

## MONTEREY COUNTY BOARD OF SUPERVISORS

<b>MEETING:</b> July 21, 2009	<b>AGENDA NO:</b> consent 25
<b>SUBJECT:</b> Adopt a resolution rescinding Resolution No. 06-363, thereby vacating the certification of the final revised EIR and voiding the approval of permits and entitlements for the September Ranch project, in compliance with the Peremptory Writ of Mandate issued by the Superior Court.	
<b>DEPARTMENT:</b> County Counsel	

### **RECOMMENDATION:**

It is recommended that the Board of Supervisors adopt a resolution rescinding Resolution No. 06-363, thereby vacating the certification of the final revised EIR and voiding the approval of permits and entitlements for the September Ranch project, in compliance with the Peremptory Writ of Mandate issued by the Superior Court.

### **SUMMARY:**

Adoption of the attached resolution vacates the Board's December 12, 2006 certification of the Revised EIR for the September Ranch project and voids the approval of the permits and entitlements for the September Ranch project, in compliance with the Peremptory Writ of Mandate issued by the Superior Court in *Sierra Club et al v. County of Monterey* (Superior Court Case No. M82632) and *Helping Our Peninsula's Environment v. Board of Supervisors* (Superior Court Case No. M82643).

### **DISCUSSION:**

On December 12, 2006, the Board of Supervisors adopted Resolution No. 06-363 to certify a Revised Environmental Impact Report (EIR) on the September Ranch project, adopt a passing score, approve the Combined Development Permit for the September Ranch Project consisting of the 73/22 Alternative identified in the Revised EIR (the "project"), and adopt the associated Mitigation Monitoring and Reporting Plan. As set forth in the recitals of the proposed resolution, as a result of ensuing litigation, the Superior Court issued a Peremptory Writ of Mandate commanding the County of Monterey and its Board of Supervisors to void the determination, finding, and decision adopting Resolution No. 06-063, including the approval of any permits or entitlements for the September Ranch project described in Resolution No. 06-043, and to vacate the certification of the EIR for the project. The Writ also commands the County not to take further action to approve the project "without the preparation, circulation, and consideration under CEQA of a legally adequate document adopted in compliance with CEQA which properly analyzes water demand, water cap, and cumulative impacts as to water demand." The Writ states that the revised EIR contains a legally sufficient discussion on all other issues.

To comply with the Peremptory Writ of Mandate, the Board must adopt the attached resolution and file the same with the Superior Court as part of the County's Return to the Peremptory Writ showing the required action the County has taken.

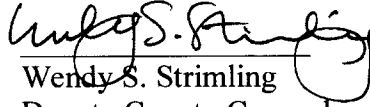
### **OTHER AGENCY INVOLVEMENT:**

The RMA-Planning Department has been informed of this action.

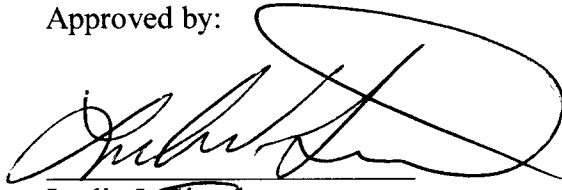
**FINANCING:**

Adoption of the resolution will have no impact on the General Fund.

Prepared by:

  
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Approved by:

  
Leslie J. Girard  
Assistant County Counsel  
for Charles J. McKee, County Counsel

Date: July 10, 2009

Attachment: Proposed Resolution

cc: Lew C. Bauman, CAO  
Rosie Pando, Assistant CAO  
Wayne Tanda, Resource Management Agency  
Alana Knaster, Resource Management Agency  
Mike Novo, RMA-Director of Planning  
Michael Stamp, Esq.  
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