

Exhibit D

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MONTEREY COUNTY

RESOURCE MANAGEMENT AGENCY

Carl P. Holm, AICP, Director

Building Services / Environmental Services / Planning Services / Public Works & Facilities
168 W. Alisal Street, 2nd Floor
Salinas, California 93901
(831)755-4800
www.co.monterey.ca.us/rma



NOTICE OF ISSUANCE OF AN EMERGENCY PERMIT (COASTAL ZONE)

PROPERTY OWNER: Seebaugh, William R.; Penzell, Yale, Schier, et al.; and Krone, William & Marilyn

REPRESENTATIVE: Enrique Saavedra
(Acting Chief of Roads and Bridges, County of Monterey RMA-Public Works)

PROJECT DESCRIPTION: Emergency Coastal Development Permit to allow emergency culvert and road repairs along an approximately 300-foot long section of Palo Colorado Road near Rocky Creek.

PROJECT ADDRESS: An approximately 300-foot section of Palo Colorado Road at mile-post 3.3, near 38250 and 38200 Palo Colorado Road, Big Sur Coast Land Use Plan, Coastal Zone.

Assessor's Parcel Numbers: 000-000-000-000 (County right-of-way), 418-131-024-000, 418-131-025-000, and 418-131-026-000

ISSUANCE DATE: February 23, 2017

RMA-PLANNING FILE #: PLN170133

RESOLUTION #: 17 - 010

NOTICE AND CAUSE OF EMERGENCY: Pursuant to Chapter 20.79 of the Monterey County Coastal Implementation Plan (Part 1) the applicant, on behalf of the property owners, has requested an Emergency Coastal Development Permit to allow emergency culvert and road repairs along an approximately 300-foot long section of Palo Colorado Road. The work is necessary to repair an existing 48-inch culvert to prevent the road from washing out. Palo Colorado Road is identified in the Big Sur Land Use Plan as having the highest use for any road intersecting Highway 1 in the plan area. The purpose of Chapter 20.79, *Emergency Permits*, is to provide a means whereby development normally requiring discretionary approvals under this Title may be considered without the normally required public hearing processes to meet an emergency situation. The situation demands immediate action to prevent or mitigate circumstances that are detrimental to the safety, comfort, and general welfare of the persons

occupying and working in the area. This project is statutorily exempt under 15269(b) of the CEQA Guidelines. This Administrative decision is appealable to the Monterey County Board of Supervisors and the California Coastal Commission pursuant to Sections 20.79.050.E, 20.86.030.A, and 20.86.080.A of the Monterey County Coastal Implementation Plan (Part 1). The project site is located at approximately post-mile 3.3, Palo Colorado Road [Assessor's Parcel Numbers 000-000-000-000 (County right-of-way), 418-131-024-000, 418-131-025-000, and 418-131-026-000], Big Sur Coast Land Use Plan, Coastal Zone.

I. FINDINGS OF FACT

1. **FINDING:** An emergency situation exists which requires more expeditious action than the normal discretionary permit procedure.

EVIDENCE:

- a) County of Monterey RMA-Public Works submitted an application to Monterey County RMA-Planning on February 15, 2017, to request emergency repairs along an approximately 300-foot long section of Palo Colorado Road. The work is necessary to repair an existing 48-inch culvert to prevent Palo Colorado Road, a highly used road in the area, from washing out. Large storm events occurred throughout the month of January 2017, resulting in the existing 48-inch culvert under Palo Colorado Road to become plugged and the ensuing eddy resulted in significant erosion of the upstream side of the road cut and threatened to wash out the road entirely. The RMA-Public Works road crews repaired the inlet of the culvert and placed approximately 20 cubic yards of rip-rap below the ordinary high water mark (OHWM) to halt the erosion and save the road. Approximately 10 cubic yards of additional rip-rap was placed within the riparian area adjacent to the culvert inlet above OHWM. Following the initial emergency repairs, the culvert again became plugged causing the creek to jump onto Palo Colorado Road, travel down the road for approximately 200 feet before moving down the opposite side of the road and back into the creek channel. Approximately 5 cubic yards of rip-rap was placed below the OHWM on the downstream side of the road where the creek returned to the channel, and an additional 5 cubic yards of rip-rap was placed above OHWM in adjacent riparian habitat. Furthermore, an unknown amount of rip-rap was placed within the roadbed to create a false channel for the creek to follow. Further emergency repairs will include unplugging the culvert when the creek flow has dropped, and directing the creek back under the road through the repaired culvert. No additional fill is anticipated during this work which has yet to occur. The road is currently closed until further notice with a small foot bridge over the new temporary creek channel on the roadbed. The project includes the initial repairs to the inlet (including the placement of large rip-rap to stabilize the upstream end of the 48-inch culvert), the placement of rip-rap on the downstream side of the road to reduce erosion following the clogging of the inlet resulting in the redirection of the creek over/through the road, the construction of a temporary channel over/through the road, as well as unplugging of the culvert and directing the creek back under the road when the stream flow recedes. The project has resulted in the placement of approximately 25 cubic yards of fill (granite rip-rap) between two locations (culvert inlet and entry into the creek from the road) below OHWM, covering approximately 100 square feet. An additional 25

cubic yards of rip-rap was placed above the OHWM, within redwood riparian habitat, and effects approximately 25 linear feet of the stream channel. An unknown amount of rip-rap has been placed on the roadbed. The County considers this an emergency due to possible loss of the road from erosion, the subsequent closure of Palo Colorado Road as a result of the redirection of the stream, and the continued risk to the road, and concurs with the application for the issuance of an Emergency Coastal Development Permit. If allowed to persist, this situation could result in a serious risk to the current residents.

- b) The project site is located along an approximately 300-foot section of Palo Colorado Road, approximately 3.3 miles from State Route 1, within the County of Monterey right-of-way and near 38200 and 38250 Palo Colorado Road [Assessor's Parcel Numbers 000-000-000-000 (County right-of-way), 418-131-024-000, 418-131-025-000, and 418-131-0026-000], Big Sur Land Use Plan, Coastal Zone. The parcels are zoned Rural Density Residential, 40 acres per unit with Design Control (Coastal Zone) [RDR/40D (CZ)]. The work will occur primarily within the County right-of-way (see Finding No. 2, Evidence a).
- c) The County granted preliminary authorization to proceed on January 17, 2017, due to the serious nature of the emergency and the potential for the complete loss of the roadbed. In addition, this is the only access road for the residents who live along the final 8 miles (approximately) of Palo Colorado Road, and for Camp Pico Blanco.
- d) The project planner informed California Coastal Commission staff of the emergency situation via email on February 21, 2017. The Coastal Commission staff concurred with the County's determination that an emergency exists, based on a telephone discussion with Mike Watson, Coastal Commission staff, on February 21, 2017.
- e) Plans and materials contained in project file PLN170133.

2. **FINDING:** The work authorized by the Emergency Permit is the minimum amount of work required to mitigate the emergency situation.

EVIDENCE:

- a) This Emergency Coastal Development Permit authorizes the initial repairs to the inlet (including the placement of large rip-rap to stabilize the upstream end of the 48-inch culvert), the placement of rip-rap on the downstream side of the road to reduce erosion following the clogging of the inlet resulting in the redirection of the creek over/through the road, the construction of a temporary channel over/through the road, as well as unplugging of the culvert and directing the creek back under the road when the streamflow recedes. The proposed repair work is the minimum necessary to repair the culvert to prevent the road from washing out. The culvert and road will need additional permanent repairs during the dry season as a non-emergency project. No other development is allowed under this Emergency Coastal Development Permit (Condition No. 1).
- b) The overall scope of proposed work includes: initial repairs to the inlet (including the placement of large rip-rap to stabilize the upstream end of the 48-inch culvert), the placement of rip-rap on the downstream side of the road to reduce erosion following the clogging of the inlet resulting in the redirection of the creek over/through the road, the construction of a temporary channel over/through the road, as well as unplugging of the culvert and directing the creek back under the road when the streamflow recedes, which has yet to happen. The project has resulted in the

placement of approximately 25 cubic yards of fill (granite rip-rap) between two locations (culvert inlet and entry into the creek from the road) below OHWM, covering approximately 100 square feet. An additional approximately 25 cubic yards of rip-rap was placed above the OHWM, within redwood riparian habitat, and effects approximately 25 linear feet of the stream channel. An unknown amount of rip-rap has been placed on the roadbed.

- c) Potential adverse environmental effects identified during staff review of the emergency permit application will be addressed through minimization and avoidance measures recommended in the biological report prepared for the project (LIB170053). Specifically, a qualified biologist shall: conduct an Employee Education program for the construction crew; conduct preconstruction wildlife surveys prior to the initiation of construction activities each day of ground-disturbing work; and, be on-site or readily available during all construction activities. All heavy equipment shall remain within the County right-of-way on Palo Colorado Road.
- d) In addition to implementation of the minimization and avoidance measures during emergency work, the potential adverse environmental effects identified will be addressed through a permanent or follow-up development permit (Condition No. 4), required pursuant to Section 20.70 (Title 20). The permanent coastal development permit will address potential impacts related to slope and biological resources.
- e) The project planner, on January 17, 2017, reviewed photographic evidence to confirm the emergency situation.
- f) Plans and materials contained in Project File PLN170133.

3. **FINDING:** The work authorized by the Emergency Coastal Development Permit is consistent with the provisions of the applicable Monterey County Local Coastal Program.

EVIDENCE:

- a) The County has reviewed the request for construction of initial repairs to the inlet (including the placement of large rip-rap to stabilize the upstream end of the 48-inch culvert), the placement of rip-rap on the downstream side of the road to reduce erosion following the clogging of the inlet resulting in the redirection of the creek over/through the road, the construction of a temporary channel over/through the road, as well as unplugging of the culvert and directing the creek back under the road when the streamflow recedes, and incorporated appropriate findings and/or conditions that provide resource and environmental protection consistent with Coastal Zone policies contained in the Big Sur Land Use Plan.
- b) The project site is located within a coast redwood forest and includes portions of a stream as well as riparian habitat. The project could disrupt the habitat value of special-status species, sensitive habitat, or other significant biological resources. The construction crew will be required to follow the minimization and avoidance measures recommended in the biological report prepared for the project (LIB170053) to address and mitigate potential impacts to environmentally sensitive habitat/biological resources (see Finding 2, Evidence c).
- c) This Emergency Coastal Development Permit expires sixty (60) days from the date of issuance. The owner/applicant shall obtain any required permits and initiate construction within that time frame (Condition No. 3).
- d) Plans and materials contained in Project File PLN170133.

4. **FINDING:** The establishment, maintenance or operation of the use or structures approved by the Emergency Coastal Development Permit will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of such approved use, or, be detrimental or injurious to property and improvement in the neighborhood, or to the general welfare of the County.

EVIDENCE:

- a) The project was reviewed by Monterey County RMA-Planning. Conditions have been recommended, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working on the property or in the neighborhood.
- b) Finding Nos. 1, 2, and 3 above, and supporting evidence; and conditions of approval for this Emergency Coastal Development Permit.
- c) Plans and materials contained in Project File PLN170133.

5. **FINDING:** This emergency activity is exempt from the requirements of the California Environmental Quality Act (CEQA).


EVIDENCE:

- a) Section 15269(b) of CEQA statutorily exempts emergency repairs to publicly or privately owned service facilities necessary to maintain service essential to the public health, safety or welfare.
- b) The work authorized by this Emergency Coastal Development Permit allows emergency repairs to Palo Colorado Road necessary to prevent the roadway from washing out.
- c) Finding Nos. 1, 2, and 3 above, and supporting evidence; and conditions of approval for this Emergency Coastal Development Permit.
- d) Plans and materials contained in Project File PLN170133.

II. DECISION OF THE ZONING ADMINISTRATOR

Based on the above findings and evidence, the Monterey County Zoning Administrator does hereby:

- 1) Find the project statutorily exempt per Section 15269(b) of the CEQA Guidelines; and
- 2) Grant an Emergency Coastal Development Permit, in general conformance with the attached sketch, and subject to four (4) conditions of approval, all being attached hereto and incorporated herein by reference.

 (Brandon Swensen for Jacquelin Onciano)

Jacqueline R. Onciano, Zoning Administrator
February 23, 2017

Attachments: Conditions of Approval
Site Plan

cc: Zoning Administrator; California Coastal Commission; RMA-Public Works, Applicant; RMA-Environmental Services; Water Resources Agency; Seebaugh William R. et al., Owner; Penzell Yale Schier et al., Owner; Krone William & Marilyn, Owner; The Open Monterey Project (Molly Erickson); LandWatch; Joseph Sidor, Planner; Project File PLN170133

Reviewed by Brandon Swanson, RMA Services Manager.

A handwritten signature in black ink, consisting of stylized letters 'BS'.

Monterey County RMA Planning

Conditions of Approval/Implementation Plan/Mitigation Monitoring and Reporting Plan

PLN170133

1. PD001 - SPECIFIC USES ONLY

Responsible Department: RMA-Planning

**Condition/Mitigation
Monitoring Measure:**

This Emergency Coastal Development Permit (PLN170133) allows emergency culvert and road repairs along an approximately 300-foot section of Palo Colorado Road near Rocky Creek. The project site is located at approximately post-mile 3.3, near 38200 and 38250 Palo Colorado Road, Big Sur (Assessor's Parcel Numbers 000-000-000-000 [County right-of-way], 418-131-024-000, 418-131-025-000, and 418-131-026-000), Big Sur Coast Land Use Plan, Coastal Zone. This permit was approved in accordance with County ordinances and land use regulations subject to the terms and conditions described in the project file. 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 RMA - Planning. 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. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (RMA - Planning)

**Compliance or
Monitoring
Action to be Performed:**

The Owner/Applicant shall adhere to conditions and uses specified in the permit on an ongoing basis unless otherwise stated.

2. PD002 - NOTICE PERMIT APPROVAL

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: The applicant shall record a Permit Approval Notice. This notice shall state: "An Emergency Coastal Development Permit (Resolution Number 17 - 010) was approved by the Zoning Administrator for Assessor's Parcel Numbers 000-000-000-000 [County right-of-way], 418-131-024-000, 418-131-025-000, and 418-131-026-000 on February 23, 2017. The permit was granted subject to four (4) conditions of approval which run with the land. A copy of the permit is on file with Monterey County RMA - Planning."

Proof of recordation of this notice shall be furnished to the Director of RMA - Planning prior to issuance of grading and building permits, Certificates of Compliance, or commencement of use, whichever occurs first and as applicable. (RMA - Planning)

Compliance or Monitoring Action to be Performed: Prior to the issuance of grading and building permits, certificates of compliance, or commencement of use, whichever occurs first and as applicable, the Owner/Applicant shall provide proof of recordation of this notice to the RMA - Planning.

3. PD032 - PERMIT LENGTH

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: This permit shall be granted for a time period of 60 days, to expire on April 24, 2017. (RMA - Planning)

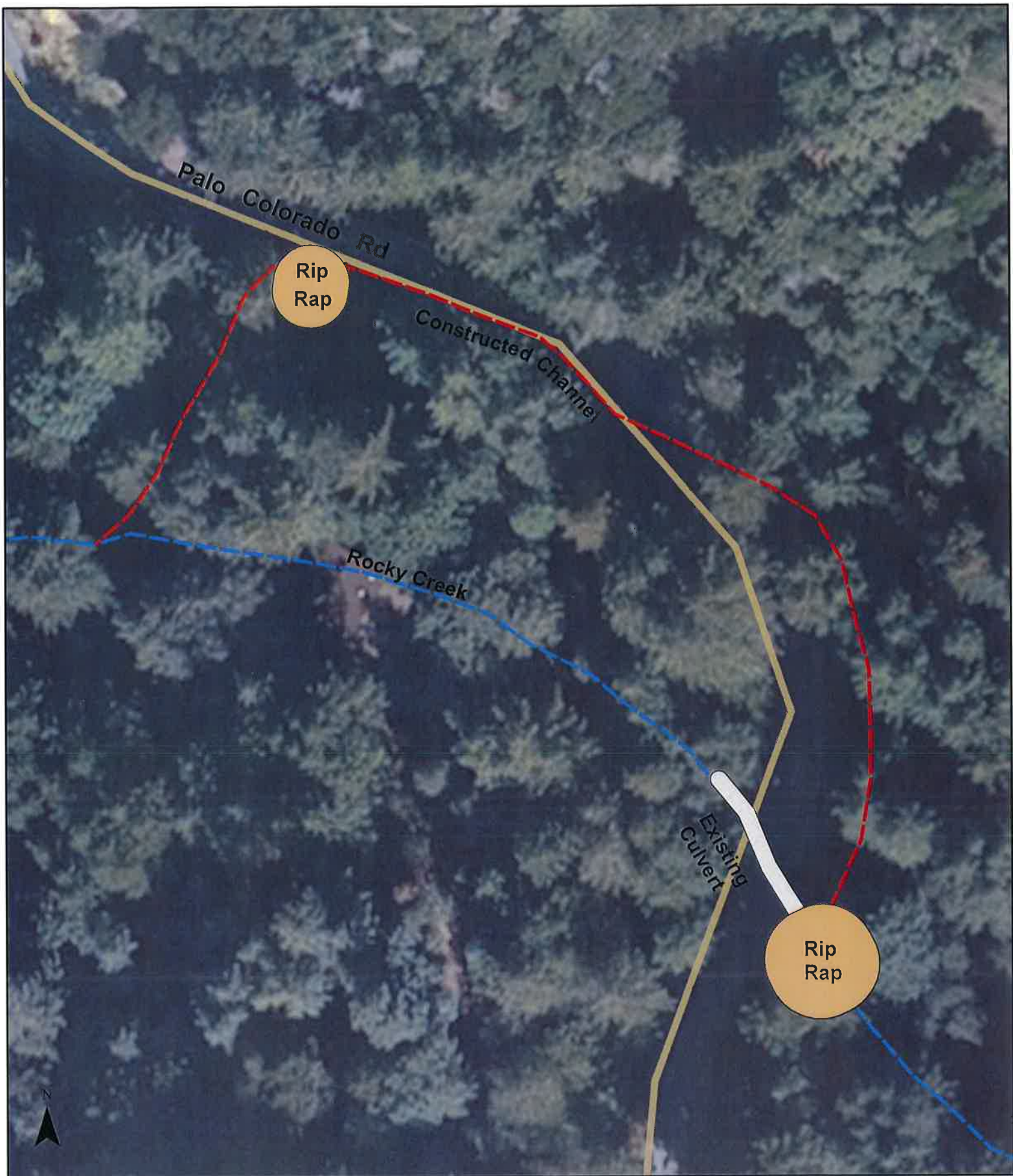
Compliance or Monitoring Action to be Performed: Prior to the expiration date stated in the condition, the Owner/Applicant shall obtain a valid grading or building permit and/or commence the authorized use to the satisfaction of the Director of RMA-Planning. Any request for extension must be received by RMA-Planning at least 30 days prior to the expiration date.

4. PDSP001 - PERMANENT PERMIT APPLICATION (NON-STANDARD)

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Within 60 days (by April 24, 2017), the applicant shall submit an application request for a Combined Development Permit, pursuant to Section 20.70 of the Monterey County Zoning Ordinance Part 1 (Title 20) for the construction of a permanent solution, development on slopes exceeding 30 percent, and development within 100 feet of environmentally sensitive habitat (Rocky Creek). (RMA - Planning Department)

Compliance or Monitoring Action to be Performed: Applicant shall submit an application request by April 18, 2017, for a Combined Development Permit. If more time is needed, the applicant shall submit a letter of justification with evidence and expected date of compliance.



Monterey | San Jose

Denise Duffy and Associates, Inc.

Environmental Consultants Resource Planners

947 Cass Street, Suite 5
Monterey, CA 93940
(831) 373-4341

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