

MONTEREY COUNTY



CLERK OF THE BOARD OF SUPERVISORS
GAIL T. BORKOWSKI

168 West Alisal Street, 1st Floor
SALINAS, CA 93901
P.O. Box 1728
SALINAS, CA 93902
(831) 755-5066, Fax: (831) 755-5888
cob@co.monterey.ca.us

December 22, 2017

Anthony Lombardo
144 W. Gabilan Street
Salinas, CA 93901

Re: Appeal of the Environmental Health Bureau's Denial of Well Permit Application No. 17-12919 (denial date 12/7/17)

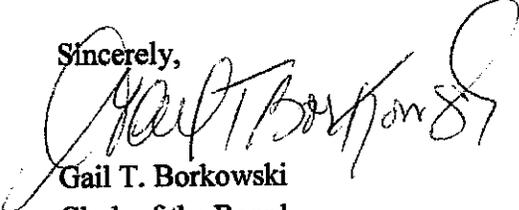
Dear Mr. Lombardo:

This letter acknowledges receipt of your appeal by the Clerk of the Board on December 15, 2017, on the above referenced Application No. 17-12919. This letter also acknowledges receipt of your payment of the required filing fee of \$753.00.

Pursuant to Monterey County Code Section 15.08.160, you are hereby notified that the hearing on your Application referenced above has been scheduled for Tuesday, January 30, 2018 at 1:30 p.m. or thereafter. The meeting will be conducted in the Board of Supervisors Chambers, Monterey County Government Center, 168 W. Alisal Street, 1st Floor, Salinas, California.

Please contact the Clerk of the Board's office if you have any questions regarding the hearing date.

Sincerely,


Gail T. Borkowski
Clerk of the Board
County of Monterey

ANTHONY LOMBARDO & ASSOCIATES

A PROFESSIONAL CORPORATION

MONTEREY COUNTY

ANTHONY L. LOMBARDO
KELLY MCCARTHY SUTHERLAND
CODY J. PHILLIPS
MARIAN C. DOWNS

2017 DEC 15 AM 11:39

December 15, 2017

CLERK OF THE BOARD

144 W. GABILAN STREET
SALINAS, CA 93901
(831) 751-2330
FAX (831) 751-2331

4600.006

STB

Mary Adams, Chair
Members of the Board of Supervisors
County of Monterey
168 W Alisal Street
Salinas, CA 93901

RE: Appeal of Environmental Health (EHB) Denial of Well Permit Application 17-12919

Dear Chair Adams and Members of the Board:

13-14
I represent RAMCO Enterprises. RAMCO applied for a permit to drill a new well on the Armstrong Ranch property north of the City of Marina. The application was submitted to EHB on September 1, 2017. The application was not referred to the Water Resources Agency (WRA) until mid-November. The WRA responded to EHB on December 6th with a recommendation that the well permit be denied. EHB denied the well permit application on December 7th based solely on the recommendation of the WRA.

BASIS OF THE APPEAL

Lack of Due Process:

The application was filed September 1, 2017 and was apparently not processed until mid-November, two and a half months after the application was filed. The permit was then denied on December 7, 2017. Well permits are ministerial, do not require review under the California Environmental Quality Act and do not require public hearings. EHB summarily denied the application after 3 and a half months based only on the recommendation of the WRA and without notice to or discussion with my clients about the pending actions, perceived issues, possible mitigations or alternatives.

The Decision to Deny this Permit is Contrary to Law:

Issuance of well permits are ministerial meaning that as long as the proposed well is designed to meet County standards and there is no evidence the specific well will be detrimental to the public health, safety and welfare, the permit is to be issued. In the denial of this permit that evidence is lacking therefore the denial of the permit does not comply with the county code.

The Board of Supervisors has recently discussed the possibility of adopting an interim ordinance that would for a period of time prohibit the issuance of well permits in this area. The Board however has not adopted such an ordinance and recently deferred consideration of such an ordinance for at least 90 days. Unless and until the Board does adopt a prohibition well permits are subject to the current county code which mandates issuance of this permit.

The Decision is Not Supported by the Evidence:

1. *The WRA states in their recommendation that this well would be "...similar to four other currently operating wells...in close vicinity to the proposed well...and has the potential to pump 350 acre feet of water annually [and] would increase the total pumped water from wells in the Deep Aquifers in the Area of Impact in 2016 by 7%."*

The WRA assumes the new well would be pumped to its maximum capacity with no consideration the actual overall capacity and demand of this and other wells in the vicinity. This conclusion is seemingly based on the 7% increase in pumping capacity but does not quantify that pumping in relation to the resource itself. There is however no data or other quantifiable evidence to support their conclusion for this particular application.

2. *The WRA states in their recommendation that this well is to be located approximately one-half mile from "...a well in the Deep Aquifers that is known to have recently failed [but] the cause of the well failure has not been determined...data indicate that the failed well has been hydraulically connected to the Pressure 400 -Foot Aquifer allowing the movement of impaired groundwater into the Deep Aquifers."*

WRA assumes that a well failure, the cause of which has not been determined, approximately one-half mile away means a new, properly constructed well will also fail and have potential to allow movement of "...impaired groundwater into the Deep Aquifers." There is no evidence to support that conclusion.

3. *WRA states this well would be the eighth well that had been applied for on the Armstrong Ranch and adjacent parcels since 2008. Six wells are in production and a permit has been issued for a seventh well.*

EHB has issued, with WRA's approval, seven well permits in the last nine years for Deep Aquifer wells in the immediate vicinity but now arbitrarily denies the eighth well with no significant change in circumstances, facts or evidence that this well would have a significant adverse effect. There is no evidence in the record which explains how this eighth well would somehow tip the scale and be detrimental to the public health and safety where the seven previously approved wells were not.

For these reasons we ask that the Board grant this appeal and direct EHB to issue well permit 17-12919.

Sincerely,



Anthony L. Lombardo
ALL/gp

ALPHA COPY
OFFICIAL RECEIPT

COUNTY OF MONTEREY

RECEIVED FROM Valle Del Sol Properties DATE 12/15/2017
Ed Anthony Lombardo
 STREET 144 W. Bolinas St.
 CITY SALINAS, CA 95901

FOR RAMCO
Aka Valle Del Sol Properties, LLC
CK 2196

OFFICE	MAIL	FIELD	CASH	CHECK	OTHER
PREVIOUS BALANCE					753.00
AMOUNT PAID					753.00
NEW BALANCE					0
ON ACCOUNT NO.					THE AMOUNT OF \$ 753.00

CENTRAL VALLEY BUSINESS FORMS - (659) 651-9395
 505496
 REC'D BY [Signature]

MONTEREY COUNTY

DEPARTMENT OF HEALTH ENVIRONMENTAL HEALTH BUREAU

1270 Natividad Road
Salinas, CA 93906
(831) 755-4507



WATER WELL CONSTRUCTION DENIAL

WELL PERMIT #17-12919

DENIAL DATE: 12/7/2017

SITE LOCATION: ETS-20 Marina, Ca

APN: 175-011-050-000

OWNER: Bill Armstrong

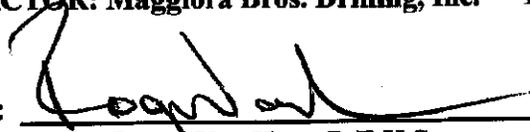
PHONE: (831) 484-0800

MAILING ADDRESS: 270 River Road

CITY: Salinas, CA 93908

DRILLING CONTRACTOR: Maggiora Bros. Drilling, Inc. LICENSE: 249957

DENIAL ISSUED BY:



Roger Van Horn, R.E.H.S.

REASON FOR DENIAL:

1. Monterey County Water Resources, in its role as the technical consultant to Monterey County Environmental Health Bureau, has recommended that a denial for this well application be issued.
2. Pursuant to Monterey County Code 15.08.060 – **Permit-Issuance or Denial**; When the Health Officer issues a permit pursuant to this Chapter, he or she may condition the permit in any manner he or she deems necessary to carry out the purposes of this Chapter. Conditions may include, but are not limited to, proper construction, destruction, reconstruction, sealing methods quantity and quality testing methods as the Health Officer finds necessary to carry out the purposes of this Chapter. The Health Officer shall deny an application for a permit if, in his or her judgment, its issuance would tend to defeat the purpose of this Chapter.
3. Pursuant to Monterey County Code 15.08.160 – **Appeals**: **A.** Any person whose application for a permit has been denied, or granted conditionally, or whose permit has been suspended or revoked, may appeal to the Board of Supervisors, in writing, within ten (10) days after any such denial, conditional granting, suspension, or revocation. Such appeal shall specify the grounds upon which it is taken, and shall be accompanied by a filing fee as set forth herein. The Clerk of the Board shall set such appeal for hearing at the earliest practicable time, and shall notify the appellant and the Health Officer, in writing, of the time so set at least five days prior to the hearing. **B.** After such hearing, the Board of Supervisors may reverse, wholly or partly, or may modify the order or determination appealed from. **C.** The filing fee may be set from time to

Well Denial Permit # 17-12919

Owner: Bill Armstrong

Pg 2 of 2

time by the Board of Supervisors by ordinance (Fee Ordinance: Monterey County Code Section 10.08.050BB).

4. Monterey County Water Resource Agency Well Application Review Form with their reasoning's for the denial are attached, **Exhibit A**.

END

MONTEREY COUNTY WATER RESOURCES AGENCY

WELL APPLICATION REVIEW

Permit Type: Construction

Permit #17-12919

Owner Name: Bill Armstrong Armstrong Sandhill Ranch, LLC	Hydrologic Subarea: 180/400 Foot Aquifer Subbasin – Deep Aquifers	Proposed Borehole Depth (ft.): 1,960
Address: 270 River Road, Salinas, CA	APN: 175-011-050-000	Proposed Sealing Depth (ft.): 1,160
Well Address: Marina, CA (ETS-20 site)	TRS number: 14S/02E-19G	Proposed Well Perforation Intervals (ft.): 1,220 to 1,960
Date Submitted To Agency: 10/20/2017	Driller/Contractor: Maggiara Bros. Drilling, Inc.	Proposed Production Casing Diameter (in.): 16
Date Application Received: 10/19/2017	Drilling Method: Reverse rotary	Proposed Pumping Rate (gpm): 2,500
	Ground Surface Elevation (ft.): 60	Intended Use: Agricultural irrigation

The Water Resources Agency recommends denial of well construction permit #17-12919 (Armstrong Sandhill Ranch, LLC) for the following reasons:

1. The proposed high capacity¹ well would extract water from the Deep Aquifers of the 180/400 Foot Aquifer Subbasin.
 - a. If the proposed well is operated in a manner similar to the other four currently operating wells owned by Armstrong Sandhill Ranch, LLC and/or associated with the Ramco Enterprises/Sun Berry Growers ranches in the close vicinity of this proposed well, it has the potential to pump 350 acre-feet of water annually from the Deep Aquifers. This would increase the total water pumped from wells in the Deep Aquifers in the Area of Impact in 2016 by 7%.
2. The proposed well is located approximately 0.5 miles from an existing well in the Deep Aquifers that is known to have recently failed. While the cause of the well failure has not been determined, water quality data indicate that the failed well has been hydraulically connected to the Pressure 400-Foot Aquifer, allowing the movement of impaired groundwater into the Deep Aquifers. Any new well installed in the Deep Aquifers where there is seawater intrusion in the overlying aquifers poses a similar risk to the resource.
3. Existing studies² suggest that the predominant source of recharge to the Deep Aquifers is leakage from the overlying Pressure 180-Foot and Pressure 400-Foot Aquifers, both of which have documented seawater intrusion at the proposed well site.
4. Increased pumping from the Deep Aquifers, which will occur if this well is installed, has the potential to induce additional leakage of impaired groundwater from the overlying aquifers.
 - a. The proposed well is the eighth well that has been applied for on parcels owned by Armstrong Sandhill Ranch, LLC in the Marina area, or on adjacent parcels owned by Valle Del Sol Properties LLC, since 2008. All of the wells are located on parcels that are being used to grow strawberries by Ramco Enterprises dba Sun Berry Growers³. Six of the eight wells have been constructed and a permit has been issued for the seventh well. This permit application represents the eighth well.

¹ The 2010 Monterey County General Plan defines a "high capacity well" as a well that has a flow over 1,000 gallons per minute.

² Feeney, M.B. and L.I. Rosenberg (2003) *Technical Memorandum – Deep Aquifer Investigation – Hydrogeologic Data Inventory, Review, Interpretation, and Implications* and WRIME (2003) *Marina Coast Water District Deep Aquifer Investigative Study*.

³ Data on operator and crop was obtained from the 2014 Ranch Maps published by the Monterey County Office of the Agricultural Commissioner and through observation of satellite imagery.

5. Isotope analysis of water from the Deep Aquifers indicates that it was recharged thousands of years before the present day.⁴ Though stored groundwater may not be the primary source of current extractions from the Deep Aquifers, continued pumping of this "old" water represents mining of a groundwater resource.
6. Until an investigation can be completed, insufficient data exists on the hydraulic properties and long-term viability of the Deep Aquifers to allow for knowledge-based water resource planning.⁵

The Water Resources Agency makes this recommendation to the Monterey County Health Department - Environmental Health Bureau in its role as a technical consultant to the well permitting program.⁶ The Water Resources Agency finds that recommending denial of this well construction permit supports the purpose of Monterey County Code Chapter 15.08 and is consistent with Policy PS-3.5 of the 2010 Monterey County General Plan.

Reviewer: Howard Franklin, PG #8456
Senior Hydrologist

Date: December 6, 2017



⁴ Hanson, R.T. et al. (2002) *Geohydrology of a Deep-Aquifer System Monitoring-Well Site at Marina, Monterey County California*. U.S. Geological Survey. *Water Resources Investigations Report 02-4003*.

⁵ Monterey County Water Resources Agency (2017) *Recommendations to Address the Expansion of Seawater Intrusion in the Salinas Valley Groundwater Basin – Special Reports Series 17-01*.

⁶ The Water Resources Agency role in the well permitting program is discussed in the *Delineation of Responsibility for Water Management Between Division of Environmental Health & the Monterey County Flood Control and Water Conservation District* (1990).

Job # 000370

ETS-80

MONTEREY COUNTY HEALTH DEPARTMENT

ENVIRONMENTAL HEALTH BUREAU
DRINKING WATER PROTECTION SERVICES

1270 NATIVIDAD RD., Salinas, CA 93906
Phone: (831) 755-4507 FAX: (831) 796-8691

APPLICATION TO CONSTRUCT:
WATER WELL, MONITORING WELL OR CATHODIC PROTECTION WELL

OWNER: (Name/Title) Bill Armstrong, President
(Company) Armstrong-Sandhill Property, Inc.
Mailing address: 370 Buena Vista

CONTRACTOR: (Company) Maggiore Bros. Drilling, Inc.
(Contact) Mike Maggiore
Mailing address: 595 Airport Blvd.

City/Town: Salinas, CA Zip: 93908
Phone: 831-434-0800
Email: Bill@ArmstrongMarketing.net

City/Town: Watsonville, CA Zip: 95076
Phone: 831-724-1338 C-57 License: 249057
Email: watsonville@maggiorebros.com

Primary Contact: Name / Contact Number (if different):
PROPOSED SITE ADDRESS: Merino, CA APN: 175-04-057 ACRES: 1.53

GPS Coordinates: N 36° 43' 08.7" W 121° 49' 1.2" ETS-80

Site Preparation: Any grading required (leveling, pit, road, containment area, etc)? yes, (describe) no
Intended Use: Agricultural Irrigation Residential Irrigation (no domestic use) Domestic/Single Connection

Domestic/Multiple Connection : # of connections _____ Name of system _____
Geothermal Cathodic Protection Monitoring Industrial Stock Test*

GPM needed: 2500 Associated PLN/BP: _____
Replacement Well? yes no

If yes, reason for replacement? _____ (include application for destruction of well being replaced)
*Each hole requires a separate permit. Indicate if proposal includes 2 holes (test hole and production well)

Total number of wells on property: _____ Number of wells in use? _____ Inactive? _____ Abandoned? _____

Distance to nearest: Property line _____ ft. Existing well _____ ft. Leach line _____ ft. Seepage pit _____ ft. Septic tank _____ ft.
Sewer lines, mains, or laterals _____ ft. fuel tank _____ ft. above below ground Animal encl. _____ ft.

Type of Onsite Waste Disposal: Sewer _____ Leach field: _____ Seepage pit _____
Estimated Work: Start _____ Finish _____ Receive Permit: By Mail Email Pick Up

A map containing the following information must accompany this application: Written directions to the proposed site; nearest crossroad; arrow indicating north; property lines; distance from proposed well to property lines; location of other wells on property; location of septic tanks, seepage pits and leach lines on property and within 150 feet of well site. Additionally, an aerial photo of the property indicating the proposed location and photos of well site is requested. If an inadequate map is provided and a second well site field visit is required, a charge at the current hourly rate may be required for the additional site visit. Flag the precise site location of the proposed well with a surveyor's stake with the words "Proposed Well."

PROPOSED DESIGN/CONSTRUCTION FEATURES:

Type of well construction: Mud Rotary Reverse Rotary Air Cable Tool Other _____
Spoils/fluid Containment: Pit Portable box/container Other: describe: _____

Conductor casing: Bore hole depth 26 ft. To be installed? Yes If yes: Length 600 ft. Diameter 30 in. Thickness .375 in.

Production casing: Bore hole diameter 30 in. Seal width 3 in. Standard or line pipe Structural steel Thermoplastics -type _____ Thermoset plastic

Diameter 16 in. Single Double Type of joint weld
Bore hole diameter 26 in. Seal width 4 in. Type/method of centralizing steel centralizer

Logging to be used: Electric Caliper Fluid movement Geologic Other _____
***Minimum of 3" for public water system wells, minimum of 2" for all others

Proposed seal: Material Resin Volume _____ Length _____ Location _____
cu. yds. 150 ft. _____ to _____ ft.

cu. yds. _____ ft. _____ to _____ ft.

Proposed location of perforations or screens: 1100 to 1960 ft. _____ to _____ ft. _____ to _____ ft.

Concrete pump base: Length _____ in. Width _____ in. Thickness _____ in.

I hereby agree to comply with all conditions, laws and regulations of the County of Monterey and the State of California pertaining to well construction. I understand approval of a well permit does not indicate whether this property is suitable for an individual sewage disposal system or that a permit to install such a system is granted. I understand fees submitted with this application are non-refundable. I hereby agree to indemnify and hold harmless the County and its officers, agents, and employees from actions or claims of any description brought on account of any injury or damages sustained, by any person or property resulting from the issuance of the permit and the conduct of the activities authorized under requested permit.

Additionally, I understand submitting an incomplete application will delay the processing of my permit.

SIGNATURE OF PROPERTY OWNER: Bill Armstrong Date 8/25/17
SIGNATURE OF CONTRACTOR: Mike Maggiore Date 8/21/17
Print William Armstrong Print Michael Maggiore

***If signed by authorized representative instead of owner, submit proof of authorization

OFFICE USE ONLY Date 10/19/17 Receipt # _____ Amount \$ 3,039 Project # _____ 08/08, 10/09, 2/10, 12/12, 8/13, 6/14

17-12919

FY 2017/18 Well Routing Form/Fee Worksheet

Permit Ap #: 17-12919

Name: Armstrong

Road: Marina

EHB Contact: Dominique 755-8923

Date Routed: 10/20/17 (note for each agency if not all same date)

Emergency

(Check all that apply)

- Construction-Production (\$1,820 + \$366*) Repair (\$1,362) Destruction (\$608 + \$366*) (Dest-Monitoring - no \$366)
- Construction-Monitoring (\$1,362-up to 4 on 1 property)
- Replacement Well (permit # for well being destroyed _____)

- Zone 2C, PVWMA, or area in-between (route to WRA)
 - Construction - greater than 5 ac.ft./yr (\$610*-design review-conditions requested)
 - Construction - less than 5 ac.ft./yr. (informational only)
 - Repair -greater than 5 ac.ft./yr (\$366*-design review-conditions requested)
 - Repair -less than 5 ac.ft./yr informational only)
 - Destruction - all wells except monitoring (\$366*-design review-conditions requested)

- Proposed New High Capacity Well (not replacement/not coastal)(\$243*) (route to WRA)
- Proposed New Domestic Well (not replacement/not coastal)(\$122*) (route to WRA)
- Potential New High Capacity Well (12" casing)(route to WRA)
- 100 yr. floodplain (route to WRA-county-wide)
- PVWMA (route all wells with PVWMA boundary to PVWMA)
- MPWMD (route all wells within MPWMD boundary to MPWMD)

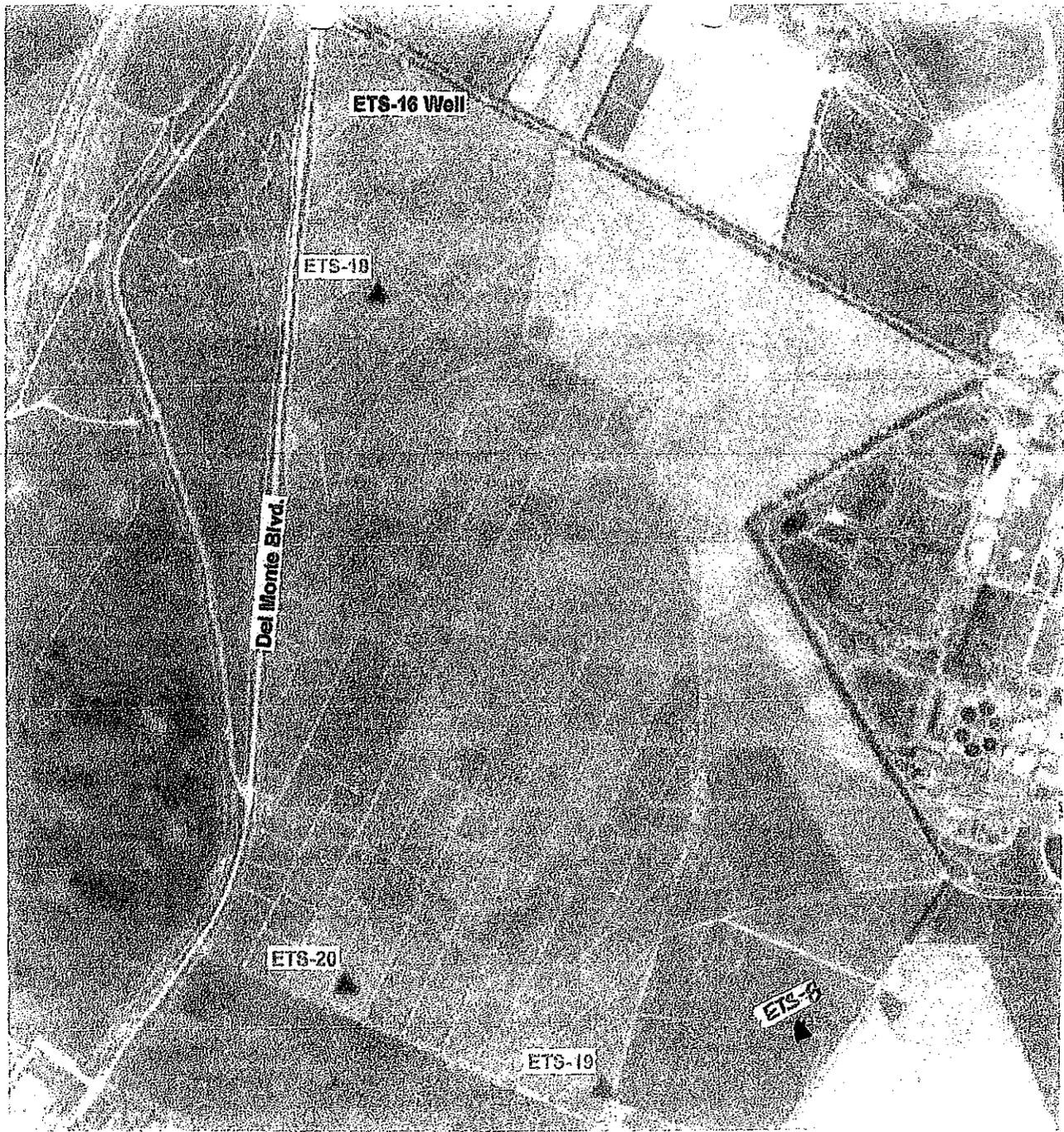
- Monterey County Planning
 - Arch, bio, slope, etc (All non-coastal permits)
 - Coastal
 - New domestic well in North County Planning Area (also replacement in Granite Ridge)
 - Carmel Valley River Alluvium

City Planning: _____ (city name)

- CDPH System
- Seaside Basin Water Master
- RWQCB
- BRAC (Fort Ord Plume)
- USACE (Monterey Airport Plume)

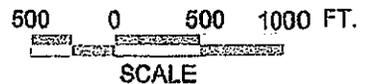
Total
<input type="checkbox"/> \$1,820 + \$366 = \$2,186
<input type="checkbox"/> \$1,820 + \$366 + \$122 = \$2,308
<input type="checkbox"/> \$1,820 + \$366 + \$610 = \$2,796
<input checked="" type="checkbox"/> \$1,820 + \$366 + \$610 + \$243 = \$3,039
<input type="checkbox"/> \$1,820 + \$366 + \$610 + \$122 = \$2,918
<input type="checkbox"/> \$1,820 + \$366 + \$243 = \$2,429
<input type="checkbox"/> \$1,362
<input type="checkbox"/> \$1,362 + \$366 = \$1,728
<input type="checkbox"/> \$608 + \$366 = \$974
<input type="checkbox"/> \$608 + \$366 + \$366 = \$1,340

*collected for and routed to MCWRA



LEGEND

-  Electrotelluric Sounding
-  Active Well



SITE PLAN



BRIDGE OVER ROAD, WATERS, ETC.,
ENGINEERING, INC.
1000 W. 10TH ST., SUITE 100
DENVER, CO 80202
TEL: 303.733.1111
WWW.BOROUGHES.COM

G1652-03A 08/17
FIGURE 1

**PROPOSED WELL CONSTRUCTION DIAGRAM
SANDHILL RANCH ETS-20 WELL, MONTEREY COUNTY, CALIFORNIA**

