN020344)

RESOLUTION NO. 12-040

Resolution by the Monterey County Board of Supervisors denying the appeal by Omni Resources LLC from the January 26, 2011 decision of the Monterey County Planning Commission and approving the Combined Development Permit for the project consisting of 1) Use Permit 2) General Development Plan; and 3) Design Approval for development of a 99,970 square foot retail center known as the Corral de Tierra Neighborhood Retail Village and 4) Lot Line Adjustment to modify the lot line between two existing parcels (5.6 acres and 5.38 acres in area) to create Parcel A (1.12 acres) and Parcel B (9.86 acres) (PLN110077 an appeal of PLN020344), Omni Resources LLC, 5 Corral de Tierra Road).....

The OMNI Resources LLC (Phelps) application (PLN110077 appeal of PLN020344) came on for public hearing before the Monterey County Board of Supervisors on March 29, April 12, May 17, July 12, August 30, October 4, November 8, 2011, January 10, 2012, and February 7, 2012. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Board of Supervisors find and decide as follows:

FINDINGS

APPROVAL OF COMBINED DEVELOPMENT PERMIT AND GENERAL DEVELOPMENT PLAN

- 1 FINDING: CONSISTENCY - The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development. a) The project has been amended to consist of a 99,970 square foot shopping center, consisting of 10 buildings (9 single story buildings, and a two story building). All buildings will maintain a 100 foot setback from Corral de Tierra and Highway 68. A storm water collection system and ground water recharge system are included within the project design. The site will comply with LEED Silver construction standards. References in this resolution to the "Project" are to the project as herein described. b) APPLICABLE PLAN AND APPLICABLE ZONING ORDINANCES During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:

S-7

		and circulation areas in mud-free and dust free condition. Approved measures included in the CMP shall be implemented by the applicant during the construction/ grading phase of the project. (Public Works)				
Health Department Environmental Health Bureau						
44.		EH1 - WATER SYSTEM PERMIT Obtain a new or amended water system permit from the Division of Environmental Health if required. (Environmental Health)	Submit necessary application, reports and testing results to EH for review and approval.	CA Licensed Engineer /Owner/ Applicant	Prior to issuance of grading/ building permits	
45.		EH4 - FIRE FLOW STANDARDS Design the water system improvements to meet fire flow standards as required and approved by the local fire protection agency. (Environmental Health)	Submit evidence to the Division of Environmental Health that the proposed water system improvements have been approved by the local fire protection agency.	CA Licensed Engineer /Owner/ Applicant	Prior to installing water system improvements	
46.		EH5 - INSTALL WATER SYSTEM IMPROVEMENTS If a water system permit is obtained, the developer shall install the water system improvements to and within the development and any appurtenances. (Environmental Health)	The developer shall install the water system improvements to and within the project and any appurtenances needed.	CA Licensed Engineer /Owner/ Applicant	Prior to issuance of first building and/or grading permit.	
47.		EH6 - WATER SERVICE CAN/WELL SERVE Provide to the Division of Environmental Health written certification, and any necessary certification from State agencies that California American Water - Amber Park can and will supply sufficient water flow and pressure to comply with both Health and fire flow standards. (Environmental Health)	Submit written certification to the Division of Environmental Health for review and approval.	CA Licensed Engineer /Owner/ Applicant	Prior to issuance of a building permit	
48.		EH24 - SEWER SERVICE CAN/WELL SERVE Provide certification to the Division of Environmental Health that California Utility Services can and will	Submit certification to Environmental Health for review and approval.	Owner/ Applicant	Prior to issuance of a building permit.	

Page 30 of 68
Corral de Tierra Retail Village
(PLN110077 appeal of PLN020344)

000648

MONTEREY COUNTY

DEPARTMENT OF HEALTH

ROBERT J. MELTON, M.D., M.P.H., Director



FAMILY AND COMMUNITY HEALTH

ENVIRONMENTAL HEALTH

HEALTH PROMOTION

MENTAL HEALTH

ALCOHOL AND DRUG PROGRAMS

EMERGENCY MEDICAL SERVICES

1270 NATIVIDAD ROAD, SALINAS, CALIFORNIA 93906-3198 (408) 755-4500

1200 AGUAJITO ROAD, MONTEREY, CALIFORNIA 93940-1508 (408) 344-7630

1180 BROADWAY, KING CITY, CALIFORNIA 93930 (408) 345-8360

PLEASE REPLY TO ADDRESS CHECKED

RECEIVED

FEB 17 1995

WATER RESOURCES
AGENCY

February 10, 1995

Robert Slimmon, Jr.
Director of Planning and Building Inspection
P.O. Box 1208
Salinas, California 93901

RE: Hold On New Building Permits, State Imposed Service Moratorium On Toro Water Service, HWY. 68 and Corral De Tierra Area

Dear Mr. Slimmon:

Recently, our Department was notified by California Department of Health Services, Drinking Water Field Operations Branch (DHS) that they have imposed a service connection moratorium on Toro Water Service (Toro). A copy of this notification is attached for your review. The moratorium has been imposed in response to a critical water supply shortage in that system. The DHS has determined that Toro can reliably serve 237 service connections in its current configuration, based on source capacity and storage calculations. Toro currently serves 344 active connections, 107 more than the system can reliably serve with existing operable wells.

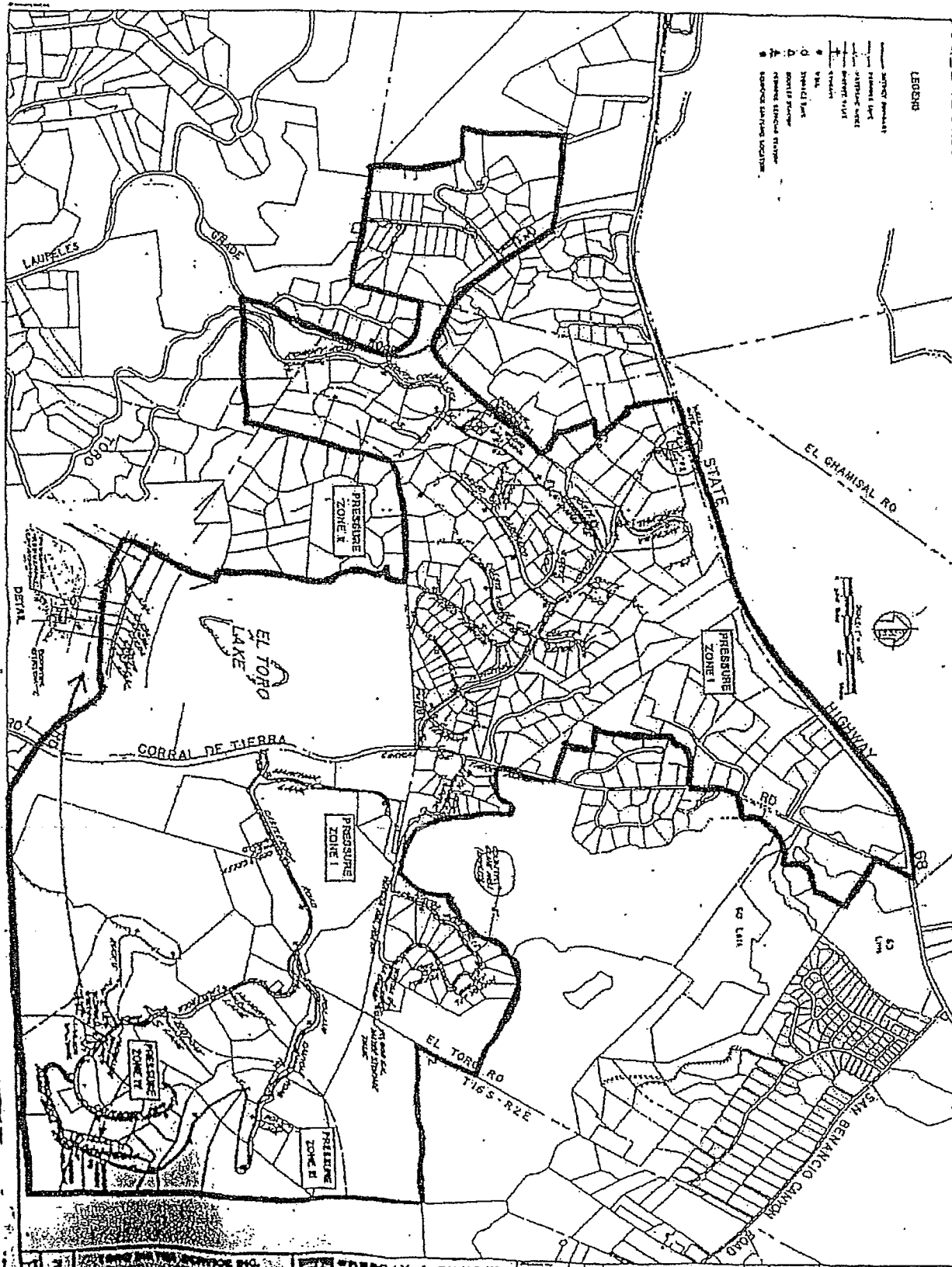
The Toro service area is depicted in the attached map that is enclosed for your review. However, it should be noted that there are county permitted water systems and private individual water systems interspersed within Toro's service area.

In an attempt to meet existing water system demands and lift the DHS imposed moratorium, Toro water service has applied for an amended water system permit from DHS to drill a new well. Once Toro has meet DHS requirements, DHS will reevaluate Toro's source capacity and determine the number of service connections the system can reliably serve.

As a result of these actions taken by DHS, please advise your staff that the Health Department will be enforcing the service connection moratorium by holding county building permit applications that have been determined by staff to be additional service connections to Toro's water system.

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GERRARD & D'ANGELO
 ENGINEERS & ARCHITECTS
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TOTAL P.03
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MONTEREY COUNTY



DEPARTMENT OF HEALTH

ANIMAL SERVICES
BEHAVIORAL HEALTH
CLINIC SERVICES

EMERGENCY MEDICAL SERVICES
ENVIRONMENTAL HEALTH

PUBLIC HEALTH
PUBLIC ADMINISTRATOR/PUBLIC GUARDIAN

Sept 28, 2010

Leslie Jordan, Environmental Specialist
California-American Co.
511 Forest Lodge Rd, Suite 100
Pacific Grove, Ca, 93950

Dear Ms. Jordan

This letter is a follow up to our phone conversation and my e-mail regarding the requirement of a stand alone water system for the Oaks and Harper Cyn Subdivisions (O/HCS) that can not be a part of Ambler Park water system (APWS).

In the conditions of approval for both the Oaks and Harper Cyn projects, it states that the O/HCS shall be operated as a stand alone water system, operated and owned by Cal Am. The project applicant shall convey to the water purveyor, Cal Am, the wells, completed water distribution infrastructure and fire flow infrastructure at no expense to Cal Am nor its customers. The wells that supply water to O/HCS are both over the MCL for Arsenic and must be treated to meet drinking water standard requirements set forth in Title 22. The APWS treatment plant treats for Arsenic removal and has capacity to treat the water from O/HCS wells thus providing potable water to the O/HCS water system.

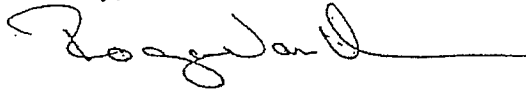
All the parcels for the O/HCS are located within the zone 2C boundaries and as such, benefit from the Salinas Valley Water Project established by the Monterey County Water Resource Agency. The APWS services area and its wells are in the B8 zoning area. Water from the B8, which is an area designated to be in over draft, can not be used to supply water to an area outside the B8 boundaries. Water from the wells for O/HCS shall be metered to APWS water treatment facility, treated for Arsenic removal, then metered back to O/HCS on a one to one bases,. Again, Cal Am will operate the O/HCS as a stand alone water system. Cal Am will be required to submit monthly reports of the meter readings to Environmental Health Bureau (EHB) for review.

The O/HCS water system will have 26-30 connections; any water system with less then 200 connections is regulated by the Local Primacy Agency (LPA), EHBs Drinking Water Protection Service (DWPS) is the LPA for Monterey County. Please contact Cheryl Sandoval, Supervisor DWPS at 755-4552 for all the necessary applications needed to be filed with DWPS for the water system.

000652

If you have any question please feel free to call me at 755-4763.

Sincerely,



Roger Van Horn, R.E.H.S.
Senior Environmental Specialist

Cc: John Ramirez, Director, Environmental Health
Richard LeWarne, Assistant Director, Environmental Health
Cheryl Sandoval, Supervisor Drinking Water Protection Service
Nicki Silva, Acting Supervisor Environmental Health Review
Craig Anthony, Director, Operation Central Division Cal Am
Jan Sweigert, CDPH - Drinking Water Field Operations Monterey

MONTEREY COUNTY RESOURCE MANAGEMENT AGENCY

PLANNING DEPARTMENT, Mike Novo, Director

168 W. ALISAL ST., 2ND FLOOR
SALINAS, CA 93901

February 3, 2011

(831) 755-5025
FAX (831) 757-9516



Ray Harrod, Jr.
Ferrini Oaks LLC
365 Victor Street, Suite S
Salinas, California 93907

SUBJECT: OAKS SUBDIVISION (PC94170)
Compliance with Water Supply Restrictions/Permits
San Benancio Road

Dear Mr. Harrod:

It has come to the County's attention, specifically the Environmental Health Bureau (EHB) and the Resource Management Agency---Planning Department, that the Oaks Subdivision on San Benancio Road (PC94170) may not be in compliance with requirements for the subdivision's water system. This letter shall serve as notice that, until the issues concerning water supply to the subdivision are resolved to the satisfaction of the County, the County will not issue any additional building permits for the lots in the Oaks subdivision.

We are directing this notification to you because County records indicate that six of the nine parcels created by the subdivision are owned by Ferrini Oaks LLC, and therefore, Ferrini Oaks LLC appears to be the successor in interest to Bollenbacher and Kelton, Inc., the prior applicant for the subdivision and developer of the subdivisions. We request to meet with you or the appropriate representatives of the Ferrini Oaks LLC at your earliest convenience to discuss resolution of the issues.

Our records indicate that pursuant to condition 34 of the Oaks subdivision, Bollenbacher and Kelton (the "Developer") entered into an agreement in 2004 with the California-American Water Company ("Cal Am") in which the Developer agreed to construct a well and water distribution infrastructure for the Oaks Subdivision and to transfer the water system to Cal Am in exchange for Cal Am's agreement to operate and maintain the water system to provide domestic and fire flow water supply to the Oaks subdivision. Pursuant to conditions 34 and 35, the system was required to meet the standards of Title 22 of the California Code of Regulations.

When the tentative map was approved on May 8, 2001, the Maximum Contaminant Level (MCL) for a Primary Inorganic chemical, Arsenic, was 50 ppb (parts per billion). Subsequent to approval of the tentative map, the federal and state standards for Arsenic were strengthened and the current MCL for Arsenic is 10ppb. A well sample taken in August 2000 was 35ppb, which did not exceed applicable standards when the County considered the tentative map, but this level is over three times the current MCL for Arsenic. Therefore, for reasons of health and safety and compliance with federal and state law, EHB required that the water from the Oaks well be treated to reduce the Arsenic level to comply with the current standard before it qualified as a potable water supply for the subdivision.


000654

An option to address treatment of the water included transporting the Oaks well water to the Cal Am Ambler Unit for purposes of treatment. However, the Oaks well is located in the Monterey County Water Resources Agency zones of benefit, which do not allow the export of water out of this zone. Also, the Ambler treatment plant is located in the County's B-8 zone, which does not allow intensification of water use. As such, exporting water from the Oaks well to the Ambler treatment system must result in an equal exchange of water in order to comply with these restrictions. In 2006, Cal Am agreed to monitor both the production records from the new Ambler Oaks well and the water consumption of the nine lots in the Oaks subdivision for this purpose.

The County has learned that the Cal Am Ambler unit is currently supplying water to those homes in the subdivision that have been built, without a corresponding transfer of water from the Oaks well to Cal Am for treatment. This one-way supply of water from Ambler to the Oaks subdivision has not been permitted by the County, either as part of the subdivision approval or separately. Additionally, Cal Am annexed the Oaks subdivision into the Cal Am Ambler service area, which is the subject of a pending complaint filed with the California Public Utilities Commission. (Highway 68 Coalition v. California American Water Company (Case No. 10-08-022, filed August 31, 2010)).

Accordingly, the water supply for the Oaks subdivision is not assured until the PUC proceeding is concluded and the potential code violation is resolved. In addition, Monterey County has different land use permitting requirements depending on the size of the system. For reasons of public health and safety, the County will not require cessation of water supply to the three lots that have been sold (Assessor Parcel Numbers: 161-013-005, -006, and -009) pending resolution of these issues. However, until the PUC proceeding is concluded and the potential code violation is resolved to the satisfaction of the County (e.g., applicable permits), the County will not issue any building permits for the remaining vacant lots within the Oaks subdivision (Assessor Parcel Numbers: 161-013-001, -004, -007, -008, -013, and -014).

We would like to meet with the appropriate representatives of the Oaks subdivision to address these issues. Please contact Mr. David Mack (831-755-5096 or mackd@co.monterey.ca.us) at your earliest convenience to arrange a meeting to discuss resolution of this matter.

Sincerely, 

Carl P. Holm, AICP
 RMA-Planning Department
 Assistant Director

- cc E. Harrod, Jr., owner of APN 161-013-006-000
- I. Nucci, owner of APN 161-013-005-000
- M. Campion, owner of APN 161-013-009-000
- J. Ramirez, EHB
- R. LeWarne, EHB
- R. Van Horn, EHB
- W. Strimling, County Counsel
- M. Nowa, Planning
- D. Mack, RMA-Planning
- M. Kelton, Bollenbacher and Kelton

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Highway 68 Coalition,
Complainant

v.

California-American Water Company (U210W)
Defendant.

Proceeding No. C10-08-022
(Filed August 31, 2010)

HARPER CANYON REALTY LLC OPENING BRIEF

Michael D. Cling, Esq. (SBN 65467)
313 S. Main Street, Suite D
Salinas CA 93901
Telephone: (831) 771-2040
Facsimile: (831) 771-2050
mdc@michaelcling.com

Sheri L. Damon, Esq. (SBN 166427)
DAMON LAW OFFICES
618 Swanton Road
Davenport CA 95017
Telephone (831) 345-3610
Facsimile: (831) 337-5212
sldamon@covad.net

Attorneys for
HARPER CANYON REALTY LLC

March 21, 2011

000656

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Highway 68 Coalition,
Complainant

v.

California-American Water Company (U210W)
Defendant.

Proceeding No. C10-08-022
(Filed August 31, 2010)

OPENING BRIEF

Pursuant to Rule 13.11 of the California Public Utilities Commission's ("CPUC") Rules of Practice and Procedure and the schedule established by Administrative Law Judge ("ALJ") Bushey and Commissioner Michael R. Peevey, Harper Canyon Realty LLC ("Harper Canyon") hereby respectfully submits the following opening brief on the issues outlined in the Revised Scoping Memo and Ruling of the Assigned Commissioner dated February 17, 2011, in the above-captioned proceeding.

I. INTRODUCTION

As a preliminary matter, Harper Canyon Realty LLC hereby joins in the Motion to Dismiss the Complaint and the arguments raised therein filed by California American Water on or about February 2, 2011.

In this proceeding, ALJ Bushey has asked for briefing on the following question of law and policy:

Does Ordering Paragraph 9 of Decision 98-09-038 prohibit the shared use of the Ambler Water Treatment Plant between customers in the Ambler Service Territory as it existed when the decision was rendered and customers in areas that have been annexed to the Ambler Service Territory since the 1998 decision was issued?

As a legal matter, the Ordering Paragraph 9 of Decision 98-09-038 does not prohibit shared use of the Ambler Water Treatment Plant between customers in the Ambler Service Territory as it existed in 1998 and new customers which have since been annexed. The plain language of Order Paragraph 9 is as follows:

"CalAm is prohibited to intertie Ambler's water system to any other water system of Cal Am".

The plain language of Paragraph 9 makes clear that "interties" are prohibited to any other system of Cal Am. Because the areas in question were annexed to the Ambler Service area subsequent to Decision 98-09-038, they are not and could not be "any other system of Cal Am". There are several

references in Decision 98-09-038 which support this interpretation of Ordering Paragraph 9. In fact, Decision 98-09-038 makes a clear distinction between the concept of "intertie with Cal Am's other Monterey Main system" and expansion of the existing Ambler service area. For example, Page 3 states that although Ambler will become a part of Cal Am's Monterey Division, it will not be connected to the existing Monterey Division system. Specifically, on pages 11 and 12 of the Decision, the issue of intertie was discussed at length and focused on the exportation of water from the Ambler system to the Cal Am Monterey main system. The transcript of the proceedings before the Public Utilities Commission leading to Decision 98-09-038 also supports this distinction and reveals additionally that existing Ambler customers were concerned about paying for costs that arose in the Cal Am Monterey Main system, mainly the removal of the Carmel River dam.¹ Decision 98-09-038 also specifically rejected the Highway 68 Coalition position imposing a "new connection moratorium" in the Ambler Service area and explicitly rejected a limitation on future expansion of the Ambler Park service area. Expansion of the service area and moratorium on new connections was discussed at length on pages 7 and 8. Page 8 specifically states that "even if Highway 68 Coalition's assumption regarding service area expansion is correct, Cal Am will still have to seek approval of the Commission for expansion of its service through an advice letter." Page 15 of Decision 98-09-038 also supports the idea that expansion of the Ambler service area is allowed and requires subsequent Commission approval. Thus, it is reasonable to conclude that an expansion of service area and provision of water treatment services of Ambler within that service area is not what was intended to be limited by the prohibition on "intertie with any of Cal Am's other water systems" of Ordering Paragraph 9.

Nothing in the record in the Ambler Acquisition Proceeding supports the interpretation that the Commission intended Ordering Paragraph 9 to prohibit the annexation of new customers or territory to the existing Ambler service area or prohibit those new customers the benefit of water treatment facilities provided within that service area. To the contrary, the expansion of the service area was explicitly discussed during the evidentiary hearing leading to Decision 98-0-038.² Accordingly, the Coalition's claim that the prohibition on interties applies outside the context of a connection between the Ambler system and California American Water's main Monterey system and in particular to preclude expansion of the Ambler service area, is unsupported by the record from the Ambler Acquisition Proceeding or in this proceeding.

Even assuming *arguendo* that the concept of "intertie" as discussed in Decision 98-0-038 prohibits exportation of water, the "importation" of water from water sources within the newly annexed Ambler service area and its subsequent treatment by the Ambler Water Treatment Plant and delivery back to the newly annexed territory, does not result in an exportation of water from the Ambler Service Territory which existed at the time of Decision 98-09-038. Thus, use of water treatment facilities in and of themselves does not result in an exportation of water.

¹ 1998 Cal. PUC LEXIS 936, *5

² Second Request of California American Water for Official Notice, Ex. 2, pp. 66-67.

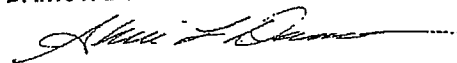
It is Harper Canyon's position that the Public Utility Commission cannot and should not as a policy matter preclude the Ambler water treatment plant facilities to customers which have been annexed into the Ambler Service Territory. Public Utilities Code section 453 provides that all customers within an annexed service area are entitled to service without prejudice or discrimination and the utility must, upon demand, provide such service. There is no evidence there is a capacity issue related to the water treatment facilities. There is additionally no evidence there is a water supply issue in the Ambler Service area. The newly annexed customers must be afforded the same level of service that the other customers receive, including without limitation water treatment. Additionally, the existing customer base in 1998, will now be allowed to derive the benefits from additional customers including the spreading of costs for treatment and facilities over a larger number of customers. All benefits which are consistent with the PUC's long term policy of promoting efficiencies of scale within service areas.

II. CONCLUSION

For the above reasons, the CPUC should conclude that both legally and as a policy matter, the Highway 68 complaint should be dismissed and there is no violation of Decision 98-09-038, Ordering Paragraph 9, in providing water treatment facility services to areas annexed to the Ambler Service area after the date of the Decision 98-09-038.

Dated: March 21, 2011

Respectfully submitted,
DAMON LAW OFFICES



Sheri L. Damon, Esq.
Attorney for Harper Canyon Realty LLC



California-American Water Company

4701 Beloit Drive • Sacramento, CA 95838-2434 / P.O. Box 15468 • Sacramento, CA 95851-0468 • (916) 568-4200 • FAX (916) 568-4260

JAN 12 2005

PUBLIC UTILITIES COMMISSION
WATER DIVISION

January 11, 2005

ADVICE LETTER NO. 617

TO THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

California American Water Company (Cal-Am) (U210W) hereby submits for filing the following tariff sheets applicable to its Monterey District which are attached hereto:

<u>C.P.U.C. Sheet No.</u>	<u>Title of Sheet</u>	<u>Canceling Sheet No.</u>
4293-W	MONTEREY DIVISION SERVICE AREA DETAIL MAP 8	3036-W
4294-W	MONTEREY DIVISION SERVICE AREA INDEX MAP	4041-W
4295-W	Schedule No. MO-1AB Monterey Peninsula District Tariff Area GENERAL METERED SERVICE AMBLER PARK AND BISHOP SERVICE AREA	4259-W
4296-W	TABLE OF CONTENTS (continued)	4291-W
4297-W	TABLE OF CONTENTS	4292-W

The purpose of this advice letter filing is to update and to extend Cal-Am's Monterey District Ambler Park service area to include a new subdivision, Oaks Subdivision.

This subdivision is contiguous to the Ambler Park Service area and construction is in the final approval stages with the County of Monterey. The County of Monterey Resolution No. 01-197 approves the provision of water service to the Oaks Subdivision by Cal-Am (formerly Ambler Park Water Utility). The subdivision is intended for residential service. A completed Water Supply Questionnaire is being provided to the Commission staff as part of the supporting documentation. A letter to the Department of Real Estate is not being requested at this time.

In accordance with Section III of General Order No. 96-A, a copy of this advice letter is being sent to those entities listed in Exhibit A. A copy has also been provided to Monterey County LAFCO in accordance with a previous Commission directive.

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Copies of the detailed workpapers and the documents supporting this Advice Letter have been furnished to the Commission Staff.

The actions requested in this advice letter are not now the subject of any formal filings with the California Public Utilities Commission, including a formal complaint, nor action in any court of law.

This filing will not cause the withdrawal of service, nor conflict with other schedules or rules.

Protests and Responses:

A protest is a document objecting to the granting in whole or in part of the authority sought in this advice letter. A response is a document that does not object to the authority sought, but nevertheless presents information that the party tendering the response believes would be useful to the Commission in acting on the request.

A protest must be mailed within 20 days of the date the Commission accepts the advice letter for filing. The filing date is the date the advice letter was placed on the Commission's Calendar. The Calendar is available on the Commission's website at www.cpuc.ca.gov. Click on **SEARCH SITE** (upper left corner). Uncheck all but **Daily Calendar**. Enter "**WATER 617-W**" (include the quotation marks) and click **SEEK**. A protest must state the facts constituting the grounds for the protest, the effect that approval of the advice letter might have on the protestant, and the reasons the protestant believes the advice letter, or a part of it, is not justified. If the protest requests an evidentiary hearing, the protest must state the facts the protestant would present at an evidentiary hearing to support its request for whole or part denial of the application.

All protests or responses to this filing should be sent to:

California-Public Utilities Commission, Water Division
505 Van Ness Avenue
San Francisco, CA 94102
Fax: (415) 703-4426
E-Mail: water_division@cpuc.ca.gov

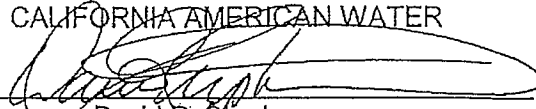
And to this utility to:

David P. Stephenson
Director – Rates & Planning
4701 Beloit Drive
Sacramento, CA 95838
Fax: (916) 568-4260
E-Mail: dstephen@amwater.com

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If you have not received a reply to your protest within 10 business days, contact this person at (619) 409-7712.

CALIFORNIA AMERICAN WATER



David R. Stephenson
Director - Rates & Revenues

rlj:

CC: Rod Jordan- California American Water

000662



4701 Beloit Drive
Sacramento, CA 95838
www.amwater.com

P (916)-568-4251
F (916) 568-4260

February 29, 2012

ADVICE LETTER NO. 934

TO THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

California-American Water Company (California American Water) (U210W) hereby submits for filing the following tariff sheets applicable to its Monterey District which are attached hereto:

<u>C.P.U.C. Sheet No.</u>	<u>Title of Sheet</u>	<u>Canceling Sheet No.</u>
6426-W	MONTEREY DIVISION SERVICE AREA INDEX MAP	5822-W
6427-W	MONTEREY DIVISION SERVICE AREA DETAIL MAP 8	4293-W
6428-W	TABLE OF CONTENTS	5824-W

Purpose:

The purpose of this advice letter filing is to update and extend California American Water's Ambler Park service area in Monterey County to include the entire parcel comprising San Benancio Middle School on 43 San Benancio Road, Salinas, Assessor's Parcel Number 161-061-002-000.

Background:

San Benancio Middle School's water system currently does not meet State water quality standards and consistently exceeds the maximum contaminant level for arsenic. The school was issued a compliance order on February 3, 2009. San Benancio Middle School is part of the Washington Unified School District ("School District"). California American Water has attached to this advice letter as workpaper 1-1 the School District's request that California American Water provide water service so that the School District can comply with the compliance order. California American Water has evaluated its Ambler system and determined that it can provide water service to San Benancio Middle School in compliance with General Order 103-A. California American Water has attached to this advice letter as workpaper 2-1 the Commission's standard water supply questionnaire for California American Water's Ambler system. As shown on Tarriff Map 6427-W, San Benancio Road is the northeastern boundary of the Ambler system, and California American Water has water mains in San Benancio Road. San Benancio Middle School lies immediately east of San Benancio Road, and therefore meets the criteria in

000663

Standard Practice U-14-W for annexation without a resolution of the Commission because it is contiguous (within 2,000 feet) to the existing service area.

California American Water has attached as workpaper 3-1 a letter from the counsel for the School District explaining that school districts are exempt from typical local development approvals and that all approvals necessary to construct this project have been obtained. Among the local approvals that have been obtained is the approval or exemption from local fire regulations, attached as workpaper 4-1. The School District has declared this project exempt from CEQA pursuant to CEQA Guidelines section 15303. The School District's Notice of Exemption that was filed with the Monterey County Clerk is attached as workpaper 5-1.

The School District has received a commitment from the California Department of Public Health to receive Proposition 84 grant funds to defray all or part of the cost of these facilities. Those costs not covered by the grant will be paid by the School District. Pursuant to the terms and conditions of the California Department of Public Health's consolidation agreement, the School District is required to construct the facilities necessary to connect to California American Water's system and transfer those facilities to California American Water upon completion. The plans and specifications for these facilities are attached as workpaper 6-1. A draft Consolidation Agreement is attached to this Advice Letter as workpaper 7-1. California American Water will be executing an agreement substantially similar to this agreement upon this advice letter becoming effective. This consolidation agreement is required by the California Department of Public Health for the School District to receive grant funds. Under the terms of that agreement, San Benancio Middle School will become a customer of California American Water and service will be rendered in accordance with the tariffs on file with the Commission, as those tariffs may be modified from time to time.

Attached to this advice letter as workpaper 8-1 is a letter from the Monterey County Water Resources Agency stating that San Benancio Middle School is not located within the Water Resource's Agency's Zone 2-C, and based on that determination, California American Water does not require an allocation from the Water Resources Agency to provide service to the school. Attached to this advice letter as workpaper 9-1 is an e-mail from the Monterey County Department of Health stating that Monterey County's B-8 overlay zone, which restricts development, does not apply to public facilities such as the school, and that the only approval required by Monterey County for California American Water to provide service is an encroachment permit for road improvements. As noted previously, the School District is constructing all facilities, and therefore will obtain this permit. Because there are no applicable restrictions of Monterey County on California American Water's service to San Benancio School, California American Water can provide service in compliance with the Commission's findings and order contained in D.11-09-001, concerning the shared use of the Ambler Park Water Treatment Plant, which is located in the Ambler Park service area.

Attached to this advice letter as workpaper 10-1 is a schedule prepared by the School District setting for the schedule necessary for this project to be constructed in accordance with California law regarding public works and completed in advance of the 2012-2013 school year. This schedule contemplates the School District advertising for bids for this project on April 1, 2012. Before the School District can advertise for bids, it must be assured that California American Water can and will provide service to the School District. Accordingly, California American Water requests the Commission to promptly review and approve this advice letter such that it can be effective no later than 30 days after filing, in accordance with General Order 96-B.

000664

A full description of these new facilities is contained in the Workpapers.

This filing will not interfere with the operation of California American Water's other water systems or the water system of a public agency.

Request:

California American Water requests CPUC authorization to update and extend its Monterey Ambler Park service area to include the entire parcel comprising San Benancio Middle School on 43 San Benancio Road, Salinas, Assessor's Parcel Number 161-061-002-000.

Tier Designation:

This advice letter is submitted with a Tier 2 designation.

Effective Date:

California American Water requests that the tariffs discussed above be made effective immediately.

Service List:

In accordance with Section 4.3 of General Order 96-B, a copy of this advice letter has been served upon all interested and affected parties as shown in Exhibit A.

Protest and Responses:

Anyone may respond to or protest this advice letter. A response supports the filing and may contain information that proves useful to the Commission in evaluating the advice letter. A protest objects to the advice letter in whole or in part and must set forth the specific grounds on which it is based. These grounds may include the following:

- (1) The utility did not properly serve or give notice of the advice letter;
- (2) The relief requested in the advice letter would violate statute or Commission order, or is not authorized by statute or Commission order on which the utility relies;
- (3) The analysis, calculations, or data in the advice letter contain material errors or omissions;
- (4) The relief requested in the advice letter is pending before the Commission in a formal proceeding; or
- (5) The relief requested in the advice letter requires consideration in a formal hearing, or is otherwise inappropriate for the advice letter process; or
- (6) The relief requested in the advice letter is unjust, unreasonable, or discriminatory (provided that such a protest may not be made where it would require relitigating a prior order of the Commission.)

A protest shall provide citations or proofs where available to allow staff to properly consider the protest.

A response or protest must be made in writing or by electronic mail and must be received by the Water Division within 20 days of the date this advice letter is filed. The address for mailing or delivering a protest is:

000665

Tariff Unit, Water Division, 3rd floor
California Public Utilities Commission,
505 Van Ness Avenue, San Francisco, CA 94102
water_division@cpuc.ca.gov

On the same date the response or protest is submitted to the Water Division, the respondent or protestant shall send a copy by mail (or e-mail) to us, addressed to:

Recipients:	E-Mail:	Mailing Address:
David P. Stephenson <i>Director – Rates & Regulation</i>	dave.stephenson@amwater.com	4701 Beloit Drive Sacramento, CA 95838 Fax: (916) 568-4260
Sarah E. Leeper <i>Vice President – Legal, Regulatory</i>	sarah.leeper@amwater.com.....	333 Hayes Street San Francisco, CA 94102 Fax: (415) 863-0615
Edward D. Pressey <i>Business Performance Manager</i>	Edward.Pressey@amwater.com	4701 Beloit Drive Sacramento, CA 95838 Fax: (916) 568-4260

Cities and counties that need Board of Supervisors or Board of Commissioners approval to protest should inform the Water Division, within the 20 day protest period, so that a late filed protest can be entertained. The informing document should include an estimate of the date the proposed protest might be voted on.

The actions requested in this advice letter are not now the subject of any formal filings with the California Public Utilities Commission, including a formal complaint, nor action in any court of law.

This filing will not cause the withdrawal of service, nor conflict with other schedules or rules.

If you have not received a reply to your protest within 10 business days, please contact me at (916) 568-4222.

CALIFORNIA-AMERICAN WATER COMPANY

Isl David P. Stephenson

David P. Stephenson
Director - Rates & Regulation

000666

ATTACHMENT 5

Customer Account Information

For Service To: Washington Union School Dist.
43 San Benancio Rd
Account Number: 05-0612943-6
Premise Number: 05-0187681

Billing Period & Meter Information

Billing Date: Sep 03, 2013
Billing Period: Jul 30 to Aug 28 (29 days)
Next reading on/about: Sep 27, 2013
Rate Type: Other Public Authority

Meter readings in current billing period:
Meter Number X160731389 is a 2-inch meter.

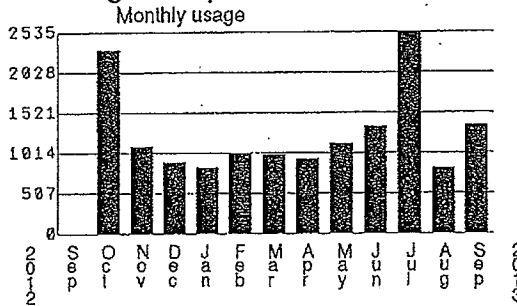
Present-actual	16685
Last-actual	15328
10 Cubic Feet used	1357
10 cu. ft. equals 75 gallons	
Gallons used	101775

Billing Summary

-----Prior Balance-----
Balance from last bill
Payments as of Sep 03, 2013. Thanks!
Total prior balance, Sep 03, 2013
-----Current Water Charges-----
Basic Service
Water Charge (\$.569300 x 1,357.00)
Total water charges, Sep 03, 2013
-----Other Current Charges-----
CAW Cnsvn Surch as 10 CF Rate
Ambler WRAM/MCBA Non Res
Gen Exp Bal Acct Srchg Amb Prk
Total other charges, Sep 03, 2013
-----Taxes-----
Monterey Co. Franchise Fee
PUC Surcharge
Total taxes, Sep 03, 2013
-----TOTAL AMOUNT DUE-----

\$760.07
<u>-760.07</u>
.00
79.62
<u>772.54</u>
852.16
36.23
225.67
<u>70.84</u>
332.74
9.59
<u>14.38</u>
23.97
\$1,208.87

Water Usage Comparison



Messages from California American Water

**** Manage your account online!** By using My H2O, customers can view and pay a bill, sign up for automatic payment, update customer information as well as find convenient, authorized payment locations in your area. Visit www.amwater.com/myh2o. Also, customers can pay their bill by phone by calling 866-271-5522.

**** Get Informed about the Monterey Peninsula Water Supply Project.** Visit the Monterey Peninsula Water Supply Project website, at www.watersupplyproject.org, to read the newly published quarterly progress report, sign up for updates and find out other information about the project.

* Contact California American Water's local conservation department at 831.646.3205 to take advantage of rebates, water wise house calls and more. For more information visit www.montereywaterinfo.org.

000403/000403 NCETMJ TAV02 16

Customer Service: 1-888-237-1333 (24 Hours)
Emergency: 1-888-237-1333 (24 Hours)
Visit us online at: www.californiaamwater.com

RAW100AMW29I

M4M1A 6949

Customer Account Information

For Service To: Washington Union School Dist.
 43 San Benancio Rd
 Account Number: 05-0612943-6
 Premise Number: 05-0187681

Billing Period & Meter Information

Billing Date: Aug 02, 2013
 Billing Period: Jun 27 to Jul 30 (33 days)
 Next reading on/about: Aug 28, 2013
 Rate Type: Other Public Authority

Meter readings in current billing period:

Meter Number X160731389 is a 2-inch meter.
 Present-actual 15328
 Last-actual 14515
 10 Cubic Feet used 813
 10 cu. ft. equals 75 gallons
 Gallons used 60975

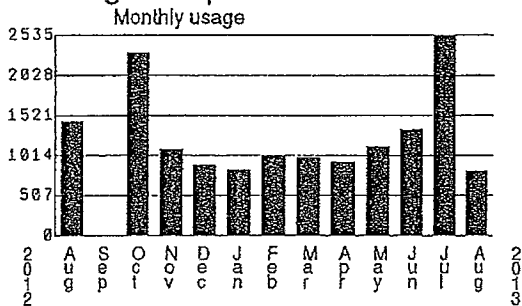
Billing Summary

-----Prior Balance-----
 Balance from last bill
 Payments as of Aug 02, 2013. Thanks!
 Total prior balance, Aug 02, 2013
 -----Current Water Charges-----
 Basic Service
 Water Charge (\$.56930 x 73.91)
 Water Charge (\$.56930 x 739.09)
 Total Use Billed 813.00
 -----Other Current Charges-----
 CAW Cnsvn Surch as 10 CF Rate
 Ambler WRAM/MCBA Non Res
 TIRBA Surcharge
 Gen Exp Bal Acct Srchg Amb Prk
 Total other charges, Aug 02, 2013
 -----Taxes-----
 Monterey Co. Franchise Fee
 PUC Surcharge
 Total taxes, Aug 02, 2013

\$2,192.47
<u>-2,192.47</u>
.00
79.62
42.08
<u>420.76</u>
542.46
21.70
135.20
3.02
<u>42.44</u>
202.36
6.09
<u>9.16</u>
15.25
\$760.07

-----TOTAL AMOUNT DUE-----

Water Usage Comparison



Messages from California American Water

** Get Informed about the Monterey Peninsula Water Supply Project. Visit the Monterey Peninsula Water Supply Project website, at www.watersupplyproject.org, to read the newly published quarterly progress report, sign up for updates and find out other information about the project.
 * Contact California American Water's local conservation department at 831.646.3205 to take advantage of rebates, water wise house calls and more. For more information visit www.montereywaterinfo.org.

Customer Service: 1-888-237-1333 (24 Hours)
 Emergency: 1-888-237-1333 (24 Hours)
 Visit us online at: www.californiaamwater.com

001641/001541 NCERF6 TAV01 13

RAW100AMW191

M4M1A 108

Customer Account Information

For Service To: Washington Union School Dist.
 43 San Benancio Rd
 Account Number: 05-0612943-6
 Premise Number: 05-0187681

Billing Period & Meter Information

Billing Date: Jul 02, 2013
 Billing Period: May 29 to Jun 27 (29 days)
 Next reading on/about: Jul 30, 2013
 Rate Type: Other Public Authority

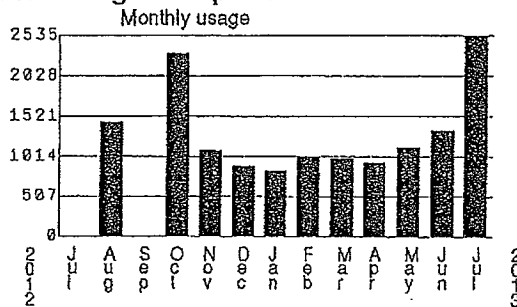
Meter readings in current billing period:

Meter Number XI60731389 is a 2-inch meter.
 Present-actual 14515
 Last-actual 11981
 10 Cubic Feet used 2534
 10 cu. ft. equals 75 gallons
 Gallons used 190050

Billing Summary

-----Prior Balance-----	
Balance from last bill	\$1,181.90
Payments as of Jul 02, 2013. Thanks!	-1,181.90
Total prior balance, Jul 02, 2013	.00
-----Current Water Charges-----	
Basic Service	79.62
Water Charge (\$.569300 x 2,534.00)	1,442.61
Total water charges, Jul 02, 2013	1,522.23
-----Other Current Charges-----	
CAW Cnsvn Surch as 10 CF Rate	67.66
Ambler WRAM/MCBA Non Res	421.40
TIRBA Surcharge	5.54
Gen Exp Bal Acct Srchg Amb Prk	132.45
Total other charges, Jul 02, 2013	627.05
-----Taxes-----	
Monterey Co. Franchise Fee	17.28
PUC Surcharge	25.91
Total taxes, Jul 02, 2013	43.19
-----TOTAL AMOUNT DUE-----	\$2,192.47

Water Usage Comparison



Messages from California American Water

**** Manage your account online!** By using My H2O, customers can view and pay a bill, sign up for automatic payment, update customer information as well as find convenient, authorized payment locations in your area. Visit www.amwater.com/myh2o. Also, customers can pay their bill by phone by calling 866-271-5522.

**** Utility bills can be confusing, and every customer deserves to know why they are paying the amount they are, and where the money is going to. Much of the money you pay into your utility bill is invested directly into your local water system to make sure it is reliable and delivering water when you need it. To learn more, visit www.californiaamwater.com/aboutyourbill**

*** Contact California American Water's local conservation department at 831.646.3205 to take advantage of rebates, water wise house calls and more. For more information visit www.montereywaterinfo.org.**

=====

**** IMPORTANT WATER QUALITY INFORMATION:**
 Your annual Water Quality Report can be viewed electronically at www.amwater.com/ccr/amblerpark.pdf
 If you prefer a paper copy to be sent to you, please contact our Customer Service Center at 888-237-1333.

=====

**** Su informe anual de la calidad de agua puede consultarse electrónicamente en www.amwater.com/ccr/amblerpark.pdf Si prefiere una copia, por favor póngase en contacto al cliente con nuestro centro de servicio en 888-237-1333.**

Customer Service: 1-888-237-1333 (24 Hours)
 Emergency: 1-888-237-1333 (24 Hours)
 Visit us online at: www.californiaamwater.com

002563/002553 NCEP5C TAV01 1

RAW100

M4M1A 3887

Customer Account Information

For Service To: Washington Union School Dist.
 43 San Benancio Rd
 Account Number: 05-0612943-6
 Premise Number: 05-0187681

Billing Period & Meter Information

Billing Date: Jun 04, 2013
 Billing Period: Apr 29 to May 29 (30 days)
 Next reading on/about: Jun 27, 2013
 Rate Type: Other Public Authority

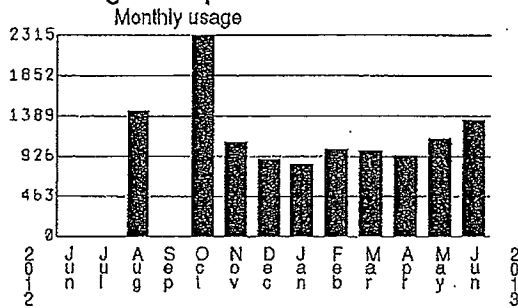
Meter readings in current billing period:

Meter Number X160731389 is a 2-inch meter.
 Present-actual 11981
 Last-actual 10637
 10 Cubic Feet used 1344
 10 cu. ft. equals 75 gallons
 Gallons used 100800

Billing Summary

-----Prior Balance-----	
Balance from last bill	\$960.34
Payments as of Jun 04, 2013. Thanks!	-960.34
Total prior balance, Jun 04, 2013	.00
-----Current Water Charges-----	
Basic Service	79.62
Water Charge (\$.56930 x 403.20)	229.54
Water Charge (\$.56930 x 940.80)	535.60
Total Use Billed 1344.00	844.76
-----Other Current Charges-----	
CAW Cnsvn Surch as 10 CF Rate	35.89
Ambler WRAM/MCBA Non Res	201.54
TIRBA Surcharge	5.54
Gen Exp Bal Acct Srchg Amb Prk	70.26
Total other charges, Jun 04, 2013	313.23
-----Taxes-----	
Monterey Co. Franchise Fee	9.57
PUC Surcharge	14.34
Total taxes, Jun 04, 2013	23.91
-----TOTAL AMOUNT DUE-----	\$1,181.90

Water Usage Comparison



Messages from California American Water

** Utility bills can be confusing, and every customer deserves to know why they are paying the amount they are, and where the money is going to. Much of the money you pay into your utility bill is invested directly into your local water system to make sure it is reliable and delivering water when you need it.

To learn more, visit www.californiaamwater.com/aboutyourbill

** Beginning May 15, 2013, per the California Public Utilities Commission Decision (D.) 12-04-040, (D.) 12-09-016, and (D.) 10-07-007 and the filing of Advice Letters 1001 and 31-s, you may notice a new meter surcharge or a flat surcharge on your bill. The surcharge is effective May 15, 2013, and will occur only on one billing cycle. The surcharge will go into. For more information please visit our website.

* Contact California American Water's local conservation department at 831.646.3205 to take advantage of rebates, water wise house calls and more. For more information visit www.montereywaterinfo.org.

**** IMPORTANT WATER QUALITY INFORMATION:**

Your annual Water Quality Report can be viewed electronically at www.amwater.com/ccr/amblerpark.pdf If you prefer a paper copy to be sent to you, please contact our Customer Service Center at 888-237-1333.

** Su informe anual de la calidad de agua puede consultarse electrónicamente en www.amwater.com/ccr/amblerpark.pdf Si prefiere una copia, por favor póngase en contacto al cliente con nuestro centro de servicio en 888-237-1333.

Customer Service: 1-888-237-1333 (24 Hours)
 Emergency: 1-888-237-1333 (24 Hours)
 Visit us online at: www.californiaamwater.com

003898/003898 NCEM19 TAV01 12

RAW 100AM0251

M4M1A 7404

Customer Account Information

For Service To: Washington Union School Dist.
 43 San Benancio Rd
 Account Number: 05-0612943-6
 Premise Number: 05-0187681

Billing Period & Meter Information

Billing Date: May 03, 2013
 Billing Period: Mar 28 to Apr 29 (32 days)
 Next reading on/about: May 29, 2013
 Rate Type: Other Public Authority

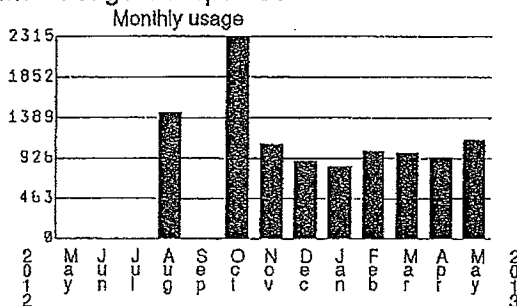
Meter readings in current billing period:
 Meter Number XI60731389 is a 2-inch meter.

Present-actual 10637
 Last-actual 9505
 10 Cubic Feet used 1132
 10 cu. ft. equals 75 gallons
 Gallons used 84900

Billing Summary

-----Prior Balance-----		
Balance from last bill		\$764.47
Payments as of May 03, 2013. Thanks!		-764.47
Total prior balance, May 03, 2013		.00
-----Current Water Charges-----		
Basic Service		79.62
Water Charge (\$.56930 x 106.13)		60.42
Water Charge (\$.56930 x 1025.88)		584.03
Total Use Billed	1132.00	724.07
-----Other Current Charges-----		
CAW Cnsvn Surch as 10 CF Rate		2.83
Ambler WRAM/MCBA Non Res		11.87
TIRBA Surcharge		5.54
CAW Cnsvn Surch as 10 CF Rate		27.39
Ambler WRAM/MCBA Non Res		114.69
Gen Exp Bal Acct Srchg Amb Prk		53.62
Total other charges, May 03, 2013		215.94
-----Taxes-----		
Monterey Co. Franchise Fee		8.14
PUC Surcharge		12.19
Total taxes, May 03, 2013		20.33
-----TOTAL AMOUNT DUE-----		\$960.34

Water Usage Comparison



Messages from California American Water

**** Utility bills can be confusing, and every customer deserves to know why they are paying the amount they are, and where the money is going to. Much of the money you pay into your utility bill is invested directly into your local water system to make sure it is reliable and delivering water when you need it. To learn more, visit www.californiaamwater.com/aboutyourbill**
*** Contact California American Water's local conservation department at 831.646.3205 to take advantage of rebates, water wise house calls and more. For more information visit www.montereywaterinfo.org.**

Customer Service: 1-888-237-1333 (24 Hours)
 Emergency: 1-888-237-1333 (24 Hours)
 Visit us online at: www.californiaamwater.com

RAW100AM013I

001189/001183 NCEJK4 TAV02 13

M4M1A 11805

Customer Account Information

For Service To: Washington Union School Dist.
 43 San Benancio Rd
 Account Number: 05-0612943-6
 Premise Number: 05-0187681

Billing Period & Meter Information

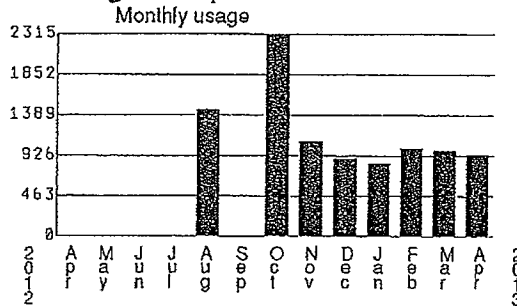
Billing Date: Apr 02, 2013
 Billing Period: Feb 27 to Mar 28 (29 days)
 Next reading on/about: Apr 29, 2013
 Rate Type: Other Public Authority

Meter readings in current billing period:
 Meter Number XI60731389 is a 2-inch meter.
 Present-actual 9505
 Last-actual 8568
 10 Cubic Feet used 937
 10 cu. ft. equals 75 gallons
 Gallons used 70275

Billing Summary

-----Prior Balance-----	
Balance from last bill	\$799.86
Payments as of Apr 02, 2013. Thanks!	-799.86
Total prior balance, Apr 02, 2013	.00
-----Current Water Charges-----	
Basic Service	79.62
Water Charge (\$.569300 x 937.00)	533.43
Total water charges, Apr 02, 2013	613.05
-----Other Current Charges-----	
CAW Cnsvn Surch as 10 CF Rate	25.02
Ambler WRAM/MCBA Non Res	104.76
TIRBA Surcharge	5.54
Total other charges, Apr 02, 2013	135.32
-----Taxes-----	
Monterey Co. Franchise Fee	6.44
PUC Surcharge	9.66
Total taxes, Apr 02, 2013	16.10
-----TOTAL AMOUNT DUE-----	\$764.47

Water Usage Comparison



Messages from California American Water

** Manage your account online! By using My H2O, customers can view and pay a bill, sign up for automatic payment, update customer information as well as find convenient, authorized payment locations in your area. Visit www.amwater.com/myh2o. Also, customers can pay their bill by phone by calling 866-271-5522.
 ** Beginning March 1, 2013, if a customer is turned off due to failure to pay, and payment is not received until after 3 pm that day, the service will be restored the following business day.
 * Contact California American Water's local conservation department at 831.646.3205 to take advantage of rebates, water wise house calls and more. For more information visit www.montereywaterinfo.org.

Customer Service: 1-888-237-1333 (24 Hours)
 Emergency: 1-888-237-1333 (24 Hours)
 Visit us online at: www.californiaamwater.com

001574/001574 NCEGOG TAV01 1

Customer Account Information

For Service To: Washington Union School Dist.
 43 San Benancio Rd
 Account Number: 05-0612943-6
 Premise Number: 05-0187681

Billing Period & Meter Information

Billing Date: Mar 04, 2013
 Billing Period: Jan 30 to Feb 27 (28 days)
 Next reading on/about: Mar 28, 2013
 Rate Type: Other Public Authority

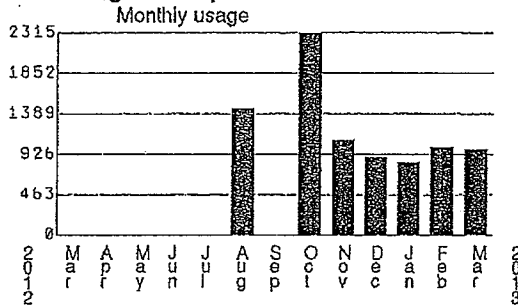
Meter readings in current billing period:
 Meter Number X160731389 is a 2-inch meter.

Present-actual 8568
 Last-actual 7582
 10 Cubic Feet used 986
 10 cu. ft. equals 75 gallons
 Gallons used 73950

Billing Summary

-----Prior Balance-----	
Balance from last bill	\$813.65
Payments as of Mar 04, 2013. Thanks!	-813.65
Total prior balance, Mar 04, 2013	.00
-----Current Water Charges-----	
Basic Service	79.62
Water Charge (\$5.569300 x 986.00)	561.33
Total water charges, Mar 04, 2013	640.95
-----Other Current Charges-----	
CAW Cnsvn Surch as 10 CF Rate	26.33
Ambler WRAM/MCBA Non Res	110.23
TIRBA Surcharge	5.54
Total other charges, Mar 04, 2013	142.10
-----Taxes-----	
Monterey Co. Franchise Fee	6.73
PUC Surcharge	10.08
Total taxes, Mar 04, 2013	16.81
-----TOTAL AMOUNT DUE-----	\$799.86

Water Usage Comparison



Messages from California American Water

** Manage your account online! By using My H2O, customers can view and pay a bill, sign up for automatic payment, update customer information as well as find convenient, authorized payment locations in your area. Visit www.amwater.com/myh2o. Also, customers can pay their bill by phone by calling 866-271-5522.
 ** Beginning March 1, 2013, if a customer is turned off due to failure to pay, and payment is not received until after 3 pm that day, the service will be restored the following business day.
 * Contact California American Water's local conservation department at 831.646.3205 to take advantage of rebates, water wise house calls and more. For more information visit www.montereywaterinfo.org.

Customer Service: 1-888-237-1333 (24 Hours)
 Emergency: 1-888-237-1333 (24 Hours)
 Visit us online at: www.californiaamwater.com

000290/000290 NCEDLM TAV01 12

RAW 100AM945I

M4M1A 4059

Customer Account Information

For Service To: Washington Union School Dist.
 43 San Benancio Rd
 Account Number: 05-0612943-6
 Premise Number: 05-0187681

Billing Period & Meter Information

Billing Date: Feb 04, 2013
 Billing Period: Dec 28 to Jan 30 (33 days)
 Next reading on/about: Feb 27, 2013
 Rate Type: Other Public Authority

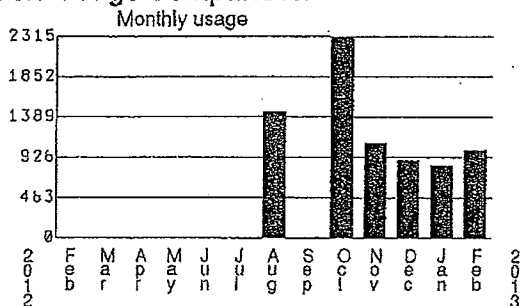
Meter readings in current billing period:
 Meter Number X160731389 is a 2-inch meter.

Present-actual	7582
Last-actual	6576
10 Cubic Feet used	1006
10 cu. ft. equals 75 gallons	
Gallons used	75450

Billing Summary

-----Prior Balance-----	
Balance from last bill	\$682.26
Payments as of Feb 04, 2013. Thanks!	-682.26
Total prior balance, Feb 04, 2013	.00
-----Current Water Charges-----	
Basic Service	79.57
Water Charge (\$.56260 x 91.45)	51.45
Water Charge (\$.56930 x 914.55)	520.65
Total Use Billed 1006.00	651.67
-----Other Current Charges-----	
CAW Cnsvn Surch as 10 CF Rate	26.86
Ambler WRAM/MCBA Non Res	112.47
TIRBA Surcharge	5.54
Total other charges, Feb 04, 2013	144.87
-----Taxes-----	
Monterey Co. Franchise Fee	6.85
PUC Surcharge	10.26
Total taxes, Feb 04, 2013	17.11
-----TOTAL AMOUNT DUE-----	\$813.65

Water Usage Comparison



Messages from California American Water

** Manage your account online! By using My H2O, customers can view and pay a bill, sign up for automatic payment, update customer information as well as find convenient, authorized payment locations in your area. Visit www.amwater.com/myh2o. Also, customers can pay their bill by phone by calling 866-271-5522.

** Beginning March 1, 2013, if a customer is turned off due to failure to pay, and payment is not received until after 3 pm that day, the service will be restored the following business day.

** Beginning January 1, 2013 you may notice an increase in your quantity and meter rates on your bill. The increase in rates is being implemented to reflect the 2013 Step rates authorized by the California Public Utilities Commission in Decision No. 12-06-016 and by Advice Letter 976-A.

* Contact California American Water's local conservation department at 831.646.3205 to take advantage of rebates, water wise house calls and more. For more information visit www.montereywaterinfo.org.

Customer Service: 1-888-237-1333 (24 Hours)
 Emergency: 1-888-237-1333 (24 Hours)
 Visit us online at: www.californiaamwater.com

001629/001629 NCEBBH TAV01 13

RAW 100AM9271

M4M1A 5363

Customer Account Information

For Service To: Washington Union School Dist.
 43 San Benancio Rd
 Account Number: 05-0612943-6
 Premise Number: 05-0187681

Billing Period & Meter Information

Billing Date: Jan 03, 2013
 Billing Period: Nov 29 to Dec 28 (29 days)
 Next reading on/about: Jan 27, 2013
 Rate Type: Other Public Authority

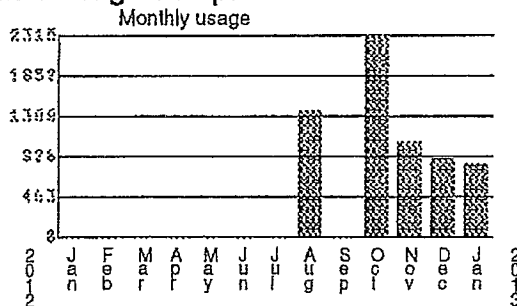
Meter readings in current billing period:

Meter Number XI60731389 is a 2-inch meter.
 Present-actual 6576
 Last-actual 5744
 10 Cubic Feet used 832
 10 cu. ft. equals 75 gallons
 Gallons used 62400

Billing Summary

-----Prior Balance-----	
Balance from last bill	\$719.04
Payments as of Jan 03, 2013. Thanks!	-719.04
Total prior balance, Jan 03, 2013	.00
-----Current Water Charges-----	
Basic Service	79.04
Water Charge (\$.562600 x 832.00)	468.08
Total water charges, Jan 03, 2013	547.12
-----Other Current Charges-----	
CAW Cnsvn Surch as 10 CF Rate	22.21
Ambler WRAM/MCBA Non Res	93.02
TIRBA Surcharge	5.54
Total other charges, Jan 03, 2013	120.77
-----Taxes-----	
Monterey Co. Franchise Fee	5.75
PUC Surcharge	8.62
Total taxes, Jan 03, 2013	14.37
-----TOTAL AMOUNT DUE-----	\$682.26

Water Usage Comparison



Messages from California-American Water

** For California American Water Monterey County District customer billing disputes where usage exceeds 2.5 times the monthly average and the amount in dispute exceeds \$ 200, the CPUC deposit requirement shall be waived. The waived deposit will remain in effect until the Commission closes the complaint. This waiver of the CPUC deposit requirement shall become effective 12/1/2012 and shall remain in effect through 12/1/2013.
 * Contact California American Water's local conservation department at 831.646.3205 to take advantage of rebates, water wise house calls and more. For more information visit www.montereywaterinfo.org.

Customer Service: 1-888-237-1333 (24 Hours)
 Emergency: 1-888-237-1333 (24 Hours)
 Visit us online at: www.californiaamwater.com

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001213/001213 NCE8ZS TAV01 12

M4M1A 3476

Customer Account Information

For Service To: Washington Union School Dist.
 43 San Benancio Rd
 Account Number: 05-0612943-6
 Premise Number: 05-0187681

Billing Period & Meter Information

Billing Date: Dec 04, 2012
 Billing Period: Oct 29 to Nov 29 (31 days)
 Next reading on/about: Dec 28, 2012
 Rate Type: Other Public Authority

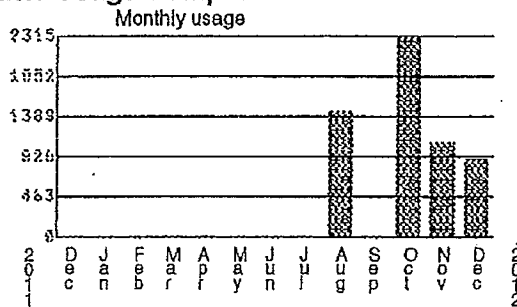
Meter readings in current billing period:
 Meter Number XI60731389 is a 2-inch meter..

Present-actual 5744
 Last-actual 4851
 10 Cubic Feet used 893
 10 cu. ft. equals 75 gallons
 Gallons used 66975

Billing Summary

-----Prior Balance-----	
Balance from last bill	\$849.27
Payments as of Dec 04, 2012. Thanks!	-849.27
Total prior balance, Dec 04, 2012	.00
-----Current Water Charges-----	
Basic Service	78.47
Water Charge (\$.54730 x 403.29)	220.72
Water Charge (\$.56260 x 489.71)	275.51
Total Use Billed	574.70
-----Other Current Charges-----	
CAW Cnsvn Surch as 10 CF Rate	23.85
Ambler WRAM/MCBA Non Res	99.84
TIRBA Surcharge	5.54
Total other charges, Dec 04, 2012	129.23
-----Taxes-----	
Monterey Co. Franchise Fee	6.05
PUC Surcharge	9.06
Total taxes, Dec 04, 2012	15.11
-----TOTAL AMOUNT DUE-----	\$719.04

Water Usage Comparison



Messages from California American Water

** For California American Water Monterey County District customer billing disputes where usage exceeds 2.5 times the monthly average and the amount in dispute exceeds \$ 200, the CPUC deposit requirement shall be waived. The waived deposit will remain in effect until the Commission closes the complaint. This waiver of the CPUC deposit requirement shall become effective 12/1/2012 and shall remain in effect through 12/1/2013.
 * Contact California American Water's local conservation department at 831.646.3205 to take advantage of rebates, water wise house calls and more. For more information visit www.montereywaterinfo.org.

Customer Service: 1-888-237-1333 (24 Hours)
 Emergency: 1-888-237-1333 (24 Hours)
 Visit us online at: www.californiaamwater.com

002472/002472 NCE6LY TAV01 1

RAW100

M4M1A 4057

Customer Account Information

For Service To: Washington Union School Dist.
 43 San Benancio Rd
 Account Number: 05-0612943-6
 Premise Number: 05-0187681

Billing Period & Meter Information

Billing Date: Nov 01, 2012
 Billing Period: Sep 27 to Oct 29 (32 days)
 Next reading on/about: Nov 28, 2012
 Rate Type: Other Public Authority

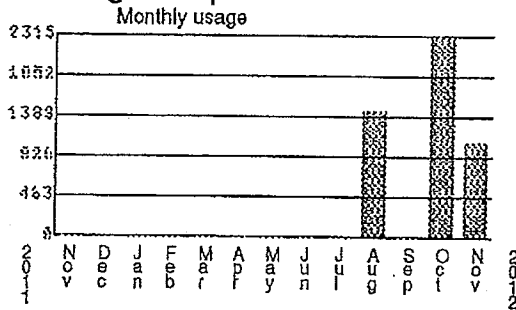
Meter readings in current billing period:
 Meter Number X160731389 is a 2-inch meter.
 Present-actual 4851
 Last-actual 3760
 10 Cubic Feet used 1091
 10 cu. ft. equals 75 gallons
 Gallons used 81825

Billing Summary

-----Prior Balance-----
 Balance from last bill
 Payments as of Nov 01, 2012. Thanks!
 Total prior balance, Nov 01, 2012
 -----Current Water Charges-----
 Basic Service
 Water Charge (\$547300 x 1,091.00)
 Total water charges, Nov 01, 2012
 -----Other Current Charges-----
 CAW Cnsvn Surch as 10 CF Rate
 Ambler WRAM/MCBA Non Res
 TIRBA Surcharge
 Total other charges, Nov 01, 2012
 -----Taxes-----
 Monterey Co. Franchise Fee
 PUC Surcharge
 Total taxes, Nov 01, 2012
 -----TOTAL AMOUNT DUE-----

\$1,697.84
<u>-1,697.84</u>
.00
77.79
<u>597.10</u>
674.89
29.13
121.97
<u>5.54</u>
156.64
7.10
<u>10.64</u>
17.74
\$849.27

Water Usage Comparison



Messages from California American Water

** Manage your account online! By using My H2O, customers can view and pay a bill, sign up for automatic payment, update customer information as well as find convenient, authorized payment locations in your area. Visit www.amwater.com/myh20. Also, customers can pay their bill by phone by calling 866-271-5522.
 * Contact California American Water's local conservation department at 831.646.3205 to take advantage of rebates, water wise house calls and more. For more information visit www.montereywaterinfo.org.

Customer Service: 1-888-237-1333 (24 Hours)
 Emergency: 1-888-237-1333 (24 Hours)
 Visit us online at: www.californiaamwater.com

001336/001336 NCE472 TAV01 1

RAW100

M4M1A 3068

Customer Account Information

For Service To: Washington Union School Dist.
 43 San Benancio Rd
 Account Number: 05-0612943-6
 Premise Number: 05-0187681

Billing Period & Meter Information

Billing Date: Oct 02, 2012
 Billing Period: Aug 28 to Sep 27 (30 days)
 Next reading on/about: Oct 27, 2012
 Rate Type: Other Public Authority

Meter readings in current billing period:

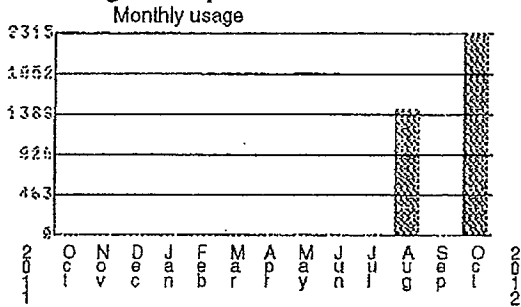
Meter Number XI60731389 is a 2-inch meter.
 Present-actual 3760
 Last-actual 1448
 10 Cubic Feet used 2312
 10 cu. ft. equals 75 gallons
 Gallons used 173400

Billing Summary

-----Prior Balance-----
 Balance from last bill
 Payments as of Oct 02, 2012. Thanks!
 Total prior balance, Oct 02, 2012
 -----Current Water Charges-----
 Basic Service
 Water Charge (\$.54730 x 231.20)
 Water Charge (\$.54730 x 2080.80)
 Total Use Billed 2312.00
 -----Other Current Charges-----
 Ambler WRAMMCBA Non Res
 TIRBA Surcharge
 CAW Cnsvn Surch as 10 CF Rate
 Ambler WRAMMCBA Non Res
 Total other charges, Oct 02, 2012
 -----Taxes-----
 Monterey Co. Franchise Fee
 PUC Surcharge
 Total taxes, Oct 02, 2012
 -----TOTAL AMOUNT DUE-----

\$996.96
<u>-996.96</u>
.00
77.79
126.54
<u>1,138.82</u>
1,343.15
25.85
5.54
55.56
<u>232.63</u>
319.58
14.05
<u>21.06</u>
35.11
\$1,697.84

Water Usage Comparison



Messages from California American Water

**** Manage your account online!** By using My H2O, customers can view and pay a bill, sign up for automatic payment, update customer information as well as find convenient, authorized payment locations in your area. Visit www.amwater.com/myh20. Also, customers can pay their bill by phone by calling 866-271-5522.

**** Beginning September 1, 2012** a volumetric surcharge has been added to your water bill to fund Conservation efforts per CPUC Decision (D.) 12-06-016 and California American Water's Advice Letter 962.

*** Contact California American Water's local conservation department** at 831.646.3205 to take advantage of rebates, water wise house calls and more. For more information visit www.montereywaterinfo.org.

Customer Service: 1-888-237-1333 (24 Hours)
 Emergency: 1-888-237-1333 (24 Hours)
 Visit us online at: www.californiaamwater.com

003008/003006 NCE IY9 TAV02 135

RAW100AM84SIAM8511

M4M1A 7110

Customer Account Information

For Service To: Washington Union School Dist.
 43 San Benancio Rd
 Account Number: 05-0612943-6
 Premise Number: 05-0187681

Billing Period & Meter Information

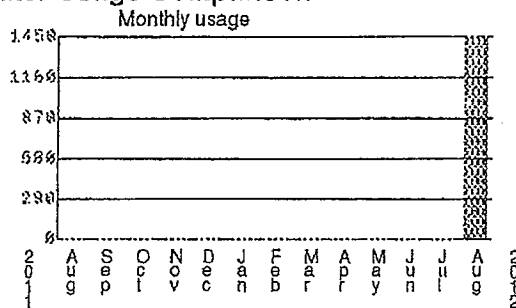
Billing Date: Aug 31, 2012
 Billing Period: Aug 20 to Aug 28 (8 days)
 Next reading on/about: Sep 27, 2012
 Rate Type: Other Public Authority

Meter readings in current billing period:
 Meter Number XI60731389 is a 2-inch meter.
 Present-actual 1448
 Last-actual
 10 Cubic Feet used 1448
 10 cu. ft. equals 75 gallons
 Gallons used 108600

Billing Summary

-----Prior Balance-----	
Balance from last bill	\$.00
Payments as of Aug 31, 2012. Thanks!	.00
Total prior balance, Aug 31, 2012	.00
-----Current Water Charges-----	
Basic Service	20.74
Water Charge (\$.547300 x 1,448.00)	792.49
Total water charges, Aug 31, 2012	813.23
-----Other Current Charges-----	
Ambler WRAM/MCBA Non Res	161.89
TIRBA Surcharge	1.48
Total other charges, Aug 31, 2012	163.37
-----Taxes-----	
Monterey Co. Franchise Fee	8.14
PUC Surcharge	12.22
Total taxes, Aug 31, 2012	20.36
-----TOTAL AMOUNT DUE-----	\$996.96

Water Usage Comparison



Messages from California American Water

** Beginning July 17, 2012 a meter surcharge will be added to recover the balance in the Temporary Interest Rate Balancing Account (TIRBA), per CPUC Decision (D.) 12-07-009 and California American Water's Advice Letter 960. The surcharge will remain in effect for up to 12 months.
 * Copies of your annual water quality report (Consumer Confidence Report) can be obtained by visiting our website or contacting our Customer Service Center (phone number and website address print at the bottom of this bill).
 ** On July 12, 2012, The California Public Utilities Commission approved a new "Cost of Capital" for California American Water. This decision is retroactive to January 1, 2012, and affects 2012, 2013 and 2014. You may notice minor adjustments to your bill as a result. Please contact us at (888) 237 1333 if you have any questions.

Customer Service: 1-888-237-1333 (24 Hours)
 Emergency: 1-888-237-1333 (24 Hours)
 Visit us online at: www.californiaamwater.com

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