

Attachment H
December 4, 2012
Staff report to the
Board of Supervisors

REF130072

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Monterey County

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

20

Board Report

Legistar File Number: 12-1118

12-4-12

Introduced: 11/21/2012

Current Status: Agenda Ready

Version: 1

Matter Type: General Agenda Item

Public hearing (Continued from October 9, 2012) to:

- a. consider alternatives for the provision of safe potable water to the approved 9-lot Oaks subdivision due to the high arsenic level in the subdivision well water;
 - b. provide direction to staff as to the preferred alternative to enable staff to conduct appropriate environmental review; and
 - c. direct staff to return to the Board for further action following environmental review.
- (PC947170 & PLN030107 (Ferrini Oaks): fronting on east side of San Benancio Road adjacent to San Benancio school, Toro Area Plan)

RECOMMENDATION:

Staff recommends that the Board of Supervisors adopt a resolution (**Exhibit C**) to:

- a. develop a Memorandum of Understanding (MOU) between California 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 due to the high arsenic level in the subdivision well water; and
- b. direct staff to conduct appropriate environmental review and return to the Board for further action.

DISCUSSION

On October 9, 2012, the Board of Supervisors continued this matter at the request of Mr. Richard Rosenthal, representing Save Our Peninsula Committee (SOPC), an interested party, to allow time to review and respond to the staff report. In order to accommodate schedules of the key people involved, SOPC agreed to continue this matter to the Board meeting of December 4, 2012.

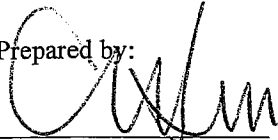
The October 9 staff report is attached for consideration (**Exhibit A**). This report includes a draft memorandum of understanding (MOU) for consideration, as recommended by staff. In addition, staff has received correspondence from California American Water Company dated November 6, 2012 that is attached as **Exhibit B**. At the time of preparing this report, no other correspondence has been received following the October 2 hearing. County staff will be conferring with Monterey County Water Resources Agency about being a potential party to the MOU, and will report on said discussions at the Board hearing on December 4. Documentation of the chronology of events is included as **Exhibit D**.

FINANCING

The recommended action has no new cost to the General Fund in the FY 2012/13 budget. Staff time would be required to conduct environmental review and process the Board's preferred

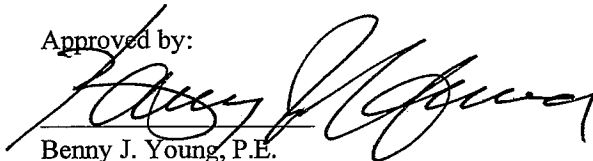
option. Required staff efforts would become part of the existing work program for Resource Management Agency (RMA), RMA-Planning Services, Environmental Health Bureau, and County Counsel. Associated staff time is included in the approved FY 2012/13 budget for these respective departments.

Prepared by:



Carl Holm, AICP
Deputy Director, RMA

Approved by:



Benny J. Young, P.E.
Director, RMA

Attachments:

- Exhibit A - 10/9/12 BOS Report with Attachments
- Exhibit B - Cal Am letter (dated 11/6/12)
- Exhibit C - Draft Resolution
- Exhibit D - Documentation of chronology

EXHIBIT A

10/9/12 Board Report with Attachments


MONTEREY COUNTY
RESOURCE MANAGEMENT AGENCY



MEMORANDUM

Date: October 3, 2012

To: Board of Supervisors

From: Carl Holm, AICP, Deputy Director
Monterey County Resource Management Agency 

Subject: Consideration of alternatives for the provision of safe potable water to the approved nine-lot Oaks subdivision Oaks Subdivision – Continue to December 4, 2012

cc: County Counsel; Benny Young, Mike Novo

Staff recommends that the Board continue the hearing on this matter to December 4, 2012. Mr. Richard Rosenthal, representing Save our Peninsula Committee (SOPC), an interested party, has requested that the County continue this matter to allow time to review and respond to the staff report. County staff supports the continuance request. Mr. Rosenthal is not available October 16 or 23. Key County staff is not available October 20 through November 12. SOPC has agreed to continue this matter to the Board meeting of December 4, 2012. Therefore, we recommend continuance of the hearing to December 4, 2012.

The Board report that was prepared for the October 9, 2012 hearing is attached.



Monterey County

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

Board Report

Legistar File Number: 12-941

10/9/12 - Scheduled

Introduced: 10/2/2012

Current Status: ATS Review

Version: 1

Matter Type: General Agenda Item

Public hearing to:

- a. 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;
 - b. provide direction to staff as to the preferred alternative to enable staff to conduct appropriate environmental review; and
 - c. direct staff to return to the Board for further action following environmental review.
- (PC947170 & PLN030107 (Ferrini Oaks): fronting on east side of San Benancio Road adjacent to San Benancio school, Toro Area Plan)

RECOMMENDATION:

It is recommended that the Board of Supervisors direct staff to:

- a. develop a Memorandum of Understanding (MOU) between California American Water Company and the County 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; and
- b. conduct appropriate environmental review and return to the Board for further action.

DISCUSSION:

The Oaks subdivision divided 325.7 acres into nine residential lots ranging in size from 1.7 to 13.6 acres and a remainder parcel of 285.7 acres. On May 8, 2001, the Board of Supervisors approved the vesting tentative map, with water to be supplied to the nine lots by a well on the Oaks' property (the "Oaks well"). Conditions of approval required the subdivider to convey the well and water infrastructure to Cal Am's Ambler Park system to own and operate and required the subdivider to design the water system improvements to meet state standards. Staff determined that the conditions of approval were met, and the Board of Supervisors accepted the final map on June 20, 2006. Since final map acceptance, the subdivision has new ownership, and some of the lots have been sold to individual owners.

The Oaks' well tested at 35 parts per billion (ppb) when the tentative map was approved. Between the tentative and final map approvals, the federal drinking water standard for arsenic was reduced from 50 ppb to 10 ppb, and the state was required to adopt a revised standard no less stringent than the federal standard. The Oaks' well was compliant with the earlier standard when the tentative map was approved but exceeds the new federal standard of 10 ppb. Consequently, to comply with the law and to protect the public health, staff arranged with California American Water Company (Cal Am) through its Monterey District Ambler Park water system to serve the nine lots on the basis that Cal Am would draw water from the Oaks well, treat the water at the Ambler treatment plant, and return it to the Oaks' lots. In 2006, Cal Am committed to monitoring production from the Oaks' well and water consumption of the Oaks' lots for this purpose. Cal Am is serving the three homes that have been built on the

Oaks' lots but has not yet received a permit from the state to bring the Oaks well into its system.

The purpose of today's hearing at the Board is twofold. First, staff is recommending that the Board provide direction to staff to proceed to develop a Memorandum of Understanding (MOU) between Cal Am and County to memorialize Cal Am's prior commitment to pump an amount of water from the Oaks' well into the Ambler system equal to the amount Ambler provides to the Oaks' lots, so as to result in no net transfer of water. The MOU would create a binding contractual obligation on the part of Cal Am and flesh out the details of implementation and monitoring. Cal Am has expressed a willingness to enter into such an MOU. A preliminary draft of the MOU is attached to the staff report as **Exhibit A**. Bringing the draft MOU to the Board allows for an open and transparent process and allows for public input.

The second reason for today's noticed public hearing is that it provides an opportunity for the Board to take input from the public, deliberate, and provide direction as to whether the proposed MOU or another alternative is the best means to ensure a safe potable drinking water for the Oaks' lots. Save Our Peninsula Committee (SOPC) and members of the public have objected to Ambler serving the Oaks' subdivision. They contend that Ambler's service violates the conditions of approval of the Oaks subdivision and violates County's B-8 zoning because the Ambler water system is in the B-8 zone while the Oaks lots are not. SOPC contends that the County is in violation of a settlement agreement in the lawsuit *Save Our Peninsula Committee v. County of Monterey*. The settlement agreement requires the County to analyze the Oaks subdivision and certain other approved projects to determine whether they are in compliance with mitigation measures imposed on the project and, if determined to be non-compliant, to remedy the non-compliance after conducting a noticed public hearing before the Board of Supervisors.

Staff's analysis is that the no net transfer requirement, whereby Cal Am serves the Oaks and offsets that service by pumping an equal amount of water from the Oaks' well into the Ambler system, constitutes substantial compliance with all applicable regulations and conditions. The net result is provision of potable water to the Oaks, in reliance on the Oaks well, with no net export out of County's B-8 zone or Zone 2c. Although County is not compelled to hold this noticed public hearing if the settlement agreement does not apply, in light of the dispute between the County and SOPC, this noticed public hearing will fulfill the requirement under the settlement agreement.

Staff requests direction from the Board as to which option to pursue to ensure a potable water supply to the Oaks subdivision. Following receipt of Board direction, staff will conduct environmental review of the preferred alternative and return to the Board to consider approval of the chosen solution. SOPC has proposed a number of alternatives that it would like the Board to consider other than the proposed MOU. Options include the following:

1. Pursue a MOU between the County and Cal Am to implement Cal Am's agreement to offset Cal Am Monterey District Ambler Park's water service to the Oaks subdivision with an equal amount of water to be pumped from the Oaks well into the Ambler Park water system, so as to result in no net transfer of water.
2. Require Cal Am to build a new treatment plant that is not in County's B-8 zone to treat

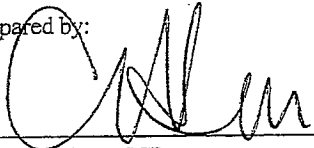
- the water from the Oaks' well.
3. Require a new well be drilled on the Oaks' site.
 4. Provide water from Zone 2c from a different water utility.
 5. Require water to be trucked into the Oaks lots.

An analysis of these options and further background are presented in **Exhibit B**. Staff recommends option 1, the MOU, for the reasons discussed in **Exhibit B**.

FINANCING:

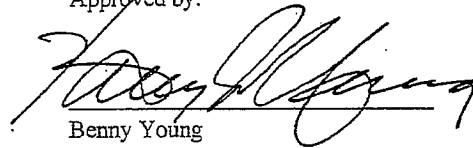
The recommended action has no direct financial impact to the General Fund. Staff time would be required to conduct environmental review and process the Board's preferred option. Required staff efforts would become part of the existing work program for Resource Management Agency (RMA), RMA-Planning Services, Environmental Health Bureau, and County Counsel. Associated staff time would be included in the approved FY 2012/13 budget for these respective departments. Due to the late submission of this Board Report, the CAO-Budget and Analysis Division was not provided adequate time to fully review for potential fiscal, organizational, policy, or other implications to the County of Monterey.

Prepared by:



Carl P. Holm, AICP
Deputy Director
Resource Management Agency
755-5103; holmcp@co.monterey.ca.us

Approved by:



Benny Young
Director
Resource Management Agency

This report was prepared with assistance by Richard LeWarne, Assistant Director,
Environmental Health Bureau

cc: Front Counter Copy; Board of Supervisor's (16); County Counsel; Environmental Health Bureau;
RMA-Planning; Monterey County Water Resources Agency

Attachments:

- Exhibit A - Draft MOU
- Exhibit B - Summary of Options

EXHIBIT A

DRAFT
9/28/12

This Memorandum of Understanding (MOU) is entered into this ___ day of _____, 20___, by and between California-American Water Company ("Cal Am") and the County of Monterey ("County"), with reference to the following facts:

RECITALS

- A. The parties desire to enter into this MOU to memorialize the parties' agreement to certain terms and conditions governing Cal Am's provision of water to the Oaks subdivision for the purpose of ensuring that Cal Am's water service to the Oaks subdivision will be offset by an equal amount of water drawn from the Oaks well.
- B. On May 8, 2001, the County of Monterey approved a tentative map to subdivide a 325.7-acre parcel into 9 residential lots ranging in size from 1.7 to 13.6 acres and a remainder parcel of 285.7 acres (hereafter the "Oaks Subdivision"). On June 20, 2006, the County accepted the final map for the Oaks Subdivision, which map was recorded on June 30, 2006, at Volume 23, Cities and Towns, page 32, in the Office of the Recorder of the County of Monterey. A copy of the final recorded map is attached hereto as Attachment 1 and incorporated herein by reference.
- C. Pursuant to conditions of approval of the tentative map, the subdivider entered into an agreement with Cal-Am in 2004 whereby the subdivider agreed to construct a well and water distribution system for domestic and fire flow water supply ("water system") 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 either as a stand alone or satellite system providing domestic and fire flow water supply to the Oaks Subdivision. The agreement by its terms was to take effect upon the recordation of the final map for the Oaks subdivision. The Oaks' well and water infrastructure has since been conveyed to Cal Am.
- D. The water from the Oaks' well does not meet federal and water quality standards, specifically the Maximum Contaminant Level (MCL) for arsenic. A sample taken in August 2000 from the Oaks' well indicated the presence of arsenic at 35 parts per billion (ppb). At the time of the sample, the federal arsenic standard was 50 ppb, so the Oaks' well complied with drinking water standards at that time. A new federal standard for arsenic, reducing the MCL for arsenic to 10 ppb, was adopted on February 22, 2002 and became enforceable on January 23, 2006. Therefore, the Oaks well no longer meets drinking water standards, and it is necessary to treat the water or find an alternate water supply for the Oaks' subdivision in order for the nine approved lots to have a potable water supply that meets drinking water standards.
- E. The County has determined that the solution to providing potable water to the Oaks subdivision that is the most feasible, most capable of success, and therefore most protective of public health while not intensifying water use in Cal Am's Monterey

District Ambler Park service area is for Cal Am to serve the Oaks subdivision with water that has been treated by Cal Am to meet drinking water standards, provided that Cal Am augment the Ambler water supply by transferring water from the Oaks' well to the Ambler Park water system in an amount equal to the amount Cal Am is supplying to the Oaks' subdivision. This solution is the most feasible because Cal Am through its Ambler Park water treatment plant has the technical, managerial and financial capability to treat water. Cal Am also has the ability to serve the Oaks subdivision because Cal Am already owns the Oaks' well and its infrastructure, and via Advice Letter 617 filed with the California Public Utilities Commission(PUC), has extended its Monterey District Ambler Park service area to include the Oaks subdivision.

- F. The Ambler water treatment plant is within the County's B-8 zoning district. 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 ... or similar measurable public-facility type constraints, additional development and/or intensification of land use [sic] found to be detrimental to the health, safety, and welfare of the residents of the area, or the County as a whole." When the Oaks' tentative map was approved, water was to be supplied directly by the Oaks' well which is not within the County's B-8 zone. Ambler's water supply is located in the County's B-8 zone. The well water did not exceed the federal drinking water standards in effect at the time of the tentative map approval, and therefore, treatment of the water was not an issue at that time. To enable treatment of the water while ensuring that water treatment and service by Ambler to the Oaks does not result in intensification of water use in the B-8 zone, it is necessary for Cal Am to offset the water it supplies to the Oaks subdivision by an equal transfer of water from the Oaks' well into the Ambler system. Conversely, the Oaks' well lies within Monterey County Water Resources Agency's benefit assessment "Zone 2C," which does not allow the export of water out of Zone 2C. The Ambler treatment plant lies outside Zone 2C. Therefore, it is necessary for Cal Am to ensure that the volume of water it pumps from the Oaks' well into the Ambler Park water system does not exceed the amount of water supplied from Ambler to the Oaks.
- G. In 2006, Cal Am committed to quarterly monitoring of both the production records from the Oaks' well and the water consumption of the nine lots in the Oaks' subdivision. The understanding by staff was that water from the Oaks' well would be piped to the Ambler Water treatment plant to be treated and returned to the Oaks subdivision, with no net transfer of water. More recent discussions have clarified that it is not physically feasible to ensure that the exact same molecules of water sent for treatment are the same as those returned to the Oaks, but it is feasible to ensure that the exact same volume of water be sent for treatment as is returned to the Oaks' subdivision.
- H. Homes have been built on three lots in the Oaks subdivision, which received a building final on April 1, 2009. The County has not issued building permits on any of the remaining lots, pending Board of Supervisors' approval of a mechanism ensuring service of water to the Oaks subdivision that meets drinking water standards while not intensifying water use in the B-8 zone.

- I. The parties now desire to enter into this MOU to memorialize Cal Am's prior commitment and to prescribe the terms and conditions under which Cal Am will balance the volume of treated waters provided to the Oaks subdivision with the volume of water pumped from the Oaks well into the Ambler Park water system, so as to result in no net transfer of water.
- J. The County finds that this MOU is consistent with County's B-8 zoning because Ambler's service to the Oaks subdivision under the terms set forth in this MOU will not result in an intensification of water use in the B-8 zone and is not detrimental to the public health, safety, and welfare.
- K. [CEQA findings – be added following environmental review]
- L. This MOU serves to protect the public health, safety and welfare by ensuring a water supply to the Oaks' subdivision that meets federal and state drinking water standards without intensifying water use in the County's B-8 zone or exporting water out of benefit assessment Zone 2C.
- M. This MOU is intended to be binding on Cal Am, its agents, successors and assigns.

NOW, THEREFORE, in view of the foregoing recitals, the parties agree as follows:

1. Cal Am will diligently pursue any permits and permit amendments necessary to incorporate the Oaks' well into its water system and, upon obtaining such permits, will incorporate the Oaks well into the Cal Am Monterey District Ambler Park system ("Ambler Park Water System").
2. Cal Am shall on a quarterly basis balance the volume of treated water sent from the Ambler Park Water System to the Oaks subdivision and the water sent from the Oaks well to the Ambler Park Water System so as to result in no net transfer of water. Cal Am shall accomplish said balance by transferring a volume of raw water from the Oaks well to the Ambler Park Water System equal to the volume of water served by Ambler to the Oaks' lots. Equal volume shall include the calculated transportation water loss incurred in connection with Ambler's supply to the Oaks subdivision. The quantity of water pumped from the Oaks subdivision well to the Ambler Park Water System shall match the quarterly total plus the calculated transportation water loss.
3. Cal Am shall maintain water meters in good working order for its service to the Oaks lots, including residences and irrigation, so as to determine the amount of water served to the Oaks lots by the Ambler Park Water System. Cal Am shall also maintain a water meter(s) in good working order at the Oaks well, which shall be used to determine the volume of water pumped from the well.
4. Cal Am shall on a quarterly basis total the monthly meter readings of the nine lots in the Oaks subdivision and the irrigation system on land held in common. The water system's calculated transportation water loss for the quarter shall be added to the quarterly total meter readings. The quantity of water resulting from the addition of the quarterly total of the monthly meter readings and the calculated transportation water loss shall be pumped from the Oaks subdivision well into the Ambler Park Water System on a quarterly basis during the calendar year (the four quarters

being January through March, April through June, July through September, and October through December). Quarterly pumping of the Oaks' well based on the quarterly calculation within the month following the end of the quarter shall be considered to satisfy the no net transfer requirement.

5. Cal Am shall on a quarterly basis submit to the Monterey County Health Department Environmental Health Bureau (EHB) and the Monterey County Water Resources Agency (WRA) a quarterly water audit report for review by EHB and WRA. Cal Am shall submit the water audit report no later than thirty days following each quarter. The water audit report shall be prepared by a qualified engineer experienced in water system operations. The water audit report shall indicate the quantity of water that was delivered to the Oaks subdivision (determined by the quarterly total of monthly meter readings of the nine Oaks subdivision lots and irrigation system plus the calculated transportation water loss) from the Ambler Park Water System and the quantity of water that was pumped from the Oaks well to the Ambler Park Water System during the quarter. The report shall confirm that the quantity of water pumped from the Oaks well to the Ambler Park Water System equals the quarterly total plus the calculated transportation water loss. The report shall demonstrate how the calculated transportation water loss was determined. If the report or other information indicates that the volume of water pumped from the Oaks well into the Ambler Park Water System does not equal the volume calculated from the quarterly meter reading and the calculated transportation water system loss of the Oaks Subdivision, then Cal Am shall explain the reasons for the discrepancy and the corrective action Cal Am proposes to take to achieve no net transfer. Cal Am shall take such steps as EHB may require to bring the transfer back into balance.
6. Cal Am shall begin quarterly pumping of the Oaks well into the Ambler system in the first quarter after Cal Am obtains all necessary permits to include the Oaks well within its system. Additionally, to account for the water service provided by Ambler to the Oaks lots predating this quarterly pumping, Cal Am shall as part of its first draw from the Oaks well transfer into the Ambler system an amount of water equivalent to the total amount of water previously served by Ambler to the Oaks lots.
7. This agreement pertains only to the nine lots of the Oaks subdivision due to the unique circumstances and public health considerations requiring treatment of water to an already approved subdivision. This agreement shall not be used to serve any other property.
8. This MOU is binding on the parties and their agents, successors and assigns. Cal Am accepts these obligations for itself, its agents, and its successors and assigns and shall inform its agents, successors and assigns of these obligations. This MOU shall not be terminated unless an alternative mechanism is put in place to provide water that meets drinking water standards to the Oaks subdivision's nine lots and that does not intensify use of water from the County's B-8 zoning district in effect at that time. Any such termination would require approval of Cal Am and the Board of Supervisors of the County of Monterey upon findings that these conditions precedent to termination have been met.
9. This MOU may not be amended except by a written instrument approved by Cal Am and the Board of Supervisors of the County of Monterey.

IN WITNESS WHEREOF, the County of Monterey and California-American Water Company through its duly authorized agents have executed this agreement as of the date and year written below.

Dated: _____

COUNTY OF MONTEREY

Chair, Board of Supervisors

Dated: _____

CALIFORNIA-AMERICAN WATER COMPANY

[Title]

[Title]

OWNER'S STATEMENT

WE HEREBY STATE THAT WE ARE THE OWNERS OF OR HAVE SOME RIGHT, TITLE OR INTEREST IN AND TO THE REAL PROPERTY INCLUDED WITHIN THE SUBDIVISION SHOWN UPON THIS MAP, AND THAT WE ARE THE ONLY PERSONS OR CORPORATION WHOSE CONSENT IS NECESSARY TO PASS A CLAIM TITLE TO SAID PROPERTY, AND WE CONSENT TO THE MAKING OF SAID MAP AND SUBDIVISION AS SHOWN WITHIN THE BORDER LINE SHOWN THERE.

WE HEREBY DEDICATE FOR PUBLIC USE THOSE CERTAIN EASEMENTS FOR PUBLIC UTILITIES INCLUDING, BUT NOT LIMITED TO GAS, ELECTRIC, WATER, TELEPHONE, COMMUNICATION TELEVISION CABLE AND SANITARY SEWERS, AND FOR CLUSTER FOOTING POWER AND THEIR NECESSARY APPURTENANCES (GATED OR UNGATED) OVER, OR UNDER, THOSE CERTAIN STRIPS OF LAND, AS SHOWN AS RIGHTS-OF-WAY AND EASEMENTS ON SAID MAP, WITHIN SAID SUBDIVISION, SAID STRIPS OF LAND ARE TO BE LEFT OPEN AND FREE FROM BUILDINGS AND STRUCTURES OF ANY KIND EXCEPT ROADWAYS, DRIVEWAYS, UTILITY COMPANY STRUCTURES, IRRIGATION SYSTEMS, LAND USE FENCES, DRIVEWAYS, SIDEWALKS AND APPURTENANCES THEREOF.

WE ALSO HEREBY DEDICATE FOR PUBLIC USE THOSE CERTAIN EASEMENTS, FOR SANITARY SEWERS, FOR WATER, FIBER OPTICS AND THAT EASEMENT FOR DOMESTIC WATER WELL, FURNISHING PLANT, STORAGE TANKS, FITTINGS, AND APPURTENANCES DESIGNATED "PARCEL 2", TOGETHER WITH THAT CERTAIN EASEMENT FOR INGRESS AND EGRESS APPURTENANT HERETO, ALL AS SHOWN UPON SAID MAP.

WE FURTHER HEREBY DEDICATE TO THE COUNTY OF MONTEREY ANY AND ALL RIGHTS OF ACCESS TO ALL TRAFFIC TO AND FROM SAN BERNARDINO ROAD ACCESS POINTS OF LOTS 1, 4, AND 9, ALL AS SHOWN ON THE HEREIN MAP AND DESIGNATED A "NON-ACCESS STRIP".

WE HEREBY DEDICATE TO THE COUNTY OF MONTEREY ANY AND ALL RIGHTS OF ACCESS TO ALL TRAFFIC TO AND FROM SAN BERNARDINO ROAD ACCESS POINTS OF LOTS 1, 4, AND 9, ALL AS SHOWN ON THE HEREIN MAP AND DESIGNATED A "NON-ACCESS STRIP".

WE FURTHER HEREBY DEDICATE TO THE COUNTY OF MONTEREY ANY AND ALL RIGHTS OF ACCESS TO ALL TRAFFIC TO AND FROM SAN BERNARDINO ROAD ACCESS POINTS OF LOTS 1, 4, AND 9, ALL AS SHOWN ON THE HEREIN MAP AND DESIGNATED A "NON-ACCESS STRIP".

STATEMENT OF APPROVAL BY SECRETARY OF MONTEREY COUNTY PLANNING COMMISSION

I, ALAN S. KASCH, SECRETARY OF THE MONTEREY COUNTY PLANNING COMMISSION, HEREBY STATE THAT I HAVE EXAMINED THIS MAP THAT THE SUBDIVISION AS SHOWN HEREON IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP, AND ANY APPROVED ALTERATION THEREOF, AS APPROVED BY THE MONTEREY COUNTY BOARD OF SUPERVISORS, ON MAY 15, 2006, THAT ALL THE PROVISIONS OF THE CALIFORNIA EASEMENT MAP ACT AS AMENDED, AND THE MONTEREY COUNTY CODE, TITLE 19 HAVE BEEN COMPLIED WITH.

ALAN S. KASCH, SECRETARY OF MONTEREY COUNTY PLANNING COMMISSION, STATE OF CALIFORNIA

STATEMENT OF APPROVAL OF THE CLERK OF BOARD OF SUPERVISORS

I, VIRGIL L. WILLIAMS, LICENSED LAND SURVEYOR, DO HEREBY STATE THAT THIS MAP CORRECTLY REPRESENTS A SURVEY MADE UNDER MY DIRECTION DURING JANUARY 2006, THAT THE SURVEY IS TRUE AND COMPLETE AS SHOWN, THAT ALL MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED OR THEY WILL BE SET IN SUCH POSITIONS ON OR BEFORE ONE YEAR AFTER THE RECORDATION OF THIS MAP BY THE MONTEREY COUNTY RECORDER, THE MONUMENTS ARE OR WILL BE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.

VIRGIL L. WILLIAMS, LICENSED LAND SURVEYOR, DO HEREBY STATE THAT THIS MAP CORRECTLY REPRESENTS A SURVEY MADE UNDER MY DIRECTION DURING JANUARY 2006, THAT THE SURVEY IS TRUE AND COMPLETE AS SHOWN, THAT ALL MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED OR THEY WILL BE SET IN SUCH POSITIONS ON OR BEFORE ONE YEAR AFTER THE RECORDATION OF THIS MAP BY THE MONTEREY COUNTY RECORDER, THE MONUMENTS ARE OR WILL BE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.

NOTARY STATEMENT

I, DENISE J. JENSEN, A NOTARY PUBLIC IN AND FOR THE COUNTY OF MONTEREY, PERSONALLY APPEARED TO ME ON 1-25-06, BEFORE ME DENISE JENSEN, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSONS WHOSE NAMES ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME IN THEIR AUTHORIZED CAPACITIES, AND THAT BY THEIR SIGNATURES ON THE INSTRUMENT THE PERSONS, OF THE ENTITY UPON BEHALF OF WHICH THE PERSONS ACTED, EXECUTED THE INSTRUMENT.

DENISE J. JENSEN, NOTARY PUBLIC IN AND FOR THE COUNTY OF MONTEREY, MY COMMISSION EXPIRES 12-31-07

COUNTY SURVEYOR'S STATEMENT

I, VIRGIL L. WILLIAMS, LICENSED LAND SURVEYOR, DO HEREBY STATE THAT I HAVE EXAMINED THIS MAP, THAT THE SUBDIVISION AS SHOWN HEREON IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP, AND ANY APPROVED ALTERATION THEREOF, AS APPROVED BY THE MONTEREY COUNTY BOARD OF SUPERVISORS, ON MAY 15, 2006, THAT ALL THE PROVISIONS OF THE CALIFORNIA EASEMENT MAP ACT AS AMENDED, AND THE MONTEREY COUNTY CODE, TITLE 19 HAVE BEEN COMPLIED WITH AND THAT THIS MAP IS TECHNICALLY CORRECT.

VIRGIL L. WILLIAMS, LICENSED LAND SURVEYOR, DO HEREBY STATE THAT I HAVE EXAMINED THIS MAP, THAT THE SUBDIVISION AS SHOWN HEREON IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP, AND ANY APPROVED ALTERATION THEREOF, AS APPROVED BY THE MONTEREY COUNTY BOARD OF SUPERVISORS, ON MAY 15, 2006, THAT ALL THE PROVISIONS OF THE CALIFORNIA EASEMENT MAP ACT AS AMENDED, AND THE MONTEREY COUNTY CODE, TITLE 19 HAVE BEEN COMPLIED WITH AND THAT THIS MAP IS TECHNICALLY CORRECT.

SURVEYOR'S STATEMENT

I, VIRGIL L. WILLIAMS, LICENSED LAND SURVEYOR, DO HEREBY STATE THAT THIS MAP CORRECTLY REPRESENTS A SURVEY MADE UNDER MY DIRECTION DURING JANUARY 2006, THAT THE SURVEY IS TRUE AND COMPLETE AS SHOWN, THAT ALL MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED OR THEY WILL BE SET IN SUCH POSITIONS ON OR BEFORE ONE YEAR AFTER THE RECORDATION OF THIS MAP BY THE MONTEREY COUNTY RECORDER, THE MONUMENTS ARE OR WILL BE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.



DATED 1-19-2006, VIRGIL L. WILLIAMS, LICENSED LAND SURVEYOR, NO. 52604, STATE OF CALIFORNIA

RECORDER'S STATEMENT

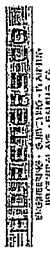
FILED FOR RECORD AT THE REQUEST OF H.P. PETERS CO., INC. THIS 20th DAY OF JANUARY 2006, AT 10:45 MINUTES P.M. IN VOLUME 23 OF THE CITIES & TOWNS AT PAGE 32 RECORDS OF MONTEREY COUNTY, CALIFORNIA

STEPHEN L. VAGNINI, COUNTY RECORDER, DEPUTY

FEE \$15.00, G.N.O. 2006-058257

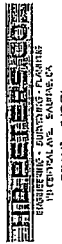
TRACT 14, THE OAKS SUBDIVISION

(A PRIVATE ROAD SUBDIVISION) SITUATE IN RANCHO EL TORO MONTEREY COUNTY, CALIFORNIA APN 164-011-078 PREPARED FOR FERRENI OAKS LLC BY



TRACT **HUB**
THE OAKS
 SUBDIVISION

(A PRIVATE ROAD SUBDIVISION)
 RITUAZE IN
 RANCHO EL TORO
 MONTEREY COUNTY, CALIFORNIA
 ALPINE BLVD. 1078
 FERRINI OAKS LLC

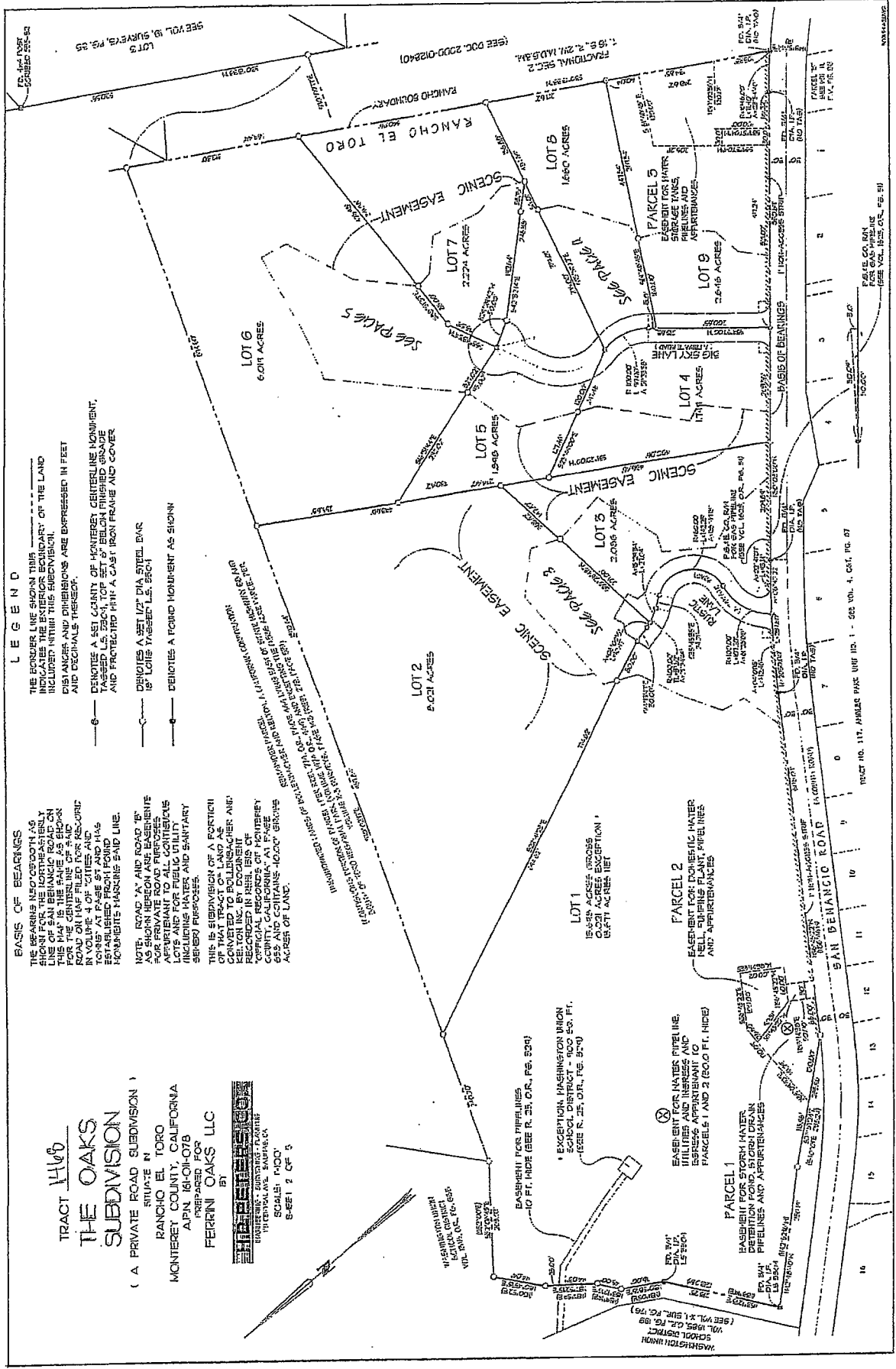


SCALE: 1"=60'
 SHEET 2 OF 5

BASIS OF BEARINGS
 THE BEARINGS NEED BOTH AS SHOWN AND AS INDICATED BY THIS MAP IS THE SAME AS SHOWN FOR THE CENTRAL LINE OF SAID ROAD ON THE LEFT TO A CORNER POINT AS SET BY AND HAS ESTABLISHED FROM FOUND MONUMENTS MARKING SAID LINE.

NOTE: ROAD 114' AND ROAD 16' AS SHOWN HEREON ARE EASEMENTS FOR PRIVATE ROAD PURPOSES APPURTINANT TO ALL CONTIGUOUS LOTS AND FOR PUBLIC UTILITY SEWER PURPOSES.
 THIS IS SUBDIVISION OF A PORTION OF THAT TRACT OF LAND AS CONVERTED TO ROLLINGMACHER AND KEITON INC. BY DOCUMENT RECORDED IN BOOKS OF MONTEREY COUNTY, CALIFORNIA, AT PAGE 655 AND CONTAINS 10,000 SQUARE ACRES OF LAND.

LEGEND
 THE BORDER LINE SHOWN THERE INDICATES THE EXTENT OF THE LAND INCLUDED WITHIN THIS SUBDIVISION AND DIMENSIONS ARE EXPRESSED IN FEET AND DECIMALS THEREOF.
 DENOTES A SET CHAIN OF MONTEREY CENTERLINE MONUMENT, TAPPED U.S. 2504, TOP SET 5' BELOW FINISHED GRADE AND PROTECTED WITH A CAST IRON PILE AND COVER.
 DENOTES A SET 1/2" DIA. STEEL BAR.
 DENOTES A ROUND MONUMENT AS SHOWN.



SEE VOL. 19, SURVEYS, PG. 35
 LOTS

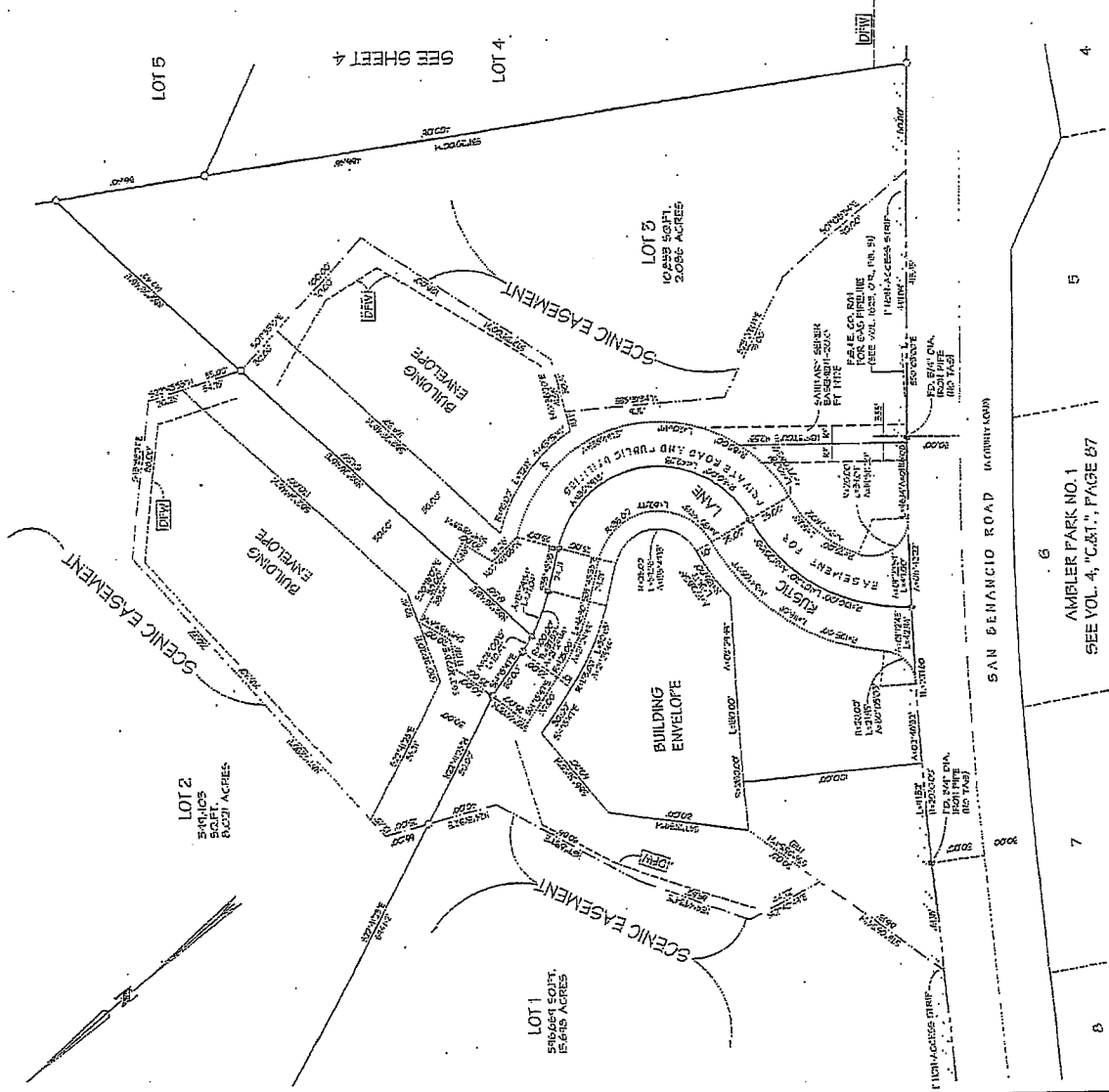
SEE VOL. 19, SURVEYS, PG. 35
 LOTS

SEE VOL. 19, SURVEYS, PG. 35
 LOTS

SEE VOL. 19, SURVEYS, PG. 35
 LOTS

SEE VOL. 19, SURVEYS, PG. 35
 LOTS

SEE VOL. 19, SURVEYS, PG. 35
 LOTS



THE FOLLOWING NOTES ARE SHOWN HEREON AS SUPPLEMENTARY NOTES TO THE C&T MAP FOR THE OAKS SUBDIVISION, RESOLUTION NO. 24-RT OF THE BOARD OF SUPERVISORS OF SAN BENITO COUNTY, CALIFORNIA DATED MAY 19, 2001.

CONDITION 1. A 24 FOOT HEIGHT RESTRICTION APPLIES TO LOTS 1, 4 AND 5.

CONDITION 2. NO GRADING, CONSTRUCTION OF FOUNDATION OR STRUCTURE SHALL BE PERMITTED IN ANY PORTION OF THE LOT UNLESS THE SUBDIVISION MAP OR VEGETATION REMOVAL MAY TAKE PLACE OUTSIDE THE BUILDING ENVELOPE IN LOTS 1, 3, 4, 6, 7, 8 AND 9.

CONDITION 3. CONSTRUCTION OF ALL IMBERTABLE STRUCTURES SHALL BE IN CONFORMANCE WITH THE RECOMMENDATIONS OF ALL ENVIRONMENTAL IMPACT REPORTS NO. 98-01 AND SHALL BE SAVED OR THE RECOMMENDATIONS OF THE REPORTS SHALL BE PREPARED FOR THE INDIVIDUAL LOTS.

CONDITION 4. ALL THE REMOVAL OR THE 40-ACRE PORTION OF THE PROPERTY COVERED UNDER THE EASEMENT SHALL BE FOREST MANAGEMENT PLAN PREPARED FOR THE PROJECT BY HIGH SMITH AND DATED MAY 20, 1994, AND IN ACCORDANCE WITH CHAPTER 2.16-2.20 OF THE ZONING ORDINANCE.

CONDITION 5. THE PROPERTY IN THE REMAINDER PARCEL SHALL BE SUBJECT TO A FLOODPLAIN AND MAY BE SUBJECT TO A FLOODING AND/OR LAND USE RESTRICTIONS.

CONDITION 6. AREAS ON THE 20.565 REMAINDER PARCEL SHALL BE SUBJECT TO A FLOODING AND/OR LAND USE RESTRICTIONS AS SHOWN ON GENERAL FLOOD REGULATORY MAP BY FEMA.

NOTE: INDICATES GENERAL LOCATION OF PERMS TO BE OBTAINED FROM THE COUNTY DIRECTOR OF PUBLIC WORKS OF MONTEREY COUNTY, SUPERVISORS RESOLUTION NO. 04-01. A FINAL SOILS REPORT SHALL BE PREPARED FOR EACH INDIVIDUAL SITE ADDRESSING THE DESIGN AND UTILITY STABILITY ISSUES OF PERMS FOR PERMS FLOOR WALLS, AND 2) ALTERNATIVE FOUNDATION DESIGN SYSTEMS FOR INDIVIDUAL BUILDING UNITS. THE ACTUAL LENGTH AND LOCATION OF PERMS SHALL BE DETERMINED BY THE ELECTRICAL ENGINEER AND THE SOILS REPORT TO ACCURATELY INDICATE ACTUAL FIELD LOCATION OF BUILDINGS.

CONDITION 7. THE BUILDING SHALL BE RELY PROTECTED WITH ANCHORAGE FIRE SPRINKLER SYSTEMS. THE LOCATION OF SPRINKLER SYSTEMS SHALL BE SHOWN ON THE C&T MAP. THE LOCATION OF SPRINKLER SYSTEMS SHALL BE SHOWN ON THE C&T MAP.

CONDITION 8. ALL BUILDINGS SHALL BE LOCATED IN A VERY HIGH FIRE HAZARD AREA, AS DEFINED BY THE CALIFORNIA DEPARTMENT OF FORESTRY AND FIRE PROTECTION. ALL BUILDINGS SHALL BE CONSTRUCTED WITH FIRE RESISTIVE MATERIALS, OR AS APPROVED BY THE REVENUE AUTHORITY.

CONDITION 9. ALL BUILDINGS SHALL BE ISSUED AN ADDRESS IN ACCORDANCE WITH MONTEREY COUNTY ORDINANCE NO. 231, EACH BUILDING SHALL HAVE ITS OWN ADDRESS. WHEN MULTIPLE OCCUPANCIES EXIST WITHIN A SINGLE BUILDING, EACH INDIVIDUAL OCCUPANCY SHALL BE IDENTIFIED BY ITS OWN ADDRESS.

CONDITION 10. ALL PARCELS LESS THAN 1 AC. ALL PARCELS 1 ACRE AND LARGER SHALL PROVIDE A MINIMUM 20 FOOT SETBACK FROM ALL PROPERTY LINES AND/OR THE CENTER OF THE ROAD.

CONDITION 11. BEFORE CONSTRUCTION PERMITS, 18" CIRCUMFERENCE TREES SHALL BE IDENTIFIED AND PROTECTED. ALL TREES SHALL BE IDENTIFIED AND PROTECTED PRIOR TO ADDRESS NUMBERS PERMITS AND TEMPORARY SHALL BE CLEARLY VISIBLE FROM THE ROAD. VISIBILITY CANNOT BE PROVIDED, A POST OR SIGN BEARING THE ADDRESS NUMBERS SHALL BE PLACED TO THE DRIVEWAY OR ACCESS ROAD TO THE DRIVEWAY. ADDRESS NUMBERS POSTED SHALL BE ARABIC, NOT ROMAN OR LETTERS. ADDRESS NUMBERS SHALL BE PLACED WITH A 2 1/2" INCH STROKE AND CONTRASTING WITH THE BACKGROUND COLORS OF THE SIGN.

CONDITION 12. ADDRESS NUMBERS SHALL BE PLACED TO THE DRIVEWAY OR ACCESS ROAD TO THE DRIVEWAY. ADDRESS NUMBERS SHALL BE ARABIC, NOT ROMAN OR LETTERS. ADDRESS NUMBERS SHALL BE PLACED WITH A 2 1/2" INCH STROKE AND CONTRASTING WITH THE BACKGROUND COLORS OF THE SIGN.

CONDITION 13. ADDRESS NUMBERS SHALL BE PLACED TO THE DRIVEWAY OR ACCESS ROAD TO THE DRIVEWAY. ADDRESS NUMBERS SHALL BE ARABIC, NOT ROMAN OR LETTERS. ADDRESS NUMBERS SHALL BE PLACED WITH A 2 1/2" INCH STROKE AND CONTRASTING WITH THE BACKGROUND COLORS OF THE SIGN.

CONDITION 14. ADDRESS NUMBERS SHALL BE PLACED TO THE DRIVEWAY OR ACCESS ROAD TO THE DRIVEWAY. ADDRESS NUMBERS SHALL BE ARABIC, NOT ROMAN OR LETTERS. ADDRESS NUMBERS SHALL BE PLACED WITH A 2 1/2" INCH STROKE AND CONTRASTING WITH THE BACKGROUND COLORS OF THE SIGN.

CONDITION 15. ADDRESS NUMBERS SHALL BE PLACED TO THE DRIVEWAY OR ACCESS ROAD TO THE DRIVEWAY. ADDRESS NUMBERS SHALL BE ARABIC, NOT ROMAN OR LETTERS. ADDRESS NUMBERS SHALL BE PLACED WITH A 2 1/2" INCH STROKE AND CONTRASTING WITH THE BACKGROUND COLORS OF THE SIGN.

CONDITION 16. ADDRESS NUMBERS SHALL BE PLACED TO THE DRIVEWAY OR ACCESS ROAD TO THE DRIVEWAY. ADDRESS NUMBERS SHALL BE ARABIC, NOT ROMAN OR LETTERS. ADDRESS NUMBERS SHALL BE PLACED WITH A 2 1/2" INCH STROKE AND CONTRASTING WITH THE BACKGROUND COLORS OF THE SIGN.

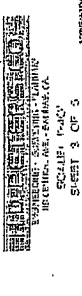
CONDITION 17. ADDRESS NUMBERS SHALL BE PLACED TO THE DRIVEWAY OR ACCESS ROAD TO THE DRIVEWAY. ADDRESS NUMBERS SHALL BE ARABIC, NOT ROMAN OR LETTERS. ADDRESS NUMBERS SHALL BE PLACED WITH A 2 1/2" INCH STROKE AND CONTRASTING WITH THE BACKGROUND COLORS OF THE SIGN.

CONDITION 18. ADDRESS NUMBERS SHALL BE PLACED TO THE DRIVEWAY OR ACCESS ROAD TO THE DRIVEWAY. ADDRESS NUMBERS SHALL BE ARABIC, NOT ROMAN OR LETTERS. ADDRESS NUMBERS SHALL BE PLACED WITH A 2 1/2" INCH STROKE AND CONTRASTING WITH THE BACKGROUND COLORS OF THE SIGN.

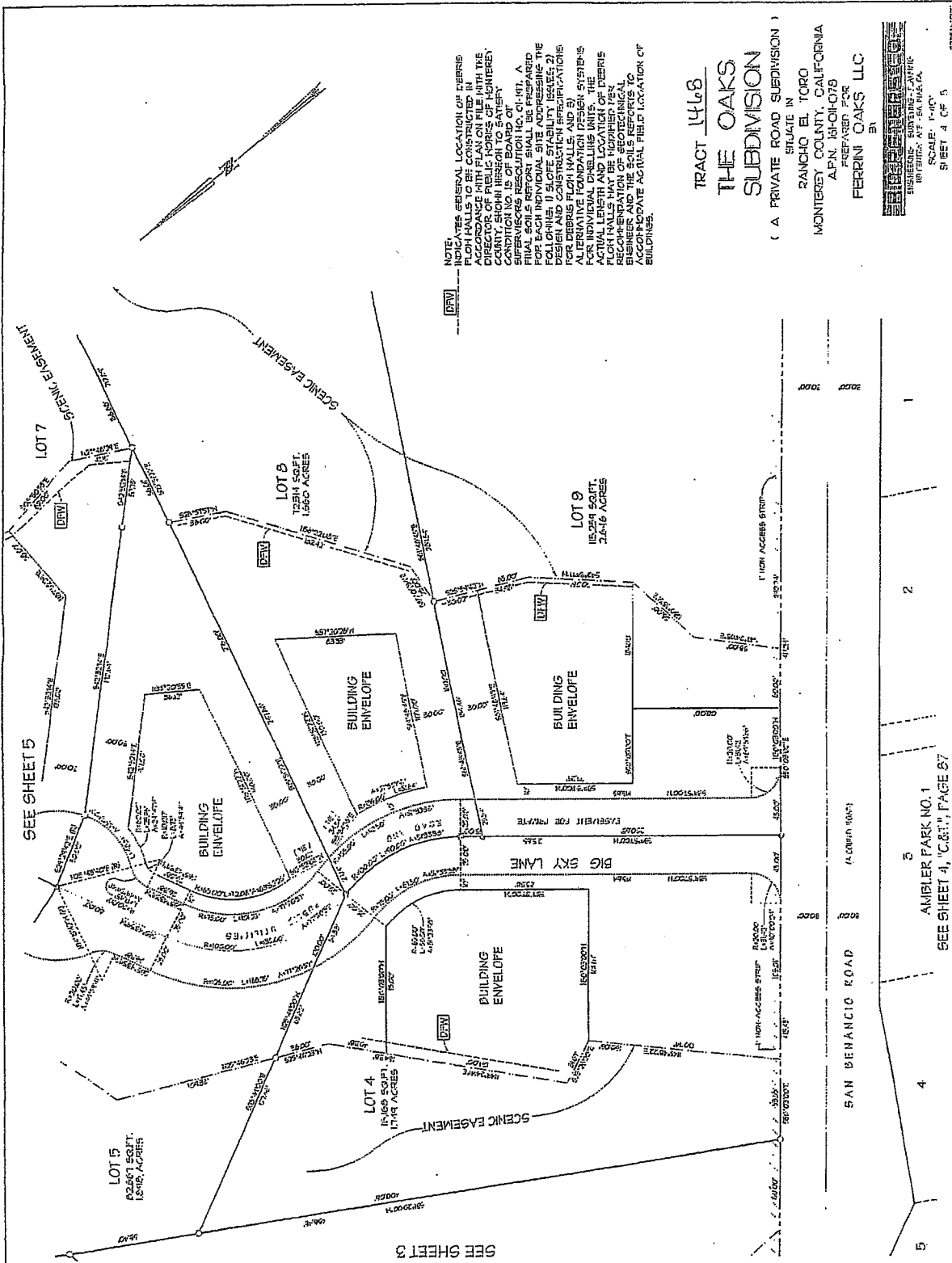
CONDITION 19. ADDRESS NUMBERS SHALL BE PLACED TO THE DRIVEWAY OR ACCESS ROAD TO THE DRIVEWAY. ADDRESS NUMBERS SHALL BE ARABIC, NOT ROMAN OR LETTERS. ADDRESS NUMBERS SHALL BE PLACED WITH A 2 1/2" INCH STROKE AND CONTRASTING WITH THE BACKGROUND COLORS OF THE SIGN.

CONDITION 20. ADDRESS NUMBERS SHALL BE PLACED TO THE DRIVEWAY OR ACCESS ROAD TO THE DRIVEWAY. ADDRESS NUMBERS SHALL BE ARABIC, NOT ROMAN OR LETTERS. ADDRESS NUMBERS SHALL BE PLACED WITH A 2 1/2" INCH STROKE AND CONTRASTING WITH THE BACKGROUND COLORS OF THE SIGN.

TRACT 14.6
THE OAKS
SUBDIVISION
(A PRIVATE ROAD SUBDIVISION)
SHEETS 41
RANCHO EL TORO
MONTEREY COUNTY, CALIFORNIA
APPLICATOR FOR
FERRELL OAKS LLC
BY



SCALE: 1"=40'
SHEET 3 OF 5
SUPERVISORS

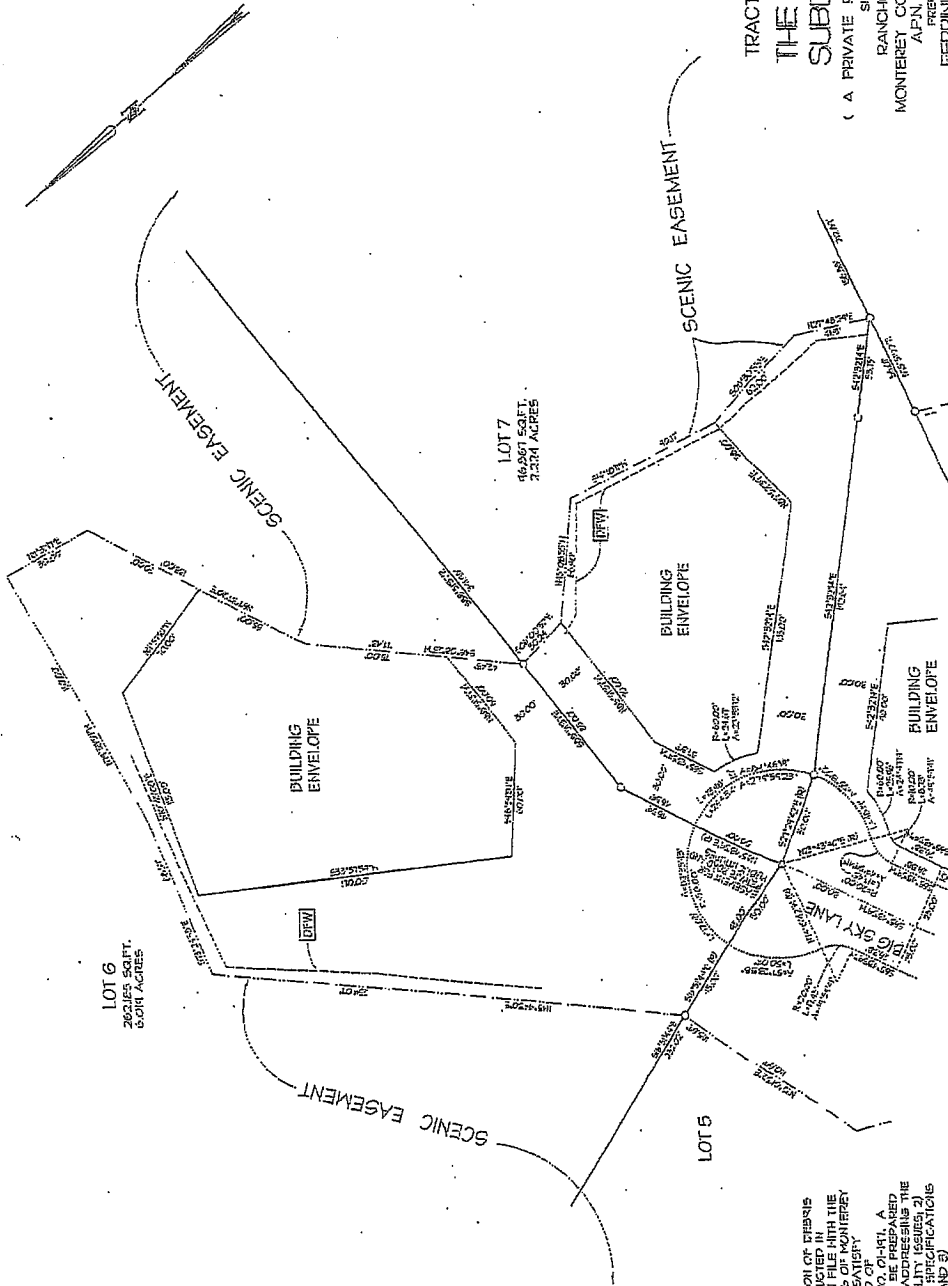


NOTE: THE GENERAL LOCATION OF TERRIS FLOH HALLS TO BE CONSTRUCTED IN ACCORDANCE WITH PLAN ON FILE WITH THE DIRECTOR OF PUBLIC WORKS OF MONTEREY COUNTY, CALIFORNIA, UNDER PERMIT CONDITION NO. 18 OF BOARD OF SUPERVISORS RESOLUTION NO. 01-141. A FINAL SOILS REPORT SHALL BE PREPARED FOR EACH INDIVIDUAL SITE ADDRESSING THE DESIGN AND CONSTRUCTION REQUIREMENTS FOR DEBRIS FLOH WALLS, AND 3) ALTERNATIVE FOUNDATION DESIGN SYSTEMS FOR INDIVIDUAL DWELLING UNITS. THE FLOH WALLS SHALL BE DESIGNED AND RECOMMENDED BY A GEOTECHNICAL ENGINEER AND THE SOILS REPORTS TO INDICATE THE ACTUAL FIELD LOCATION OF BUILDINGS.

TRACT 1468
THE OAKS
 SUBDIVISION
 (A PRIVATE ROAD SUBDIVISION)
 SITUATE IN
 RANCHO EL TORO
 MONTEREY COUNTY, CALIFORNIA
 ALPN 18-04-078
 PREPARED FOR
FERRINI OAKS LLC
 BY

FERRINI OAKS LLC
 REGISTERED PROFESSIONAL ENGINEER
 STATE OF CALIFORNIA
 LICENSE NO. 51
 SCALE: 1"=100'
 SHEET 4 OF 5

SEE SHEET 5
 SEE SHEET 3
 SEE SHEET 4, "C&T", PAGE 57



TRACT 1460
 THE OAKS
 SUBDIVISION
 (A PRIVATE ROAD SUBDIVISION)
 SITUATE IN
 RANCHO EL TORO
 MONTEREY COUNTY, CALIFORNIA
 APN. 16-011-078
 PREPARED FOR
 FERRIN OAKS LLC
 BY

THE FERRIN GROUP
 ENGINEERING, SURVEYING, PLANNING
 18 FORTUNA AVE., GAINESVILLE, CA
 SCALE: 1"=40'
 SHEET 3 OF 5

NOTE: INDICATES GENERAL LOCATION OF DEBRIS FLOOD WALLS TO BE CONSTRUCTED IN ACCORDANCE WITH PLAN ON FILE WITH THE DIRECTOR OF HIGHWAY AND TRANSPORTATION, MONTEREY COUNTY, CALIFORNIA. THIS PLAN IS SUBJECT TO SUPERVISOR'S RESOLUTION NO. 01-041. A FINAL SOILS REPORT SHALL BE PREPARED AND FOLLOWING: 1) SLOPE STABILITY ISSUES, 2) DESIGN AND CONSTRUCTION SPECIFICATIONS FOR DEBRIS FLOOD WALLS, AND 3) A SYSTEMS FOR INDIVIDUAL PANELS. THE ACTUAL HEIGHT AND LOCATION OF DEBRIS FLOOD WALLS MAY BE MODIFIED PER REQUIREMENTS OF THE GEOTECHNICAL ENGINEER. THE LOCATION OF DEBRIS FLOOD WALLS SHALL BE MODIFIED TO ACCOMMODATE ACTUAL FIELD LOCATION OF BUILDINGS.

SEE SHEET 4

EXHIBIT B

Introduction

This matter comes before the Board today to obtain the Board's preliminary direction, subject to environmental review and further subsequent consideration, regarding the appropriate mechanism to supply the Oaks subdivision with water that meets drinking water standards, is consistent with the County's zoning, and respects the right, title and interest of the existing lot owners.

The Oaks subdivision created nine residential lots. Following the Board's acceptance of the final map in 2006, the subdivider sold three lots into individual ownership, and three homes have been built. A successor-in-interest to the original subdivider owns the remaining six lots, which are vacant. Pursuant to Condition 34 of the tentative map, the subdivider conveyed the Oaks' well and water infrastructure to California American Water Company (Cal Am), who now owns the well and water infrastructure.

When the tentative map was approved, a well on the subject property was to be the source of water for the nine lots. Between the tentative and final map approvals, the federal "Maximum Contaminant Level" (MCL) -- the drinking water standard-- for arsenic was reduced from 50 parts per billion (ppb) to 10 ppb. The federal standard became effective on February 22, 2002, and water systems were required to comply with the new standard by January 23, 2006. (The State of California was also obligated beginning in 2002 to begin the process of developing a revised drinking water standard for arsenic; following debate whether to adopt a standard more stringent than the federal standard, the state in 2008 adopted the federal standard of 10 ppb.) The Oaks' well tested at 35 ppb arsenic in year 2000. This level of arsenic met the federal standard at the time the County approved the tentative map, but it does not meet the new standard. Arsenic in the drinking water above the MCL raises the risk of cancer, among other effects. (California Department of Public Health; see www.cdph.ca.gov.)

Compliance with the new arsenic drinking water standard and protection of the public health required treatment of the water from the Oaks' well. Staff arranged for Cal Am through its Monterey District Ambler Park system to serve the Oaks lots on the basis that Cal Am would draw water from the Oaks' well, treat the water for high arsenic at the Ambler Park water treatment plant, and then supply the treated water to the Oaks' lot. In 2006, Cal Am committed to monitoring the Oaks' well production and the Oaks lots' consumption for this purpose. It has since been clarified that, while the same molecules of water would not be sent for treatment and returned, the same result can be accomplished by exchanging the same amount of water by pumping from the Oaks well into the Ambler system the same amount of water that the Ambler system is providing to the nine Oaks lots, resulting in no net transfer of water.

In 2010, while gathering documents related to another subdivision application, staff learned that Cal Am had begun to serve the Oaks' homes without yet bringing the Oaks' well on line. Cal Am must amend its permit from the state Department of Public Health to include the new water source. Staff put a hold on building permits on the remaining six vacant lots in the Oaks' subdivision until the situation could be resolved. In discussions with Cal Am, Cal Am

said it would honor its 2006 commitment to balance the water served to Oaks from Ambler with water pumped from the Oaks well into the Ambler system. Cal Am has informed the County that Cal Am has made application to the state to include the Oaks well in its water system.

In order to formalize the arrangement with Cal Am for Cal Am to serve the Oaks with no net transfer of water, staff recommends processing a Memorandum of Agreement with the California American Water Company (Cal Am). The MOU would memorialize Cal Am's commitment to pump an amount of water from the Oaks' well into the Ambler system equal to the amount Ambler provides to the Oaks' lots, so as to result in no net transfer of water. The MOU would create a binding contractual obligation on the part of Cal Am and flesh out the details of implementation and monitoring.

Save Our Peninsula Committee (SOPC) contends that the Oaks subdivision is out of compliance with conditions 34 and 35 of the tentative map approval and contends that therefore County is out of compliance with a settlement agreement in a lawsuit, *Save Our Peninsula Committee v. County* (Monterey County Superior Court Case No. M110694). Under the settlement agreement, if the County identifies non-compliance with mitigation measures imposed on the Oaks' subdivision, County must remedy the non-compliance after conducting a noticed public hearing before the Board of Supervisors. SOPC argues that this provision has been triggered and has brought a motion to enforce the settlement agreement. County staff had informed SOPC that staff intended to bring forward the MOU for the Board's consideration. SOPC has agreed to the County conducting this noticed public hearing and requests that the Board consider a number of alternatives other than the MOU to provide water to the Oaks.

This report further describes the chronology of events, describes the pending legal issue raised by SOPC, and analyzes the options for water service to the Oaks' lots.

Chronology of Events

The following table provides more factual detail on the chronology of events pertaining to the Oaks' water supply. Supporting documentation is on file and can be made available to the Board upon request.

August 2000	Oaks' well sample taken. Shows arsenic level is 35 ppb (parts per billion). This level complies with the federal standard for arsenic at that time, which standard was 50 ppb.
May 8, 2001	Board of Supervisors approves vesting tentative map for Oaks subdivision. (Resolution No. 01-197) Condition 34 provides: "Prior to the recordation of the final map, the subdivider shall provide a signed written agreement between the subdivider and Ambler Park Water Utility (APWU) requiring: a) the subdivider to convey a newly constructed well complete with water distribution infrastructure and fire flow water supply; and b) APWU to operate the system as a satellite or stand alone system providing.

	<p>domestic and fire flow water supply to the subdivision in accordance with title 22 and the California Public Utility Commission standards. The total costs for item "a" is to be born [sic] by the developer and not APWU or its customers. If at any point in the future, the Toro B-8 zoning overlay is removed, and this stand alone system is to be consolidated with any other system, pumping of water (produced by this well) outside of Monterey County Water Resources Agency zones 2 & 2A is prohibited except in the case of emergency." [timing column: Prior to Recording Final Map]</p> <p>Condition 35 provides: "Design the water system improvements to meet the standards as found in Title 22 of the California Code of Regulations and as found in the Residential Subdivision Water Supply Standards. Submit engineered plans for the water system improvements and any associated fees to APWU for review and approval prior to installing (or bonding) the improvements. Provide evidence that APWU has reviewed and approved the plans. Applicant shall pay all Land Use review fees prior to filing the final map." [timing column: Prior to Recording Final Map]</p>
February 22, 2002	Federal Maximum Contaminant Level (MCL) for arsenic at 0.010 mg/L (10 ppb) goes into effect. Federal rule provides for 5-year implementation period. MCL compliance required by January 23, 2006.
July 22, 2003	Board of Supervisors approves three-year extension of the tentative map.
September 10, 2003	Environmental Health Department advises applicant's attorney that staff has reviewed documents submitted by the applicant for conditions 34, 35, and 36 and staff has not cleared the conditions. Staff requests revisions to the draft agreement submitted for condition 34 and additional information and documentation.
January 23, 2006	Date that federal regulation requires compliance with federal MCL standard for arsenic
January 24, 2006	Applicant (Bollenbacher and Kelton, Inc.) submits to John Hodges of Environmental Health a copy of letter dated September 2005 to Environmental Health. The September 2005 letter submits two documents to demonstrate compliance with conditions 34 and 35. For condition 34, applicant submits a revised memorandum of agreement executed in October 2004 by Cal Am and applicant whereby applicant agrees to construct a well and water distribution system for the subdivision and to convey same to Cal Am (Cal Am had acquired the Ambler Park Water Utility referenced in condition 34). For condition 35, applicant submits a letter dated March 26, 2004 from Cal Am to Environmental Health stating that Cal Am has reviewed and approved the plans, dated February 2004, for the Oaks Subdivision Water System.
January 31, 2006	Environmental Health staff notifies Planning staff that condition 34 has been satisfied and condition 35 has been satisfied except for posting of the bond for subdivision improvements. Environmental Health staff requests Public Works staff to inform him when subdivision improvements have been bonded.
April 3, 2006	Department of Public Works receives application by Ferrini Oaks, LLC for encroachment permits to install 4" and 8" water lines and sewer line in County roadways for Oaks subdivision

June 20, 2006	Board of Supervisors accepts the final map for Oaks subdivision and directs Chair of the Board of Supervisors to sign the Subdivision Improvement Agreement, among other related actions.
June 21, 2006	Chair of the Board of Supervisors executes subdivision improvement agreement, per Board of Supervisors' authorization. Agreement requires bonding for water system improvements
June 29, 2006	County issues four encroachment permits to Ferrini Oaks, LLC for work in County roadways, including permit to allow excavation of trench on San Benancio Road "to install underground eight inch water main facilities located on subject road per attached plans titled "Oaks Subdivision Water System" and permit to allow excavation of trench on Paseo Vaqueros "to install underground eight inch water main facilities located on subject road per attached plans titled "Oaks Subdivision Water System." The plans show both the 8" and 4" mains. The 8" main is the line from Ambler to the Oaks lots, and the 4" main is the raw water main from the Oaks well to the Ambler treatment plant. Evidence shows that both 8" and 4" water mains have been installed.
June 30, 2006	Final map is recorded.
August 10, 2006	Work in roadway begins. County requires work to be halted to investigate complaints that water lines are being installed to run between Ambler treatment plant and the Oaks well. Work allowed to proceed based on staff understanding that water from Ambler treatment plant and water from Oaks well will be in balance.
August 2006	General Manager of Monterey County Water Resources Agency (MCWRA) informs applicant's attorney that work does not violate Zone 2C on the understanding that the water from the Oaks well will be treated at the Ambler treatment plant and returned in dedicated lines. Staff understanding is that raw water from the Oaks well and the treated water will be in balance; staff confirms with Cal Am that meters are being installed and seeks a reporting mechanism to monitor and ensure the water balance transfer.
October 20, 2006	Letter from Cal Am to MCWRA in which Cal Am commits to quarterly monitoring of: 1) the production records from the new Ambler Oaks well; and 2) the water consumption as recorded by Cal Am water meters for the 9 lots in the Ambler Oaks subdivision. Cal Am commits to provide records to MCWRA on a quarterly basis, with such monitoring to begin as soon as the first property is ready for a water service connection.
February 26, 2008	Board of Supervisors accepts the Oaks Subdivision improvements as complete and releases performance bonds based on certification that improvements have been completed in conformance with the approved improvement plans.
April 1, 2009	Building Permits finalized for single family dwelling on three lots (APNs 161-013-005, 161-013-008, and 161-013-009)
August 2010	In gathering documents related to a different project application, Environmental Health learns that Cal Am has been serving at least one home in the Oaks subdivision without bringing the Oaks well on line for the equal exchange.
August 31,	Highway 68 Coalition files complaint with the California Public Utilities

2010	Commission (Case 10-08-022) challenging Cal Am annexation of Oaks subdivision area into Ambler Park service territory.
September 8 and 9, 2010	Environmental Health contacts Cal Am to remind Cal Am that Cal Am must monitor the flow from the Oaks well into Ambler Park treatment plant and the flow going back to the Oaks system.
September 28, 2010	Letter from Environmental Health to Cal Am informing Cal Am that per the conditions of approval for the Oaks subdivision, water from the B-8 zone cannot be used to supply an area outside B-8 boundaries; that water from the Oaks well must be metered to the Ambler treatment facility, treated for arsenic, and metered back to Oaks on a one to one basis; that Cal Am will operate the Oaks system as a stand-alone system; and that Cal Am will be required to submit monthly reports of meter readings to Environmental Health for review.
October 10, 2010	Planning staff places hold on occupancy or final or construction permit for vacant lots in the Oaks subdivision.
February 3, 2011	Letter to Ferrini Oaks, LLC (owner of the six remaining lots) informing owner of the potential code violation and hold on building permits due to Cal Am's water service to the Oaks without a corresponding transfer of water from the Oaks well to Cal Am and due to pending PUC proceeding challenging Ambler service to the Oaks.
September 12, 2011	Decision Resolving Complaint issued by PUC in The Highway 68 Coalition v. California American Water (Case 10-08-022). PUC denies the complaint. Findings of fact include: "Cal Am proposes to pump water from the annexed territory, treat the water at the Ambler Park water treatment plant, and then return the same quantity of water back to the annexed territory" and "In 2006, Cal Am agreed to monitor water production and consumption in the Ambler Oaks subdivision, and to make quarterly reports to the County." (finding nos. 7 and 12, at page 14.)
March 7, 2012	County staff proposes to Cal Am for Cal Am and County, with Board of Supervisors' approval to enter into an MOU to delineate Cal Am's obligation to balance the volume of treated water sent from the Ambler Park water system to the Oaks subdivision with an equal volume of raw water sent from the Oaks well to the Ambler Park water system and to monitor and report on same. Cal Am representatives agree to consider the MOU, based on Cal Am's 2006 commitment to the no net transfer.
March 26, 2012	In response to inquiry from Mike Weaver, County Resource Management Agency informs Mr. Weaver that County staff has determined that the subdivision is not in violation of conditions but County is working with Cal Am to address and enforce County's requirement of no net import/export of water from the County's B-8 zone such that the amount of water drawn from the Oaks well would be equal to the amount of water treated and supplied to the Oaks subdivision by the Ambler Park water treatment plant. Letter states that County and Cal Am anticipate entering into an MOU, and staff intends to bring the MOU to the Board of Supervisors for its consideration in open session.

Compliance with Conditions 34 and 35 and SOPC's motion to enforce Settlement Agreement

Under a settlement agreement in *Save Our Peninsula Committee v. County of Monterey et al* (Case No. M110694) involving mitigation monitoring under CEQA, the County agreed to analyze ten approved land use projects to determine "whether they are in compliance or non-compliance with mitigation measures imposed upon the project." (paragraph 3 of Settlement Agreement attached to Judgment pursuant to Stipulation for Entry of Judgment, filed September 21, 2011.) One of the ten projects is the Oaks subdivision (listed as Bollenbacher & Kelton, Inc. (Ferrini Oaks Subdivision/PLN94170)). Under the settlement agreement, if the County determines that the project is not in compliance with any mitigation measure imposed on the project, the County "shall remedy such non-compliance or will modify the applicable mitigation measure(s) as may be allowed pursuant to CEQA or other applicable law after conducting a noticed public hearing before the Board of Supervisors." (Paragraph 3.) SOPC contends that the Oaks subdivision does not comply with conditions 34 and 35 of the vesting tentative map, that County has not brought the matter to the Board to remedy the non-compliance, and therefore, the County has violated the settlement agreement. On June 27, 2012, SOPC filed a motion with the court to enforce the terms and conditions of the judgment, and the court hearing on that at motion is currently set for October 26, 2012.

While the change in the arsenic standard necessitated treatment of the water, the evidence shows that the subdivider met the literal terms of the conditions and that the arrangement for treatment of the water with an equal exchange of water is in substantial compliance with the conditions. Prior to the Board's acceptance of the final map, staff determined that the subdivider had complied with conditions 34 and 35. The subdivider met the literal terms of the conditions. Condition 34, which is quoted in full in the chronology above, required the applicant to provide a signed written agreement between the subdivider and Ambler Park Water Utility (APWU) requiring the subdivider to convey the newly constructed well and water distribution infrastructure upon certain terms to Ambler. The subdivider provided a copy to staff of that executed agreement as part of condition compliance prior to final map acceptance. (Cal Am has purchased Ambler Park; therefore, the agreement is between Cal Am and the County.) Condition 35 required the subdivider to design the water system improvements to meet certain state and County standards and provide evidence that Ambler had reviewed and approved the plans. As part of the condition compliance process and prior to final map acceptance, the subdivider provided a letter from Cal Am stating that it had reviewed and approved the plans for the Oaks subdivision water system. SOPC points out that staff did not at that time fill out the Verification of Condition Compliance forms required by the Board's adopted mitigation monitoring procedures; however, as described in the chronology, the omission of the particular forms did not mean that staff failed to determine compliance. Staff "cleared" the conditions after receiving copies of the documentation required by the conditions.

SOPC contends that the fact that the water system was designed to have the water treated by Ambler violates the conditions and violates the County's B-8 zoning. County staff maintain that the arrangement to have the water supplied by the Oaks' well, treated by Ambler, and then returned to the Oaks substantially complies with the conditions, is necessitated by the new federal standard for arsenic, and does not violate B-8 zoning. 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 ... or similar measurable public-facility type constraints, additional development and/or intensification of land use if [sic] found to be detrimental to the health, safety, and welfare of the residents of the area, or the County as a whole." The Oaks' well is not within the County's B-8 zone. Ambler's water supply is located in the County's B-8 zone. 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 the B-8 zone. Conversely, the Oaks' well lies within Monterey County Water Resources Agency's benefit assessment "Zone 2C," which does not allow the export of water out of Zone 2C. The Ambler treatment plant lies outside Zone 2C. Because Cal Am will ensure that the volume of water it pumps from the Oaks' well into the Ambler Park water system does not exceed the amount of water supplied from Ambler to the Oaks, pumping water from the Oaks well into the Ambler system does not result in export of water out of Monterey County Water Resources Agency's benefit assessment Zone 2C. This manner of implementation protects the public health while meeting the intent of condition 34 not to intensify water use in the County's B-8 zone and not to export water out of MCWRA's benefit assessment Zone 2c and thus is in substantial compliance with the conditions.

SOPC has brought a motion to enforce a settlement agreement in *SOPC v. County* on grounds that the Oaks subdivision is not in compliance with conditions 34 and 35. The settlement agreement requires the County to analyze the Oaks subdivision and certain other approved projects to determine whether they are in compliance with mitigation measures imposed on the project and, if determined to be non-compliant, to remedy the non-compliance after conducting a noticed public hearing before the Board of Supervisors. As already explained, County determined that conditions were met when the final map was accepted in 2006. There were no conditions or mitigation measures that required on-going monitoring of the water system. Staff's analysis is that the no net transfer requirement, whereby Cal Am serves the Oaks and offsets that service by pumping an equal amount of water from the Oaks' well into the Ambler system, constitutes substantial compliance with all applicable regulations and conditions. Although County is not compelled to hold this noticed public hearing if the settlement agreement does not apply, in light of the dispute between the County and SOPC, this noticed public hearing will fulfill the requirement under the settlement agreement.

Independent of and prior to SOPC's filing the motion to enforce, County staff had been in discussion with Cal Am regarding development of an MOU between County and Cal Am and subject to the Board of Supervisors' approval to memorialize Cal Am's 2006 commitment of no net export of water out of the B-8 or out of Zone 2C when serving the Oaks subdivision. SOPC has requested that the Board consider options other than the MOU. Therefore, staff requests that the Board consider the MOU and other alternative mechanisms to providing safe potable drinking water to the Oaks subdivision and provide direction to staff.

Options for Provision of Safe, Potable Water to Oaks lots

In examining options, the Board must be cognizant of the legal and other considerations that arise from the fact that the final map has already been accepted, lots sold, and the water system conveyed to Cal Am. Pursuant to the agreement entered by the subdivider and Cal Am to

comply with condition 34 of the Oaks' tentative map, the subdivider conveyed the Oaks well and water infrastructure to Cal Am, and Cal Am now owns and operates the Oaks' well and water infrastructure. Cal Am has annexed the Oaks subdivision into its service area. Cal Am is currently serving the three homes that have been built in the Oaks subdivision.

Under the Subdivision Map Act, recordation of the final map allowed the subdivider to sell lots, and as noted, three of the nine lots of the Oaks subdivision have been sold into individual ownership. Recognizing the property rights of owners who have taken title to property, the Map Act limits the ability of a local agency to amend conditions of a map after the map has been recorded. The County may modify the final map only if the County finds that "there are changes in circumstances that make any or all of the conditions of the map no longer appropriate or necessary and that the modifications do not impose any additional burden on the fee owners of the real property, and if the modifications do not alter any right, title, or interest in real property reflected on the recorded map." (Gov't Code sec. 66472.1, emphasis added.) Thus, any alternative the Board directs staff to pursue must not impose any additional burden on the current owners of the nine lots and not alter any of their rights, title, or interest in their property.

These factors affect the feasibility of the options, as discussed below. The options that staff or SOPC have identified are the following:

1. MOU between the County and Cal Am

The MOU would implement Cal Am's agreement to offset Cal Am Monterey District Ambler Park's water service to the Oaks subdivision with an equal amount of water to be pumped from the Oaks well into the Ambler Park water system, so as to result in no net transfer of water. A draft of the MOU is attached to the October 9, 2012 staff report to the Board of Supervisors. Cal Am staff has agreed in principle to an MOU and is reviewing the terms. The MOU is, in staff's view, the most feasible option, at least in the short term. It protects public health by ensuring treatment of water by a water system with the technical, managerial, and financial resources to ensure on-going treatment of the water to meet state and federal drinking water standards. It respects the property rights of the lot owners and is consistent with the Map Act because it does not impose an additional burden on the property owners, does not affect their right, title or interest in their property and does not disturb their water supply. It also does not intensify water use in the B-8 zone or export water out of Zone 2c because Cal Am is required to pump from the Oaks well into the Ambler system the exact same amount of water it is serving to the Oaks.

This option would require negotiation with and agreement by Cal Am. Cal Am representatives acknowledge that Cal Am made a commitment to the no net transfer arrangement and have expressed a willingness to negotiate an MOU with the County.

2. Install a new treatment plant

SOPC has suggested installing a new arsenic treatment plant outside of County's B-8 zone and within zone 2C to enable treatment of the Oaks' well water without any physical

transfer of water out of the B-8 zone or out of zone 2C. This option would require resolution of several questions: 1) what authority does County have at this juncture to require either the property owners or Cal Am to build a treatment plant to serve the Oaks; 2) who would build the treatment plant and bear the cost of construction; and 3) who would maintain the treatment plant and bear the cost of maintenance.

The Board could not impose this requirement on the lot owners under the Map Act unless the Board could find that this requirement does not impose any additional burden on the property owners or affect their right, title, or interest in property; this finding would be difficult to make because requiring the lot owners to build a treatment plant would be costly. A rough estimate from Cal Am is that installation of a treatment plant for the nine lots would cost \$75,000 to \$150,000. Additionally, if only the nine Oaks' homes were funding the maintenance and operation of the plant, Environmental Health Bureau is concerned that such a small customer base would not be able to support the capital cost and ongoing expense for operation of the treatment plant based on EHB's experience with similar small water systems; the strategy to send the raw water from the Oaks well to the Ambler Park treatment plant was created due to the concern that nine lots could not feasibly fund and support the building and maintenance of a treatment plant. For these reasons, requiring the current property owners to build and operate a new treatment plant on the Oaks' side of San Benancio Road is not a feasible option.

A second variant would be to require Cal Am to build the treatment plant because Cal Am already owns the well and water infrastructure and thus Cal Am, not the developer or homeowners, would be the appropriate party to decide to build a new plant rather than treat the Oaks well at the Ambler plant. The County may not have the legal authority to require Cal Am to build a new treatment plant in connection with the Oaks lots given that the lots have already been created and the water system conveyed to Cal Am; however, this option may be available if Cal Am were to agree to it. The County could require a future subdivider to build a treatment plant as a condition of approval, and the Oaks may then be able to connect to such a treatment plant, but this scenario is contingent on the County approving future subdivisions. Unless a developer pays for construction of the plant, Cal Am would need permission from California Public Utilities Commission to construct the plant. The cost of construction could be passed on to ratepayers, if and as allowed by the PUC, which could result in higher costs to ratepayers. Additionally, installation of a treatment plant would take time; the amount of time is difficult to estimate because timing would depend on a number of factors. Thus, installation of a new treatment plant on the "Zone 2C" side of San Benancio Road may be a long term option to explore, but it is not a feasible solution to the immediate need to provide potable water to the already existing nine Oaks lots. Entering into the MOU does not foreclose the long term possibility of a new treatment plant because the draft MOU allows for the possibility of termination of the MOU if an alternative mechanism is put in place (paragraph 8 of the draft MOU).

3. Require a new well be drilled on the Oaks' site.

There are places to drill a new well within the subdivision; however, fractured rock is prevalent in this area, and a new well is not guaranteed to meet water quality and quantity standards. In fact, information about other wells in the vicinity suggests that a new well would

likely also be high in arsenic. Given information from the surrounding area, indications are that other wells within the subdivision boundary would experience similar characteristics. A study of the El Toro groundwater primary aquifer system, where the Oaks site is located, concluded that the groundwater in this area generally contains arsenic at concentrations exceeding the primary drinking water standard of 10 µg/l (ppb). (*El Toro Groundwater Study* (Geosyntec consultants, July 2007) at page 29.) The three production wells in the Ambler Park Water System exceed the 10 ppb standard for arsenic and require treatment. (*Id.* at page 13.) Of the 40 wells that provide water to water systems in the San Benancio Canyon area for which the Environmental Health Bureau has records, 25 wells (62%) exceed the Maximum Contaminant Level. Therefore, a new well on the Oaks' site would more likely than not have the same water quality problem as the existing Oaks' well.

Another factor affecting feasibility of requiring a new well is determining who would bear the cost of drilling the new well. To impose the cost on the owners of the nine lots, the Board would have to amend the final map condition, which would require the Board to find that the amendment does not impose an additional burden on the property owners, a finding that would be difficult to make because drilling a new well would be an added expense. Cal Am currently owns the well and water system for the Oaks, and there may be jurisdictional issues in regard to whether the Board has the jurisdiction to require Cal Am to drill a new well. If Cal Am were to agree voluntarily to drill the new well, the company may seek to recover the cost through its rates, if and as allowed by the PUC. Thus, there would be additional regulatory requirements and additional costs to be borne by either the homeowners or the Ambler Park ratepayers more broadly. In conclusion, this option would have added costs with potentially no benefit inasmuch as the new well has a high probability of being high in arsenic.

4. Provide water from Zone 2c from a different water utility.

Cal Water, another investor owned private utility regulated by the CPUC, has water supply wells in Zone 2c. Cal Water currently serves County Toro Park. Cal Water facilities currently do not abut the Oaks subdivision. Cal Water is identified as the future purveyor for the proposed Ferrini Ranch subdivision that would abut the Oaks subdivision, but that subdivision application has not been approved, and there is no certainty that said subdivision would be approved. If approved, the topography would make it extremely difficult and costly to connect that water system to the Oaks.

Even if the Ferrini Ranch subdivision were approved and a system were designed to connect the water systems through the hills, Cal Am currently owns and operates the Oaks well and water infrastructure and has extended its service area to include the Oaks subdivision. A different water utility would have to meet certain requirements to serve the Oaks, including permission from the PUC. Staff would have to do additional research to determine whether a different water utility, such as Cal Water, could serve the Oaks, given that Oaks is already in the service area of Cal Am. This option is not feasible for the immediate need to provide potable water to already existing lots.

5. Require water to be trucked into the Oaks lots.

This alternative is inconsistent with the County's General Plan and therefore not legally feasible. Both the 1982 General Plan and the 2010 General Plan do not allow hauling of water as a long term water supply. (See Policy PS 3.2 of the 2010 General Plan.) Environmental Health has allowed homes to be served by trucked water only as a temporary, emergency fix. The ability to obtain potable water depends on financial capabilities of each resident because this is a costly solution. Hauled water does not qualify as an adequate water supply.

Staff Recommendation

Staff is requesting that the Board provide direction to staff as to the preferred option. Staff would then conduct environmental review on the preferred option and bring the matter back to the Board for further action.

Staff recommends the MOU. Subject to environmental review and obtaining agreement from Cal Am, the proposed MOU is the method of providing safe, potable drinking water to the Oaks subdivision that is the most feasible, most capable of success, and therefore most protective of public health. Cal Am through its Ambler Park water treatment plant has the technical, managerial and financial capability to treat water. Cal Am also has the ability to serve the Oaks subdivision because Cal Am already owns the Oaks' well and its infrastructure and has extended its Monterey District Ambler Park service area to include the Oaks subdivision. Because the MOU enforces no net transfer of water from Ambler to the Oaks and vice versa, it would not intensify water use in Cal Am's Monterey District Ambler Park service area. It is also the option least costly to ratepayers because it relies on a well and water infrastructure whose cost was already borne by the Oaks' subdivider and would require no new construction. It is also the least disruptive to the existing owners of the nine lots because the obligations to balance the water supply would fall entirely on Cal Am and would cause no disruption of service to the homeowners. The MOU would create a binding contractual obligation on the part of Cal Am to offset Cal Am Monterey District Ambler Park's water service to the Oaks subdivision with an equal amount of water to be pumped from the Oaks well into the Ambler Park water system, so as to result in no net transfer of water. The MOU would flesh out the details of implementation and monitoring.

EXHIBIT B

Cal-Am Letter (dated 11/6/12)

EXHIBIT B



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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

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 m 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 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.

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 hydropneumatic 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.

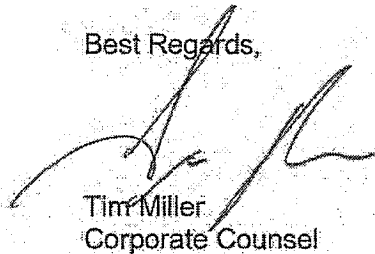
To the extent that SOPC seeks to have the County analyze various other options for providing potable water to the Oaks subdivision, such analyses would be fruitless because the County does not have the authority to order California American Water to implement any such projects, and the costs for such 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
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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 Cost²	\$ 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
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EXHIBIT C

Draft Resolution

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

Resolution No. ____

Directing staff to negotiate)
An MOU with Cal Am and)
Conduct Environmental Review)

This resolution is made with reference to the following facts:

1. On December 4, 2012, the Board of Supervisors conducted a duly noticed public hearing to consider alternatives for the provision of safe, potable water to an approved nine-lot subdivision known as the "Oaks subdivision" and makes the findings and determinations set forth in this resolution.
2. The Oaks subdivision divided a 325.7- acre parcel into nine residential lots ranging in size from 1.7 to 13.6 acres and a remainder parcel of 285.7 acres (hereafter the "Oaks Subdivision"). The Board of Supervisors approved the vesting tentative map for the subdivision on May 8, 2001 and accepted the final map on June 20, 2006. The final map was recorded on June 30, 2006 at Volume 23, Cities and Towns, page 32, in the Office of the Recorder of the County of Monterey.
3. Under a settlement agreement in *Save Our Peninsula Committee v. County of Monterey et al* (Monterey County Superior Court Case No. M110694), the County agreed to analyze ten approved land use projects to determine "whether they are in compliance or non-compliance with mitigation measures imposed upon the project." (Paragraph 3 of Settlement Agreement attached to Judgment pursuant to Stipulation for Entry of Judgment, filed September 21, 2011.) Under the terms of the settlement agreement, if the County determines that one of these projects is not in compliance with any mitigation measure imposed on the project, the County "shall remedy such non-compliance or will modify the applicable mitigation measure(s) as may be allowed pursuant to CEQA or other applicable law after conducting a noticed public hearing before the Board of Supervisors." (Paragraph 3.) One of the ten projects subject to this review under the settlement agreement is the Oaks subdivision (listed as "Bollenbacher & Kelton, Inc. (Ferrini Oaks Subdivision)" [PLN94170]).
4. On June 27, 2012, Save Our Peninsula Committee (SOPC) filed a "Motion to For An Order to Enforce Terms and Conditions of Judgment Pursuant to Stipulation (Settlement Agreement) and Award of Attorney Fees." Among other things, SOPC contends that the Oaks subdivision does not comply with conditions 34 and 35 of the vesting tentative map, that County has not brought the matter to the Board to remedy the non-compliance, and therefore, the County has violated the settlement agreement. Pursuant to stipulation of the County and SOPC, the judicial hearing on the motion is scheduled for January 25, 2013.
5. Condition 34 of the Oaks' vesting tentative map required the subdivider; "to provide a signed written agreement between the subdivider and Ambler Park Water Utility (APWU) requiring: a)

the subdivider to convey a newly constructed well complete with water distribution infrastructure and fire flow water supply; and b) APWU to 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 the California Public Utility Commission standards. The total costs for item "a" is to be born [sic] by the developer and not APWU or its customers. If at any point in the future, the Toro B-8 zoning overlay is removed, and this stand alone system is to be consolidated with any other system, pumping of water (produced by this well) outside of Monterey County Water Resources Agency zones 2 & 2A is prohibited except in the case of emergency."

6. Condition 35 of the Oaks' vesting tentative map required the "Design the water system improvements to meet the standards as found in Title 22 of the California Code of Regulations and as found in the Residential Subdivision Water Supply Standards. Submit engineered plans for the water system improvements and any associated fees to APWU for review and approval prior to installing (or bonding) the improvements. Provide evidence that APWU has reviewed and approved the plans. Applicant shall pay all Land Use review fees prior to filing the final map."
7. Prior to the Board accepting the final map, staff advised the Board of Supervisors that the applicant had met all conditions of approval. Staff found that the subdivider had complied with condition 34 because the subdivider provided a copy to staff of the signed written agreement between the subdivider and Cal Am, as required by the condition. (Cal Am has purchased Ambler Park; therefore; the agreement is between the subdivider and Cal Am.) Staff found that subdivider had complied with Condition 35 based on the subdivider provided a letter from Cal Am stating that it had reviewed and approved the plans for the Oaks subdivision water system. SOPC points out that staff did not at that time fill out the Verification of Condition Compliance forms required by the Board's adopted mitigation monitoring procedures; however, notwithstanding the omission of the particular forms, the evidence shows staff "cleared" the conditions after receiving copies of the documentation required by the conditions. The Board's final map acceptance presumes that the conditions of compliance were met. (See Government Code section 66473.)
8. The Board also finds that a change in the federal arsenic water standard required treatment of Oaks' well water. The Oaks' well tested at 35 parts per billion (ppb) when the tentative map was approved. Between the tentative and final map approvals, the federal drinking water standard for arsenic was reduced from 50 ppb to 10 ppb, and the state was required to adopt a revised standard no less stringent than the federal standard. The new federal standard for arsenic of 10 ppb was adopted on February 22, 2002 and became enforceable on January 23, 2006. Although the Oaks' well was compliant with the earlier standard when the tentative map was approved, the well water exceeds the federal standard that went into effect in 2006.
9. Compliance with the new arsenic drinking water standard and protection of the public health requires the water from the Oaks' well to be treated. Staff arranged for Cal Am through its Monterey District Ambler Park system to serve the Oaks lots on the basis that Cal Am would draw water from the Oaks' well, treat the water for high arsenic at the Ambler Park water treatment plant, and then supply the treated water to the Oaks' lot. Consistent with the intent for

water supply to be based on the Oaks well, not Ambler Park's water supply, the understanding was that the Cal Am would pump from the Oaks well into the Ambler system the same amount of treated water that the Ambler system would provide to the nine Oaks lots, resulting in no net transfer of water. In 2006, Cal Am committed to the Monterey County Water Resources Agency to monitor the Oaks' well production and the Oaks lots' consumption for this purpose.

10. The Board finds that this arrangement for service to the Oaks, where the amount of water served by Ambler to the Oaks is to be balanced by an equal amount pumped from the Oaks well into the Ambler system, substantially complies with the conditions, is necessitated by the new federal standard for arsenic, is consistent with the County's B-8 zoning, and results in no net export of water from Monterey County Water Resources Agency's benefit assessment Zone 2C. The purpose of the County's B-8 zoning district is to "restrict development and/or intensification of land use in areas where, due to water supply ... or similar measurable public-facility type constraints, additional development and/or intensification of land use if [sic] found to be detrimental to the health, safety, and welfare of the residents of the area, or the County as a whole." The Oaks' well is not within the County's B-8 zone. Ambler's water supply is located in the County's B-8 zone. 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 the B-8 zone. Conversely, the Oaks' well lies within Monterey County Water Resources Agency's benefit assessment "Zone 2C," which does not allow the export of water out of Zone 2C. The Ambler treatment plant lies outside Zone 2C. Because Cal Am will ensure that the volume of water it pumps from the Oaks' well into the Ambler Park water system does not exceed the amount of water supplied from Ambler to the Oaks, pumping water from the Oaks well into the Ambler system does not result in export of water out of Monterey County Water Resources Agency's benefit assessment Zone 2C. This manner of implementation protects the public health while meeting the intent of condition 34 not to intensify water use in the County's B-8 zone and not to export water out of MCWRA's benefit assessment Zone 2c and thus is in substantial compliance with the conditions.
11. Homes have been built on three lots in the Oaks subdivision, which received building finals on April 1, 2009. In 2010, County staff learned that Cal Am had begun to serve the Oaks' homes without yet bringing the Oaks' well on line. Staff notified Cal Am of its obligations, and staff also notified the subdivider that it would not issue additional building permits until the issue was resolved.
12. Cal Am has stated it will honor its 2006 commitment to the Monterey County Water Resources Agency to monitor the production of the Oaks well and perform the water accounting proposed in the attached MOU. Cal Am is awaiting approval from the California Department of Health to operate the Oaks well. (November 6, 2012 correspondence from Cal Am.) Cal Am requests that the Monterey County Water Resources Agency be a party to the MOU.
13. A public hearing to consider alternatives for the provision of safe, potable water to the Oaks subdivision was noticed for October 9, 2012. At least ten days prior to the hearing, notice of the hearing was published in a newspaper of general circulation and mailed to the owners of the subject property and property within 300 feet of the subject property. At the request of SOPC

and with concurrence of staff, the Board of Supervisors continued the hearing to December 4, 2012, at which time all members of the public had an opportunity to be heard.

14. The staff report presented several options for the Board's consideration for provision to the Oaks subdivision of safe, potable water supply, including the following:
 - A. Pursue a MOU between the County and Cal Am to memorialize Cal Am's commitment to balance the volume of treated waters provided to the Oaks subdivision with the volume of water pumped from the Oaks well into the Ambler Park water system, so as to result in no net transfer of water;
 - B. Require Cal Am to build a new treatment plant that is not in County's B-8 zone to treat the water from the Oaks' well.
 - C. Require a new well be drilled on the Oaks' site.
 - D. Provide water from Zone 2c from a different water utility.
 - E. Require water to be trucked into the Oaks lots.
15. At the public hearing, the Board had the opportunity review the circumstances and history that lead to the current status of the water supply to the Oaks subdivision, hear public testimony, and provide direction to staff as to which mechanism to pursue to ensure a safe, potable water supply to the Oaks that is consistent with County zoning and respects the right, title and interest of the existing lot owners. Although the County does not believe it is out of compliance with the settlement agreement in *SOPC v. County*, the noticed public hearing also satisfies the requirement in the settlement agreement for the Board to remedy the alleged non-compliance following a noticed public hearing.
16. The Board finds that certain options are infeasible to the extent they would impose an additional burden on the current owners of the nine lots and alter their rights, title, or interest in their property. The final map has been recorded and some lots sold into individual ownership. Following recordation of the final map, the County may modify the final map only if the County finds that "there are changes in circumstances that make any or all of the conditions of the map no longer appropriate or necessary and that the modifications do not impose any additional burden on the fee owners of the real property, and if the modifications do not alter any right, title, or interest in real property reflected on the recorded map." (Gov't Code sec. 66472.1.) Thus, any alternative the Board directs staff to pursue must not impose any additional burden on the current owners of the nine lots nor alter any of their rights, title, or interest in their property.
17. The Board finds that, subject to further analysis and environmental review, the proposed MOU is the method of providing safe, potable drinking water to the Oaks subdivision that is the most feasible, most capable of success, and therefore most protective of public health. Cal Am through its Ambler Park water treatment plant has the technical, managerial and financial capability to treat water. Cal Am also has the ability to serve the Oaks subdivision because Cal Am already owns the Oaks' well and its infrastructure and has extended its Monterey District Ambler Park service area to include the Oaks subdivision. Because the MOU enforces no net transfer of water from Ambler to the Oaks and vice versa, it would not intensify water use in the County's B-8 zone. It is also the option least costly to ratepayers because it relies on a well and

water infrastructure whose cost was already borne by the Oaks' subdivider and would require no new construction. It is also the least disruptive to the existing owners of the nine lots because the obligations to balance the water supply would fall entirely on Cal Am and would cause no disruption of service to the homeowners. The MOU would create a binding contractual obligation on the part of Cal Am to offset Cal Am Monterey District Ambler Park's water service to the Oaks subdivision with an equal amount of water to be pumped from the Oaks well into the Ambler Park water system, so as to result in no net transfer of water. The MOU would flesh out the details of implementation and monitoring.

18. The MOU as drafted is consistent with County's B-8 zoning because Ambler's service to the Oaks subdivision under the terms set forth in the MOU will not result in an intensification of water use in the B-8 zone and is not detrimental to the public health, safety, and welfare.
19. The MOU as drafted serves to protect the public health, safety and welfare by ensuring a water supply to the Oaks' subdivision that meets federal and state drinking water standards without intensifying water use in the County's B-8 zone or exporting water out of benefit assessment Zone 2C.
20. The draft MOU is subject to environmental review under CEQA. Therefore, the Board is not making a decision or commitment to the MOU but rather is selecting an option to enable staff to negotiate the terms with Cal Am and conduct environmental review based on a definitive project description. The Board intends for staff to return to the Board for the Board's further consideration of the MOU following the environmental review.

NOW, THEREFORE, the Board of Supervisors does hereby:

- A. Find that the above recitals and findings are true and correct;
- B. Receive and accept the report of staff;
- C. Direct staff to proceed to negotiate a Memorandum of Understanding (MOU) between California 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 due to the high arsenic level in the subdivision well water; and
- D. Conduct appropriate environmental review and return to the Board for further action.

PASSED AND ADOPTED on this ____ day of _____, 2012 by the following vote:

AYES:

NOES:

ABSENT:

Dave Potter, Chair
Board of Supervisors of the County of Monterey

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 _____ for the meeting on _____.

Dated:

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

By _____
Deputy

EXHIBIT D

Documentation of Chronology

Table of Contents of Documents		
1	August 2000	Sample of Oaks' well shows arsenic level is 35 ppb (parts per billion).
2	May 8, 2001	<p>Board of Supervisors approves vesting tentative map for Oaks subdivision, subject to conditions of approval. (Resolution No. 01-197)</p> <p>Condition 34 provides: "Prior to the recordation of the final map, the subdivider shall provide a signed written agreement between the subdivider and Ambler Park Water Utility (APWU) requiring: a) the subdivider to convey a newly constructed well complete with water distribution infrastructure and fire flow water supply; and b) APWU to 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 the California Public Utility Commission standards. The total costs for item "a" is to be born [sic] by the developer and not APWU or its customers. If at any point in the future, the Toro B-8 zoning overlay is removed, and this stand alone system is to be consolidated with any other system, pumping of water (produced by this well) outside of Monterey County Water Resources Agency zones 2 & 2A is prohibited except in the case of emergency." [timing column: Prior to Recording Final Map]</p> <p>Condition 35 provides: "Design the water system improvements to meet the standards as found in Title 22 of the California Code of Regulations and as found in the Residential Subdivision Water Supply Standards. Submit engineered plans for the water system improvements and any associated fees to APWU for review and approval prior to installing (or bonding) the improvements. Provide evidence that APWU has reviewed and approved the plans. Applicant shall pay all Land Use review fees prior to filing the final map." [timing column: Prior to Recording Final Map]</p>
3	February 22, 2002	Federal Maximum Contaminant Level (MCL) for arsenic at 0.010 mg/L (10 ppb) goes into effect, replacing old standard of 50 ppb. Federal rule provides for 5-year implementation period, with compliance required by January 23, 2006.
4	July 22, 2003	Board of Supervisors approves three-year extension of the tentative map.
5	September 10, 2003	Environmental Health Department advises applicant's attorney that staff has reviewed documents submitted by the applicant for conditions 34, 35, and 36 and staff has not cleared the conditions. Staff requests revisions to the draft agreement submitted for condition 34 and additional information and documentation.
	January 23, 2006	Date that federal regulation requires compliance with federal MCL standard for arsenic [see document under number 3 above]
6	January 24, 2006	Applicant (Bollenbacher and Kelton, Inc.) submits to John Hodges of Environmental Health a copy of letter dated September 2005 to Environmental Health. The September 2005 letter submits two documents to demonstrate compliance with conditions 34 and 35. For condition 34,

		applicant submits a revised memorandum of agreement executed in October 2004 by Cal Am and applicant whereby applicant agrees to construct a well and water distribution system for the subdivision and to convey same to Cal Am (Cal Am had acquired the Ambler Park Water Utility referenced in condition 34). For condition 35, applicant submits a letter dated March 26, 2004 from Cal Am to Environmental Health stating that Cal Am has reviewed and approved the plans, dated February 2004, for the Oaks Subdivision Water System.
7	January 31, 2006	Environmental Health staff notifies Planning staff that condition 34 has been satisfied and condition 35 has been satisfied except for posting of the bond for subdivision improvements. Environmental Health staff requests Public Works staff to inform him when subdivision improvements have been bonded.
8	April 3, 2006	Department of Public Works receives application by Ferrini Oaks, LLC for encroachment permits to install 4" and 8" water lines and sewer line in County roadways for Oaks subdivision
9	June 20, 2006	Board of Supervisors accepts the final map for Oaks subdivision and directs Chair of the Board of Supervisors to sign the Subdivision Improvement Agreement, among other related actions. Staff report advises Board that applicant has met all conditions of approval.
10	June 29, 2006	County issues four encroachment permits to Ferrini Oaks, LLC for work in County roadways, including permit to allow excavation of trench on San Benancio Road to install water mains per attached plans titled "Oaks Subdivision Water System." The plans show both the 8" and 4" mains. The 8" main is the line from Ambler to the Oaks lots, and the 4" main is the raw water main from the Oaks well to the Ambler treatment plant. Evidence shows that both 8" and 4" water mains have been installed.
11	June 30, 2006	Final map is recorded at Vol. 23, Cities and Towns, page 32, in the Office of the Recorder of the County of Monterey.
12	August 2006	Work in roadway begins. County halts work to investigate complaints that water lines are being installed to run between Ambler treatment plant and the Oaks well. Work allowed to proceed based on staff understanding that water from Ambler treatment plant and water from Oaks well will be in balance. General Manager of Monterey County Water Resources Agency (MCWRA) informs applicant's attorney that work does not violate Zone 2C on the understanding that the water from the Oaks well will be treated at the Ambler treatment plant and returned in dedicated lines. Staff understanding is that raw water from the Oaks well and the treated water will be in balance; staff confirms with Cal Am that meters are being installed and seeks a reporting mechanism to monitor and ensure the water balance transfer.
13	October 20, and November 3, 2006	Letter from Cal Am to MCWRA in which Cal Am commits to quarterly monitoring of: 1) the production records from the new Ambler Oaks well; and 2) the water consumption as recorded by Cal Am water meters for the 9 lots in the Ambler Oaks subdivision. Cal Am commits to provide records to MCWRA on a quarterly basis, with such monitoring to begin as

		soon as the first property is ready for a water service connection. MCWRA informs Environmental Health that Cal Am's commitment satisfies MCWRA's concern about exportation of Salinas basin groundwater.
14	February 26, 2008	Board of Supervisors accepts the Oaks Subdivision improvements as complete and releases performance bonds based on certification that improvements have been completed in conformance with the approved improvement plans.
15	April 1, 2009	Three of the lots have been transferred into individual ownership and building permits finalized for single family dwelling on those lots (APNs 161-013-005, 161-013-008, and 161-013-009)
16	September and October 2010	Environmental Health informs Cal Am that per the conditions of approval for the Oaks subdivision, water from the B-8 zone cannot be used to supply an area outside B-8 boundaries; that water from the Oaks well must be metered to the Ambler treatment facility, treated for arsenic, and metered back to Oaks on a one to one basis; that Cal Am will operate the Oaks system as a stand-alone system; and that Cal Am will be required to submit quarterly reports of meter readings to Environmental Health for review
17	October 10, 2010	Planning staff places hold on occupancy or final or construction permit for vacant lots in the Oaks subdivision.
18	February 3, 2011	Letter to Ferrini Oaks, LLC (owner of the six remaining lots) informing owner of the potential code violation and hold on building permits due to Cal Am's water service to the Oaks without a corresponding transfer of water from the Oaks well to Cal Am and due to pending PUC proceeding challenging Ambler service to the Oaks.
19	September 12, 2011	Decision Resolving Complaint issued by PUC in The Highway 68 Coalition v. California American Water (Case 10-08-022). PUC denies the complaint. Findings of fact include: "Cal Am proposes to pump water from the annexed territory, treat the water at the Ambler Park water treatment plant, and then return the same quantity of water back to the annexed territory" and "In 2006, Cal Am agreed to monitor water production and consumption in the Ambler Oaks subdivision, and to make quarterly reports to the County." (finding nos. 7 and 12, at page 14.)
20	March 2012	In response to inquiry from Mike Weaver, County Resource Management Agency informs Mr. Weaver that County staff has determined that the subdivision is not in violation of conditions but County is working with Cal Am to address and enforce County's requirement of no net import/export of water from the County's B-8 zone such that the amount of water drawn from the Oaks well would be equal to the amount of water treated and supplied to the Oaks subdivision by the Ambler Park water treatment plant. Letter states that County and Cal Am anticipate entering into an MOU, and staff intends to bring the MOU to the Board of Supervisors for its consideration in open session.

Technical Memorandum.

Subject: Well Construction and Testing Summary –
“The Oaks” Well , San Benancio Canyon Road

Date: August 12, 2000

Introduction

This memorandum documents the construction of a water well at “The Oaks” property on San Benancio Canyon Road near Highway 68 in the County of Monterey. The property is currently undeveloped. The well was constructed as the supply well for a small water system that is proposed to serve new housing planned at the site. The well was constructed and tested in June 2000.

Background

The feasibility of the well and preliminary design for the well was the subject of a previous technical memorandum prepared by this author in February 22, 2000 (included with this document). Specifications for well construction were developed and Roy Alsop Pump and Drilling, Inc. of Salinas (Contractor) was selected to construct the well.

Methods

The well was drilled between June 15 and June 24, 2000. The well was constructed utilizing a Schramm RotaDrill rotary drill rig owned and operated by the Contractor. The well was constructed utilizing direct rotary methods and a drilling fluid of bentonite and water. Pilot hole was 6 ¼-inches in diameter and the reamed drill hole was 10 5/8-inches in diameter. During drilling, samples of drill cuttings and produced fluids were collected and analyzed by an on-site geologist.

Hydrogeology

The well bore encountered interbedded sand, gravel and clay deposits of Plio-Pleistocene age Paso Robles Formation to a depth of approximately 410 feet. Underlying these materials is the clean coarse-grained sandstone assigned to the Late Miocene Santa Margarita Formation. The pilot boring was extended in the Santa Margarita Formation to a depth of 450 feet to confirm stratigraphic relationships. Upon completion of drilling, the well was geophysically logged by

ANALYTICAL CHEMISTS
and
BACTERIOLOGISTS
Approved by State of California

Tel: 831 724-5422
FAX: 831 724-3188

OIL CONTROL LAB

.42 HANGAR WAY
WATSONVILLE
CALIFORNIA
95076
USA

In any reference, please
quote Certified Analysis
Number appearing hereon.

146770-1-1650

Martin Feeney/RG
623 Taylor Street
Monterey CA 93940

A Division of Control Laboratories Inc.

1 AUG 00

CERTIFIED ANALYTICAL REPORT

MATERIAL: Water sample received 24 July 2000
IDENTIFICATION: Oaks Well, 7/24/00, 1115
REPORT: Quantitative chemical analysis is as follows
expressed as milligrams per liter:

PUBLIC
HEALTH
DRINKING
WATER
LIMITS¹

Arsenic (As)	0.034	0.05
Barium (Ba)	< 0.1	1.0
Boron (B)	< 0.1	-
Cadmium (Cd)	< 0.001	0.005
Chromium (Cr)	< 0.01	0.05
Copper (Cu)	< 0.05	1.0
Cyanide (CN)	< 0.05	0.2
Lead (Pb)	< 0.005	0.05
Mercury (Hg)	< 0.0002	0.002
Selenium (Se)	< 0.005	0.05
Silver (Ag)	< 0.005	0.1
Zinc (Zn)	0.7	5.0
MBAS (Surfactants)	< 0.02	0.5
Aluminum (Al)	< 0.1	1.0
Antimony (Sb)	< 0.006	0.006
Beryllium (Be)	< 0.001	0.004
Nickel (Ni)	< 0.01	0.1
Thallium (Tl)	< 0.001	0.002
Nitrite (as NO ₂)	< 0.5	-

¹ California Administrative Code;
Title 22

The undersigned certifies that the above is a true and
accurate report of the findings of this Laboratory.

Analyst



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

RESOLUTION NO. 01-197

Resolution Approving a Standard)
Subdivision Vesting Tentative Map for)
Bollenbacher and Kelton (PC94170))
San Benancio area)

The matter of a Standard Subdivision Vesting Tentative Map for Bollenbacher and Kelton (File No. PC94170) came before the Board of Supervisors after being considered at Public Hearing before the Board of Supervisors on October 27, 1998, which resulted in the Board requiring the preparation of an Environmental Impact Report, and at subsequent hearings on January 9, and January 30, 2001, and

WHEREAS, the Board of Supervisors, pursuant to regulations established by local ordinance and State law, considered at a public hearing, said Standard Subdivision Vesting Tentative Map for property located on a portion of Lot C of Lot 4, Assessor's Map of El Toro Rancho, fronting on and northeasterly of San Benancio Road and fronting on and southeasterly of State Highway 68, south of the San Benancio School (Assessor Parcel Number 161-011-078-000) in the San Benancio area, on May 8, 2001, and

WHEREAS, said Standard Subdivision Vesting Tentative Map consists of the division of an existing 325.7-acre parcel into 9 residential lots ranging in size from 1.7 to 13.6 acres and a remainder parcel of 285.7 acres, and

WHEREAS, the Board of Supervisors, having considered the application and the evidence presented thereto, and the original negative declaration and initial study filed on December 7, 1997, and having considered the Final EIR with mitigation measures completed on November 27, 2000, certifies the Final EIR and adopts the mitigation monitoring program, and approves said Standard Subdivision Vesting Tentative Map, and makes the following findings in support of its decision:

**FINDINGS FOR CERTIFICATION OF THE
ENVIRONMENTAL IMPACT REPORT**

1. **FINDING:** A Notice of Preparation for the Standard Subdivision Vesting Tentative Map EIR was circulated to State, regional, and local agencies and to interested community organizations and individuals and a 30 day comment period established providing such agencies and individuals an opportunity to identify issues and concerns to be addressed in the Draft EIR;

EVIDENCE: Administrative record in File No. PC 94170; record of hearings; EIR #99-01.
2. **FINDING:** Each topic identified in Board of Supervisors Resolution No. 94-438, all concerns expressed in appropriate comments following publication of the Notice of Preparation, and all relevant aspects of previous environmental analysis affecting the subject property and referenced in the FEIR were compiled and addressed in the manner required by CEQA;

EVIDENCE: Administrative record in File No. PC 94170; record of hearings; EIR #99-01.
3. **FINDING:** The resulting Draft EIR was made available and circulated for review and comment by the public and other interested parties, agencies and individuals for a period of 45 days and notices of completion and availability were issued and published to ensure the adequacy of public review in the manner required by CEQA;

EVIDENCE: Administrative record in File No. PC 94170; record of hearings; EIR #99-01.
4. **FINDING:** Following the expiration of the 45-day public review period, comments on the adequacy of the Draft EIR were obtained, appropriate responses to each comment were prepared and published and the Draft EIR modified as necessary in response to such comments received as indicated in the Final EIR;

EVIDENCE: Administrative record in File No. PC 94170; record of hearings; EIR #99-01.
5. **FINDING:** The Board of Supervisors has provided an opportunity for public review and comment on the Final EIR and responses to comments have been prepared and were reviewed by the Board of Supervisors on January 9, and January 30, 2001. These responses include changes by County staff regarding the cumulative impact section related to traffic. The Board recognizes that cumulative impacts have been identified and also that mitigations are identified to bring cumulative impacts below a level of significance and are incorporated into the project's conditions of approval and the Board adopted Mitigation Monitoring Plan.

EVIDENCE: Administrative record in File No. PC 94170; record of hearings; EIR #99-01; Finding #9 below.
6. **FINDING:** The Final Environmental Impact Report and Mitigation Monitoring Program have been completed in compliance with the California Environmental Quality Act (CEQA).

EVIDENCE: Administrative record in File No. PC 94170; record of hearings; EIR #99-01.
7. **FINDING:** The Final Environmental Impact Report reflects the Board of Supervisor's independent judgment.

EVIDENCE: Administrative record in File No. PC 94170; record of hearings; EIR #99-01.

8. FINDING: The Board of Supervisors reviewed and considered the information in the Final EIR and Mitigation Monitoring Program before approving the Oaks Standard Subdivision Vesting Tentative Map.

EVIDENCE: Administrative record in File No. PC 94170; record of hearings; EIR #99-01.

9. FINDING: The following changes or alterations have been required in and incorporated into the project which substantially lessen the significant environmental effects identified in the Final EIR to a level of insignificance:

Geologic and Geotechnical Hazards Mitigation #s 2 thru 7 - FEIR— Development of the proposed project has the potential to result in significant impacts associated with debris flow from slopes adjacent to the proposed building sites. The applicant is required to design and identify the location of debris flow walls prior to recordation of the final map of the proposed subdivision. This mitigation is shown as Condition #20 of project approval contained in the draft resolution.

Drainage Mitigation #1 - FEIR - Development of the proposed project has the potential to result in significant impacts associated with surface water flow to include debris flow. The FEIR discusses mitigations involving improvements and conditions to address drainage including a drainage plan and landscaping and erosion control requirements (These mitigations are shown as Conditions #10, 11, 12, 21, 34, 39, 40, 41, 44 of project approval contained in the draft resolution). To address the debris flow issue, one of these conditions (Condition #18) requires the elevation of future residential units on the proposed lots to be determined based on a recommendation and further analysis by a qualified engineer, prior to filing of the final map. In addition a new mitigation (Condition #20) has been added to require the applicant to obtain a Storm Water Pollution Prevention Plan from the Central Coast Regional Water Quality Control Board. This plan requires the development and implementation of storm water "Best Management Practices" to control runoff, erosion and sedimentation from the project site.

Traffic and Circulation Mitigation # 8-10 FEIR- The traffic analysis contained in the FEIR concludes that project specific impacts are less than significant but that cumulative impacts are significant since the project contributes 8 morning peak hour trips and 11 evening peak hour trips to a LOS F peak hour condition on Highway 68. To address the cumulative impacts, two mitigations (Conditions 30 & 31 of project approval contained in the proposed resolution) are identified to bring impacts below a level of significance: 1) to re-stripe the intersection of San Benancio Road and Casa La Cumbre Road southbound approaches to include a shared left turn/through lane and right turn lane, and 2) to construct a northbound right turn overlap phasing at the intersection of San Benancio Road and Highway 68. In addition, the applicant has agreed to provide additional mitigation above and beyond that required to reduce impacts below a level of significance by paying a fair share contribution based on area development towards improvements to the Highway 68 Corridor that are or will be contained in the State Highway 68 Traffic Improvement Advisory Committee Report to be considered for approval by the Board later this year.

EVIDENCE: Final EIR for the Oaks Standard Subdivision Vesting Tentative Map including the staff report and exhibits thereto dated January 9, January 30, and May 8, 2001, appendices and information on file in the Planning and Building Inspection Department pertaining to File PC94170.

10. FINDING: After considering all the evidence, both oral and documentary, contained in the record, the Board of Supervisors hereby finds that the conditions of approval required for this project eliminate or substantially lessen all significant impacts on the environment to less-than significant levels. There are no alternatives consistent with the purpose of the project that would mitigate this impacts to less-than significant levels.

EVIDENCE: Final EIR for the Oaks Standard Subdivision Vesting Tentative Map including the staff report and exhibits thereto dated January 9, January 30, and May 8, 2001, appendices and information on file in the Planning and Building Inspection Department pertaining to File PC94170.

FINDINGS AND EVIDENCE FOR THE STANDARD SUBDIVISION VESTING TENTATIVE MAP

11. FINDING: The proposed Standard Subdivision Vesting Tentative Map is consistent with the Toro Area Plan, which designates this property as "Low Density Residential 5-1 Acres per Unit" and "Resource Conservation 10-160 Acres per Unit."

EVIDENCE: The proposed project consists of the division of an existing 325.7-acre parcel into 9 residential parcels, ranging in size from 1.7 acres to 13.6 acres, and a remainder parcel of 285.7 acres. The residential lots would be located in an approximately 40-acre portion of the property; approximately 11.7 of the 40 acres are designated as "Low Density Residential 5-1 Acres per Unit" and approximately 28.3 acres are designated as "Resource Conservation 10-160 Acres per Unit."

EVIDENCE: The 9 proposed residential lots contain building sites located within portions of the approximately 11.7 acres designated as "Low Density Residential 5-1 Acres per Unit". Development in the proposed lots would result in a density of approximately 1.3 acres per unit, which complies with this land use designation.

EVIDENCE: The Board of Supervisors has, as part of the approval of the project, assigned zoning classifications to designate portions of the property as "LDR/B-6-D" (Low Density Residential, / Building Site Review – Design Control), to designate portions of the property as "LDR/B-6-D- (24)" (Low Density Residential, / Building Site Review – Design Control – 24 Foot Maximum Height) and to designate portions of the property as "RC/B-6-D" (Resource Conservation / Building Site Review – Design Control). These zoning designations comply with the property's land use designation under the land use plan of the Toro Area Plan.

12. FINDING: Development of the proposed subdivision will not adversely affect the natural scenic beauty of the area.
- EVIDENCE: Based on field review of potential visual impacts from residential development on the proposed building areas, staff recommended that future development on proposed lot Nos. 1, 4 and 9 be subject to a 24-foot height limitation, in order to minimize visual impacts along San Benancio Road and to maintain the natural characteristics and visual integrity of the views of the site. This zoning designation is reflected in the overall zoning of the property adopted by the Board of Supervisors as part of the approval of the project.
13. FINDING: The site of the proposed project is physically suitable for the type and density of the development proposed.
- EVIDENCE: The proposed subdivision provides for adequate building sites as evidenced by the application material submitted for the project, as well as changes implemented to the original proposal and adoption of the recommended mitigation measures and conditions of approval.
- EVIDENCE: Various technical reports submitted for the project and review of the application by the appropriate County agencies.
14. FINDING: The proposed Standard Subdivision will not result in any significant environmental impacts.
- EVIDENCE: The Environmental Impact Report (EIR # 99-01) prepared for the project identified potentially significant cumulative impacts from the proposed project on existing traffic conditions and potential impacts from debris flow on the proposed residential lots. The Environmental Impact Report recommended mitigation measures, which would bring these potential impacts to less-than significant levels. These mitigation measures have been incorporated into the Mitigation Monitoring Plan required by the Public Resources Code.
- EVIDENCE: An Initial Study was prepared for the project and a Negative Declaration filed on December 5, 1997. The initial study did not identify any potentially significant impacts not identified in the Environmental Impact Report prepared for the project.
15. FINDING: The design of the proposed subdivision will not cause serious public health problems.
- EVIDENCE: The project was reviewed by the Division of Environmental Health, which requires the subdivider to convey to the Ambler Park Water Company (APWU) the water system for the subdivision; and that APWU 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.
16. FINDING: In considering the tentative map, the Board of Supervisors has balanced the housing needs of the County against the public service needs of its residents and available fiscal and environmental resources.
- EVIDENCE: The applicant is required, as a condition of approval, to comply with the Monterey County Inclusionary Housing Ordinance prior to filing of the final map.

17. FINDING: The property is in compliance with all rules and regulations pertaining to zoning uses, subdivisions, or any other applicable provisions of Title 21 or any zoning violation abatement costs have been paid.
- EVIDENCE: Staff verification of Planning and Building Inspection records.
18. FINDING: For the purposes of the Fish and Game Code, the project has the potential for adverse impact on fish and wildlife resources upon which the wildlife depends.
- EVIDENCE: Staff analysis contained in the Initial Study and the record as a whole indicate the project may result in changes to the resources listed in Section 753.5(d) of the Department of Fish and Game regulations. Staff has determined that the proposed subdivision could result in changes to resources which are indicated in Section 753.5(G), "All air and water resources and the degradation of which will individually or cumulatively result in the loss of biological diversity among plants and animals residing in air or water."
19. FINDING: The design of the subdivision and the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.
- EVIDENCE: The subject property is privately owned and no easements of record or easements established by judgment of a court of competent jurisdiction, which grant the public at large a right of access to, or use of property within the proposed subdivision, exist.
20. FINDING: The design of the subdivision provides, to the extent feasible, for future passive or natural heating or cooling opportunities.
- EVIDENCE: Staff has reviewed the project and has determined that the lot configurations on the project site permit the orientation of structures in an east-west alignment for southern exposure and permit the orientation of structures to take advantage of prevailing breezes from the west. Consideration has been given to local climate, the contours of the parcel to be divided, and to other design and improvement requirements.
21. FINDING: The establishment, maintenance or operation of this subdivision will not, under the circumstances of this particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such subdivision or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.
- EVIDENCE: This project has been reviewed by the Monterey County Public Works Department, Environmental Health Division, Parks Department, Water Resources Agency, and the Salinas Rural Fire Protection District. Appropriate conditions of approval have been placed on the project by these departments and agencies to insure the public health and safety and orderly development of the surrounding area.

THEREFORE, it is the decision of the Board of Supervisors to certify the Environmental Impact Report for the project, to approve the Mitigation Monitoring Program (attached hereto as Exhibit "A") and to approve said Standard Subdivision Vesting Tentative Map as shown on the attached sketch, subject to the following conditions:

Planning and Building Inspection Department

1. The proposed project consists of a Standard Subdivision Vesting Tentative Map for the division of an existing 325.7-acre parcel into 9 residential parcels, ranging in size from 1.7 acres to 13.6 acres, and a remainder parcel of 285.7 acres and approximately 1,000 cubic yards of grading, in accordance with County ordinances and land use regulations subject to the following terms and conditions. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of Planning and Building Inspection. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities.
2. The property owner agrees as a condition, and in consideration of, the approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his/her/its obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, or filing of the final map, whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the County harmless.
3. The applicant shall record a notice which states: "A Standard Subdivision Vesting Tentative Map (Resolution No.) was approved by the Board of Supervisors for Assessor's Parcel Number 161-011-078-000 on May 8, 2001. The permit was granted subject to 71 conditions of approval, which run with the land. A copy of the permit is on file with the Monterey County Planning and Building Inspection Department." Proof of recordation of this notice shall be furnished to the Director of Planning and Building Inspection prior to filing of the final map.
4. Utility easements for water lines for each parcel shall be indicated on the map.
5. The applicant shall comply with the requirements of the Inclusionary Housing Ordinance prior to filing of the final map.
6. All new utility and distribution lines shall be placed underground.

7. If archaeological resources or human remains are discovered during construction, work shall be halted within 150 feet of the find until it can be evaluated by a qualified professional archaeologist. If the find is determined to be significant, appropriate mitigation measures shall be formulated and implemented.
8. Pursuant to the State Public Resources Code, State Fish and Game Code, and California Code of Regulations, the applicant shall pay a fee to be collected by the County of Monterey in the amount of \$875.00. This fee shall be paid on or before the filing of the Notice of Determination. Proof of payment shall be furnished by the applicant to the Director of Planning and Building Inspection prior to the recordation of the Final Map. The project shall not be operative, vested or final until the filing fees are paid.
9. A Grading Permit shall be required pursuant to the Monterey County Code relative to Grading, Chapter 16.08.
10. No land clearing or grading shall occur on the subject parcel between October 15 and April 15 unless authorized by the Director of Planning and Building Inspection.
11. All cut and/or fill slopes exposed during the course of construction shall be covered, seeded, or otherwise treated to control erosion during the course of construction, subject to the approval of the Director of Planning Building Inspection.
12. The improvement and grading plans shall include an implementation schedule of measures for the prevention and control of erosion, siltation and dust during and immediately following construction and until erosion control planting becomes established. This program shall include a landscaping plan pursuant to County requirements. This program shall be approved by the Director of Planning and Building Inspection.
13. All landscaped areas and/or fences shall be continuously maintained by the applicant and all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition.
14. A note shall be placed on the final map or a separate sheet to be recorded with the final map indicating that "A 24-foot Height Restriction applies to lot Nos.: 1, 4 and 9." The note shall be located in a conspicuous manner subject to the approval of the Director of Planning and Building Inspection.
15. A Scenic Easement shall be conveyed to the County in perpetuity over those portions of the residential lots and portions of the remainder parcel where the slope exceeds 30% as well as the areas designated as "Former Lot 1" and "Former Lot 11" in the Vesting Tentative Map as revised on March 14, 2001. A Scenic Easement Deed shall be submitted for review and approval by the Director of Planning and Building Inspection.
16. Building envelopes shall be designated in lots 1, 2, 3, 4, 6, 7, 8 and 9 for the purpose of minimizing oak tree removal and potential impacts from debris flow, subject to the approval of the Director of Planning and Building Inspection.
17. A note shall be placed on the final map or a separate sheet to be recorded with the final map which states: "No grading, construction of structures and/or roads (except as in accordance with the recorded subdivision map) or vegetation removal may take place outside of the building envelopes in lots 1, 2, 3, 4, 6, 7, 8 and 9."

18. Development of residential units in the proposed subdivision shall include construction of debris wall, or walls, of dimensions appropriate for each unit. The design and location of the walls shall be determined based on recommendations from individual geotechnical reports to be approved by Planning and Building Inspection and the Water Resources Agency prior to recordation of the final map. The parameters for the preparation of these individual geotechnical reports and the general location of the debris flow walls shall be included in the Final Map. These reports shall also contain an analysis of the earth materials underlying each of the proposed homesites and provide foundation criteria particular to each site. For consistency, the geotechnical reports prepared for the individual lots shall be prepared by the same consultant. The applicant shall enter into an agreement with the Water Resources Agency to bond construction of the debris flow walls. A notice shall be recorded for each individual lot in the subdivision stating, "Construction of the debris flow wall required as a condition of approval of the Oaks Subdivision (File No. PC94170) for this lot, shall be completed prior to issuance of final occupancy."
19. A note shall be placed on the Final Map or a separate sheet to be recorded with the Final Map which states: "Construction of all habitable structures and debris flow walls within the lots in the subdivision, shall be in conformance with the recommendations of all geotechnical and geologic reports identified in Environmental Impact Report No. 99-01 and shall be based on the recommendations of the geotechnical reports prepared for the individual lots."
20. Prior to obtaining a grading permit for any site work the applicant shall submit a notice of intent to the Central Coast Regional Water Quality Control Board.
21. The applicant shall enter into an agreement with the County to implement the Mitigation Monitoring Plan adopted for the project.
22. Any tree removal on the 40-acre portion of the property covered under the proposed subdivision, either before or after recordation of the Final Map, shall be conducted in accordance with the content and recommendations of the Forest Management Plan prepared by Hugh Smith for the project, dated May 21, 1994, as well as the mitigation measures identified in Section 8 of the Initial Study prepared for the application and contained in File No. PC94170. A note shall be placed in the Final Map stating "All tree removal on the 40-acre portion of the property covered under the subdivision, shall be conducted in accordance with the Forest Management Plan prepared for the project by Hugh Smith and dated May 21, 1994, and in accordance with all applicable requirements of Chapter 21.64.260 of the Zoning Ordinance." Additionally, a Notice shall be recorded for each individual lot stating "Any tree removal on this lot shall be conducted in accordance with the Forest Management Plan prepared for the project by Hugh Smith and dated May 21, 1994, and in accordance with all applicable requirements of Chapter 21.64.260 of the Zoning Ordinance." As a general rule, all oak tree removal necessary for development improvements shall be minimized to the maximum extent possible.

Public Works Department

23. The Subdivider shall submit three prints of the approved tentative map to each of the following utility companies: Pacific Gas & Electric Company and Pacific Bell. Utility companies shall submit their recommendations, if any, to the Director of public Works for all required easements.
24. All natural drainage channels shall be designated on the final map by easements labeled "Natural Drainage Easements."

25. Where cut or fills at property line exceed 5' driveways shall be rough graded in when streets are rough graded, and positive drainage and erosion control shall be provided.
26. All roads within this subdivision will be private roads.
27. All proposed road names must be approved by County Communications.
28. The private road easements shall be 50' wide and paved to a width of 18' including drainage control or as approved by the Salinas Rural Fire Protection District. Road improvements shall include tapers on San Benancio Canyon Road as required by the Department of Public Works to insure adequate sight distance.
29. The location of all driveways and roads to San Benancio Canyon Road shall be approved by Public Works to insure adequate sight distance in accordance with prevailing speeds. This may include trimming existing vegetation on the inside of the curve and construction of modified tapers to San Benancio Canyon Road.
30. The developer shall make the following road improvements prior to occupancy of the first dwelling unit to address cumulative impacts:
 - a. restripe San Benancio Road northbound and the Casa La Cumbre southbound approaches to include a shared left turn/through lane and right turn lane;
 - b. construct a northbound right turn overlap phasing on San Benancio Road at Highway 68.
31. Prior to issuance of building permits, the applicant shall pay a traffic impact fee of \$15,000 per lot. These funds shall be used by the County to construct either:
 - a. improvements identified at the intersection of Highway 68 and Corral de Tierra identified in the State Highway 68 Traffic Improvement Advisory Committee Report dated July 10, 2000; or
 - b. other highway improvements included in an action plan for Highway 68 improvements adopted by the Board of Supervisors, subject to approval by the Public Works Department.
32. Dedicate to County a 1' non-access strip along entire frontage of San Benancio Canyon Road except for approved openings, exclusive of the remainder parcel.
33. The applicant shall place an asphalt lining on the existing ditch located on the east side of San Benancio Road, subject to the approval of the Director of Public Works.

Division of Environmental Health

34. Prior to the recordation of the final map, the subdivider shall provide a signed written agreement between the subdivider and Ambler Park Water Utility (APWU) requiring: a) the subdivider to convey to APWU a newly constructed well complete with water distribution infrastructure and fire flow water supply; b) APWU to 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. The total costs for item "a" is to be born by the developer and not APWU or it's customers. If at any point in the future, the Toro B-8 zoning overlay is removed, and this stand alone system is to be consolidated with any other system, pumping of water (produced by this well) outside of Monterey County Water Resources Agency zones 2 & 2A is prohibited except in the case of emergency.

35. Design the water system improvements to meet the standards as found in Title 22 of the California Code of Regulations and as found in the Residential Subdivision Water Supply Standards. Submit engineered plans for the water system improvements and any associated fees to APWU for review and approval prior to installing (or bonding) the improvements. Provide evidence that APWU has reviewed and approved the plans. Applicant shall pay all Land Use review fees prior to filing the final map.
36. Design the water system improvements to meet fire flow standards as required and approved by the local fire protection agency. Submit evidence to the Division of Environmental Health that the proposed water system improvements have been approved by the local fire protection agency prior to installation or bonding and prior to filing of the Final Map.
37. The sewer system improvements and any appurtenances shall be installed, or bonded, to and within the subdivision prior to filing the final map.

Water Resources Agency

38. A notice shall be recorded on the final map for the remainder parcel of 285.65 acre stating that, "The property is located within or partially within a floodplain and may be subject to building and/or land use restriction." A copy of the recorded notice shall be provided to the County Water Resources Agency.
39. A notice shall be recorded on the final map that there are "Areas on the 285.65 remainder parcel, subject to inundation by the 100-year flood as shown on federal flood boundary Maps by FEMA".
40. A drainage plan addressing on-site and off-site impacts shall be prepared by a registered civil engineer. It shall incorporate the findings and recommendations in the Foxx, Nielsen & Assoc. "Geologic Report 'The Oaks' subdivision", dated June 1994; the findings and recommendations in the "Engineering Geologic Report, Preliminary Soils Report and Percolation Study" by Sampson Engineering dated June 30, 1994; and the findings and recommendations in the "Supplemental Geologic Investigation and Geotechnical Investigation", also by Sampson Engineering, dated May 3, 1997. Special attention shall be given to those portions of the reports dealing with debris flow, drainage and erosion hazards. Necessary improvements shall be constructed in accordance with approved plans and shall comply with all requirements of Condition No. 18.
41. The applicant shall comply with Ordinance No. 3539, or as subsequently amended, of the Monterey County Water Resources Agency pertaining to mandatory water conservation regulations. The regulations for new construction require, but are not limited to:
 - a. All toilets shall be ultra-low flush toilets with a maximum tank size or flush capacity of 1.6 gallons, all shower heads shall have a maximum flow capacity of 2.5 gallons per minute, and all hot water faucets that have more than ten feet of pipe between the faucet and the hot water heater serving such faucet shall be equipped with a hot water recirculation system.
 - b. Landscape plans shall apply xeriscape principles, including such techniques and materials as native or low water use plants and low precipitation sprinkler heads, bubblers, drip irrigation systems and timing devices.
42. Prior to the conveyance of any lots in the subdivision, the applicant shall have the sole responsibility for the care, maintenance, and repair of road and drainage improvements, fire hydrants, and debris flow walls installed as a condition of approval of the subdivision. Upon each conveyance of each lot in the subdivision, the responsibility for each lot conveyed shall shift to the succeeding owner. The applicant's obligation shall continue on the remaining lots not yet conveyed. An agreement to this effect, running

with the land, shall be recorded between applicant and the County of Monterey prior to recordation of the Final Map.

43. Natural drainage shall be routed around proposed development and in a way that it does not impact downslope development, in accordance with plans by a registered civil engineer or architect.
44. A homeowners agreement shall be entered into for the maintenance of roads, drainage facilities, debris flow walls and open spaces. The agreement shall include a statement that "the road and drainage maintenance agreement provide that delinquent assessments be a lien on the property of the delinquent member. That no amendments or alterations of or change or addendum to the agreement shall have any force or effect unless and until approved by the Board of Supervisors." The Agreement shall be approved by the Director of Public Works, the Director of Planning and Building Inspection, and the County Water Resources Agency, prior to filing of Final Map. C.C. & R.'s shall include provisions for a yearly report by a registered civil engineer, and the monitoring of impacts of drainage and maintenance of drainage facilities and debris flow walls. The report shall be reviewed and approved by the County Water Resources Agency.
45. The homeowners' agreement shall include a provision that if after notice and hearing the homeowners fails to properly maintain, repair or operate the drainage and flood control facilities and debris flow controls in the project, Monterey County Water Resources Agency shall be granted the right by the property owners to enter any and all portions of the property to perform repairs, maintenance or improvements necessary to properly operate the drainage and flood control facilities and debris flow walls in the project. The County Water Resources Agency shall have the right to collect the cost for said repairs, maintenance or improvements from the property owners upon their property tax bills. A hearing shall be provided by the Board of Supervisors as to the appropriateness of the cost. The agreement to this effect shall be entered into concurrent with the filing of the final map of the first phase of the subdivision.
46. In accordance with Monterey County Water Resources Agency Water Conservation Ordinance No. 3539, or as subsequently amended, the C.C.&R.'s shall contain provisions that: all new construction incorporate the use of low water use plumbing fixtures including, where applicable, hot water recirculation systems; the front yards of all homes shall be landscaped at the time of construction; low water use or drought tolerant plants shall be used together with water efficient irrigation systems; leak repair is the property owner's responsibility; vehicle and building washing shall use hoses equipped with shutoff nozzles; no potable water to be used for sidewalk washing; no water spillage into streets, curbs, and gutters; no emptying or refilling of swimming pools except for structural repairs or if required for public health regulations; no fountains unless water is recycled within the fountain.
47. The applicant shall provide to the Water Resources Agency a water balance analysis describing the pre-development and post-development water use on the property. Any proposed increase in water use shall require the identification and implementation of mitigation measures, if feasible, by the applicant.

Salinas Rural Fire Protection District

48. Access roads shall be required for every building when any portion of the exterior wall of the first story is located more than 150 feet from fire department access.
49. The roadway surface shall provide unobstructed access to conventional drive vehicles, including sedans and fire engines. Surfaces should be established in conformance with local ordinances, and be capable of supporting the imposed load of fire apparatus.

50. Each dead-end road shall have a turnaround constructed at its terminus.
51. Size of letters, numbers and symbols for street and road signs shall be a minimum 4 inch letter height, 1/2 inch stroke, and shall be a color that clearly contrasts with the background color of the sign. All numerals shall be Arabic.
52. A sign identifying traffic access or flow limitations, including but not limited to weight or vertical clearance limitations, dead-end road, one-way road or single lane conditions, shall be placed at the following locations:
 - a. At the intersection preceding the traffic access limitation, and
 - b. No more than 100 feet before such traffic access limitation.
53. That a note be placed on the final map or a note be recorded at the time of recordation of the final map which requires that the buildings shall be fully protected with automatic sprinkler systems. The following notation is required on the plans when a building permit is applied for: "The building shall be fully protected with an automatic fire sprinkler system. Fire sprinklers shall be installed in attached garages. Installation, approval and maintenance shall be in compliance with applicable National Fire Protection Association and/or Uniform Building Code Standards, the editions of which shall be determined by the enforcing jurisdiction. Four(4) sets of plans for fire sprinkler systems must be submitted and approved prior to installation. Rough in inspections must be completed prior to requesting a framing inspection."
54. The fire flow for this subdivision is based on the Uniform Fire Code Appendix 111-A (Fireflow Requirements for Buildings)
 - a. Fire flow shall be 1000 gallons per minute with a residual pressure of 20 psi.
 - b. Hydrant outlets shall include one 4-1/2 inch and one 2-1/2 inch and one NST outlets.
 - c. Fire hydrant location and distribution shall be in accordance with Appendix III-B of the Uniform Fire Code.
 - d. Fire flow and hydrant spacing may be modified due to the installation of fire sprinkler systems and fire resistive roofing. Fire flow in the one and two family dwelling areas may be reduced to the rate of 500 gallons per minute with a residual pressure of 20 psi when residences are protected with automatic fire sprinklers in the residences and are built with fire resistive roofing systems (Class "A").
 - e. Hydrant Identification- Blue reflective hydrant markers are required to be installed pursuant to Public Works Department Standards (Monterey County Resolution 83-3).
55. Plans for the water system installation shall be received and approved by the Salinas Rural Fire District prior to installation. The water system shall be tested and accepted by the Salinas Rural Fire District, prior to the issuance of building permits.
56. A note shall be placed on the final map or a notice shall be recorded at the time of recordation of the final map, which requires that plans for road improvements shall be received and approved by the Salinas Rural Fire District prior to installation. Road improvements shall be inspected and accepted by the Salinas Rural Fire District, prior to issuance of building permits.

57. A note shall be placed on the final map or a notice shall be recorded at the time of recordation of the final map which states that this project is located in a very high fire hazard area, as defined by the California Department of Forestry and Fire Protection (CDF), roof construction shall be a Class "A" with fire resistive materials, or as approved by the Reviewing Authority. This requirement shall apply to all new construction and existing roofs that are repaired or modified so as to affect 50 percent or more of the roof. Vegetation removal will not be allowed as a means of removing high or very high fire hazard area designation from an entire parcel.
58. The grade for all roads, streets, private lanes and driveways shall not exceed 15 percent, unless otherwise approved by the Salinas Rural Fire District.
59. For residential driveways with turns 90 degrees and less, the minimum horizontal inside radius of curvature shall be 25 feet. For driveways with turns greater than 90 degrees, the minimum horizontal inside radius of curvature shall be 28 feet. For all driveway turns, an additional surface of 4 feet shall be added.
60. No roadway turn shall have a horizontal inside radius of less than 50 feet. A roadway turn radius of 50 to 100 feet is required to have an additional 4 feet of roadway surface. A roadway turn radius of 100 to 200 feet is required to have an additional 2 feet of roadway surface.
61. Roadway turnarounds shall be required on driveways and dead-end roads in excess of 150 feet of surface length. Required turnarounds on access roadways shall be located within 50 feet of the primary building. The minimum turning radius for a turnaround shall be 40 feet from the centerline of the road. If a hammerhead "T" is used, the top of the "T" shall be a minimum of 60 feet in length.
62. Street and road signs shall be visible and legible from both directions of vehicle travel for a distance of at least 100 feet.
63. Newly constructed or approved public and private roads and streets shall be identified in accordance with provisions of Monterey County Ordinance No. 1241. All signs shall be mounted and oriented in a uniform manner. This section does not require any entity to rename or renumber existing roads or streets, nor shall a roadway providing access only to a single commercial or industrial occupancy require naming or numbering.
64. Signs required under this section identifying intersecting roads, streets and private lanes shall be placed at the intersection of those roads, streets and/or private lanes.
65. Road, street and private signs required by this article shall be installed prior to final acceptance of road improvements by the County of Monterey.
66. A note shall be placed on the final map or a notice shall be recorded at the time of recordation of the final map which requires that all buildings shall be issued an address in accordance with Monterey County Ordinance No. 1241. Each occupancy, except accessory buildings, shall have its own address. When multiple occupancies exist within a single building, each individual occupancy shall be separately identified by its own address.
67. A note shall be placed on the final map or a notice shall be recorded at the time of recordation of the final map which requires that all parcels 1 acre and larger shall provide a minimum 30 foot setback for buildings and accessory buildings from all property lines and/or the center of the road. For parcels less than 1 acre, or when a 30 foot minimum setback cannot be reached, alternate fuel modification standards may be imposed by the local fire jurisdiction to provide the same practical effect.

68. Disposal, including chipping, burying, burning or removal to a landfill site approved by the local jurisdiction, of flammable vegetation and fuels caused by site development and construction, road and driveway construction, and fuel modification shall be completed prior to completion of road construction or final inspection of the building permit.
69. A note shall be placed on the final map or a notice shall be recorded at the time of recordation of the final map which requires that before construction begins, temporary or permanent address numbers shall be posted. Permanent address numbers shall be posted prior to requesting final clearance. All address numbers (permanent and temporary) shall be posted on the property so as to be clearly visible from the road. Where visibility cannot be provided, a post or sign bearing the address numbers shall be set adjacent to the driveway or access road to the property. Address numbers posted shall be Arabic, not Roman or written out in words. Address numbers posted shall be a minimum number height of 3 inches with a 3/8-inch stroke, and contrasting with the background colors of the sign.
70. All roads shall be constructed to provide a minimum of two nine-foot traffic lanes providing two-way traffic flow, unless other standards or additional requirements are mandated by local jurisdictions or local subdivision requirements.

Parks and Recreation Department

- 71 . Applicant shall comply with the recreation requirements contained in Section 19.12.010 of Title 19 of the Monterey County Code (Subdivision Ordinance).

Upon motion by Supervisor Pennycook, seconded by Supervisor Armenta, the foregoing Findings and Decision are adopted this 8th day of May, 2001, by the following vote:

AYES: Supervisors Armenta, Pennycook, Calcagno, and Johnsen

NOES: Supervisor Potter

ABSENT: None

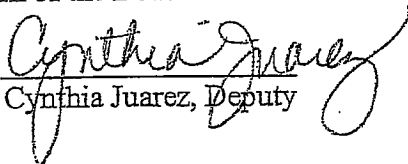


Chair of the Board of Supervisors
County of Monterey, State of California

ATTEST:

SALLY REED
Clerk of the Board

EDITH JOHNSEN, CHAIR
Monterey County Board of Supervisors

By 
Cynthia Juarez, Deputy

A COPY OF THIS DECISION WAS MAILED TO THE APPLICATION ON May 18, 2001 PROCEDURE, SECTION 1094.5. THE TIME WITHIN WHICH JUDICIAL REVIEW OF THIS DECISION MUST BE SOUGHT IS GOVERNED BY THE CODE OF CIVIL PROCEDURE, SECTION 1094.6. ANY PARTY SEEKING JUDICIAL REVIEW OF THIS FINAL DECISION MUST COMPLY WITH THE TIME LIMITS SET FORTH IN THE CALIFORNIA CODE OF CIVIL PROCEDURE, SECTION 1094.6.

SUBMITTER'S STATEMENT:

- A. EXISTING LOTS TO BE REMOVED
- B. PROPOSED LOTS 1 THROUGH 9 - LOW DENSITY 5-1 ZONING DISTRICT
- C. PROPOSED EROSION CONTROL MEASURES
- D. PROPOSED WATER SUPPLY
- E. PROPOSED DRAINAGE INFRASTRUCTURE
- F. PROPOSED SERVICE UTILITIES
- G. PROPOSED TRAIL OR DEVELOPMENT
- H. PROPOSED TRAIL OR DEVELOPMENT

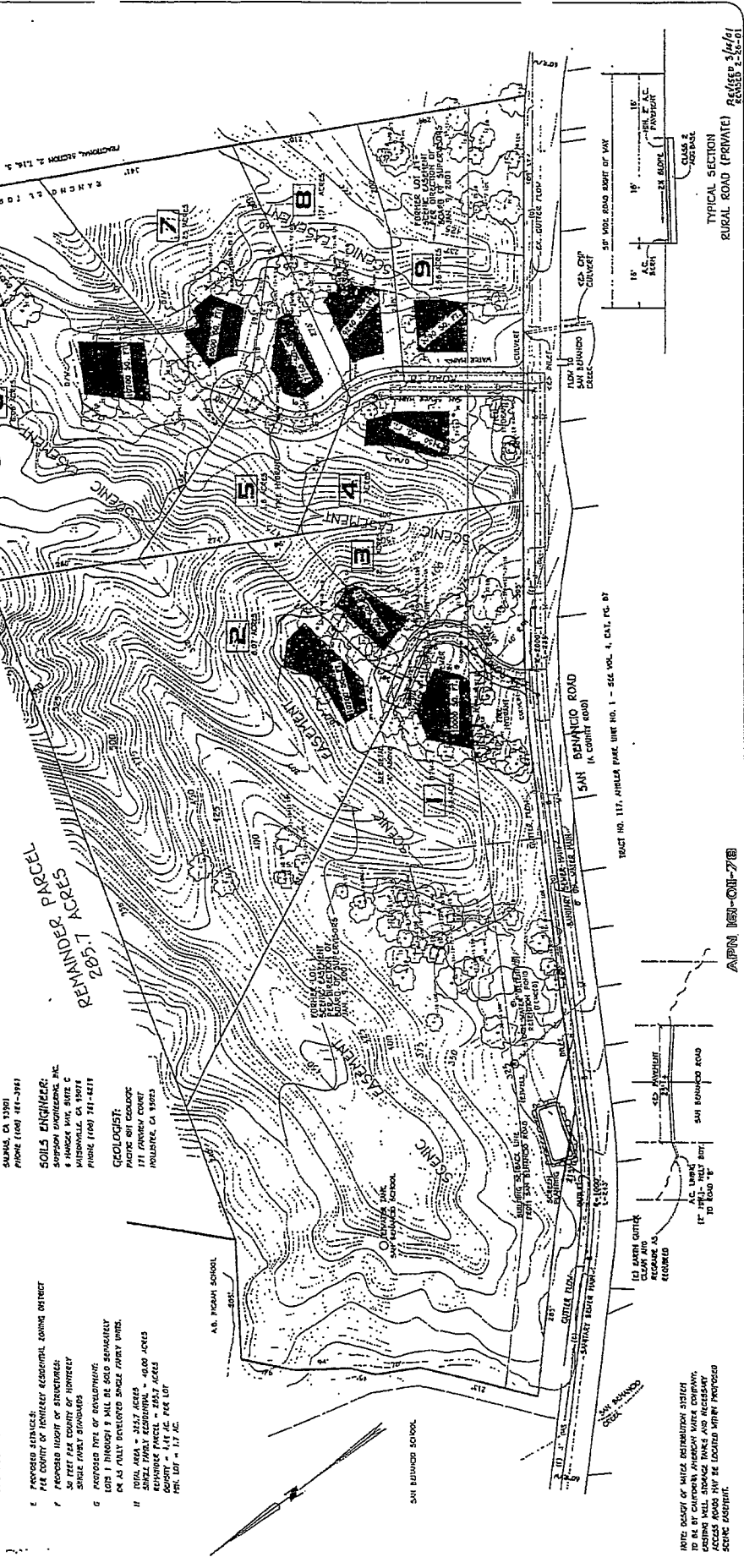
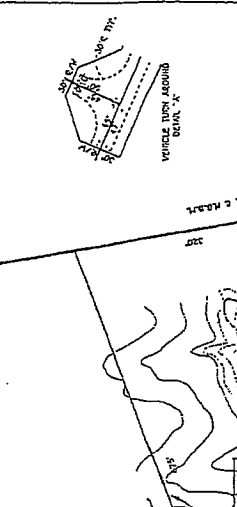
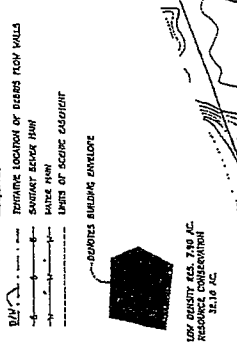
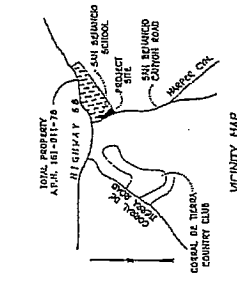
LEGAL OWNERS:
 BELLWATER AND LECTON
 10010 BELLWATER BLVD
 SANTA MONICA, CA 90405-3107
 PHONE (310) 316-0111

DEVELOPER:
 BELLWATER AND LECTON
 10010 BELLWATER BLVD
 SANTA MONICA, CA 90405-3107
 PHONE (310) 316-0111

CIVIL ENGINEER:
 H. S. PETERSON, INC. & ASSOC.
 4440 S. 10TH ST
 SANTA ANA, CA 92705
 PHONE (714) 951-3143

SOILS ENGINEER:
 SOILS ENGINEERING, INC.
 8 HANCOCK WAY, SUITE C
 WILSONVILLE, OR 97157
 PHONE (503) 741-1471

GEOLOGIST:
 1717 PLYMOUTH COURT
 WILSONVILLE, OR 97157



SCALE: 1" = 100' DRAWN BY: JCM/HCS/071
 DATE: 11/19/06 DISCUSSED: FILE NO: 201610006

SHEET _____ OF _____

VESTING TENTATIVE MAP

THE OAKS

SUBDIVISION

APN 051-001-718

H. D. PETERS & CO.

ENGINEERING - SURVEYING - LAND PLANNING

10000 W. CENTRAL EXPRESSWAY, SUITE 200, SANTA ANA, CA 92705

PHONE (714) 951-3143 FAX (714) 951-3144



**Monterey County Planning & Building Inspection Department
Condition Compliance/Mitigation Monitoring Plan**

LEGEND

Planning & Building Inspection Department - PBI
 Fire Protection District = FPD
 Water Resources Agency = WRA
 Environmental Health = EH
 Public Works = PW
 Parks Department = PD
 Redevelopment Agency = RA
 Ag Commissioner = AC

Project Name:	OAKS RESIDENTIAL SUBDIVISION
Applicant Name:	Bollenbacher and Kelton, Inc.
Permit No.:	PC94170
APN(s):	161-011-078-000
Date Adopted:	May 8, 2001

Permit Cond. #	Mitigation No. with Reference to Mitigation No. from MND or Consultant Report	Condition of Approval/Mitigation Measure	Dept./Agency Responsible for Clearing Condition Or Mitigation Measure	Responsible Party for Monitoring/Reporting Mitigation Measure	Frequency of Ongoing Monitoring/Reporting (See Legend Below)	Schedule of Condition/Mitigation Measure Clearance	Final Clearance Date	Comments
1.		The proposed project consists of a Standard Subdivision Vesting Tentative Map for the division of an existing 325.7 acre parcel into 9 residential parcels, ranging in size from 1.7 acres to 13.6 acres, and a remainder parcel of 285.7 acres and approximately 1,000	PBI	N/A	N/A	N/A	N/A	

EXHIBIT "A"

LEGEND: Daily = D; Weekly = W; Monthly = M; Semi-Monthly = SM; Semi-Annually = SA; Continuous = C; Other = O

Mitigation Monitoring Matrix

Staff Assigned to Monitor:

Permit Cond. #	Mitigation No. with Reference to Mitigation No. from MWD or Consultant Report	Dept./Agency Responsible for Clearing Condition Or Mitigation Measure	Responsible Party for Monitoring/Reporting Mitigation Measure	Frequency of Ongoing Monitoring/Reporting (See Legend Below)	Schedule of Condition/Mitigation Measure Clearance	Final Clearance Date	Comments
1. Coml.	<p>Condition of Approval/Mitigation Measure</p> <p>cubic yards of grading, in accordance with County ordinances and land use regulations subject to the following terms and conditions. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of Planning and Building Inspection. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specific by this permit is allowed unless additional permits are approved by the appropriate authorities.</p>	FBI	N/A	N/A	N/A	N/A	

LEGEND: Daily = D; Weekly = W; Monthly = M; Semi-Monthly = SM; Semi-Annually = SA; Continuous = C; Other = O

Mitigation Monitoring Matrix

Staff Assigned to Monitor: _____

Permit Cond. #	Mitigation No. with Reference to Mitigation No. from MND or Consultant Report	Condition of Approval/Mitigation Measure	Dept./Agency Responsible for Clearing Condition Or Mitigation Measure	Responsible Party for Monitoring/Reporting Mitigation Measure	Frequency of Ongoing Monitoring/Reporting (See Legend Below)	Schedule of Condition/Mitigation Measure Clearance	Final Clearance Date	Comments
2. Cont.		An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the filing of the final map, whichever occurs first. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the County harmless.	PBI	PBI	One Time Only	Prior to Recording Final Map		

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Mitigation Monitoring Matrix

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3.		The applicant shall record a notice which states: "A Standard Subdivision Vesting Tentative Map (Resolution No.) was approved by the Board of Supervisors for Assessor's Parcel Number 161-0111-078-000 on May 8, 2001. The permit was granted subject to 71 conditions of approval which run with the land. A copy of the permit is on file with the Monterey County Planning and Building Inspection Department." Proof of recordation of this notice shall be furnished to the Director of Planning and Building Inspection prior to issuance of building permits or commencement of the use. Utility easements for water lines for each parcel shall be indicated on the map.	PBI	PBI	One Time Only	Prior to Recording Final Map		
4			PBI	PBI/PW	One Time Only	Prior to Recording Final Map		
5.		Applicant shall comply with the requirements of the Inclusionary Housing Ordinance prior to filing of the final map.	PBI	PBI	One Time Only	Prior to Recording Final Map		

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6.		All new utility and distribution lines shall be placed underground. If archaeological resources or human remains are discovered during construction, work shall be halted within 150 feet of the find until it can be evaluated by a qualified professional archaeologist. If the find is determined to be significant, appropriate mitigation measures shall be formulated and implemented.	PBI	PW	One Time Only	Prior to Recording Final Map		
7.			PBI	PBI	Continuous During Construction	Continuance During Construction		
8.		Pursuant to the State Public Resources Code, State Fish and Game code, and California Code of Regulations, the applicant shall pay a fee to be collected by the County of Monterey in the amount of \$875.00. This fee shall be paid on or before the filing of the Notice of Determination. Proof of payment shall be furnished by the applicant to the Director of Planning and Building Inspection prior to recordation of the final map. The project shall not be operative, vested or final until the filing fees are paid.	PBI	PBI	One Time Only	Prior to the Notice of Determination		

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9.		That the Grading Permit shall be required pursuant to the Monterey County Code relative to Grading, Chapter 16.08.	PBI	PBI	One Time Only	Prior to Issuance of Grading Permit		
10.	Drainage Mitigation #1 (Final EIR)	That no land clearing or grading shall occur on the subject parcel between October 15 and April 15 unless authorized by the Director of Planning and Building Inspection.	PBI	PBI	Continuous	Continuous during Construction		
11.	Drainage Mitigation #1 (Final EIR)	All cut and/or fill slopes exposed during the course of construction be covered, seeded, or otherwise treated to control erosion during the course of construction, subject to the approval of the Director of Planning and Building Inspection.	PBI	PBI	Continuous	Continuous during Construction		
12.	Drainage Mitigation #1 (Final EIR)	The improvement and grading plans include an implementation schedule of measures for the prevention and control of erosion, siltation and dust during and immediately following construction and until erosion control planting becomes established. This program shall include a landscaping plan pursuant to County requirements. This program shall be approved by the Director of Planning and Building Inspection.	PBI	PBI/WRA	Continuous	Prior to Recording Final Map and continuous during construction		

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13.		All landscape areas and/or fences shall be continuously maintained by the applicant and all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. A note shall be placed on the final map or a separate sheet to be recorded with the final map indicating that "A 24-foot Height Restriction applies to proposed lot Nos.: 1, 4 and 9." The note shall be located in a conspicuous manner subject to the approval of the Director of Planning and Building Inspection.	PBI	PBI	As required through complaints by the public	Prior to Recording Final Map and in perpetuity		
14.								
15.		A Scenic Easement shall be conveyed to the County in perpetuity over those portions of the proposed residential lots and portions of the proposed remainder parcel where the slope exceeds 30% as well as the areas designated as "Former Lot 1" and "Former Lot 1.1" in the Vesting Tentative Map as revised on March 14, 2001. A Scenic Easement Deed shall be submitted for review and approval by the Director of Planning and Building Inspection.						

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16.		Building envelopes shall be designated in lots 1,2,3,4,6,7,8 and 9 for the purpose of minimizing oak tree removal and potential impacts from debris flow, subject to the approval of the Director of Planning and Building Inspection.	PBI	PBI	One Time Only	Prior to Recording Final Map		
17.		A note shall be placed on the final map or a separate sheet to be recorded with the final map which states: "No grading, construction of structures and/or roads (except as in accordance with the recorded subdivision map) or vegetation removal may take place outside of the building envelopes in lots 1,2,3,4,6,7,8 and 9.	PBI	PBI	One Time Only	Prior to Recording Final Map		
18.		Development of residential units in the proposed subdivision shall include construction of debris wall, or walls, of dimensions appropriate for each unit. The design and location of the walls shall be determined based on recommendations from individual geotechnical reports to be approved by Planning and Building						

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18.	Geology Mitigation #2, 3, 4, 5, 6, 7 (Final EIR)	Inspection and the Water Resource Agency prior to recordation of the final map shall also contain an analysis of the earth materials underlying each of the proposed homesites and provide foundation criteria particular to each site. The parameters for the preparation of these individual geotechnical reports and the general location of the debris flow walls shall be included in the final map. These reports shall also contain an analysis of earth materials underlying each of the proposed home sites and provide foundation criteria particular to each site. For consistency, the geotechnical reports prepared for the individual lots shall be prepared by the same consultant. The applicant shall enter into an agreement with the Water Resources Agency to bond construction of the debris flow walls. A notice shall be recorded for each individual lot in the subdivision stating, "Construction of the debris flow wall required as a condition of approval of the Oak Subdivision (File No. PC94170) for this lot, shall be completed prior to issuance of final occupancy."	PBI	PBI	Other	Prior to Recording Final Map (for identifying the design and location of the walls) Prior to the issuance of Building Permits (for the actual construction)		

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19.		A note shall be placed on the Final Map or a separate sheet to be recorded with the Final Map which states: "Construction of all habitable structures and debris flow walls within the lots in the subdivision, shall be in conformance with the recommendation of all geotechnical and geologic reports identified in Environmental Impact Report No. 99-01 and shall be based on the recommendations of the geotechnical reports prepared for the individual lots."			One Time Only	Prior to Recording Final Map		
20.	Drainage Mitigation #1 (Final EIR)	Prior to obtaining a grading permit for any site work the applicant shall submit a notice of intent to the Central Coast Reg. Water Quality Control Bd.	PBI	PBI	One Time Only	Prior to Issuance of Grading Permit		
21.		The applicant shall enter into an agreement with the County to implement the Mitigation Monitoring Plan adopted for the project	PBI	PBI	One Time Only	Prior to Recording Final Map		

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22.		Any tree removal on the 40-acre portion of the property covered under the proposed subdivision, either before or after recordation of the Final Map, shall be conducted in accordance with the content and recommendation of the Forest Management Plan prepared by Hugh Smith for the project, dated May 21, 1994, as well as the mitigation measures identified in Section 8 of the Initial Study prepared for the application and contained in File No PC904170. A note shall be placed in the Final Map stating "All tree removal on the 40-acre portion of the property covered under the subdivision shall be conducted in accordance with the Forest Management Plan prepared for the project by Hugh Smith and dated May 21, 1994, and in accordance with all applicable requirements of Chapter 21.64.260 of the Zoning Ordinance." Additionally, a Notice shall be recorded for individual lots stating "Any tree removal on this lot shall be conducted in accordance with the Forest	Public Works	Public Works	One Time Only	Prior to recording Final Map		

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22. Cont.		Management Plan prepared for the project by Hugh Smith and dated May 21, 1994, and in accordance with all applicable requirements of Chapter 21.64.260 of the Zoning Ordinance. As a general rule, all oak tree removal necessary for development improvements shall be minimized to the maximum extend possible.						
23.		The Subdivider shall submit three prints of the approved tentative map to each of the following utility companies; Pacific Gas & Electric Company and Pacific Bell. Utility companies shall submit their recommendations, if any, to the Director of Public Works for all required easements.	Public Works	Public Works	One Time Only	Prior to Recording Final Map		
24.		That all natural drainage channels be designated on the final map by Easements labeled "Natural Drainage Easements."	Public Works	Public Works	One Time Only	Prior to Recording Final Map		
25.		Where cut or fills at property line exceed 5' driveways shall be rough graded in when streets are rough graded, and positive drainage and erosion control provided	Public Works	Public Works	One Time Only	Prior to recording Final Map		
26.		All roads within this subdivision will be private roads.	Public Works	Public Works	One Time Only	Prior to Recording Final Map		
27.		All proposed road names must be Approved by County Communications	Public Works	Public Works	One Time Only	Prior to Recording Final Map		

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28.		The private road easement shall be 50' wide and paved to a width of 18' including drainage control or as approved by the Salinas Rural Fire Protection District. Road improvements shall include tapers on San Benancio Canyon Road as required by the Department of Public Works to insure adequate sight distances. That the location of all driveways and roads to San Benancio Canyon Road be approved by Public Works to insure adequate sight distance in accordance with prevailing speeds. This may include trimming existing vegetation on the inside of the curved and construction of modified tapers to San Benancio Canyon Road.	Public Works	Public Works	One Time Only	Prior to Recording Final Map		
29.			Public Works	Public Works	One Time Only	Prior to Recording Final Map		

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30.	Transportation Mitigation #8.9 (Final EIR)	The developer shall make the following road improvements prior to occupancy of the first dwelling unit to address cumulative impacts: a) Restripe San Benancio Road northbound and the Casa La Cumbre southbound approaches to include a shared left turn/through lane and right turn lane; or b) Construct a northbound right turn overlap phasing on San Benancio Road at Highway 68.	Public Works	Public Works	One Time Only	Prior to Occupancy of first dwelling		
31.	Transportation Mitigation #10 (Final EIR)	Prior to issuance of building permits, the applicant shall pay a traffic impact fee of \$15,000 per lot. These funds shall be used by the County to construct either: a) Improvements identified at the intersection of Highway 68 and Corral de Tierra identified in the State Highway 68 Traffic Improvement advisory Committee Report dated July 10, 2000; or	Public Works	Public Works	One Time Only	Prior to Issuance of Building Permits		

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31. Cont.		b) Other highway improvements included in an action plan for Highway 68 improvements adopted by the Board of Supervisors, subject to approval by the Public Works Department.						
32.		Dedicate to County a 1' a non-access strip along entire frontage of San Benancio Canyon Rd except for approved openings, exclusive of the remainder parcel.	Public Works	Public Works	One Time Only	Prior to Recording Final Map		
33.	Drainage Mitigation #1 (Final EIR)	That the applicant place an asphalt lining on the existing ditch located on the east side of San Benancio road, subject to approval of Director of Public Works.	Public Works	Public Works	One Time Only	Prior to Recording Final Map		
34		Prior to the recordation of the final map, the subdivider shall provide a signed written agreement between the subdivider and Ambler Park Water Utility (APWU) requiring: a) the subdivider to convey to APWU a newly constructed well complete with water distribution infrastructure and fire flow water supply;				Prior to Recording Final Map		

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34. cont.		b) APWU to 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. The total costs for item "a" is to be born by the developer and not APWU or it's customers. If at any point in the future, the Toro b-8 zoning overlay is removed, and this stand alone system is to be consolidated with any other system, pumping of water (produced by this well) outside of Monterey County Water Resource Agency zones 2 & 2A is prohibited except in the case of an emergency.						

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35.		Design the water system improvements to meet the standards as found in Title 22 of the California Code of Regulations and as found in the Residential Subdivision and Water Supply Standards. Submit engineered plans for the water system improvements and any associated fees to APWU for review and approval prior to installing (or bonding) the improvements. Provide evidence that APWU has reviewed and approved the plans. Applicant shall pay all Land Use review fees prior to filing the final map.	Environmental Health	Environmental Health	One Time Only	Prior to Recording Final Map		
36.		Design the water system improvements to meet the fire flow standards as required and approved by the local fire protection agency. Submit evidence to the Division of Environmental Health that the proposed water system improvements have been approved by the local fire protection agency prior to filing of the final map.	Environmental Health	Environmental Health	One Time Only	Prior to Recording Final Map		

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37.		The sewer system improvements and any appurtenances shall be installed, or bonded, to and within the subdivision prior to filing the final map.	Environmental Health	Environmental Health	One Time Only	Prior to Recording Final Map		
38.	Drainage Mitigation #1 (Final EIR)	A notice shall be recorded on the final map for the remainder parcel of 285.65 acre, stating that, "The property is located within or partially within a floodplain and may be subject to building and/or land use restriction." A copy of the recorded notice shall be provided to the County Water Resource Agency.	Water Resource Agency	Water Resource Agency	One Time Only	Prior to Recording Final Map		
39.	Drainage Mitigation #1 (Final EIR)	A notice shall be recorded on the final map stating that "there are areas on the 285.65 remainder parcel, subject to inundation by the 100-year flood as shown on Federal flood boundary Maps by FEMA".	Water Resource Agency	Water Resource Agency	One Time Only	Prior to Recording Final Map		

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40.	Drainage Mitigation #1 (Final EIR)	A drainage plan addressing on-site and off-site impacts shall be prepared by a registered civil engineer. It shall incorporate the findings and recommendations in the Foxe, Nielson & Assoc. "Geologic Report: The Oaks subdivision," dated June 1994; the findings and recommendations in the "Engineering Geologic Report, Preliminary Soils Report and Percolation Study" by Sampson Engineering dated June 30, 1994; and the findings and recommendations in the "Supplemental Geologic Investigation and Geotechnical Investigation", also by Sampson Engineering, dated May 3, 1997. Special attentions shall be given to those portions of the report dealing with debris flow, drainage and erosion hazards. Necessary improvements shall be constructed in accordance with approved plans and shall comply with all requirements of Condition No. 18.	Water Resource Agency	Water Resource Agency	One Time Only	Prior to Issuance of Grading Permits for Subdivision Improvements		

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41.		<p>The applicant shall comply with Ordinance No. 3599, or as subsequently amended, of the Monterey County Water Resources Agency pertaining to mandatory water conservation regulations. The regulations for new construction require, but are not limited to:</p> <p>a. All toilets shall be ultra-low toilets with a maximum tank size or flush capacity of 1.6 gallons, all shower heads shall have a maximum flow capacity of 2.5 gallon per minute, hot water faucets that have more than ten feet of pipe between the faucet and the hot water heater serving such faucet shall be equipped with a hot water recirculation system.</p>	Water Resource Agency	Water Resource Agency	One Time Only	Prior to Issuance of Building Permits		

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41. Cont.		b. Landscape plans shall apply xeriscape principles, including such techniques and materials as native or low water use plants and low precipitation sprinkler heads, bubblers Prior to the conveyance of any lots in the subdivision, the applicant shall have the sole responsibility for the care, maintenance, and repair of road and drainage improvements, fire hydrants and debris flow walls installed as a condition of approval of the subdivision. Upon each conveyance of each lot in the subdivision, the responsibility for each lot conveyed shall shift to the succeeding owner. The applicant's obligation shall continue on the remaining lots not yet conveyed. An agreement to this effect, running with the land, shall be recorded between applicant and the County of Monterey prior to recordation of the final map	Water Resource Agency	Water Resource Agency	One Time Only	Prior to Issuance of Building Permits		
42.			Water Resource Agency	Water Resource Agency	Continuous	Prior to Recording Final Map		

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43.	Drainage Mitigation #1 [Final EIR]	Natural drainage shall be routed around proposed development and in a way that it does not impact downstop development, in accordance with plans by a registered civil engineer or architect.	Water Resource Agency	Water Resource Agency	Continuous	Prior Issuance of Grading Permit for Subdivision Improvements		
44.		A homeowner's agreement shall be entered into for the maintenance of roads, drainage facilities, debris flow walls and open spaces. The agreement shall include a statement that "the road and drainage maintenance agreement provide that delinquent assessments be a lien on the property of the delinquent member. That no amendments or alterations of or change or addendum to the agreement shall have any force or effect unless and until approved by the Board of Supervisors". The Agreement shall	Water Resource Agency	Water Resource Agency	Once a Year	Prior to Recording Final Map and Continuous		

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44. Cont.		be approved by the Director of Public Works, the Director of Planning and Building Inspection, and the County Water Resource Agency, prior to filing of final map. C.C. & R.'s shall include provisions for yearly reports by a registered civil engineer, and the monitoring of impacts of drainage and maintenance of drainage facilities and debris flow walls. The report shall be reviewed and approved by the County Water Resource Agency.	Water Resource Agency	Water Resource Agency	Once a Year	Prior to Recording Final Map and Continuous		
45.		The homeowner's agreement shall include a provision that if, after notice and hearing the homeowner fails to properly maintain, repair or operate the drainage and flood control facilities and debris flow controls in the project, Monterey County Water Resource Agency shall be granted the right by the property owner's to enter any and all portions of the property to perform repairs, maintenance or improvements necessary to properly operate the drainage and flood control facilities and debris flow walls in the project.	Water Resource Agency	Water Resource Agency	One Time Only	Prior to Recording Final Map		

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45 Cont.		The County Water Resource Agency shall have the right to collect the cost for said repairs, maintenance or improvements from the property owners upon their property tax bills. A hearing shall be provided by the Board of Supervisors as to the appropriateness of the cost. The agreement to this effect shall be entered into concurrent with the filing of the final map of the first phase of the subdivision.	Water Resource Agency	Water Resource Agency	One Time Only	Prior to Recording Final Map		
46.		In accordance with Monterey County Agency Water Conservation Ordinance No. 3539, or as subsequently amended, the C.C. & R's shall contain provisions that: all new construction incorporate the use of low water use plumbing fixtures including, where applicable, hot water recirculation systems; the front yard of all homes shall be	Water Resource Agency	Water Resource Agency	One Time Only	Prior to Recording Final Map		

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Permit Cond. #	Mitigation No. with Reference to Mitigation No. from MWD or Consultant Report	Condition of Approval/Mitigation Measure	Dept./Agency Responsible for Clearing Condition Or Mitigation Measure	Responsible Party for Monitoring/Reporting Mitigation Measure	Frequency of Ongoing Monitoring/ Reporting (See Legend Below)	Schedule of Condition/Mitigation Measure Clearance	Final Clearance Date	Comments
46. Cont.		Landscaped at the time of construction; low water use or drought tolerant plants shall be used together with water efficient irrigation systems; leak repair is the property owner's responsibility; vehicle and building washing shall use hoses equipped with shutoff nozzles; no potable water to be used for sidewalk washing no water spillage into streets, curbs, and gutters, no emptying or refilling of swimming pools except for structural repairs or if required for public health regulations, no fountains unless water is recycled within the fountain.	Water Resource Agency	Water Resource Agency	One Time Only	Prior to Recording Final Map		
47.		The applicant shall provide to the Water Resource Agency a water balance analysis describing the pre-development and post-development water use on the property. Any proposed increase in water use shall require the identification and implementation of mitigation measures, if feasible, by the applicant.	Water Resource Agency	Water Resource Agency	One Time Only	Prior to Recording Final Map		

LEGEND: Daily = D; Weekly = W; Monthly = M; Semi-Monthly = SM; Semi-Annually = SA; Continuous = C; Other = O

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48.		Access roads shall be required for every building when any portion of the exterior wall of the first story is located more than 150 feet from fire department access. The roadway surface shall provide unobstructed access to conventional drive vehicles, including sedans and fire engines. Surface should be established in conformance with local ordinances, and be capable of supporting the imposed load of fire apparatus.	Salinas Rural Fire District	Salinas Rural Fire District	One Time Only	Prior to Recording Final Map		
49.		The roadway surface shall provide unobstructed access to conventional drive vehicles, including sedans and fire engines. Surface should be established in conformance with local ordinances, and be capable of supporting the imposed load of fire apparatus.	Salinas Rural Fire District	Salinas Rural Fire District	One Time Only	Prior to Recording Final Map		
50.		Each dead end road shall have a turnaround constructed at its terminus.	Salinas Rural Fire District	Salinas Rural Fire District	One Time Only	Prior to Recording Final Map		
51.		Size of letter, numbers and symbols for street and road signs shall be a minimum 4 inch letter height, 1/4 inch stroke, and shall be a color that clearly contrasts with the background of the sign. All numbers shall be Arabic	Salinas Rural Fire District	Salinas Rural Fire District	Continuous	Continuous		

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52.		<p>A sign identifying traffic access or flow limitations, including but not limited to weight or vertical clearance limitation, dead-end roads, one-way roads or single lane conditions, shall be placed:</p> <ol style="list-style-type: none"> 1. At the intersection preceding the traffic access limitation, and 2. No more than 100 feet before such traffic access limitation 	Salinas Rural Fire District	Salinas Rural Fire District	Continuous	Prior to Issuance of Building Permits for Individual Homes		
53.		<p>That a note be placed on the final map or a note be recorded at the time of recordation of the final map which requires that the building shall be fully protected with automatic sprinkler systems. The following notation is required on the plans when a building permit is applied for: "The building shall be fully protected with an automatic fire sprinkler system. Fire sprinklers shall be installed in attached garages. Installation, approval and maintenance shall be in compliance with applicable National Fire</p>	Salinas Rural Fire District	Salinas Rural Fire District	Other	Prior to Recording Final Map and During Construction		

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53. Cont.		Protection Association and/or Uniform Building Code Standards, the editions of which shall be determined by the enforcing jurisdiction. Four (4) Sets of plans for fire sprinkler systems must be submitted and approved prior to installation. Rough in inspections must be completed prior to requesting a framing inspection.	Salinas Rural Fire District	Salinas Rural Fire District	Other	Prior to Recording Final Map and During Construction		
54.		The fire flow for this subdivision is based on the Uniform Fire Code Appendix III-A (Fireflow Requirements for Buildings) a. Fire flow shall be 1000 gallons per minute with a residual pressure of 20 psi b. Hydrant outlets shall include on 4-1/2 inch and one 2-1/2 inch and on NST outlet. c. Fire hydrant locations and distribution shall be in accordance with Appendix 11.1-B of the Uniform Fire Code.	Salinas Rural Fire District	Salinas Rural Fire District	Other	Prior to Recording Final Map and During Construction		

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54. Cont.		<p>d. Fire flow and hydrant spacing may be modified due to the installation of fire sprinkler systems and fire resistive roofing. Fire flow in the one and two-family dwelling areas may be reduced to rate of 500 gallons per minute with a residual pressure of 20 psi when the residences are protected with automatic fire sprinklers in the residence and are built with fire resistive roofing systems (Class "A")</p> <p>e. Hydrant identification- Blue reflective hydrant markers are required to be installed pursuant to Public Works Department Standards. (Monterey County Resolution 83-3)</p>	Salinas Rural Fire District	Salinas Rural Fire District	Other	Prior to Recording Final Map and During Construction		
55.		Plans for the water system installation shall be received and approved by the Salinas Rural Fire District prior to installation. The water system shall be tested and accepted by the Salinas Rural Fire District, prior to the issuance of building permits.	Salinas Rural Fire District	Salinas Rural Fire District	One Time Only	Prior to Issuance of Building Permits		

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56.		That a note be placed on the final map or a note be recorded at the time of recordation of the final map which requires that plans for road improvements shall be inspected and accepted by the Salinas Rural Fire District, prior to the issuance of building permits.	Salinas Rural Fire District	Salinas Rural Fire District	Other	Prior to Recording Final Map and Prior to Issuance of Building Permits		
57.		That a note be placed on the final map or a notice be recorded at the time of recordation of the final map which states that this project is located in a very high fire hazard area as defined by the California Department of Forestry and Fire Protection (CDF), roof construction shall be a Class "A" with fire resistive materials, or as approved by the Reviewing Authority. This requirement shall apply to all new construction and existing roofs which are repaired or modified so as to affect 50 percent or more of the roof vegetation removal will not be allowed as means of removing high or very high fire hazard area designation from an entire parcel.	Salinas Rural Fire District	Salinas Rural Fire District	Continuous	Prior to Recording Final Map and During Construction		
58.		The grade for all roads, streets, private lanes and driveways shall not exceed 15 percent, unless otherwise approved by the Salinas Rural Fire District.	Salinas Rural Fire District	Salinas Rural Fire District	One Time Only	Prior to Recording Final Map		

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59.		For residential driveways with turns 90 degrees and less, the minimal horizontal inside radius of curvature shall be 25 feet. For driveways with turns greater than 90 degrees, the minimum horizontal inside radius of curvature shall be 28 feet. For all driveway turns, an additional surface of 4 feet shall be added.	Salinas Rural Fire District	Salinas Rural Fire District	One Time Only	Prior to Recording Final Map		
60.		No roadway turns shall have a horizontal inside radius of less than 50 feet. A roadway turn radius of 50 to 100 feet is required to have an additional 4 feet of roadway surface. A roadway turn radius of 100 to 200 feet is required to have an additional 2 feet of roadway surface.	Salinas Rural Fire District	Salinas Rural Fire District	One Time Only	Prior to Recording Final Map		
61.		Roadway turnarounds shall be required driveways and dead-end roads in excess of 150 feet of surface length. Required turnarounds on access roadways shall be located within 50 feet of the primary buildings. The minimum turning radius for a turnaround shall be 40 feet from the center line of the road. If a hammerhead/T is used, the top of the "T" shall be minimum of 60 feet in length.	Salinas Rural Fire District	Salinas Rural Fire District	One Time Only	Prior to Recording Final Map		

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62.		Street and road signs shall be visible and legible from both directions of vehicle travel for a distance of a least 10 feet.	Salinas Rural Fire District	Salinas Rural Fire District	Continuous	Prior to Recording Final Map and Continuous		
63.		Newly constructed or approved public an private roads and streets shall be identified in accordance with provisions of Monterey County Ordinance No. 1241. All signs shall be mounted and oriented in a uniform manner. This section does not require any entity in rename or renumber existing roads or streets, nor shall a roadway providing access only to a single commercial or industrial occupancy require naming or numbering.	Salinas Rural Fire District	Salinas Rural Fire District	One Time Only	Prior to Recording Final Map		
64.		Signs required under this section identifying intersecting roads, streets and private lanes shall be placed at the intersection of those roads, streets and/or private lanes.	Salinas Rural Fire District	Salinas Rural Fire District	One Time Only	Prior to Recording Final Map		
65.		Roads, streets and private signs required by this article shall be installed prior to final acceptance of road improvements by the County of Monterey.	Salinas Rural Fire District	Salinas Rural Fire District	One Time Only	Prior to Recording Final Map		

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66.		That a note be placed on the final map or a note be recorded at the time of recordation of the final map which requires that all building shall be issued an address in accordance with Monterey County Ordinance No. 1241. Each occupancy, except accessory buildings shall have its own address. When multiple occupancies exist within a single building, each individual occupancy shall be separately identified by its own address	Salinas Rural Fire District	Salinas Rural Fire District	One Time Only	Prior to Recording Final Map		
67.		That a note be placed on the final map or a notice be recorded at the time of recordation of the final map which required that all parcels 1 acre and larger shall provide a minimum 30 foot setback for building and accessory building from all property lines and/or the center of the road. For parcels less than 1 acre, or when a 30 foot minimum setback cannot be reached, alternate fuel modification standards may be imposed by the local fire jurisdiction to provide the same practical effect.	Salinas Rural Fire District	Salinas Rural Fire District	One Time Only	Prior to Recording Final Map		

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68.		Disposal, including chipping, burying, burnings or removal to a landfill site approved by the local jurisdiction, of flammable vegetation and fuels caused by site development and construction, road and driveway construction, and fuel modification shall be completed prior to completion of road construction or final inspection of the building permit.	Salinas Rural Fire District	Salinas Rural Fire District	Other	Prior to Final Inspection of Permits		

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69.		That a note be placed on the final map or a notice to be recorded at the time of recordation of final map which requires that before construction begins, temporary or permanent address numbers shall be posted prior to requesting final clearance. All address numbers (Permanent and temporary) shall be posted on the property so as to be clearly visible from the road. Where visibility cannot be provided a post or sign bearing the address numbers shall be adjacent to the driveway or access road to the property. Address numbers posted shall be Arabic, not Roman or written out in words. Address numbers posted shall be a minimum number height of 3 inches with a 3/8 inch stroke, and contrasting with the background color of the sign.	Salinas Rural Fire District	Salinas Rural Fire District	One Time Only	Prior to Recording Final Map		

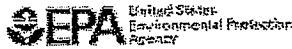
LEGEND: Daily = D; Weekly = W; Monthly = M; Semi-Monthly = SM; Semi-Annually = SA; Continuous = C; Other = O

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70.		All roads shall be constructed to provide a minimum of two nine-foot traffic lanes providing two-way traffic flow, unless other standards or additional requirements are mandated by local jurisdictions or local subdivision requirements. Applicant shall comply with the recreation requirements contained in Section 19.12.010 of Title 19 of the Monterey County Code (Subdivision Ordinance).	Salinas Rural Fire District	Salinas Rural Fire District	One Time Only	Prior to Recording Final Map		
71.			Parks and Recreation	Parks and Recreation	One Time Only	Prior to Recording Final Map		

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 Mitigation Monitoring Matrix
 Staff Assigned to Monitor: _____



Water: Arsenic

You are here: [Water](#) » [Laws & Regulations](#) » [Regulatory Information](#) » [Safe Drinking Water Act](#) » [Arsenic](#) » Arsenic Rule

Arsenic Rule

On January 22, 2001 EPA adopted a new standard for arsenic in drinking water at 10 parts per billion (ppb), replacing the old standard of 50 ppb. The rule became effective on February 22, 2002. The date by which systems must comply with the new 10 ppb standard is January 23, 2006.

The **Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring Final Rule** was published in the Federal Register (66 FR 6976) on January 22, 2001.

- [Read the Rule online](#)

Quick Reference Guide to Arsenic and Clarifications to Compliance and New Source Monitoring Rule

EPA 816-F-01-004

This document provides a simple and straightforward description of the rule, critical deadlines and requirements for drinking water systems and states, and information on monitoring requirements.

- [Quick Reference Guide for Arsenic](#) (98 K PDF File, 2 pgs) ([ALL ABOUT PDF FILES](#)) For other quick reference guides visit the [drinking water standards - quick reference guides page](#).

Drinking Water Standard for Arsenic Fact Sheet provides information on the potential health effects of exposure to arsenic, an overview of the Final Rule, and background information on the natural occurrence of arsenic.

- [Read the Fact Sheet online](#)
EPA 815-F-00-015

Technical Fact Sheet provides technical information about the Final Arsenic Rule including its requirements and compliance dates, the health effects associated with exposure to arsenic, the costs, benefits, and number of systems affected by the rule, and where to find additional information.

- [Read the Technical Fact Sheet online](#)
EPA 815-F-00-016

Rule-Making History

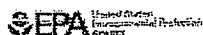
EPA proposed arsenic regulations to revise the existing NPDWR on June 22, 2000 (65 FR 38888), which proposed a Maximum Contaminant Level (MCL) of 0.005 mg/L (5 µg/L). The October 2000 appropriations bill for EPA amended the SDWA, directing EPA to promulgate a final arsenic standard no later than June 22, 2001. The Final Rule, published on January 22, 2001, established the MCL at 0.01 mg/L (10 µg/L) (40 CFR 141.62(b)(16)). The Rule was to become effective on March 23, 2001, 60 days after publication. The Rule established that the 0.01 mg/L (10 µg/L) MCL becomes enforceable on January 23, 2006, and that the clarifications to compliance and new source contaminants monitoring regulations become enforceable on January 22, 2004 (40 CFR 141.6(j) & (k)).

Because of the importance of the Arsenic Rule and the national debate surrounding it related to science and costs, EPA's Administrator publicly announced on March 20, 2001, that the Agency would take additional steps to reassess the scientific and cost issues associated with this Rule. EPA requested that the National Academy of Sciences (NAS)

convene a panel of scientific experts to review the Agency's <http://water.epa.gov/lawsregs/rulesregs/sdwa/arsenic/regulations.cfm> with its National Drinking Water Advisory Council (NDWAC) to review the assumptions and methodologies underlying the Agency's estimate of arsenic compliance costs, and asked its Science Advisory Board (SAB) to look at the benefits associated with the Rule. On October 31, 2001, the EPA Administrator announced that the 10 ppb (0.010 mg/L) standard for arsenic would remain stating that, "the 10 ppb protects public health based on the best available science and ensures that the cost of the standard is achievable."

See the [Rule-making History](#) page of this Web site for additional information and documents related to the history of the Arsenic Rule.

Last updated on Tuesday, March 06, 2012



<http://water.epa.gov/lawsregs/rulesregs/sdwa/arsenic/index.cfm>

Water: Arsenic

You are here: [Water](#) » [Laws & Regulations](#) » [Regulatory Information](#) » [Safe Drinking Water Act](#) » Arsenic in Drinking Water

Arsenic in Drinking Water

Arsenic is a semi-metal element in the periodic table. It is odorless and tasteless. It enters drinking water supplies from natural deposits in the earth or from agricultural and industrial practices.

Non-cancer effects can include thickening and discoloration of the skin, stomach pain, nausea, vomiting; diarrhea; numbness in hands and feet; partial paralysis; and blindness. Arsenic has been linked to cancer of the bladder, lungs, skin, kidney, nasal passages, liver, and prostate.

EPA has set the arsenic standard for drinking water at .010 parts per million (10 parts per billion) to protect consumers served by public water systems from the effects of long-term, chronic exposure to arsenic. Water systems must comply with this standard by January 23, 2006, providing additional protection to an estimated 13 million Americans.

This web site is designed to provide you with information about arsenic in drinking water and provide guidance materials to help the states and water systems comply with the standard.

- [Basic Information](#) - Learn more about the sources of arsenic, health effects and our frequently asked questions.
- [Arsenic Rule](#) - Get updated information on the arsenic rule, including quick reference guides. The history of the rule-making is also featured.
- [Compliance Help](#) - If you need to comply with the arsenic rule, visit this page to get available tools and training information.
- [State Guidance](#) - If you are with a state agency, visit this page to get available guidance information about arsenic implementation.
- [Funding Sources](#) - This page gives you the information you will need to seek funding to help you comply with the arsenic rule.
- [Publications](#) - Visit a list of all the publications offered by EPA on arsenic. Many are on-line for your use.
- [Research](#) - Find out about EPA's research program on arsenic.

Last updated on Tuesday, March 06, 2012

Arsenic Rule at a Glance	
Maximum Contaminant Level in parts per million (ppm)	MCL = 0.010 ppm
Maximum Contaminant Level Goal	MCLG = 0 ppm
Health Effects	Skin damage or problems with circulatory systems, and may have increased risk of getting cancer
Sources of contamination	Erosion of natural deposits; runoff from orchards, runoff from glass & electronic production wastes
	For other contaminants and their MCLs, visit this page .

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

Resolution No. 03-279

Accept the previously certified Environmental)
Impact Report (EIR # 99-01) for the Standard)
Subdivision Vesting Tentative Map for the Oaks)
Residential Subdivision (File PC94170), as)
adequate for the review and approval of a three)
year extension request, and approve the)
extension request subject to the Findings,)
Evidence and Conditions of Approval adopted by)
the Board of Supervisors on May 8, 2001 and)
contained in Board of Supervisors Resolution #)
01-197 to expire on May 8, 2006. The project)
site is located east of San Benancio Road, south)
of Highway 68 in the Toro Planning Area.)

WHEREAS, The Board of Supervisors has considered the request by Bollenbacher & Kelton for a three year extension of the Oaks Subdivision (File PC94170) and found the request to have been filed in a timely manner, and with reasonable justification pursuant to Title 19.05.065; and further finding that the underlying environmental conditions existing at the time of project approval remain unchanged; and that the Findings, Evidence and Conditions of Approval contained in Board Resolution # 01-197 are valid today as they were in 2001;

NOW, THEREFORE, BE IT RESOLVED THAT

The Board of Supervisors of the County of Monterey as decision-making authority does hereby Accept the previously certified Environmental Impact Report (EIR # 99-01) for the Standard Subdivision Vesting Tentative Map for the Oaks Residential Subdivision (File PC94170), as adequate for the review and approval of a three year extension request, and approve the extension request subject to the Findings, Evidence and Conditions of Approval adopted by the Board of Supervisors on May 8, 2001 and contained in Board of Supervisors Resolution # 01-197 to expire on May 8, 2006.

PASSED AND ADOPTED on this 22nd day of July, 2003, upon motion of Supervisor Calcagno, seconded by Supervisor Johnsen, by the following vote, to-wit:

AYES: Supervisors Armenta, Calcagno, Lindley, and Johnsen

NOES: Supervisor Potter

ABSENT: None

I, Sally R. Reed, 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 of Minute Book 71, on July 22, 2003.

Dated: July 24, 2003

Sally R. Reed, Clerk of the Board of Supervisors, County of Monterey, State of California.

By Cynthia Juarez
Cynthia Juarez, Deputy

MONTEREY COUNTY BOARD OF SUPERVISORS

MEETING: July 22, 2003 @ 10:00am	Agenda No. 5-7
SUBJECT: Find EIR 99-01 adequate to review and approve an application from Bollenbacher & Kelton to extend The Oaks Standard Subdivision Map (PC94170) pursuant to Subdivision Ordinance section 19.05.065 for a period of three years, until May 8, 2006. The project is located east of San Benancio Road south of Highway 68 (Exhibit "A"), in the Toro area, District 5. Staff recommendation: Approval	
DEPARTMENT: Planning and Building Inspection	

RECOMMENDATION

It is recommended that the Board of Supervisors find EIR 99-01 adequate to review and approve an application from Bollenbacher & Kelton to extend The Oaks Standard Subdivision Map (PC94170), pursuant to Subdivision Ordinance section 19.05.065, for a period of three years, until May 8, 2006.

SUMMARY

Board Resolution 01-197, approved the Oaks Subdivision with an Environmental Impact Report and the resolution became effective on May 8, 2001 (Exhibit B). The approval allowed two years for filing of the Final Map. A request for a three year extension was timely filed in writing on March 04, 2003 (Exhibit C). The request is to allow the subdivider to satisfy the Conditions of Approval.

DISCUSSION

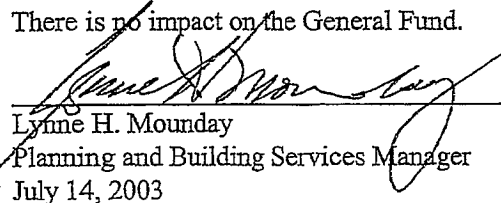
The Toro Advisory Committee reviewed the request on May 27, 2003, and voted unanimously to recommend that the Toro Oaks Subdivision not be extended (Exhibit D). Staff reviewed the prior EIR, traffic and water issues and determined that there are no significant changes to the issues since the subdivision was approved in 2001. The same findings, evidence and conditions attached to the original approval will remain attached to the extension of the Vesting Tentative Map, and all said conditions shall be required to be fulfilled, bonded, by the County of Monterey prior to filing of a Final Map.

OTHER AGENCY INVOLVEMENT

The request for an extension to the life of the Vesting Tentative Map was reviewed at the Interdepartmental Review Meeting held on May 27, 2003. All Land Use Departments and the Fire Department recommended that the existing conditions of the Vesting Tentative Map be retained and applied (Exhibit E).

FINANCING

There is no impact on the General Fund.


Lynne H. Mounday
Planning and Building Services Manager
July 14, 2003

- Attachment 1 (Draft Board Resolution)
- Exhibit A--- Vicinity Map
- Exhibit B--- Resolution 01-197
- Exhibit C---Extension request 3-04-2003
- Exhibit D---Toro LUAC Minutes of 5-27-2003
- Exhibit E--- Interdepartmental Department Review

MONTEREY COUNTY



DEPARTMENT OF HEALTH LEN FOSTER, Director

ADMINISTRATION	EMERGENCY MEDICAL SERVICES	HEALTH PROMOTION
ANIMAL SERVICES	ENVIRONMENTAL HEALTH	PRIMARY CARE
BEHAVIORAL HEALTH	FAMILY & COMMUNITY HEALTH	PUBLIC GUARDIAN

SEP 10 2003

September 10, 2003

Sheri Damon
Lombardo & Gilles
318 Cayuga Street
P.O. Box 2119
Salinas, CA 93902

Subject: The Oaks Standard Subdivision Condition Clearance (PC94170)

Dear Ms. Damon:

The Monterey County Health Department, Division of Environmental Health (MCDEH) has reviewed the information submitted with your letter dated July 16, 2003. Accordingly, MCDEH has not cleared the following conditions. Please submit the following documentation as soon as possible to clear these conditions:

1. **Condition #34 (Water):** MCDEH has reviewed the language in the agreement submitted for consistency in meeting this condition. Two facsimile copies of the signature page (page 3 of the agreement) were submitted. Do you have the original signature pages on file in your office?

On page 2, #2 of Article 1 in the Agreement, the Agreement states that the Developer has submitted schematic conceptual plans of the Water System improvements to Cal-Am. However, Condition #35 requires that engineered plans be submitted to Cal-Am for review and approval. Please revise the agreement to read "Cal-Am acknowledges that the 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 the engineered plans and that it has received any associated fees for this review and approval."

On page 2, #3 of Article 1 in the Agreement, the Agreement states that the 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. Why is this statement in the agreement and what does this mean?

2. **Condition #35 (Water System Design/Bond):** According to Exhibit B submitted with your July 16, 2003 letter, most of the water system improvements for the subdivision are proposed. Submit a copy of the engineer's estimate of the total cost to install distribution system improvements and complete a bond and Subdivision Improvement Agreement with Monterey County Public Works. Provide documentation that Ambler Park Water Utility (now Cal Am) has reviewed and approved the plans.

The Oaks Subdivision (PC94170)
September 10, 2003
Page 2 of 2

3. **Condition #36 (Fire Flow Requirements):** Submit a letter from the local fire agency with jurisdiction that the water system improvements have been reviewed and approved to meet fire flow standards.

Sincerely,



Laura M. Lawrence, R.E.H.S.
Supervising Environmental Health Specialist
Division of Environmental Health

c: PBI

2716 OCEAN PARK BLVD., SUITE 3006
SANTA MONICA, CA 90405-5207
TELEPHONE 310-396-4514
FACSIMILE 310-399-0062

**CLOVERFIELD
MGMT, LLC**

Fax

To: John Hodges/County of Monterey **From:** Mark Kelton
Fax: 831-755-8929 **Pages:** 7
Phone: **Date:** 1-24-06
Re: The Oaks (PC 94170) **CC:**

Urgent **For Review** **Please Comment** **Please Reply** **Please Recycle**

*** Comments:**

Dear John,

Regarding The Oaks Conditions 34 & 35 -- per email.

Regards, Mark Kelton

EXECUTIVE OFFICE

September 15, 2005

2716 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.

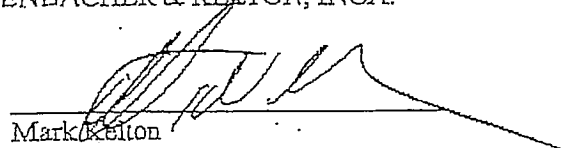
Should you have any questions concerning the above, please do not hesitate to give me a call.

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.



2. Developer agrees to design the water system improvements to meet Title 23 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.

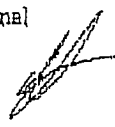
3. Developer agrees to execute such documentation, including but not limited to a main extension agreement, and take such further actions and steps, such as seeking annexation, as required by Cal Am to implement the transfer of the Water System to Cal Am and Cal Am agrees to accept the Water System upon 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 Ambler 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.



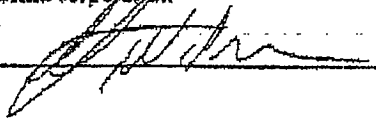
8. Except as provided in this Agreement, this Agreement may be amended in whole or in part only by a further written agreement executed by all of the parties.

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: 10/2/04

By: 

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

Date: _____

By: _____
Vice President

1
2
3

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.

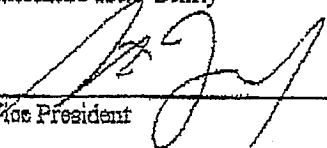
Bollenbacher and Kelton, Inc.
a California corporation

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

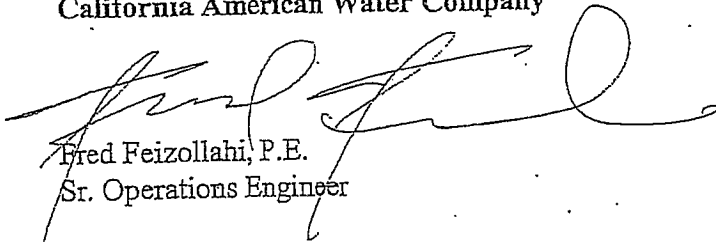
Dear Ms. Lawrence:

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.

231e-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)



7

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 holiday 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 communicate 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

APPLICATION FOR ENCROACHMENT PERMIT

D- @ _____

TO: MONTEREY COUNTY DEPARTMENT OF PUBLIC WORKS

1. _____

168 WALISAL ST 2ND FLR
SALINAS CA 93901-2680

2. _____

GENTLEMEN:

THE UNDERSIGNED HEREBY APPLIES FOR A PERMIT TO ENCROACH ON THE COUNTY RIGHT OF WAY AS INDICATED BELOW:

ROADS SAN BENANCIO AND PASEO VAQUEROS M.P. _____

BETWEEN RD NAME HIGHWAY 68 AND/OR BIG SKY LANE

AREA SALINAS AP# 161-011-078 LOT _____

FERRINI OAKS, LLC

Name of Applicant (Print)

O	FEE
f	REC'D BY
f	LETTER SENT
i	
c	
e	

365 VICTOR ST. Suite S

Mailing Address (Street)

SALINAS CA 93907

City

Zip

TEL NO. 831-758-4368

STARTING DATE MAY 1, 2006

O
f
f
i
c
e

Attached Form _____

COMPLETION DATE DEC. 31, 2006

All pertinent sections of Monterey County Code, Title _____ shall apply. Work shall be in accordance with the attached plan and Form _____ in order to have building/this permit acknowledged as complete.

DESCRIPTION OF WORK INSTALL 3200' OF SEWER LINE UNDER SAN BENANCIO RD
FROM HIGHWAY 68 TO BIG SKY LANE. ALSO, INSTALL 8" 44" WATER LINE
(APPROX 3400') ALONG SAN BENANCIO RD AND PASEO VAQUEROS. IMPROVEMENT
PLANS ON FILE w/ Bryce Hori, Monterey County Public Works, for
the "OAKS" subdivision

NOTE

1. SKETCH MUST SHOW DISTANCE FROM PROPOSED PERMIT WORK LOCATION TO EXISTING CROSS STREET OR MILE POST.
2. SHOW NORTH ARROW.
3. PLAN ATTACHED

[Signature] 4/3/06
Signature Date

O
f
f
i
c
e

THIS PERMIT EXPIRES: _____
EIR EXEMPT BY SECTION _____
CLASS: _____

AGREES THAT WORK WILL BE DONE IN ACCORDANCE WITH EXISTING COUNTY ORDINANCES AND CONSTRUCTED TO DESIGNATED GRADES AND SPECIFICATION REQUIREMENTS.

THE GENERAL CONDITIONS OF MONTEREY COUNTY CODE, TITLE 14, CHAPTER 14.040

An ordinance to protect the county highways and works incidental thereto by regulating their excavation and encroachment

SEC. 010-A2 "County Highway" includes all or any part of the entire width of right-of-way of any road, street, lane, alley, way or place maintained by the County of Monterey and open to the use of the public for purposes of travel, whether or not such entire width is actually used for highway purposes and whether or not it has been accepted into the County Road System by resolution of the Monterey County Board of Supervisors. It also includes bridges, culverts, curbs, drains, ditches, and all works incidental to county highway construction and maintenance.

SEC. 010-A3 "Encroachment" includes any structure or object of any kind or character placed, without the authority of law, either in, on, under or over any county highway.

SEC. 070-A This ordinance shall not be construed to prohibit any act for which a permit is required when the performance of such act is reasonably necessary for the preservation of life or property in an emergency. In all such cases, however, the person performing such act shall promptly notify the Public Works Director and shall apply for a permit therefor at the earliest practicable time thereafter, in any event not later than the next succeeding day during which the office of the Public Works Director is open.

SEC. 020-A When satisfied of an applicant's right of necessity, the Public Works Director may issue to him a written permit, which shall not be transferable, authorizing him to do any of the following acts:

1. Make an opening or excavation for purpose in any county highway.
2. Place, change or renew an encroachment.
3. Construct, grade, or place any driveway within a county highway, but no driveway shall be located within any portion of the normal curve returns of any intersections.
4. Plant, remove, cut, cut down, injure or destroy any tree, shrub, plant or flower growing within any county highway.

SEC. 020-B Any person who does any of the acts specified in this subdivision of this section, without the authority of such a permit, is guilty of a misdemeanor.

SEC. 090-B Work performed under a permit involving an excavation, fill, roadway or driveway surfacing shall be maintained by the permittee for at least six (6) months after completion, or for such longer period, up to one (1) year after completion, as the Public Works Director may specify.

SEC. 100 The Public Works Director may, but is not required to, supervise any work done under any permit issued under the provisions of this chapter, in which event the permittee may be required to pay the reasonable cost of such supervision to the county, but no cost of supervision shall be charged by the Public Works Director to any public agency. (Ord. 1162 Section 11, 1960)

SEC. 110-A Every permittee shall:

1. Notify the Public Works Director at least forty-eight (48) hours, exclusive of Saturdays, Sundays and legal holidays, before starting any permit work.
2. Keep his permit, or a copy thereof, at the site of the permit work at all times when he is actually engaged in work thereat and exhibit it to the Public Works Director, or his representative, or any peace officer, upon demand.
3. Promptly remove all refuse, debris, equipment and excess material from the site of the permit work upon its completion and leave the premises in as presentable a condition as before the work started.
4. Place and maintain suitable warning lights, signs, barriers, devices or flagmen, which shall be of the types specified in Section 21496 of the California Vehicle Code.
5. In all cases where he has disturbed the existing surface of a county highway, replace, repair, or restore such highway in accordance with the terms of his permit. In case his permit contains no such terms, then he shall do such replacing, repairing, or restoring at his own expense promptly upon completion of his permit work, in a good and workmanlike manner as directed by the applicable provisions of this ordinance, to as good condition as before the permit work started; provided, however, that if the surface which was disturbed was a bituminous-surfaced roadway, such surface shall be replaced, repaired or restored with not less than one and one-half inches, compacted, in thickness, of asphaltic concrete surfacing, over a minimum of six inches, compacted, in depth, of aggregate base material of a type approved by the Public Works Director.
6. Comply with all of the terms and conditions of his permit
7. Comply with all of the construction standards and methods specified in this ordinance.
8. Store, place or deposit no material within five (5) feet from the edge of the pavement or traveled way or within the shoulder line, where the shoulders are wider than five (5) feet, of any county highway, without the prior approval of the Public Works Director.
9. Diligently pursue the permit work in such a way as not to cause an unreasonable interference or inconvenience to the traveling public.

RECEIVED
APR - 3 2006

RESOURCE MANAGEMENT AGENCY
PUBLIC WORKS ADMIN

SEC. 120 Unless the permit provides otherwise, all permit work shall conform to the following:

1. The Standard Specifications of the Department of Transportation of the State of California.
2. The Special Provisions for Encroachment Work, on file in the office of the Public Works Director.

SEC. 125 Indemnity and Hold Harmless: An applicant shall agree to indemnify, defend, and save harmless the County, its officers, agents and employees, from and against any and all claims and losses whatsoever accruing or resulting to any and all persons, firms or corporations, and public and private property in connection with the encroachment or the conduct of the special event, unless arising out of the sole negligence or willful misconduct of County. (Ord. 3889, 1996)

THE GENERAL CONDITIONS OF MONTEREY COUNTY CODE, TITLE 18, CHAPTER 18.08

SEC. 040 No permit shall be issued until the applicant has obtained all clearance and any required permits from other county departments and governmental agencies, including, but not limited to, encroachment permits, septic tank permits, subdivision and zoning clearances.

SEC. 060-5 FINAL INSPECTION: To be made after finish grading and the building is complete. A final inspection will not be made until the driveway approach, septic tank and planning and zoning requirements have been completed and approved by the respective county departments concerned therewith.

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

Accept the Final Map for 9 residential lots and a)
235.7 acre Remainder Parcel, Tax Report from the)
Tax Collector, Subdivision Improvement Agreement,)
Subdivision Security, Conservation and Scenic)
Easement Deed, Road and Drainage Maintenance)
Agreement, Notice (Construction of Debris Flow)
Walls), Notice (Tree Removal), Subdivision Title)
Guarantee and Declaration of Covenants, Conditions)
and Restrictions and Reservation of Easements for)
Tract for the Oaks Subdivision (PC94170) for Ferrini)
Oaks LLC. The property is located fronting on and)
northeasterly of San Benancio Road, fronting on and)
southeasterly) of State Highway 68, San Benancio)
area, Toro Area Plan.)

Upon motion of Supervisor Armenta, seconded by Supervisor Calcagno, and carried by those members present, the Board hereby takes the following actions:

1. Accepts the Final Map, Tax Report from the Tax Collector, Subdivision Improvement Agreement, Subdivision Security, Conservation and Easement Deed, Drainage and Flood Control Systems Agreement, Road Maintenance Agreement, Notice (Construction of Debris Flow Walls), Notice (Tree Removal), Subdivision Title Guarantee and Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Tract.
2. Directs the Chair to sign the Subdivision Improvement Agreement, Conservation and Scenic Easement Deed, Road and Drainage Maintenance Agreement.
3. Directs the Clerk to the Board to submit the Final Map, Conservation and Scenic Easement Deed, Road and Drainage Maintenance Agreement, Notice (Construction of Debris Flow Walls), Notice (Tree Removal) and the Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements for Tract to the County Recorder for filing.
4. Directs the Parks Department to deposit the Recreation in Lieu Fee of \$180.00 into the Recreation-In-Lieu Fee Trust Account No. 080-3473 to be used for financing parks and recreation programs and facilities at Toro Park.

PASSED AND ADOPTED on this 20th day of June 2006, by the following vote-to-wit:

AYES: Supervisors Armenta, Calcagno, Lindley, Potter, and Smith

Oaks Subdivison
Page 2

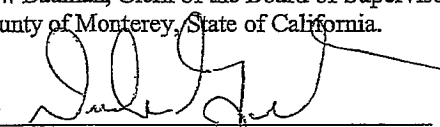
NOES: None
ABSENT: None

I, Lew Bauman, 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 Minute Book 73, on June 20, 2006.

Dated: June 20, 2006

Lew Bauman, Clerk of the Board of Supervisors
County of Monterey, State of California.

By



Darlene Drain, Clerk

MONTEREY COUNTY BOARD OF SUPERVISORS

MEETING: June 20, 2006

AGENDA NO.: Consent

31

SUBJECT:

1. Accept the Final Map for 9 residential lots and a 235.7-acre remainder parcel, Tax Report from the Tax Collector, Subdivision Improvement Agreement, Subdivision Security, Conservation and Scenic Easement Deed, Road and Drainage Maintenance Agreement, Notice (Construction of Debris Flow Walls), Notice (Tree Removal), Subdivision Title Guarantee and the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Tract for the Oaks Subdivision for Ferrini Oaks LLC (Standard Subdivision PC94170). The property is located fronting on and northeasterly of San Benancio Road, fronting on and southeasterly of State Highway 68, San Benancio area.
2. Direct the Chair to sign the Subdivision Improvement Agreement, Conservation and Scenic Easement Deed and Road and Maintenance Agreement.
3. Direct the Clerk to the Board to submit the Final Map, Conservation and Scenic Easement Deed, Road and Drainage Maintenance Agreement, Notice (Construction of Debris Flow Walls), and Notice (Tree Removal) and the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Tract to the County Recorder for filing.
4. Direct the Parks Department to deposit the Recreation in Lieu Fee of \$180.00 into the Recreation-In-Lieu Fee Trust Account No. 080-3473 to be used for financing parks and recreation programs and facilities at Toro Park.

PROJECT LOCATION: The property is located fronting on and northeasterly of San Benancio Road, fronting on and southeasterly of State Highway 68, San Benancio area.

APN: 161-011-078-000

PLANNING FILE NUMBER: PC94170

NAME: Ferrini Oaks

PLAN AREA: Toro Area Plan

FLAGGED AND STAKED: No

ZONING DESIGNATION: LDR/B-6-D (Low Density Residential/Building Site Review – Design Control) and LDR/B-6-D (24) (Low Density Residential/Building Site Review – Design Control – 24 Foot Maximum Height)

CEQA ACTION: N/A

DEPARTMENT: RMA - Planning Department

RECOMMENDATION:

It is recommended that the Board of Supervisors accept the following for the Oaks Subdivision:

1. Accept the Final Map, Tax Report from the Tax Collector, Subdivision Improvement Agreement, Subdivision Security, Conservation and Easement Deed, Drainage and Flood Control Systems Agreement, Road Maintenance Agreement, Notice (Construction of Debris Flow Walls), Notice (Tree Removal), Subdivision Title Guarantee and Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Tract.
2. Direct the Chair to sign the Subdivision Improvement Agreement, Conservation and Scenic Easement Deed, Road and Drainage Maintenance Agreement.
3. Direct the Clerk to the Board to submit the Final Map, Conservation and Scenic Easement Deed, Road and Drainage Maintenance Agreement, Notice (Construction of Debris Flow Walls), Notice (Tree Removal) and the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Tract to the County Recorder for filing.
4. Direct the Parks Department to deposit the Recreation in Lieu Fee of \$180.00 into the Recreation-In-Lieu Fee Trust Account No. 080-3473 to be used for financing parks and recreation programs and facilities at Toro Park.

SUMMARY:

The developer has submitted a tax certificate in accordance with Section 66492 of the Subdivision Map Act and has met all the conditions of the approved standard subdivision tentative map. The preceding documents and fees need to be accepted by the Board before the Final Map can be filed for record.

DISCUSSION:

The Oaks Subdivision (PC94170) was approved by the Board of Supervisors on May 8, 2001. The Final Map of said subdivision proposes to divide an existing, approximately 325.7-acre parcel into nine residential lots ranging in size from 1.7 acres to 13.6 acres and a remainder parcel of 285.7 acres. The applicant has met the requirements of the Inclusionary Housing Ordinance by paying the required Inclusionary Housing In-Lieu Fee of \$117,758.00 in full. The recreation requirements of the Subdivision Ordinance have been met by payment of \$180.00 to the County; this money will be used to finance parks and recreation programs and facilities at Toro Park.

OTHER AGENCY INVOLVEMENT:

The applicant has met all the conditions from the Planning and Building Inspection Department, Health Department, Water Resources Agency, Public Works Department, Parks Department and the Salinas Rural Fire Protection District.

FINANCING:

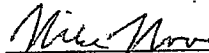
There is no financial impact on the County General Fund. Development fees have been collected to finance the processing and review required for the applicant to proceed.

Prepared by:



Luis A. Osorio, Senior Planner
(831) 755-5177 osoriol@co.monterey.ca.us

Approved by:



Mike Novo, Interim Director
Planning Department

- Attachments: Board Order;
- Cover Letter;
- Final Map;
- Tax Report from the Tax Collector;
- Subdivision Improvement Agreement; Subdivision Security;
- Conservation and Scenic Easement Deed;
- Road and Drainage Maintenance Agreement;
- Notice (Construction of Debris Flow Walls);
- Notice (Tree Removal);
- Subdivision Title Guarantee;
- Conditions and Restrictions and Reservation of Easements for Tract Location Map.

ENCROACHMENT PERMIT NO. 06-550

Notify the Public Works Department at least 48 hours, exclusive of Saturdays, Sundays and legal holidays, before starting any permit work. Inspector Robert Palomino, 831-755-4955.

MONTEREY COUNTY
DEPARTMENT OF PUBLIC WORKS
168 W. Alisal St. 2nd Floor
Salinas, CA 93901
(831)755-4800

The use of this permit is prima facie evidence that the permittee has read and understands the terms.

ROAD: San Benancio Road LOCATION:
BETWEEN: State Route 68 AND: Big Sky Lane DATE ISSUED: 29-Jun-06
AREA: Toro APN: 161-011-078 DISTRICT: Mon @ P-1

FEE: \$0.00 DATE PMT REC'D: 03-Apr-06 PMT METHOD: Check BY: rp

PERMITTEE: Ferrini Oaks, LLC 1:
C/O: 2:
ADDRESS: 365 Victor Street, Suite S
CITY: Salinas STATE CA ZIP: 93907
PHONE: (831) 758-4368x

In compliance of your request of 06/26/06 and subject to existing County Encroachment Ordinance and to all the terms, conditions and restrictions written below, printed on or attached to any part of this form,


PERMISSION IS HEREBY GRANTED TO:

Excavate 2,800 feet +/- trench to install underground eight inch water main facilities located on subject road per attached plans titled "Oaks Subdivision Water System".

In order to have this encroachment permit acknowledged as complete, work shall be in accordance with the above mentioned plan (if any), attached form TR and all pertinent sections of Monterey County Code Title 14.04.

Unless specified, no permit work or activity is to take place after: 31-Dec-06

EIR exempt by section: 15301 class: 1 (b)

Accepted by:  Canceled by: Date: 3-31-09

Copy: Permittee / Job Site / Inspector / Circulate / Foreman / Administration

Fund 002 Budget Unit 300 Organization 3000 Revenue # 4175

ENCROACHMENT PERMIT NO. 06-551

Notify the Public Works Department at least 48 hours, exclusive of Saturdays, Sundays and legal holidays, before starting any permit work. Inspector Robert Palomino, 831-755-4955.

MONTEREY COUNTY
DEPARTMENT OF PUBLIC WORKS
168 W. Alisal St. 2nd Floor
Salinas, CA 93901
(831)755-4800

The use of this permit is prima facie evidence that the permittee has read and understands the terms.

ROAD: Pasco Vaqueros LOCATION:
BETWEEN: San Benancio Road AND: Paseo Cuarto DATE ISSUED: 29-Jun-06
AREA: Toro APN: 161-011-078 DISTRICT: Mon @ P-1

FEE: \$0.00 DATE PMT REC'D: 03-Apr-06 PMT METHOD: Check BY: rp

PERMITTEE: Ferrini Oaks, LLC 1:
C/O: 2:
ADDRESS: 365 Victor Street, Suite S
CITY: Salinas STATE CA ZIP: 93907
PHONE: (831) 758-4368x

In compliance of your request of 06/26/06 and subject to existing County Encroachment Ordinance and to all the terms, conditions and restrictions written below, printed on or attached to any part of this form,


PERMISSION IS HEREBY GRANTED TO:

Excavate 1,800 feet +/- trench to install underground eight inch water main facilities located on subject road per attached plans titled "Oaks Subdivision Water System".

In order to have this encroachment permit acknowledged as complete, work shall be in accordance with the above mentioned plan (if any), attached form TR and all pertinent sections of Monterey County Code Title 14.04.

Unless specified, no permit work or activity is to take place after: 31-Dec-06

EIR exempt by section: 15301 class: 1 (b)

Accepted by:  Canceled by: Date: 3-31-09

Copy: Permittee / Job Site / Inspector / Circulate / Foreman / Administration

Fund 002 Budget Unit 300 Organization 3000 Revenue # 4175

OAKS SUBDIVISION WATER SYSTEM

MONTEREY COUNTY, CALIFORNIA

DRAWINGS FOR CONSTRUCTION OF

MONTEREY WATER COMPANY



DATE	2/21/00
BY	[Signature]
TITLE	Director of Public Works
PROJECT	Oaks Subdivision Water System
SCALE	AS SHOWN
PROJECT NO.	00-0000
DATE	2/21/00

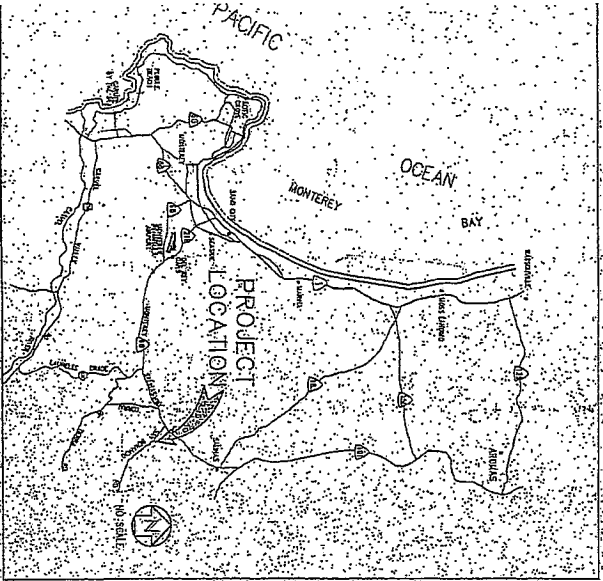
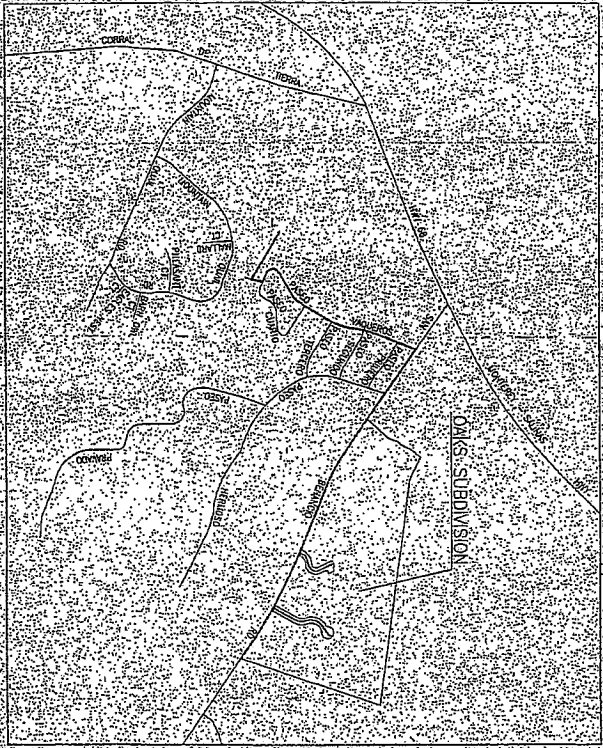
CONFORMS TO APPLICABLE ORDINANCES AND REQUIREMENTS
 RONALD LINDQUIST
 PUBLIC WORKS DIRECTOR

SHEET INDEX

SHEET NO.	DESCRIPTION
1	INDEX & VICINITY PLAN
2	PLAN SHEET SAN BERNABEO ROAD
3	PLAN SHEET PASO DE VAQUEROS
4	PLAN SHEET OAKS SUBDIVISION DETAILS

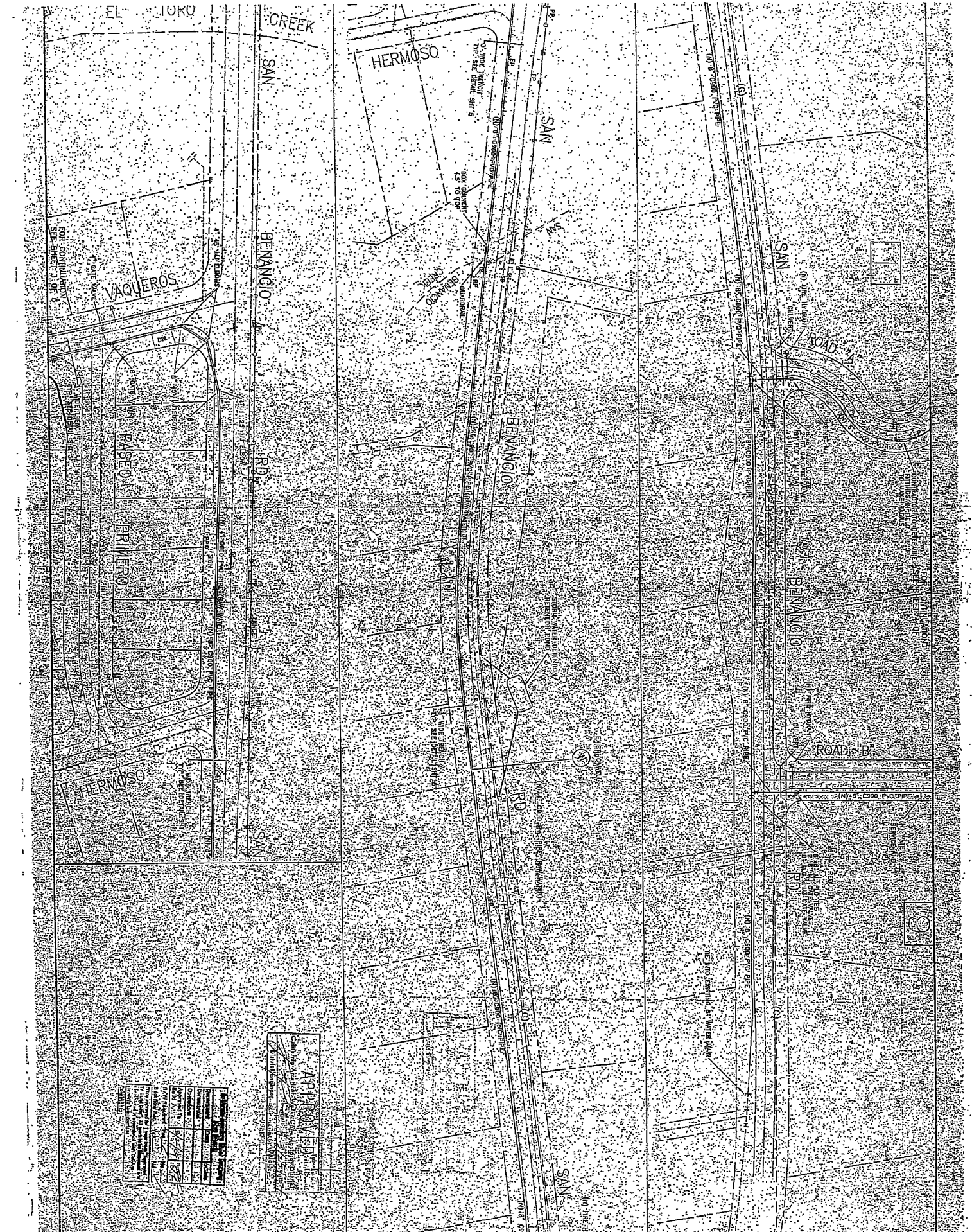
LEGEND

SYMBOL	DESCRIPTION
[Symbol]	Right-of-Way
[Symbol]	Water Main
[Symbol]	Sanitary Sewer
[Symbol]	Storm Sewer
[Symbol]	Proposed
[Symbol]	Existing
[Symbol]	Utility
[Symbol]	Property Line
[Symbol]	Topography
[Symbol]	Water Meter



AREA MAP
NO SCALE

MONITY MAP
NO SCALE



NO.	DATE	REVISIONS
1		
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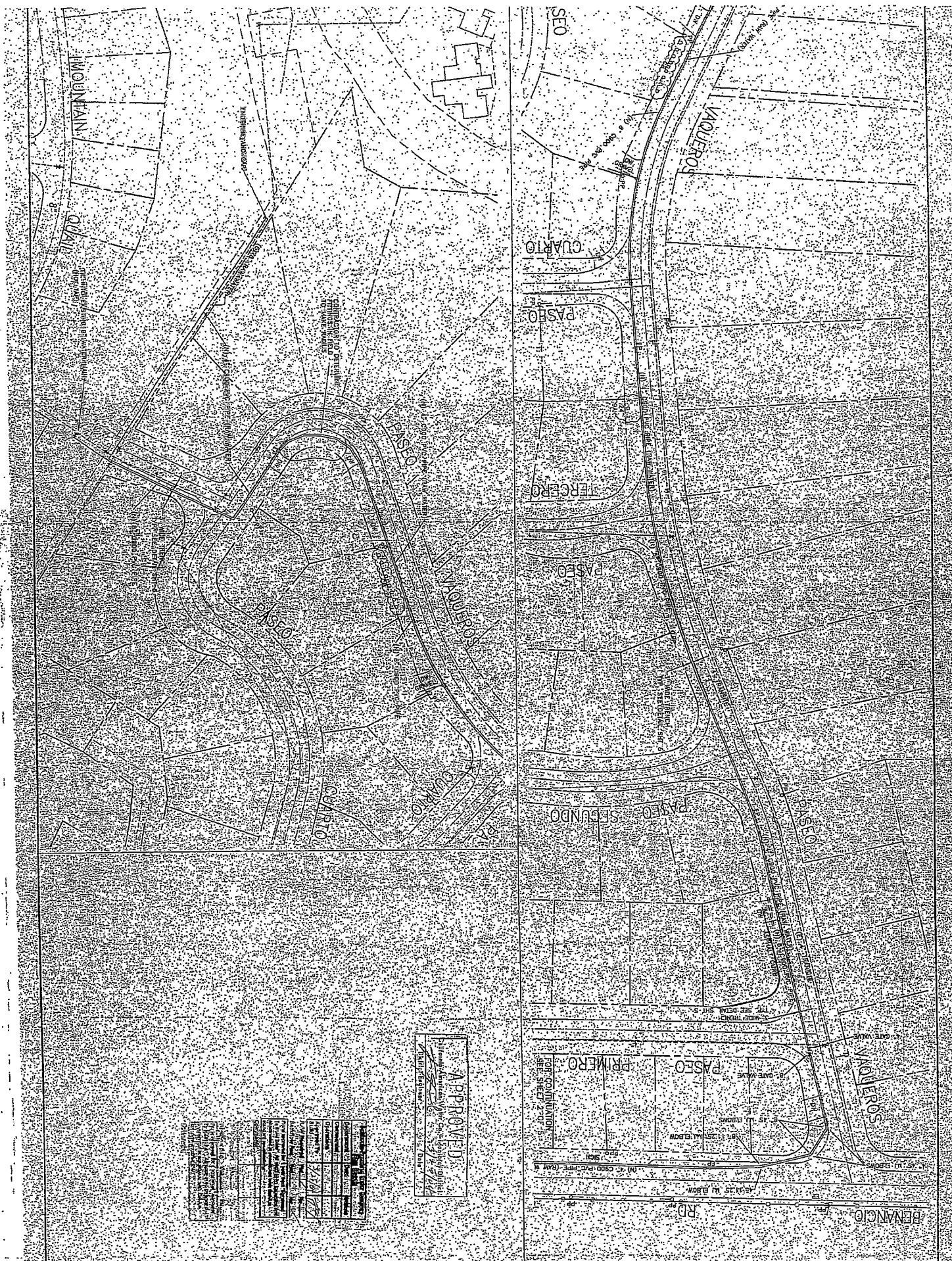
APPROVED
 [Signature]
 [Title]

PLAN - SAN BENANCIO ROAD

BY	DATE	REVISIONS	JOB NO.

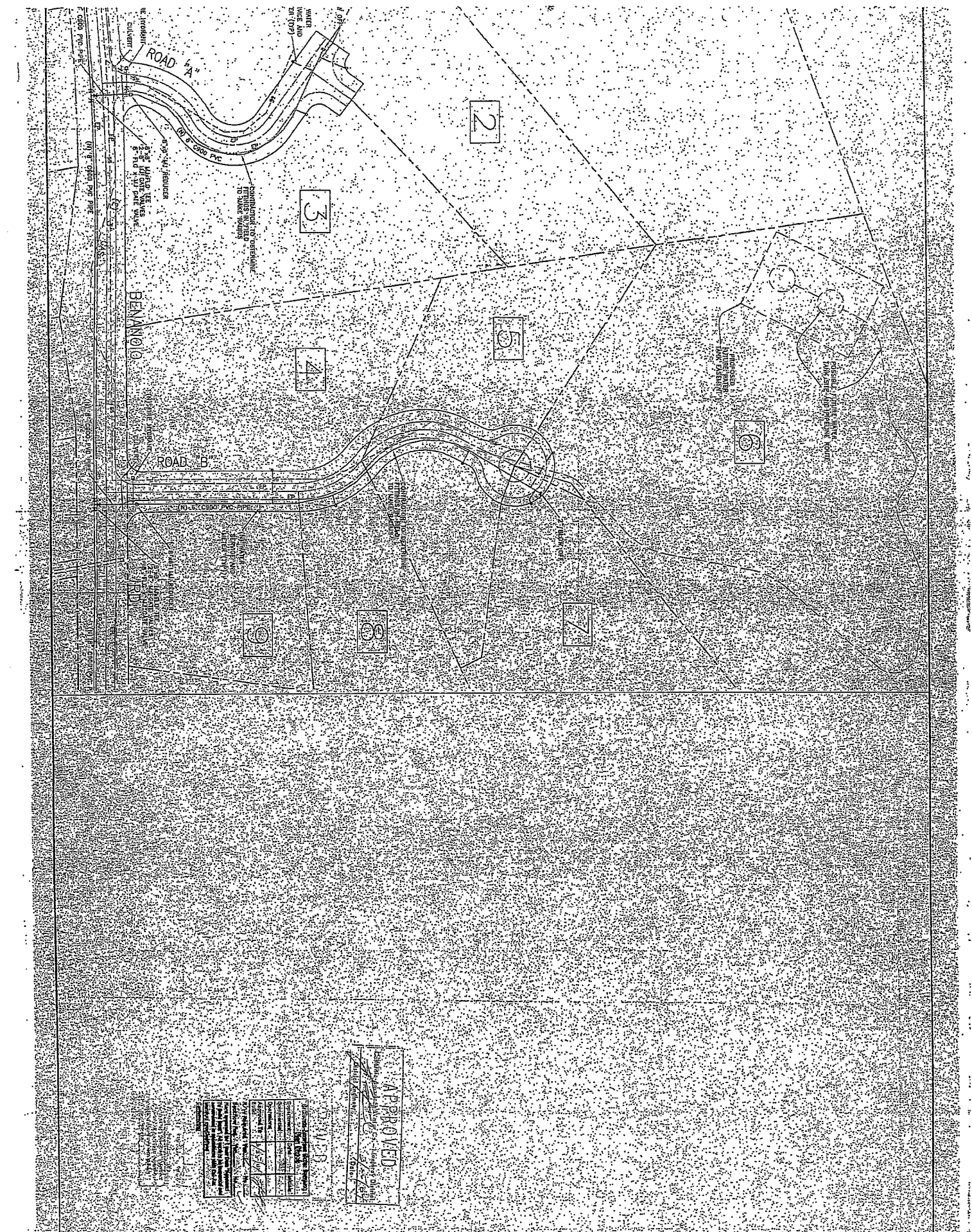
DATE: FEBRUARY 2004
 SCALE: 1"=50'

PREPARED BY OR UNDER
 [Logo]
 [Text]



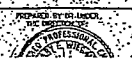
NO.	DATE	REVISIONS

APPROVED
Professional Engineer
Date: 2/24/04



PLAN-OAKS-SUBDIVISION

BY	DATE	REVISIONS	ISS. AND
			DATE - FEBRUARY-2004
			SCALE 1"=50'



TRIP DIV. QEDV1003

APPROVED
[Signature]
 DATE: 2/1/2004

NO.	DESCRIPTION	DATE
1	ISSUED FOR PERMITS	2/1/2004
2	REVISED PER PERMITS	2/1/2004
3	REVISED PER PERMITS	2/1/2004
4	REVISED PER PERMITS	2/1/2004
5	REVISED PER PERMITS	2/1/2004
6	REVISED PER PERMITS	2/1/2004
7	REVISED PER PERMITS	2/1/2004
8	REVISED PER PERMITS	2/1/2004
9	REVISED PER PERMITS	2/1/2004
10	REVISED PER PERMITS	2/1/2004

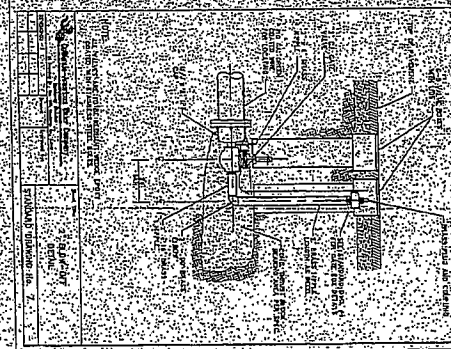
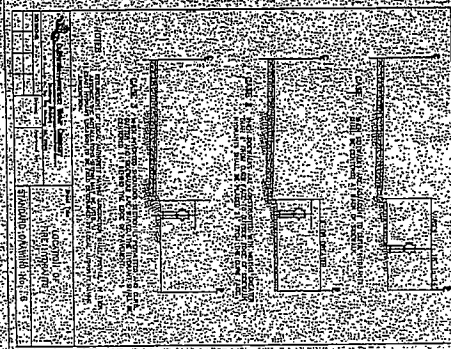
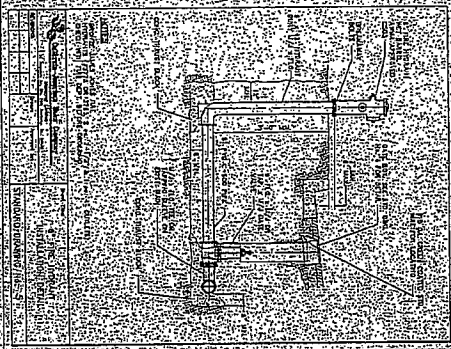
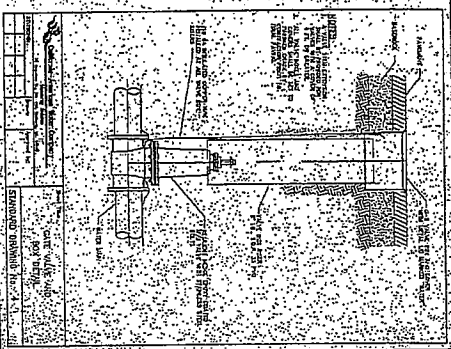
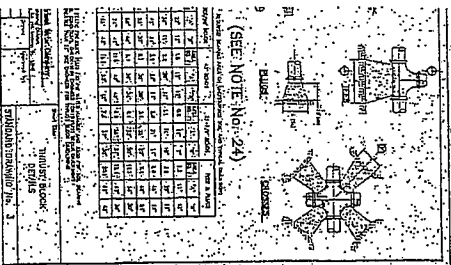
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NO.	DESCRIPTION	QUANTITY	UNIT
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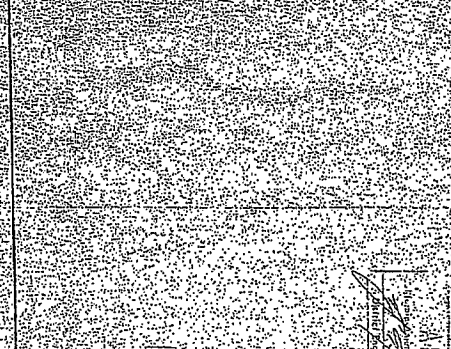
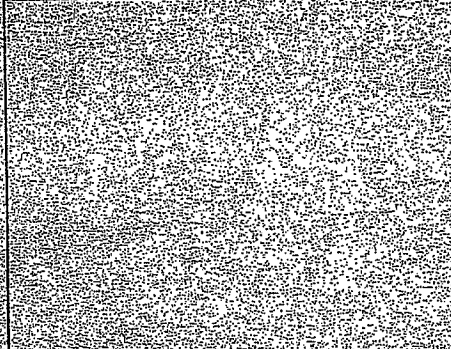
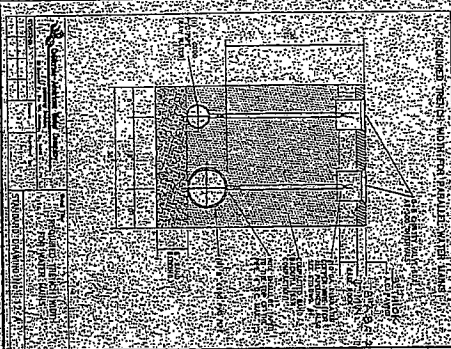
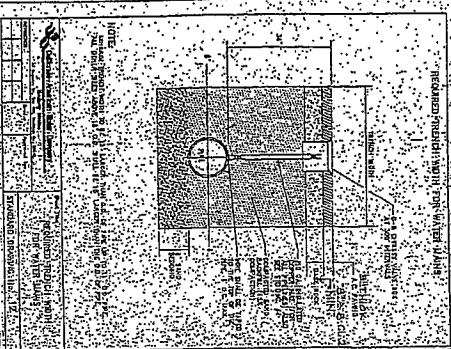
NO.	DESCRIPTION	QUANTITY	UNIT
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NO.	DESCRIPTION	QUANTITY	UNIT
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NO.	DESCRIPTION	QUANTITY	UNIT
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NO.	DESCRIPTION	QUANTITY	UNIT
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APPROVED
[Signature]
 ARCHITECT

NO.	DESCRIPTION	QUANTITY	UNIT
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OWNER'S STATEMENT

WE HEREBY STATE THAT WE ARE THE OWNERS OF, OR HAVE SOME RIGHT, TITLE OR INTEREST IN AND TO THE REAL PROPERTY INCLUDED WITHIN THE SUBDIVISION SHOWN ON THIS MAP, AND THAT WE ARE THE ONLY PERSONS OR CORPORATION WHOSE CONSENT IS NECESSARY TO PASS A CLEAR TITLE TO SAID PROPERTY, AND WE CONSENT TO THE MAKING OF SAID MAP AND SUBDIVISION AS SHOWN WITHIN THE BORDER LINE SHOWN THERE.

WE HEREBY DEDICATE FOR PUBLIC USE THOSE CERTAIN EASEMENTS FOR PUBLIC UTILITIES (INCLUDING, BUT NOT LIMITED TO, GAS, ELECTRIC, WATER, TELEPHONE, COMMUNICATION, TELEVISION CABLE AND SANITARY SEWERS), AND FOR CLUSTER FEEDBACK PONES AND THEIR NECESSARY AFFURTANCES ON, OVER, OR UNDER THOSE CERTAIN STRIPS OF LAND DESIGNATED AS SUBSTANTIAL AND BIG SKY LANE, SHOWN UPON SAID MAP WITHIN SAID SUBDIVISION, SAID STRIPS OF LAND ARE TO BE LEFT OPEN AND FREE FROM BUILDINGS AND STRUCTURES OF ANY KIND EXCEPT ROADWAYS, DRIVEWAYS, UTILITY COMPANY STRUCTURES, IRRIGATION SYSTEMS, LAWN/FENCES, DRIVEWAYS, SIDEWALKS AND APPURTENANCES THERETO.

WE ALSO HEREBY DEDICATE FOR PUBLIC USE THOSE CERTAIN EASEMENT, FOR STORM WATER DETENTION FUND AND STORM DRAIN PIPELINES AS SHOWN WITHIN LOT 1 AND DESIGNATED "PARCEL 1" UPON SAID MAP.

WE ALSO HEREBY DEDICATE FOR PUBLIC USE, IN CASE CERTAIN EASEMENTS, FOR SANITARY SEWERS, FOR WATER PIPELINES AND THAT EASEMENT FOR DOMESTIC WATER WELL, PUMPING PLANT, STORAGE TANKS, PIPELINES AND APPURTENANCES DESIGNATED "PARCEL 2", TOGETHER WITH THAT CERTAIN EASEMENT FOR INGRESS AND EGRESS APPURTENANT THERETO, ALL AS SHOWN UPON SAID MAP.

WE FURTHER HEREBY DEDICATE TO THE COUNTY OF MONTEREY ANY AND ALL RIGHTS OF ACCESS TO ALL TRAFFIC TO AND FROM SAN BERNANICO ROAD ACROSS PORTIONS OF LOTS 13,4, AND 9, ALL AS SHOWN ON THE HEREIN MAP AND DESIGNATE A 1' NON-ADDRESS STRIP

SUBJECT TO THE FOLLOWING INTERESTS WHICH CANNOT BE BROUGHT INTO FEE, THE SIGNATURES OF WHICH ARE NOT REQUIRED PURSUANT TO SECTION 66436 (C) (1) OF THE GOVERNMENT CODE.

T.G.&E. CO., A CALIFORNIA CORPORATION, AS EASEMENT HOLDER BY DOCUMENT RECORDED IN VOLUME 1525 OF OFFICIAL RECORDS OF MONTEREY COUNTY, CALIFORNIA, AT PAGE 51.

WASHINGTON UNION SCHOOL DISTRICT AS EASEMENT HOLDER BY DOCUMENT RECORDED IN REEL 23 OF OR. PAGE 329.

OWNERS: FERRINI OAKS LLC, A CALIFORNIA LIMITED LIABILITY COMPANY BY [Signature]

STATEMENT OF APPROVAL BY SECRETARY OF MONTEREY COUNTY PLANNING COMMISSION

I, [Signature], SECRETARY OF THE MONTEREY COUNTY PLANNING COMMISSION, HEREBY STATE THAT I HAVE EXAMINED THIS MAP, THAT THE SUBDIVISION AS SHOWN HEREON IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP, AND ANY APPROVED ALTERNATION THEREOF, AS APPROVED BY THE MONTEREY COUNTY BOARD OF SUPERVISORS, ON MAY 15, 2006, THAT ALL THE PROVISIONS OF THE CALIFORNIA "SUBDIVISION MAP ACT" AS AMENDED, AND THE MONTEREY COUNTY CODE, TITLE 18 HAVE BEEN COMPLIED WITH.

[Signature] SECRETARY, MONTEREY COUNTY PLANNING COMMISSION, COUNTY OF MONTEREY, STATE OF CALIFORNIA

STATEMENT OF APPROVAL OF THE CLERK OF BOARD OF SUPERVISORS

I, [Signature], CLERK OF THE BOARD OF SUPERVISORS MONTEREY COUNTY, HEREBY STATE THAT SAID BOARD APPROVED THE WITHIN MAP ON [Date] AND ACCEPTED ON BEHALF OF THE PUBLIC ALL OFFER OF DEDICATION FOR PUBLIC USE IN CONFORMITY WITH THE TERMS OF THE OFFER OF DEDICATION.

[Signature] CLERK OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA

NOTARY STATEMENT

STATE OF CALIFORNIA) s.s. COUNTY OF MONTEREY) BEFORE ME, Denise Johnson, a Notary Public in and for said County and State, personally appeared [Signature] and [Signature] and they acknowledged to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons of the entity upon behalf of which the persons acted, executed the instrument.

[Signature] Notary Public in and for the County of Monterey, My Commission Expires [Date]

COUNTY SURVEYOR'S STATEMENT

I, [Signature], COUNTY SURVEYOR OF MONTEREY COUNTY, HEREBY STATE THAT I HAVE EXAMINED THIS MAP, THAT THE SUBDIVISION AS SHOWN HEREON IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP, AND ANY APPROVED ALTERNATION THEREOF, AS APPROVED BY THE MONTEREY COUNTY BOARD OF SUPERVISORS, ON MAY 15, 2006, THAT ALL THE PROVISIONS OF THE CALIFORNIA "SUBDIVISION MAP ACT" AS AMENDED, AND THE MONTEREY COUNTY CODE, TITLE 18 HAVE BEEN COMPLIED WITH AND THAT THIS MAP IS TECHNICALLY CORRECT.

[Signature] COUNTY SURVEYOR, MONTEREY COUNTY, CALIFORNIA

SURVEYOR'S STATEMENT

I, VIRGIL L. WILLIAMS, LICENSED LAND SURVEYOR, DO HEREBY STATE THAT THIS MAP CORRECTLY REPRESENTS A SURVEY MADE UNDER MY DIRECTION DURING [Date] THAT THE SURVEY IS TRUE AND COMPLETE AS SHOWN, THAT ALL MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED OR THEY WILL BE SET IN SUCH POSITIONS ON OR BEFORE ONE YEAR AFTER THE RECORDATION OF THIS MAP BY THE MONTEREY COUNTY RECORDER. THE MONUMENTS ARE OR WILL BE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.



RECORDER'S STATEMENT

FILED FOR RECORD AT THE REQUEST OF H.P. FERRINS CO., INC. THIS [Date] DAY OF [Month], 2006, AT [Time] MINUTES PAST [Hour] O'Clock IN VOLUME 23 OF "CITIES & TOWNS" AT PAGE 32 RECORDS OF MONTEREY COUNTY, CALIFORNIA

[Signature] COUNTY RECORDER, DEPUTY

FILE \$15.00 G NO 124658257

TRACT 1460 THE OAKS SUBDIVISION

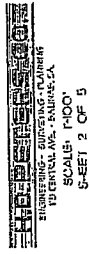
(A PRIVATE ROAD SUBDIVISION) SITUATE IN RANCHO EL TORO MONTEREY COUNTY, CALIFORNIA PREPARED FOR FERRINI OAKS LLC BY [Signature]



TRACT 1466

THE OAKS SUBDIVISION

(A PRIVATE ROAD SUBDIVISION)
 SITUATE IN
 RANCHO EL TORO
 MONTEREY COUNTY, CALIFORNIA
 APN 161-01-07B
 PREPARED FOR
FERRINI OAKS LLC
 BY



SCALE: 1" = 40.00'
 SHEET 2 OF 5

BASIS OF BEARINGS
 THE BEARINGS INDICATED ON THIS MAP ARE BASED ON THE SAN BENITO ROAD ON THE CENTERLINE OF SAID ROAD ON MAP FILED IN MONTEREY COUNTY AT PAGE 91 AND HAS BEEN ESTABLISHED FROM FOUND MONUMENTS MARKING SAID LINE.

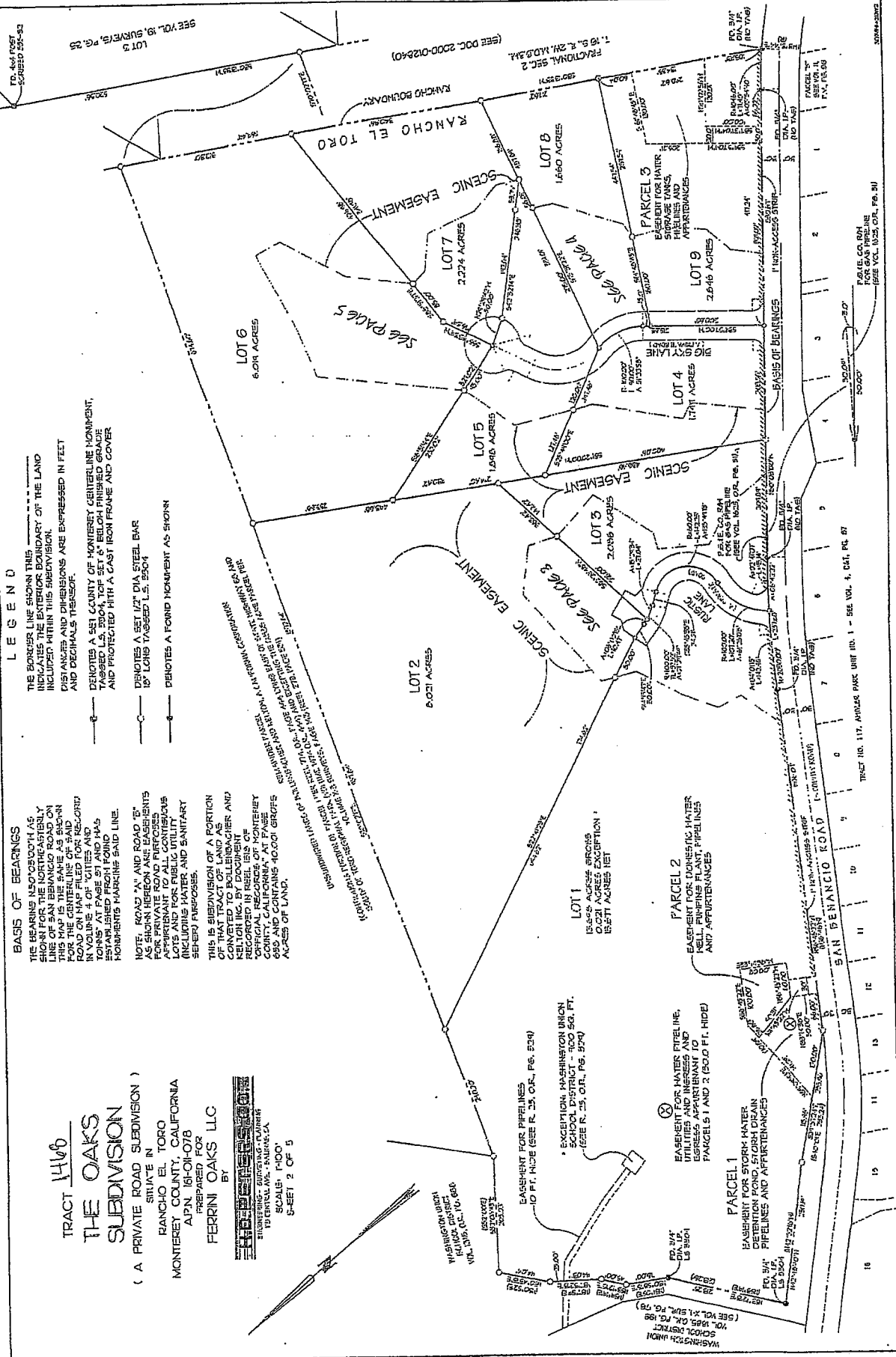
NOTE: ROAD "A" AND ROAD "B" ARE PRIVATE ROADS AND ARE SUBJECT TO ALL CONTINGUOUS EASEMENTS AND SANITARY SEWER EASEMENTS.

THIS IS SUBDIVISION OF A PORTION OF THE SAN BENITO ROAD AS CONVEYED TO BELLEVOUE AND KEIGHTON INC. BY DOCUMENT RECORDED IN REEL 1615 OF COUNTY RECORDS AT PAGE 680 AND CONTAINS 40.000 ACRES OF LAND.

LEGEND
 THE DOTTED LINE SHOWS THIS SUBDIVISION'S EXTERIOR BOUNDARY OF THE LAND INCLUDED WITHIN THIS SUBDIVISION. DIMENSIONS ARE EXPRESSED IN FEET AND DECIMALS THEREOF.
 DENOTES A SET COUNTY OF MONTEREY CENTERLINE MONUMENT, TABBED L.S. 25041, FINISHED GRADE AND PROTECTED WITH A CAST IRON FRAME AND COVER.
 DENOTES A SET LOT DIA STEEL BAR.
 DENOTES A FOUND MONUMENT AS SHOWN.

LEGEND

THE DOTTED LINE SHOWS THIS SUBDIVISION'S EXTERIOR BOUNDARY OF THE LAND INCLUDED WITHIN THIS SUBDIVISION. DIMENSIONS ARE EXPRESSED IN FEET AND DECIMALS THEREOF.
 DENOTES A SET COUNTY OF MONTEREY CENTERLINE MONUMENT, TABBED L.S. 25041, FINISHED GRADE AND PROTECTED WITH A CAST IRON FRAME AND COVER.
 DENOTES A SET LOT DIA STEEL BAR.
 DENOTES A FOUND MONUMENT AS SHOWN.



LOT 1 16.856 ACRES EXCEPT 0.021 ACRES EXCEPT 1.000 ACRES NET

LOT 2 6.021 ACRES

LOT 3 2.036 ACRES

LOT 4 1.711 ACRES

LOT 5 1.640 ACRES

LOT 6 6.018 ACRES

LOT 7 2.274 ACRES

LOT 8 1.660 ACRES

LOT 9 2.646 ACRES

SCENIC EASEMENT

SCENIC EASEMENT

SCENIC EASEMENT

PARCEL 1 WASHINGTON UNION SCHOOL DISTRICT (SEE VOL. 185, O.R., PG. 198)

PARCEL 2 WASHINGTON UNION SCHOOL DISTRICT (SEE R. 25, O.R., PG. 974)

PARCEL 3 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 4 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 5 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 6 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 7 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 8 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 9 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 10 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 11 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 12 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 13 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 14 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 15 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 16 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

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PARCEL 23 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 24 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 25 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 26 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 27 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 28 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 29 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

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PARCEL 31 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

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PARCEL 35 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

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PARCEL 40 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 41 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 42 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

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PARCEL 44 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

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PARCEL 46 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 47 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 48 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 49 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 50 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 51 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 52 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 53 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 54 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 55 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 56 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 57 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 58 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 59 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 60 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 61 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 62 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 63 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 64 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 65 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 66 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 67 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 68 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 69 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 70 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 71 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

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PARCEL 73 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 74 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 75 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 76 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 77 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 78 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 79 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 80 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 81 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 82 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 83 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 84 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 85 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 86 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 87 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 88 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 89 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 90 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 91 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 92 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 93 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 94 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 95 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

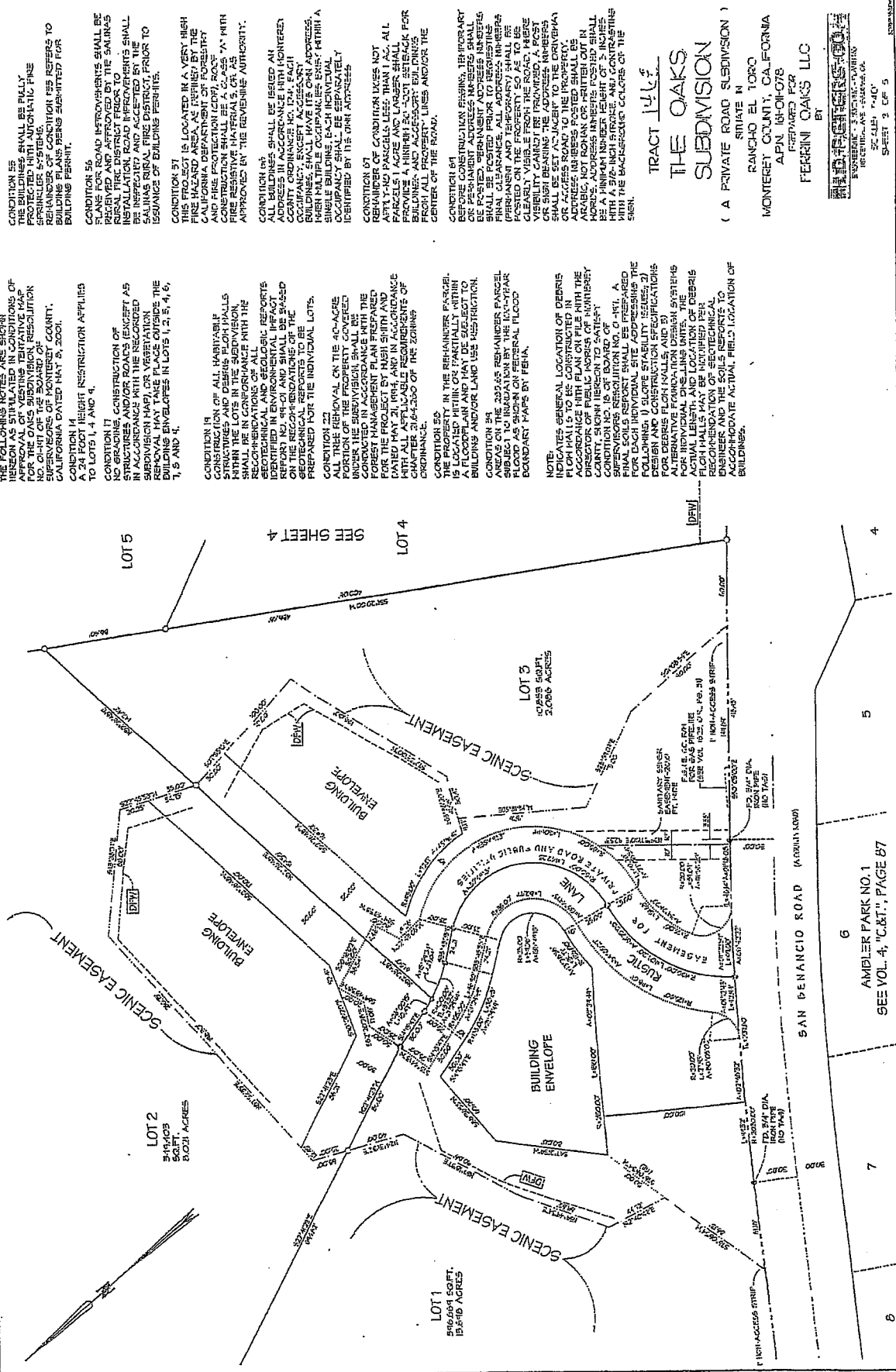
PARCEL 96 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 97 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 98 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 99 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES

PARCEL 100 PARCEL FOR WATER SUPPLY TANKS, PIPELINES AND APPURTENANCES



THE FOLLOWING NOTES ARE SHORTLY HEREON AS STIPULATED IN CONDITIONS OF APPROVAL OF VESTING TENTATIVE MAP OR THE SUBDIVISION MAP AND RESOLUTION NO. 10470 OF THE BOARD OF SUPERVISORS OF MONTEREY COUNTY, CALIFORNIA DATED MAY 5, 2001.

CONDITION 14
A 24 FOOT HEIGHT RESTRICTION APPLIES TO LOTS 1, 4 AND 4.

CONDITION 17
CONSTRUCTION OF STRUCTURES AND/OR ROADS (EXCEPT AS INDICATED OTHERWISE) SHALL BE IN ACCORDANCE WITH THE RECORDED SUBDIVISION MAP, OR VEGETATION REMOVAL MAY TAKE PLACE OUTSIDE THE BOUNDARIES OF LOTS 1, 2, 3, 4, 5, 6, 7, 8 AND 8.

CONDITION 18
ALL OF ALL HABITABLE STRUCTURES AND DEBRIS FLOOR WALLS SHALL BE IN CONFORMANCE WITH THE RECORDED SUBDIVISION MAP. RECOMMENDATIONS AND GEOTECHNICAL REPORTS IDENTIFIED IN ENVIRONMENTAL IMPACT REPORT NO. 98-01 AND SHALL BE BASED ON THE RECOMMENDATIONS OF THE REPORT. THE REPORT SHALL BE PREPARED FOR THE INDIVIDUAL LOTS.

CONDITION 22
ALL THE REMOVAL ON THE 40-ACRE PORTION OF THE PROPERTY COVERED UNDER THE SUBDIVISION SHALL BE THE FOREST MANAGEMENT PLAN PREPARED FOR THE PROJECT BY HEN SHIH AND DATED MAY 21, 1994, AND IN ACCORDANCE WITH ALL APPLICABLE REQUIREMENTS OF THE CALIFORNIA FOREST PRACTICE ACT AND ORDINANCE.

CONDITION 25
THE PROPERTY IN THE REMAINDER PARCEL IS LOCATED WITHIN OR PARTIALLY WITHIN A FLOODPLAIN AND MAY BE SUBJECT TO BUILDING AND/OR LAND USE RESTRICTIONS. CONSULT THE 2005 REMAINDER PARCEL MAP FOR INFORMATION BY THE 100-YEAR FLOOD AS SHOWN ON FEDERAL FLOOD ELEVATION MAPS BY FEMA.

NOTE:
INDICATES GENERAL LOCATION OF DEBRIS FLOOR WALLS TO BE CONSTRUCTED IN ACCORDANCE WITH PLAN ON FILE WITH THE COUNTY ENGINEER AND THE COUNTY OF MONTEREY SUPERVISORS RESOLUTION NO. 0-1911. A FLOODPLAIN EASEMENT SHALL BE OBTAINED FOR EACH INDIVIDUAL SITE. DEPRESSING THE FOLLOWING TO SLOPE STABILITY ISSUES: 2) FOR DEBRIS FLOOR WALLS AND 3) FOR INDIVIDUAL DWELLING UNITS. THE ACTUAL LENGTH AND LOCATION OF DEBRIS FLOOR WALLS MAY BE MODIFIED PER RECOMMENDATION OF THE ENGINEER TO ACCOMMODATE ACTUAL FIELD LOCATION OF BUILDINGS.

CONDITION 55
THE BUILDINGS SHALL BE FULLY PROTECTED FROM AUTOMATIC FIRE EXTINGUISHER SYSTEMS. REVISIONS OF CONSTRUCTION PERMITS TO BUILDING PLANS BEING SUBMITTED FOR BUILDING PERMIT.

CONDITION 56
FLANS FOR ROAD IMPROVEMENTS SHALL BE RECEIVED AND APPROVED BY THE SALINAS COUNTY ENGINEER. ROAD IMPROVEMENTS SHALL BE INSTALLED AND ACCEPTED BY THE SALINAS RURAL FIRE DISTRICT PRIOR TO ISSUANCE OF BUILDING PERMITS.

CONDITION 57
THIS PROJECT IS LOCATED IN A VERY HIGH FIRE HAZARD AREA, AS DESIGNATED BY THE CALIFORNIA DEPARTMENT OF FORESTRY AND FIRE PROTECTION. CONSTRUCTION SHALL BE A CLASS "A" WITH FIRE RESISTIVE MATERIALS, OR AS APPROVED BY THE REVIEWING AUTHORITY.

CONDITION 65
ALL BUILDINGS SHALL BE ISSUED AN ADDRESS IN ACCORDANCE WITH MONTEREY COUNTY ORDINANCE NO. 10470. OCCUPANCY, STREET ADDRESS, BUILDINGS, SHALL HAVE ITS OWN ADDRESS. WHEN MULTIPLE OCCUPANCIES EXIST, WITHIN A SUBDIVISION SHALL BE SEPARATELY IDENTIFIED BY THE OWN ADDRESS.

CONDITION 67
CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE MONTEREY COUNTY ORDINANCE NO. 10470. OCCUPANCY, STREET ADDRESS, BUILDINGS, SHALL HAVE ITS OWN ADDRESS. WHEN MULTIPLE OCCUPANCIES EXIST, WITHIN A SUBDIVISION SHALL BE SEPARATELY IDENTIFIED BY THE OWN ADDRESS.

CONDITION 68
CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE MONTEREY COUNTY ORDINANCE NO. 10470. OCCUPANCY, STREET ADDRESS, BUILDINGS, SHALL HAVE ITS OWN ADDRESS. WHEN MULTIPLE OCCUPANCIES EXIST, WITHIN A SUBDIVISION SHALL BE SEPARATELY IDENTIFIED BY THE OWN ADDRESS.

CONDITION 69
CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE MONTEREY COUNTY ORDINANCE NO. 10470. OCCUPANCY, STREET ADDRESS, BUILDINGS, SHALL HAVE ITS OWN ADDRESS. WHEN MULTIPLE OCCUPANCIES EXIST, WITHIN A SUBDIVISION SHALL BE SEPARATELY IDENTIFIED BY THE OWN ADDRESS.

CONDITION 70
CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE MONTEREY COUNTY ORDINANCE NO. 10470. OCCUPANCY, STREET ADDRESS, BUILDINGS, SHALL HAVE ITS OWN ADDRESS. WHEN MULTIPLE OCCUPANCIES EXIST, WITHIN A SUBDIVISION SHALL BE SEPARATELY IDENTIFIED BY THE OWN ADDRESS.

CONDITION 71
CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE MONTEREY COUNTY ORDINANCE NO. 10470. OCCUPANCY, STREET ADDRESS, BUILDINGS, SHALL HAVE ITS OWN ADDRESS. WHEN MULTIPLE OCCUPANCIES EXIST, WITHIN A SUBDIVISION SHALL BE SEPARATELY IDENTIFIED BY THE OWN ADDRESS.

CONDITION 72
CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE MONTEREY COUNTY ORDINANCE NO. 10470. OCCUPANCY, STREET ADDRESS, BUILDINGS, SHALL HAVE ITS OWN ADDRESS. WHEN MULTIPLE OCCUPANCIES EXIST, WITHIN A SUBDIVISION SHALL BE SEPARATELY IDENTIFIED BY THE OWN ADDRESS.

CONDITION 73
CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE MONTEREY COUNTY ORDINANCE NO. 10470. OCCUPANCY, STREET ADDRESS, BUILDINGS, SHALL HAVE ITS OWN ADDRESS. WHEN MULTIPLE OCCUPANCIES EXIST, WITHIN A SUBDIVISION SHALL BE SEPARATELY IDENTIFIED BY THE OWN ADDRESS.

CONDITION 74
CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE MONTEREY COUNTY ORDINANCE NO. 10470. OCCUPANCY, STREET ADDRESS, BUILDINGS, SHALL HAVE ITS OWN ADDRESS. WHEN MULTIPLE OCCUPANCIES EXIST, WITHIN A SUBDIVISION SHALL BE SEPARATELY IDENTIFIED BY THE OWN ADDRESS.

CONDITION 75
CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE MONTEREY COUNTY ORDINANCE NO. 10470. OCCUPANCY, STREET ADDRESS, BUILDINGS, SHALL HAVE ITS OWN ADDRESS. WHEN MULTIPLE OCCUPANCIES EXIST, WITHIN A SUBDIVISION SHALL BE SEPARATELY IDENTIFIED BY THE OWN ADDRESS.

CONDITION 76
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CONDITION 77
CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE MONTEREY COUNTY ORDINANCE NO. 10470. OCCUPANCY, STREET ADDRESS, BUILDINGS, SHALL HAVE ITS OWN ADDRESS. WHEN MULTIPLE OCCUPANCIES EXIST, WITHIN A SUBDIVISION SHALL BE SEPARATELY IDENTIFIED BY THE OWN ADDRESS.

CONDITION 78
CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE MONTEREY COUNTY ORDINANCE NO. 10470. OCCUPANCY, STREET ADDRESS, BUILDINGS, SHALL HAVE ITS OWN ADDRESS. WHEN MULTIPLE OCCUPANCIES EXIST, WITHIN A SUBDIVISION SHALL BE SEPARATELY IDENTIFIED BY THE OWN ADDRESS.

CONDITION 79
CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE MONTEREY COUNTY ORDINANCE NO. 10470. OCCUPANCY, STREET ADDRESS, BUILDINGS, SHALL HAVE ITS OWN ADDRESS. WHEN MULTIPLE OCCUPANCIES EXIST, WITHIN A SUBDIVISION SHALL BE SEPARATELY IDENTIFIED BY THE OWN ADDRESS.

CONDITION 80
CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE MONTEREY COUNTY ORDINANCE NO. 10470. OCCUPANCY, STREET ADDRESS, BUILDINGS, SHALL HAVE ITS OWN ADDRESS. WHEN MULTIPLE OCCUPANCIES EXIST, WITHIN A SUBDIVISION SHALL BE SEPARATELY IDENTIFIED BY THE OWN ADDRESS.

CONDITION 81
CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE MONTEREY COUNTY ORDINANCE NO. 10470. OCCUPANCY, STREET ADDRESS, BUILDINGS, SHALL HAVE ITS OWN ADDRESS. WHEN MULTIPLE OCCUPANCIES EXIST, WITHIN A SUBDIVISION SHALL BE SEPARATELY IDENTIFIED BY THE OWN ADDRESS.

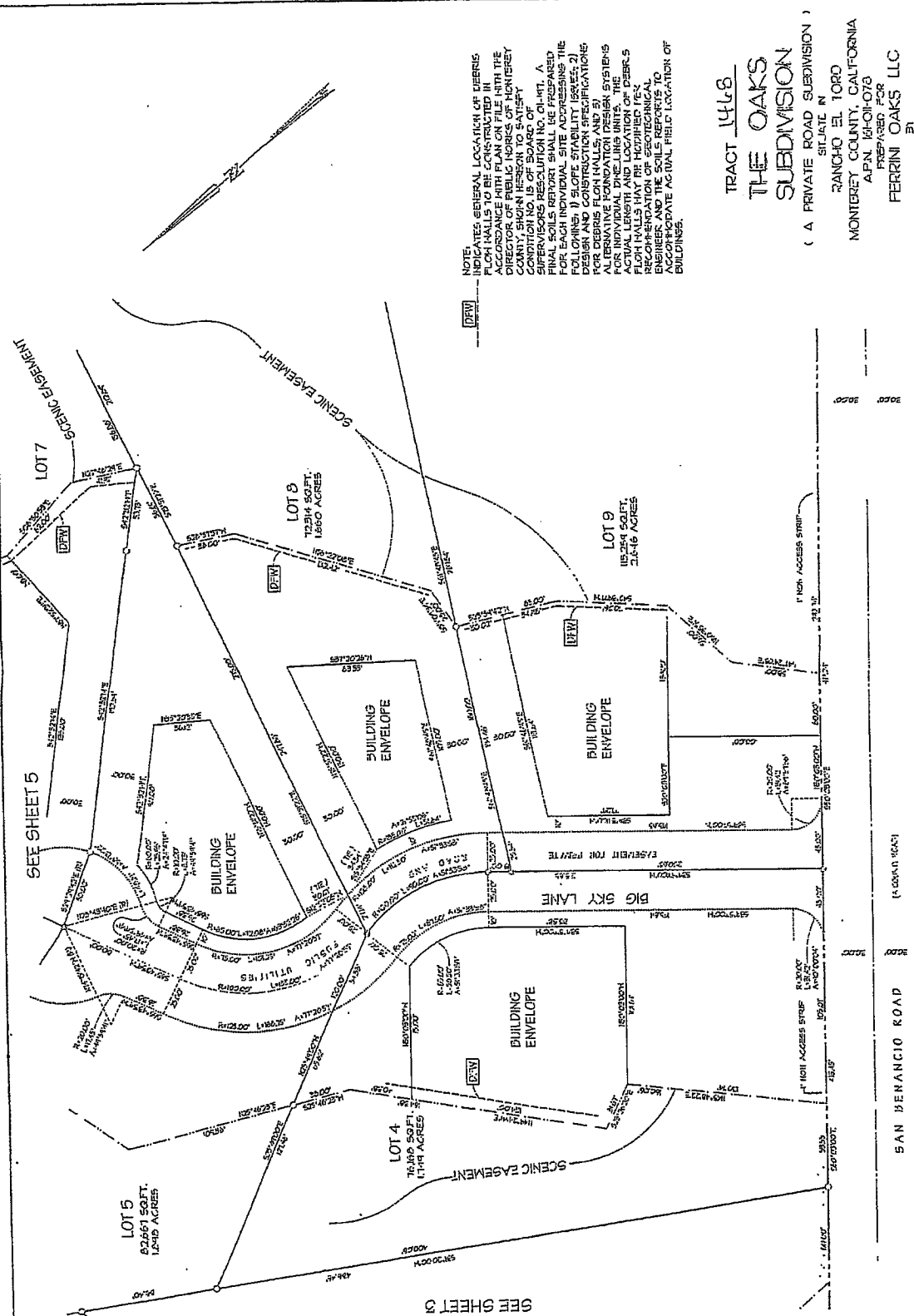
CONDITION 82
CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE MONTEREY COUNTY ORDINANCE NO. 10470. OCCUPANCY, STREET ADDRESS, BUILDINGS, SHALL HAVE ITS OWN ADDRESS. WHEN MULTIPLE OCCUPANCIES EXIST, WITHIN A SUBDIVISION SHALL BE SEPARATELY IDENTIFIED BY THE OWN ADDRESS.

CONDITION 83
CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE MONTEREY COUNTY ORDINANCE NO. 10470. OCCUPANCY, STREET ADDRESS, BUILDINGS, SHALL HAVE ITS OWN ADDRESS. WHEN MULTIPLE OCCUPANCIES EXIST, WITHIN A SUBDIVISION SHALL BE SEPARATELY IDENTIFIED BY THE OWN ADDRESS.

CONDITION 84
CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE MONTEREY COUNTY ORDINANCE NO. 10470. OCCUPANCY, STREET ADDRESS, BUILDINGS, SHALL HAVE ITS OWN ADDRESS. WHEN MULTIPLE OCCUPANCIES EXIST, WITHIN A SUBDIVISION SHALL BE SEPARATELY IDENTIFIED BY THE OWN ADDRESS.

CONDITION 85
CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE MONTEREY COUNTY ORDINANCE NO. 10470. OCCUPANCY, STREET ADDRESS, BUILDINGS, SHALL HAVE ITS OWN ADDRESS. WHEN MULTIPLE OCCUPANCIES EXIST, WITHIN A SUBDIVISION SHALL BE SEPARATELY IDENTIFIED BY THE OWN ADDRESS.

TRACT 144.4
THE OAKS
SUBDIVISION
(A PRIVATE ROAD SUBDIVISION)
SITUATE IN
RANCHO EL TORO
MONTEREY COUNTY, CALIFORNIA
APN 181-01-078
PREPARED FOR
FERRENI OAKS LLC
BY
RUSTIC ENGINEERS, INC.
REGISTERED PROFESSIONAL ENGINEERS
2500 EL CAMINO REAL, SUITE 100
SAN JOSE, CALIFORNIA 95128
SCALE: 1"=40'
SHEET 3 OF 5



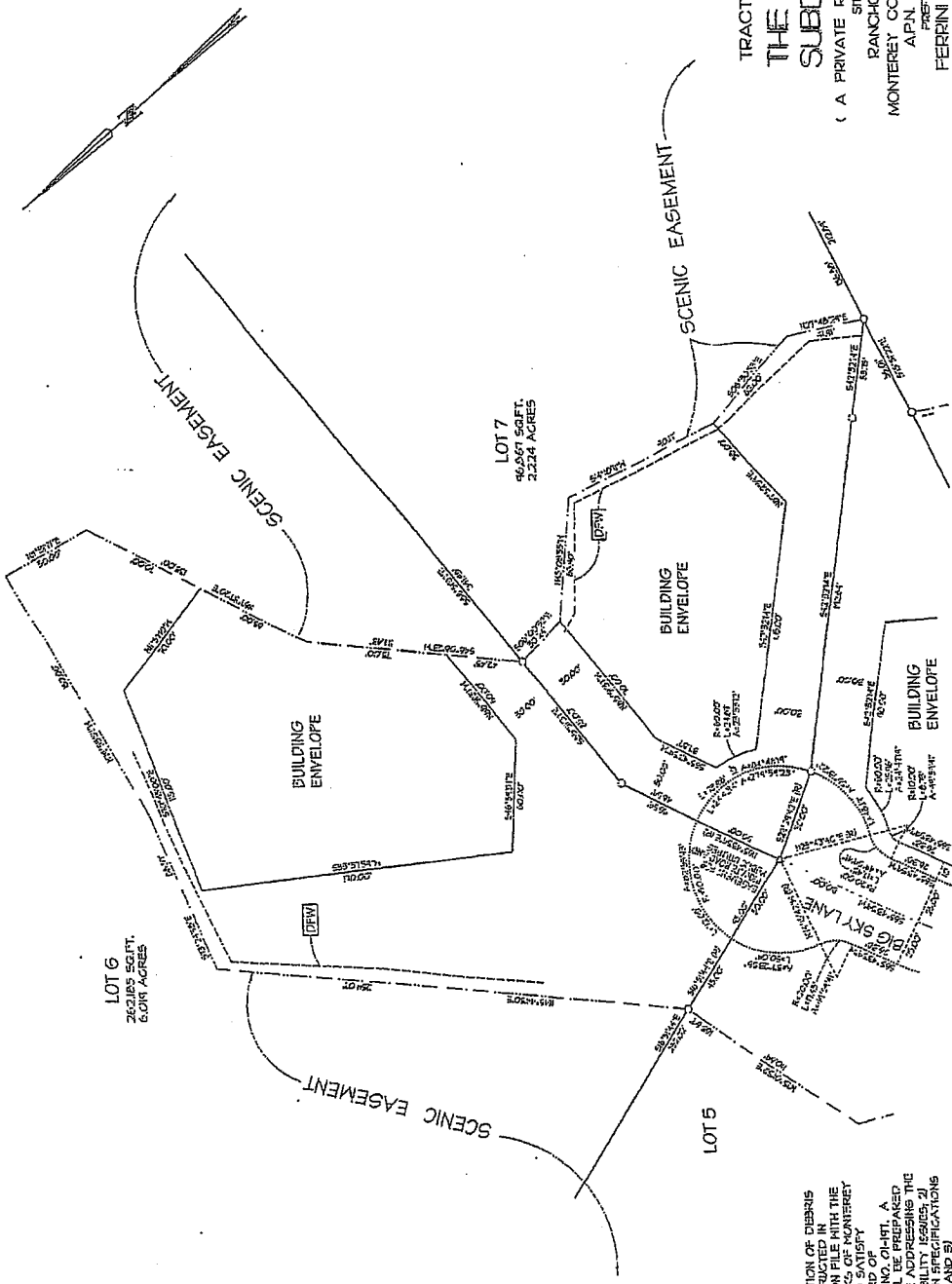
NOTE: INDICATES GENERAL LOCATION OF DEBRIS FLOTHALLS TO BE CONSTRUCTED IN ACCORDANCE WITH THE PUBLIC WORKS ACT WITH THE COUNTY, SHOWN HEREIN TO SATISFY CONDITION NO. 15 OF BOARD OF SUPERVISORS RESOLUTION NO. 01-147. A FINAL SOILS REPORT SHALL BE PREPARED AND SUBMITTED TO THE COUNTY ENGINEER AND CONSTRUCTION SPECIFICATIONS FOR DEBRIS FLOTHALLS AND 5) ALTERNATIVE FOUNDATION DESIGN SYSTEMS FOR DEBRIS FLOTHALLS AND LOCATION OF PEAKS FLOTHALLS MAY BE MODIFIED PER RECOMMENDATION OF GEOTECHNICAL ENGINEER AND THE SOILS REPORTS TO INDICATE ACTUAL FIELD LOCATION OF BUILDINGS.

TRACT 1448
THE OAKS
 SUBDIVISION
 (A PRIVATE ROAD SUBDIVISION)
 SITUATE IN
 RANCHO EL TORO
 MONTEREY COUNTY, CALIFORNIA
 APN 144-01070
 PREPARED FOR
 FERRINI OAKS LLC

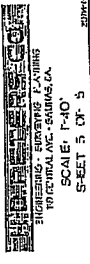
FERRINI ENGINEERING
 ENGINEERS ARCHITECTS PLANNERS
 10000 WILSON AVENUE, SUITE 200
 DUBLIN, CALIFORNIA 94568
 SCALE: 1"=100'
 SHEET 4 OF 5

SEE SHEET 5
 SEE SHEET 3
 SEE SHEET 4, "C.&T.", PAGE 57





TRACT 1460
 THE OAKS
 SUBDIVISION
 (A PRIVATE ROAD SUBDIVISION)
 SITUATE IN
 RANCHO EL TORO
 MONTEREY COUNTY, CALIFORNIA
 A.P.N. 181-011-078
 PREPARED FOR
 FERRINI OAKS LLC
 BY



SCALE: 1"=40'
 SHEET 5 OF 5

NOTE: GENERAL LOCATION OF DEBRIS
 PILES SHALL BE CONSTRUCTED IN
 ACCORDANCE WITH PLAN ON FILE WITH THE
 DIRECTOR OF PUBLIC WORKS OF MONTEREY
 COUNTY, SHOWN IN THE PROPOSED DEBRIS
 SUPERVISORS RESOLUTION NO. 01-011. A
 FINAL SOILS REPORT SHALL BE PREPARED
 FOR EACH INDIVIDUAL SITE ADDRESSING THE
 FOLLOWING: 1) SLOPE STABILITY ANALYSIS
 FOR DEBRIS FLOW HALLS; AND 2)
 ALTERNATIVE FOUNDATION DESIGN SYSTEMS
 FOR INDIVIDUAL SHELLING UNITS. THE
 ACTUAL LENGTH AND LOCATION OF DEBRIS
 PILES SHALL BE DETERMINED PER
 RECOMMENDATION OF GEOTECHNICAL
 ENGINEER AND THE SOILS REPORTS TO
 ACCOMMODATE ACTUAL FIELD LOCATION OF
 BUILDINGS.

SEE SHEET 4

VanHorn, Roger W. x4763

From: Saavedra, Enrique M. Ext. 8970
Sent: Wednesday, August 30, 2006 8:22 AM
To: VanHorn, Roger W. x4763
Subject: FW: Ambler Park/Cal Am water and The Oaks Subdivision

Roger,
FYI

-Enrique M. Saavedra

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

From: Weeks, Curtis Ext.4896
Sent: Tuesday, August 29, 2006 2:03 PM
To: 'Sheri'
Cc: Saavedra, Esmeralda x3440; mkelton054@aol.com; Cristy Stone; Nancy; Palomino, Robert Ext.4955
Subject: RE: Ambler Park/Cal Am water and The Oaks Subdivision

I've called Enrique noting the Oaks well is in Zones 2C and 2A and is treated at the ambler well/treatment cite and returned in dedicated lines. Hence the WRA has no concern of reason to stop the Oaks subdivision from completing their work

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

From: Sheri [mailto:Sheri@lmgil.com]
Sent: Tuesday, August 29, 2006 12:57 PM
To: Weeks, Curtis Ext.4896
Cc: Saavedra, Esmeralda x3440; mkelton054@aol.com; Cristy Stone; Nancy; Palomino, Robert Ext.4955
Subject: Ambler Park/Cal Am water and The Oaks Subdivision

Curtis:

Thanks for returning my call this morning. This will confirm that you do not have an issue with the work which is being performed out at the Oaks Subdivision relative to the water system being installed for Ambler Park/Cal Am. Your staff has confirmed the project is located within the 2c zone so there are no issues.

Mr. Palomino has requested that you confirm either by phone or e-mail to Mr. Saavedra that you are fine with the work proceeding before he will lift the "Stop Work" order. As you can imagine, my clients are concerned with any delays in proceeding with the work as it can result in increased costs. Thank you in advance for your prompt notification to Mr. Saavedra (755-8970) who in turn will advise Mr. Palomino to release the stop work order.

Sincerely,
Lombardo & Gilles

Sheri L. Damon

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.





October 20, 2006

Curtis Weeks
Monterey County Water Resources Agency
893 Blanco Circle
Salinas, CA 93901

RECEIVED

OCT 24 2006

DWP / EHR

ENVIRONMENTAL HEALTH

OCT 23 2006


HEALTH DEPARTMENT

*Subject: Ambler Oaks Subdivision Quarterly Water Demand
Monitoring by California American Water*

Dear Mr. Weeks,

In response to your request for quarterly monitoring of the water usage from the Ambler Oaks subdivision, California American Water hereby commits to monitor, on a quarterly basis, both (1) the production records from the new Ambler Oaks Well and (2) the water consumption as recorded from our water meter records for the 9 lots in the Ambler Oaks subdivision. This will be provided to your agency on a quarterly basis for your review. The first quarter of monitoring will begin as soon as the first property is ready for a water service connection.

Sincerely,
California American Water


Steve Leonard
General Manager

cc: Roger Van Horn, Monterey County Environmental Health

VanHorn, Roger W. x4763

From: Weeks, Curtis Ext.4896
Sent: Friday, November 03, 2006 11:08 AM
To: Moss, Tom Ext.4968; VanHorn, Roger W. x4763
Subject: Oaks sub

We are in receipt of a letter from Cal am that will account for the water produced by the Oaks well and consumed by the Oaks subdivision on a quarterly basis. This will satisfy our concern re: Salinas basin groundwater exportation.

1/10/2007

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

- a. Accept the Oaks Subdivision Improvements as completed; and)
- b. Approve release of four Faithful Performance Bonds issued by Financial Pacific Insurance Company for infrastructure improvements for the Oaks Subdivision in the amounts of \$635,020, \$468,000, \$82,620 and \$566,360.....)

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

- a. Accepts the Oaks Subdivision Improvements as completed; and
- b. Approves release of four Faithful Performance Bonds issued by Financial Pacific Insurance Company for infrastructure improvements for the Oaks Subdivision in the amounts of \$635,020, \$468,000; \$82,620 and \$566,360.

PASSED AND ADOPTED on this 26th day of February 2008, by the following vote, to wit:

AYES: Supervisors Potter, Salinas, Calcagno, and Armenta

NOES: None

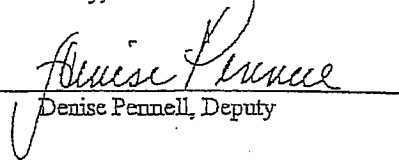
ABSENT: None

I, Lew C. Bauman, 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 74 for the meeting on February 26, 2008.

Dated: March 3, 2008

Lew C. Bauman, Clerk of the Board of Supervisors,
County of Monterey, State of California

By


Denise Pennell, Deputy

MONTEREY COUNTY BOARD OF SUPERVISORS

MEETING:	February 26, 2008 – Consent	AGENDA NO.:
SUBJECT:	a. Accept the Oaks Subdivision Improvements as completed; and b. Approve release of four Faithful Performance Bonds issued by Financial Pacific Insurance Company for infrastructure improvements for the Oaks Subdivision in the amounts of \$635,020, \$468,000, \$82,620 and \$566,360.	
DEPARTMENT:	RMA - Public Works	

RECOMMENDATIONS:

It is recommended that the Board of Supervisors:

- a. Accept the Oaks Subdivision Improvements as completed; and
- b. Approve release of four Faithful Performance Bonds issued by Financial Pacific Insurance Company for infrastructure improvements for the Oaks Subdivision in the amounts of \$635,020, \$468,000, \$82,620 and \$566,360.

SUMMARY/DISCUSSION:

The Board approved the Final Map and Subdivision Agreement for the Oaks Subdivision on June 20, 2006. The subdivider has fulfilled the conditions of the Subdivision Agreement, and the subdivider's consulting engineer has inspected the improvements and certified their completion as to conformance with the approved plans. The Labor and Materials Securities in the amounts of \$317,510, \$234,000, \$41,310 and \$283,180 are not being released at this time in accordance with Government Code Section 66499.7(b) (Subdivision Map Act).

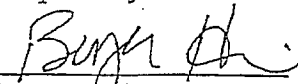
OTHER AGENCY INVOLVEMENT:

Environmental Health, RMA Planning Department and Water Resources Agency concur that the infrastructure improvements are complete and the Faithful Performance Bonds can be released.

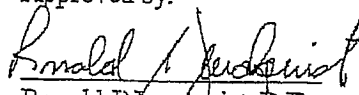
FINANCING:

Sufficient appropriations are available in the County Surveyor budget (Fund 001, Budget 199) to finance this work. The cost of the bond release processing is funded with developer fees.

Prepared by:


Bryce Hori
Assistant Engineer

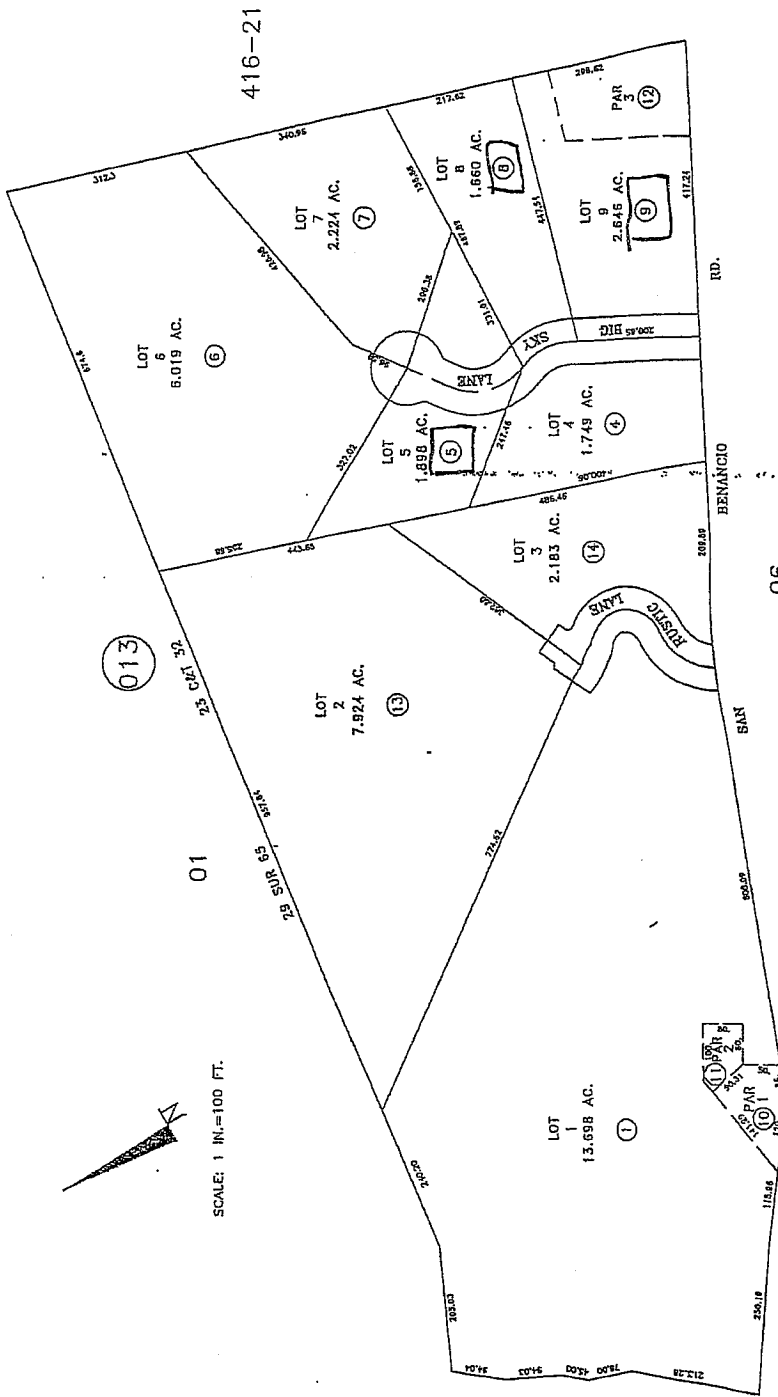
Approved by:


Ronald J. Lundquist, P.E.
Public Works Director

Dated: February 15, 2008

Attachments: Board Order; Notice of Completion from Engineer; Agreement; Location Map

TAX CODE AREA



SCALE: 1 IN.=100 FT.

TRACT NO. 1488
OAKS SUBDIVISION
RECORDED 6-30-06

EL TORO RD.
POR OF LOT 4


THIS MAP IS INTENDED TO BE USED FOR
PROPERTY TAX ASSESSMENT PURPOSES ONLY

01

06

416-21

161-013-005-000


15125 Big Sky Lane
Salinas, CA 93908

DA060525

DESIGN APPROVAL TO ALLOW FOR THE CONSTRUCTION OF A 4,603 SQUARE FOOT TWO-STORY SINGLE FAMILY DWELLING WITH A 495 SQUARE FOOT ATTACHED 2 -CAR GARAGE, AND A 305 SQUARE FOOT ONE-CAR GARAGE, A 231 SQUARE FOOT COVERED PORCH, A 105 SQUARE FOOT SECOND STORY DECK, AND THE REMOVAL OF ONE PROTECTED OAK TREE. MATERIALS AND COLORS: EXTERIOR WALLS (SHERWIN WILLIAMS 6106/KILIM BEIGE), TRIM (SHERWIN WILLIAMS 6109/HOPSACK), ROOFING (EAGLE ROOF TILE/CAPISTRANO 3605). THE PROPERTY IS LOCATED AT 15125 BIG SKY LANE, SALINAS (ASSESSOR'S PARCEL NUMBER 161-013-005-000), SOUTHERLY OF SAN BENANCIO CANYON ROAD, TORO AREA PLAN. CLEARED

DA070158

DESIGN APPROVAL TO ALLOW FOR THE CONSTRUCTION OF PRIMARY DEBRIS FLOW WALLS AND SECONDARY DEBRIS WALLS LOCATED ON THREE SEPARATE PARCELS (LOT 5, LOT 9, AND LOT 8) AS REQUIRED PER CONDITION 18 OF FILE NUMBER PC94170 (BOARD OF SUPERVISORS RESOLUTION NUMBER 01-197). MATERIALS AND COLORS: PRIMARY WALLS (PRESSURE TREATED DOUGLAS FIR/BROWN), SECONDARY WALLS (STUCCO/SHERWIN WILLIAMS #6107/NOMADIC DESERT). THE PROPERTIES ARE LOCATED ON BIG SKY LANE, SALINAS (ASSESSOR'S PARCEL NUMBERS 161-013-005, 161-013-009-000, 161-013-008-000) TORO AREA. CLEARED

BP063167

CONSTRUCTION OF A NEW 4,603 SQUARE FOOT TWO STORY SINGLE FAMILY DWELLING WITH A 495 SQUARE FOOT ATTACHED 2-CAR GARAGE, AND A 305 SQUARE FOOT ONE-CAR GARAGE, A 231 SQUARE FOOT COVERED PORCH, AND A 105 SQUARE FOOT SECOND STORY DECK. FIRE SPRINKLERS(MASTER PLAN BP061526)CROSS STREET: SAN BENANCIO ROAD BUILDING FINAL 4/1/2009


BP070057

CONSTRUCTION OF A NEW 120 FOOT

LONG, 5 FOOT HIGH SECONDARY
DEBRIS FLOW WALLCROSS STREET:
SAN BENANCIO ROAD BUILDING FINAL
4/1/09

GP070010
GRADING FOR NEW SINGLE FAMILY
DWELLING AND DRIVEWAY 300 CUBIC
YARD OF CUT AND 300 CUBIC YARD OF
FILL GRADING FINAL 12/18/08

161-013-008-000


15115 Big Sky Lane
Salinas, CA 93908

DA060524

DESIGN APPROVAL TO ALLOW FOR THE CONSTRUCTION OF NEW 5,335 SQUARE FOOT TWO-STORY SINGLE FAMILY DWELLING WITH A 652 SQUARE FOOT ATTACHED 2-CAR GARAGE, AND A 373 SQUARE FOOT ONE-CAR GARAGE, A 116 SQUARE FOOT COVERED PORCH, AND A 92 SQUARE FOOT SECOND STORY DECK, THE REMOVAL OF TWO PROTECTED OAK TREES, AND MINOR GRADING OUTSIDE OF THE BUILDING ENVELOPE. MATERIALS AND COLORS: EXTERIOR WALLS (SHERWIN WILLIAMS 6078/REALIST BEIGE), TRIM (SHERWIN WILLIAMS 6080/UTTERLY BEIGE), ROOFING (EAGLE FLAT TILE/BEL-AIR 4687), STONE (EL DORADO FIELDLEDGE/ANDANTE). THE PROPERTY IS LOCATED AT 15115 BIG SKY LANE, SALINAS (ASSESSOR'S PARCEL NUMBER 161-013-008-000), SOUTHERLY OF SAN BENANCIO CANYON ROAD, TORO AREA PLAN. CLEARED

DA070158

DESIGN APPROVAL TO ALLOW FOR THE CONSTRUCTION OF PRIMARY DEBRIS FLOW WALLS AND SECONDARY DEBRIS WALLS LOCATED ON THREE SEPARATE PARCELS (LOT 5, LOT 9, AND LOT 8) AS REQUIRED PER CONDITION 18 OF FILE NUMBER PC94170 (BOARD OF SUPERVISORS RESOLUTION NUMBER 01-197). MATERIALS AND COLORS: PRIMARY WALLS (PRESSURE TREATED DOUGLAS FIR/BROWN), SECONDARY WALLS (STUCCO/SHERWIN WILLIAMS #6107/NOMADIC DESERT). THE PROPERTIES ARE LOCATED ON BIG SKY LANE, SALINAS (ASSESSOR'S PARCEL NUMBERS 161-013-005, 161-013-009-000, 161-013-008-000) TORO AREA. CLEARED

BP063168

CONSTRUCTION OF A NEW 5,335 SQUARE FOOT TWO STORY SINGLE FAMILY DWELLING WITH A 652 SQUARE FOOT ATTACHED 2-CAR GARAGE, AND A 373 SQUARE FOOT ONE-CAR GARAGE, A 116 SQUARE FOOT COVERED PORCH, AND A 92 SQUARE FOOT SECOND STORY DECK. HOUSE PLAN #3 (MASTER PLAN BP061527) CROSS STREET: SAN BENANCIO BUILDING FINAL 4/1/2009

BP070059

CONSTRUCTION OF A NEW 80 FOOT
LONG, 3 FOOT HIGH PRIMARY DEBRIS
FLOW WALL, A 75 FOOT LONG, 5 FOOT
TO 6 FOOT HIGH SECONDARY UPPER
DEBRIS FLOW WALL, AND A 140 FOOT
LONG, 3 FOOT TO 6 FOOT HIGH
SECONDARY LOWER DEBRIS FLOW
WALL. CROSS STREET: SAN BENANCIO
ROAD BUILDING FINAL 4/1/09

GP070011

GRADING FOR NEW SINGLE FAMILY
DWELLING AND DRIVEWAY 300 CUBIC
YARD OF CUT AND 300 CUBIC YARD OF
FILL GRADING FINAL 12/18/08

161-013-009-000

15105 Big Sky Lane
Salinas, CA 93908

DA060526

DESIGN APPROVAL TO ALLOW FOR THE CONSTRUCTION OF A 3,608 SQUARE FOOT ONE-STORY SINGLE FAMILY DWELLING WITH A 480 SQUARE FOOT ATTACHED TWO-CAR GARAGE, AND A 320 SQUARE FOOT ONE-CAR GARAGE, A 114 SQUARE FOOT COVERED PORCH, AND MINOR GRADING OUTSIDE OF THE BUILDING ENVELOPE. MATERIALS AND COLORS: EXTERIOR WALLS (SHERWIN WILLIAMS 6100/PRACTICAL BEIGE), TRIM (SHERWIN WILLIAMS 6102/PORTABELLO), ROOFING (EAGLE ROOF TILE/CAPISTRANO 3605). THE PROPERTY IS LOCATED AT 15105 BIG SKY LANE, SALINAS (ASSESSOR'S PARCEL NUMBER 161-013-009), SOUTHERLY OF SAN BENANCIO CANYON ROAD, TORO AREA PLAN. CLEARED

DA070158

DESIGN APPROVAL TO ALLOW FOR THE CONSTRUCTION OF PRIMARY DEBRIS FLOW WALLS AND SECONDARY DEBRIS WALLS LOCATED ON THREE SEPARATE PARCELS (LOT 5, LOT 9, AND LOT 8) AS REQUIRED PER CONDITION 18 OF FILE NUMBER PC94170 (BOARD OF SUPERVISORS RESOLUTION NUMBER 01-197). MATERIALS AND COLORS: PRIMARY WALLS (PRESSURE TREATED DOUGLAS FIR/BROWN), SECONDARY WALLS (STUCCO/SHERWIN WILLIAMS #6107/NOMADIC DESERT). THE PROPERTIES ARE LOCATED ON BIG SKY LANE, SALINAS (ASSESSOR'S PARCEL NUMBERS 161-013-005, 161-013-009-000, 161-013-008-000) TORO AREA. CLEARED

BP062091

CONSTRUCT TWO NEW ENTRIES AND GATES FOR "THE OAKS"
SUBDIVISION CROSS STREET: SAN BENANCIO BUILDING FINAL 7/7/08

BP063169

CONSTRUCTION OF A NEW 3,608

4/1/09

BP070060

CONSTRUCTION OF A NEW 145 FOOT LONG, 3 FOOT HIGH PRIMARY DEBRIS FLOW WALL, A 125 FOOT LONG, 3 FOOT TO 6 FOOT HIGH SECONDARY UPPER DEBRIS FLOW WALL, AND A 175 FOOT LONG, 3 FOOT TO 6 FOOT HIGH SECONDARY LOWER DEBRIS FLOW WALL. CROSS STREET: SAN BENANCIO ROAD BUILDING FINAL 4/1/09

GP070012

GRADING FOR NEW SINGLE FAMILY DWELLING AND DRIVEWAY 300 CUBIC YARD OF CUT AND 300 CUBIC YARD OF FILL GRADING FINAL 12/18/08

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*

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).

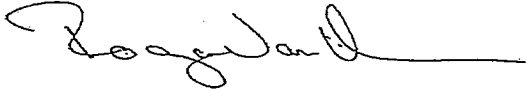
In the conditions of approval for both the Oaks and Harper Cyn projects, it states that the O/HCS shall be operated as a stand alone water system, operated and owned by Cal Am. The project applicant shall convey to the water purveyor, Cal Am, the wells, completed water distribution infrastructure and 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.

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

VanHorn, Roger W. x4763

From: VanHorn, Roger W. x4763
Sent: Friday, October 22, 2010 12:18 PM
To: 'Leslie.Jordan@amwater.com'; 'craig.anthont@amwater.com'; 'Moltrup, Querube (CDPH-DDWEM)'; 'Sweigert, Jan (CDPH-DDWEM)'
Cc: LeWarne, Richard x4544
Subject: Oaks/Harper Cyn water system

Hi Leslie,

This is a follow up to our meeting on Oct 7, regarding the letter I sent you dated Sept 28. At the meeting we agreed that the monitoring reports would only need to be submitted to EH quarterly instead of monthly as stated in the letter. I will follow-up this e-mail with a revised letter with this correction.

Thanks, Roger

P.S. how are you coming with water system application?

*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*

Parcel #: 161-013-001-000

Menu | New | Delete | Copy | Move | View Log | Help

Parcel Detail | Associated Record List | Genealogy Summary | Conditions (1) | Document | District | Address (1) | Corner (1) | Associated Public User (0)

Type	Condition Name	Status	Status Date	Severity	Effective Date	Applied Date	Applied by Dept	Applied by User	Condition/Not
Env Health	Hold occupancy on new SFD's ...	Not Met		Notice	10/12/2010	10/12/2010	Planning Supervisor	Wanda Holman	Per request from

Parcel #: 161-013-001-000
Submit | Reset | Cancel | View Log | Help

Condition Detail | Condition History

Condition Name *
Hold occupancy on new SFD'

Status: Not Met (Applied) | Status Date: | Severity: Notice

Type *
Env Health

Applied by Dept * Current Department: Planning Supervisor | Applied by User * Current User: Wanda Holman

Applied Date: 10/12/2010 | Effective Date: 10/12/2010 | Expiration Date: |

Condition/Notice Standard Comment
Per request from Roger Van Horn place a hold on the occupancy or final on construction of any new homes in the Oaks subdivision. See e-mail dated 10/10/10.

check spelling

- Display Notice
- Access Automation
 - ACA
 - ACA Fee Estimate Page
- Include in Condition Notice
- Condition Name
 - Short Comments

Global Search

Parcel ID: 151-013-001-000

Parcel Status: **Existed** Primary: **Yes**

Legal Description: THE DAVIS SUBDIVISION VOL 23 C&T PS. 32 TRACT NO. 1...

Improved Value (assess): \$0 Land Value (assess): \$155,000

ADDITIONAL ASSESSOR INFORMATION

Assessor Use Code: SA Tax Rate Ass: 1.55048 CreatingDocDate: 06/22/05 09:00

Result (151-013-001-000) 15110 BIG SKY LN, SALINAS, CA

Address: 15110 BIG SKY LN, SALINAS, CA 93903

Menu: New Delete View Log Help

Address Detail Record List Conditions (1) Contact (0) District Parcel (1) Associated Public User (0)

Group	Type	Condition Name	Status	Status Date	Severity	Applied Date	Effective Date	Expiration Date	Short Comments	Applied by Dept	Applied by User
Default	Notice	Hold Occur...	Not Met		Notice	10/12/2010	10/12/2010	07/12/2011	Roger Van...	Planning ...	Wanda Hickman

Global Search

Result (151-013-001-000) 15110 BIG SKY LN, SALINAS, CA

Submit Reset Cancel View Log Help

Condition Detail Condition History

Condition Name: Hold Occur... Type: Notice

Applied by Dept: Planning Supervisor Current Department: Applied by User: Wanda Hickman Current User: Applied Date: 10/12/2010

Severity: Notice Status: Not Met/Exp

Short Comments: Roger Van Horn Environment Health request a Hold Occurancy on Final on new SFD's in Oak Subd

[check spelling](#)

Parcel (151-023-005-000) 15140 BIG SKY LN, SALI...

Address: 15140 BIG SKY LN, SALINAS, CA 93908

Menu ▾ New Delete View Log Help

Address Detail Record List Conditions (1) Contact (0) District Parcel (1) Associated Public User (0)

Group	Type	Condition Name	Status	Status Date	Severity	Applied Date	Effective Date	Expiration Date	Short Comments	Applied by Dept	Applied by User	As
Default	Env Health	Hold Occupancy or First	Not Met		Notice	10/12/2010	10/12/2010	11/12/2011	Per request...	Planning...	Wanda Holman	

Parcel (151-023-005-000) 15140 BIG SKY LN, SALI...

Submit Reset Cancel View Log Help

Condition Detail Condition History

Condition Name - Hold Occupancy or First Type - Env Health

Applied by Dept - Planning Supervisor Current Department Applied by User - Wanda Holman Current User Applied Date - 10/12/2010

Severity - Notice Status - Not Met/Exp

Short Comments Standard Comment
Per request from Roger Van Horn, place a hold on the occupancy or first on construction of any new homes in the Oaks subdivision. See e-mail dated 10/8/10.

check spelling

Parcel #: 161-013-007-000

Menu | New | Delete | Copy | Move | View Log | Help

Parcel Detail | Associated Record List | Genealogy Summary | Conditions (2) | Document | District | Address (1) | Owner (1) | Associated Public User (0)

From Current Parcel Only From Current Parcel or Its History

Type	Condition Name	Status	Status Date	Severity	Effective Date	Applied Date	Applied by Dept	Applied by User	Condition/Not
Parcel	Parcel Notice	Applied		Notice	02/14/2007	02/14/2007	MONTEREY/MONTEREY...	FRIEDRICHM	ADDRESS ASE
Env Health	Hold Occupancy or Fiscal	Not Met		Notice	10/12/2010	10/12/2010	Planning Supervisor	Wanda Hickman	Par request fro

Parcel #: 161-013-007-000

Submit | Reset | Cancel | View Log | Help

Condition Detail | Condition History

Condition Name
Hold Occupancy or Fiscal

Status: Not Met/Applied | Status Date: | Severity: Notice

Type: Env Health

Applied by Dept: Current Department: Planning Supervisor | Applied by User: Current User: Wanda Hickman

Applied Date: 10/12/2010 | Effective Date: 10/12/2010 | Expiration Date: |

Condition/Notice Standard Comment
Par request from Roger Van Horn place a hold on the occupancy or final on construction of any new home in the Oaks subdivision. See e-mail dated 1/8/10.

check spelling

Display Notice
 Access Annotation
 ACA
 ACA Fee Estimate Page

Include in Condition Notice
 Condition Name
 Short Comments

Parcel #: 161-013-013-000

Menu | New | Delete | Copy | Move | View Log | Help

Parcel Detail | Associated Record List | Genealogy Summary | Conditions (1) | Document | District | Address (0) | Owner (1) | Associated Public User (0)

From Current Parcel Only From Current Parcel or Its History

Type	Condition Name	Status	Status Date	Severity	Effective Date	Applied Date	Applied by Dept	Applied by User	Condition/Not
Notice	Hold occupancy or Final	Not Met		Notice	10/12/2010	10/12/2010	Planning Supervisor	Wanda Hickman	Per request for

Parcel #: 161-013-013-000

Submit | Reset | Cancel | View Log | Help

Condition Detail | Condition History

Condition Items =

Hold occupancy or Final

Status: Not Met (Applied) | Status Date: | Severity: Notice

Type: Notice

Applied by Dept: Planning Supervisor | Applied by User: Wanda Hickman

Applied Date: 10/12/2010 | Effective Date: 10/12/2010 | Expiration Date: |

Condition/Notice Standard Comment

Per request from Roger Van Horn please a hold on the occupancy or final on construction of any new home in the Oaks subdivision. See e-mail dated 1/8/10.

check spelling

- Display Notice
- Access Annotation
 - ACA
 - ACA Fee Estimate Page
- Include in Condition Notice
- Condition Name
 - Short Comments

Parcel # 161-013-014-000

Parcel #: 161-013-014-000
Menu | New | Delete | Copy | Move | View Log | Help

Parcel Detail | Associated Record List | Genealogy Summary | Conditions (1) | Document | District | Address (0) | Owner (1) | Associated Public User (0)

From Current Parcel Only From Current Parcel or Its History

Type	Condition Name	Status	Status Date	Severity	Effective Date	Applied Date	Applied by Dept	Applied by User	Condition/Not
Env Health	Hold occupancy or Final	Not Met		Notice	10/12/2010	10/12/2010	Planning Supervisor	Wanda Hickman	Per request from

Parcel #: 161-013-014-000
Submit | Reset | Cancel | View Log | Help

Condition Detail | Condition History

Condition Name*
Hold occupancy or Final

Status: Not Met (AppVal) | Status Date: | Severity: Notice

Type*
Env Health

Applied by Dept* Council Department: Planning Supervisor | Applied by User* Current User: Wanda Hickman

Applied Date: 10/12/2010 | Effective Date: 10/12/2010 | Expiration Date: |

Condition/Notice Standard Comment
Per request from Roger Van Horn place a hold on the occupancy or final on construction of any new home in the Oaks subdivision. See e-mail dated 1/8/10.

check spelling

- Display Notice
- Access Automation
 - ACA
 - ACA Fee Estimate Page
- Include in Condition Notice
- Condition Name
 - Short Comments

MONTEREY COUNTY RESOURCE MANAGEMENT AGENCY

PLANNING DEPARTMENT, Mike Novo, Director

168 W. ALISAL ST., 2ND FLOOR
SALINAS, CA 93901

February 3, 2011

COPY

(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.


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: R. Harrod, Jr., owner of APN 161-013-006-000
J. Nucci, owner of APN 161-013-005-000
M. Campion, owner of APN 161-013-009-000
I. Ramirez, EHB
R. LeWarne, EHB
R. Van Horn, EHB
W. Strimling, County Counsel
M. Novo, Planning
D. Mack, RMA-Planning
M. Kelton, Bollenbacher and Kelton

Decision 11-09-001 September 8, 2011

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

The Highway 68 Coalition, a social welfare organization, pursuant to Internal Revenue Code Section 501(c)4,

Complainant,

vs.

California-American Water Company,
Monterey Division, (U210W),

Defendant.

Case 10-08-022
(Filed August 31, 2010)

DECISION RESOLVING COMPLAINT

1. Summary

Today's decision rejects complainant's position that Ordering Paragraph 9 of Decision 98-09-038 prohibits the shared use of the Ambler Park water treatment plant among customers in the Ambler Park service territory. The complaint is denied, and the proceeding is closed.

2. Background

2.1. Decision 98-09-038

On September 3, 1998, in Decision (D.) 98-09-038, the Commission authorized Ambler Park Water Utility to sell its water system to

California-American Water Company (Cal-Am).¹ In that decision, the Commission stated: "CalAm is prohibited to intertie Ambler's water system to any other water system of CalAm." (D.09-09-038, 82 CPUC2d 61, 69 (Ordering Paragraph 9).) This prohibition is the subject of this complaint proceeding.

2.2. Complaint and Answer

The Coalition, in its complaint, argues essentially that Ordering Paragraph 9 prohibits Cal-Am from annexing additional territory to the historic Ambler Park service territory, that is, the service territory as it existed when Cal-Am acquired it. The Coalition believes, in other words, that Ordering Paragraph 9 effectively restricts Ambler Park (now owned by Cal-Am) to serving only customers within the historic service territory. The Coalition wants the Commission to vacate its previous advice letter approvals granted to Cal-Am for annexations proposed by Cal-Am allegedly in violation of the purported restrictions of Ordering Paragraph 9.

Answering the complaint, Cal-Am agrees that in its advice letters 545 and 617 (approved by the Commission on September 19, 2000, and February 17, 2005, respectively), it proposed to annex certain subdivisions to Ambler Park. Cal-Am represents that although the subdivisions thereby became part of the Ambler Park service territory, they will be served from their own water sources. Specifically, Cal-Am plans to pump water from these sources for treatment at the Ambler Park water treatment plant (which has excess capacity), and to return the treated water to the subdivisions, without any net export of water from Ambler

¹ The Highway 68 Coalition (Coalition) participated in Cal-Am's application for authority to acquire Ambler Park, and the Commission held an evidentiary hearing on the matter at the Coalition's request.

Park to the subdivisions. Cal-Am denies that it has created an intertie between Ambler Park and its Monterey or other Cal-Am water systems. Consequently, Cal-Am asserts, it is complying with Ordering Paragraph 9, and it asks that the complaint be dismissed.²

2.3. Procedural Matters

On January 7, 2011, assigned Commissioner Peevey issued a scoping memo and ruling setting the prehearing conference and evidentiary hearing for Monday, February 7, 2011 in Monterey, California. The scoping memo assigned Administrative Law Judge (ALJ) Maribeth A. Bushey as the presiding officer. ALJ Bushey convened the prehearing conference and engaged in extensive discussion with the parties and members of the public regarding the issues to be resolved in this proceeding. At the conclusion of the prehearing conference, all parties agreed that the issues should be narrowed down to the following question of law and policy:

Does Ordering Paragraph 9 of D.98-09-038 prohibit the shared use of the Ambler Park Water Treatment Plant between customers in the Ambler Park Service Territory as it existed when the decision was rendered and customers in areas that have been annexed to the Ambler Park Service Territory since the 1998 decision was issued?

ALJ Bushey then set a procedural schedule to resolve the issue. On February 17, 2011, assigned Commissioner Peevey issued a revised scoping memo and ruling ratifying the above narrowing of issues and finding that (1) an evidentiary hearing would not be necessary and (2) a proposed decision, rather

² Cal-Am raises certain affirmative defenses, but these are not material to today's decision and need not be discussed.

than a presiding officer's decision, would be issued.³ The Commission affirms the finding of the Revised Scoping Memo that an evidentiary hearing is not needed in this proceeding.

On March 9, 2011, the Coalition wrote to Commissioner Peevey requesting a "full adjudication hearing" because the Coalition "wanted to put evidence into the CPUC record." At the hearing setting the briefing schedule, however, the ALJ specifically provided a means for parties to make factual representations on the evidentiary record. The Coalition followed this procedure, since its briefs included factual representations. Consequently, the Coalition was not deprived of the ability to introduce evidence into the record, although no evidentiary hearing was held.

3. Arguments of Parties on Ordering Paragraph 9

The Coalition requests that the Commission vacate its approval of Cal-Am's advice letters 545 and 617. The Coalition argues that the service area annexations covered in these two advice letters violate Ordering Paragraph 9 by (in effect) creating an intertie between the Ambler Park water system and other Cal-Am systems.

The Coalition also argues that Cal-Am did not have Monterey County's authorization to install a water main from the Ambler Park treatment plant to the newly annexed areas. The Coalition maintains that the Commission's approval of advice letters 545 and 617 violated Monterey County's B-8 zoning ordinance, which restricts development where, due to water supply or water

³ The revised scoping ruling also set the dates for opening and reply briefs to be filed and served. The Coalition, Cal-Am, and Harper Canyon timely filed opening briefs. These same parties also timely filed reply briefs.

quality, 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 of the county as a whole. The Coalition says that the Ambler Park service territory fits within the B-8 zone. Furthermore, the Coalition alleges that the Commission's approval of advice letters 545 and 617 has substantial environmental impacts.

Cal-Am argues that Ordering Paragraph 9 is intended to prohibit water export from Ambler Park to other areas in the Monterey peninsula, and does not prohibit use of the Ambler Park water treatment plant for new Ambler Park service territory customers. To support this argument, Cal-Am references the record in the original Ambler Park acquisition proceeding.⁴ In that proceeding, Cal-Am argues, the Commission did not restrict the use of the Ambler Park water treatment plant, and Ordering Paragraph 9 only prohibits the exportation of water from the Ambler Park service territory by intertie with other Cal-Am systems.

Cal-Am also argues that prohibiting the shared use of the Ambler Park water treatment plant would create a difference in service between localities, which would violate Public Utilities Code sections 453 and 1705, and would

⁴ The original acquisition proceeding is the Application of Ambler Park Water Utility and California-American Water Company for an order authorizing (a) Ambler Park Water Utility to sell and transfer and California-American Water Company to purchase and receive the water utility assets of Ambler Park Water Utility, (b) Ambler Park Water Utility to withdraw from the water utility business, (c) California-American Water Company, Monterey Division, to engage in and carry on the water utility business of Ambler Park Water Utility, (d) the commencement of service in the Ambler Park Water Utility service area by California-American Water Company, and (e) California-American Water Company, Monterey Division to amortize the acquisition adjustment by reason of the transaction adjustment (1997). Application (A.) 97-07-058.

force Cal-Am to violate drinking water laws and General Order 103-A.⁵ Cal-Am asserts that it owes a duty to serve the annexed subdivisions, and that the Commission recognized the possibility of annexed territory in the original Ambler Park acquisition proceeding. In support of the latter assertion, Cal-Am cites the following Commission directive: "Cal-Am will still have to seek approval of the Commission for expansion of its service through an Advice Letter." (D.98-09-038, 82 CPUC2d at 66.) Cal-Am filed advice letters 545 and 617 under this directive.

Harper Canyon Realty LLC (the developer of one of the subdivisions annexed by Cal-Am to the Ambler Park service territory) intervened in this proceeding and joined the Motion to Dismiss the Complaint filed by Cal-Am on February 2, 2011. Harper Canyon also filed an opening brief. Like Cal-Am, Harper Canyon argues that Ordering Paragraph 9 does not prohibit the shared use of the Ambler Park water treatment plant between customers in the Ambler Park service territory as it existed in 1998 and newly annexed customers. In support of this argument, Harper Canyon specifically points to passages in D.98-09-038, where the issue of intertie and export to Cal-Am's Monterey or other water systems was discussed at length. (*See, e.g.*, 82 CPUC2d at 64, 67.) Harper Canyon also cites the transcript of the proceeding, wherein existing Ambler Park customers were concerned about paying for costs specific to

⁵ According to Cal-Am, past water tests show that the well in the Oaks subdivision contains three times the maximum contaminant level of arsenic, and no other water sources are available. Cal-Am and the Oaks subdivision developer have installed the necessary infrastructure such that the Ambler Park Oaks well delivers water pumped from that well to the Ambler Park water treatment plant, and is then returned to the subdivisions. Cal-Am maintains that this infrastructure is not an intertie within the meaning of Ordering Paragraph 9.

Cal-Am's Monterey system. Lastly, Harper Canyon argues that shared water treatment (that is, pumping water from water sources in the newly annexed territory to the Ambler Park water treatment plant and back again to customers in the annexed territory) does not constitute export of water from the Ambler Park service territory as it existed at the time of D.98-09-038.

4. Discussion

4.1. Burden of Proof

Pursuant to Public Utilities Code section 1702, a complainant must prove an alleged violation of a statute, rule, or Commission order. The complainant must meet its burden of proof by a preponderance of the evidence.⁶ Therefore, the Coalition here must prove by a preponderance of the evidence that Ordering Paragraph 9 prohibits shared use of the Ambler Park water treatment plant with any newly annexed Ambler Park customers.

4.2. The Coalition's Showing

The Coalition fails to show from the prior record or to provide proof that the Commission intended Ordering Paragraph 9 to prohibit annexations to the then-existing Ambler Park service territory as of the date D.98-09-038 was issued. The Coalition focuses its arguments on the procedural history of the approval of D.98-09-038 and advice letters 545 and 617. The Coalition does not analyze Ordering Paragraph 9 or present any evidence on the meaning of "intertie" or the broader issue of export from the Ambler Park service territory. The Coalition does ask that the Commission reaffirm D.98-09-038, because the B-8 zoning

⁶ Pacific Bell Telephone Co. dba AT&T California v. CBeyond Communications, Inc. (2008) D.08-09-044 at 15.

boundaries were discussed during the hearings leading to that decision. However, the Coalition fails to show that Cal-Am's service to annexed customers of the Ambler Park service territory would violate Ordering Paragraph 9. For these reasons, the Coalition has not met its burden of proving by a preponderance of the evidence that Cal-Am has violated Ordering Paragraph 9. Accordingly, the complaint should be dismissed.

4.3. Interpretation of Ordering Paragraph 9

As explained above, the Coalition has not shown that Cal-Am violated the key provision of D.98-09-038, namely, Ordering Paragraph 9. Moreover, we find that the Commission's own analysis of the Ambler Park acquisition in D.98-09-038 supports the shared use of the Ambler Park water treatment plant.

In D.98-09-038, the Commission specifically discusses export from the Ambler Park service territory to the Monterey system and any newer territories that might be served by Cal-Am. In the acquisition proceeding, a Cal-Am witness testified that it would not interconnect Ambler's service territory with its then-current Monterey Division. (D.98-09-038, 82 CPUC2d at 64.) Cal-Am also stated that it would operate the Ambler Park service territory on a stand-alone basis, so that no water production costs from the Monterey system would be transferred to Ambler Park customers. (*Id.*) The record in this earlier proceeding shows that Ambler Park customers were primarily concerned that Cal-Am would divert Ambler Park water to the Monterey system through an interconnection, and that they would be assessed the costs for construction of the

proposed new Carmel River Dam. (*Id.*) Neither of these effects follows from the annexations to Ambler Park.⁷

Moreover, the Commission recognized the potential for expanding the Ambler Park service territory in the acquisition proceeding. The Commission at that time denied the Coalition's connection moratorium request for the Ambler Park service territory, stating that since Cal-Am does not intend to interconnect the Ambler Park service region with the Monterey region, there is little possibility of future water supply issues. (*Id.*, 82 CPUC2d at 65.) Additionally, the Commission noted that Cal-Am would have to seek approval through the advice letter process in order to expand the Ambler Park service territory. (*Id.*, 82 CPUC2d at 66.) Cal-Am did appropriately seek approval through the advice letter process when it annexed certain subdivisions into the Ambler Park service territory. The Commission approved these annexations when it approved advice letters 545 and 617.

Therefore, the question posed (*i.e.*, does Ordering Paragraph 9 prohibit the shared use of the Ambler Park water treatment plant between customers in the Ambler Park service territory as it existed when D.98-09-038 was rendered and customers in the areas that have been annexed since 1998?) hinges on whether the treatment of water at the Ambler Park plant and the return of that water constitutes exporting water from the original service territory. We find, as

⁷ To the extent the annexations have a cost impact on Ambler Park customers, it would be to spread the fixed costs of the Ambler Park system among more ratepayers, which would reduce the per-customer burden. Most importantly, the annexations do not allow any costs associated with the Monterey System to be imposed on Ambler Park customers.

discussed below, that no export would occur due to the contemplated shared use of the water treatment plant.

Cal-Am represents that the water will be (1) pumped from sources in the newly annexed territory, (2) treated at the Ambler Park water treatment plant, and (3) pumped back to the annexed territory. This sequence, if followed, would result in no net export of water from the original Ambler Park service territory and would allow Cal-Am to treat water from the newly annexed territory in accordance with drinking water standards. Most importantly, the water moved from and returned to the annexed territory does not enter the Monterey system, which was the concern on record in D.98-09-038.

Additionally, the evidence suggests that this water must be treated, and that Cal-Am would have to expend a significant amount of capital in order to treat the water elsewhere. The Ambler Park water treatment plant has surplus capacity and can treat the annexed customers' water. Cal-Am also represents that the annexed customers have no other water supply source.

Having carefully reviewed the record supporting D.98-09-038 and the present factual circumstances, we conclude that Cal-Am may lawfully share the use of the Ambler Park water treatment plant between customers in the Ambler Park service territory as it existed when D.98-09-038 was rendered and new customers that have been annexed since the decision. Cal-Am should be authorized to pump water from the areas newly annexed to the Ambler Park service area for treatment at the Ambler Park water treatment plant and to provide water service in the new service territory.

4.4. Other Issues Raised by the Coalition

The Coalition challenges, on various grounds, the Commission's approval of Cal-Am's advice letters 545 and 617. This 2010 challenge, coming many years

after the respective 2000 and 2005 approvals, must be rejected as untimely, and is nothing but a collateral attack on those approvals. Regardless of any newly alleged need for an environmental review of the annexations approved in advice letters 545 and 617, there is no basis to revisit that issue now. Furthermore, the Commission's actions, in today's decision and in prior approvals, do not relieve Cal-Am or the developers of the respective subdivisions from the need to obtain such permits or other authorizations as may be duly required for compliance with local zoning or other restrictions.

5. Categorization

In the instructions to answer dated September 14, 2010, the Chief ALJ declared that the matter is assigned to Commissioner Michael R. Peevey and ALJ Judge Maribeth A. Bushey, and is categorized as adjudicatory. On May 16, 2011, the matter was reassigned from Commissioner Peevey to Commissioner Florio.

6. Comments on Proposed Decision

The proposed decision of ALJ Bushey in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on August 29, 2011, and Complainant filed reply comments on September 2, 2011. The Complainant contended that the Proposed Decision was not supported by the record in finding that Ambler Water Treatment Plant had sufficient capacity to treat water from the new subdivision's wells. The Complainant further offered a letter from the Monterey Country Resource Agency, dated February 3, 2011, stating that Cal-Am is currently supplying water to the Oaks subdivision from the Ambler system as a "one way supply," that is, without returning water from a subdivision well as is

required by the development authorization. The letter stated that Monterey County will not issue any further building permits for the subdivisions until these issues are addressed to the satisfaction of the County. Complainant also noted that leakage in Cal-Am's system, estimated to be 10%, must be considered in any transferring of water back and forth. Complainants reiterated their objections to advice letters 545 and 617. Finally, the Complainants argued that environmental review of the service area annexation advice letters was not performed by the Commission or the local agencies.

Cal-Am opposed as redundant and excessively expensive the monthly monitoring and reporting requirement reflected in the proposed decision. Cal-Am explained that it is under orders from the Monterey County Water Resources Agency to monitor production at the Ambler Oaks well and consumption by residents in the new subdivision, of which there are currently two, and to report this information on a quarterly basis to the County. Given the ongoing oversight by the County, Cal-Am concluded that further monitoring by the Commission is not needed and would be prohibitively expensive with only two customers. Cal-Am also pointed out that the Commission's 1998 decision did not prohibit Cal-Am from moving water supply throughout its Ambler Park service territory or from annexing new areas to that service territory.

As set forth above, the complainants have provided a recent letter from the County demonstrating that the County is actively monitoring the flow of water between different portions of Cal-Am's Ambler Park Service Territory to ensure compliance with County regulations that limit water use and export among County zones, and that the County is taking actions to enforce its restrictions. This letter supports Cal-Am's claims of redundancy. Accordingly, the proposed decision has been revised to omit the requirement that Cal-Am compile an

additional water supply and consumption report. This revision also obviates the need to establish a mechanism to consider unaccounted for water or leakage rates in compiling such a report.

In reply comments, Cal-Am challenged the Complainant's procedural objections as unfounded and untimely. Cal-Am opposed the Complainant's attempt to raise issues beyond the scope of the complaint, including California Environmental Quality Act and County development regulations. In response to Complainant's allegation of lack of record evidence on the Ambler Water Treatment Plant capacity, Cal-Am pointed to the declaration of its Monterey District Manager stating that the plant currently operates about four hours a day and has ample capacity to treat water for the new Ambler customers. The declaration was filed on March 21, 2011, and is part of the record.

7. Assignment of Proceeding

Michel Peter Florio is the assigned Commissioner and Maribeth A. Bushey is the assigned ALJ in this proceeding.

Findings of Fact

1. The Coalition complains against Cal-Am's annexation of certain subdivisions to the Ambler Park service territory.
2. The issue in this proceeding is whether Ordering Paragraph 9 of D.98-09-038 prohibits the shared use of the Ambler Park water treatment plant between customers in the Ambler Park service territory as it existed when that decision was rendered and customers in areas that have been annexed to the Ambler Park service territory since that decision.
3. Ordering Paragraph 9 of D.98-09-038 states: "CalAm is prohibited to intertie Ambler's water system to any other water system of CalAm."

4. The main purpose of Ordering Paragraph 9 of D.98-09-038 was to address customers' concerns that Cal-Am would divert water supply from the Ambler Park service territory to Cal-Am's Monterey system, or impose Monterey system costs on Ambler customers.

5. The Commission duly approved advice letters 545 and 617, which annexed additional territory to the Ambler Park service territory. The annexed territory has independent sources of water, but the water requires treatment to remove contaminants.

6. Cal-Am states that the Ambler Park water treatment plant has excess capacity and is capable of treating the water to serve the territory annexed to the Ambler Park service territory pursuant to advice letters 545 and 617.

7. Cal-Am proposes to pump water from the annexed territory, treat the water at the Ambler Park water treatment plant, and then return the same quantity of water back to the annexed territory.

8. The annexed territory does not connect to Cal-Am's Monterey system.

9. No Monterey system costs will be imposed on Ambler customers.

10. No hearing is needed to resolve this proceeding.

11. Monterey County Resource Management Agency oversees water consumption in and export among County zones.

12. In 2006, Cal-Am agreed to monitor water production and consumption in the Ambler Oaks subdivision, and to make quarterly reports to the County.

Conclusions of Law

1. D.98-09-038 does not prohibit the shared use of the Ambler Park water treatment plant among areas of the Ambler Park service territory.

2. Cal-Am should be authorized to pump water from the territory annexed to the Ambler Park service territory for treatment at the Ambler Park water treatment plant and to supply water to the annexed territory.

3. Cal-Am must comply with applicable requirements of the Monterey County Resource Management Agency.

4. The Complainant bears the burden of proving that Ordering Paragraph 9 of D.98-09-038 prohibits the shared use of the Ambler Park Water Treatment Plant by customers in the Ambler Park service territory.

5. The Complainant has not shown by a preponderance of the evidence that Ordering Paragraph 9 of D.98-09-038 prohibits the shared use of the Ambler Park Water Treatment Plant by customers in the Ambler Park service territory.

6. This complaint should be dismissed, effective immediately.

O R D E R

IT IS ORDERED that:

1. California-American Water Company is authorized to pump water from any territory duly annexed to its Ambler Park service territory after the effective date of Decision 98-09-038 for treatment at the Ambler Park water treatment plant and to supply water to the annexed territory, subject to any applicable requirements of the Monterey County Resource Management Agency

2. This complaint is dismissed.

C.10-08-022 ALJ/MAB/jt2

3. Case 10-08-022 is closed.

This order is effective today.

Dated September 8, 2011, at San Francisco, California.

MICHAEL R. PEEVEY

President

TIMOTHY ALAN SIMON

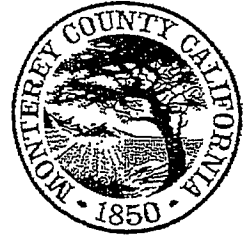
MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

MARK J. FERRON

Commissioners

MONTEREY COUNTY



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March 26, 2012

Mike Weaver

Re: OAKS SUBDIVISION (PC94170)
San Benancio Road

Dear Mr. Weaver,

After reviewing the files related to the subject project in more detail, staff determined that there is not a code violation. All conditions of the Oaks Subdivision were cleared prior to the Board of Supervisors accepting the final map, and the owner satisfied the conditions. Changes in regulations occurring subsequent to completing the map (e.g. water quality standards) do not constitute a violation of that project's conditions.

While not a permit issue for the Oaks Subdivision, treatment of the water supply for the subdivision is required due to the excessive arsenic levels. The Oaks well and its appurtenances have been conveyed to the California-American Water Company (Cal-Am). Therefore, the County is working with Cal Am to address and enforce the County's requirement of no net import/export of water from the B-8 zoning district such that the amount of water drawn from the Oaks well would be equal to the amount of water treated and supplied to the Oaks subdivision by the Ambler Park water treatment plant. The County and Cal Am anticipate entering into Memorandum of Understanding (MOU) to this effect, and any such MOU would be presented to the Board of Supervisors in open session for its consideration.

Respectfully,

Carl P. Holm, AICP
Acting Deputy Director
Monterey County Resource Management Agency

cc: B. Young, RMA
W. Strimling, County Counsel
R. LeWarne, Env Health Bureau
M. Novo, RMA-Planning
P. Geenway, RMA-Public Works
Tim Miller, Cal Am

Carl Holm, Interim Deputy Director
Monterey County Resource Management Agency
168 West Alisal St
Salinas, CA 93901

Re: OAKS SUBDIVISION (PC94170)
Compliance with Water Supply Restrictions/Permits
San Benancio Road

March 15, 2012

Dear Mr. Holm,

On February 3, 2011 you signed a letter on behalf of the Monterey County Planning Department that was addressed to Ray Harrod, Jr., as successor in interest of the Ferrini Oaks LLC subdivision on the north side of San Benancio Road. The letter addressed the lack of project condition compliance with regard to source of water and project conditions 34 and 35.

The Final Map for this subdivision was signed by various representatives of the County and the Clerk to the Board of Supervisors in and around June 22, 2006 with outstanding conditions still not complied with.

The letter of February 3, 2011 readily admits this. What is being done regarding outstanding code violations?

Please advise at your earliest possible convenience.

Thank you,

Mike Weaver

EXHIBIT E

Draft Resolution - Redline

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

Resolution No. ____

Directing staff to negotiate)
An MOU with Cal Am and)
Conduct Environmental Review)

This resolution is made with reference to the following facts:

1. On December 4, 2012, the Board of Supervisors conducted a duly noticed public hearing to consider alternatives for the provision of safe, potable water to an approved nine-lot subdivision known as the "Oaks subdivision" and makes the findings and determinations set forth in this resolution.
2. The Oaks subdivision divided a 325.7- acre parcel into nine residential lots ranging in size from 1.7 to 13.6 acres and a remainder parcel of 285.7 acres (hereafter the "Oaks Subdivision"). The Board of Supervisors approved the vesting tentative map for the subdivision on May 8, 2001 and accepted the final map on June 20, 2006. The final map was recorded on June 30, 2006 at Volume 23, Cities and Towns, page 32, in the Office of the Recorder of the County of Monterey.
3. Under a settlement agreement in *Save Our Peninsula Committee v. County of Monterey et al* (Monterey County Superior Court Case No. M110694), the County agreed to analyze ten approved land use projects to determine "whether they are in compliance or non-compliance with mitigation measures imposed upon the project." (Paragraph 3 of Settlement Agreement attached to Judgment pursuant to Stipulation for Entry of Judgment, filed September 21, 2011.) Under the terms of the settlement agreement, if the County determines that one of these projects is not in compliance with any mitigation measure imposed on the project, the County "shall remedy such non-compliance or will modify the applicable mitigation measure(s) as may be allowed pursuant to CEQA or other applicable law after conducting a noticed public hearing before the Board of Supervisors." (Paragraph 3.) One of the ten projects subject to this review under the settlement agreement is the Oaks subdivision (listed as "Bollenbacher & Kelton, Inc. (Ferrini Oaks Subdivision)" [PLN94170]).
4. On June 27, 2012, Save Our Peninsula Committee (SOPC) filed a "Motion to For An Order to Enforce Terms and Conditions of Judgment Pursuant to Stipulation (Settlement Agreement) and Award of Attorney Fees." Among other things, SOPC contends that the Oaks subdivision does not comply with conditions 34 and 35 of the vesting tentative map, that County has not brought the matter to the Board to remedy the non-compliance, and therefore, the County has violated the

settlement agreement. Pursuant to stipulation of the County and SOPC, the judicial hearing on the motion is scheduled for January 25, 2013.

5. Condition 34 of the Oaks' vesting tentative map required the subdivider; "to provide a signed written agreement between the subdivider and Ambler Park Water Utility (APWU) requiring: a) the subdivider to convey a newly constructed well complete with water distribution infrastructure and fire flow water supply; and b) APWU to 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 the California Public Utility Commission standards. The total costs for item "a" is to be born [sic] by the developer and not APWU or its customers. If at any point in the future, the Toro B-8 zoning overlay is removed, and this stand alone system is to be consolidated with any other system, pumping of water (produced by this well) outside of Monterey County Water Resources Agency zones 2 & 2A is prohibited except in the case of emergency."
6. Condition 35 of the Oaks' vesting tentative map required the "Design the water system improvements to meet the standards as found in Title 22 of the California Code of Regulations and as found in the Residential Subdivision Water Supply Standards. Submit engineered plans for the water system improvements and any associated fees to APWU for review and approval prior to installing (or bonding) the improvements. Provide evidence that APWU has reviewed and approved the plans. Applicant shall pay all Land Use review fees prior to filing the final map."
7. Prior to the Board accepting the final map, staff advised the Board of Supervisors that the applicant had met all conditions of approval. Staff found that the subdivider had complied with condition 34 because the subdivider provided a copy to staff of the signed written agreement between the subdivider and Cal Am, as required by the condition. (Cal Am has purchased Ambler Park; therefore, the agreement is between the subdivider and Cal Am.) Staff found that subdivider had complied with Condition 35 based on the subdivider provided a letter from Cal Am stating that it had reviewed and approved the plans for the Oaks subdivision water system. SOPC points out that staff did not at that time fill out the Verification of Condition Compliance forms required by the Board's adopted mitigation monitoring procedures; however, notwithstanding the omission of the particular forms, the evidence shows staff "cleared" the conditions after receiving copies of the documentation required by the conditions. The Board's final map acceptance presumes that the conditions of compliance were met. (See Government Code section 66473.)
8. The Board also finds that a change in the federal arsenic water standard required treatment of Oaks' well water. The Oaks' well tested at 35 parts per billion (ppb) when the tentative map was approved. Between the tentative and final map approvals, the federal drinking water standard for arsenic was reduced from 50 ppb to 10 ppb, and the state was required to adopt a revised standard no less stringent than the federal standard. The new federal standard for arsenic of 10 ppb was adopted on February 22, 2002 and became enforceable on January 23, 2006. Although the Oaks' well was compliant with the earlier standard when the tentative map was approved, the well water exceeds the federal standard that went into effect in 2006.

9. Compliance with the new arsenic drinking water standard and protection of the public health requires the water from the Oaks' well to be treated. Staff arranged for Cal Am through its Monterey District Ambler Park system to serve the Oaks lots on the basis that Cal Am would draw water from the Oaks' well, treat the water for high arsenic at the Ambler Park water treatment plant, and then supply the treated water to the Oaks' lot. Consistent with the intent for water supply to be based on the Oaks well, not Ambler Park's water supply, the understanding was that the Cal Am would pump from the Oaks well into the Ambler system the same amount of treated water that the Ambler system would provide to the nine Oaks lots, resulting in no net transfer of water. In 2006, Cal Am committed to the Monterey County Water Resources Agency to monitor the Oaks' well production and the Oaks lots' consumption for this purpose.

10. The Board finds that, under the unique circumstances of this case, this arrangement for service to the Oaks, where the amount of water served by Ambler to the Oaks is to be balanced by an equal amount pumped from the Oaks well into the Ambler system, substantially complies with the conditions, is necessitated by the new federal standard for arsenic, is consistent with the County's B-8 zoning, and results in no net export of water from Monterey County Water Resources Agency's benefit assessment Zone 2C. The purpose of the County's B-8 zoning district is to "restrict development and/or intensification of land use in areas where, due to water supply ... or similar measurable public-facility type constraints, additional development and/or intensification of land use if [sic] found to be detrimental to the health, safety, and welfare of the residents of the area, or the County as a whole." The Oaks' well is not within the County's B-8 zone. Ambler's water supply is located in the County's B-8 zone. Because under the proposed MOU Cal Am would 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 would not result in intensification of water use in the B-8 zone. Conversely, the Oaks' well lies within Monterey County Water Resources Agency's benefit assessment "Zone 2C," which does not allow the export of water out of Zone 2C. The Ambler treatment plant lies outside Zone 2C. Because under the proposed MOU Cal Am would ensure that the volume of water it pumps from the Oaks' well into the Ambler Park water system does not exceed the amount of water supplied from Ambler to the Oaks, pumping water from the Oaks well into the Ambler system ~~does~~would not result in export of water out of Monterey County Water Resources Agency's benefit assessment Zone 2C. This manner of implementation protects the public health while meeting the intent of condition 34 not to intensify water use in the County's B-8 zone and not to export water out of MCWRA's benefit assessment Zone 2c and thus is in substantial compliance with the conditions.

11. Homes have been built on three lots in the Oaks subdivision, which received building finals on April 1, 2009. In 2010, County staff learned that Cal Am had begun to serve the Oaks' homes without yet bringing the Oaks' well on line. Staff notified Cal Am of its obligations, and staff also notified the subdivider that it would not issue additional building permits until the issue was resolved.

12. Cal Am has stated it will honor its 2006 commitment to the Monterey County Water Resources Agency to monitor the production of the Oaks well and perform the water accounting proposed in the attached MOU. Cal Am is awaiting approval from the California Department of Health to

operate the Oaks well. (November 6, 2012 correspondence from Cal Am.) Cal Am requests that the Monterey County Water Resources Agency be a party to the MOU.

13. A public hearing to consider alternatives for the provision of safe, potable water to the Oaks subdivision was noticed for October 9, 2012. At least ten days prior to the hearing, notice of the hearing was published in a newspaper of general circulation and mailed to the owners of the subject property and property within 300 feet of the subject property. At the request of SOPC and with concurrence of staff, the Board of Supervisors continued the hearing to December 4, 2012, at which time all members of the public had an opportunity to be heard.
14. The staff report presented several options for the Board's consideration for provision to the Oaks subdivision of safe, potable water supply, including the following:
 - A. Pursue a MOU between the County and Cal Am to memorialize Cal Am's commitment to balance the volume of treated waters provided to the Oaks subdivision with the volume of water pumped from the Oaks well into the Ambler Park water system, so as to result in no net transfer of water;
 - B. Require Cal Am to build a new treatment plant that is not in County's B-8 zone to treat the water from the Oaks' well.
 - C. Require a new well be drilled on the Oaks' site.
 - D. Provide water from Zone 2c from a different water utility.
 - E. Require water to be trucked into the Oaks lots.
15. At the public hearing, the Board had the opportunity review the circumstances and history that lead to the current status of the water supply to the Oaks subdivision, hear public testimony, and provide direction to staff as to which mechanism to pursue to ensure a safe, potable water supply to the Oaks that is consistent with County zoning and respects the right, title and interest of the existing lot owners. Although the County does not believe it is out of compliance with the settlement agreement in *SOPC v. County*, the noticed public hearing also satisfies the requirement in the settlement agreement for the Board to remedy the alleged non-compliance following a noticed public hearing.
16. The Board finds that certain options are infeasible to the extent they would impose an additional burden on the current owners of the nine lots and alter their rights, title, or interest in their property. The final map has been recorded and some lots sold into individual ownership. Following recordation of the final map, the County may modify the final map only if the County finds that "there are changes in circumstances that make any or all of the conditions of the map no longer appropriate or necessary and that the modifications do not impose any additional burden on the fee owners of the real property, and if the modifications do not alter any right, title, or interest in real property reflected on the recorded map." (Gov't Code sec. 66472.1.) Thus, any alternative the Board directs staff to pursue must not impose any additional burden on the current owners of the nine lots nor alter any of their rights, title, or interest in their property.

17. The Board finds that, subject to further analysis, refinement of terms, and environmental review, the proposed MOU is the method of providing safe, potable drinking water to the Oaks subdivision that is the most feasible, most capable of success, and therefore most protective of public health under the unique circumstances of this case. Cal Am through its Ambler Park water treatment plant has the technical, managerial and financial capability to treat water. Cal Am also has the ability to serve the Oaks subdivision because Cal Am already owns the Oaks' well and its infrastructure and has extended its Monterey District Ambler Park service area to include the Oaks subdivision. Because the MOU enforces no net transfer of water from Ambler to the Oaks and vice versa, it would not intensify water use in the County's B-8 zone. It is also the option least costly to ratepayers because it relies on a well and water infrastructure whose cost was already borne by the Oaks' subdivider and would require no new construction. It is also the least disruptive to the existing owners of the nine lots because the obligations to balance the water supply would fall entirely on Cal Am and would cause no disruption of service to the homeowners. The MOU would create a binding contractual obligation on the part of Cal Am to offset Cal Am Monterey District Ambler Park's water service to the Oaks subdivision with an equal amount of water to be pumped from the Oaks well into the Ambler Park water system, so as to result in no net transfer of water. ~~The MOU would flesh out the details of implementation and monitoring~~The Board directs staff to include in the MOU strict monitoring requirements and enforcement mechanisms. The Board also directs that the MOU include a provision whereby the Oaks well would replenish all water provided by Ambler to the Oaks lots preceding the execution of the MOU to ensure that the Oaks subdivision does not result in loss of water to the B-8 zone. The Board further finds that the no net transfer arrangement is necessitated by the unique circumstances of this case and protection of public health, that the MOU is limited to its facts, and that the MOU is not intended to establish policy or serve as precedent for any other project.
18. The MOU as drafted is consistent with County's B-8 zoning because Ambler's service to the Oaks subdivision under the terms set forth in the MOU will not result in an intensification of water use in the B-8 zone and is not detrimental to the public health, safety, and welfare.
19. The MOU as drafted serves to protect the public health, safety and welfare by ensuring a water supply to the Oaks' subdivision that meets federal and state drinking water standards without intensifying water use in the County's B-8 zone or exporting water out of benefit assessment Zone 2C.
20. The draft MOU is subject to environmental review under CEQA. Therefore, the Board is not making a decision or commitment to the MOU but rather is selecting an option to enable staff to negotiate the terms with Cal Am and conduct environmental review based on a definitive project description. The Board intends for staff to return to the Board for the Board's further consideration of the MOU following the environmental review.

NOW, THEREFORE, the Board of Supervisors does hereby:

- A. Find that the above recitals and findings are true and correct;
- B. Receive and accept the report of staff;

- C. Direct staff to proceed to negotiate a Memorandum of Understanding (MOU) between California 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 due to the high arsenic level in the subdivision well water; and
- D. Conduct appropriate environmental review and return to the Board for further action.

PASSED AND ADOPTED on this ____ day of _____, 2012 by the following vote:

AYES:

NOES:

ABSENT:

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 _____ for the meeting on _____.

Dated:

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

By _____
Deputy

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