

ATTACHMENT G
CORRESPONDENCE FROM
ENVIRONMENTAL HEALTH BUREAU
September 19, 2013

PLN040529

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MONTEREY COUNTY



DEPARTMENT OF HEALTH Ray Bullick, Director

ANIMAL SERVICES EMERGENCY MEDICAL SERVICES PUBLIC HEALTH
BEHAVIORAL HEALTH ENVIRONMENTAL HEALTH PUBLIC ADMINISTRATOR/PUBLIC GUARDIAN
CLINIC SERVICES

September 19, 2013

Joel Panzer
Maureen Wruck Planning Consultant, LLC
21 West Alisal Street
Suite 111
Salinas, CA93901

Mr. Panzer:

This letter addresses those issues that you brought forward in your letter of August 28, 2013, summarized as follows:

1. Information was presented regarding treatment systems for fluoride.
2. You request a code citation regarding not allowing treatment for water sources for new subdivisions and referenced a January 31, 2013 email referred to as attachment D in your letter.
3. General Plan 2010 Policy PS 2.5 is referenced as a reason for allowing treatment for water sources for this subdivision.
4. You point out that the property is already built out.

EHB has received information on water quality and quantity for some of the wells proposed as water sources but not for all. Monterey County Code Chapter 19.03.015L requires this information prior to finding an application complete. The lack of information has been a long standing completeness issue and cannot be deferred as a condition of approval.

Thank you for the information that you provided regarding under counter treatment systems for fluoride also referred to as point of use treatment systems.

In an August 14, 2012 letter (enclosed), Patrick Treffry explained that the Environmental Health Bureau (EHB) is the lead agency in determining the adequacy of a water supply for a proposed subdivision. Because of statewide and local experience with small water systems, namely the lack of capability to obtain and/or maintain treatment systems that will provide consistent and reliable treatment in a manner to protect public health, EHB determined that water source(s) for a subdivision that needs treatment for primary contaminants and is proposed to serve 1 – 14 connections does not have the technical, managerial, and financial capability to provide consistent and reliable treatment resulting in a reliable source of potable water. Therefore, EHB cannot make a health and safety finding that these water sources are an adequate water supply as required in the approval of a subdivision. Patrick also referred to County Code and General Plan policies in regard to adequate water supplies in the August 14, 2012 letter.

In your August 28, 2013 letter as well as a prior letter, you referenced General Plan Policy PS 2.5 in support of your argument for treatment of the water in a subdivision process. As was explained before in Mr. Bullick's letter dated March 25, 2013 (enclosed), this policy does not address a proposed subdivision but a new domestic well for a single lot of record.

In reference to the existing dwellings, EHB approved the construction permits for the existing dwellings based on Monterey County Code Section 15.04.020, which exempts two or more connections occupied by members of the same family on a single lot of record from water system requirements. The existing lot of record has certain development entitlements and has received those entitlements, which allowed the construction of the four existing dwellings.

The proposed subdivision would constitute new entitlements that must be considered in light of public health as well as other considerations. As you are aware the process to consider approval of a subdivision is quite different; requires more detailed information; and may have different and/or additional policies and regulations that must be met than a construction permit for a dwelling.

I believe this has addresses the issues that you raised. If you have any further questions you may contact Cheryl Sandoval at (831) 755-4552.

Sincerely,



Richard LeWarne
Assistant Director
Environmental Health Bureau

cc: Dan Lister, Planning Department
Cheryl Sandoval, Drinking Water Protection Services' Supervisor, EHB
Nicole Fowler, Environmental Health Review Services' Supervisor, EHB

Attachments: August 14, 2012 Letter (Patrick Treffry)
March 25, 2013 Letter (Ray Bullick)

MONTEREY COUNTY



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August 14, 2012

Mr. Joel Panzer
Maureen Wruck Planning Consultants, LLC
21 West Alisal Street Suite 111
Salinas CA 93901

Via e-mail: joel@mwruck.com

Re: PLN040529 - Vasquez Subdivision
Water Quality / Water Quantity / Long-Term Water Matters
APN 257-121-019-000

Dear Mr. Panzer:

Thank you for your request for additional information regarding the Vasquez Subdivision and matters related to a Hydrogeological Investigation for the proposed source wells on the property. As discussed, each parcel for the subdivision will need to demonstrate it has acceptable, potable water meeting state and county standards for water quality and water quantity. Please reference the Environmental Health Bureau letter to you dated March 13, 2012 that discusses the current status of the three existing wells on the property.

This application has remained incomplete for many years because the applicant has not been able to demonstrate there is an adequate water supply for the project. This project was heard before the Monterey County Planning Commission on February 9, 2011. The hearing was continued upon the applicant's request to conduct additional water quality and quantity tests. As of this date no water quality test results have been submitted and no source capacity tests have been performed to our knowledge.

This project is subject to a consistency analysis with the 2010 General Plan. Staff's focus of review has been limited to matters related to the source of water supply. The Monterey County Water Resources Agency (WRA) has reviewed the two available Well Completion Reports for the two wells drilled in 2005 and 2008 and reports that the two wells are drilled into hard rock (ie. Fractured rock). Hard rock wells tend to decline in water production as demonstrated in areas of Monterey County and in others areas of California.

General Plan Policy PS-3.1 requires that new development shall be prohibited without proof based on specific evidence that there is a long-term sustainable water supply, both in water quality and quantity to serve the development. Please note that Monterey County Code, Title 19,

Mr. Joel Panzer
Vasquez Subdivision – PLN040529
August 14, 2012
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Section 19.10.070 requires that provisions shall be made for such domestic water supply as may be necessary to protect public health, safety, or welfare, that the source of supply is adequate and potable, and that there is proof of a long term water supply for the proposed project.

Three wells have been drilled that do not meet water standards either due to lack of water quantity or lack of compliance with water quality standards. Please note:

MCC Section 19.03.015 (L) 2 states: *Evaluation of Public Health and Safety Impacts. The source of water within the project boundaries which are to provide groundwater or surface water for the lots shall be evaluated for potential public health and safety impacts. The Monterey County Health Department shall be the lead agency in determining the adequacy of the proposed project's water supply, and in evaluating the health and safety threats to the supply.*

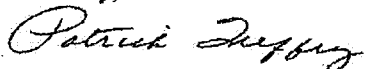
Staff's recommendation was to deny the project at the February 9, 2011 Planning Commission hearing based upon water related matters. To date, no new information has been submitted that would change EHB's position regarding the requirements for long-term water and meeting water quality and quantity per county and state standards. You had mentioned at the hearing you would be conducting source capacity testing perhaps in August 2011. EHB's file does not indicate any testing data since August 2011.

Without demonstrating that a long-term sustainable water supply exists in addition to demonstrating a suitable water source meeting quality and quantity standards the county would not be able to make a Health and Safety finding that supports the project. It is Environmental Health's position that this project is not consistent with policies PS – 3.1 (Proof of Long Term Sustainable Water Supply) and PS – 3.13 (Proof of Adequate Water Supply) and therefore, will not be able to conform to PS – 3.9 (Proof of Long Term Sustainable Water Supply prior to Approval of Subdivision Map).

However, notwithstanding the above deficiencies, if your client chooses to move forward with a Hydrogeological Investigation, you would need to inform EHB and also contact Mr. Tom Moss of the Monterey County Water Resources Agency (WRA) so that a scope of work can be developed for your consultant. Your consultant will have to coordinate with EHB and WRA as the Hydrogeological Investigation is being conducted and the resultant report would be peer reviewed by WRA.

Please feel free to contact me at (831) 755-4556 if additional information is required.

Sincerely,

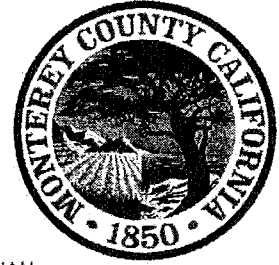


Patrick Treffry, REHS
Environmental Health Review Services

cc: Richard LeWarne, REHS
Nicole Fowler, REHS
Tom Moss, P.G., WRA

1270 Natividad Rd., Salinas, CA 93906 (831) 755-4507 (831) 796-8680 FAX

MONTEREY COUNTY



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CLINIC SERVICES

March 25, 2013

Joel Panzer
C/o Maureen Wruck
Planning Consultants, L.L.C.
21 W. Alisal, Suite 111
Salinas, CA 93901

Re: PLN040529; APN 257-121-019

Dear Mr. Panzer:

Thank you for your letter of March 2, 2013 following our January 31, 2013 onsite meeting with Mr. Tony Vasquez along with John Ramirez, Director of the Environmental Health Bureau (EHB). During our meeting, you discussed the possibility of conducting water quality tests, which would then be reviewed by EHB to see if the test results met Maximum Contaminant Levels (MCL) set by the California Department of Public Health. Once EHB notified you of the findings your client could then decide whether to proceed with a 72-hour source capacity test. This path is an option for your client.

A February 9, 2011 hearing was finally set before the Monterey County Planning Commission. As you may remember you requested a year continuance during this hearing to perform monthly water sampling similar to a request you had made on behalf of the Weyland/Merril Subdivision. EHB agreed to this proposal and the Planning Commission granted the continuance.

However, no monthly water quality testing was performed. On August 29, 2012, almost 17 months after the continued public hearing, a water quality test was conducted on water samples from Wells #2 and #3. The test results from Well #2 indicates that the concentration for Fluoride is 3.34 ppm which exceeds the MCL of 2 ppm. The test result for Well #3 is 3.19 ppm, which also exceeds the MCL for Fluoride. The MCL is based on adverse health affects to the public.

You cite in your letter that 2010 General Plan Policy PS-2.5 indicates water quality shall not be a basis for preventing development. However, you did not cite the entire policy. The first sentence of the policy, which is pertinent to what land use actions that this policy applies to, and it states:

"Regulations shall be developed for water quality testing for new individual domestic wells on a single lot of record to identify:"

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The portion cited: "...Regulations pursuant to this policy shall not establish criteria that will prevent the use of the well in the development of the property. ..." is at the end of the policy and clearly operates within the parameters of "new individual domestic wells on a single lot of record" and not in a subdivision process.

I understand there was a meeting on March 18, 2013 at the Resource Management Agency between you, Tony Vasquez and family members, Planning Department (Dan Lister, John Ford) and Environmental Health (Richard LeWarne). At the meeting the need for a finding of Technical, Managerial, and Financial (TMF) capability as part of Long Term Sustainable Water Supply (LTSWS) and Monterey County Code Chapter 19 (Subdivision Ordinance) was discussed. Mr. LeWarne explained that EHB has been recommending denial for subdivisions with a water supply that serves 1 – 14 connections if treatment for a primary contaminate is needed based on lack of TMF. EHB has determined that operators of water supplies that need treatment for the creation of new lots of 1- 14 connections do not have adequate TMF based upon statewide and local experience. Currently, there is legislation pending that is trying to provide funds for existing small water systems including single connections to address water quality problems because these water supply operators do not have the TMF to resolve their problems.

Three possible options were discussed:

1. Try to determine at what depths the Fluoride deposits are in the well by taking multiple water quality samples at various depths. If this can be determined, then seal off that portion of the well where the Fluoride deposits are. Sealing off a portion of the well would likely reduce the source capacity, which cannot be determined until after a 72-pumping test is done. Well #3 was identified by Mr. Tony Vasquez as probably the best producer. Therefore, if the Fluoride concentration can be reduced to 2 ppm or lower and the well can produce 3 gpm for each single-family dwelling (sfd) or 12 gpm total adjusted post recovery from the source capacity test then this well would meet the requirements for a 4-connection water system.
2. Perform quarterly testing to determine if the annual quarterly average of Fluoride is 2 ppm or lower for a year.
3. Mr. Vasquez and family members raised the point on several occasions that the property in question has been built out for a number of years and the water supply already exists and presently serves the 4 sfd's. The question was also brought up that if it is already built out or limitations placed on the resultant lots to the effect that there be no further development requiring water use why couldn't a recommendation for approval be made.

Mr. LeWarne explained that the present water system is under a "family exemption" from a health permit because the system serves family members on the same parcel. However, if one or more of the sfd's is occupied by someone other than a family member then a health permit would be required for the present system. Mr. Ford and Mr. LeWarne also discussed our agencies struggle of being able to make a finding of adequate TMF for the operator of the water supplies.

If your proposed subdivision is able to go forward in some manner, the presumption of a LTSWS would be applicable to your project. One of the conditions of approval would be that the applicant would be required to sign a hold harmless agreement. This agreement would require the applicant to reimburse the County for any legal costs that the County may encounter in defending itself if legal action is taken due to this project's approval.

In your letter of March 2, 2013 you indicate that the primary basis of the request is to obtain funding for "handicapped upgrades". I have checked with the Veterans Services Office for Monterey County and find that there is a program for Veterans to do "resident modification" to comply with handicap needs. I urge you to contact

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Fernando Rome Marquez at (831) 647-7613 to gain more information on this program. Should you have further questions regarding this matter please contact John Ramirez or myself at (831) 755-4526.

Sincerely,

Ray Bullick
Director of Health

Cc: Tony Vasquez
Supervisor Simon Salinas
Wes Morrill
John Ramirez

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