

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

**Resolution No: 09 – 356**

Rescinding Resolution No. 06-363, hereby )  
vacating certification of the final revised EIR and )  
voiding the approval of permits and entitlements )  
for the September Ranch Project in compliance )  
with the Peremptory Writ of Mandate. )

The Board of Supervisors adopts this Resolution with reference to the following facts and circumstances:

A. On December 12, 2006, the Board of Supervisors adopted Resolution No. 06-363 to certify a Revised Environmental Impact Report (EIR) on the September Ranch project, adopt a passing score, approve the Combined Development Permit for the September Ranch Project consisting of the 73/22 Alternative identified in the Revised EIR (the “project”), and adopt the associated Mitigation Monitoring and Reporting Plan.

B. On January 12, 2007, Sierra Club, Save Our Carmel River, and Patricia Bernardi filed a petition for writ of mandate in Superior Court challenging the Board’s actions as contained in Resolution No. 06-363. (Case No. M82632.) On January 16, 2007, Helping Our Peninsula’s Environment filed a petition for writ of mandate in Superior Court also challenging these actions. (Case No. M82643.) These cases were consolidated for purposes of case management, briefing, and hearing with the prior cases of Save Our Peninsula Committee v. County of Monterey (Case No. M42412) and Sierra Club v. County of Monterey (Case No. M42485) in regard to the second return to the Peremptory Writ of Mandate filed by the County in that prior litigation.

C. On April 30, 2008, the Superior Court issued its Intended Decision, and on June 23, 2008, the Court issued its Statement of Decision in these cases. Judgment Granting Peremptory Writ of Mandate was entered on September 16, 2008 in Case No. M82632 and on September 30, 2008 in Case No. M82643. The Judgments were entered in favor of the petitioners and against respondents Board of Supervisors of the County of Monterey and Real Parties in Interest James Morgens and September Ranch Partners. The Judgments directed the issuance of a peremptory writ of mandate.

D. A Peremptory Writ of Mandate, signed by the Honorable Susan Dauphine on December 23, 2008 and signed by the Court Clerk on January 23, 2009, was issued commanding the County of Monterey and its Board of Supervisors to do the following:

1. Void the determination, finding and decision adopting Resolution No. 06-363, including the approval of any permits or entitlements for the project described in Resolution No. 06-363;

2. Vacate the certification of the final revised EIR prepared for the project; and
3. Comply with the terms of the statement of decision by not taking further action to approve the project without the preparation, circulation, and consideration under CEQA of a legally adequate document adopted in compliance with CEQA which properly analyzes water demand, water cap, and cumulative impacts as to water demand. The Writ states that the revised EIR certified by the County contains a legally sufficient discussion on all other issues.

E. The Board desires to comply fully with the Peremptory Writ of Mandate issued by the Court.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors as follows:

1. Resolution No. 06-363, including the approval of any permits or entitlements for the September Ranch project described in Resolution No. 06-363, is hereby rescinded.
2. The certification of the final revised EIR prepared for the project is hereby vacated.
3. The County shall comply with the Statement of Decision by not taking further action to approve the project without the preparation, circulation, and consideration under CEQA of a legally adequate document adopted in compliance with CEQA which properly analyzes water demand, water cap, and cumulative impacts as to water demand.
4. County Counsel is authorized and directed to file with the Superior Court a return to the Peremptory Writ of Mandate with a copy of this Resolution attached thereto and take any action necessary to fully and promptly comply with the Writ.

PASSED AND ADOPTED on this 21<sup>st</sup> day of July, 2009, upon motion of Supervisor Parker, seconded by Supervisor Salinas, by the following vote, to-wit:

AYES: Supervisors Armenta, Salinas, Calcagno, Parker

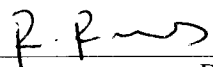
NOES: None

ABSENT: Supervisor Potter

I, Gail T. Borkowski, 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 of Minute Book 75 for the meeting on July 21, 2009.

Dated: July 22, 2009

Gail T. Borkowski, Clerk of the Board of Supervisors  
County of Monterey, State of California

By   
Deputy