



Monterey County

Board Order

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

Upon motion of Supervisor Salinas, seconded by Supervisor Calcagno, and carried by those members present, the Board of Supervisors hereby:

Public Hearing held:

- a. Approved Addendum No. 2 to the Final Environmental Impact Report for the 2010 Monterey County General Plan (#07-01, SCH #2007121001) ("FEIR"); and
- b. Adopted resolution No. 13-028 amending the 2010 Monterey County General Plan ("General Plan") to implement a settlement of litigation regarding the General Plan.

PASSED AND ADOPTED on this 12th day of February 2013, by the following vote, to wit:

AYES: Supervisors Armenta, Calcagno, Salinas, and Potter

NOES: Parker

ABSENT: None

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 76 for the meeting on February 12, 2013.

Dated: February 21, 2013
File Number: 13-0143

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

By  Deputy

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

Resolution No. 13-028

Resolution approving Addendum No. 2 to)
FEIR #07-01, SCH #2007121001, and)
amending Policies PS-3.1, 3.3 and 3.4 of the)
2010 Monterey County General Plan relating)
to Long-Term, Sustainable Water Supply,)
Domestic Wells, and High Capacity Wells.....)

RECITALS

WHEREAS, section 65300 et seq. of the California Government Code requires each county to adopt a comprehensive, long-term General Plan for the physical development of each county; and,

WHEREAS, on October 26, 2010, the Board of Supervisors adopted the 2010 Monterey County General Plan (“General Plan”), which included the Carmel Valley Master Plan (“CVMP”), and certified its accompanying Final Environmental Impact Report (#07-01, SCH #2007121001) (“FEIR”); and,

WHEREAS, subsequent to the adoption of the General Plan and certification of the FEIR, four lawsuits were commenced challenging those actions on a variety of grounds; and,

WHEREAS, one of those lawsuits was filed in the name of the Salinas Valley Water Coalition (“SVWC”) and the Monterey County Farm Bureau. The lawsuit was subsequently amended to include the Monterey/Santa Cruz Counties Building and Construction Trades Council, Monterey Peninsula Taxpayers Association, and the Howard Jarvis Taxpayers Association.; and,

WHEREAS, pursuant to the requirements of the California Environmental Quality Act (“CEQA”), settlement negotiations were begun with all litigant groups; and,

WHEREAS, following extended negotiations, an agreement was reached with the SVWC et al. litigant group which requires the County to consider amendments to the General Plan, and the Board of Supervisors approved the settlement.; and,

WHEREAS, pursuant to Government Code sections 65350 et seq., the County may amend the adopted General Plan provided the County follows certain procedures, including that the Planning Commission hold a noticed public hearing and make a written recommendation to the Board of Supervisors on the proposed amendment of the General Plan; and

WHEREAS, proposed amendments to the General Plan came on regularly for public hearing before the Monterey County Planning Commission on November 14, 2012 and December 12, 2012; and,

WHEREAS, the proposed amendments to the General Plan affect General Plan Policies PS-3.1 (Long Term Sustainable Water Supply), PS-3.3 (New Domestic Wells), and PS-3.4 (New High Capacity Wells); and,

WHEREAS, an Addendum to the certified FEIR (“Addendum No. 2”) has been prepared pursuant to Section 15164 of the CEQA Guidelines because substantial evidence in the record shows that the conditions requiring a Subsequent Environmental Impact Report (“EIR”) or Supplement to an EIR do not exist; and,

WHEREAS, the Planning Commission considered the Addendum No. 2 and voted 6-3-1 to recommend the adoption of the proposed amendments; and,

WHEREAS, the matter came on regularly for the public hearing before the Board of Supervisors on February 12, 2013, at 1:30 p.m. to consider the proposed amendments and the Addendum No. 1, and at least 10 days before the public hearing, notice of the hearing before the Board of Supervisors was published in the Monterey County Weekly and mailed to interested parties; and

WHEREAS, while the California Government Code provides that any mandatory element of the General Plan may be amended no more than four (4) times during any calendar year, Policy LU-9.6 (d) of the General Plan provides that amendments to the County’s General Plan be considered no more than twice per calendar year; and,

WHEREAS, there have been no General Plan amendments considered in 2013 prior to the Board meeting of February 12, 2013; and,

WHEREAS, General Plan Policy LU-9.7 sets forth general grounds for the consideration of General Plan amendments which, in relevant part, include (in subsection (b)) that there is a clear change of facts or circumstances, or (in subsection (c)) that the amendments better carry out the overall goals and policies of the General Plan and the amendments are in the public interest; and,

WHEREAS, all policies of the General Plan have been reviewed by the Planning Department staff and the County Counsel’s Office to ensure that the proposed amendments maintain the compatibility and internal consistency of the General Plan; and

WHEREAS, the Board of Supervisors has considered all the written and documentary evidence, the staff report and its attachments, oral testimony, and other evidence presented; and

WHEREAS, the Board of Supervisors has considered the Addendum No. 2, attached hereto as Exhibit 1, and previously considered the Addendum No. 1, attached to the Board Report as Attachment F; NOW, THEREFORE,

BE IT RESOLVED, by the Board of Supervisors in and for the County of Monterey as follows:

FINDINGS

- A. The above recitals are true and correct.
- B. There are no substantial changes proposed to the General Plan that will require major revisions to the certified FEIR (#07-01, SCH #2007121001) due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

C. There are no substantial changes that will occur with respect to the circumstances under which the General Plan is undertaken which will require major revisions of the FEIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

D. There is no new information of substantial importance that shows any of the following:

- i. that the General Plan will have one or more significant effect not discussed in the FEIR;
- ii. significant effects previously examined will be substantially more severe than shown in the FEIR;
- iii. mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the General Plan, but the County declines to adopt the mitigation measure or alternative; or
- iv. mitigation measures or alternatives which are considerably different from those analyzed in the FEIR would substantially reduce one or more significant effects on the environment, but the County declines to adopt the mitigation measure or alternative.

E. There has been a clear change of circumstances in that litigation has been filed challenging the validity of the General Plan and its FEIR, and the proposed amendments better carry out the overall goals and policies of the General Plan which, in relevant part, are designed to address groundwater conditions in the Salinas Valley. The proposed study will help the County better understand those conditions and take any necessary or appropriate steps if conditions are determined to be deteriorating. For these reasons, those amendments are in the public interest. The proposed amendments relating to new domestic and high capacity wells merely provides clarifying language that will help in the creation of the criteria called for in the General Plan to implement those policies.

DECISION

The amendments to the 2010 Monterey County General Plan set forth in Exhibit 2, attached hereto and incorporated herein by reference, are hereby adopted.

PASSED AND ADOPTED upon motion of Supervisor Salinas, seconded by Supervisor Calcagno, and carried this 12th day of February 2013, by the following vote, to wit:

AYES: Supervisors Armenta, Calcagno, Salinas, and Potter

NOES: Parker

ABSENT: None

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 76 for the meeting on February 12, 2013.

Dated: February 13, 2013
File Number: 13-0143

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


By  Deputy

EXHIBIT 1

Addendum No. 2 To Final Environmental Impact Report # 07-01, SCH #2007121001 Pursuant to California Environmental Quality Act Guidelines Article 11, Section 15164

**2010 MONTEREY COUNTY GENERAL PLAN
Planning File No. REF120078
Amendment of General Plan**

1. Introduction

On October 26, 2010, by Resolution Nos. 10-290 and 10-291 the Monterey County Board of Supervisors certified Final Environmental Impact Report #07-01, SCH #2007121001 (“FEIR”), and adopted findings, a Statement of Overriding Considerations, a Mitigation, Monitoring and Reporting Program, and the 2010 Monterey County General Plan (“General Plan”). As part of a settlement of litigation regarding the adoption of the General Plan and certification of the FEIR, amendments to General Plan Policies PS-3.1 (relating to “Long Term Sustainable Water Supply”), PS-3.3 (relating to domestic wells), and PS-3.4 (relating to high-capacity wells) are being considered. The proposed amendments are set forth and discussed in Exhibits A and B to the staff report for this matter.

This technical addendum has been prepared pursuant to Article 11, Section 15164 of the California Environmental Quality Act guidelines (“Guidelines”) to make minor technical changes to the project analyzed in the FEIR. None of the conditions described in Guidelines Section 15162 or 15163, calling for preparation of a subsequent EIR or supplement to an EIR, have occurred.

2. Scope and Purpose of this Addendum

This Addendum No. 2 describes whether any changes or additions are necessary to the FEIR as a result of the proposed amendments to the General Plan, or if any of the conditions described in Guidelines Section 15162 exist. Please see the attached memorandum from ICF International, incorporated herein by reference, that assesses the potential environmental impacts from the adoption of the proposed amendments, and whether any changes to the FEIR are required.

3. Conclusion

As the ICF memorandum discloses, the proposed changes to the General Plan Policies will not result in additional impacts or an increase in the severity of impacts; the identification of feasible mitigation measures or alternatives that were previously identified as infeasible; or the identification of considerably different mitigation measures or alternatives than those disclosed or discussed in the FEIR. Accordingly, none of the conditions described in Guidelines Section 15162, requiring a Subsequent EIR, exist. This Addendum No. 2 is considered sufficient because it discloses the proposed amendments to the General Plan Policies, and provides an analysis regarding the lack of environmental impacts.

FEIR #07-01 has been included as an attachment to the staff report and is available on the County's web site at http://www.co.monterey.ca.us/planning/gpu/GPU_2007/FEIR_Information/FEIR_Information.htm.



TO: Mike Novo, Monterey County Planning Director

FROM: Rich Walter, ICF International

CC: Les Girard, Monterey County Counsel
Terry Rivasplata, ICF International

DATE: November 5, 2012

RE: Potential Changes to Monterey County General Plan Policy PS-3.1, PS-3.3 and PS-3.4

This memorandum presents ICF's review of the potential CEQA implications of potential changes to Monterey County 2010 General Plan policies concerning water supply. ICF also reviewed an Addendum (Addendum No. 1) to the 2010 GP EIR prepared by the County concerning the potential water supply policy changes.

Our review is limited to the potential for changes in environmental impacts due to policy changes relevant to the impacts disclosed in the certified EIR for the 2010 General Plan. Our review is based on our understanding of CEQA, the General Plan and the General Plan EIR. Our review does not constitute legal advice.

Policy 3.1 - Potential Changes

Revisions to PS-3.1c expand the existing exceptions for demonstrating a Long-Term Water Supply (LTWS) in Zone 2C from agricultural land development and development within a community area or rural center to all development within Zone 2C. Revisions to PS-3.1(c) also require the County to prepare a study by March 31, 2018 that will evaluate seawater intrusion and groundwater and determine whether or not: 1) total water demand exceeds that estimated in the GP EIR by 2030; 2) groundwater elevations will decline by 2030; and 3) whether the seawater intrusion boundary is likely to move inland by 2030. If the study concludes that either the first, or the second and third of the above three conditions will occur by 2030, then the exception to the requirement for demonstrating a LTWS for Zone 2C would no longer apply except for the development covered in PS-3.1a and PS-3.1b. Further, the Board of Supervisors would be required to adopt one or more measures, as appropriate, to address the identified conditions.

No changes are being proposed to the GP land use designations. Therefore, the expansion of existing exceptions will not change the long-term land use projections.

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The General Plan EIR found that there will be a LTWS for development within Zone 2C through 2030. As a result, the expansion of the exception to include all development in Zone 2C (and not just single-family dwellings, specified infrastructure, agricultural development, and development within Community Areas and Rural Centers) would not result in additional impacts to water supply through 2030.

Existing Policy PS-3.1 established an assurance mechanism requiring study of water supply conditions every 5 years to make sure that the General Plan EIR findings about water supply impacts for 2030 remained appropriate over time. However, this assurance mechanism in existing policy is only tied to agricultural land use development whereas the revisions would apply the assurance mechanism to all development in Zone 2C (except that development noted in PS-3.1a and PS-3.1b). The revisions would require the study to first be completed by early 2018 and then updated annually to evaluate groundwater elevations and seawater intrusion. The expansion of the assurance mechanism to all Zone 2C development would be more restrictive than the existing policy and thus would not result in new impacts to water supply not disclosed in the EIR. There is a possibility that if the study concludes that measures will be necessary in order to address the issue of total water demand exceeding that estimated in the GP EIR by 2030, or groundwater elevations declining by 2030 and inland movement of the seawater intrusion boundary, then the Board will adopt measures that may have some environmental impact of their own. However, whether this action will be necessary is unknown and the actual measures that may be proposed are unknown at this time. Therefore, any attempt at analyzing the impacts of such action would be purely speculative. In any case, should that Board action be necessary in the future, it would be discretionary and subject to its own CEQA analysis, disclosure, and mitigation, if necessary.

The proposed revisions would also delete any evaluation of adverse impacts to aquatic species or interference with existing wells for the PS-3.1c periodic study and would limit the study to water demand, groundwater drawdown and seawater intrusion only. The deletion of the exception language relative to aquatic species and well interference would narrow the study required in PS-3.1c. Policy PS-3.4 would still require analysis of well interference for high yield wells, so the deletion of reference to well interference in PS-3.1c. would not increase any environmental impact beyond that already disclosed in the 2010 GP EIR. In theory, the deletion of reference to aquatic resources in PS-3.1c could result in more impacts than with the existing PS-3.1c. when considered in isolation. However, groundwater drawdown and seawater intrusion are the vehicles by which increased water demand could affect aquatic resources in Zone 2C. The 2010 GP EIR concluded that through 2030, combined overall water demand in Zone 2C would not result in groundwater drawdown or seawater intrusion in Zone 2C, and thus any associated impacts to aquatic resources from drawdown or seawater intrusion were determined to be less than significant, regardless of the use or lack of use of an exception to the proof of LTWS, provided that the water demand was as estimated in the EIR. As such, the elimination of specific reference to aquatic species in PS-3.1c should not result in more impacts to water supply than disclosed in the 2010 GP EIR unless the 2010 GP EIR estimated water demand for 2030 were exceeded.

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Policy 3.3 - Potential Changes

Proposed changes include the describing PS-3.3a through PS-3.3g as “factors” for development of criteria instead of criteria subjects. The original policy clearly states that specific criteria shall be developed by ordinance following the adoption of the GP thus clearly indicating that PS-3.3a through PS-3.3g are not the criteria themselves. This change would not change potential environmental impacts compared to that disclosed in the 2010 GP EIR.

Proposed changes include adding the phrase “additional extractions or diversion of water” to PS-3.3g. The intent of this list is to identify the subjects to be addressed by criteria for evaluation and approval of adequacy of all domestic wells, but not to replacement wells. Since this policy does not apply to replacement wells, the policy is clearly limited to new wells which would have to involve additional extractions or diversion of water. As such, the addition of specific language would not change potential environmental impacts compared to that disclosed in the 2010 GP EIR.

Policy 3.4 - Potential Changes

Proposed changes include the describing PS-3.4a through PS-3.4b as “factors” instead of “criteria” for development of an ordinance for use in evaluation and approval of adequacy of high-capacity wells with an identified potential for well interference or in-stream flow effects. The change from “criteria” to “factors” does not appear to be a material change in intent as the policy will still require an ordinance to consider the issues in PS-3.4a and PS-3.4b. If anything, it simply clarifies the factors to be used in developing the ordinance. This change would not change potential environmental impacts compared to that disclosed in the 2010 GP EIR.

Proposed changes include adding the phrase “additional extractions or diversion of water” to PS-3.4b. The intent of this list is to identify the subjects to be addressed by criteria for evaluation and approval of high-capacity wells, but not to replacement wells. Since this policy does not apply to replacement wells, the policy is clearly limited to new wells which would have to involve additional extractions or diversion of water. As such, the addition of specific language would not change potential environmental impacts compared to that disclosed in the 2010 GP EIR.

EXHIBIT 2

Proposed Amendments to Monterey County 2010 General Plan shown as changes from 2010 General Plan policies as adopted October 26, 2010

1. PS-3.1

PS-3.1 Except as specifically set forth below, new development for which a discretionary permit is required, and that will use or require the use of water, shall be prohibited without proof, based on specific findings and supported by evidence, that there is a long-term, sustainable water supply, both in quality and quantity to serve the development.

This requirement shall not apply to:

- a. the first single family dwelling and non-habitable accessory uses on an existing lot of record; or
- b. specified development (a list to be developed by ordinance) designed to provide: a) public infrastructure or b) private infrastructure that provides critical or necessary services to the public, and that will have a minor or insubstantial net use of water (e.g. water facilities, wastewater treatment facilities, road construction projects, recycling or solid waste transfer facilities); or
- c. development ~~related to agricultural land uses within Zone 2C of the Salinas Valley groundwater basin, provided the County prepares or causes to be prepared a study report to for the Board of Supervisors regarding Zone 2C, to be completed no earlier than October 31, 2017 and no later than March 31, 2018 that does the following every five (5) years for Zone 2C examining the degree to which:~~
 - 1) evaluates existing data for seawater intrusion and groundwater levels collected by Monterey County Water Resources Agency as of the date the study is commenced;
 - 2) evaluates the total water demand for all existing uses and future uses predicted-designated in the General Plan EIR for the year 2030 will be reached;
 - 3) assesses and provides conclusions regarding the degree to which the total water demand for all uses designated in the General Plan for the year 2030 are likely to be reached or exceeded;
 - 2) 4) evaluates on an annual basis during the study period groundwater elevations and the seawater intrusion boundary have changed since the prior reporting period; and
 - 5) based on historical data and the data produced by the study, evaluates and provides conclusions regarding future trends and any expected movement of groundwater elevations and the seawater intrusion boundary;

- 6) should the study conclude that i) total water demand for all uses designated in the General Plan for the year 2030 is likely to be exceeded; or ii) groundwater elevations are likely to decline by the year 2030 and iii) the seawater intrusion boundary is likely to advance inland by the year 2030, the study shall make recommendations on measures the County could take to address any or all of those conditions; and
- 7) addresses such other matters and the Board of Supervisors determines are appropriate.
- ~~2) other sources of water supply are available.~~

If, following the periodic report, the Board finds, based upon substantial evidence in the record, that:

Within two months following the completion of the study, the Board of Supervisors shall hold an open and noticed public hearing on the results of the study. If the study reaches the conclusions for Zone 2C identified in subsection 6) i or 6) ii and 6) iii, the Board of Supervisors shall adopt one or more measures identified in the study, or other appropriate measures, to address the identified conditions. This exception for Zone 2C shall be a rebuttable presumption that a Long Term Sustainable Water supply exists within Zone 2C, and the presumption shall remain in effect until and unless the study reaches the conclusion for Zone 2C identified in subsection 6) i or 6) ii and 6) iii. Development in Zone 2C shall be subject to all other policies of the General Plan and applicable Area Plan.

Following completion of the study described herein, and the adoption of measures as may be recommended in the study, if any, the County shall prepare a report to the Board of Supervisors every five (5) years for Zone 2C that examines the degree to which ~~Thea~~ total water demand for all uses ~~in Zone 2C in 2030~~ as predicted in the General Plan EIR for year 2030 will be reached; is likely to be exceeded; or it is reasonably foreseeable that the total water demand for all uses in Zone 2C in 2030 would result in one or more of the following in Zone 2C in 2030: b) declining groundwater elevations, ~~further~~the seawater intrusion boundary have changed since the prior reporting period; and c) other sources of water supply are available.; ~~increased substantial adverse impacts on aquatic species, or interference with existing wells, then the County shall initiate a General Plan amendment process to consider removing this agricultural exception in Zone 2C. Development under this agricultural exception shall be subject to all other policies of the General Plan and applicable Area Plan; or~~

- d. ~~development in Zone 2C for which the decision maker makes a finding, supported by substantial evidence in the record, that the:~~
 - 1) ~~development is in a Community Area or Rural Center and is otherwise consistent with the policies applicable thereto;~~

- 2) ~~relevant groundwater basin has sufficient fresh water in storage to meet all projected demand in the basin for a period of 75 years; and,~~
- 3) ~~benefits of the proposed development clearly outweigh any adverse impact to the groundwater basin.~~

2. PS-3.3

PS-3.3 Specific criteria shall be developed by ordinance for use in the evaluation and approval of adequacy of all domestic wells. The following factors shall be used in developing ~~Criteria shall assess both for both~~ water quality and quantity including, but not limited to:

- a. Water quality.
- b. Production capability.
- c. Recovery rates.
- d. Effect on wells in the immediate vicinity as required by the Monterey County Water Resources Agency or Environmental Health Bureau.
- e. Existing groundwater conditions.
- f. Technical, managerial, and financial capability of the water purveyor of a water system.
- g. Effects of additional extractions or diversion of water on in-stream flows necessary to support riparian vegetation, wetlands, fish, and other aquatic life including migration potential for steelhead, for the purpose of minimizing impacts to those resources and species.

This policy is not intended to apply to replacement wells

3. PS-3.4

PS-3.4 The County shall request an assessment of impacts on adjacent wells and instream flows for new high-capacity wells, including high-capacity urban and agricultural production wells, where there may be a potential to affect existing adjacent domestic or water system wells adversely or in-stream flows, as determined by the Monterey County Water Resources Agency. In the case of new high-capacity wells for which an assessment shows the potential for significant adverse well interference, the County shall require that the proposed well site be relocated or otherwise mitigated to avoid significant interference. ~~Specific criteria shall be developed~~ The following factors shall be used in developing criteria by ordinance for use in the evaluation and approval of adequacy of all such high-capacity wells, including not limited to:

- a. Effect on wells in the immediate vicinity as required by the Monterey County Water Resources Agency or Environmental Health Bureau.
- b. Effects of additional extractions or diversion of water on in-stream flows necessary to support riparian vegetation, wetlands, fish, and other aquatic life including migration potential for steelhead, for the purpose of minimizing impacts to those resources and species.

This policy is not intended to apply to replacement wells.