

# MONTEREY COUNTY PLANNING COMMISSION

MARCH 27, 2019

AGENDA ITEM NO. 3



## Additional Correspondence

---

PLN040183 - Paraiso Hot Springs Resort

**FOR ADDITIONAL INFORMATION CONTACT:**

Mike Novo, Project Planner  
Monterey County Resource Management Agency  
1441 Schilling Place, 2nd Floor South, Salinas CA, 93901  
(831) 755-5176 or [novom@co.monterey.ca.us](mailto:novom@co.monterey.ca.us)

# MONTEREY COUNTY RESOURCE MANAGEMENT AGENCY

Carl P. Holm, AICP, Director



---

LAND USE & COMMUNITY DEVELOPMENT | PUBLIC WORKS & FACILITIES | PARKS

1441 Schilling Place, South 2<sup>nd</sup> Floor

(831)755-4800

Salinas, California 93901-4527

[www.co.monterey.ca.us/rma](http://www.co.monterey.ca.us/rma)

## MEMORANDUM

**Date:** March 26, 2019

**To:** Planning Commission

**From:** Mike Novo, Management Specialist, RMA-Planning

**Subject:** Paraiso Springs Resort (PLN040183) Public Hearing: Additional Correspondence for Exhibit K

**cc:** File

Please find attached additional correspondence received on this project since the packet was assembled.

Most of the documents are emails received, but we also have attached two letters.

March 26, 2019

**Via e-mail**

Monterey County Planning Commission  
168 West Alisal, 2nd Floor  
Salinas, CA 93901  
Attn: Mike Novo  
[cegacomments@co.monterey.ca.us](mailto:cegacomments@co.monterey.ca.us).  
[novom@co.monterey.ca.us](mailto:novom@co.monterey.ca.us)

Re: Paraiso Springs Resort RDEIR  
SCH # 2005061016

Dear Members of the Planning Commission:

LandWatch asks that the Planning Commission not approve the Paraiso Springs Resort project (Project). The Project is too large for its remote site in a narrow box canyon, a site which is accessible only by a road that does not meet County or state fire regulations. It is too risky to situate hundreds of guests and employees in a very high fire severity zone without an adequate evacuation plan.

The EIR does not address the fire risk adequately or honestly. The EIR fails to acknowledge that situating the Project in this remote rural location will increase fire incidence. The EIR misrepresents the response time from the Mission-Soledad Fire Protection District station. The EIR claims that a Fire Protection Plan will mitigate fire risks, but it leaves the development of that plan until after the Project is approved. The EIR claims that the Project will not interfere with an evacuation plan, but this claim is based on the fact that there is no evacuation plan for the hundreds of Project employees, guests, and neighbors. The Planning Commission should reject the EIR as an inadequate disclosure and mitigation of fire risks. The Planning Commission should also reject the Project because it cannot make the required findings that the Project is consistent with fire regulations for access and evacuation roads.

If the County is to consider this Project any further, it should reduce its scope by removing the 13 hillside condominium buildings on lots 21 and 22. A smaller Project would reduce the fire risk, which the Planning Commission should find to be significant and unmitigated. All three of the alternatives actually evaluated in the EIR call for reducing the Project size by eliminating the hillside condominiums on lots 21 and 22. The RDEIR found that these alternatives were environmentally better because they would

avoid encroachment on steep slopes, remove development at higher and more visible locations, reduce vegetation removal, reduce light and glare, reduce water supply and water quality impacts, reduce grading on steeper slopes, and lower the potential for erosion hazards and landslides.

**A. The analysis and mitigation of wildfire risk is inadequate under CEQA.**

The Project site is in a very high fire severity zone in a box canyon at the end of Paraiso Springs Road. Paraiso Springs Road is a narrow dead-end road that does not meet the minimum standards for fire access and evacuation. Paraiso Springs Road, as the sole emergency access road, exceeds the applicable standards for the length of a dead-end access road. The Project is more than 15 minutes from the nearest fire station, which exceeds the County policy for fire access. The Project itself will increase the risk of wildfires by introducing more people and development to the wildlands.

Thus, the Project would put its hundreds of employees and guests at risk of wildfires without a safe evacuation route. It would also subject its neighbors to heightened risk of wildfires and would impair their safety by crowding the only available evacuation route.

As LandWatch objected in its January 15, 2019 comments, the EIR does not adequately assess and mitigate Project wildfire impacts. Furthermore, the Project as planned fails to comply with the Wildfire Protection Standards in State Responsibility Areas, as mandated by Public Resources Code section 4290 and by Monterey County Code Chapters 18.56 and 18.09. The County chose not to respond to these comments in the Final EIR.

Comments from CAL FIRE, the Mission-Soledad Fire Protection District, and neighbors also object to the inadequate analysis and mitigation of wildfire risks. As discussed below, the final EIR did not provide adequate responses.

Accordingly, LandWatch asked Bob Roper to evaluate the wildfire risks. Mr. Roper was the former Ventura County Fire Chief and Nevada State Forester, with 40 years of experience in the fire service. Mr. Roper's attached letter explains why the EIR has not adequately evaluated wildfire risks. These failures of analysis violate CEQA. (14 CCR, § 15126.2; 15130.)

First, the EIR fails to evaluate the increased risk of wildfires caused by locating more people and more development in a rural site. Mr. Roper explains that people start most fires, and more people means more fires.

Second, the EIR fails to acknowledge and discuss the increased risk to visitors and to Project neighbors caused by non-compliance with applicable regulations mandating the minimum width for fire access roads. (SRA Fire Safe Regulations, § 1273.01; Monterey County Code, § 18.56.060(3) and Chapter 18.09, Appendix O, §



O102.2.) Although the EIR states that the Project may widen “the majority” of Paraiso Springs Road in phases, over time, “as feasible,” there is nothing in the proposed mitigation that mandates provision of 20-foot minimum roadway access before the Project is occupied.

Under the proposed “phased” road widening plan, the road would not be widened until at least 2027, allowing the Project to operate for years without safe access and egress. The road would not be widened if the final phases of the Project were not constructed, allowing the Project to operate indefinitely without safe access and egress. The road would not be widened where widening is determined not to be feasible. The determination of feasibility would be left to unspecified parties, at some unspecified time, and with reference to unspecified reasons.

Third, the EIR fails to acknowledge and discuss the increased risk to visitors and to Project neighbors caused by the failure of the Project to comply with applicable regulations mandating a maximum length for a dead-end road access. (SRA Fire Safe Regulations, § 1273.09; Monterey County Code, § 18.56.060(11) and Chapter 18.09, Appendix O, § O102.3.) Mr. Roper explains that reliance on dead-end roads for evacuation resulted in lost lives in the 2018 Paradise fire and the 2017 Atlas Peak fire. The EIR states that there is no alternative road location, so it is not clear whether and how the Project could comply with the dead-end road access regulations intended to ensure safe evacuation.

Fourth, the EIR proposes to rely on shuttles for staff and some visitor access to the site. Neither mitigation nor the Project description require that there be sufficient shuttle capacity to evacuate all persons from the Project site immediately without return trips. The need for return trips on a narrow road congested with other emergency traffic that may be smoke-occluded or blocked by burning materials would result in unacceptable risks.

Ironically, despite the Project’s potential to congest the narrow dead-end road in emergencies, the RDEIR concludes that there would be no significant impact based on interference with an emergency response plan or emergency evacuation plan because “[a]ccording to the *Monterey County General Plan*, the Project site is not located along an emergency evacuation route and is not anticipated to physically interfere with an adopted emergency response plan or emergency evacuation route. The resort site is located at the end of a dead-end road.” (RDEIR, p. 3-215 (emphasis added).) It is clear that the Project would interfere with emergency response to fire emergencies in the Project vicinity and with emergency evacuation of Project neighbors. The fact that the County may not yet have adopted an emergency response plan for this area, even though it would clearly need one, cannot justify the facile conclusion that there is no significant impact. An agency may not apply a threshold of significance based on its General Plan policies so as to foreclose consideration of evidence that an impact is nonetheless significant in the context of the project at issue. (*East Sacramento Partnership for a Livable City vs. City of Sacramento* (2016) 5 Cal.App.5th 281, 300.)

Fifth, contrary to the EIR, the Project is more than 15 minutes from the nearest fire station, the Mission-Soledad Fire Protection District station in Soledad. CAL FIRE, the Mission-Soledad Fire Protection District, Mr. Roper, and LAFCO have all concluded that the response time would be excessive. Mr. Roper and LAFCO have pointed out that reliance on the Soledad station to respond to EMS and fire calls from the Project would compromise the ability of the Mission-Soledad Fire Protection District to serve its existing service area.

Under General Plan Policy 17.3.3, 15 minutes is the maximum permitted response time without on-site fire protection systems approved by the fire jurisdiction. The fire jurisdiction has not approved the on-site fire protection systems and has in fact asked for different arrangements than are proposed: an on-site fire station. The EIR's failure to identify this as an inconsistency with an applicable plan violates CEQA. (14 CCR, § 15125(d).)

Sixth, as Mr. Roper explains, the proposed mitigation measure MM-3.7-6 is not adequate. The EIR concludes that wildfire hazards would be rendered less than significant by proposed mitigation measure MM 3.7-6:

The applicant shall finalize their proposed preliminary Fire Protection Plan, subject to review by the Mission Soledad Rural Fire Protection District and approval by the RMA Director. The approved plan shall be implemented, prior to issuance of an occupancy permit, and on an on-going basis as described in the plan.

(RDEIR, p. 3-216.) The 2005 preliminary Fire Protection Plan is not in the EIR. A 2005 memorandum captioned "preliminary Fire Protection Plan" available on the County's web site lacks any discussion of emergency access and evacuation, fuel management, or training. Mitigation measure MM-3.7-6 violates CEQA for three reasons:

- CEQA does not permit deferral of mitigation without an adequate explanation of the need for deferral. (*San Joaquin Raptor Rescue Ctr. v. County of Merced* (2007) 149 Cal.App.4th 645, 670.) The EIR provides absolutely no discussion or justification for deferring the completion of the final Fire Protection Plan, a plan that is critically needed to address concerns raised in comments.
- CEQA does not permit deferral of mitigation without performance specifications. (*Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 94.) The EIR provides no performance specifications for the Final Fire Protection Plan, e.g., specifications for adequate access and evacuation roads, vegetation management, planting and irrigation, evacuation procedures, staff training, and guest alert systems. Indeed, the proposed mitigation measure MM-3.7-6 does not even identify the topics to be included in an eventual Fire Prevention Plan.

- CEQA does not permit deferral of mitigation without evidence that mitigation is feasible, even if the EIR does provide performance standards. (*Communities for a Better Env't, supra*, 184 Cal.App.4th at 94.) Here, compliance with maximum dead-end road requirements for safe access and evacuation is not feasible because the EIR acknowledges that there is no alternate location for a road. Compliance with roadway width requirements for safe access and evacuation is apparently not entirely feasible because the EIR calls for widening only where feasible. Mr. Roper has demonstrated that mitigation of fire risks is not feasible for these reasons, and the EIR provides no evidence to the contrary. Deferral is therefore improper.

We note also that the proposed conditions of approval do not provide any additional information about the proposed mitigation.

In light of the failure of the EIR to assess and disclose significant impacts related to wildfires and to provide an adequate discussion of mitigation, the EIR must be revised and recirculated. (14 CCR, § 15088.5, subd. (a).) Recirculation is required because new information, including comments by Mr. Roper and by the Attorney General's office, discloses that the Project would result in significant and substantially more severe wildfire impacts not acknowledged by the RDEIR; because the applicant may decline to an alternative that would reduce the size of the Project to reduce fire impacts; and because the draft EIR's discussion of wildfire risks and mitigation was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

**B. The applicant's last-minute submissions related to fire impact issues are inadequate as a matter of fact and as a matter of law.**

Comments on the RDEIR submitted by CAL FIRE, the Mission-Soledad Fire Protection District, LAFCO, and Project neighbors raised concerns about the inadequacy of the fire risk analysis and mitigation, including the inadequate provisions for emergency access and evacuation on the narrow, sole access road. The County did not respond to these comments adequately in the Final EIR. Instead, the County has buried two new technical analyses furnished by the applicant in Exhibit L to the staff report.

Exhibit L is misleadingly captioned "Hotel Asset Managers CHMW Correspondence," a caption that applies to the first letter in Exhibit L but does not inform the public that Exhibit L also contains two letters solicited by the applicant at the last minute to discuss wildfire issues. The two new letters are not referenced in the staff report itself or in the draft findings for the Project.

The new analyses include a March 8, 2019 letter from traffic engineer Keith Higgins and a March 15, 2019 letter from Michael Huff, identified as a "fire protection planner."

Higgins opines that the site could be evacuated “in about 15 minutes” if 269 cars left the site at the rate of one car every 3 seconds, driving at 30 miles per hour on a road that the final EIR admits is “in a mountainous area with steep terrain.” (FEIR, p. 2-99 to 2-100.) The roadway improvement plans in Appendix O of the RDEIR’s traffic report call for installing signs limiting speeds to 15 mph at several curves and to 20 mph or 25 mph at other locations. Higgins does not explain how a continuous string of vehicles with 3 second headways could average 30 mph if these vehicles all have to slow to 15 mph for curves and narrow sections. Common sense and everyday experience in traffic jams indicates that a continuous string of vehicles can only move as fast as the slowest vehicle.<sup>1</sup>

The FEIR admits that large portions of the roadway are less than 18 feet wide, some as narrow as 14’ 2”. The FEIR admits that the road will not be widened until later Project phases, and may not be widened at all if found not to be feasible. Higgins’ analysis unrealistically assumes calm and orderly evacuation on a standard two-lane road capable of sustaining 2,000 vehicles per hour.

Higgins assumes that the Project population is queued up and waiting to evacuate as soon as a fire is noticed. Higgins’ analysis does not take into account the time required to alert and assemble the guests and employees, which could be considerable, especially at night.

Higgins admits that 100 persons might be dependent on a shuttle for evacuation and states that the shuttle could accommodate 35 or 40 people. Although this indicates that three shuttle vehicles would be needed for immediate evacuation, Higgins does not state that the Project would in fact retain three shuttle busses on site at all times to accommodate all of the shuttle-dependent evacuees. Nor does Higgins account for the need for multiple shuttle trips.

Higgins’ analysis is not consistent with the analysis provided by Mr. Roper, which is based on real-world evidence that dead-end roads result in fatalities under real-world wildfire conditions. Nor does Higgins’ analysis take into account that drivers may be subject to panic and the road may be smoke-occluded and crowded by wide incoming emergency vehicles. Higgins’ analysis does not recognize, and is inconsistent with, the rationale behind the minimum road width and maximum dead-end road length regulations.

Huff cites Higgins to conclude that there would be adequate road capacity for evacuation in “17 minutes travel time,” unrealistically adding only 2 minutes to Higgins’ 15 minute estimate to account for the time needed to assemble the guests. Huff admits that the road improvements are “very important for meeting the intent of the applicable fire codes” and says that the road “must be widened to 18 feet or provided appropriate

---

<sup>1</sup> See also How Traffic Actually Works, Jason Liszka, Oct. 1, 2013, available at <https://jliszka.github.io/2013/10/01/how-traffic-actually-works.html>. Liszka explains that traffic cannot move any faster than the bottleneck speed.

measures to facilitate safe traffic during an evacuation.” Huff claims incorrectly that the existing road is at least 16 feet wide, when in fact Appendix O of the RDEIR traffic report shows that portions of the road are as narrow as 14’ 2.” Huff does not explain how there could be a safe evacuation route the day the Project opens in light of the proposal that roads not be widened until later phases of the Project or not be widened at all where widening is not determined to be “feasible.” Huff suggests some other “appropriate measures to facilitate safe traffic during an evacuation” if the proposed widening does not occur. However, Huff does not identify any such measures.

Huff admits that the intent of the regulation limiting the length of dead-end roads is based on the very conditions that exist on the first mile of Paraiso Springs Road: available fuels mixed with scattered homes and buildings. Huff claims that the Project “intends to comply with PRC 4290 if applicable, achieving the same practical effect through the various recommendations /measures discussed herein.” Huff does not explain how an alternative evacuation route can be provided so that the Project would practically comply with the intent in the regulations that the public not be stranded at the end of a long dead-end road that prevents evacuation. Again, although Huff states that “appropriate measures” are required “to facilitate safe traffic during an evacuation,” he does not identify any alternative to providing code-compliant evacuation roads that could facilitate safe evacuation.

Huff discusses emergency response time, and proposes some on-site EMS capability. However, Huff does not demonstrate that the Project would or could comply with the County’s minimum 15 minute response time standard for fire emergencies.

Huff makes 16 recommendations related to fire safety. None of these recommendations were included in the EIR as proposed mitigation and none are identified as conditions of approval.

Huff concludes that the Fire Authority could make findings that the Project somehow provides the same practical effect for the dead-end road length/lack of secondary access. However, no exception can be made to the road width and dead-end length regulations unless an alternative approach has the Same Practical Effect. i.e., is equally efficacious to meet the stated intent, and unless the exception is approved by the Director of the Board of Forestry and Fire Protection after written application. That application must include substantial evidence that there are no other site or design alternatives for the specific parcel of land. (Monterey County Code, § 18.56.050.) Such findings have not been made by the Fire Authority and have not been approved by the Director of the Board of Forestry and Fire Protection. Such findings could not even be *considered* at this point because there is no Fire Protection Plan or specific proposal for an alternative to the sole evacuation route. As a practical matter, there is no apparent alternative approach that would met the intent of ensuring that people are not reliant on a single long dead-end road for evacuation.

Finally, neither Huff's nor Higgins' analyses are included in the EIR. The public has had no opportunity to evaluate, comment, and receive a response to comments on this last minute material. This violates CEQA. If the Planning Commission intends to consider or rely on either of the last-minute letters from Huff or Higgins solicited by the applicant, the County must recirculate the EIR.

An agency must recirculate an EIR if new information shows that the draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. (14 CCR, § 15088.5(a)(4).) The purpose of recirculation is to provide the public the same opportunity to evaluate the new information and the validity of the EIR's conclusions as it had for information in the draft EIR. (*Sutter Sensible Planning v. Board of Supervisors* (1981) 122 Cal.App.3d 813, 822; *Laurel Heights Improvement Ass'n v. Regents of the Univ. of Cal.* (1993) 6 Cal.4th 1112, 1132; *Save Our Peninsula Committee v. Monterey County Board of Supervisors* (2001) 87 Cal.App.4th 99, 131, 133-134.)

Recirculation of a draft EIR for public comment and response is required where the record shows that a potentially significant impact, or the efficacy of mitigation, was not evaluated in the draft EIR. (*Vineyard, supra*, 40 Cal.4th at 447-448 [potential impact to salmon]; *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1120 [water supply mitigation not described].)

Reliance on new technical analysis not included in the draft EIR, such as the new reports offered here by the applicant, requires recirculation. (*Spring Valley Lake Association v. City of Victorville* (2016) 248 Cal. App. 4th 91, 108 [new hydrology report].) Information and analysis required by CEQA must be in the EIR itself. (*Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 442 ["To the extent the County, in certifying the FEIR as complete, relied on information not actually incorporated or described and referenced in the FEIR, it failed to proceed in the manner provided in CEQA.]; *San Joaquin Raptor/Wildlife Rescue Ctr. v. Cty. of Stanislaus* (1994) 27 Cal.App.4th 713, 727 [post-EIR testimony cannot make up for an inadequate EIR because "[w]hatever is required to be considered in an EIR must be in the report itself. Oral reports cannot supply what is lacking."]; *Communities for a Better Env't v. City of Richmond* (2010) 184 Cal. App. 4th 70, 88 [rejecting post-EIR testimony to cure a deficient EIR]; *Sierra Club v. Tahoe Regional Planning Agency* (2013) 916 F.Supp.2d 1098, 1139 [adequacy of mitigation measures must be reviewed *solely on the basis of information in the EIR* because "[a]dditional documentation in the record, however, does not make up for the lack of analysis in the EIR."].)

**C. The Planning Commission cannot make findings required to approve the Project under the County Code, the Planning and Zone law, and the Subdivision Map Act.**

Independent of CEQA, under the Planning and Zoning law and the Subdivision Map Act, the Planning Commission must disapprove the Project, including the proposed

subdivision map, because it would fail to comply with the state regulations and local ordinances mandating minimum access road width and maximum dead-end road access. (Government Code, § 66473.)

Because the Project does not comply with either the State or the County regulations for minimum road width and maximum dead-end road access in a very high fire severity zone, the County cannot make the findings required by Monterey County Code, § 18.56.040(C) (“Based on incorporated SRA Fire Conditions, all discretionary permits must include a finding that the project as conditioned, will ensure standardized basic emergency access and fire protection pursuant to Section 4290 of the Public Resources Code”).

The Planning Commission cannot make the specifically required findings under the Subdivision Map Act that the proposed subdivision is “consistent with regulations adopted by the State Board of Forestry and Fire Protection pursuant to Sections 4290 and 4291 of the Public Resources Code or consistent with local ordinances certified by the State Board of Forestry and Fire Protection as meeting or exceeding the state regulations.” (Government Code, § 66474.02, subd. (a)(1).) **The Project is simply not consistent with these regulations.**

Mr. Huff’s opinion that the Fire Authority *might* eventually make findings that the Project provides the Same Practical Effect for the dead-end road length/lack of secondary access is not sufficient. Any exception must actually be approved by the Director of the Board of Forestry and Fire Protection after written application, which must include substantial evidence that there are no other site or design alternatives for the specific parcel of land. (Monterey County Code, § 18.56.050.) Until there is an application and approval, the Planning Commission cannot find the Project consistent with the regulations. Indeed, the draft resolution indicates that additional conditions of approval “may be needed to clarify how that code would apply to the project, such as when alternative methods of compliance may be used as allowed by the code.” (Staff Report, Exhibit C, p. 35.)

Finally, in light of the Project’s inconsistency with General Plan Policy 17.3.3 mandating a 15 minute response time, the Planning Commission cannot act to approve the Project entitlements, including a subdivision map, because it cannot make credible findings that the Project is consistent with the General Plan. (Government Code, § 66473.5.) Where response time exceeds 15 minutes, the fire jurisdiction must approve on-site fire protection systems. The fire jurisdiction has not approved proposed systems and has in fact asked for an on-site fire station. In light of this inconsistency and the Project’s impact on fire safety, the Planning Commission must find that the Project is inconsistent with the General Plan, that the site is not suitable for the type and density of development, and that the Project is likely to cause serious public health problems. (Government Code, § 66474.)

**D. Steep slope development is not permissible for the Project.**

Policy 3.2.4 (CSV) from the 1982 Monterey County General Plan Central Salinas Area Plan limits building sites based on slope. Policy 3.2.3 does not permit any building sites on “portions of parcels with a cross-slope of 30 percent or greater.” The RDEIR fails to discuss or assess consistency with this policy. The FEIR argues that it applies only to residential buildings. The proposed condominium units are clearly residential buildings. Since the policy bans building sites on slopes over 30 percent, the condominium units proposed on such slopes should not be included.

In addition, 1982 General Plan Policy 26.1.10 bars development on slopes of 30 percent or greater unless the County can make one of two findings based on substantial evidence. To grant an exception, the County would have to find either that

- “[t]here is no alternative which would allow development to occur on slopes of less than 30 percent;” or
- the “proposed development better achieves the resource protection objectives and policies contained in the Monterey County General Plan, accompanying Area Plans and Land Use Plans, and all applicable master plans.”

(RDEIR, p. 3-9.) The RDEIR acknowledges that unless these findings could be made, the portion of the Project on slopes of 30 percent or steeper would not be permitted. (RDEIR, p. 3-264.)

The County clearly could not make the first finding under General Plan Policy 26.1.10 because there are alternatives to development on steep slopes: the RDEIR identified Alternatives 2, 3, and 4 that would not require development on slopes of 30 percent or greater. (RDEIR, pp. 5-11 to 5-37.)

The express benefits of these alternatives is that they would avoid encroachment on steep slopes, remove development at higher and more visible locations, reduce vegetation removal, reduce light and glare, reduce water supply and water quality impacts, reduce grading on steeper slopes, and lower the potential for erosion hazards and landslides. (RDEIR, pp. 5-11, 5-13, 5-19, 5-20, 5-29.) These benefits implicate a number of important policies of the 1982 General Plan, which is the General Plan applicable to the Project assessment. In light of these resource-protecting benefits associated with the alternatives to steep slope development, the County could not find that steep slope development better achieves the resource protection objectives and policies contained in the Monterey County General Plan.

The staff report acknowledges that there is no justification for steep slope development in lot 23 west of the hotel and recommends eliminating it. The same rationale should apply to lots 21 and 22.



The staff report's claim (page 17) that the hillside condos in lots 21 and 22 somehow differ from the hillside condos in lot 23 because they are clustered and will therefore be closer to infrastructure and fire evacuation and have fewer biological impacts is a makeweight argument. The proposed condos on lot 23 recommended for elimination were also clustered. Infrastructure is being provided by the developer for the entire Project, so there is no County resource policy served related to development infrastructure. The fire analysis does not acknowledge any difference in hazards to lots 22 and 21 versus lot 23. Nor does the biological resource analysis acknowledge any difference in impacts. The main difference in the three cluster of condos is that there would be visual impacts from condos in lots 21 and 22 versus lot 23. (See RDEIR, Appendix C, p. 7 [visual impact alternative removes "condominiums from the hillside along the northern edge of the site"].) Indeed, the reduction of visual impacts was precisely why the RDEIR recommended elimination of the hillside condos in lots 22 and 21 in all three of the reduced development alternatives. (RDEIR, pp. 5-11, 5-19, 5-29.) The staff recommendation simply ignores the EIR's analysis.

#### **E. The EIR's analysis and mitigation of visual impacts is inadequate.**

As LandWatch and lighting expert James Benya explained in RDEIR comments, the RDEIR fails to provide an adequate description of the Project or the environmental setting with respect to impacts from lighting. In response, the Final EIR purports to provide this information. However, the belated provision of this information violates CEQA because it must be provided in the *draft* EIR to permit public comment and response on the analysis on which the agency relies. (*Mountain Lion Coalition v. Fish & Game Com.* (1989) 214 Cal.App.3d 1043, 1052 [declining to review amended analysis not circulated for public review and comment because the failure to recirculate it was error]; *Spring Valley Lake Association v. City of Victorville* (2016) 248 Cal. App. 4th 91, 108 [requiring recirculation where the agency amended its analysis to rely on new technical reports]; *Save Our Peninsula Committee v. Monterey County Board of Supervisors* (2001) 87 Cal.App.4th 99, 131, 133-134 [requiring recirculation where the draft EIR omitted setting information].)

The RDEIR failed to assess the impact of interior lighting from hillside condominiums. This lighting impact would not be screened from view from public viewing areas in the Valley because, as the EIR acknowledges, the windows in these hillside units would not be screened by vegetation. If the hillside units are designed to provide views, then their lighting will be visible at night. The FEIR offers a new technical report by Michael Baker International that purports to address the nighttime impact from interior lighting of hillside condominiums. The report dismisses nighttime lighting impacts from hillside condominium that are visible from the Valley, arguing that that this impact will be avoided because occupants will always close the curtains for privacy at night. (Michael Baker International, memo to Planning Department, February 13, 2019, page 8.) The report also argues inconsistently that the guests will eventually turn off the lights and go to bed, which would not matter if they were in fact closing the curtains for privacy as suggested. Nothing in the Project description, and no proposed

mitigation, requires that curtains be drawn at night or even assures that light-blocking curtains be provided. It is simply unreasonable to assume that resort visitors in the hillside condominiums will be so concerned with privacy that they will always draw the curtains before turning on lights at night. Indeed, no one without a telescope would be able to see them in the hillside units, because these units are located above the rest of the Project site.

The EIR must acknowledge that the interior lighting in the hillside condominiums, which will be visible from the Valley, would be a significant new impact in this otherwise pristine western range. The obvious and essential mitigation is not to develop on the steep the hillsides.

The Final EIR does not provide adequate responses to LandWatch's comments regarding either daytime or nighttime visual impacts. It is clear that situating 13 two-story condominium buildings in lots 21 and 22 on a steep hillside clearly visible from the Valley and from local roads would be a substantial visual intrusion.

The RDEIR relies on screening from vegetation to conclude that visual impacts would not be significant, but it also admits that these condominium units will at best be partially screened, because the Project wants to ensure that the guests have views.

The screening is supposed to be attained by planting the native oak seedlings required for biological resource impacts, but, as LandWatch documented in RDEIR comments, these will not mature to the height of the condominiums for 30 or more years. The FEIR responds that the "fact that the vegetation will not be fully grown in the early years of the resort is not a county standard requirement." (FEIR, p. 2-74.) Perhaps the County does not require this, but CEQA requires that the proposed mitigation be effective when the Project commences or that the EIR disclose that there will be significant impact. (*POET, LLC v. State Air Resources Bd.* (2013) 218 Cal.App.4<sup>th</sup> 681, 740 ["mitigation itself cannot be deferred past the start of the project activity that causes the adverse environmental impact"].)

The defensible space requirements to mitigate wildfire impacts will also prevent any effective screening. As CAL FIRE explained, vegetation within 100 feet of the structures must have both vertical and horizontal separation. LandWatch pointed out that CAL FIRE regulations for development on slopes from 20 to 40 percent require spacing tree canopies at least 20 feet apart, which would require spacing oak trees, with their 35 foot canopies, at least 55 feet apart. In effect, there could be at most one oak tree for each condominium unit. The FEIR does not acknowledge this problem. Instead, it claims that shrubs may be used in addition to trees. (FEIR, p. 2-74.) Even if shrubs could screen a two-story building, this claim is inconsistent with the proposed planting plan, which shows only trees are to be planted for screening lots 21 and 22. (RDEIR, Figure 2.12.)

The FEIR claims that vegetation adjacent to structures will not be cleared for fuel management areas. (FEIR, p. 2-74.) This claim is inconsistent with the RDEIR. The

RDEIR shows complete removal of all of the oak woodlands on the southern side of the hill on which the lot 21 and 22 condominiums are located as part of the “defensible space vegetation loss.” (Compare RDEIR, Figures 3.3-1 [existing vegetation] to 3.3-3 [defensible space vegetation loss].)

In sum, the need to protect the hillside condominiums from fire is inconsistent with the claim that these two-story buildings will be effectively screened or broken up.

**F. If any version of the Project is eventually approved, it should be smaller and should not include hillside condominiums.**

One of an EIR’s “major functions...is to ensure that all reasonable alternatives to proposed projects are thoroughly assessed by the responsible official.” (*Laurel Heights Improvement Ass’n v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 400 (1988).) Alternatives should feasibly attain most, but need not meet all, of the project objectives. (*Mira Mar Mobile Cmty. v. City of Oceanside* (2004) 119 Cal.App.4th 477, 489 (2004).)

As noted, the EIR acknowledges a number of environmental benefits from the two alternatives that would reduce the size of the proposed Project. Alternatives 2, 3, and 4 would avoid encroachment on steep slopes, remove development at higher and more visible locations, reduce vegetation removal, reduce light and glare, reduce water supply and water quality impacts, reduce grading on steeper slopes, and lower the potential for erosion hazards and landslides. (RDEIR, pp. 5-11, 5-13, 5-19, 5-20, 5-29.) Thus, the EIR acknowledges that Alternative 4 is the environmentally superior alternative.

Comments by Mr. Roper regarding fire hazards indicate that the Project would cause significant and unmitigated impacts in the form of wildfire risks and by impeding the sole evacuation route. Mr. Roper indicates that the magnitude of this impact is related to the size of the Project. The more persons introduced into a rural setting, the greater the risk that persons will cause fires. And Mr. Roper explains that the more persons at the Project site, the greater the congestion of the emergency evacuation and access route. In light of the increased fire risk from additional igniters, the infeasibility of providing a second access and evacuation route, and the infeasibility and untimeliness of the proposed widening of the available route to meet minimum standards, the County should reduce the scope of the Project.

Reduction of the size of the Project should include elimination of the proposed condominium development on the steep hillsides for a number of reasons. As noted, this development is inconsistent with General Plan Policy 26.1.10 and Policy 3.2.4 (CSV). This development will result in visual impacts due to the visible glare, visual trespass, and sky glow contribution from the interior light sources from hillside development.

The proposed findings claim that all of the alternatives evaluated in the RDEIR are infeasible. If that were really the case, then the EIR is inadequate because it fails to

evaluate a reasonable range of alternatives. What is the point of an alternatives analysis that includes only infeasible alternatives?

Furthermore, any finding that all of the alternatives evaluated in the EIR are economically infeasible is unsupported by the evidence. The findings do not reject the alternative proposed by staff as infeasible even though it would eliminate seven 2-unit condominium buildings and potentially reduce the unit count by 14 units. Alternative # 3, evaluated in the RDEIR would have reduced the unit count from 180 to 168 by relocating the hillside condominiums to the villas site, a reduction of only 12 units, yet the findings reject this alternative as economically infeasible based on the letter from hotel consultant Thomas Morone, CHMWarnick, dated February 20, 2019. (RDEIR, p. 5-19 [Alternative 3]; see Staff Report, Exhibit 12, pp. 55, 57-58.) It is absurd to claim that a 12 unit reduction in time-share condominium units is economically infeasible but a 14 unit reduction in time-share condominium units is not.

The staff alternative would permit the applicant to reduce his unit loss to as few as 7 units by replacing one-unit villas with two-unit condominium. Under this scenario, the staff alternative would result in a reduction of as few as 7 units compared to the reduction of 12 units under the RDEIR's Alternative 3, a maximum difference of 5 units. Nothing in the evidence cited by the findings supports the conclusion that these 5 units represent the difference between an economically viable and an economically non-viable project. The hotel consultant's letter is a purely qualitative discussion with no cost or revenue data that would support a conclusion that a 173-unit project is viable but a 168-unit project is not.

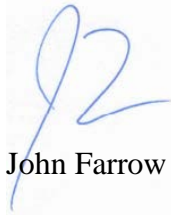
There is no evidence that Alternative 3 would fail to meet the same objectives that the staff alternative meets. And even if Alternative 3 did result in 5 fewer units, courts have rejected the notion that an EIR can lawfully reject an otherwise feasible alternative of reduced scope or size simply for impeding or failing to attain or one or more agency-identified project objectives. (See, e.g., *Habitat & Watershed Caretakers v. City of Santa Cruz* (2013) 213 Cal.App.4<sup>th</sup> 1277, 1304 [limited-water alternative "could not be eliminated from consideration solely because it would impede to some extent the attainment of the project's objectives"]; *Watsonville Pilots Ass'n v. City of Watsonville* (2010) 183 Cal.App.4<sup>th</sup> 1059, 1087-88 (2010) [reduced development project alternative could not be avoided based on not fully satisfying two of twelve asserted objectives, as it is "virtually a given" that alternatives will not attain all objectives]; *Cleveland Nat'l Forest Found. v. San Diego Ass'n of Gov'ts*, 17 Cal.App.5<sup>th</sup> 413, 433 (2017) [prejudicial error from failing to analyze alternative which could significantly reduce total vehicle miles traveled].)

## **G. Conclusion**

Based on the issues identified in these comments and comments by LandWatch, neighbors, and public agencies, LandWatch asks that the Planning Commission decline to certify the EIR or to approve the Project.

Yours sincerely,

M. R. WOLFE & ASSOCIATES, P.C.

A handwritten signature in blue ink, appearing to read 'JF', is positioned above the printed name 'John Farrow'.

John Farrow

JHF:hs  
Attachment

March 26, 2019

Page 16

**Attachment: letter from Bob Roper, Roper Consulting,  
to John Farrow, March 22, 2019**



Subject: *Paraiso Springs Resort Project*

Date: March 22, 2019

To: M.R. Wolfe & Associates, P.C.  
Attn: Mr. John Farrow  
555 Sutter Street, Suite 405  
San Francisco, CA 94102

(Via email: jfarrow@mrwolfeassociates.com)

Dear Mr. Farrow,

At your request, I have reviewed the fire safety issues related to the proposed Paraiso Springs Resort project.

I have reviewed the Revised Draft EIR and Final EIR with particular attention to the description of the project, the discussions of wildfire hazards, fire protection, and traffic. I have also reviewed comments submitted regarding fire hazards, including the January 15, 2019 letter by yourself (LandWatch's representative), the February 6, 2019 letter from CAL FIRE's San Benito-Monterey Unit, the April 4, 2018 letter from the City of Soledad, the April 23, 2018 letter from LAFCO, and the March 20, 2019 letter from the California Attorney General's office.

I have been in the fire service for 40-years serving as the Ventura County CA Fire Chief, from 1998 to 2012, and as the Nevada State Forester, from 2015 to 2016. I was part of the team that developed California's response to major emergencies, which included wildland fire policy development at the local, State and Federal level. I also helped create the National Wildland Fire Cohesive Strategy. While serving in "all-hazard" emergency response role, I focused on the wildland fire topic.

In summary, it is my conclusion that the applicant-proposed mitigation measures MM-3.7-6 for wildfire risks are not sufficient because the EIR does not provide critical information. The mitigation measure calls for completion of the applicant's proposed preliminary Fire Protection Plan, subject to review by the Mission-Soledad Rural Fire Protection and approval by the Resources Management Agency Director for implementation before occupancy. However, critical details of a comprehensive Fire Protection Plan are not provided in the EIR, including plans for emergency evacuation and access. An adequate Fire Protection Plan for the proposed project is not clearly feasible due to serious constraints on access and evacuation of the large new population - hundreds of persons - to be situated in a box canyon with limited access. Evacuation of the project's population on the narrow dead-end road that provides the only access to the project site would likely interfere with both inbound access for fire personnel and equipment and with the evacuation of project neighbors, who depend on the same road.

It is troubling that the EIR does not present the proposed Fire Protection Plan for review before the EIR and project are considered for approval. The July 15, 2015 memorandum by CH2M Hill captioned "Preliminary Fire Protection Plan," addresses only water supply, sprinklers, hydrants, and internal circulation. It lacks any consideration of other critical elements of a Fire Protection Plan, such as evacuation and access, Temporary Refuge Areas (TRA), vegetation management, and training.

It is also troubling that the EIR proposes only the phased widening of the limited access road, and then only as feasible, which could compromise life safety once the project opens to guests and employees.

I understand that mitigation measures proposed in an EIR must be feasible. If the proposed mitigation measures to be included in a Fire Protection Plan (FPP) cannot be agreed to, then the project should be delayed until the public and the decision makers can be assured through a complete Fire Protection Plan that concerns are adequately addressed.

I also note that the Final EIR (FEIR) does not respond to the specific concerns raised in LandWatch's January 15, 2019 letter regarding site access and evacuation and compliance with wildfire protection standards. These concerns should be addressed before the EIR and project are approved because it is not clear that adequate access and evacuation are actually possible.

#### **SITE and RISK CONCERNS:**

The project is located in a narrow box canyon in a very high fire severity zone. The project site has burned in the past, and those fires have destroyed on-site structures. It is not a matter of IF a fire will occur; it's a matter of WHEN the next wildfire occurs.

**INCREASED FIRE RISK:** The EIR does not consider or discuss the fact that increasing development at the site will increase the risk of wildfire. Most wildfires are caused by people. As the Attorney General's letter and the research literature cited in that letter point out, *"additional development in rural areas, including recreational development, introduces more people into natural settings and thereby increases the risk of wildfires."*

**RESPONSE:** The RDEIR states at page 3-270 that the closest fire station, the Mission-Soledad Rural Fire Protection District station is 15-minutes away. The FEIR also identifies a CAL FIRE station at the Soledad Correctional Facility (22-minute response time) in addition to the primary responder.

The EIR identifies 15 minutes as the maximum permitted response time under County Policy 17.3.3 without on-site fire protection systems approved by the fire jurisdiction. Hence, further review indicates an 18-minute response time from the closest fire station. (See attached maps). This 18-minute response time is based upon the fixed fire station location.

In its April 4, 2018 comments, the City of Soledad stated that the access time to the site is closer to 20 minutes than 15 minutes, based on commercial map data. The City of Soledad concludes: *"This will have significant impacts on the ability of the City to deliver services to its own residents given the significant distance from the fire station. These impacts simply cannot be ignored."* CAL FIRE states in its February 6, 2019 letter that the *"distance from fire stations creates an excessive response time for effective structure fire suppression purposes."*

There are additional factors that would delay response time. If the fire engine is distal to the fire station, the response time greatly increases. If the narrow Paraiso Springs Road were crowded with outbound evacuees, it is unlikely that a 15-18 minute response time could be maintained for the 9-mile route from Soledad to the project site. The stated 15-18 minute response time would



also be compromised if the Mission-Soledad Rural fire engine is committed on another call requiring an outside agency to respond.

This situation is further exacerbated during times of high wildfire activity in the State as CAL FIRE often moves their resources out of the area, as noted in their February 6, 2019 letter: *“The need for fire resources during peak fire season may limit response capability during moving of resources....”* Mission-Soledad FPD has no control over CAL FIRE resources, so reliance on neighboring fire resources should not be part of the planning conditions.

Based on its concerns regarding response time, the Mission-Soledad FPD asked that the project include a new on-site fire station in its August 29, 2013 letter. In its April 23, 2018 letter LAFCO stated that the EIR’s *“conclusion that no new facilities are needed in relation to this project appears to be inconsistent with the views expressed by the fire district in 2013 and in more recent (March 2018) informal consultation involving fire district representatives.”* Based on response time concerns, I concur that an on-site fire station, specified and approved by the fire jurisdiction, is required.

**EMS:** The RDEIR assumes at page 3-307 that the Mission-Soledad firefighters will address all of the project’s Emergency Medical Services (EMS) demands. This project is projected to bring in several hundred guests daily plus employees. EMS calls account for roughly 80% of the Mission-Soledad’s FPD service calls, so it should be quite apparent to expect associated 911 requests at the site.

**IMPACTS TO SOLEDAD:** Without an on-site EMS plan and an on-site fire station, 911 service calls on site will further drain the City’s ability to provide for its own citizens. The EIR does not recognize this impact.

**FUNDING FOR FIRE SERVICES:** One must understand how fire services are funded so decisions about future fire services are understood. The project will be required to pay “Fire Impact Fees” to the Mission-Soledad FPD. These fees are “one-time” fees intended to offset capital improvement costs for new services. This project will generate some limited property tax dollars for on-going revenue to the County, but the majority of on-going funding will be Transit Occupancy Taxes (TOT) paid by guests ending up in the County Treasury. There must be some type of pass-thru agreement between the County and the Mission-Soledad FPD to provide on-going new funding to support augmented staffing levels and/or a new fire station due to projected service demand increases. In its April 23, 2018 letter, LAFCO requested that the funding requirements for fire protection such as payment of impact fees or dedication of land for a new fire station be quantified and imposed as binding mitigation measures. A committed plan for an on-site fire station is required, together with a requirement that the project fund its fair share.

**ALTERNATIVE EGRESS AND ACCESS ROUTE AND DEAD-END ROAD LENGTH LIMITATION:** The project would present an unacceptable risk because it does not provide two routes for access and evacuation and because it is located on a dead-end road that is longer than permitted by applicable wildfire protection standards. As LandWatch’s January 15, 2019 letter points out, and as the RDEIR acknowledges at page 3-215, the project is located at the end of a dead-end road. The only access to the project site is via Paraiso Springs Road. Exhibit 13 to the traffic report in Appendix K of the RDEIR divides Paraiso Springs Road from the project site to the first public road intersection (at Clark Road) into segments A through E. The sum of these segments on Exhibit 13 is 7,490 feet, or 1.4 miles.

In order to ensure safe access and evacuation, state and local codes regulate the maximum length of dead-end road access. For example, the maximum length of dead-end road access is regulated

by both section 1273.09 of the SRA Fire Safe Regulations and by Monterey County ordinances at sections 18.56.060(11) and Chapter 18.09, Appendix O, section O102.3. The maximum permitted length for dead-end road access where parcels are less than one-acre is only 800 feet. The Vesting Tentative Map in RDEIR Appendix B and Table 2.1 of the project description identify many parcels proposed for the project that would be less than one acre. For example, the project would include 17 time share villas on lots 3-19, totaling 4.38 acres, which means that the parcels will be about a quarter of an acre. Even if the parcels were all 20 acres or larger, the regulations provide that the maximum length of a dead-end road is only one mile.

CAL FIRE's San Benito-Monterey Unit asked whether the project would provide alternative egress for civilians. Apparently in response, the Final EIR states that there will be an internal road that loops from the back of the project along the northern part and then rejoins the main road inside the project. Provision of an internal loop road within the project does not address the lack of a second evacuation route from the project site. Despite the internal loop, hundreds of persons would remain dependent on a single dead-end road to evacuate the project site in the event of a wildfire. Under the cited dead-end road regulations, the maximum dead-end road length applies to the project site as a whole "regardless of the numbers of parcels served." The more parcels served by a dead-end road, and the more persons that must rely on it for evacuation, the more difficult an orderly evacuation becomes.

In the event of a wildfire, reliance on a single dead-end road for evacuation can lead to civilian deaths, as it did in the 2018 Camp Fire in Paradise, CA. (See "Here's how Paradise ignored warnings and became a deathtrap," Los Angeles Times, March 20, 2019, [www.latimes.com/local/california/la-me-camp-fire-deathtrap-2018](http://www.latimes.com/local/california/la-me-camp-fire-deathtrap-2018)). Limited egress from a canyon via a dead-end road also led to civilian deaths in the 2017 Atlas Peak fire, because "anything coming up the canyon leaves no place to run." (See Fire Issues, Soda Canyon Road.org, updated December 12, 2017, <http://sodacanyonroad.org/forum.php?t=285>).

By having only a single response route, any obstacle can interfere with response. The "Flight or Flight" emotional response during evacuations coupled with smoke occluded visibility greatly increases the odds of a vehicle accident that could totally block the primary access road.

To provide safe access from an external fire station and safe evacuation from the project, another external road is needed. Even if the project were to include an on-site fire station, an adequate second route would still be needed for evacuation, particularly if the project is to permit hundreds of persons on site at once. However, provision of another road is not apparently feasible because the project is situated in a box canyon and the Final EIR acknowledges at page 2-126 that no alternative road location exists. This issue should be addressed in a Fire Protection Plan that clearly provides some feasible alternate evacuation route before the EIR and project are approved. Without an alternative access and evacuation route, wildfire impacts would not be mitigated for the project site; and wildfire impacts to neighbors would be aggravated, because the neighbors' access to the only evacuation route would be compromised by the evacuation of hundreds of persons from the project site.

**PROVISION OF ACCESS ROAD OF ADEQUATE WIDTH:** State and local codes also regulate the minimum width of fire access roads. Section 1273.01 of the SRA Fire Safe Regulations requires that access roads provide two ten-foot traffic lanes, not including shoulders and striping, in order to support emergency vehicle access and civilian egress. Monterey County ordinances at sections 18.56.060(3) and Chapter 18.09, Appendix O, section O102.2 requires two nine-foot lanes.

Exhibit 13 to the traffic report in Appendix K of the RDEIR indicates that segments B, C, D, and E of Paraiso Springs Road all contain sections of roadway that are less than 18 feet wide, some as

narrow as 14 feet. Only segment A, the final 690 feet before Clark Road, is entirely wider than 18 feet. The EIR proposes that parts of Paraiso Springs Road be widened, but there is no commitment that the entire road will be widened to meet at least the Monterey Code standard of eighteen feet. For example, the RDEIR's traffic report states at pages 24-25 that the "majority" of the road will be widened to 18 to 20 feet and that segments will be widened to 18 or 20 feet "where feasible." At page 24, the traffic report acknowledges that only "conceptual designs" for these road improvements have been prepared. These conceptual designs, provided in its Appendix O, call for adding pavement "where feasible." Nothing in the EIR or the proposed mitigation requires that the road actually meet the minimum 18-foot width requirement of the Monterey Code, much less the 20-foot width requirement of the State regulations.

Furthermore, there is no mention of constructing any sizeable "turnouts" to provide Temporary Refuge Areas (TRA) for drivers when evacuating. The Final EIR acknowledges at page 2-97 that there is no parking available on the road. Oftentimes, when evacuees are driving, their visibility is obscured by smoke condition sometimes causing accidents. Turnouts for passing and as a TRA should be required to improve safety on this marginal access road.

The EIR does not explain why widening all of the road may not be feasible. In light of the doubtful feasibility of widening the road to meet minimum standards, the issues should be resolved before the EIR and project are approved. It should be noted that this proposed project shares traffic flow with neighboring parcels and normal business functions. Any conditions placed on this project do not automatically get imposed on other users of the access road. Without an adequate road width for evacuation and fire equipment access, wildfire impacts to the project site and to neighbors cannot be said to have been mitigated.

**TIMELY ROADWAY WIDENING:** The RDEIR proposes at page 2-19 that the roadway be widened in four phases over time as the project is developed. The planned project phasing discussed at RDEIR page 2-56 states that the phased development "*is expected to be completed in 2027.*" This would permit project occupancy without an adequate fire access road until 2027, assuming that the expected phasing plan is actually implemented as expected. If for any reason the later project phases are not constructed, an adequate access and evacuation road might never be provided. The Fire Protection Plan should require widening the road to the minimum standard before any occupancy. Again, without timely widening of the road to meet minimum standards, EMS/wildfire impacts to the project site and to neighbors cannot be said to have been mitigated.

**ADEQUATE SHUTTLE CAPACITY:** As LandWatch noted, most of the project's service population and many of its guests would be dependent on shuttles for evacuation from the project site. The project should be required to provide sufficient shuttle capacity to evacuate all persons without the need for shuttle return trips, which would result in delay and would further congest the narrow Paraiso Springs Road. There can be no assurance that shuttles would or could make return trips for stranded employees if the only access road were smoke-occluded, blocked by burning materials, or congested by other evacuees and incoming fire equipment. Without adequate shuttle capacity to evacuate all persons without return trips, wildfire impacts to the project site and to neighbors cannot be said to have been mitigated.

In the City of Soledad's April 4, 2018 letter, they cite concerns about the reality of such shuttle service: "*We believe the assertion that such a large percentage of employees will either walk, be dropped off or carpool to the site is generous...*" The shuttles are intended to ensure that the project meets a condition of approval that the annual average of daily trips not exceed 406 daily trips. However, the project might meet that annual average even while accommodating many more drive-in guests on a peak summer or autumn weekend during fire season. This shuttle proposal sounds good, but with the public's bias for car transportation, the potential for peak

period crowding, and the reliance on an unspecified number of shuttles, there is no assurance of safe site evacuation during an emergency.

**ALERT, NOTIFICATIONS and EVACUATIONS:** Evacuation of employees and guests presents challenges. Employees can be trained in certain procedures as part of a plan. This process requires on-going training and exercises so it becomes a normal action and not a recall thought. The bigger problems are guests and guests with special needs. Guests may not be familiar with local evacuation protocols, nor local media contact information and they are probably not registered with local emergency alert systems. It must be recognized that the human “Flight or Fight” emotions manifest themselves during these adverse times. This became quite apparent during the 2018 Camp Fire in Paradise, CA. The community recognized they had an evacuation problem and designed and practiced an orderly evacuation plan. But, when the fire exceeded the plans design, the roads soon became congested with negative effects. Dead-end roads exacerbated the evacuation problem. (See “Here's how Paradise ignored warnings and became a deathtrap,” Los Angeles Times, March 20, 2019.) A Fire Protection Plan detailing employee training, alert, and notification systems should be required before the EIR and project are approved.

**TEMPORARY REFUGE AREAS (TRA):** The current project is designed on a marginalized access road. The internal circular traffic flow within the end of the project does not resolve potential life safety issues. There are many unknown situations and reactions by staff and guests in the advent of a wildfire. If shuttles do not have enough capacity and/or people do not follow established planning expectations, panic may ensue. In addition to two evacuation routes and adequate access road width, the project should provide Temporary Refuge Areas.

CAL FIRE also supports provision of TRAs for this project as cited in their February 6, 2019 letter (item 1.f.). The Fire Protection Plan (FPP) should specify appropriately sized TRAs where people can assemble and survive a fire without the presence of fire responders. Given the crowded site plan, TRAs sufficient for the foreseeable peak on-site population should be designated before the EIR and project are approved.

**VEGETATION MANAGEMENT and MAINTENANCE:** The FEIR states that native vegetation will not be altered except for specific building construction needs. The absence of a comprehensive FPP does not address the State’s Public Resource Code (PRC) 4291 mandated 100-foot defensible minimum space requirement and any needed fuel modification zones. CAL FIRE states that the “requirement of 100 feet from structures should be considered a minimum standard.” The 100-foot minimum defensible space zone may need to be expanded based upon fuel and slope elevation degree. As CAL FIRE’s comments explain, steep terrain contributes to fire intensity and spread and requires both horizontal and vertical separation of fuels. Thus, CAL FIRE’s defensible space guidelines require spacing tree canopies farther apart on steeply sloped areas. A fire behavior model should be required as part of the FPP and validated with fire history records. The results of this review will dictate the need for fuel modification zones or collateral functions and will determine the planting plan.

The planting plan set out in Figure 2.12 of the RDEIR does not appear to have been based on a defensible space analysis or on the “Firewise and Waterwise” landscaping considerations referenced in CAL FIRE’s February 6, 2019 letter. CAL FIRE cites the need for PRC 4290 compliance by tree thinning, removal, use of fire resistive plants and irrigated landscapes. Based upon the slope elevations and native fuel types, landscaping and maintenance will be paramount for the project’s safety. When referencing “irrigated” landscapes on new projects for fire protection, one must be cautious, as the recent Governor’s direction to reduce water use during drought situations may adversely affect the ability to irrigate landscapes, thereby causing landscape to become a fuel source.

As CAL FIRE points out, vegetation management for ingress/egress routes is also critical. The EIR provides no discussion of off-site vegetation management for the sole access route. It is not clear that vegetation management for Paraiso Springs Road would be required of the project or is feasible.

Even though the building construction will meet modern building codes, maintenance of facilities, access roads and fuels must be done annually. Maintenance as a function must be part of the design/approval tenets so if the planning conditions are not maintained, the County may revoke the Conditional Use Permit and/or project approval.

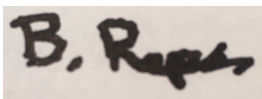
**CONCLUSION:** A Fire Prevention Plan, including all required provisions of the PRC 4290, should be in place before the EIR and project are approved. As discussed, meeting the requirements for adequate access and evacuation and provision of TRAs is not mandated by the proposed mitigation measure and may not be feasible. Growth within these wildland fire prone areas must be addressed as a holistic, systematic approach. Each component listed above must be addressed in its entirety; failure to do so may compromise public safety and first responder success. The primary responsibility public officials have is life safety, therefore egress issues as they pertain to evacuations are the #1 priority.

It must be recognized that most civilian deaths worldwide are the result of late and/or associated evacuation issues. When evacuation issues present themselves, first responders may subject themselves to extra ordinary life rescue efforts, thus compromising their safety.

CAL FIRE's February 6, 2019 comments expressed concern regarding the lack of information in the EIR regarding FPP components, including vegetation management on-site and for ingress/egress; planting, tree replacement, and irrigation plans; TRAs; and response time. Despite CAL FIRE's concerns and requests for information, the Final EIR postponed the preparation of a Fire Protection Plan. A complete Fire Protection Plan should be done upfront before project approval is given. CAL Fire has given many key points that must be addressed in their entirety.

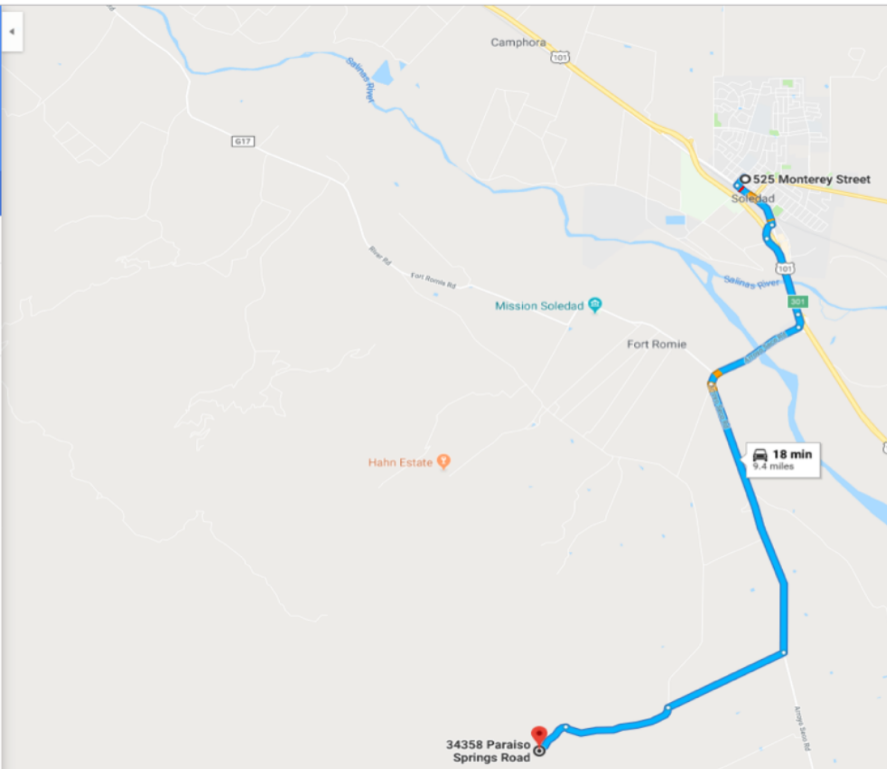
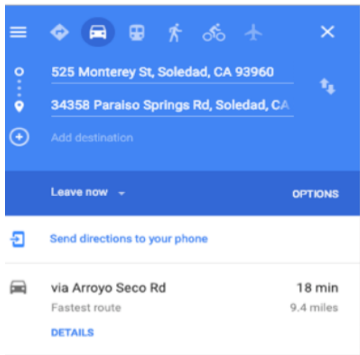
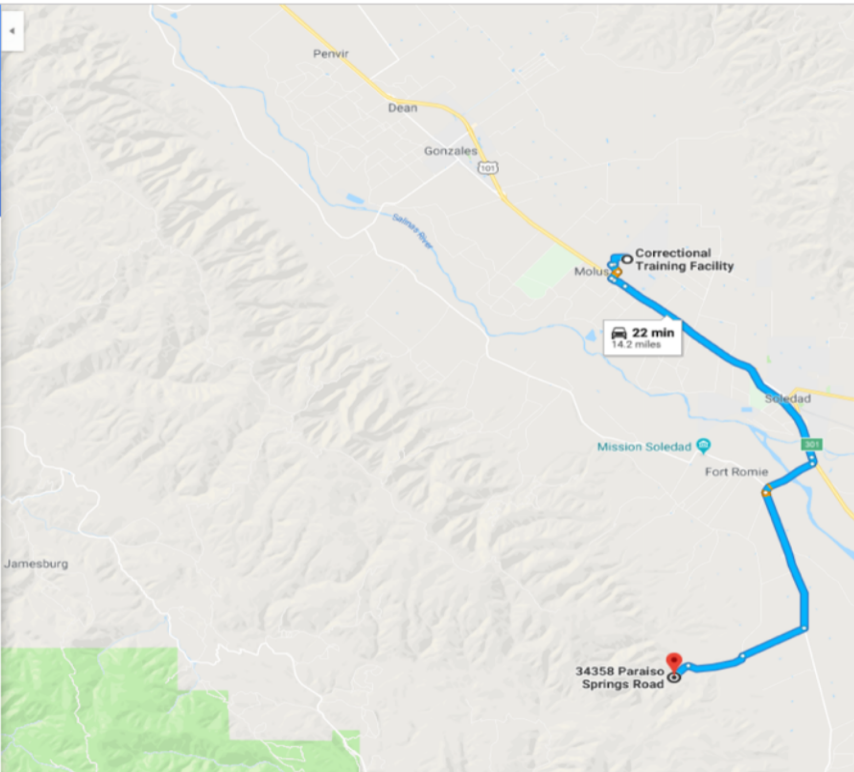
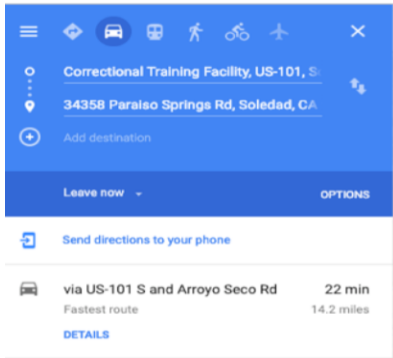
The challenge before us is how to allow safe and responsible growth in these wildland fire prone areas, but it takes a good planning and public/private partnerships for success.

Sincerely,

A handwritten signature in black ink that reads "B. Roper". The signature is written in a cursive, slightly slanted style.

Bob Roper, Owner

Roper Consulting



# Reject Paraiso Springs Mega-Resort



Dale\_Hillard <hillard@salinas.net>

Tue 3/26/2019 9:41 AM

To: ● Novo, Mike x5176; LandWatch@mclw.org

Cc: Dale Hillard <hillard@salinas.net> ^



Reply all | v

Inbox

Dear Mr. Novo:

Please don't reward Thompson Holdings with a sprawling, exclusive mega-resort in a high fire hazard zone on a rural property with inadequate roads and water and other environmental conflicts.

As a resident of Monterey County, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort. Rather, the Commission should reject the Final EIR; downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides; and assess a sufficient penalty to deter this and future developers from illegal activities. This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

Sincerely,

Dale Hillard

[830 River Rd.](#)

[Salinas, CA 93908](#)

# Reject Paraiso Springs Mega-Resort



dvosti92 <dvosti92@gmail.com>

Today, 9:34 AM

Novo, Mike x5176; LandWatch@mclw.org



Reply all |

Inbox

Dear Mr. Novo:

As a resident of Monterey County, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort. Rather, the Commission should reject the Final EIR; downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides; and assess a sufficient penalty to deter this and future developers from illegal activities. This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

Come on man dont be that guy. You know this isn't right.

Sincerely,

Dylan Vosti



# Reject Paraiso Springs Mega-Resort



David Alexander <daabigyin@gmail.com>

Today, 10:38 AM

Novo, Mike x5176; LandWatch@mclw.org



Reply all |

Inbox

Dear Mr. Novo:

As a resident of Monterey County, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort. Rather, the Commission should reject the Final EIR; downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides; and assess a sufficient penalty to deter this and future developers from illegal activities. This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

Sincerely,

<Your Name>

<Your Address>

# Reject Paraiso Springs Mega-Resort



Lisa Ciani <lisa.ciani@gmail.com>

Today, 2:42 PM

Novo, Mike x5176; LandWatch@mclw.org



Reply all |



Inbox

Dear Mr. Novo:

As a resident of Monterey County, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort. Rather, the Commission should reject the Final EIR; downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides; and assess a sufficient penalty to deter this and future developers from illegal activities. This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

Sincerely,

Lisa Ciani  
Pacific Grove



Anthony A. Ciani  
Architecture

220 Walnut Street, Pacific Grove, California 93950  
Historical Preservation

Coastal Planning Consultant

March 25, 2019

Paul Getzelman, Chair  
Monterey County Planning Commission  
Monterey County Government Center - Board of Supervisors Chambers  
168 W. Alisal St.  
Salinas, CA 93901  
also via: novom@co.monterey.ca.us

RE: March 27, 2019 Meeting Agenda Item: 3  
PLN040183 - PARAISO HOT SPRINGS RESORT

Dear Chair, Getzelman and Members of the Planning Commission:

In a similar case involving the “after-the-fact” approval of the demolition of the Green Dragon Colony (four historic cottages) in La Jolla, the California Coastal Commission sought the assistance of California’s State Historical Building Safety Board (SHSB)<sup>1</sup> to evaluate the historical records to identify the historical and architectural elements and recommend design mitigation standards as special conditions in its “after-the-fact” demolition permit, for any future development to incorporate to the maximum extent feasible. (CDP #A-6-LJS-91-168)

- 1) *“Upon review of the information (the SHSB report), the Executive Director shall determine, in consultation with the State Historical Building Safety Board, what design elements are historically and/or architecturally significant and worthy of incorporation into. any future development...”*
- 2) *“The scale and character of the demolished structures shall be retained in the new development design to the maximum extent feasible utilizing the criteria and design elements identified in this agreement. “*

It is essential to replace the lost resources in a manner that “put-them-back” as a condition to grant the “after-the-fact” demolition. In kind replacement has succeeded with stands of trees, wetlands and to restore other natural resources. The Green Dragon Colony is an example that has succeeded to reconvey the historical feeling and association of historical resources.

In addition to an evaluation of the historical records and recommendations for design mitigation measures by an independent agency such as the State Office of Historic Preservation

---

<sup>1</sup> California Historical Building Code (Title 24, Part 8)

March 25, 2019  
Monterey County Planning Commission  
RE: March 27, 2019 Meeting Agenda Item: 3  
PLN040183 - PARAISO HOT SPRINGS RESORT

Page 2

(SOHP) or SHSB) to protect the historical scale and character of site and relationship to the setting, the permit should prohibit any development on any ESHA lands, or land with a natural gradient of at least 25 percent (25 feet of vertical distance for every 100 feet of horizontal distance). Also, a substantial fine and penalties must be required from the applicant to be paid to an appropriate agency or organization prior to granting of the permit.

I do not believe a finding of overriding considerations can be supported by the evidence in the record; therefore, the FEIR should not be certified.

Thank you for your consideration.

Sincerely,

Anthony A. Ciani, Architect  
Historic Preservation Consultant, CHRIS

# Reject Paraiso Springs Mega-Resort



Anthony Ciani <aciani@cianiarchitecture.com>

Today, 4:51 PM

Novo, Mike x5176; landwatch@mclw.org

Reply all |

Inbox

Paraiso - MC Planning C...  
86 KB

Download    Save to OneDrive - Monterey County

Action Items

Dear Mr. Novo:

Please review and provide my attached letter to the Planning Commissioners. I don't believe the Planning Commission can make the necessary findings to override the FEIR, or certify the FEIR and approve the project based on the evidence in the record.

The project should be denied as it is, and the County should seek far better design and other environmental mitigations.

Sincerely,

Anthony A. Ciani, Architect  
[220 Walnut Street](#)  
[Pacific Grove, CA 93950](#)

# Reject Paraiso Springs Mega-Resort



Jaime Quiros <quirosjab@gmail.com>

Today, 8:52 AM

Novo, Mike x5176; LandWatch@mclw.org



Reply all |

Inbox

Dear Mr. Novo:

As a resident of Monterey County, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort. Rather, the Commission should reject the Final EIR; downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides; and assess a sufficient penalty to deter this and future developers from illegal activities. This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

Sincerely,

Jaime Quiros  
Monterey

# Reject Paraiso Springs Mega-Resort



Kate Morrison <kmmorri8@gmail.com>

Today, 5:53 AM

Novo, Mike x5176; LandWatch@mclw.org



Reply all |

Inbox

Dear Mr. Novo:

As a resident of the Soledad Mission community, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort. Rather, the Commission should reject the Final EIR; downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides; and assess a sufficient penalty to deter this and future developers from illegal activities. This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

Sincerely,

Kate Morrison

[36252 Mission Rd.,](#)  
[Soledad CA 93960](#)

# Reject Paraiso Springs Mega-Resort



Audrey <yerduamz@gmail.com>

Today, 7:23 PM

Novo, Mike x5176; LandWatch@mclw.org



Reply all |

Inbox

Dear Mr. Novo:

As a resident of Monterey County, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort. Rather, the Commission should reject the Final EIR; downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides; and assess a sufficient penalty to deter this and future developers from illegal activities. This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

Sincerely,

Audrey Morris

[5630 Carmel Valley Road](#)

[Carmel, CA 93923](#)

(My residence since 1975)



# Reject Praise Springs Mega-Resort



Nancy Morrison <nvmorrison@razzolink.com>

Today, 1:13 PM

Novo, Mike x5176; LandWatch@mclw.org



Reply all |

Inbox

Dear Mr. Novo:

As a resident of Monterey County, as well as the Soledad Mission District, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort. Rather, the Commission should reject the Final EIR; downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides; and assess a sufficient penalty to deter this and future developers from illegal activities. This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

Sincerely,

Nancy V. Morrison

[36252 Mission Road](#)

[Soledad, Calif. 93960](#)

# Paraiso Springs



Ron SHERWIN <ronsherwin@sbcglobal.net>

Today, 9:31 AM

Novo, Mike x5176; LandWatch MC <landwatch@mclw.org> ⌵



Reply all | ⌵

Inbox

Mr. Novo,

The proposed Paraiso Springs Resort seems to be unsuited as described.

Matters of concern include the project's overall scale, fire risks, grading and run-off, oak tree removal, water usage and sewage treatment, over development, road access, etc.

The County seems, also, to be overlooking the fact that the current owners, the ones proposing to develop the resort, brazenly destroyed without permits what could be described as a historical site.

There needs to be more information made available to the public concerning the project.

Respectfully,

Ronald Sherwin

[25395 Via Cicindela](#)  
[Carmel, CA 93923](#)

Getting too much email from Ron SHERWIN <ronsherwin@sbcglobal.net>? [You can unsubscribe](#)

# Reject Paraiso Springs Mega-Resort



Denyse Frischmuth <denyse.f@att.net>

Today, 1:30 PM

Novo, Mike x5176; LandWatch@mclw.org



Reply all |

Inbox

Dear Mr. Novo:

I could not have said any better. I ditto every word that follows.

As a resident of Monterey County, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort. Rather, the Commission should reject the Final EIR; downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides; and assess a sufficient penalty to deter this and future developers from illegal activities. This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

Sincerely,

Denyse Frischmuth

[283 Grove Acre Avenue, Pacific Grove, CA 93950](#)

Getting too much email from Denyse Frischmuth <denyse.f@att.net>? [You can unsubscribe](#)

# Reject Paraiso Springs Mega-Resort



glen grossman <glengrossman@gmail.com>

Today, 9:58 AM

LandWatch@mclw.org; Novo, Mike x5176



Reply all |

Inbox

Dear Mr. Novo:

I am a resident of Monterey County.

I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort.

The Commission should reject the Final EIR; downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides; and assess a sufficient penalty to deter this and future developers from illegal activities.

This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

Sincerely,

Glen Grossman

Pacific Grove

--

Glen J. Grossman

# Reject Paraiso Springs Mega-Resort



Andrew Wright <rcw24@sbcglobal.net>

Today, 4:17 PM

Novo, Mike x5176; LandWatch@mclw.org



Reply all |

Inbox

Dear Mr. Novo:

As a resident of Monterey County, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort. Rather, the Commission should reject the Final EIR; downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides; and assess a sufficient penalty to deter this and future developers from illegal activities. This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

Sincerely,

Roberta Wright  
Carmel CA

Sent from my iPhone

# Reject Paraiso Springs Mega-Resort



Rosalie Pinkert <rpgkms@gmail.com>

Today, 4:39 PM

Novo, Mike x5176; LandWatch@mclw.org



Reply all |

Inbox

Dear Mr. Novo:

As a resident of Monterey County, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort. Rather, the Commission should reject the Final EIR; downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides; and assess a sufficient penalty to deter this and future developers from illegal activities. This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

Sincerely,

Rosalie Pinkert

Sent from my iPad

# Reject Paraiso Springs Mega-Resort



Kim Williams <kiwipapa8@gmail.com>

Today, 4:47 PM

Novo, Mike x5176; landwatch@mclw.org



Reply all |

Inbox

Dear Mr. Novo:

As a resident of Monterey County, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort. Rather, the Commission should reject the Final EIR; downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides; and assess a sufficient penalty to deter this and future developers from illegal activities. This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

Sincerely,  
Kim Williams  
Carmel Valley

# Reject Paraiso Springs Mega-Resort



Kathey Felt <katheyaf@yahoo.com>

Today, 5:09 PM

Novo, Mike x5176; LandWatch@mclw.org



Reply all |

Inbox

Dear Mr. Novo:

As a resident of Monterey County, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort. Rather, the Commission should reject the Final EIR; downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides; and assess a sufficient penalty to deter this and future developers from illegal activities. This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

Sincerely,

Kathey Felt

[15841 Pleasant Valley Lane](#)

[Salinas, Ca 93908](#)

I urge Monterey County to 1) Reject the Final EIR; 2) Downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides; and, 3) Assess a sufficient penalty to deter this and future developers from illegal activities. Thank you

Sent from my iPhone



# Reject Paraiso Springs Mega-Resort



Hetty Eddy <hettyeddy1@me.com>

Today, 5:24 PM

Novo, Mike x5176; LandWatch@mclw.org



Reply all |

Inbox

Dear Mr. Novo:

As a resident of Monterey County, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort. Rather, the Commission should reject the Final EIR; downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides; and assess a sufficient penalty to deter this and future developers from illegal activities. This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

Sincerely,

Hetty Eddy

[hettyeddy1@me.com](mailto:hettyeddy1@me.com)

[22307 Davenrich St](#)  
[Salinas, CA](#)

# Reject Paraiso Springs Mega-Resort



Lonni Trykowski <lonnit@me.com>

Today, 7:50 PM

Novo, Mike x5176; LandWatch@mclw.org



Reply all | ▾

Inbox

Dear Mr. Novo:

As a resident of Monterey County, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort. Rather, the Commission should reject the Final EIR; downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides; and assess a sufficient penalty to deter this and future developers from illegal activities. This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

I join LandWatch Monterey County in strongly urging The Monterey Planning Commission to reject this project based on:

1. "After The Fact" permission to demolish nine historic cottages removed from the Paraiso Hot Springs Resort in November 2003 to clear a Code Violation;
2. A Use Permit and General Development Plan for a 103 room hotel, 60 two-to-three bedroom timeshare units and 17 timeshare villas, a lodge, visitor center, restaurants, and much more;
3. Subdivision of the land to create 23 parcels and a condominium map for timeshare units;
4. A Use Permit for removal of 185 protected oak trees;
5. A Use Permit for development on slopes in excess of 30%;
6. Grading of 162,073 cubic yards; and,
7. Off-site road improvements to Paraiso Springs Road.

Thank you for taking a sensible approach and rejecting this excessive project as it is currently proposed.

Sincerely,

Lonni Trykowski

[25555 Via Cazador](#)  
[Carmel, CA 93923](#)

# Reject Paraiso Springs Mega-Resort



Laura Lockett <laura@pgtravel.com>

Today, 2:42 PM

Novo, Mike x5176; LandWatch@mclw.org

Reply all |

Inbox



Action Items



Dear Mr. Novo:

As a resident of Monterey County, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort. Rather, the Commission should reject the Final EIR; downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides; and assess a sufficient penalty to deter this and future developers from illegal activities. My husband and I have been out to Paraiso Springs years past for a visit and we are shocked that these historical cabins were demolished! How could that possibly have happened? This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

Sincerely,

Laura Lockett

Pacific Grove CA

# Reject Paraiso Springs Mega-Resort



Michael DeLapa <execdir@landwatch.org>

Today, 3:13 PM

Novo, Mike x5176



Reply all |

Inbox

(Mike - I'm forwarding this from Tony Tollner)

Dear Mr. Novo:

As a resident of Monterey County, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort. Rather, the Commission should reject the Final EIR; downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides; and assess a sufficient penalty to deter this and future developers from illegal activities. This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

Sincerely,

Tony Tollner

[6 La Selva Ct. Monterey, CA 93940](#)

Getting too much email from Michael DeLapa <execdir@landwatch.org>? [You can unsubscribe](#)

# MONTEREY COUNTY RESOURCE MANAGEMENT AGENCY

Carl P. Holm, AICP, Director



---

LAND USE & COMMUNITY DEVELOPMENT | PUBLIC WORKS & FACILITIES | PARKS

1441 Schilling Place, South 2<sup>nd</sup> Floor

(831)755-4800

Salinas, California 93901-4527

[www.co.monterey.ca.us/rma](http://www.co.monterey.ca.us/rma)

## **MEMORANDUM**

**Date:** March 22, 2019

**To:** Planning Commission

**From:** Mike Novo, Management Specialist, RMA-Planning

**Subject:** Paraiso Springs Resort (PLN040183) Public Hearing: Additional Correspondence for Exhibit K

**cc:** File

Please find attached additional correspondence received on this project since the packet was assembled.

Most of the documents are emails received, but we also have attached one letter from the State Attorney General.

# Reject Paraiso Springs Mega-Resort



ROBERT FRISCHMUTH <frischmuth@prodigy.net>

Today, 1:39 PM

Novo, Mike x5176 ↵



Reply all | ▼

Inbox

Dear Mr. Novo:

As a resident of Monterey County, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort:

The Commission should reject the Final EIR;

Downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides;

Assess a sufficient penalty to deter this and future developers from illegal activities.

This action would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

Sincerely,  
Robert Frischmuth  
[283 Grove Acre Ave](#)

[Pacific Grove, CA 93950](#)

Getting too much email from ROBERT FRISCHMUTH <frischmuth@prodigy.net>? [You can unsubscribe](#)

# Reject Paraiso Springs Mega-Resort



Debbie Yanez <yanezdebbie@sbcglobal.net>

Today, 12:38 PM

Novo, Mike x5176; LandWatch@mclw.org



Reply all |

Inbox

Dear Mr. Novo:

As a resident of Monterey County, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort. Rather, the Commission should reject the Final EIR; downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides; and assess a sufficient penalty to deter this and future developers from illegal activities. This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

Sincerely,

Debbie Vasquez

Sent from my iPhone

# Reject Paraiso Springs Mega-Resort



Martha Haddad <mhaddad77@googlemail.com>

Today, 1:49 PM

Novo, Mike x5176; LandWatch@mclw.org



Reply all |

Inbox

Dear Mr. Novo:

As a resident of Monterey County, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort. Rather, the Commission should reject the Final EIR; downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides; and assess a sufficient penalty to deter this and future developers from illegal activities. This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

Sincerely,

Martha Haddad

[5 Deer Stalker Path](#)

[Monterey, CA 93940](#)



# Reject Paraiso Springs Mega-Resort



Sheila Clark <saclark63@gmail.com>

Today, 11:26 AM

Novo, Mike x5176; LandWatch@mclw.org



Reply all |

Inbox

Dear Mr. Novo:

As a resident of Monterey County, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort. Rather, the Commission should reject the Final EIR; downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides; and assess a sufficient penalty to deter this and future developers from illegal activities. This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

Sincerely,

Sheila Clark

Sent from my iPhone

# Reject Paraiso Springs Mega-Resort



Suzanne Roland <suzanne\_roland@yahoo.com>

Today, 11:28 AM

Novo, Mike x5176; LandWatch@mclw.org



Reply all |

Inbox

Dear Mr. Novo: As a resident of Monterey County, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort. Rather, the Commission should reject the Final EIR; downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides; and assess a sufficient penalty to deter this and future developers from illegal activities. This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

Sincerely,

M. Suzanne Roland

179 Palm Ave

Marina, Ca 93933

831 582-9646

# Reject Paraiso Springs Mega-Resort



Tom Rebold <reboldster@gmail.com>

Today, 11:31 AM

Novo, Mike x5176; LandWatch@mclw.org



Reply all |

Inbox

Dear Mr. Novo:

As a resident of Monterey County, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort. Rather, the Commission should reject the Final EIR; downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides; and assess a sufficient penalty to deter this and future developers from illegal activities. This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

Sincerely,

Tom Rebold

[3069 Vaughn Av](#)  
[Marina CA 93933](#)

# Reject Paraiso Springs Mega-Resort



Bob <gte1303@frontier.com>

Today, 11:42 AM

Novo, Mike x5176; LandWatch@mclw.org



Reply all |

Inbox

Dear Mr. Novo:

As a resident of Monterey County, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort. Rather, the Commission should reject the Final EIR; downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides; and assess a sufficient penalty to deter this and future developers from illegal activities. This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

Sincerely,

<Your Name> Bob Smith

<Your Address> 311 Pheasant Ridge Rd

Del Rey Oaks, CA 93940

Getting too much email from Bob <gte1303@frontier.com>? [You can unsubscribe](#)

# Reject Paraiso Springs Mega-Resort



Jean Donnelly <jeanmdonnelly@comcast.net>

Today, 11:25 AM

Novo, Mike x5176; LandWatch@mclw.org



Reply all |

Inbox

Dear Mr. Novo:

As a resident of Monterey County, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort. Rather, the Commission should reject the Final EIR; downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides; and assess a sufficient penalty to deter this and future developers from illegal activities. This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

Sincerely,

Jean Donnelly

[759 Jewel Ave.,](#)

[Pacific Grove, CA 93950](#)

831-372-3599

Sent from my iPhone

Getting too much email from Jean Donnelly <jeanmdonnelly@comcast.net>? [You can unsubscribe](#)

# Reject Paraiso Springs Mega-Resort



Bonnie Brooks <marybonnie@gmail.com>

Today, 9:41 AM

Novo, Mike x5176; LandWatch@mclw.org



Reply all |

Inbox

Dear Mr. Novo:

As a resident of Monterey County, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort. Rather, the Commission should reject the Final EIR; downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides; and assess a sufficient penalty to deter this and future developers from illegal activities. This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

Sincerely,

Bonnie Brooks. [7017 valley greens circle. Carmel Ca.](#)

Sent from my iPhone

# Reject Paraiso Springs Mega-Resort



Dawn Anderle <dawnanderle@gmail.com>

Today, 9:44 AM

Novo, Mike x5176; LandWatch@mclw.org ▾



Reply all | ▾

Inbox

Dear Mr. Novo:

As a resident of Monterey County, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort [as proposed](#). Rather, the Commission should reject the Final EIR; downsize the project so that it [will have minimal environmental impacts, including removal of trees and excess water usage](#), and avoids any development on the steep hillsides; and assess a sufficient penalty to deter this and future developers from illegal activities. This would address the significant environmental impacts that LandWatch identified in its review of the Environmental Impact Report.

Sincerely,

[Dawn Anderle](#)  
[80 Springpoint Road](#)  
[Castroville, CA 95012](#)

# Reject Paraiso Springs Mega-Resort



Roy Gobets <roygobets@aol.com>

Today, 9:52 AM

Novo, Mike x5176; LandWatch@mclw.org



Reply all |

Inbox

Dear Mr. Novo:

As a resident of Monterey County, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort. Rather, the Commission should reject the Final EIR; downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides; and assess a sufficient penalty to deter this and future developers from illegal activities. This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

Sincerely,

Roy Gobets

[21056 Country Park Road](#)

[Las Palmas I](#)

[Salinas, CA, 93908](#)

Sent from my iPad



# Reject Paraiso Springs Mega-Resort



Gordy <gordykfrog@comcast.net>

Today, 9:53 AM

Novo, Mike x5176; LandWatch@mclw.org



Reply all |

Inbox

Dear Mr. Novo:

As a resident of Monterey County, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort. Rather, the Commission should reject the Final EIR; downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides; and assess a sufficient penalty to deter this and future developers from illegal activities. This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

Sincerely,

Gordon Kauhanen

1165 Castro Road

Monterey, CA. 93940

# Reject Paraiso Springs Mega-Resort



Gordy <gordykfrog@comcast.net>

Today, 9:54 AM

Novo, Mike x5176; LandWatch@mclw.org



Reply all |

Deleted Items

Dear Mr. Novo:

As a resident of Monterey County, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort. Rather, the Commission should reject the Final EIR; downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides; and assess a sufficient penalty to deter this and future developers from illegal activities. This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

Sincerely,

Edwina Bent

[1165 Castro Road, Monterey, CA. 93940](#)

# Reject Paraiso Springs Mega-Resort



Jeff Hawkins <jeff.hawkins@sbcglobal.net>

Today, 10:11 AM

Novo, Mike x5176; LandWatch@mclw.org



Reply all |

Inbox

Dear Mr. Novo:

As a resident of Monterey County for 25+ years, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort. Rather, the Commission should reject the Final EIR; downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides; and assess a sufficient penalty to deter this and future developers from illegal activities. This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

Sincerely,

Jeff Hawkins

25495 Via Paloma  
Carmel, CA  
93923

# Reject Paraiso Springs Mega-Resort



Donna Penwell <dcpenwell@sbcglobal.net>

Today, 10:15 AM

Novo, Mike x5176; LandWatch@mclw.org



Reply all |

Inbox

Dear Mr. Novo:

As a resident of Monterey County, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort. Rather, the Commission should reject the Final EIR; downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides; and assess a sufficient penalty to deter this and future developers from illegal activities. This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

Sincerely,

Donna Penwell

1884 Nadina Street  
Seaside, CA 93955

# Reject Paraiso Springs Mega-Resort



Stanton Ruese <smruese@sbcglobal.net>

Today, 10:18 AM

Novo, Mike x5176; LandWatch@mclw.org



Reply all |

Inbox

Dear Mr. Novo:

As a resident of Monterey County, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort. Rather, the Commission should reject the Final EIR; downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides; and assess a sufficient penalty to deter this and future developers from illegal activities. This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

Sincerely,

Stanton Ruese

[1884 Nadina Street](#)  
[Seaside, CA 93955](#)

# Reject Paraiso Springs Mega-Resort



Susan Zsigmond <susajarz@gmail.com>

Today, 10:42 AM

Novo, Mike x5176; LandWatch@mclw.org



Reply all |

Inbox

Dear Mr. Novo:

As a resident of Monterey County, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort.

Rather, the Commission should downsize the project so that it is no larger than the historic use and avoids any development

on the steep hillsides; and assess a sufficient penalty to deter this and future developers from illegal activities.

This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified

in its review of the Environmental Impact Report.

Sincerely,

Susan Zsigmond

# Paraiso



Janna Ottman <jottman@sbcglobal.net>

Today, 9:05 AM

Novo, Mike x5176 ↘



Reply all | ✓

Inbox

Dear Mr. Novo:

As a resident of Monterey County, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort. Rather, the Commission should reject the Final EIR; downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides; and assess a sufficient penalty to deter this and future developers from illegal activities. This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

I went to Paraiso Hot Springs many years ago, stayed at a cabin, and enjoyed the facilities. I think any development should be no larger than the historical one.

Sincerely,

Janna Ottman

1388 Metz Ave.

Seaside, CA 93955

# Reject Paraiso Springs Mega-Resort



Sandra Schachter <schachtersj@comcast.net>

Today, 8:50 AM

Novo, Mike x5176; McDougal, Melissa x5146



Reply all |

Inbox

To: Mike Novo and the Monterey County Planning Commission

Dear Mr. Novo:

As a resident of Monterey County, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort. Rather, the commission should reject the Final EIR, downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides, and assess a sufficient penalty to deter this and future developers from illegal activities. These measures would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

Sincerely,

Sandra Schachter

Carmel Valley, CA



# Reject Paraiso Springs Mega-Resort



Jacqueline Fobes <jtfobes@icloud.com>

Today, 8:33 AM

Novo, Mike x5176; LandWatch@mclw.org



Reply all |

Inbox

Dear Mr. Novo:

As a resident of Monterey County, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort. Rather, the Commission should reject the Final EIR; downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides; and assess a sufficient penalty to deter this and future developers from illegal activities. This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

Sincerely,

Jacqueline Fobes PhD

Sent from my iPhone

# Reject Paraiso Springs Mega-Resort



James Bryant <jrbryant@pacbell.net>

Today, 8:31 AM

Novo, Mike x5176; LandWatch@mclw.org



Reply all |

Inbox

Dear Mr. Novo:

As residents of Monterey County, we urge the Planning Commission to reject the proposed Paraiso Springs project as per Land Watch's recommendations; the project's owners had a project in mind that didn't include the existing nine historic buildings - so they bulldozed them (on a weekend so the destruction would be complete before anyone could stop them).

The project should be required to meet ALL County ordinances, with NO variances considered.

The Commission should reject the Final EIR; downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides; and assess a sufficient penalty (i.e. there must be real financial pain) to deter this and future developers from illegal activities. This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

Sincerely,

James Bryant and Mary Hill

[28000 Dorris Drive](#)

[Carmel Valley CA 93923](#)

(831) 224-2754 c

Getting too much email from James Bryant <jrbryant@pacbell.net>? [You can unsubscribe](#)

# Reject Paraiso Springs Mega-Resort



ACE FAMILY <ace\_unit@sbcglobal.net>

Today, 8:18 AM

Novo, Mike x5176; LandWatch@mclw.org



Reply all |

Inbox

Dear Mr. Novo:

As a resident of Monterey County, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort. Rather, the Commission should reject the Final EIR; downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides, and assess a sufficient penalty to deter this and future developers from illegal activities. This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

Sincerely,

Tony Ace

17438 Avenida Los Altos  
Salinas, CA 93907

Getting too much email from ACE FAMILY <ace\_unit@sbcglobal.net>? [You can unsubscribe](#)

# Reject Paraiso Springs Mega-Resort



molly williams <molly@tomdavies.com>

Today, 8:30 AM

Novo, Mike x5176; LandWatch@mclw.org



Reply all |

Inbox

Dear Mr. Novo:

As a resident of Monterey County, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort. Rather, the Commission should reject the Final EIR; downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides; and assess a sufficient penalty to deter this and future developers from illegal activities. This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

Sincerely,

Molly Williams

[35809 Highway One](#)

[Monterey, CA 93940](#)

# Reject Paraiso Springs Mega-Resort



Christine Ace <christineace@gmail.com>

Today, 8:18 AM

Novo, Mike x5176; LandWatch@mclw.org



Reply all |

Inbox

Dear Mr. Novo:

As a resident of Monterey County, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort. Rather, the Commission should reject the Final EIR; downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides, and assess a sufficient penalty to deter this and future developers from illegal activities. This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

Sincerely,

Christine Ace

[17438 Avenida Los Altos](#)  
[Salinas, CA 93907](#)



1300 I STREET, SUITE 125  
P.O. BOX 944255  
SACRAMENTO, CA 94244-2550

Public: (916) 445-9555  
Telephone: (916) 210-7797  
Facsimile: (916) 327-2319  
E-Mail: Nicole.Rinke@doj.ca.gov

March 20, 2019

Planning Commission of Monterey County  
Monterey County Resource Management Agency  
Attn: Mike Novo  
1441 Schilling Place – South, 2<sup>nd</sup> Floor  
Salinas, CA 93901  
*Sent via email: novom@co.monterey.ca.us*

**Re: Paraiso Springs Resort, Project No. PLN040183**

Dear Mr. Novo and Commissioners,

Our office has reviewed the Final Environmental Impact Report (“FEIR”) and the Recirculated Draft Environmental Impact Report (“DEIR”) for the proposed Paraiso Springs Resort Development (“Project”) and respectfully submits the following comments. We request that you consider our comments prior to certifying the FEIR. We spoke with County Counsel and staff on March 20, 2019 and alerted them we would be submitting comments prior to your consideration of the FEIR at your March 27, 2019 Planning Commission meeting.

The Attorney General’s Office submits these comments pursuant to the Attorney General’s independent power and duty to protect the environment and natural resources of the State from pollution, impairment, or destruction, and in furtherance of the public interest. (See Cal. Const., art. V, § 13; Gov. Code, §§ 12511, 12600-12612; *D’Amico v. Bd. of Medical Examiners* (1974) 11 Cal.3d 1, 14-15.)<sup>1</sup> In the wake of the State’s deadliest wildfires this past year and the increased occurrence of fires anticipated throughout the State in coming years, it is particularly important that local jurisdictions carefully review and consider new developments in fire prone areas. This is particularly important for new developments proposed in the wildland urban interface or in other relatively undeveloped and remote areas, like the area where the Project is proposed.

Paraiso Springs Resort, LLC, proposes to develop a spa resort along the floor of a canyon in the foothills at the end of rural Paraiso Springs Road in a “very high fire sensitivity

---

<sup>1</sup> This letter is not intended, and should not be construed, as an exhaustive discussion of the FEIR’s and DEIR’s compliance with the California Environmental Quality Act (“CEQA”) or the Project’s compliance with other applicable legal requirements.

zone.” The Project site is bordered to the east by grazing and farm land, and to the north, south and west by the Santa Lucia Mountains. (DEIR 2-1.) The Project site was previously operated as a commercial hot springs resort beginning in 1874. (DEIR 3-137.) The site has seen several fires over the years that have destroyed various structures on the Property, including a fire in 1891 that destroyed one of the more substantial buildings on the property, a fire in 1928 that destroyed the hotel, the bathhouse, a garage, the dance hall, and some other smaller buildings, and another major fire in 1954 that destroyed the rebuilt hotel and annex. (DEIR 2-15, 3-137-3-138.)

Paraiso Springs Road, the sole ingress and egress to the site,<sup>2</sup> is a narrow, two-lane road varying in width from 16 to 22 feet that dead ends at the Project site. (DEIR 2-45.) The road currently serves approximately 90 vehicles per day associated with single-family residences and local vineyards. (DEIR 3-329.) The Project would include the development of 103 hotel rooms, 77 multi-bedroom timeshare units, three restaurants, entertainment facilities, and various spa amenities at the end of this narrow two-lane rural road. (DEIR 2-17 – 2-18.) It is anticipated that there would be several hundred people at the resort on peak days. With the Project at 100% occupancy, there would be over 400 additional vehicle trips per day on the road. (DEIR 3-336.)<sup>3</sup> Additionally, because of parking limitations at the proposed Project site and limitations with the capacity of the rural access road, the Project proposes to shuttle in many of the guests and 90% of all employees from a parking lot nearly two miles away. (DEIR 3-335 – 3-336.)

Monterey County, as the lead agency, has prepared a FEIR for the proposed Project. Despite the acknowledgment that the Project is located in a “very high fire sensitivity zone,” the FEIR fails to adequately address the risk of fire in several important respects.<sup>4</sup>

---

<sup>2</sup> In response to CalFire’s comments on the DEIR, the FEIR suggests that there is a service road for ingress and egress at the rear of the development. (FEIR, Response to comment letter No. 18, 2-12.) The response cites to maps within the DEIR. (*Ibid.*) These maps show service roads *within* the development, but these roads do not appear to provide ingress and egress *to the Project site*.

<sup>3</sup> We note that several commenters questioned whether the traffic analysis for the Project underestimated the trips that will be associated with the Project. (See, e.g., FEIR, Comment Letter 10 (p 20-23).) While we have not evaluated the adequacy of the traffic analysis, we are concerned that the number of visitors accessing the site may be even higher than anticipated in the FEIR, which would exacerbate our concerns regarding the risks associated with wildfires and the FEIR’s inadequate analysis of those risks.

<sup>4</sup> We understand that LandWatch submitted comments to the County on January 15, 2019 raising many of these same issues. The FEIR does not include a response to these comments.

**I. THE FEIR MUST ANALYZE THE INCREASED RISK OF WILDFIRE THAT WILL RESULT FROM THE PROJECT.**

The FEIR does not, but should, analyze the increased risk of wildfire that will result from siting the proposed development within a high fire sensitivity zone. The DEIR discussed emergency access to the site in the event of fire and onsite measures to provide fire protection.<sup>5</sup> However, the DEIR did not disclose that locating new development in a high fire sensitivity zone will itself increase the risk of fire and, as a result, increase the risk of exposing existing residents in the area as well as guests and employees of the resort to an increased risk of fire. (See CEQA Guidelines Section 15126.2, subd. (a) [requiring the evaluation of potentially significant environmental impacts of locating development in areas susceptible to hazardous conditions such as wildfire risk areas, especially as identified in hazard maps and risk assessments].)<sup>6</sup> It is well-accepted that building in wildland areas increases the risk and severity of fires.<sup>7</sup> The California

---

<sup>5</sup> A preliminary fire protection plan was prepared for the Project. (DEIR 2-55.) Fire protection elements include hydrants, sprinkler systems, and the use of fire-resistant building materials. (DEIR 2-55 – 2-56.) The Project also includes vegetation management for defensible space. (See e.g., DEIR 3-81 – 3-80.) Cal Fire's Department of Forestry and Fire Protection commented on, among other issues, the adequacy of the vegetation management discussed in the DEIR. (FEIR Comment Letter 18.) In response to these comments, the FEIR simply refers back to the DEIR and does not provide any additional commitments or project modifications. (FEIR, Responses to Comment Letter 18, 2-12.)

<sup>6</sup> Our comments are based on the CEQA Guidelines in effect prior to the recent 2019 update, but it is worth noting that the update confirms and clarifies the need to consider wildfire risks as part of the environmental review for new developments subject to CEQA.

<sup>7</sup> See, e.g., Rapid Growth of the U.S. Wildland-Urban Interface Raises Wildfire Risk (February 6, 2018) (<https://www.pnas.org/content/pnas/115/13/3314.full.pdf>); *New York Times*, Climate Change is Fueling Wildfires Nationwide, New Report Warns (November, 2018) (<https://www.nytimes.com/interactive/2018/11/27/climate/wildfire-global-warming.html>); *Scientific American*, Living on the Edge: Wildfires Pose a Growing Risk to Homes Built Near Wilderness Areas (<https://www.scientificamerican.com/article/living-on-the-edge-wildfires-pose-a-growing-risk-to-homes-built-near-wilderness-areas/>); USDA, Wildfire, Wildlands, and People: Understanding and Preparing for Wildfire in the Wildland-Urban Interface (January 2013) ([https://www.fs.fed.us/rm/pubs/rmrs\\_gtr299.pdf](https://www.fs.fed.us/rm/pubs/rmrs_gtr299.pdf)). While these articles and reports largely focus on the risks of locating housing within fire-prone areas, the same risks would appear to apply for commercial establishments offering overnight lodging. The issue with locating development in these areas is that most fires are human induced, so bringing people into wildland areas creates an increased risk that fire will occur. (*Ibid.*) In addition, the risks of fire are exacerbated because development in wildland areas alters the natural environment (e.g., it fragments native vegetation, introduces nonnatives species, and disturbs soils). (See Rapid Growth of the U.S. Wildland-Urban Interface Raises Wildfire Risk (February 6, 2018) (<https://www.pnas.org/content/pnas/115/13/3314.full.pdf>)). Further, fire management in developed wildland areas is more challenging because it is more difficult to fight fires in these



Supreme Court has confirmed that this kind of risk must be considered as part of the CEQA analysis for a proposed project. (*California Building Industry Assn. v. Bay Area Air Quality Management Dist.* (2015) 62 Cal.4th 369, 388 [holding that while CEQA does not require consideration of the environment's effect on a project, it does require analysis of the project's impacts on the existing environment].)

Concerns regarding the Project's impact on the occurrence of wildfires were raised in public comments on the DEIR. For example, Lois Panziera noted that "[w]hen more people are added to a high severity fire area, the potential for fires will occur." (FEIR, Letter 7, Comment 75.) In response, the FEIR simply refers back to the DEIR. (FEIR 2-58 – 2-59.) However, as explained above, the DEIR did not address the increased risk of fires that will result from locating new development within a high fire sensitivity zone. The County should address these issues prior to certifying the FEIR.

## **II. THE FEIR SHOULD ADDRESS EVACUATION IN THE EVENT OF FIRE.**

Based upon the onsite fire fighting infrastructure (sprinkler systems, etc.) and the Project proponent's commitment to develop a fire protection plan, the DEIR concludes that the "occupants would be protected to the extent possible in the case of fire" such that the potential impacts associated with wildfire hazards would be less than significant. (DEIR 3-215 – 3-216.) The DEIR describes emergency access to the site, but does *not* address: (i) the evacuation of employees and guests in the event of a fire, (ii) the increased challenges that existing users of the sole ingress and egress road will face in the event of an evacuation due to the added users on the road, or (iii) the increased challenges that firefighters and emergency responders would face accessing the site and preventing the spread of a wildfire due to the simultaneous evacuation of guests and employees from the Project and neighboring areas. The EIR should include a more robust discussion of the fire hazards and describe the evacuation plan for guests and employees, as well as neighboring residents and existing users of Paraiso Springs Road. (See *Clews Land & Livestock, LLC v. City of San Diego* (2017) 19 Cal.App.5th 161, 194 [discussing whether or not the EIR adequately considered the risk of fire to future users of the project site, including acceptable evacuation plans]; *California Clean Energy Committee v. County of Placer* (Cal. Ct. App., Dec. 22, 2015, No. C072680) 2015 WL 9412772 [concluding that the EIR failed to adequately evaluate evacuation issues associated with the project].)

In response to public comments, including from CalFire's Department of Forestry and Fire Protection, asking about evacuation plans (see Comment Letter 18 starting on FEIR 2-11), the FEIR promises that a final Fire Protection Plan that includes evacuation procedures will be developed. (FEIR 2-12.) Meaningful analysis of the risk of fire and evacuation plans should not be deferred until after the FEIR is certified and the Project is approved. (See CEQA Guidelines

---

landscapes and fire management strategies that allow natural fires to burn are not an option. (*Ibid.*; see also *USDA, Wildfire, Wildlands, and People: Understanding and Preparing for Wildfire in the Wildland-Urban Interface* (January 2013) ([https://www.fs.fed.us/rm/pubs/rmrs\\_gtr299.pdf](https://www.fs.fed.us/rm/pubs/rmrs_gtr299.pdf)).)

Section 15126.4(a)(1)(B).) While the deferment of mitigation measures may sometimes be appropriate, here no basis has been provided for why the evacuation plan was not already prepared as part of the DEIR or FEIR, nor have any performance standards or potential mitigation measures been identified. (*Ibid*; see also, e.g., *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 671 [mitigation measure that included development of a post-FEIR management plan was found to be improperly deferred mitigation where no basis was provided for why the development of mitigation measures needed to be deferred to future plans and, no specific criteria, performance standards, or potential mitigation measures were set forth in the EIR].) In addition, based on the discussion in the DEIR, we are concerned that the Fire Protection Plan, when it is developed, may not adequately address the totality of issues related to evacuation (see above).

### **III. THE PROJECT MUST COMPLY WITH THE REQUIREMENTS FOR STATE RESPONSIBILITY AREAS.**

The Project is located in a State Responsibility Area, which is an area for which the Board of Forestry and Fire Protection has designated the State to be financially responsible for preventing and suppressing fires. (Pub. Resources Code, § 4102.) Local jurisdictions may adopt standards for wildfire protections in State Responsibility Areas, but those standards must be at least as stringent as the State's minimum standards and be certified by the State. (Pub. Resources Code, § 4117.) Monterey County has adopted standards for this purpose. (Monterey County Code, §§ 18.56.010 – 18.56.100.) The proposed Project does not appear to comply with these standards.

First, Paraiso Springs Road is a dead end road that terminates at the proposed Project location. Both the County and State standards limit dead end roads to a cumulative length not to exceed 5,280 feet. (Monterey County Code § 18.56.060(11); Cal. Code. Regs., tit. 14, § 1273.09.) The Paraiso Springs Road that would serve as the sole ingress and egress for the Project is 1.9 miles long or 10,032 feet according to Google maps, nearly double the allowable limit. The FEIR and DEIR do not address the Project's failure to comply with the length limitation for dead end roads in State Responsibility Areas.

Second, the width of Paraiso Springs Road will not comply with the local or State standards. State standards generally require a minimum of two 10-foot traffic lanes. (Cal. Code Regs., tit. 14, § 1273.01.)<sup>8</sup> The Project proposes to widen "*the majority of Paraiso Springs Road* to either 18 or 20 feet wide." (DEIR 3-340.) However, the FEIR explains that the road will only be widened "where feasible". (FEIR 2-10). The Project proponent should commit to widening not just a majority of the road, but the entirety of the road, to a distance that complies with the applicable standards.

---

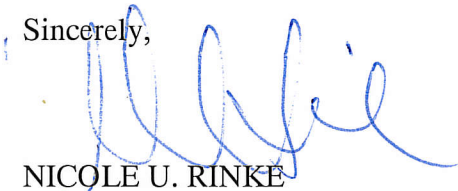
<sup>8</sup> The County requires that all roads have a minimum of two 9-foot traffic lanes. (Monterey County Code, § 18.56.060(3).) Therefore, the State's more stringent requirement would control.

#### **IV. THE PROJECT SHOULD PROVIDE PROXIMAL ACCESS TO A FIRE STATION.**

Despite a request from the local fire district, the Project proponent has declined to construct a small fire station onsite, concluding that it would be “incompatible with resort operations.” (DEIR 3-307.) The closest fire station is nine miles away, which the program Google Maps reports is an 18-minute drive. The DEIR claims the fire station is within the 15 minutes recommended by the applicable Monterey County General Plan. (DEIR 3-307.) Public comments on the DEIR noted the Project site is not within a 15-minute response time from the Soledad fire station. (See, e.g., Letter 7, Comment 74 starting on FEIR 2-33 and Letter 8, Comment 5 starting on FEIR 2-61). Rather than provide factual support for the DEIR’s claim that the fire station is within 15 minutes from the Project site or revise the Project so that it complies with the Monterey County General Plan recommendation, the FEIR simply restates the DEIR’s conclusion that “the project would not warrant construction of new or expanded facilities in order to maintain ... response times....” (FEIR 2-11). The FEIR should be revised to accurately reflect the distance of the nearest fire station to the Project site and should require compliance with the policy prescribed by the General Plan—preferably with construction of a fire station onsite as requested by the local fire district.

We appreciate your consideration of our comments and respectfully request that you defer certification of the FEIR and approval of the Project until you more fully address the risks of wildfire associated with the Project. If you have any questions or would like to discuss our comments, please feel free to contact us.

Sincerely,



NICOLE U. RINKE  
Deputy Attorney General  
HEATHER C. LESLIE  
Deputy Attorney General

For XAVIER BECERRA  
Attorney General

# Reject Paraiso Springs Mega-Resort



Jeff Reynolds <jeff@siphonophore.com>

Yesterday, 8:36 PM

Novo, Mike x5176; LandWatch@mclw.org



Reply all |

Inbox

Dear Mr. Novo:

As a resident of Monterey County, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort. Rather, the Commission should reject the Final EIR; downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides; and assess a sufficient penalty to deter this and future developers from illegal activities. This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

Sincerely,

<Your Name>

<Your Address>

Jeffrey Reynolds

[6620 Michaels Dr.](#)

[Bethesda, MD 20817](#)

[301.469.8562](#)

[jeff@siphonophore.com](mailto:jeff@siphonophore.com)

FENTON & KELLER

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

2801 MONTEREY-SALINAS HIGHWAY

POST OFFICE BOX 791

MONTEREY, CALIFORNIA 93942-0791

TELEPHONE (831) 373-1241

FACSIMILE (831) 373-7219

www.FentonKeller.com

LEWIS L. FENTON  
1925-2005

OF COUNSEL

CHARLES R. KELLER  
THOMAS H. JAMISON  
MARK A. CAMERON  
DENNIS G. MCCARTHY

JOHN S. BRIDGES  
CHRISTOPHER E. PANETTA  
DAVID C. SWEIGERT  
SARA B. BOYNS  
BRIAN D. CALL  
TROY A. KINGSHAVEN  
JOHN E. KESECKER  
ELIZABETH R. LEITZINGER  
ANDREW B. KREEFT  
SHARILYN R. PAYNE  
CAROL S. HILBURN  
CHRISTINA J. BAGGETT  
KENNETH S. KLEINKOPF  
DERRIC G. OLIVER  
LAURA L. FRANKLIN  
EVAN J. ALLEN  
ALEX J. LORCA  
ANGUS J. CANNON  
SUSANNAH L. ASHTON

ALEX J. LORCA

March 26, 2018

Alorca@fentonkeller.com  
ext. 258

VIA EMAIL ONLY ([HolmCP@co.monterey.ca.us](mailto:HolmCP@co.monterey.ca.us))

County of Monterey Planning Commission  
C/O: Carl P. Holm, Director  
Resource Management Agency  
1441 Schilling Place, Second Floor  
Salinas, CA 93901

**Re: March 27, 2019 Planning Commission Hearing on the Paraiso Springs Resort  
Project and Final Environmental Impact Report - PLN040183**

Dear Mr. Holm and Planning Commissioners:

On behalf of our client Cynthia Pura, we offer the following comments on the above referenced project and Final Environmental Impact Report ("FEIR") for the Paraiso Springs Resort ("Project.")

The Project is located at 34358 Paraiso Springs Road in Soledad, California ("Project Site.") The Project consists of 235 acres, including a proposed hotel, day-use area, spa and fitness center, 60 timeshare units, and 17 timeshare villas centered around the existing mineral hot springs.

**The Planning Commission Should Continue the Hearing**

The deadline for comments to the Recirculated Draft Environmental Impact Report ("RDEIR") was April 26, 2018, the FEIR is dated March 14, 2019. Therefore, the County had just under a full year to review all comments and provide responses.

The County's notice to commenters on the RDEIR of preparation of the FEIR was issued on March 14, 2019, and the Planning Commission will consider certification of the FEIR on March 27, 2019. Therefore, commenters were given a mere two weeks to review the FEIR. Such a timeframe is wholly inadequate for commenters to perform a meaningful review of the FEIR,



including coordination with their experts to review the FEIR.

Because two weeks is an inadequate amount of time to review the Project and FEIR, Ms. Pura strongly urges the Planning Commission to continue their hearing on the Project and FEIR.

**Ms. Pura Reasserts the Objections of her March 26, 2018 Letter**

Ms. Pura incorporates herein all comments of her March 26, 2018 letter ("Pura Comment Letter"), attached hereto, because the County has inadequately responded to, or ignored, the comments therein. The comments are objections to the Project. Without limiting the breadth of the above stated opposition, we offer the following brief comments on several points in the materials prepared by the County.

**The FEIR Ignores Ms. Pura's Comments Regarding Cultural Resources**

Comment 4 of the Pura Comment Letter cites the conclusion of the Assessment of Historic Resources Impacts for the Paraiso Hot Springs Report, prepared by CIRCA Consultants, that "reconstruction in place of the illegally demolished structures is both feasible and serves a legitimate historical purpose." Comment 4 also noted that CEQA requires all feasible mitigation measures be undertaken, regardless of whether or not they can mitigate impacts below a level of significance.

The FEIR confuses other regulations for CEQA's requirements regarding mitigations. For example, Master Response 2 discusses financial penalties for mitigations in the context of financial deterrents, when in fact the fee suggested by Comment 4 was an in-lieu fee. Moreover, Master Response 2 also states "penalties related to this project application have been imposed through a doubling of permit application fees, as required by the County Zoning Ordinance to clear a zoning violation." Clearly, such County penalties are not the standard for mitigating project impacts under CEQA. Rather, with regard to CEQA, courts have stated where a historical structure is demolished, it "cannot be adequately replaced by reports and commemorative markers." (*League for Protection of Oakland's etc. Historic Resources v. City of Oakland* (1997) 52 Cal.App.4th 896, 909.)

The FEIR, at Master Response 3, admits reconstruction is feasible: "[t]he interpretive trail shall be constructed in one of the public areas of the resort and include construction of three representative Jacks Cabins, including interpretation of the history of the site for all four periods of significance. Representative Cabins include: Evergreen, Julia Morgan, Spreckels and Buena Vista cabins."

Because reconstruction is feasible, reconstruction of all cottages – in place – must be a required Project mitigation. The fact that this feasible mitigation will require redesign of the project is of no consequence under CEQA. Indeed the County's own Historic Resources Review Board recommended this feasible mitigation as well.

**The FEIR Ignores Ms. Pura's Comments Regarding Hydrological Issues, including the Pura Spring**

Ms. Pura has contacted an expert to review the FEIR, and the responses to comments on the RDEIR, with regard to hydrological impacts but there has been insufficient time for a report to be produced. Again, due to the County's failure to provide the public with adequate time to review the FEIR, Ms. Pura requests the Planning Commission continue this matter in order for the public to have the opportunity to make a meaningful review of the Project.

Comment 31 of the Pura Comment Letter states: "[The RDEIR] fails to assess the Project's impacts on the Pura Spring should the Pura Trust develop the Pura Spring pursuant to its contractually superior right under the Agreements. The Bierman Memorandum notes, once developed, the Pura Spring could convey 16 gallons per minute of natural flow through the one-inch pipe, and up to 58 gallons per minute should the flow be pressurized. (See Bierman Technical Memorandum at page 9 and attached Table.) This amounts to between 25.81 – 93.55 acres feet per year over which Ms. Pura has superior contractual water rights that cannot be relied upon by the Project."

In response to this comment demonstrating Ms. Pura's right to develop the spring (*i.e.*, to pump the spring) the FEIR merely states: "The spring is fully developed and produces on average about 1 gallon per minute." Likewise, in its "Responses to Bierman Hydrogeological (BHgl) Comments and Land Watch Hydro Comment D" with regard to the Pura Ranch's right to develop all of the water within the Pura Spring, the County states "[u]se of the [Pura] spring water is governed by a contract. Therefore, the effects of changes in spring discharge due to natural or artificial causes are as dictated by the terms of the contract."

The Staff Report responses to this issue are speculative. Pump tests performed on the Project wells did not measure actual impact on the spring.

These responses ignore the fact that the referenced contract is currently the subject of active litigation in the Monterey County Superior Court (Case No. 17CV000158). Also, the responses fail to analyze impacts associated with Ms. Pura's contractual right to *develop* the Pura Spring.

**The FEIR Ignores Ms. Pura's Comments Regarding Right of Way Access**

Attached to the Pura Comment Letter was a memorandum by Derric G. Oliver demonstrating that the Project would result in increased public use of the portion of Paraiso Springs Road that passes through the Pura Ranch, and would therefore impermissibly exceed the scope of the public's putative right to use that portion of the road.

The FEIR purports to respond to this comment by providing a memorandum by County Surveyor Michael Goetz, which asserts the portion of Paraiso Springs Road running through the Pura Ranch is a public road, created by official County action. This conclusion is admittedly premised on "significant directional and distance errors" in previous surveying.

Ms. Pura has retained Thomas Hannah of Whitson Engineers to review Mr. Goetz's

memorandum. Mr. Hannah confirms the conclusions reached by Mr. Goetz rely on assumptions, rather than facts. A comprehensive memorandum from Mr. Hannah is forthcoming; but, again, due to the minimal time for review provided by the County, the memorandum has not been finalized at this time.

### **The FEIR Ignores Ms. Pura's Comments Regarding Transportation Impacts**

Ms. Pura has contacted an expert to review the FEIR, and the responses to comments on the RDEIR, with regard to the traffic impacts of the Project, but there has been insufficient time for a report to be produced. Again, due to the County's failure to provide the public with adequate time to review the FEIR, Ms. Pura requests the Planning Commission continue this matter in order for the public to have the opportunity to make a meaningful review of the Project.

With regard to comments submitted regarding daily trips generate by the Project, Master Response 5 asserts "the increase in traffic would not change the [Level of Service] of study intersections and roadways segments as all roadway segments would operate at an acceptable LOS A..."

The state of California no longer favors using the level of service as a measure for project impacts. The CEQA Guidelines have recently been amended to provide that "[g]enerally, vehicle miles traveled is the most appropriate measure of transportation impacts." (Guideline § 15064.3(a).) The state has made this transition due to the ability of a vehicle miles travelled analysis to better analyze greenhouse gas emissions and multimodal transit impacts. Though this amendment is effective state wide beginning on July 1, 2020, the County may choose to be governed by this provision immediately. (Guidelines § 15064.3(c).) Because vehicle miles traveled is a more accurate measure of a project's impacts, Ms. Pura urges the County to use this measure. Moreover, when measured against the defined baseline of traffic trips, the impact on the surrounding properties will be a staggering 1845% increase, which represents a significant impact under CEQA.

### **Conclusion**

The time given by the County to the public to review the FEIR and all of the materials associated with the Project's approval is wholly inadequate. As such the Planning Commission should continue its hearing of the FEIR and the Project's approval for a minimum of 60 days.



Paraiso Springs Resort - FEIR  
April 26, 2018  
Page 5

Very truly yours,

FENTON & KELLER  
A Professional Corporation



Alex J. Lorca

Cc: Planning Commission, via email (egonzalezsr56@gmail.com; ambrizana1@gmail.com; richcoffelt@msn.com; mendozaF1@co.monterey.ca.us; GetzelmanPC@co.monterey.ca.us; mduflock@gmail.com; amydroberts@ymail.com; mcdougalm@co.monterey.ca.us; VandeverK@co.monterey.ca.us; kvandever@gmail.com; mvdiehl@mindspring.com.)

Attachment: Full copy of April 26, 2018 Comment Letter on Paraiso Springs Resort Recirculated Draft Environmental Impact Report submitted by Alex J. Lorca

FILE COPY

FENTON & KELLER

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

2801 MONTEREY-SALINAS HIGHWAY

POST OFFICE BOX 791

MONTEREY, CALIFORNIA 93942-0791

TELEPHONE (831) 373-1241

FACSIMILE (831) 373-7219

www.FentonKeller.com

JOHN S. BRIDGES  
CHRISTOPHER E. PANETTA  
DAVID C. SWEIGERT  
SARA B. BOYNS  
BRIAN D. CALL  
TROY A. KINGSHAVEN  
JOHN E. KESECKER  
ELIZABETH R. LEITZINGER  
ANDREW B. KREEFT  
SHARILYN R. PAYNE  
CAROL S. HILBURN  
CHRISTINA J. BAGGETT  
KENNETH S. KLEINKOPF  
DERRIC G. OLIVER  
LAURA L. FRANKLIN  
EVAN J. ALLEN  
ALEX J. LORCA  
ANGUS J. CANNON  
SUSANNAH L. ASHTON

LEWIS L. FENTON  
1925-2005

OF COUNSEL

CHARLES R. KELLER  
THOMAS H. JAMISON  
MARK A. CAMERON  
DENNIS G. MCCARTHY

ALEX J. LORCA

April 26, 2018

Alorca@fentonkeller.com  
ext. 258

County of Monterey  
Resource Management Agency  
Attn: Carl P. Holm, Director  
1441 Schilling Place, Second Floor  
Salinas, CA 93901



Re: **Paraiso Springs Resort - Recirculated Draft Environmental Impact Report**  
**dated February 28, 2018.**

Dear Mr. Holm:

On behalf of our client Cynthia Pura, we offer the following comments on the above referenced Recirculated Draft Environmental Impact Report ("RDEIR") for the Paraiso Springs Resort ("Project.")

Background: The Project is located at 34358 Paraiso Springs Road in Soledad, California ("Project Site.") The Project consists of 235 acres, including a hotel, day-use area, spa and fitness center, 60 timeshare units, and 17 timeshare villas centered around the existing mineral hot springs.

**Biological Resources**

**Wetlands**

1. Final jurisdictional determinations must be made so that all necessary mitigations may be defined. The Pura Spring is located immediately adjacent to areas mapped as wetlands by the United States Fish and Wildlife Services (USFWS) NWI Mapper (USFWS, 2014). (Rincon Consultant Report dated March 6, 2018, attached hereto as Exhibit A and incorporated herein, at page 4 ("Rincon Report").) The wetland area associated with the Pura Spring has a direct connection to the Salinas River and the Pacific Ocean and therefore falls under the jurisdiction of both the United States Army Corps of Engineers

(“USACE”) and the Regional Water Quality Control Board (“RWQCB”). The wetland features and associated riparian habitat indicate the California Department of Fish and Wildlife (“CDFW”) would consider this feature to be jurisdictional under Section 1600 of the California Fish and Game Code. Based on an initial review of the Section 404 Wetland Delineation Paraiso Springs Resort report prepared by WRA Environmental Consultants (dated February 2009 and revised July 2016) it appears the Pura Spring feature was identified as a freshwater marsh (W8 on Figures 3 and 4). Figure 4 of that report identifies this feature as a “non-impacted wetland.” (*Id.* at page 5.)

However, lack of a definitive jurisdictional determination presents a deficiency in the impact assessment for jurisdictional waters as presented in the WRA Environmental Consultant report. (Rincon Report at page 5.)

Should such a jurisdictional determination reveal the Pura Spring is within the jurisdiction of the USACE or the RWQCB standard mitigation and avoidance measures could include avoidance of jurisdictional features where feasible, and permitting and compensatory mitigation for impacts to jurisdictional features where avoidance was not feasible. The RDEIR’s failure to establish jurisdiction constitutes an impermissible deferral of mitigations. (See California Environmental Quality Act<sup>1</sup> (“CEQA”) Guidelines<sup>2</sup> section 15126.4(a)(1)(B).

Finally, the Pura Spring forms a wetland with a direct connection to an adjacent drainage defined as a Freshwater Forested/Shrub Wetland on the National Wetlands Inventory. As such, it can reasonably be assumed CDFW jurisdiction would extend to the boundary of the unbroken oak woodland canopy in this area. Therefore, a formal consultation with CDFW is necessary to determine the extent of its jurisdictional habitat associated with the Pura spring and drainage, and to establish appropriate avoidance buffers and other protections.

2. The Impact of Ground Water Use on Wetlands Must be Analyzed. The potential for ground water use by the Project to result in the drying of the Pura Spring, and in turn impact to this wetland feature must be evaluated in the jurisdictional delineation impacts assessment and within the project RDEIR.
3. Setbacks from Pura Spring and Wetland. With regard to avoidance buffers for wetland features, the RWQCB generally defers to the standard minimum of 25 feet established by the USACE. (Rincon Report at page 5.) However, avoidance buffers of up to 100 feet may be required for the Pura Spring wetlands due to the wastewater treatment facility’s proximity to the Pura Spring. Wastewater discharge from a leak or break would directly impact the Pura Spring wetland. (*Id.*) Therefore, the RWQCB must be formally consulted regarding

---

<sup>1</sup> California Public Resources Code §§ 21000 *et seq.*

<sup>2</sup> 14 California Code of Regulations §§ 15000 *et seq.*

avoidance buffers and setbacks in light of the possibility of discharge of wastewater into jurisdictional waters.

### **Cultural Resources**

4. Historical Resources – Mitigation for Illegal Demolition of Victorian Cabins. The RDEIR acknowledges that even with mitigation, the environmental impact of the illegal demolition of the nine historic Victorian Cabins in 2003 is significant and unavoidable (Impact 3.5-1, reference ES-19). Despite this acknowledgment, the RDEIR proposes the following woefully inadequate mitigation measures:

- Mitigation Measure MM 3.5-1a requires the Project proponent to “identify and create a digital catalogue” of historic archives and photographs focused on the Paraiso Spring’s history, and locate a digital display at the Project Site;
- Mitigation Measure MM 3.5-1b requires the Project proponent to contribute \$10,000 to the Monterey County Historical Society to assist in reviewing digital archives related to the Project Site and link them to the Historical Society’s website;
- Mitigation Measure MM 3.5-1c requires the Project proponent to make a brochure of the digital catalogue required under MM 3.5-1a; and
- Mitigation Measure MM 3.5-1d requires the Project proponent to create a “second digital display” of the one required by MM 3.5-1a.

“CEQA establishes a duty for public agencies to avoid or minimize environmental damage where required.” (CEQA Guidelines § 15201.) Courts have held that public agencies must not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available that would substantially lessen the significant environmental effects of such projects. The Supreme Court has described the alternatives and mitigation sections as ‘the core’ of an EIR, and that a public agency must respond to specific suggestions for mitigating a significant environmental impact unless the suggested mitigation is facially infeasible. (See *Los Angeles Unified School Dist. v. City of Los Angeles* (1997) 58 Cal.App.4th 1019, and *Residents Against Specific Plan 380 v. County of Riverside* (2017) 9 Cal.App.5th 941.)

Therefore, CEQA requires all feasible mitigation measures be undertaken, regardless of whether or not they can mitigate impacts below a level of significance. (See, page 6 of California Office of Historic Preservation, Technical Assistance Series #1: California Environmental Act and Historical Resources, 2002, attached hereto as Exhibit B and incorporated herein.)

Here, “reconstruction in place of the illegally demolished structures is both feasible and serves a legitimate historical purpose.” (See page 8 of the Assessment of Historic Resources Impacts for the Paraiso Hot Springs Report, prepared by CIRCA Consultants,

("CIRCA Assessment") attached hereto as Exhibit C and incorporated herein.) Therefore, such action must be undertaken as a mitigation measure of Impact 3.5-1.

With regard to the RDEIR's proposed mitigation of Impact 3.5-1, Courts have held that where a historical structure is demolished, it "cannot be adequately replaced by reports and commemorative markers." (*League for Protection of Oakland's etc. Historic Resources v. City of Oakland* (1997) 52 Cal.App.4th 896, 909.)

The RDEIR's proposed mitigations amount to a digital kiosk and a brochure. Clearly, such mitigations are wholly inadequate to substantially lessen the significant environmental effects of Impact 3.5-1. (See page 2 of Paraiso Hot Springs Resort Mitigation Assessment Memo prepared by Architectural Resources Group, attached hereto as Exhibit D and incorporated herein.)

In addition to the reconstruction in place of the nine Victorian era cottages, the RDEIR must also analyze the alternative of an in lieu fee for reconstruction of the cottages. The Alliance of Monterey Area Preservations has estimated this amount to be \$2,000,000. (See Monterey County Herald article cited therein attached here to as Exhibit E and incorporated herein.)

Estimates from architectural resources consultant Architectural Resource Group define the cost to develop a specific in lieu fee alone would exceed \$100,000.

Based on the foregoing, the Project's mitigations for Impact 3.5-1, which amount to a *de minimus* contribution towards a kiosk and a brochure, are clearly inadequate, and all other feasible mitigation measures must be imposed.

## **Water Supply And Demand**

### **Water Supply and Demand**

5. The RDEIR estimates water demand at build-out at 34,400 gallons per day, or 38.53 acre feet per year. However, it is unclear if the RDEIR accounted for system loss and treatment loss. The water demand projections must be recalculated to include Monterey County Environmental Health Bureau ("MCEHB") system loss figure of 7%, and the AdEdge Report's stated treatment loss of 14%. (See page 5 of April 13, 2018 Technical Memorandum prepared by hydrogeologic consultant Bierman Hydrogeologic, attached hereto as Exhibit F and incorporated herein ("Bierman Technical Memorandum."))
6. While the RDEIR addresses the source capacity of Well 1 and Well 2, it fails to analyze the Maximum Day Demand (MDD) or Peak Hourly Demand (PHD) factors of 2.25 and 1.5, respectively. (Bierman Technical Memorandum at page 5.)
7. The 10-day pumping test on Well 1 was not carried out according to MCEHB standards. Specifically, the flow rate was not constant and the discharge line was not long enough to prevent artificial recharge of the aquifer. Therefore, further testing consistent with

MCEHB standards must be performed before aquifer recharge impacts can be analyzed. (Bierman Technical Memorandum at page 7.)

8. While a two hour test was completed on Well 1 in October 2016, to definitively understand the shallow hydrogeologic resource, a test of at least eight hours must be performed at Well 1's design rate (30 gallons per minute), while observing groundwater levels at Well 2, Well 3, Well 4, the Pura Spring and three newly constructed Piezometers around Well 1. The Piezometers will allow proper analysis of the transmissivity and storativity, which is essential for long-term water supply analysis. (See Bierman Technical Memorandum at page 7-8.)
9. The hydrogeologic interaction between the alluvial and hardrock aquifer and the associated springs requires more study. Specifically, the RDEIR groundwater report by Todd differs in opinion from the peer review analysis of Balance Hydrologics with regard to the transmissivity and storativity values for both aquifer settings. Therefore, further source capacity study is required on both alluvial and hardrock wells within and around the Project Site in order to assure long-term groundwater supply and groundwater balance. (See Bierman Technical Memorandum at page 7.)
10. A more detailed analysis of precipitation values must be conducted. Precipitation values used in the RDEIR employed a linear, uniform, precipitation increase between the two gauging stations (Soledad and Paloma) employed. However, such linear precipitation increase measurements is not be the most appropriate precipitation value. (See Bierman Technical Memorandum at page 8.) As such, further analysis of precipitation values must be conducted.

#### Storm Water Management

11. The RDEIR fails to consider potential environmental impacts from pollutants introduced into the groundwater from filling the new in-stream pond (described on pages 2-54, and 3-245) with overflow from the spring water used in the resort facilities.
12. The RDEIR fails to address potential changes in stream water temperatures resulting from introduction of overflow from spring water used in the resort facilities. (Reference page 2-54.)
13. The RDEIR fails to consider potential impacts from changes in stream temperature due to removal of culverts and riparian vegetation. (Reference page 3-95 – 3-97.)
14. The preparation and implementation of a Storm Water Pollution Prevention Plan may not reduce the impact of erosion to a less than significant level. There is no mention in the plan of consideration for increased potential for seasonal flooding due to climate change as it relates to erosion control and prevention.

15. An increase in impervious area would reduce the percolation to the source aquifer and therefore impact the quantity and quality of water from the Pura Spring.
16. A portion of the storm water retention basin is noted as being within the 50 foot stream setback in violation of Monterey County Code section 16.16.050K.
17. Two new stream crossings are proposed, in addition to a third stream crossing that will be placed in the location of an existing culvert. (Reference page 3-237.) The project plan includes crossing designed to convey the 100-year storm flow. The frequency of storm events once considered to be 100-year events is increasing due to climate change. (Reference page 3-108, Flood Risk.) Inadequate stream crossings will increase the likelihood and severity of erosion and related environmental impacts. Stream crossings must be designed to meet expected future flows, not storm water volumes typical in the past. The California Department of Fish and Wildlife must be consulted for requirements and mitigations related to streambed alterations.
18. The Stormwater Detention Basin is located in a soil type considered marginal with a moderate to high liquefaction potential. The boring located closest to the basin showed the soil in the area has no impervious unsaturated layer present to a depth of 45 feet below the ground surface. Groundwater in the area was encountered at 18.5 feet, which rose to 6.5 feet after 30 minutes. Therefore, water in the Stormwater Detention Basin may be in direct contact with seasonal groundwater. (See Bierman Technical Memorandum at page 11.) This impact must be analyzed.
19. The RDERIR fails to evaluate whether development up-gradient or at side gradient of the Pura Spring could adversely affect its water quality and quantity.

#### Groundwater

20. The RDEIR fails to consider the impacts of the implementation of the Sustainable Groundwater Management Act (SGMA). (Reference page 3-231 – 3-232.) The RDEIR contains a description of SGMA but does not in any way account for environmental impacts of the project in relation to the implementation of SGMA or the potential impacts of SGMA implementation on the project and its water supply. The RDEIR does not consider the possibility that groundwater pumping to support the project may be restricted under the Groundwater Sustainability Plan under SGMA covering the Forebay Aquifer Subbasin. (Reference page 3-231 – 3-232.) The RDEIR seems to assume that availability of groundwater and the unlimited right to draw on groundwater below the project location will not change in the future. (Reference page 3-243, “The project has water rights as the property overlies groundwater resources.”) That assumption is unreasonable, particularly with impending SGMA implementation.
21. The RDEIR states “While a net deficit currently exists in the Salinas Valley Groundwater Basin, the project’s additional water use will not substantially contribute to the current

deficit, and will not interfere with the anticipated balancing effect of the SVWP and CSIP by 2030.” (Reference page 3-247.) This statement is based on the assumption that “groundwater storage within the local basin would equilibrate to the new stresses” because “the net water loss would accrue long term to the regional aquifer.” (Reference page 3-247.) The drafters list five reasons that the water demand from this project must be considered less than significant, however, two of those reasons are the exact same fact – that the demand of the project is only projected to be about 42.9 gross acre-feet per year. A third factor restates the same fact of low demand, but presents a lower estimated use value based on stormwater infiltration. Another factor is the past and continuing payment into a fund for water balance projects. None of the factors listed fully mitigates the increased use of groundwater by the proposed project. The total consumption of water may actually be up to 17.8 acre-feet per year if supplemental water is needed to support impacted habitat areas. (Reference page 3-256.) Additionally, no consideration is taken of the cumulative impact to the water table from additional development and use in this area that will result from the development of a high-end resort in a currently undeveloped agricultural area. Finally, no consideration is taken of the cumulative impact to the water table from the additional development of parcel APN418-361-009, which is kitty-corner to the Project Site and is designated as Visitor Accommodations/Professional Offices in the Central Salinas Valley Land Use Plan.

22. The RDEIR suggests on page 4-12 that implementation of SGMA “will assist the County in identifying methods to determine what is sustainable for this basin.” Rather than assuming that the implementation of SGMA will mitigate or negate any unsustainable impacts of the proposed project, the RDEIR must instead consider the impacts of reasonably foreseeable SGMA implementation measures on the project’s water supply. SGMA implementation is not a mitigating factor for project impacts; it is itself an impact that must be analyzed in the RDEIR. If the drafters want to point to SGMA as insurance for the sustainability of the basin, they must postpone the development of the project until the applicable Groundwater Sustainability Plan is finalized and implemented.
23. An important study of groundwater levels, seawater intrusion, and total water demand for all existing and future uses, is currently underway and will not be completed until the latter half of 2019. (Reference page 3-225.) Increased pumping of groundwater is likely to cause an increase in seawater intrusion. (Reference page 3-225.) Although actions currently being contemplated to address saltwater intrusion focus on the northern portion of the Salinas Valley, the full impact of potential saltwater intrusion in the Forebay Aquifer Subbasin has not yet been determined. Approval of the project prior to the completion of the long-range study will add an unaccounted for use of groundwater to the already delicate system, and will narrow the choices available to the County for cumulative impact mitigation, sustainable planning, and compliance with SGMA.



#### Water Runoff

24. The best management techniques for controlling runoff are not sufficient mitigation for the potential lowering of the water table due to up to 17.8 acre-feet per year being drawn from the basin. (Reference page 3-257.)
25. The RDEIR describes mitigation measure 3.8-2 as being dependent on the preparation of a final drainage plan. (Reference page 3-271.) The project must not be approved until the final drainage plan and dependent mitigation measures have been finalized and presented for public comment. The RDEIR's failure to provide a final drainage plan constitutes an impermissible deferral of mitigations. See Guidelines section 15126.4(a)(1)(B).

#### Paraiso Spring

26. The RDEIR does not fully consider the possibility that outflow of the Paraiso Spring may cease to meet the needs of the Resort for the tubs and pools. (Reference page 3-245.) It is known that the "spring could be affected by a lowering of the water table from either project water well pumping or by inhibiting the flow from the installation of the underground treated wastewater storage reservoir." (Reference page 3-251.) The contingency plan is to pump water "from a replacement or supplemental source from the project site." (Reference page 3-252.) This source must be identified and the impact on the identified source must be mitigated. However, no environmental analysis has been completed for this possibility. The environmental impact of this possibility must be considered before the project is approved.
27. The RDEIR fails to address potential impacts from introduction of overflow from spring water used in the resort facilities as it may relate to encouragement of non-native vegetation, such as Mexican fan palm, Peruvian pepper trees, tree tobacco, castor bean, and curly dock. (Reference page 3-60.)

#### Pura Spring

28. The RDEIR fails to disclose pending litigation regarding the Pura Spring. The RDEIR does not disclose existing litigation that seeks to quiet title to the Pura Spring (shown on Appendix B to the RDEIR, "Tentative Map" at CT-2 as Figure 8 "Spring Well") currently pending in Monterey County Superior Court (Case No. 17CV000158) (the "Lawsuit,") attached hereto as Exhibit G and incorporated herein.).

The Pura Trust owns two properties neighboring the Project Site. One is located at 33211 Paraiso Springs Road, Soledad, California 93960, (APNs 418-381-016, 418-381-019, and a portion of 418-341-019) ("Pura Parcel I"). The other is located at 35021 Paraiso Springs Road, Soledad, California 93960 (APN 418-381-012) ("Pura Parcel II"). Pura Parcel I and Pura Parcel II are hereinafter collectively referred to as the "Pura Parcels."

The Lawsuit's Verified First Amended Complaint asserts the Pura Parcels are entitled to use all of the water from the Pura Spring that can be conveyed to the neighboring

properties through a one inch in diameter pipeline for use at two residential single-family dwellings, as well as for the watering of livestock on one of the neighboring properties. In addition, the Lawsuit asserts the Pura Parcels are entitled to develop all of the water in the Pura Spring.

The basis of this right is two recorded agreements in the Official Records of Monterey County ("Agreements"). The first document is dated June 1, 1918 and gives the owner of the Pura Parcels "the right to use all of the water from" the Pura Spring, and the right to "develop the water therein" for the benefit of Pura Parcel I. (Emphasis added.) The 1918 agreement is attached to the Lawsuit as Exhibit A.

The second document, recorded December 27, 1985, was executed to preserve the benefits granted in the 1918 agreement and to expand its benefits to Pura Parcel II. The 1985 agreement is attached to the Lawsuit as Exhibit B.

The Lawsuit is currently active in the Monterey County Superior Court and is in the discovery stage. The RDEIR must discuss the Lawsuit and its impacts on the Project.

29. The RDEIR fails to analyze Ms. Pura's Superior Rights to the Pura Spring. As explained in the RDEIR, "[t]he easement to divert water from the spring allows [Ms. Pura] to utilize as much water as could flow through a one-inch pipe but limited to normal residential use on two parcels and watering of livestock on one parcel [of the Pura Ranch]." (RDEIR, p. 3-252.) Indeed, that easement (which consists of two separate documents, recorded in 1918 and 1985, respectively) effectively conveyed to Ms. Pura and her successors, among other things, the contractual right to eliminate and/or prevent (e.g., by court order) the owner of Paraiso Springs Resort and its successors from interfering with Ms. Pura's rights to water from the spring. (See Slater, California Water Law and Policy (Lexis Pub., Rel. 22-12/2017), §8.01 et seq., pp. 8.3-8.4; Spring Valley Water Co. v. Alameda County (1927) 88 Cal.App. 157, 167-168.)

The RDEIR also clearly states that the Project's increased consumption of groundwater may potentially reduce (if not altogether stop, at times) water flow from the Pura Spring. (RDEIR, pp. 3-251, 3-252.) However, as explained above, by contract, Ms. Pura has spring water rights which are superior to those of Paraiso Springs Resort. As such, any such reductions in spring water flow, or the threat thereof, by Paraiso Springs Resort would interfere with Ms. Pura's rights under the easements, thereby entitling her to injunctive relief to prevent further reductions or interference, which in turn would effect the available water supply for the Project. It is also worth noting that, despite the RDEIR's assumed "worst-case scenario" whereby Paraiso may be "required to make up

for the decreased flow up to the one gallon per minute,” no such water flow limit exists in Ms. Pura’s spring easement.

30. The RDEIR Fails to Fully Address the Impacts of the Project on the Pura Spring.

With regard to the lowering of the water table (from either the well pumping resulting from the Project, or the installation of the underground wastewater storage reservoir) the RDEIR, at 3-252, states “...even if drawdown occurred in the general vicinity of the spring, the spring discharge might not be affected[.]” In making this statement, the RDEIR attempts to “speculate away” a potential impact.

Shortly thereafter, the report summarily states “the potential reduction of flow from the [Pura] spring from additional groundwater pumping on the project site does not cause a potentially significant environmental effect.” The RDEIR fails to provide evidence to support this statement.

However, the Bierman Technical Memorandum, at page 8-9, finds and specifically concludes otherwise, noting the RDEIR’s failure to address the fact that springs can be more sensitive to drawdown than wells, and as such the Project could result in the termination or reduction in flows of the Pura Spring. As such, the Bierman Technical Memorandum concludes:

“...Springs can be more sensitive to drawdown than wells because springs occur at the water table and have little depth to absorb groundwater level declines. Hence, even groundwater elevation fluctuations (drawdown) could conceivably reduce or terminate flows. The modeling analysis in [the RDEIR] indicates that drawdown in the Pura Spring could be as much as 0.8-feet which could be a ***cumulative significant impact*** to the Pura Spring and Pura Ranch diversion rights.” (Emphasis added.)

31. The RDEIR Fails to Address Full Development of the Pura Spring. The RDEIR, at 2-252, states that even if the Project proponent was required to make up for the one gallon per minute flow the Pura Parcels were entitled to under the Agreements, “it would not change the environmental analysis” because there would be no change to the overall groundwater lease.

This conclusion fails to assess the Project’s impacts on the Pura Spring should the Pura Trust develop the Pura Spring pursuant to its contractually superior right under the Agreements. The Bierman Memorandum notes, once developed, the Pura Spring could convey 16 gallons per minute of natural flow through the one-inch pipe, and up to 58

gallons per minute should the flow be pressurized. (See Bierman Technical Memorandum at page 9 and attached Table.) This amounts to between 25.81 – 93.55 acres feet per year over which Ms. Pura has superior contractual water rights that cannot be relied upon by the Project.

This direct, secondary, and cumulative impact of the Project's development on the Pura Trust's rights under the Agreements and consequently the water supply available to the Project must be addressed and mitigated.

32. The RDEIR Fails to Analyze the Relationship between Precipitation Events and the Pura Spring. Other than to broadly state the Pura Spring produces one gallon per minute of natural flow, the RDEIR fails to analyze flows before, during, and after precipitation events and their impact and relationship on the Pura Spring. Such interaction must be analyzed to understand the relationship between precipitation amounts and frequency, percolation recharge and the lag-time of recharge, to the Pura Spring flow.

### **Public Services and Utilities**

#### **Wastewater**

33. The project would construct a new wastewater treatment facility with waste flowing through a membrane bioreactor into a biological treatment tank. (Reference page 2-53.) The RDEIR fails to take into consideration the possibility of failure or leakage from this treatment facility. The potential for major disruption to the system must take into account the many faults and seismic hazards in the area. (Reference page 3-175 – 3-181.)
34. The RDEIR fails to consider potential impacts from the wastewater treatment facility's possible failure to meet the goal of nitrate-nitrogen levels of less than 6 mg/L, especially in light of the significantly heightened attention being paid to nitrate contamination of groundwater in the region. (Reference page 2-53.)
35. The RDEIR fails to consider what the impacts of constructing the wastewater treatment facility less than 50 feet away from the Pura Spring (See Appendix B at CT-2) will have on its production of water, water quality, or the course of the water it produces. Similarly, the RDEIR fails to consider what the impacts of constructing the wastewater treatment tank will have on the flow of groundwater, and its impacts on the Pura Spring (i.e., impediment of flow to the Pura Spring).
36. The wastewater conveyance line has been measured to be approximately 85-feet from the Pura Spring and the treatment facility less than 50 feet away. MCEHB requires at least a 100 foot setback from a septic tank. Because the treatment facility and wastewater conveyance line also handle biological waste, they should be located at least 100 feet from the Pura Spring. (See Bierman Technical Memorandum at page 10.) Greater

setbacks may also be necessary to protect jurisdictional wetlands. (See discussion of wetlands under Biological Resources section, above.)

37. The RDEIR fails to address the impacts of a sewage spill at the wastewater treatment facility on the Pura Spring water source. The RDEIR only mentions in passing that the wastewater treatment tank will be located 900 feet from the Pura Spring; however, per the Tentative Map (Appendix B at CT-2) the wastewater treatment facility appears to be no more than 50 feet from the Pura Spring. This project description discrepancy is significant, must be corrected, and therefore the RDEIR must be recirculated.
38. The RDEIR fails to address how the effluent will be stored once processed, and how it will be transferred from the waste water treatment facility to a landfill site. (Reference page 3-320.) The RDEIR also fails to discuss the secondary impacts of such transfers.
39. The RDEIR fails to analyze whether standard wastewater setbacks should be augmented as it relates to the treatment tank and the Pura Spring. The RDEIR notes that Pura Spring and floor of the wastewater treatment facility will be vertically separated by ten feet or less of unsaturated, unconsolidated sand, silt and tract gravel. In light of this, the RDEIR must analyze whether the proposed setbacks are adequate.
40. The underground wastewater storage tank is to be 216 feet from the Pura Spring, but will be at a depth of 20 feet. Though the RDEIR notes boring closest to the storage tank were dry to 21.5 feet, the borings were made in August of 2004. The RDEIR must analyze boring results during seasonal high-groundwater conditions. Seasonal groundwater may come into direct contact with the wastewater treatment tank. (See Bierman Technical Memorandum at page 10.)
41. The RDEIR fails to analyze the excavation and development of the wastewater storage tank up-gradient from the Pura Spring.
42. The RDEIR Fails to Analyze the Impact of the County's Newly Approved Local Agency Management Program for Onsite Wastewater Treatment Systems. Pursuant to the Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems Policy issued by the State Water Resources Control Board on June 19, 2012; the County of Monterey has the option of adopting a Local Agency Management Program ("LAMP") for onsite wastewater treatment systems.

At its April 3, 2018 meeting, the Monterey County Board of Supervisors approved Monterey County's LAMP, which must now be approved by the Central Coast Water Board.

It is reasonably foreseeable the County's LAMP will be approved by the Central Coast Water Board and therefore the RDEIR must analyze the potential impacts the LAMP's regulations will have on the environmental effect on the Project's onsite wastewater treatment facility.

## **Land Use**

### **Growth**

43. The assumption that no new growth would result from the proposed project is not based on sound reasoning. (Reference page 4-3.) Just because the project “is not intended specifically to generate new growth” does not mean that no growth will result from the increased job availability and tourism industry. The RDEIR does not draw on any peer reviewed research in population expansion in response to development and tourism.
44. The certified Final Environmental Impact Report for adoption of the 2010 Monterey County General Plan found that “growth beyond 2030 caused a significant and unavoidable impact” from overdraft and saltwater intrusion. (Reference page 2-246.) The development of the planned high-end resort is likely to increase growth and development in this portion of the County. The growth is almost certain to exceed what the area would otherwise experience, thereby increasing the impact of overdraft and saltwater intrusion. (Reference page 3-246.)
45. The RDEIR recognizes the 1982 Monterey County General Plan when discussing Aesthetics, Air Quality, Biological Resources, Climate Change, Cultural Resources and Historic Resources, Geology and Soils, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use Planning, Noise, Public Services and Utilities, Transportation and Traffic, and Energy.

However, when convenient for the Project proponents, the 2010 General Plan is cited. For example, at page 3-110 the Project proponents cite the 2010 General Plan mitigations for greenhouse gas impacts. At page 3-247 the Project proponents note the Project Site is identified as being considered for development.

Also, for the purposes of analysis of cumulative impacts under CEQA, the 2010 General Plan must be considered.

## **Transportation**

### **Trip Generation**

46. The RDEIR Ignores Day Trips Generated by the Hamlet. The traffic study supporting the RDEIR fails to include and analyze the impacts of day trips that will be generated by the Hamlet component of the Project. The Hamlet, which includes a day spa, retail store, artist studio and wine tasting facility, will generate day trips. Ten wine tasting rooms are within a five mile radius of the Project Site. Pinnacles National Park is also in the area. The April 10, 2018 letter prepared by traffic consultant Central Coast Transportation Consulting, attached hereto as Exhibit H and incorporated herein, (“Central Coast Transportation Letter”) estimates day use trips to be 1,556.

47. The RDEIR Assumes 90% of Employees Will use the Shuttle. The RDEIR does not analyze this statistic in light of the fact that most employees will commute in their private vehicle because many employees will live in nearby towns. For example: Soledad is only 9 miles away, Greenfield 10.5 miles away, Gonzales 18 miles away, and King City 23 miles away. (Central Coast Transportation Letter at page 2.)

To achieve the assumed 90% shuttle participation rate, a travel demand management program must be included in the Project and must be monitored regularly. (Central Coast Transportation Letter at page 2.)

#### Transportation Impacts

48. The RDEIR Fails to Identify Potentially Significant Impacts to Mass Transit. The RDEIR assumes that park-and-ride lots in nearby cities would be employed in the employee shuttle service. However, the RDEIR fails to analyze the secondary impacts of Project employees overburdening park-and-ride lots. Such impacts cannot be evaluated until specific lots are identified, and until employee shuttle participation is analyzed pursuant to a travel demand management program that must be developed and addressed before project approval. ("Central Coast Transportation Letter at page 2.")

49. The RDEIR fails to analyze the limited right of the public to travel on the portion of Paraiso Springs Road passing through the property owned by Cynthia Pura and the Pura Trust.

The County and the public have no recorded right to use the portion of Paraiso Springs Road that crosses the Pura Ranch. Even if the Project proponents could argue a right to use the Paraiso Springs Road existed pursuant to an implied dedication, such dedication does not allow for the traffic impacts associated by the Project. Therefore, alternative access must be found for the Project to be approved.

A full memorandum addressing this issue is attached hereto as Exhibit "I" (and incorporated herein).

50. The RDEIR fails to analyze the dominant land use surrounding the Project. The area surrounding the Project is predominately ranching and agriculture. Frequently, the machinery involved in such operations includes tractors with implements that can reach twenty (20) in widths. During the entry and exist of fields with these implements, traffic in both directions on Paraiso Springs Road is completely stopped. The RDEIR fails to analyze and define mitigations for this.

### **Alternatives Analysis**

To this end, CEQA “requires public agencies to deny approval of a project with significant adverse effects when feasible alternatives or feasible mitigation measures can substantially lessen such effects.” *Sierra Club v. Gilroy City Council* (1990) 222 Cal. App.3d 30, 41; also see PRC §§ 21002, 21002.1.

51. The RDEIR fails to propose a project alternative that includes the reconstruction of the nine Victorian era cottages that were illegally destroyed. As discussed in the Cultural Resources section above, reconstruction of the cottages is a feasible mitigation measure and must be performed to mitigate the effects of their illegal destruction. This alternative must include a reconfiguration of the Project in a manner that allows the cottages to be reconstructed in their original locations.
52. The RDEIR fails to propose a project alternative that utilizes an alternative access roadway. The comments in the Transportation Impacts section above and attached memorandum clearly establish the Project proponents have no right to expand historic access over the portion of Paraiso Springs Road that crosses the Pura Ranch. Such alternative should include a reconfiguration of the Project to redesign the access point and access road so as not to expand the historic access over the Pura Ranch. That an alternate access road may require the Project proponents to obtain zoning changes or other legislative enactment does not preclude alternate access roads from being considered as an alternative. (See *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 C3d 553, 573.) And, that the Project proponents do not own the land through which alternative access would be provided does not preclude alternate access roads from being considered as an alternative. (Guidelines section 15126.6(f)(1).)
53. The RDEIR fails to propose a project alternative that relocates the Project further from the Pura Spring so as to avoid interfering with Ms. Pura’s superior contractual rights to the Pura Spring and her right to develop all of the water therein and to protect the wetlands.
54. The RDEIR fails to propose a project alternative that makes use of the 35 acre parcel designated as APN418-361-009. APN418-361-009 is kitty-corner to the Project Site and like the Project Site it is designated as Visitor Accommodations/Professional Offices in the Central Salinas Valley Land Use Plan. Clearly, a project alternative utilizing APN418-361-009 must be included in the RDEIR, regardless of whether the Project proponents own it. (See Guidelines at section 15126.6(f)(1).



55. The RDEIR fails to provide adequate detail as to why the hotel only alternative was eliminated. (Reference page 5-3.) The RDEIR states in conclusory fashion that “[t]imeshare units have a higher average occupancy rate” and attributes this to the personal opinion of John Thompson, rather than on any form of evidence. This is contrary to the rule that “even if alternatives are rejected, an EIR must explain why each suggested alternative either does not satisfy the goals of the proposed project, does not offer substantial environmental advantages or cannot be accomplished. (*San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 737.)
56. The RDEIR fails to propose a project alternative that includes a density concomitant with the public’s putative claim to use the portion of Paraiso Springs Road that crosses Pura Ranch.

### **Conclusion**

The RDEIR fails to consider: the Sustainable Groundwater Management Act; the Lawsuit involving the Pura Spring; the Pura Trust’s superior contractual right to all of the water of the Pura Spring (as well as its rights to develop all of the water therein); the lack of authority to use the portion of Paraiso Springs Road to access the Project Site; the County’s new Local Agency Management Program for Onsite Wastewater Treatment; the day trips generated by the Hamlet; and the feasibility of reconstruction of the nine Victorian Era Cottages. Because of these failures, and others, the RDEIR must be substantially revised and recirculated. Likewise, the RDEIR’s impermissible deferral of mitigation measures relating to jurisdictional wetlands at the Project Site, as well as final drainage plan, requires it to be revised and recirculated.

Very truly yours,

FENTON & KELLER  
A Professional Corporation



Alex J. Lorca

# EXHIBIT 'A'



**Rincon Consultants, Inc.**

1530 Monterey Street, Suite D  
San Luis Obispo, California 93401

805 547 0900

FAX 547 0901

info@rinconconsultants.com  
www.rinconconsultants.com

August 15, 2014  
Resubmitted March 6, 2018  
Rincon Project No. 13-01626

John S. Bridges  
Fenton & Keller  
P.O. Box 791  
Monterey CA 93942-0791  
831-373-1241 ext. 238

Via email: [jbridges@fentonkeller.com](mailto:jbridges@fentonkeller.com)

**Subject: Resubmission of the Wetlands Evaluation at the site of the Paraiso Springs  
Resort Project, Soledad, Monterey County, California**

Dear Mr. Bridges:

Rincon Consultants, Inc. (Rincon) is pleased to resubmit this Wetlands Evaluation at the site of the Paraiso Springs Resort Project (project) near the City of Soledad in Monterey County, California. The information presented in this resubmission has not been revised or updated since the original submission in 2014. In Rincon's opinion the wetland areas herein evaluated are unlikely to have changed significantly since Rincon's original analysis. Additionally, the discussion of jurisdictional authority, standard permitting processes and standards for mitigation and compensatory mitigation as originally described remain accurate. Rincon has not done any additional analysis since 2014, and has not evaluated any wetlands analyses completed by other consulting firms or project proponents in these areas.

Sincerely,

**RINCON CONSULTANTS, INC.**

David Daitch, Ph.D.  
Program Manager/Senior Biologist



## ORIGINAL SUBMISSION

The project involves the development of resort complex on 235 acres in Paraiso Springs Valley. This report documents the existing conditions within a portion of the project, and is specifically focused on the Pura Well, a natural spring to which we understand the Pura Hill Ranch has existing water rights. This natural spring is generally surrounded by oak woodland habitat, and the area immediately surrounding the spring includes typical wetland characteristics. The wetland characteristics of this spring meet standard wetland criteria and Rincon considers it likely that this feature would be determined jurisdictional by the United States Army Corps (USACE) under Section 404 of the Clean Water Act (CWA), by the Regional Water Quality Control Board (RWQCB) under Section 401 of the CWA and under the Porter-Cologne Water Quality Control Act, and by the California Department of Fish and Wildlife (CDFW) under Section 1600 of the Fish and Game Code. Final jurisdictional determinations of the boundaries of waters and riparian habitats are made by each agency, typically at the time that authorizations to impact such features are requested, if applicable. Figure 1 depicts the approximate location of the likely jurisdictional wetland area. Please note that this report is not a formal Jurisdictional Delineation of the wetland feature and Figures 1 and 2 provide an approximately location for the spring and associated drainage. The mapping does not show the defined boundaries of the wetland feature, only the general area within which the feature is located. We have also only mapped a portion of the associated drainage to show its relation to the Pura Well spring, and do not show the extent of that drainage to the east or west.

## PROJECT LOCATION AND DESCRIPTION

The study area is located in central Monterey County, approximately 6.5 miles southwest of the City of Soledad, and Rincon only evaluated the natural spring area as shown in Figure 1. The study area is located on *Paraiso Springs, California* United States Geological Survey (USGS) 7.5-minute topographic quadrangle and occurs within the Salinas Watershed (Hydrologic Unit Code Number 18060005 – U.S. Geological Survey, 1978). The study area is generally surrounded by ranchlands and open space, with agricultural fields of the Salinas Valley to the east.

## METHODOLOGY

This Wetlands Analysis within the study area consisted of a review of relevant literature followed by a reconnaissance-level field survey and wetlands evaluation. The literature review included information on regionally occurring sensitive biological resources from the following sources:

- USFWS National Wetland Inventory (NWI) Mapper (U.S. Fish and Wildlife Service, 2014)
- Natural Resources Conservation Service Web Soil Survey (U.S. Department of Agriculture, 2013).

Rincon also reviewed site plans provided by the applicant, aerial photographs, and topographic maps before the reconnaissance-level field survey and wetlands evaluation was conducted. The purpose of the reconnaissance-level field survey was to document the existing site conditions and to evaluate the potentially jurisdictional wetlands, riparian



habitat and other waters of the U.S. A field survey was conducted such that the entire study area was visually inspected, and the field biologists recorded all of the wetlands resources encountered within the study area. The findings and opinions conveyed in this report are based exclusively on this methodology.

Dominance of hydrophytic vegetation (i.e., wetland plants) was determined by creating a species list for those plants occurring within an approximate 20-foot radius around each data point (wetland and upland data points only), and then estimating absolute percent cover for each species by stratum, assigning an indicator status category to each species using North American Digital Flora: National Wetland Plant List, version 3.2 (Lichvar *et al.* 2014), and determining whether wetland plants dominated the subject area using the dominance and/or prevalence tests (United States Army Corps of Engineers 2008a). Taxonomic nomenclature for plant species is in accordance with *The Jepson Manual* (Baldwin *et al.* 2012). To establish whether hydric soils were present, a soil pit approximately 12 inches deep was dug to determine the presence or absence of positive field indicators for hydric soils as described in *Field Indicators of Hydric Soils in the United States* (United States Department of Agriculture, Natural Resources Conservation Service 2006) and *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region* (United States Army Corps of Engineers 2008a). Soil color was determined using a Munsell® (2000) Soil Color Chart. Wetland hydrology was determined by the presence or absence of primary and secondary indicators, such as surface water and drainage patterns, respectively. A data point was considered to be potentially within a jurisdictional wetland if the area met the criteria for all three factors. Data for wetlands and adjacent uplands were entered on standardized wetland determination data forms (attached).

The lateral limits of USACE jurisdiction (i.e., width) for non-wetland waters or “Other Waters” were determined by the presence of physical characteristics indicative of the Ordinary High Water Mark (OHWM). The OHWM was identified in accordance with the methodologies presented in the aforementioned federal regulations, guidance letter, and technical publications. CDFW jurisdictional limits were delineated at the top-of-bank or to the outer drip-line of associated riparian vegetation, when present. All wetlands, other waters and riparian habitats were mapped were digitized on aerial photography. ArcGIS was then used to calculate the approximate acreages and/or linear feet of jurisdictional wetlands, other waters and riparian habitats.

#### **EXISTING SITE CONDITIONS**

The reconnaissance-level field survey was conducted on April 9, 2014 between the hours of 1300 and 1500. Weather conditions during the survey were generally mild. Average temperatures were approximately 75 degrees Fahrenheit, with clear skies, and winds of one to five miles per hour.

One soil map units occurs within the study area: Cropley silty clay, 2 to 9 percent slopes. This soil map unit is not included on the *National Hydric Soils List by State (April 2012): California*. Cropley clay soils are moderately well drained, clay soils originating from alluvium derived from sedimentary rock with 2 to 9 percent slopes (United States Department of Agriculture, Natural Resources Conservation Service, 2012).



The habitat type surrounding the study area is oak woodland. This canopy of this habitat type is dominated by coast live oaks (*Quercus agrifolia*). In the area immediately surrounding the study area, the shrub layer in this habitat type was dominated by western poison oak (*Toxicodendron diversilobum*) and California sagebrush (*Artemisia californica*), while the understory included western bracken fern (*Pteridium aquilinum*) and miner's lettuce (*Claytonia perfoliata*).

#### **WETLANDS EVALUATION DISCUSSION**

The natural spring is not mapped as a wetland by the USFWS NWI Mapper (U.S. Fish and Wildlife Service, 2014). However, the spring is located immediately adjacent to areas mapped as Freshwater Forested/Shrub Wetland. Furthermore the NWI mapping was conducted on a large scale and does not necessarily capture the exact location and boundaries of wetlands. Consequently, the NWI mapped wetlands are not always accurate on a small scale, such as this study area. Therefore, a wetlands evaluation was conducted to determine the presence or absence of wetlands within the study area.

Based upon the wetland analysis conducted during the reconnaissance-level field survey, there are wetlands present within the study area. The vegetation within the wetland had recently been sprayed with herbicides at the time of the site visit and vegetation could not be reliably identified. However, based on the procedure defined in the Arid West Delineation Manual (Chapter 5, Difficult Wetland Situations in the Arid West, Problematic hydrophytic vegetation, Section 4 e. Managed plant communities) it is assumed that wetland vegetation would be present without vegetation management based on the presence of hydric soils and hydrology.

A soil pit was dug approximate 18 inches deep. The soil profile was composed of clay loam with a matrix of 10YR 3/2. Redoximorphic features (5YR 5/8) were observed in concentrations of 20%, thus meeting the criteria for hydric soil indicator F6, Redox Dark Surface. Surface water was present in the wetland area, which is considered a primary hydrology indicator. With two of the three wetland indicators present and the third parameter significantly disturbed, this area surrounding the natural spring is considered a wetland. The wetland flows directly into an abutting drainage mapped as Freshwater Forested/Shrub Wetland on the USFWS NWI mapper. During the field survey water flow was observed from the spring into the adjacent drainage. This drainage connects with riverine features that eventually connect with the Salinas River and ultimately the Pacific Ocean. Therefore Rincon considers it likely that the Pura Well natural spring falls under the jurisdiction of both the USACE and the RWQCB.

#### **CONCLUSIONS AND RECOMMENDATIONS**

Final jurisdictional determinations of the boundaries of jurisdictional areas are made by each agency, typically at the time that authorizations to impact such features are requested, if applicable. The wetland in the study area associated with the natural spring likely falls under the jurisdiction of USACE, RWQCB and CDFW due to the presence of hydric soils, hydrology, presumed hydrophytic vegetation along with the location of the wetland, and associated riparian habitat. The wetland has a direct connection to the Salinas River and the Pacific Ocean and therefore likely falls under the jurisdiction of both the USACE and the





RWQCB. Wetland features and associated riparian habitat indicate that CDFW would likely consider this feature to be jurisdictional under Section 1600 of the FGC. Based on an initial review of the Section 404 Wetland Delineation Paraiso Springs Resort report prepared by WRA and dated February 2009, it does look like the Pura Well feature was identified as a freshwater marsh (W8 on Figures 3 and 4 of that report). Figure 4 of that report identifies this feature as a “non-impacted wetland.” The potential for ground water use by the project to result in the drying of this spring, and therefore result in impact to this wetland feature should be evaluated in the Jurisdictional Delineation impacts assessment and within the project EIR. Rincon would consider the lack of this evaluation a deficiency in the impact assessment for jurisdictional waters as presented in the WRA report.

Standard mitigation and avoidance measures for potential impacts to Waters of the State and/or Waters of the U.S. would generally include preparation of a formal jurisdictional delineation report, avoidance of jurisdictional features where feasible, and permitting and compensatory mitigation for impacts to jurisdictional features where avoidance was not feasible. Avoidance buffers for wetland features are generally determined on a project by project basis. The RWQCB generally defers to standard minimum USACE buffers of 25 feet; however, may require avoidance buffers of up to 100 feet depending on project activity and development features. Proposed development immediately adjacent to the Pura Well includes a wastewater treatment plant. Any intentional or accidental discharge of wastewater could directly impact the Pura Well wetland and would be considered a violation of Section 15.21.010 of the Monterey County Code of Ordinances which prohibits sewage discharge into any river or stream in Monterey County. Reasonable setbacks the proposed wastewater treatment plant would be determined by RWQCB, and be 100 feet or more to ensure wastewater is not discharged into jurisdictional waters. We recommend formal consultation with RWQCB to establish appropriate avoidance buffers and development setbacks from the Pura Well spring.

CDFW asserts jurisdiction over all wetlands including ephemeral drainages and intermittent streams. CDFW jurisdictional limits generally include the bed, bank and ordinary high-water mark (OHM) and all adjacent riparian habitat. The drip-line of the associated riparian habitat demarks the limits of CDFW jurisdiction and the extent of required avoidance. The Pura Well natural springs forms a wetland with a direct connection to the adjacent drainage that is defined as a Freshwater Forested/Shrub Wetland on the National Wetlands Inventory. Although CDFW would be responsible for making the final decision on jurisdictional extent of this feature, it is reasonable to expect that CDFW jurisdiction would extend to the boundary of the unbroken oak woodland canopy in this area. We recommend formal consultation with CDFW to determine the extent of CDFW jurisdictional habitat associated with the Pura Well natural spring and drainage, and establish appropriate avoidance buffers.



---

Thank you for the opportunity to support your environmental analysis needs for this important project. Please contact us if you have any questions.

Sincerely,

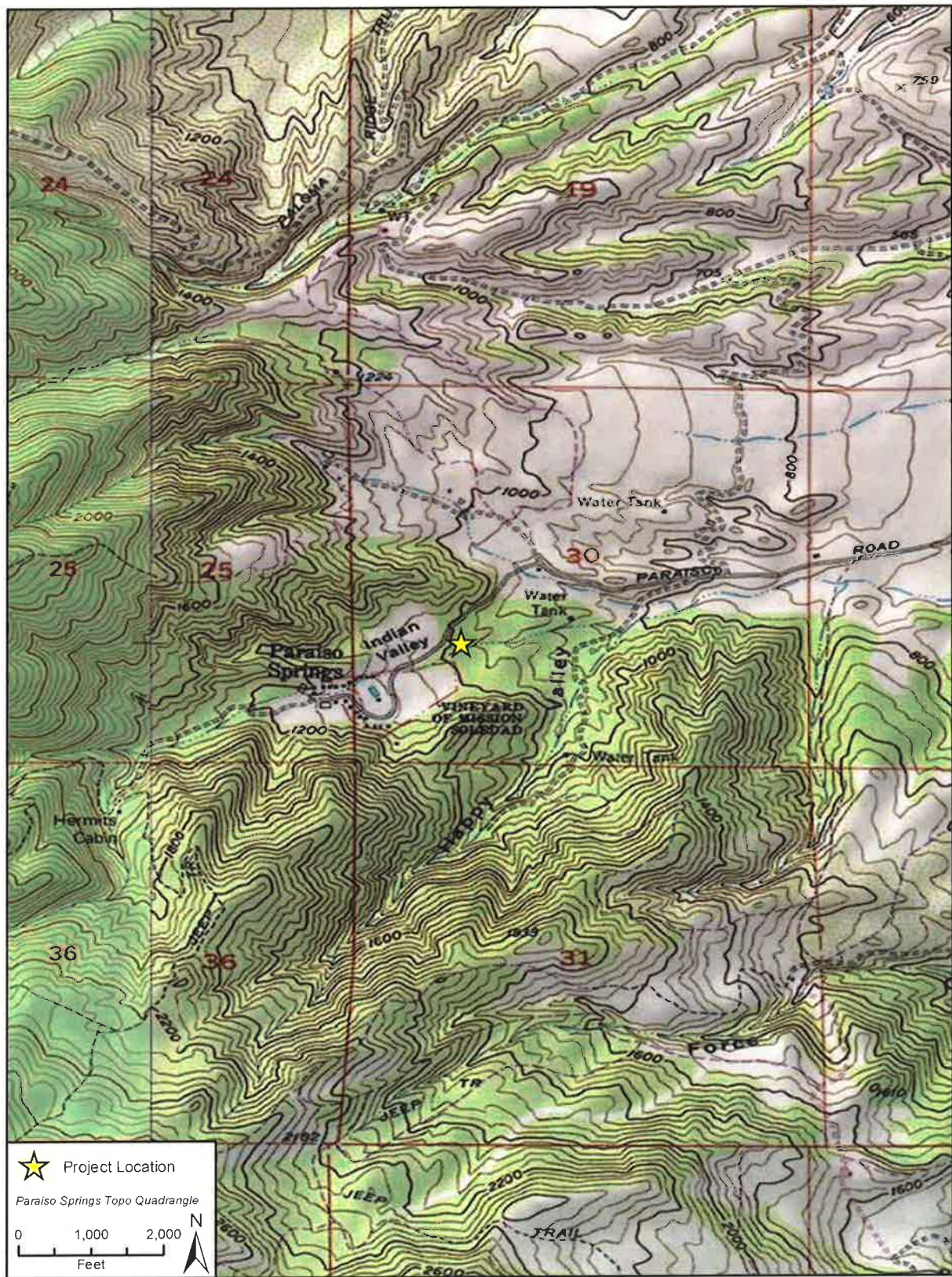
**RINCON CONSULTANTS, INC.**

Karen Holmes, QSD/P  
Biologist/Regulatory Specialist

David Daitch  
Senior Biologist / Project Manager

*Attachments: Figure 1. Approximate Wetland Location  
Figure 2. Approximate Wetland Location on Topo Map  
Wetland Datasheets*

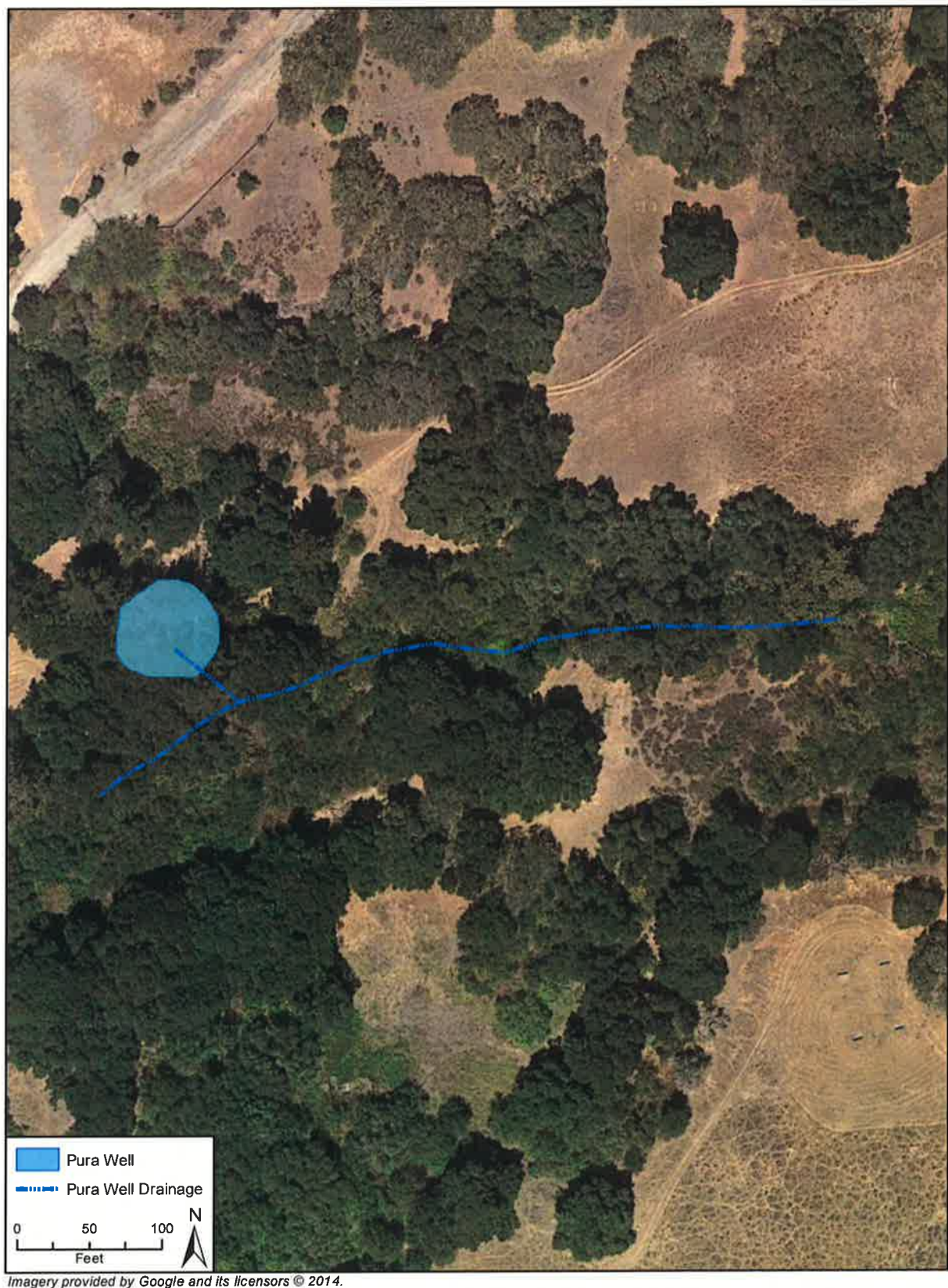




Approximate Location of Pura Well  
and Associated Drainage (topo background)

Figure 1





Approximate Location of Pura Well  
and Associated Drainage (aerial background)

Figure 2

# WETLAND DETERMINATION DATA FORM - Arid West Region

Habitat Type: \_\_\_\_\_  
Wetland Type: \_\_\_\_\_

Project/Site: Paraiso Springs City/County: Monterey County Sampling Date: 4/9/2014  
Applicant/Owner: Yvetta and Dennis Blomquist State: CA Sampling Point: 1  
Investigator(s): K. Holmes, D. Daitch Section, Township, Range: \_\_\_\_\_  
Landform (hillslope, terrace, etc.): natural spring Local relief (concave, convex, none): concave Slope (%): <1%  
Subregion (LRR): C - Mediterranean California Lat: \_\_\_\_\_ Long: \_\_\_\_\_ Datum: \_\_\_\_\_  
Soil Map Unit Name: \_\_\_\_\_ NWI classification: \_\_\_\_\_

Are climatic / hydrologic conditions on the site typical for this time of year? Yes ☒ No ☐ (If no, explain in Remarks.)  
Are Vegetation ☒ Soil ☐ or Hydrology ☐ significantly disturbed? Are "Normal Circumstances" present? Yes ☒ No ☐  
Are Vegetation ☐ Soil ☐ or Hydrology ☐ naturally problematic? (If needed, explain any answers in Remarks.)

## SUMMARY OF FINDINGS

Attach site map showing sampling point locations, transects, important features, etc.  
Hydrophytic Vegetation? Yes ☒ No ☐ Hydric Soil? Yes ☒ No ☐ Wetland Hydrology? Yes ☒ No ☐  
Is the Sampled Area within a Wetland? Yes ☒ No ☐

## USACE JURISDICTION

Abutting Waters ☒ Adjacent to Waters ☐ Tributary to Waters ☐ Isolated (with interstate commerce) ☐ Isolated (non-jurisdictional) ☐

Remarks: This wetland area is associated with a natural spring. The hydrology from the spring ponds within this area and then slowly flows over a gentle slope towards waters, which eventually connect to the Salinas River and then the Pacific Ocean (a Traditional Navigable Water).

## VEGETATION - Use scientific names of plants.

Tree Stratum (Plot size: _____)	Absolute % Cover	Dominant Species?	Indicator Status	<b>Dominance Test worksheet:</b> Number of Dominant Species That Are OBL, FACW, or FAC: <u>0</u> (A) Total Number of Dominant Species Across All Strata: <u>0</u> (B) Percent of Dominant Species That Are OBL, FACW, or FAC: <u>0</u> % (A/B)														
1. _____																		
2. _____																		
3. _____																		
4. _____																		
50%= _____ 20%= _____ Total Cover: _____ %				<b>Prevalence Index worksheet:</b> <table border="1"> <thead> <tr> <th>Total % Cover of:</th> <th>Multiply by:</th> </tr> </thead> <tbody> <tr><td>OBL species</td><td>x 1 = <u>0</u></td></tr> <tr><td>FACW species</td><td>x 2 = <u>0</u></td></tr> <tr><td>FAC species</td><td>x 3 = <u>0</u></td></tr> <tr><td>FACU species</td><td>x 4 = <u>0</u></td></tr> <tr><td>UPL species</td><td>x 5 = <u>0</u></td></tr> <tr><td>Column Totals:</td><td>(A) <u>0</u> (B) <u>0</u></td></tr> </tbody> </table> Prevalence Index = B/A = _____	Total % Cover of:	Multiply by:	OBL species	x 1 = <u>0</u>	FACW species	x 2 = <u>0</u>	FAC species	x 3 = <u>0</u>	FACU species	x 4 = <u>0</u>	UPL species	x 5 = <u>0</u>	Column Totals:	(A) <u>0</u> (B) <u>0</u>
Total % Cover of:	Multiply by:																	
OBL species	x 1 = <u>0</u>																	
FACW species	x 2 = <u>0</u>																	
FAC species	x 3 = <u>0</u>																	
FACU species	x 4 = <u>0</u>																	
UPL species	x 5 = <u>0</u>																	
Column Totals:	(A) <u>0</u> (B) <u>0</u>																	
<b>Sapling/Shrub Stratum</b> (Plot size: _____)																		
1. _____																		
2. _____																		
3. _____																		
4. _____																		
5. _____																		
50%= _____ 20%= _____ Total Cover: _____ %																		
<b>Herb Stratum</b> (Plot size: _____)				<b>Hydrophytic Vegetation Indicators:</b> <input type="checkbox"/> Dominance Test is >50% <input type="checkbox"/> Prevalence Index is ≤3.0 <sup>1</sup> <input type="checkbox"/> Morphological Adaptations <sup>1</sup> (Provide supporting data in Remarks or on a separate sheet) <input checked="" type="checkbox"/> Problematic Hydrophytic Vegetation <sup>1</sup> (Explain)														
1. _____																		
2. _____																		
3. _____																		
4. _____																		
5. _____																		
6. _____																		
7. _____																		
8. _____																		
50%= _____ 20%= _____ Total Cover: _____ %																		
<b>Woody Vine Stratum</b> (Plot size: _____)				<b>Hydrophytic Vegetation Present?</b> Yes <input checked="" type="radio"/> No <input type="radio"/>														
1. _____																		
2. _____																		
50%= _____ 20%= _____ Total Cover: _____ %																		
% Bare Ground in Herb Stratum _____ %	% Cover of Biotic Crust _____ %																	

Remarks: Wetland area has been recently sprayed with herbicides to maintain access to the natural spring and all vegetation is dead. Considering presence of hydric soils and hydrology, it is assumed that wetland vegetation would be present without vegetation management (Chapter 5, Difficult Wetland Situations in the Arid West, Problematic hydrophytic vegetation, Section 4 e. Managed plant communities).

## SOIL

Sampling Point: 1[illegible]

## HYDROLOGY

Wetland Hydrology Indicators:		Secondary Indicators (2 or more required)	
Primary Indicators (minimum of one required; check all that apply)			
<input checked="" type="checkbox"/> Surface Water (A1)	<input type="checkbox"/> Salt Crust (B11)	<input type="checkbox"/> Water Marks (B1) ( <b>Riverine</b> )	
<input type="checkbox"/> High Water Table (A2)	<input type="checkbox"/> Biotic Crust (B12)	<input type="checkbox"/> Sediment Deposits (B2) ( <b>Riverine</b> )	
<input type="checkbox"/> Saturation (A3)	<input type="checkbox"/> Aquatic Invertebrates (B13)	<input type="checkbox"/> Drift Deposits (B3) ( <b>Riverine</b> )	
<input type="checkbox"/> Water Marks (B1) ( <b>Nonriverine</b> )	<input type="checkbox"/> Hydrogen Sulfide Odor (C1)	<input type="checkbox"/> Drainage Patterns (B10)	
<input type="checkbox"/> Sediment Deposits (B2) ( <b>Nonriverine</b> )	<input type="checkbox"/> Oxidized Rhizospheres along Living Roots (C3)	<input type="checkbox"/> Dry-Season Water Table (C2)	
<input type="checkbox"/> Drift Deposits (B3) ( <b>Nonriverine</b> )	<input type="checkbox"/> Presence of Reduced Iron (C4)	<input type="checkbox"/> Crayfish Burrows (C8)	
<input type="checkbox"/> Surface Soil Cracks (B6)	<input type="checkbox"/> Recent Iron Reduction in Plowed Soils (C6)	<input type="checkbox"/> Saturation Visible on Aerial Imagery (C9)	
<input type="checkbox"/> Inundation Visible on Aerial Imagery (B7)	<input type="checkbox"/> Thin Muck Surface (C7)	<input type="checkbox"/> Shallow Aquitard (D3)	
<input type="checkbox"/> Water-Stained Leaves (B9)	<input type="checkbox"/> Other (Explain in Remarks)	<input type="checkbox"/> FAC-Neutral Test (D5)	

Field Observations:			
Surface Water Present?	Yes <input checked="" type="radio"/>	No <input type="radio"/>	Depth (inches): 6 inches
Water Table Present?	Yes <input type="radio"/>	No <input checked="" type="radio"/>	Depth (inches):
Saturation Present?	Yes <input type="radio"/>	No <input checked="" type="radio"/>	Depth (inches):
(includes capillary fringe)			
Wetland Hydrology Present? Yes <input checked="" type="radio"/> No <input type="radio"/>			
Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:			
Remarks: Surface water with a maximum depth of 6 inches was observed within the center of the wetland area.			

# WETLAND DETERMINATION DATA FORM - Arid West Region

Habitat Type: \_\_\_\_\_  
Wetland Type: \_\_\_\_\_

Project/Site: Paraiso Springs City/County: Monterey County Sampling Date: 4/9/2014  
Applicant/Owner: Yvetta and Dennis Blomquist State: CA Sampling Point: 2  
Investigator(s): K. Holmes, D. Daitch Section, Township, Range: \_\_\_\_\_  
Landform (hillslope, terrace, etc.): hillslope Local relief (concave, convex, none): concave Slope (%): 10%  
Subregion (LRR): C - Mediterranean California Lat: \_\_\_\_\_ Long: \_\_\_\_\_ Datum: \_\_\_\_\_  
Soil Map Unit Name: \_\_\_\_\_ NWI classification: \_\_\_\_\_

Are climatic / hydrologic conditions on the site typical for this time of year? Yes ☒ No ☐ (If no, explain in Remarks.)  
Are Vegetation ☐ Soil ☐ or Hydrology ☐ significantly disturbed? Are "Normal Circumstances" present? Yes ☒ No ☐  
Are Vegetation ☐ Soil ☐ or Hydrology ☐ naturally problematic? (If needed, explain any answers in Remarks.)

## SUMMARY OF FINDINGS

Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation? Yes ☒ No ☐ Hydric Soil? Yes ☒ No ☐ Wetland Hydrology? Yes ☒ No ☐

Is the Sampled Area within a Wetland? Yes ☒ No ☐

## USACE JURISDICTION

Abutting Waters ☒ Adjacent to Waters ☐ Tributary to Waters ☐ Isolated (with interstate commerce) ☐ Isolated (non-jurisdictional) ☐

Remarks: This point was taken in an upland area adjacent to the wetland area described in Data Point 1.

## VEGETATION - Use scientific names of plants.

Tree Stratum (Plot size: _____)	Absolute % Cover	Dominant Species?	Indicator Status
1. <i>Quercus agrifolia</i>	10	Yes	Not Listed
2. _____			
3. _____			
4. _____			
50%=5      20%=2      Total Cover: 10 %			
<b>Sapling/Shrub Stratum (Plot size: _____)</b>			
1. <i>Artemisia californica</i>	5	Yes	Not Listed
2. _____			
3. _____			
4. _____			
5. _____			
50%=2.5      20%=1      Total Cover: 5 %			
<b>Herb Stratum (Plot size: _____)</b>			
1. _____			
2. _____			
3. _____			
4. _____			
5. _____			
6. _____			
7. _____			
8. _____			
50%=      20%=      Total Cover: %			
<b>Woody Vine Stratum (Plot size: _____)</b>			
1. _____			
2. _____			
50%=      20%=      Total Cover: %			
% Bare Ground in Herb Stratum %      % Cover of Biotic Crust %			

Dominance Test worksheet:		
Number of Dominant Species That Are OBL, FACW, or FAC:	0	(A)
Total Number of Dominant Species Across All Strata:	2	(B)
Percent of Dominant Species That Are OBL, FACW, or FAC:	0.0 %	(A/B)

Prevalence Index worksheet:		
Total % Cover of:	Multiply by:	
OBL species	x 1 =	0
FACW species	x 2 =	0
FAC species	x 3 =	0
FACU species	x 4 =	0
UPL species	x 5 =	75
Column Totals:	15 (A)	75 (B)
Prevalence Index = B/A =		5.00

Hydrophytic Vegetation Indicators:	
<input type="checkbox"/> Dominance Test is >50%	
<input checked="" type="checkbox"/> Prevalence Index is ≤3.0 <sup>1</sup>	
<input type="checkbox"/> Morphological Adaptations <sup>1</sup> (Provide supporting data in Remarks or on a separate sheet)	
<input type="checkbox"/> Problematic Hydrophytic Vegetation <sup>1</sup> (Explain)	

<sup>1</sup>Indicators of hydric soil and wetland hydrology must be present.

Hydrophytic Vegetation Present?	
Yes <input type="radio"/>	No <input checked="" type="radio"/>

Remarks: Much of the ground is covered in leaf litter.



Sampling Point: 2

HYDROLOGY			
<b>Wetland Hydrology Indicators:</b>			
<u>Primary Indicators (minimum of one required; check all that apply)</u>		<u>Secondary Indicators (2 or more required)</u>	
<input type="checkbox"/> Surface Water (A1)	<input type="checkbox"/> Salt Crust (B11)	<input type="checkbox"/> Water Marks (B1) <b>(Riverine)</b>	
<input type="checkbox"/> High Water Table (A2)	<input type="checkbox"/> Biotic Crust (B12)	<input type="checkbox"/> Sediment Deposits (B2) <b>(Riverine)</b>	
<input type="checkbox"/> Saturation (A3)	<input type="checkbox"/> Aquatic Invertebrates (B13)	<input type="checkbox"/> Drift Deposits (B3) <b>(Riverine)</b>	
<input type="checkbox"/> Water Marks (B1) <b>(Nonriverine)</b>	<input type="checkbox"/> Hydrogen Sulfide Odor (C1)	<input type="checkbox"/> Drainage Patterns (B10)	
<input type="checkbox"/> Sediment Deposits (B2) <b>(Nonriverine)</b>	<input type="checkbox"/> Oxidized Rhizospheres along Living Roots (C3)	<input type="checkbox"/> Dry-Season Water Table (C2)	
<input type="checkbox"/> Drift Deposits (B3) <b>(Nonriverine)</b>	<input type="checkbox"/> Presence of Reduced Iron (C4)	<input type="checkbox"/> Crayfish Burrows (C8)	
<input type="checkbox"/> Surface Soil Cracks (B6)	<input type="checkbox"/> Recent Iron Reduction in Plowed Soils (C6)	<input type="checkbox"/> Saturation Visible on Aerial Imagery (C9)	
<input type="checkbox"/> Inundation Visible on Aerial Imagery (B7)	<input type="checkbox"/> Thin Muck Surface (C7)	<input type="checkbox"/> Shallow Aquitard (D3)	
<input type="checkbox"/> Water-Stained Leaves (B9)	<input type="checkbox"/> Other (Explain in Remarks)	<input type="checkbox"/> FAC-Neutral Test (D5)	
<b>Field Observations:</b>			
Surface Water Present?	Yes <input type="radio"/> No <input checked="" type="radio"/>	Depth (inches):	
Water Table Present?	Yes <input type="radio"/> No <input checked="" type="radio"/>	Depth (inches):	
Saturation Present?	Yes <input type="radio"/> No <input checked="" type="radio"/>	Depth (inches):	
(includes capillary fringe)		<b>Wetland Hydrology Present?</b> Yes <input type="radio"/> No <input checked="" type="radio"/>	
Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:			
Remarks: No surface water observed and no other hydrology indicators observed.			

# EXHIBIT 'B'

**OFFICE OF HISTORIC PRESERVATION  
DEPARTMENT OF PARKS AND RECREATION**

P.O. BOX 942896

SACRAMENTO, CA 94296-0001

(916) 653-6624 Fax: (916) 653-9824

calshpo@ohp.parks.ca.gov

**California Office of Historic Preservation  
Technical Assistance Series #1****California Environmental Quality Act (CEQA) and Historical  
Resources****Introduction**

The California Environmental Quality Act (CEQA – pronounced see' kwa) is the principal statute mandating environmental assessment of projects in California. The purpose of CEQA is to evaluate whether a proposed project may have an adverse effect on the environment and, if so, if that effect can be reduced or eliminated by pursuing an alternative course of action or through mitigation. CEQA is part of the Public Resources Code (PRC), Sections 21000 et seq.

The CEQA Guidelines are the regulations that govern the implementation of CEQA. The CEQA Guidelines are codified in the California Code of Regulations (CCR), Title 14, Chapter 3, Sections 15000 et seq. and are binding on state and local public agencies.

The basic goal of CEQA is to develop and maintain a high-quality environment now and in the future, while the specific goals of CEQA are for California's public agencies to:

1. Identify the significant environmental effects of their actions; and, either
2. Avoid those significant environmental effects, where feasible; or
3. Mitigate those significant environmental effects, where feasible.

CEQA applies to "projects" proposed to be undertaken or requiring approval by state and local public agencies. "Projects" are activities which have the potential to have a physical impact on the environment and may include the enactment of zoning ordinances, the issuance of conditional use permits and variances and the approval of tentative subdivision maps.

Where a project requires approvals from more than one public agency, CEQA requires one of these public agencies to serve as the "lead agency."

A "lead agency" must complete the environmental review process required by CEQA. The most basic steps of the environmental review process are:

1. Determine if the activity is a "project" subject to CEQA;
2. Determine if the "project" is exempt from CEQA;



3. Perform an Initial Study to identify the environmental impacts of the project and determine whether the identified impacts are "significant". Based on its findings of "significance", the lead agency prepares one of the following environmental review documents:
  - Negative Declaration if it finds no "significant" impacts;
  - Mitigated Negative Declaration if it finds "significant" impacts but revises the project to avoid or mitigate those significant impacts;
  - Environmental Impact Report (EIR) if it finds "significant" impacts.

The purpose of an EIR is to provide State and local agencies and the general public with detailed information on the potentially significant environmental effects that a proposed project is likely to have, to list ways that the significant environmental effects may be minimized and to indicate alternatives to the project.

Throughout this handout you will find references to various sections of the California Public Resources Code and the Code of Regulations. The various State statutes and regulations can all be accessed on-line at the following websites:

Statutes - <http://www.leginfo.ca.gov/calaw.html>

Regulations - <http://ccr.oal.ca.gov/>

This handout is intended to merely illustrate the process outlined in CEQA statute and guidelines relative to historical and cultural resources. These materials on CEQA and other laws are offered by the State Office of Historic Preservation for informational purposes only. This information does not have the force of law or regulation. This handout should not be cited in legal briefs as the authority for any proposition. In the case of discrepancies between the information provided in this handout and the CEQA statute or guidelines, the language of the CEQA statute and Guidelines (PRC § 21000 et seq. and 14 CCR § 15000 et seq.) is controlling. Information contained in this handout does not offer nor constitute legal advice. You should contact an attorney for technical guidance on current legal requirements.

## **Questions and Answers**

### **When does CEQA apply?**

Resources listed in, or determined to be eligible for listing in, the California Register are resources that must be given consideration in the CEQA process.

All projects undertaken by a public agency are subject to CEQA. This includes projects undertaken by any state or local agency, any special district (e.g., a school district), and any public college or university.

CEQA applies to discretionary projects undertaken by private parties. A discretionary project is one that requires the exercise of judgement or deliberation by a public agency in determining whether the project will be approved, or if a permit will be issued. Some common discretionary decisions include placing conditions on the issuance of a permit, delaying demolition to explore alternatives, or reviewing the design of a proposed project. Aside from decisions pertaining to a project that will have a direct physical impact on the environment, CEQA also applies to decisions that could lead to indirect impacts, such as making changes to local codes, policies, and general and specific plans. Judgement or deliberation may be exercised by the staff of a permitting agency or by a board, commission, or elected body.

CEQA does not apply to ministerial projects. A ministerial project is one that requires only conformance with a fixed standard or objective measurement and requires little or no personal judgment by a public official as to the wisdom or manner of carrying out the project. Generally ministerial permits require a public official to determine only that the project conforms with applicable zoning and building code requirements and that applicable fees have been paid. Some examples of projects that are generally ministerial include roof replacements, interior alterations to residences, and landscaping changes.

For questions about what types of projects are discretionary and ministerial within your community, you must contact your local government; usually the local Planning Department handles such issues.

### **What is the California Register and what does it have to do with CEQA?**

Historical resources are recognized as part of the environment under CEQA (PRC § 21002(b), 21083.2, and 21084.1). The California Register is an authoritative guide to the state's historical resources and to which properties are considered significant for purposes of CEQA.

The California Register includes resources listed in or formally determined eligible for listing in the National Register of Historic Places, as well as some California State Landmarks and Points of Historical Interest. Properties of local significance that have been designated under a local preservation ordinance (local landmarks or landmark districts) or that have been identified in a local historical resources inventory may be eligible for listing in the California Register and are presumed to be significant resources for purposes of CEQA unless a preponderance of evidence indicates otherwise (PRC § 5024.1, 14 CCR § 4850).

The California Register statute (PRC § 5024.1) and regulations (14 CCR § 4850 et seq.) require that at the time a local jurisdiction *nominates* an historic resources survey for listing in the California Register, the survey must be updated if it is more than five years old. This is to ensure that a *nominated survey* is as accurate as possible at the time it is listed in the California Register. However, this does not mean that resources identified in a survey that is more than five years old need not be considered “historical resources” for purposes of CEQA. Unless a resource listed in a survey has been demolished, lost substantial integrity, or there is a preponderance of evidence indicating that it is otherwise not eligible for listing, a lead agency should consider the resource to be potentially eligible for the California Register.

However, a resource does not need to have been identified previously either through listing or survey to be considered significant under CEQA. In addition to assessing whether historical resources potentially impacted by a proposed project are listed or have been identified in a survey process, lead agencies have a responsibility to evaluate them against the California Register criteria prior to making a finding as to a proposed project’s impacts to historical resources (PRC § 21084.1, 14 CCR § 15064.5(3)).

## **Are archeological sites part of the California Register?**

An archeological site may be considered an historical resource if it is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military or cultural annals of California (PRC § 5020.1(j)) or if it meets the criteria for listing on the California Register (14 CCR § 4850).

CEQA provides somewhat conflicting direction regarding the evaluation and treatment of archeological sites. The most recent amendments to the CEQA Guidelines try to resolve this ambiguity by directing that lead agencies should first evaluate an archeological site to determine if it meets the criteria for listing in the California Register. If an archeological site is an historical resource (i.e., listed or eligible for listing in the California Register) potential adverse impacts to it must be considered, just as for any other historical resource (PRC § 21084.1 and 21083.2(l)).

If an archeological site is not an historical resource, but meets the definition of a “unique archeological resource” as defined in PRC § 21083.2, then it should be treated in accordance with the provisions of that section.

## **What is “substantial adverse change” to an historical resource?**

Substantial adverse change includes demolition, destruction, relocation, or alteration such that the significance of an historical resource would be impaired (PRC § 5020.1(q)).

While demolition and destruction are fairly obvious significant impacts, it is more difficult to assess when change, alteration, or relocation crosses the threshold of substantial adverse change. The CEQA Guidelines provide that a project that demolishes or alters those physical characteristics of an historical resource that convey its historical significance (i.e., its character-defining features) can be considered to materially impair the resource's significance.

## **How can “substantial adverse change” be avoided or mitigated?**

A project that has been determined to conform with the *Secretary of the Interior's Standards for the Treatment of Historic Properties* can generally be considered to be a project that will not cause a significant impact (14 CCR § 15126.4(b)(1)). In fact, in most cases if a project meets the *Secretary of Interior's Standards for the Treatment of Historic Properties* it can be considered categorically exempt from CEQA (14 CCR § 15331).

Mitigation of significant impacts must lessen or eliminate the physical impact that the project will have on the historical resource. This is often accomplished through redesign of a project to eliminate objectionable or damaging aspects of the project (e.g., retaining rather than removing a character-defining feature, reducing the size or massing of a proposed addition, or relocating a structure outside the boundaries of an archeological site).

Relocation of an historical resource may constitute an adverse impact to the resource. However, in situations where relocation is the only feasible alternative to demolition, relocation may mitigate below a level of significance provided that the new location is compatible with the original character and use of the historical resource and the resource retains its eligibility for listing on the California Register (14 CCR § 4852(d)(1)).

In most cases the use of drawings, photographs, and/or displays does not mitigate the physical impact on the environment caused by demolition or destruction of an historical resource (14 CCR § 15126.4(b)). However, CEQA requires that all feasible mitigation be undertaken even if it does not mitigate below a level of significance. In this context, recordation serves a legitimate archival purpose. The level of documentation required as a mitigation should be proportionate with the level of significance of the resource.

Avoidance and preservation in place are the preferable forms of mitigation for archeological sites. When avoidance is infeasible, a data recovery plan should be prepared which adequately provides for recovering scientifically consequential information from the site. Studies and reports resulting from excavations must be deposited with the California Historical Resources Regional Information Center (see list in Appendix G).

Merely recovering artifacts and storing them does not mitigate impacts below a level of significance.

## **What are “exemptions” under CEQA and how are they used?**

There are basically two types of exemptions under CEQA: statutory and categorical. Statutory exemptions are projects specifically excluded from CEQA consideration as defined by the State Legislature. These exemptions are delineated in PRC § 21080 et seq. A statutory exemption applies to any given project that falls under its definition, regardless of the project’s potential impacts to the environment. However, it is important to note that any CEQA exemption applies only to CEQA and not, of course, to any other state, local or federal laws that may be applicable to a proposed project.

Categorical exemptions operate very differently from statutory exemptions. Categorical exemptions are made up of classes of projects that generally are considered not to have potential impacts on the environment. Categorical exemptions are identified by the State Resources Agency and are defined in the CEQA Guidelines (14 CCR § 15300-15331). Unlike statutory exemptions, categorical exemptions are not allowed to be used for projects that may cause a substantial adverse change in the significance of an historical resource (14 CCR § 15300.2(f)). Therefore, lead agencies must first determine if the project has the potential to impact historical resources and if those impacts could be adverse prior to determining if a categorical exemption may be utilized for any given project.

If it is determined that a statutory or categorical exemption could be used for a project, the lead agency may produce a notice of exemption, but is not required to do so. If a member of the public feels that a categorical exemption is being improperly used because the project could have a significant adverse impact on historical resources, it is very important that any appeals be requested and comments be filed making the case for the exemption’s impropriety. If a notice of exemption is filed, a 35-day statute of limitations will begin on the day the project is approved. If a notice is not filed, a 180-day statute of limitations will apply. As a result, lead agencies are encouraged to file notices of exemption to limit the possibility of legal challenge.

## **What are local CEQA Guidelines?**

Public agencies are required to adopt implementing procedures for administering their responsibilities under CEQA. These procedures include provisions on how the agency will process environmental documents and provide for adequate comment, time periods for review, and lists of permits that are ministerial actions and projects that are considered categorically exempt. Agency procedures should be updated within 120 days after the CEQA Guidelines are revised. The most recent amendments to the CEQA Guidelines occurred in November 1998 and included specific consideration of historical resources. An agency’s adopted procedures are a public document (14 CCR § 15022).

Additionally, local governments will often produce materials for distribution to the public explaining the local CEQA process. The OHP strongly recommends the creation of such documents to further aid the public in understanding how CEQA is implemented within each local government's jurisdiction. Often a local historic preservation ordinance will also come into play in that process. In such instances, the OHP further recommends that the local ordinance procedures be explained in a straightforward public document. The materials distributed by the City of San Diego are included in this booklet in Appendix H as an example.

### **Who ensures CEQA is being followed properly?**

In a way, the people of California bear this responsibility. But, ultimately, it is the judicial system that ensures public agencies are fulfilling their obligations under CEQA. There is no CEQA "police" agency as many members of the public mistakenly assume. Rather it is any individual or organization's right to pursue litigation against a public agency that is believed to have violated its CEQA responsibilities.

Although the OHP can, and often does, comment on documents prepared for CEQA purposes (or the lack thereof), it is important that the public be aware that such comments are merely advisory and do not carry the force of law. Comments from state agencies and other organizations with proven professional qualifications and experience in a given subject can, however, provide valuable assistance to decision-makers as well as provide substantive arguments for consideration by a judge during CEQA litigation.

### **How should a citizen approach advocating for historical resources under CEQA?**

1. Familiarize yourself with CEQA. CEQA is a complex environmental consideration law, but the basics of it can be mastered with some concerted education. There is a large amount of information available on the subject of CEQA. Please refer to the following section of this publication for some suggested information sources. Additionally, contact your local government and request a copy of their local CEQA guidelines as well as any public informational handouts they may have available.

Finally, familiarize yourself with the local codes related to historical resources. Find out if there is a local historic preservation ordinance that would serve to provide protection for the historical resource in question. If so, find out how the review process under that ordinance works. Research ways you can make your opinion heard through that process as well as the general CEQA environmental review process. Usually local ordinances will allow for greater protection for historical resources than CEQA's requirement of consideration. Therefore this is a very important step.

It cannot be emphasized enough the importance of educating yourself prior to an actual preservation emergency arising. CEQA puts in place very strict time controls on comment periods and statutes of limitations on litigation. These controls do not allow

much time to learn CEQA in the heat of an impending project. It is far, far better to have at least a cursory understanding of CEQA and local codes related to historical resources well in advance of having to take on a preservation advocacy battle.

2. If and when there is an “action” or a “project” that would invoke CEQA, you should contact the local government undertaking the action. First rule, don’t give up if you get shuffled from person to person. Stick with it. Ultimately, you want to get to the person in charge of the project (usually that’s a planner in the Planning Department, but it might also be someone with Parks and Recreation, Public Works, Building and Safety, etc.). When you get to the right person, ask where they are in terms of CEQA compliance (using an exemption, preparing initial study or preparing CEQA document).

If the lead agency is using an exemption, ask if they have filed or intend to file a notice of exemption. If so, obtain a copy of it and move to step 3. If not, and you question the use of the exemption, investigate how you go about requesting an appeal of the decision and do so. Additionally, contact OHP to discuss submitting written comments. See step 4 for further information on ensuring your right to initiate litigation.

Once the initial study is finished, the lead agency should know what type of CEQA document they’re going to prepare (negative declaration, , mitigated negative declaration, or environmental impact report). If the document has already been prepared, ask to have a copy mailed to you or ask where you can pick up a copy. If the document has not been prepared yet, ask to be placed on mailing list to receive a copy when it’s done. If they don’t keep a mailing list, then you need to keep an eye on the public postings board (usually at the Clerk’s office) for when it does come out and then get a copy (some local governments also post on the internet, so you don’t have to go in person or call in every week).

If the local government says they didn’t do a CEQA document, ask why. Then call OHP to discuss where to go from there.

If the local government says that they prepared a CEQA document but the comment period on it is closed then there may not be much you can do (see litigation information in step 4); still, ask to have a copy of it sent to you. Then call OHP to discuss how best to proceed.

3. When you get a copy of the document, read it and call OHP to discuss. Then prepare your comments (don’t dally, comment periods are usually for 45 days, but are sometimes only 30 days). Also, contact OHP as soon as possible to inform us when a document has come out so we can get a copy and comment on it as well. OHP does its best to respond to all citizens’ requests for comments on CEQA documents. However, we cannot guarantee that we will be able to comment on a document with only a few days notice. Therefore, contacting us as soon as possible at the beginning of a comment period on a document, or, even better, prior to the release of the document, will help ensure that we are able to provide substantive written comments within the allotted time period.

4. Submit your comments and attend public hearings. Make sure all your concerns are on record (if the decision does go to litigation, the only thing the judge will be looking at is what's in the public record). Appeal any decision that doesn't go your way (you must exhaust all administrative remedies or your lawsuit—if it comes to that—won't be heard). Even if you do not intend to or want to initiate litigation, don't let the local government know that. You need to appear ready to take the matter to court, because often that's the only thing that will get their attention. If you know in advance that litigation will probably result, you should strongly consider hiring an attorney as early in the process as possible. An attorney will probably be able to provide much stronger arguments in commenting on the adequacy of a CEQA document than you as a member of the public would, and he or she can help ensure that your right to initiate litigation is protected.
5. Often you will find that CEQA doesn't provide you with a mechanism to protect a particular historical resource. This may be the case for a number of reasons, including that the project is private and ministerial (i.e., involves no discretion on the part of a public agency), is subject to a statutory exemption, or has been approved as a result of CEQA documents already having been prepared and circulated prior to your learning of the project. In these instances, you may find that a public relations campaign is your only recourse. In such situations, do not give up hope. There are many examples of citizens utilizing such means as the media, informational mailings and meetings, and dialogue with project developers to halt or alter a project even in the absence of legal remedies. This is an especially useful course of action when the proposed project involves a business that needs to build or retain a positive image in the minds of citizens in the local community in order to succeed.

### **What information is useful to have on hand when contacting OHP about a CEQA project?**

Information about the project:

- Where is the project located? City, county, street address.
- Is there a project name? Often having the project name will make it easier for OHP to find out more information about the project when we contact the lead agency.
- What does the project propose to do? Demolish, alter, relocate an historical resource? Build housing, commercial offices, retail?

Information about the historic property (or properties) potentially impacted:

- Where is the property located? City, county, and a street address
- What is its name? If the property has an historic name, or even what it is generally known as in the local community, it may be easier for us to locate information on it.
- What do you know about the property? Why do you think it's significant?

Lead agency contact information:

- Who is the lead agency for the project? That is, who is undertaking the project (if it's a public project) or permitting it (if it's a private project)? Ideally this should include both



the name of the public agency as well as the department or division handling the project.

- Can you obtain a specific contact person's name? Do you have a phone number and/or email address for him or her?

Information on the development of the CEQA process thus far:

- What has the lead agency told you about the environmental review process so far?
- Do they know what type of CEQA document they're going to prepare?
- Have they already prepared one, and, if so, what is the public comment period on it?

Please refer to Appendix A for a sample form you can use to collect this information.

## **CEQA Information sources**

### **CEQA Statute and Guidelines**

#### **California Resources Agency**

The CEQA Statutes and Guidelines with Office of Planning and Research (OPR) commentary are available to download in Adobe Acrobat (PDF) format at the California Environmental Resources Evaluation System (CERES) website at <http://ceres.ca.gov/ceqa>. The Secretary of the Interior's Standards for Historic Preservation are also available at this website.

#### **Governor's Office of Planning and Research**

*Statutes and Guidelines with OPR Commentary* (Sacramento: State Printing Office, June 1995).

Available through State Department of General Services, Publications Section  
PO Box 1015, North Highlands CA 95660. Orders should include title, stock number (7540-931-1022-0), number of copies, and remittance (\$18.00 per copy, includes UPS delivery). Make checks payable to State of California. No phone orders accepted.

#### **Consulting Engineers and Land Surveyors of California (CELSOC)**

##### *California Environmental Quality Act/CEQA Guidelines*

This handy pocket edition is updated annually. Cost is \$6.50 for CELSOC members, \$9.50 for public agencies, and \$19.50 for non-members. Shipping is an additional \$3.00 and California residents must include sales tax at 7.25%. Available through CELSOC, 1303 J St, Ste 370, Sacramento CA 95814, phone: (916) 441-7991, fax: (916) 441-6312, email: [staff@celsoc.org](mailto:staff@celsoc.org), website: <http://www.celsoc.org>.

#### **State Office of Historic Preservation**

*California State Law and Historic Preservation: Statutes, Regulations and Administrative Policies Regarding Historic Preservation and Protection of Cultural and Historical Resources*, 1999.

This complete compilation of all state codes, regulations and executive orders pertaining to historic preservation is available at no cost through the State Office of Historic Preservation, PO Box 942896, Sacramento CA 94296-0001, phone: (916) 653-6624, fax: (916) 653-9824, email: [calshpo@ohp.parks.ca.gov](mailto:calshpo@ohp.parks.ca.gov). It can be found on the internet at <http://ohp.parks.ca.gov/>.

## **Technical Assistance Publications and General Information**

### **Governor's Office of Planning and Research**

*CEQA and Historical Resources*

*CEQA and Archaeological Resources*

*Circulation and Notice under CEQA*

*Thresholds of Significance: Criteria for Defining Environmental Significance*

This useful series of publications provides assistance in interpreting the CEQA statutes, guidelines and case law. It is available at no cost at <http://ceres.ca.gov/ceqa> or through the State Office of Historic Preservation (first two publications only) at the address and contact information above.

### **Solano Press**

*CEQA Deskbook: A Step-by-Step Guide on How to Comply with the California Environmental Quality Act*, Ronald Bass, Albert Herson, and Kenneth Bogdan (Point Arena: Solano Press Books).

A very handy guide, which is updated annually, to preparing and evaluating CEQA documents and understanding the CEQA process. Available through Solano Press Books, PO Box 773, Point Arena CA 95468, phone: (800) 931-9373, fax: (707) 884-4109, email: [spbooks@solano.com](mailto:spbooks@solano.com), website: <http://www.solano.com>.

### **California Preservation Foundation**

*The Preservationist's Guide to the California Environmental Quality Act*, Jack Rubens and Bill Delvac (Oakland: California Preservation Foundation, 1993).

The Guide is a step-by-step tour of CEQA requirements, useful case law and appropriate strategies you might use in your community. [Updated and expanded after the 1993 Annual Statewide Conference in Long Beach.] \$14. Available through the California Preservation Foundation, 1611 Telegraph Avenue, Suite 820, Oakland CA 94612, phone (510)763-0972, fax (510) 763-4724, email: [cpf\\_office@californiapreservation.org](mailto:cpf_office@californiapreservation.org), website: <http://www.californiapreservation.org>.

## **Recent Case Law and CEQA Issues**

### **Solano Press**

*Guide to the California Environmental Quality Act*, Michael Remy, Tina Thomas, et al. (Point Arena: Solano Press Books).

This publication is updated annually and provides general information as well as analysis of CEQA case law. Available through Solano Press Books at the address and contact information above.

### **California Resources Agency**

The CERES website at <http://ceres.ca.gov/ceqa> provides copies of recent CEQA decisions, 1995-1998.

## **Historic Preservation Advocacy**

### **National Trust for Historic Preservation (NTHP)**

#### *A Layperson's Guide to Preservation Law: Federal, State, and Local Laws Governing Historic Resources*

A look at the various laws and regulations that protect historic resources, as well as laws governing nonprofit organizations and museum properties.

Non-member \$10.00 / NTHP member \$9.00 / NT Forum \$7.50

#### *Organizing for Change*

Five in-depth case studies on how citizens worked through the political process to change preservation planning decisions.

Non-member \$6.00 / NTHP member \$5.40 / NT Forum \$4.50

#### *Rescuing Historic Resources: How to Respond to a Preservation Emergency*

The steps to take when faced with a preservation crisis.

Non-member \$6.00 / NTHP member \$5.40 / NT Forum \$4.50

The above titles represent only a few of the many publications the National Trust has available in its series of Historic Preservation Information Booklets. Each of these publications as well as other books, videos, and journals can be purchased through the National Trust's website at <http://www.nthp.org> or by calling (202) 588-6189.

### **California Preservation Foundation**

*A Preservationist's Guide to the Development Process*, edited by William F. Delvac, Christy McAvoy and Elizabeth Morton (Oakland: California Preservation Foundation, 1992).

This guide is based on CPF's popular 1992 workshop series. Chapters by statewide experts provide valuable overviews of the development process, real estate economics, tax credits, easements, property tax incentives, the State Historical Building Code, CEQA and more. \$12

*Avoiding the Bite: Strategies for Adopting and Retaining Local Preservation Programs*, edited by Lisa Foster (Oakland: California Preservation Foundation, 1994).

This book contains presentations made during CPF's 1994 workshops on preservation commissions. Includes sections on making allies in City Hall and with Redevelopment staff, maintaining programs in times of budget cuts, building public and political support for local preservation programs, and creating an adoptable ordinance. \$12

Both publications, as well as many others dealing with other preservation subjects, are available through the California Preservation Foundation, 1611 Telegraph Avenue, Suite 820, Oakland CA 94612, phone (510)763-0972, fax (510) 763-4724, email: [cpf\\_office@californiapreservation.org](mailto:cpf_office@californiapreservation.org), website: <http://www.californiapreservation.org>.

## **Appendix A: Form for Collection of Information about a Project**

The form that follows on the next page is intended to allow you to collect and have readily available pertinent information about a project both for your own personal use as well as for instances when you choose to contact OHP. Although it can readily be argued that collecting even more information is often useful, the attempt herein was to create an easily readable one-page form that can be quickly referenced for particularly pertinent information about a project.

**Project Information**

Project Name	
City/County Address (if applicable)	
Project Description	

**Historical Resources Information**

Name of Property	
Street Address	
City/County	
Property Description/ Significance	

**Lead Agency Information**

Lead Agency	
Contact Person	
Phone/Fax Email	
Mailing Address	
Other Agencies Involved (if applicable)	

**CEQA Process**

Document Type	
Comment Period	
Notes on Process	

**General Notes**

--

## **Appendix B: State Codes and Regulations Related to CEQA and Historical Resources**

### **California Public Resources Code**

#### **21083.2. Archeological Resources.**

(a) As part of the determination made pursuant to Section 21080.1, the lead agency shall determine whether the project may have a significant effect on archaeological resources. If the lead agency determines that the project may have a significant effect on unique archaeological resources, the environmental impact report shall address the issue of those resources. An environmental impact report, if otherwise necessary, shall not address the issue of nonunique archaeological resources. A negative declaration shall be issued with respect to a project if, but for the issue of nonunique archaeological resources, the negative declaration would be otherwise issued.

(b) If it can be demonstrated that a project will cause damage to a unique archaeological resource, the lead agency may require reasonable efforts to be made to permit any or all of these resources to be preserved in place or left in an undisturbed state. Examples of that treatment, in no order of preference, may include, but are not limited to, any of the following:

- (1) Planning construction to avoid archaeological sites.
- (2) Deeding archaeological sites into permanent conservation easements.
- (3) Capping or covering archaeological sites with a layer of soil before building on the sites.
- (4) Planning parks, greenspace, or other open space to incorporate archaeological sites.

(c) To the extent that unique archaeological resources are not preserved in place or not left in an undisturbed state, mitigation measures shall be required as provided in this subdivision. The project applicant shall provide a guarantee to the lead agency to pay one-half the estimated cost of mitigating the significant effects of the project on unique archaeological resources. In determining payment, the lead agency shall give due consideration to the in-kind value of project design or expenditures that are intended to permit any or all archaeological resources or California Native American culturally significant sites to be preserved in place or left in an undisturbed state. When a final decision is made to carry out or approve the project, the lead agency shall, if necessary, reduce the specified mitigation measures to those which can be funded with the money guaranteed by the project applicant plus the money voluntarily guaranteed by any other person or persons for those mitigation purposes. In order to allow time for interested persons to provide the funding guarantee referred to in this subdivision, a final decision to carry out or approve a project shall not occur sooner than 60 days after completion of the recommended special environmental impact report required by this section.

(d) Excavation as mitigation shall be restricted to those parts of the unique archaeological resource that would be damaged or destroyed by the project. Excavation as mitigation shall not be required for a unique archaeological resource if the lead agency determines that testing or studies already completed have adequately recovered the scientifically consequential information from and about the resource, if this determination is documented in the environmental impact report.



(e) In no event shall the amount paid by a project applicant for mitigation measures required pursuant to subdivision (c) exceed the following amounts:

(1) An amount equal to one-half of 1 percent of the projected cost of the project for mitigation measures undertaken within the site boundaries of a commercial or industrial project.

(2) An amount equal to three-fourths of 1 percent of the projected cost of the project for mitigation measures undertaken within the site boundaries of a housing project consisting of a single unit.

(3) If a housing project consists of more than a single unit, an amount equal to three-fourths of 1 percent of the projected cost of the project for mitigation measures undertaken within the site boundaries of the project for the first unit plus the sum of the following:

(A) Two hundred dollars (\$200) per unit for any of the next 99 units.

(B) One hundred fifty dollars (\$150) per unit for any of the next 400 units.

(C) One hundred dollars (\$100) per unit in excess of 500 units.

(f) Unless special or unusual circumstances warrant an exception, the field excavation phase of an approved mitigation plan shall be completed within 90 days after final approval necessary to implement the physical development of the project or, if a phased project, in connection with the phased portion to which the specific mitigation measures are applicable. However, the project applicant may extend that period if he or she so elects. Nothing in this section shall nullify protections for Indian cemeteries under any other provision of law.

(g) As used in this section, "unique archaeological resource" means an archaeological artifact, object, or site about which it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it meets any of the following criteria:

(1) Contains information needed to answer important scientific research questions and that there is a demonstrable public interest in that information.

(2) Has a special and particular quality such as being the oldest of its type or the best available example of its type.

(3) Is directly associated with a scientifically recognized important prehistoric or historic event or person.

(h) As used in this section, "nonunique archaeological resource" means an archaeological artifact, object, or site which does not meet the criteria in subdivision (g). A nonunique archaeological resource need be given no further consideration, other than the simple recording of its existence by the lead agency if it so elects.

(i) As part of the objectives, criteria, and procedures required by Section 21082 or as part of conditions imposed for mitigation, a lead agency may make provisions for archaeological sites accidentally discovered during construction. These provisions may include an immediate evaluation of the find. If the find is determined to be a unique archaeological resource, contingency funding and a time allotment sufficient to allow recovering an archaeological sample or to employ one of the avoidance measures may be required under the provisions set forth in this section. Construction work may continue on other parts of the building site while archaeological mitigation takes place.

(j) This section does not apply to any project described in subdivision (a) or (b) of Section 21065 if the lead agency elects to comply with all other applicable provisions of this division. This section does not apply to any project described in subdivision (c) of Section 21065 if the applicant and the lead agency jointly elect to comply with all other applicable provisions of this division.

(k) Any additional costs to any local agency as a result of complying with this section with respect to a project of other than a public agency shall be borne by the project applicant.

(l) Nothing in this section is intended to affect or modify the requirements of Section 21084 or 21084.1.

**21084. Guidelines shall list classes of projects exempt from Act.**

(e) No project that may cause a substantial adverse change in the significance of an historical resource, as specified in Section 21084.1, shall be exempted from this division pursuant to subdivision (a).

**21084.1. Historical Resources Guidelines.**

A project that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment. For purposes of this section, an historical resource is a resource listed in, or determined to be eligible for listing in, the California Register of Historical Resources. Historical resources included in a local register of historical resources, as defined in subdivision (k) of Section 5020.1, or deemed significant pursuant to criteria set forth in subdivision (g) of Section 5024.1, are presumed to be historically or culturally significant for purposes of this section, unless the preponderance of the evidence demonstrates that the resource is not historically or culturally significant. The fact that a resource is not listed in, or determined to be eligible for listing in, the California Register of Historical Resources, not included in a local register of historical resources, or not deemed significant pursuant to criteria set forth in subdivision (g) of Section 5024.1 shall not preclude a lead agency from determining whether the resource may be an historical resource for purposes of this section.

## **California Code of Regulations, Title 14, Chapter 3**

**15064.5. Determining the Significance of Impacts to Archeological and Historical Resources**

(a) For purposes of this section, the term "historical resources" shall include the following:

(1) A resource listed in, or determined to be eligible by the State Historical Resources Commission, for listing in the California Register of Historical Resources (Pub. Res. Code SS5024.1, Title 14 CCR, Section 4850 et seq.).

(2) A resource included in a local register of historical resources, as defined in section 5020.1(k) of the Public Resources Code or identified as significant in an historical resource survey meeting the requirements section 5024.1(g) of the Public Resources Code, shall be presumed to be historically or culturally significant. Public agencies must treat any such resource as significant unless the preponderance of evidence demonstrates that it is not historically or culturally significant.

(3) Any object, building, structure, site, area, place, record, or manuscript which a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California may be considered to be an historical resource, provided the lead agency's determination is supported by substantial evidence in light of the whole record. Generally, a resource shall be considered by the lead agency to be "historically significant" if the resource meets the criteria for listing on the California Register of

Historical Resources (Pub. Res. Code SS5024.1, Title 14 CCR, Section 4852) including the following:

(A) Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;

(B) Is associated with the lives of persons important in our past;

(C) Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or

(D) Has yielded, or may be likely to yield, information important in prehistory or history.

(4) The fact that a resource is not listed in, or determined to be eligible for listing in the California Register of Historical Resources, not included in a local register of historical resources (pursuant to section 5020.1(k) of the Public Resources Code), or identified in an historical resources survey (meeting the criteria in section 5024.1(g) of the Public Resources Code) does not preclude a lead agency from determining that the resource may be an historical resource as defined in Public Resources Code sections 5020.1(j) or 5024.1.

(b) A project with an effect that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment.

(1) Substantial adverse change in the significance of an historical resource means physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired.

(2) The significance of an historical resource is materially impaired when a project:

(A) Demolishes or materially alters in an adverse manner those physical characteristics of an historical resource that convey its historical significance and that justify its inclusion in, or eligibility for, inclusion in the California Register of Historical Resources; or

(B) Demolishes or materially alters in an adverse manner those physical characteristics that account for its inclusion in a local register of historical resources pursuant to section 5020.1(k) of the Public Resources Code or its identification in an historical resources survey meeting the requirements of section 5024.1(g) of the Public Resources Code, unless the public agency reviewing the effects of the project establishes by a preponderance of evidence that the resource is not historically or culturally significant; or

(C) Demolishes or materially alters in an adverse manner those physical characteristics of a historical resource that convey its historical significance and that justify its eligibility for inclusion in the California Register of Historical Resources as determined by a lead agency for purposes of CEQA.

(3) Generally, a project that follows the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings or the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (1995), Weeks and Grimmer, shall be considered as mitigated to a level of less than a significant impact on the historical resource.

(4) A lead agency shall identify potentially feasible measures to mitigate significant adverse changes in the significance of an historical resource. The lead agency shall ensure that any adopted measures to mitigate or avoid significant adverse changes are fully enforceable through permit conditions, agreements, or other measures.

(5) When a project will affect state-owned historical resources, as described in Public Resources Code Section 5024, and the lead agency is a state agency, the lead agency shall consult with the State Historic Preservation Officer as provided in Public Resources Code Section 5024.5. Consultation should be coordinated in a timely fashion with the preparation of environmental documents.

(c) CEQA applies to effects on archaeological sites.

(1) When a project will impact an archaeological site, a lead agency shall first determine whether the site is an historical resource, as defined in subsection (a).

(2) If a lead agency determines that the archaeological site is an historical resource, it shall refer to the provisions of Section 21084.1 of the Public Resources Code, and this section, Section 15126.4 of the Guidelines, and the limits contained in Section 21083.2 of the Public Resources Code do not apply.

(3) If an archaeological site does not meet the criteria defined in subsection (a), but does meet the definition of a unique archeological resource in Section 21083.2 of the Public Resources Code, the site shall be treated in accordance with the provisions of section 21083.2. The time and cost limitations described in Public Resources Code Section 21083.2 (c-f) do not apply to surveys and site evaluation activities intended to determine whether the project location contains unique archaeological resources.

(4) If an archaeological resource is neither a unique archaeological nor an historical resource, the effects of the project on those resources shall not be considered a significant effect on the environment. It shall be sufficient that both the resource and the effect on it are noted in the Initial Study or EIR, if one is prepared to address impacts on other resources, but they need not be considered further in the CEQA process.

(d) When an initial study identifies the existence of, or the probable likelihood, of Native American human remains within the project, a lead agency shall work with the appropriate native americans as identified by the Native American Heritage Commission as provided in Public Resources Code SS5097.98. The applicant may develop an agreement for treating or disposing of, with appropriate dignity, the human remains and any items associated with Native American burials with the appropriate Native Americans as identified by the Native American Heritage Commission. Action implementing such an agreement is exempt from:

(1) The general prohibition on disinterring, disturbing, or removing human remains from any location other than a dedicated cemetery (Health and Safety Code Section 7050.5).

(2) The requirements of CEQA and the Coastal Act.

(e) In the event of the accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the following steps should be taken:

(1) There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:

(A) The coroner of the county in which the remains are discovered must be contacted to determine that no investigation of the cause of death is required, and

(B) If the coroner determines the remains to be Native American:

1. The coroner shall contact the Native American Heritage Commission within 24 hours.

2. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descended from the deceased native american.

3. The most likely descendent may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of,

with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98, or

(2) Where the following conditions occur, the landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance.

(A) The Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the commission.

(B) The descendant identified fails to make a recommendation; or

(C) The landowner or his authorized representative rejects the recommendation of the descendant, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.

(f) As part of the objectives, criteria, and procedures required by Section 21082 of the Public Resources Code, a lead agency should make provisions for historical or unique archaeological resources accidentally discovered during construction. These provisions should include an immediate evaluation of the find by a qualified archaeologist. If the find is determined to be an historical or unique archaeological resource, contingency funding and a time allotment sufficient to allow for implementation of avoidance measures or appropriate mitigation should be available. Work could continue on other parts of the building site while historical or unique archaeological resource mitigation takes place.

Note: Authority: Sections 21083 and 21087, Public Resources Code. Reference: Sections 21083.2, 21084, and 21084.1, Public Resources Code; *Citizens for Responsible Development in West Hollywood v. City of West Hollywood* (1995) 39 Cal.App.4th 490.

#### **15126.4 Consideration and Discussion of Mitigation Measures Proposed to Minimize Significant Effects**

(a) Mitigation Measures in General.

(1) An EIR shall describe feasible measures which could minimize significant adverse impacts, including where relevant, inefficient and unnecessary consumption of energy.

(A) The discussion of mitigation measures shall distinguish between the measures which are proposed by project proponents to be included in the project and other measures proposed by the lead, responsible or trustee agency or other persons which are not included but the lead agency determines could reasonably be expected to reduce adverse impacts if required as conditions of approving the project. This discussion shall identify mitigation measures for each significant environmental effect identified in the EIR.

(B) Where several measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified. Formulation of mitigation measures should not be deferred until some future time. However, measures may specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way.

(C) Energy conservation measures, as well as other appropriate mitigation measures, shall be discussed when relevant. Examples of energy conservation measures are provided in Appendix F.

(D) If a mitigation measure would cause one or more significant effects in addition to those that would be caused by the project as proposed, the effects of the mitigation

measure shall be discussed but in less detail than the significant effects of the project as proposed. (*Stevens v. City of Glendale*(1981) 125 Cal.App.3d 986.)

(2) Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments. In the case of the adoption of a plan, policy, regulation, or other public project, mitigation measures can be incorporated into the plan, policy, regulation, or project design.

(3) Mitigation measures are not required for effects which are not found to be significant.

(4) Mitigation measures must be consistent with all applicable constitutional requirements, including the following:

(A) There must be an essential nexus (i.e. connection) between the mitigation measure and a legitimate governmental interest. *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987); and

(B) The mitigation measure must be "roughly proportional" to the impacts of the project. *Dolan v. City of Tigard*, 512 U.S. 374 (1994). Where the mitigation measure is an *ad hoc* exaction, it must be "roughly proportional" to the impacts of the project. *Ehrlich v. City of Culver City* (1996) 12 Cal.4th 854.

(5) If the lead agency determines that a mitigation measure cannot be legally imposed, the measure need not be proposed or analyzed. Instead, the EIR may simply reference that fact and briefly explain the reasons underlying the lead agency's determination.

(b) Mitigation Measures Related to Impacts on Historical Resources.

(1) Where maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of the historical resource will be conducted in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (1995), Weeks and Grimmer, the project's impact on the historical resource shall generally be considered mitigated below a level of significance and thus is not significant.

(2) In some circumstances, documentation of an historical resource, by way of historic narrative, photographs or architectural drawings, as mitigation for the effects of demolition of the resource will not mitigate the effects to a point where clearly no significant effect on the environment would occur.

(3) Public agencies should, whenever feasible, seek to avoid damaging effects on any historical resource of an archaeological nature. The following factors shall be considered and discussed in an EIR for a project involving such an archaeological site:

(A) Preservation in place is the preferred manner of mitigating impacts to archaeological sites. Preservation in place maintains the relationship between artifacts and the archaeological context. Preservation may also avoid conflict with religious or cultural values of groups associated with the site.

(B) Preservation in place may be accomplished by, but is not limited to, the following:

1. Planning construction to avoid archaeological sites;
2. Incorporation of sites within parks, greenspace, or other open space;
3. Covering the archaeological sites with a layer of chemically stable soil before building tennis courts, parking lots, or similar facilities on the site.
4. Deeding the site into a permanent conservation easement.

(C) When data recovery through excavation is the only feasible mitigation, a data recovery plan, which makes provision for adequately recovering the scientifically consequential information from and about the historical resource, shall be prepared and

adopted prior to any excavation being undertaken. Such studies shall be deposited with the California Historical Resources Regional Information Center. Archaeological sites known to contain human remains shall be treated in accordance with the provisions of Section 7050.5 Health and Safety Code.

(D) Data recovery shall not be required for an historical resource if the lead agency determines that testing or studies already completed have adequately recovered the scientifically consequential information from and about the archaeological or historical resource, provided that the determination is documented in the EIR and that the studies are deposited with the California Historical Resources Regional Information Center.

Note: Authority cited: Sections 21083 and 21087, Public Resources Code. Reference: Sections 21002, 21003, 21100, and 21084.1, Public Resources Code; *Citizens of Goleta Valley v. Board of Supervisors*, (1990) 52 Cal.3d 553; *Laurel Heights Improvement Association v. Regents of the University of California*, (1988) 47 Cal.3d 376; *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359; and *Laurel Heights Improvement Association v. Regents of the University of California* (1993) 6 Cal.4th 1112; *Sacramento Old City Assn. v. City Council of Sacramento* (1991) 229 Cal.App.3d 1011.

### **15325. Transfers of Ownership of Interest In Land to Preserve Existing Natural Conditions and Historical Resources**

Class 25 consists of transfers of ownership in interests in land in order to preserve open space, habitat, or historical resources. Examples include but are not limited to:

- (a) Acquisition, sale, or other transfer of areas to preserve existing natural conditions, including plant or animal habitats.
- (b) Acquisition, sale, or other transfer of areas to allow continued agricultural use of the areas.
- (c) Acquisition, sale, or other transfer to allow restoration of natural conditions, including plant or animal habitats.
- (d) Acquisition, sale, or other transfer to prevent encroachment of development into flood plains.
- (e) Acquisition, sale, or other transfer to preserve historical resources.

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Section 21084, Public Resources Code.

### **15300.2 Exceptions**

(a) Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located – a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply in all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.

(b) Cumulative impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.

(c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

(d) Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.

(f) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

**15331. Historical Resource Restoration/Rehabilitation**

Class 31 consists of projects limited to maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of historical resources in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (1995), Weeks and Grimmer.

Note: Authority cited: Section 21083 and 21087, Public Resources Code. Reference: Section 21084, Public Resources Code.



## Appendix C: California Register of Historical Resources

The California Register was created by the State Legislature in 1992 and is intended to serve as an authoritative listing of significant historical and archeological resources in California. Additionally, the eligibility criteria for the California Register (codified in PRC § 5024.1 and further amplified in 14 CCR § 4852) are intended to serve as the definitive criteria for assessing the significance of historical resources for purposes of CEQA. In this way establishing a consistent set of criteria to the evaluation process for all public agencies statewide.

Resources can be nominated directly to the California Register or can be listed automatically as defined in PRC § 5024.1(d). Resources that are listed automatically in the California Register include:

- Resources listed in the National Register of Historic Places (this includes individual properties as well as historic districts and properties that contribute to the significance of an historic district);
- Resources that have been formally determined eligible for listing in the National Register of Historic Places (formal determinations of eligibility are made during federal review processes under Section 106 of the National Historic Preservation Act, during reviews conducted for projects taking advantage of the federal rehabilitation tax credits program, or when a private property being nominated for listing has been opposed by the property owner);
- California Historical Landmarks beginning with #770;
- California Points of Historical Interest beginning with those designated in January 1998 (the time at which the program was revised to reflect requirements for listing in the California Register).

For further information on applying and interpreting the California Register criteria, please refer to the handout entitled *California Register and National Register: A Comparison* and *National Register Bulletin 15: How to Apply the National Register Criteria for Evaluation*. Both can be found online at [http://ohp.cal-parks.ca.gov/careqs/ts6ca\\_nat.htm](http://ohp.cal-parks.ca.gov/careqs/ts6ca_nat.htm) and [http://www.cr.nps.gov/nr/publications/bulletins/nr15\\_toc.htm](http://www.cr.nps.gov/nr/publications/bulletins/nr15_toc.htm), respectively.

## **Eligibility Criteria**

An historical resource must be significant at the local, state, or national level, under one or more of the following four criteria:

1. It is associated with events that have made a significant contribution to the broad patterns of local or regional history, or the cultural heritage of California or the United States; or
2. It is associated with the lives of persons important to local, California, or national history; or
3. It embodies the distinctive characteristics of a type, period, region, or method or construction, or represents the work of a master, or possesses high artistic values; or
4. It has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California, or the nation.

## **Integrity**

Integrity is the authenticity of an historical resource's physical identity evidenced by the survival of characteristics that existed during the resource's period of significance. Historical resources eligible for listing in the California Register must meet one of the criteria of significance described above and retain enough of their historic character or appearance to be recognizable as historical resources and to convey the reasons for their significance. Historical resources that have been rehabilitated or restored may be evaluated for listing.

Integrity is evaluated with regard to the retention of location, design, setting, materials, workmanship, feeling, and association. It must also be judged with reference to the particular criteria under which a resource is proposed for eligibility. Alterations over time to a resource or historic changes in its use may themselves have historical, cultural, or architectural significance.

It is possible that historical resources may not retain sufficient integrity to meet the criteria for listing in the National Register, but they may still be eligible for listing in the California Register. A resource that has lost its historic character or appearance may still have sufficient integrity for the California Register if it maintains the potential to yield significant scientific or historical information or specific data.

## Special Considerations

Moved buildings, structures, or objects The State Historical Resources Commission encourages the retention of historical resources on site and discourages the non-historic grouping of historic buildings into parks or districts. However, it is recognized that moving an historic building, structure, or object is sometimes necessary to prevent its destruction. Therefore, a moved building, structure, or object that is otherwise eligible may be listed in the California Register if it was moved to prevent its demolition at its former location and if the new location is compatible with the original character and use of the historical resource. An historical resource should retain its historic features and compatibility in orientation, setting, and general environment.

Historical resources achieving significance within the past fifty years In order to understand the historic importance of a resource, sufficient time must have passed to obtain a scholarly perspective on the events or individuals associated with the resource. A resource less than fifty years old may be considered for listing in the California Register if it can be demonstrated that sufficient time has passed to understand its historical importance.

Reconstructed buildings Reconstructed buildings are those buildings not listed in the California Register under the criteria stated above. A reconstructed building less than fifty years old may be eligible if it embodies traditional building methods and techniques that play an important role in a community's historically rooted beliefs, customs, and practices; e.g., a Native American roundhouse.

## **Appendix D: Secretary of the Interior's Standards for Professionals in Historic Preservation**

The OHP recommends that public agencies seeking to contract with outside consultants to conduct evaluations of the significance of historical resources and proposed project impacts ensure that such consultants meet professional qualifications standards. In the absence of state promulgated standards for such professionals, it is recommended that public agencies consider adopting the standards put forward by the Secretary of the Interior.

In the September 29, 1983, issue of the Federal Register, the National Park Service published the following Professional Qualification Standards as part of the larger Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation. These Professional Qualification Standards are in effect currently. Since 1983, the National Park Service has not issued any revisions for effect, although the National Park Service is in the process of drafting such revisions.

The following requirements are those used by the National Park Service, and have been previously published in the Code of Federal Regulations, 36 CFR Part 61. The qualifications define minimum education and experience required to perform identification, evaluation, registration, and treatment activities. In some cases, additional areas or levels of expertise may be needed, depending on the complexity of the task and the nature of the historic properties involved. In the following definitions, a year of full-time professional experience need not consist of a continuous year of full-time work but may be made up of discontinuous periods of full-time or part-time work adding up to the equivalent of a year of full-time experience.

### **History**

The minimum professional qualifications in history are a graduate degree in history or closely related field; or a bachelor's degree in history or closely related field plus one of the following:

1. At least two years of full-time experience in research, writing, teaching, interpretation, or other demonstrable professional activity with an academic institution, historical organization or agency, museum, or other professional institution; or
2. Substantial contribution through research and publication to the body of scholarly knowledge in the field of history.

### **Archeology**

The minimum professional qualifications in archeology are a graduate degree in archeology, anthropology, or closely related field plus:

1. At least one year of full-time professional experience or equivalent specialized training in archeological research, administration or management;
2. At least four months of supervised field and analytic experience in general North American archeology; and
3. Demonstrated ability to carry research to completion.

In addition to these minimum qualifications, a professional in prehistoric archeology shall have at least one year of full-time professional experience at a supervisory level in the study of archeological resources of the prehistoric period.

A professional in historic archeology shall have at least one year of full-time professional experience at a supervisory level in the study of archeological resources of the historic period.

## **Architectural History**

The minimum professional qualifications in architectural history are a graduate degree in architectural history, art history, historic preservation, or closely related field, with coursework in American architectural history; or a bachelor's degree in architectural history, art history, historic preservation or closely related field plus one of the following:

1. At least two years of full-time experience in research, writing, or teaching in American architectural history or restoration architecture with an academic institution, historical organization or agency, museum, or other professional institution; or
2. Substantial contribution through research and publication to the body of scholarly knowledge in the field of American architectural history.

## **Architecture**

The minimum professional qualifications in architecture are a professional degree in architecture plus at least two years of full-time experience in architecture; or a State license to practice architecture.

## **Historic Architecture**

The minimum professional qualifications in historic architecture are a professional degree in architecture or a State license to practice architecture, plus one of the following:

1. At least one year of graduate study in architectural preservation, American architectural history, preservation planning, or closely related field; or
2. At least one year of full-time professional experience on historic preservation projects.

Such graduate study or experience shall include detailed investigations of historic structures, preparation of historic structures research reports, and preparation of plans and specifications for preservation projects.

## **Appendix E: Secretary of the Interior's Standards for the Treatment of Historic Properties**

*The information contained in this appendix is provided solely for informational purposes due to the fact that the CEQA Guidelines make reference to the Secretary of the Interior's Standards for the Treatment of Historic Properties (14 CCR § 15064.5(b)(3), 15126.4(b)(1) and 15331). It is the responsibility of the lead agency under CEQA, not the OHP as is often mistakenly assumed, to assess whether or not a proposed project meets these standards, and it is the right of any individual or organization to offer comments relative to the findings of a lead agency regarding the application of these standards.*

The following information is reprinted from the National Park Service's website. This information as well as additional publications, including the illustrated version of the standards and guidelines (which is referenced in the CEQA Guidelines), can be found on the internet at <http://www2.cr.nps.gov/tps/tpscat.htm>.

Rooted in over 120 years of preservation ethics in both Europe and America, The Secretary of the Interior's Standards for the Treatment of Historic Properties are common sense principles in non-technical language. They were developed to help protect our nation's irreplaceable cultural resources by promoting consistent preservation practices. The Standards may be applied to all properties listed in the National Register of Historic Places: buildings, sites, structures, objects, and districts.

It should be understood that the Standards are a series of concepts about maintaining, repairing and replacing historic materials, as well as designing new additions or making alterations; as such, they cannot, in and of themselves, be used to make essential decisions about which features of a historic property should be saved and which might be changed. But once an appropriate treatment is selected, the Standards provide philosophical consistency to the work.

### **Four Treatment Approaches**

There are Standards for four distinct, but interrelated, approaches to the treatment of historic properties--preservation, rehabilitation, restoration, and reconstruction.

**Preservation** focuses on the maintenance and repair of existing historic materials and retention of a property's form as it has evolved over time. (Protection and Stabilization have now been consolidated under this treatment.)

**Rehabilitation** acknowledges the need to alter or add to a historic property to meet continuing or changing uses while retaining the property's historic character.

**Restoration** depicts a property at a particular period of time in its history, while removing evidence of other periods.

**Reconstruction** re-creates vanished or non-surviving portions of a property for interpretive purposes.

## Choosing an Appropriate Treatment

Choosing an appropriate treatment for a historic building or landscape, whether preservation, rehabilitation, restoration, or reconstruction is critical. This choice always depends on a variety of factors, including its historical significance, physical condition, proposed use, and intended interpretation.

The questions that follow pertain specifically to historic buildings, but the process of decisionmaking would be similar for other property types:

**Relative importance in history.** Is the building a nationally significant resource--a rare survivor or the work of a master architect or craftsman? Did an important event take place in it? National Historic Landmarks, designated for their "exceptional significance in American history," or many buildings individually listed in the National Register often warrant *Preservation* or *Restoration*. Buildings that contribute to the significance of a historic district but are not individually listed in the National Register more frequently undergo *Rehabilitation* for a compatible new use.

**Physical condition.** What is the existing condition--or degree of material integrity--of the building prior to work? Has the original form survived largely intact or has it been altered over time? Are the alterations an important part of the building's history? *Preservation* may be appropriate if distinctive materials, features, and spaces are essentially intact and convey the building's historical significance. If the building requires more extensive repair and replacement, or if alterations or additions are necessary for a new use, then *Rehabilitation* is probably the most appropriate treatment. These key questions play major roles in determining what treatment is selected.

**Proposed use.** An essential, practical question to ask is: Will the building be used as it was historically or will it be given a new use? Many historic buildings can be adapted for new uses without seriously damaging their historic character; special-use properties such as grain silos, forts, ice houses, or windmills may be extremely difficult to adapt to new uses without major intervention and a resulting loss of historic character and even integrity.

**Mandated code requirements.** Regardless of the treatment, code requirements will need to be taken into consideration. But if hastily or poorly designed, code-required work may jeopardize a building's materials as well as its historic character. Thus, if a building needs to be seismically upgraded, modifications to the historic appearance should be minimal. Abatement of lead paint and asbestos within historic buildings requires particular care if important historic finishes are not to be adversely affected. Finally, alterations and new

construction needed to meet accessibility requirements under the Americans with Disabilities Act of 1990 should be designed to minimize material loss and visual change to a historic building.

## **Standards for Preservation**

Preservation is defined as the act or process of applying measures necessary to sustain the existing form, integrity, and materials of an historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. New exterior additions are not within the scope of this treatment; however, the limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project.

1. A property will be used as it was historically, or be given a new use that maximizes the retention of distinctive materials, features, spaces, and spatial relationships. Where a treatment and use have not been identified, a property will be protected and, if necessary, stabilized until additional work may be undertaken.
2. The historic character of a property will be retained and preserved. The replacement of intact or repairable historic materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.
3. Each property will be recognized as a physical record of its time, place, and use. Work needed to stabilize, consolidate, and conserve existing historic materials and features will be physically and visually compatible, identifiable upon close inspection, and properly documented for future research.
4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
6. The existing condition of historic features will be evaluated to determine the appropriate level of intervention needed. Where the severity of deterioration requires repair or limited replacement of a distinctive feature, the new material will match the old in composition, design, color, and texture.
7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.



**Preservation as a Treatment.** When the property's distinctive materials, features, and spaces are essentially intact and thus convey the historic significance without extensive repair or replacement; when depiction at a particular period of time is not appropriate; and when a continuing or new use does not require additions or extensive alterations, Preservation may be considered as a treatment.

## **Standards for Rehabilitation**

Rehabilitation is defined as the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values.

1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.
3. Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.
4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

10. New additions and adjacent or related new construction will be undertaken in a such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

**Rehabilitation as a treatment.** When repair and replacement of deteriorated features are necessary; when alterations or additions to the property are planned for a new or continued use; and when its depiction at a particular period of time is not appropriate, Rehabilitation may be considered as a treatment.

## **Standards for Restoration**

Restoration is defined as the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project.

1. A property will be used as it was historically or be given a new use which reflects the property's restoration period.
2. Materials and features from the restoration period will be retained and preserved. The removal of materials or alteration of features, spaces, and spatial relationships that characterize the period will not be undertaken.
3. Each property will be recognized as a physical record of its time, place, and use. Work needed to stabilize, consolidate and conserve materials and features from the restoration period will be physically and visually compatible, identifiable upon close inspection, and properly documented for future research.
4. Materials, features, spaces, and finishes that characterize other historical periods will be documented prior to their alteration or removal.
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize the restoration period will be preserved.
6. Deteriorated features from the restoration period will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials.
7. Replacement of missing features from the restoration period will be substantiated by documentary and physical evidence. A false sense of history will not be created by adding conjectural features, features from other properties, or by combining features that never existed together historically.

8. chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
9. Archeological resources affected by a project will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
10. Designs that were never executed historically will not be constructed.

**Restoration as a treatment.** When the property's design, architectural, or historical significance during a particular period of time outweighs the potential loss of extant materials, features, spaces, and finishes that characterize other historical periods; when there is substantial physical and documentary evidence for the work; and when contemporary alterations and additions are not planned, Restoration may be considered as a treatment. Prior to undertaking work, a particular period of time, i.e., the restoration period, should be selected and justified, and a documentation plan for Restoration developed.

## Standards for Reconstruction

Reconstruction is defined as the act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

1. Reconstruction will be used to depict vanished or non-surviving portions of a property when documentary and physical evidence is available to permit accurate reconstruction with minimal conjecture, and such reconstruction is essential to the public understanding of the property.
2. Reconstruction of a landscape, building, structure, or object in its historic location will be preceded by a thorough archeological investigation to identify and evaluate those features and artifacts which are essential to an accurate reconstruction. If such resources must be disturbed, mitigation measures will be undertaken.
3. Reconstruction will include measures to preserve any remaining historic materials, features, and spatial relationships.
4. Reconstruction will be based on the accurate duplication of historic features and elements substantiated by documentary or physical evidence rather than on conjectural designs or the availability of different features from other historic properties. A reconstructed property will re-create the appearance of the non-surviving historic property in materials, design, color, and texture.
5. A reconstruction will be clearly identified as a contemporary re-creation.
6. Designs that were never executed historically will not be constructed.

**Reconstruction as a treatment.** When a contemporary depiction is required to understand and interpret a property's historic value (including the re-creation of missing components in a historic district or site ); when no other property with the same associative value has survived; and when sufficient historical documentation exists to ensure an accurate reproduction, Reconstruction may be considered as a treatment.

## **Appendix F: A Guide to Planning In California**

STATE OF CALIFORNIA  
Pete Wilson, Governor

GOVERNOR'S OFFICE OF PLANNING AND RESEARCH  
1400 Tenth Street  
Sacramento, CA 95814  
(916) 445-0613

Lee Grissom, Director, Office of Planning and Research  
Robert Cervantes, Chief, Planning Unit  
Antero Rivasplata, Chief, State Clearinghouse

March 1988, Revised August 1990

---

### **Introduction**

This is a citizen's guide to land use planning as it is practiced in California. Its purpose is to explain, in general terms, how local communities regulate land use and to define some commonly used planning terms. The booklet covers the following topics:

- State Law and Local Planning
- The General Plan
- Zoning
- Subdivisions
- Other Ordinances and Regulations
- Annexation and Incorporation
- The California Environmental Quality Act
- A Glossary of Planning Terms
- Bibliography

Cities and counties "plan" in order to identify important community issues (such as new growth, housing needs, and environmental protection), project future demand for services (such as sewer, water, roads, etc.), anticipate potential problems (such as overloaded sewer facilities or crowded roads), and establish goals and policies for directing and managing growth. Local governments use a variety of tools in the planning process including the general plan, specific plans, zoning, and the subdivision ordinance.

The examples to be discussed here represent common procedures or methods, but are by no means the only way of doing things. State law establishes a framework for local planning procedures, but cities and counties adopt their own unique responses to the issues they face. The reader is encouraged to consult the bibliography for more information on planning in general and to contact your local planning department for information on planning in your community.

## **State and Local Planning**

State law is the foundation for local planning in California. The California Government Code (Sections 65000 et seq.) contains many of the laws pertaining to the regulation of land uses by local governments including: the general plan requirement, specific plans, subdivisions, and zoning.

However, the State is seldom involved in local land use and development decisions; these have been delegated to the city councils and boards of supervisors of the individual cities and counties. Local decisionmakers have adopted their own sets of land use policies and regulations based upon the state laws.

### **Plan and Ordinances**

There are currently 456 incorporated cities and 58 counties in California. State law requires that each of these jurisdictions adopt "a comprehensive, long-term general plan for [its] physical development." This general plan is the official city or county policy regarding the location of housing, business, industry, roads, parks, and other land uses, protection of the public from noise and other environmental hazards, and for the conservation of natural resources. The legislative body of each city (the city council) and each county (the board of supervisors) adopts zoning, subdivision and other ordinances to regulate land uses and to carry out the policies of its general plan.

There is no requirement that adjoining cities or cities and counties have identical, or even similar, plans and ordinances. Cities and counties are distinct and independent political units. Each city, through its council and each county, through its supervisors, adopts its own general plan and development regulations. In turn, each of these governments is responsible for the planning decisions made within its jurisdiction.

### **Hearing Bodies**

In most communities, the city council or board of supervisors has appointed one or more hearing bodies to assist them with planning matters. The titles and responsibilities of these groups vary from place-to-place, so check with your local planning department regarding regulations in your area. Here are some of the more common types of hearing bodies and their usual responsibilities:

***The Planning Commission:*** considers general plan and specific plan amendments, zone changes, and major subdivisions.

**The Zoning Adjustment Board:** considers conditional use permits, variances, and other minor permits.

**Architectural Review or Design Review Board:** reviews projects to ensure that they meet community aesthetic standards. In some cities and counties, these bodies simply advise the legislative body on the proposals that come before them, leaving actual approval to the council or board of supervisors. More commonly, these bodies have the power to approve proposals, subject to appeal to the council or board of supervisors. These hearing bodies, however, do not have final say on matters of policy such as zone changes and general or specific plan amendments.

### **Hearings**

State law requires that local governments hold public hearings prior to most planning actions. At the hearing, the council or supervisors or advisory commission will explain the proposal, consider it in light of local regulations and environmental effects, and listen to testimony from interested parties. The council, board, or commission will vote on the proposal at the conclusion of the hearing.

Depending upon each jurisdiction's local ordinance, public hearings are not always required for minor land subdivisions, architectural or design review or ordinance interpretations. The method of advertising hearings may vary. Counties and general law cities publish notice of general plan adoption and amendment in the newspaper. Notice of zone change, conditional use permit, variance, and subdivision tracts is published in the newspaper and mailed to nearby property owners. Charter cities may have other notification procedures.

## **The General Plan**

### **The Blueprint**

The local general plan can be described as the city's or county's "blueprint" for future development. It represents the community's view of its future; a constitution made up of the goals and policies upon which the city council, board of supervisors, or planning commission will base their land use decisions. To illustrate its importance, all subdivisions, public works projects, and zoning decisions (except in charter cities other than Los Angeles) must be consistent with the general plan. If inconsistent, they must not be approved.

### **Long-Range Emphasis**

The general plan is not the same as zoning. Although both designate how land may be developed, they do so in different ways. The general plan and its diagrams have a long-term outlook, identifying the types of development that will be allowed, the spatial relationships among land uses, and the general pattern of future development. Zoning regulates present development through specific standards such as lot size, building setback, and a list of allowable uses. In counties and general law cities, the land uses shown on the general plan diagrams will usually be reflected in the local zoning maps as

well. Development must not only meet the specific requirements of the zoning ordinance, but also the broader policies set forth in the local general plan.

### Contents

State law requires that each city and each county adopt a general plan containing the following seven components or "elements": land use, circulation, housing, conservation, open-space, noise, and safety (Government Code Sections 65300 et seq.). At the same time, each jurisdiction is free to adopt a wide variety of additional elements covering subjects of particular interest to that jurisdiction such as recreation, urban design, or public facilities.

Most general plans consist of: (1) a written text discussing the community's goals, objectives, policies, and programs for the distribution of land use; and, (2) one or more diagrams or maps illustrating the general location of existing and future land uses. Figure 1 is an example of a general plan diagram.

Each local government chooses its own general plan format. The plan may be relatively short or long, one volume or ten volumes, depending upon local needs. Some communities, such as the City of San Jose, have combined the required elements into one document and most communities have adopted plans which consolidate the elements to some extent. State law requires that local governments make copies of their plans available to the public for the cost of reproduction.

### Planning Issues

Although state law establishes a set of basic issues for consideration in local general plans, each city and county determines the relative importance of each issue to local planning and decides how they are to be addressed in the general plan. As a result, no two cities or counties have plans which are exactly alike in form or content. Here is a summary of the basic issues, by element:

The **land use element** designates the general location and intensity of housing, business, industry, open space, education, public buildings and grounds, waste disposal facilities, and other land uses.

The **circulation element** identifies the general location and extent of existing and proposed major roads, transportation routes, terminals, and public utilities and facilities. It must be correlated with the land use element.

The **housing element** is a comprehensive assessment of current and projected housing needs for all economic segments of the community and region. It sets forth local housing policies and programs to implement those policies.

The **conservation element** addresses the conservation, development, and use of natural resources including water, forests, soils, rivers, and mineral deposits.

The **open-space element** details plans and measures for preserving open-space for natural resources, the managed production of resources, outdoor recreation, public health and safety, and the identification of agricultural land.



The **noise element** identifies and appraises noise problems within the community and forms the basis for distributing new noise-sensitive land uses.

The **safety element** establishes policies and programs to protect the community from risks associated with seismic, geologic, flood, and wildfire hazards.

### **Approving the Plan**

The process of adopting or amending a general plan encourages public participation. Cities and counties must hold public hearings for such proposals. Advance notice of the place and time of the hearing must be published in the newspaper or posted in the vicinity of the site proposed for change. Prior to approval, hearings will be held by the planning commission and the city council or board of supervisors.

### **Community and Specific Plans**

"Community plans" and "specific plans" are often used by cities and counties to plan the future of a particular area at a finer level of detail than that provided by the general plan. A community plan is a portion of the local general plan focusing on the issues pertinent to a particular area or community within the city or county. It supplements the policies of the general plan.

Specific plans describe allowable land uses, identify open space, and detail infrastructure availability and financing for a portion of the community. Specific plans implement, but are not technically a part of the local general plan. In some jurisdictions, specific plans take the place of zoning. Zoning, subdivision, and public works decisions must be in accordance with the specific plan.

## **Zoning**

The general plan is a long-range look at the future of the community. A zoning ordinance is the local law that spells out the immediate, allowable uses for each piece of property within the community. In all counties, general law cities, and the city of Los Angeles, zoning must comply with the general plan. The purpose of zoning is to implement the policies of the general plan.

### **Zones**

Under the concept of zoning, various kinds of land uses are grouped into general categories or "zones" such as single-family residential, multi-family residential, neighborhood commercial, light industrial, agricultural, etc. A typical zoning ordinance describes 20 or more different zones which may be applied to land within the community. Each piece of property in the community is assigned a zone listing the kinds of uses that will be allowed on that land and setting standards such as minimum lot size, maximum building height, and minimum front yard depth. The distribution of residential, commercial, industrial, and other zones will be based on the pattern of land uses established in the community's general plan. Maps are used to keep track of the zoning for each piece of land.

Zoning is adopted by ordinance and carries the weight of local law. Land may be put only to those uses listed in the zone assigned to it. For example, if a commercial zone does not allow five-story office buildings, then no such building could be built on the lands which have been assigned that zone. A zoning ordinance has two parts: (1) a precise map or maps illustrating the distribution of zones within the community; and, (2) a text which both identifies the specific land uses allowed within each of those zones and sets forth development standards.

### **Rezoning**

The particular zone determines the uses to which land may be put. If a landowner proposes a use that is not allowed in the zone, the city or county must approve a rezoning (change in zone) before development of that use can begin. The local planning commission and the city council or county board of supervisors must hold public hearings before property may be rezoned. The hearings must be advertised in advance. The council or board is not obligated to approve requests for rezoning and, except in charter cities, must deny such requests when the proposed zone conflicts with the general plan.

### **Overlay Zones**

In addition to the zoning applied to each parcel of land, many cities and counties use "overlay zones" to further regulate development in areas of special concern. Lands in historic districts, downtowns, floodplains, near earthquake faults or on steep slopes are often subject to having additional regulations "overlain" upon the basic zoning requirements. For example, a lot that is within a single-family residential zone and also subject to a steep-slope overlay zone, must meet the requirements of both zones when it is developed.

### **Prezoning**

Cities may "prezone" lands located within the surrounding county in the same way that they approve zoning. Prezoning is usually done before annexation of the land to the city in order to facilitate its transition into the city boundaries. Prezoning does not change the allowable uses of the land nor the development standards until such time as the site is officially annexed to the city. Likewise, land that has been prezoned continues to be subject to county zoning regulations until annexation is completed.

### **Variances**

A variance is a limited waiver of development standards. The city or county may grant a variance in special cases where: (1) application of the zoning regulations would deprive property of the uses enjoyed by nearby, similarly zoned lands; and (2) restrictions have been imposed to ensure that the variance will not be a grant of special privilege. A city or county may not grant a variance that would permit a use that is not otherwise allowed in that zone (for example, a commercial use could not be approved in a residential zone by variance). Typically, variances are considered when the physical characteristics of the property make it difficult to develop. For instance, in a situation where the rear half of a lot is a steep slope, a variance might be approved to allow the house being built to be closer to the street than usually allowed. Variance requests require a public hearing and neighbors are given the opportunity to testify. The local hearing body then decides whether to approve or deny the variance.

### **Conditional Use Permits**

Most zoning ordinances identify certain land uses which do not precisely fit into existing zones, but which may be allowed upon approval of a conditional use permit (sometimes called a special use permit or a CUP) at a public hearing. These might include community facilities (such as hospitals or schools), public buildings or grounds (such as fire stations or parks), temporary or hard-to-classify uses (such as Christmas tree sales or small engine repair), or land uses with potentially significant environmental impacts (hazardous chemical storage or building a house in a floodplain). The local zoning ordinance specifies those uses for which a conditional use permit may be requested, which zones they may be requested in, and the public hearing procedure. If the local planning commission or zoning board approves the use, it will usually do so subject to certain conditions being met by the permit applicant. Alternatively, it may deny uses which do not meet local standards.

### **Subdivisions**

In general, land cannot be divided in California without local government approval. Dividing land for sale, lease or financing is regulated by local ordinances based on the State Subdivision Map Act (commencing with Government Code Section 66410). The local general plan, zoning, subdivision, and other ordinances govern the design of the subdivision, the size of its lots, and the types of improvements (street construction, sewer lines, drainage facilities, etc.). In addition, the city or county may impose a variety of fees upon the subdivision, depending upon local and regional needs, such as school impact fees, park dedications, etc. Contact your local planning department for information on local requirements and procedures.

#### **Subdivision Types**

There are basically two types of subdivisions: parcel maps, which are limited to divisions resulting in fewer than five lots (with certain exceptions), and final map subdivisions (also called tract maps), which apply to divisions resulting in five or more lots. Applications for both types of subdivisions must be submitted to the local government for consideration in accordance with the local subdivision ordinance and the Subdivision Map Act.

#### **Processing**

Upon receiving an application for a subdivision map, the city or county staff will examine the design of the subdivision to ensure that it meets the requirements of the general plan, the zoning ordinance, and the subdivision ordinance. An environmental impact analysis must be prepared and a public hearing held prior to approval of a tentative tract map. Parcel maps may also be subject to a public hearing, depending upon the requirements of the local subdivision ordinance.

#### **Final Approval**

Approval of a subdivision map generally means that the subdivider will be responsible for installing improvements such as streets, drainage facilities or sewer lines to serve the subdivision. These improvements must be installed or secured by bond before the city or county will grant final approval of the map and allow the subdivision to be recorded in the

county recorder's office. Lots within the subdivision cannot be sold until the map has been recorded. The subdivider has at least two years (and depending upon local ordinance, usually more) in which to comply with the improvement requirements, gain final administrative approval, and record the final map. Parcel map requirements may vary dependent upon local ordinance requirements.

## **Other Ordinances and Regulations**

Cities and counties often adopt other ordinances besides zoning and subdivision to protect the general health, safety, and welfare of their inhabitants. Contact your local planning department for information on the particular ordinances in effect in your area. Common types include: flood protection, historic preservation, design review, hillside development control, growth management, impact fees, traffic management, and sign control.

Local ordinances may also be adopted in response to state requirements. Examples include: Local Coastal Programs (California Coastal Act); surface mining regulations (Surface Mining and Reclamation Act); earthquake hazard standards (Alquist-Priolo Special Studies Zone Act); and hazardous material disclosure requirements. These regulations are generally based on the applicable state law.

## **Annexation and Incorporation**

### **The LAFCO**

Annexation (the addition of territory to an existing city) and incorporation (creation of a new city) are controlled by the Local Agency Formation Commission (LAFCO) established in each county by the state's Cortese-Knox Act (commencing with Government Code Section 56000). The commission is made up of elected officials from the county, cities, and, in some cases, special districts. LAFCO duties include: establishing the "spheres of influence" that designate the ultimate service areas of cities and special districts; studying and approving requests for city annexations; and, studying and approving proposals for city incorporations. Below is a very general discussion of annexation and incorporation procedures. For detailed information on this complex subject, contact your county LAFCO.

### **Annexation**

When the LAFCO receives an annexation request, it will convene a hearing to determine the worthiness of the proposal and may deny or conditionally approve the request based on the policies of the LAFCO and state law. Annexation requests which receive tentative approval are delegated to the affected city for hearings and, if necessary, an election. Annexations which have been passed by vote of the inhabitants or which have not been defeated by protest (in cases where no election was required) must be certified by the LAFCO as to meeting all its conditions before they become final. It is the LAFCO, not the city, that is ultimately responsible for the annexation process.

### **Incorporation**

When the formation of a new city is proposed, the LAFCO studies the economic feasibility of the proposed city, its impact on county and special districts, and the provision of public services. If the feasibility of the proposed city cannot be shown, the LAFCO can terminate the proceedings. If the proposed city appears to be feasible, LAFCO will refer the proposal to the county board of supervisors for hearing along with a set of conditions to be met upon to incorporation. If the supervisors do not receive protests from a majority of the involved voters, an election will be held to create the city and elect city officials.

## **The California Environmental Quality Act (CEQA)**

The California Environmental Quality Act (commencing with Public Resources Code Section 21000) requires local and state governments to consider the potential environmental effects of a project before deciding whether to approve it or not. CEQA's purpose is to disclose the potential impacts of a project, suggest methods to minimize those impacts, and discuss alternatives to the project so that decision makers will have full information upon which to base their decision. CEQA is a complex law with a great deal of subtlety and local variation.

---

The following discussion is *extremely* general. The basic requirements and administrative framework for local governments' CEQA responsibilities are described in the *California Environmental Quality Act: Law and Guidelines*. For more information, readers should contact their local planning department or refer to the CEQA listings in the bibliography.

### **Lead Agency**

The "lead agency" is responsible for seeing that environmental review is done in accordance with CEQA and that environmental analyses are prepared when necessary. The agency with the principal responsibility for issuing permits to a project (or for carrying out the project) is deemed to be the "lead agency". As lead agency, it may prepare the environmental analysis itself or it may contract for the work to be done under its direction. In practically all local planning matters (such as rezoning, conditional use permits, and specific plans) the planning department is the lead agency.

### **Analysis**

Analyzing a project's potential environmental effect is a multistep process. Many minor projects are exempt from the CEQA requirements. These include single-family homes, remodeling, accessory structures, and some lot divisions (for a complete list refer to *California Environmental Quality Act: Law and Guidelines*). No environmental review is required when a project is exempt from CEQA.

When a project is subject to review under CEQA, the lead agency prepares an "initial study" to assess the potential adverse physical impacts of the proposal. When the project will not cause a "significant" impact on the environment or when it has been revised to eliminate all such impacts, a "negative declaration" is prepared. The negative declaration describes why the project will not have a significant impact and may require that the project incorporate a number of measures ensuring that there will be no such impact. If significant

environmental effects are identified, then an Environmental Impact Report (EIR) must be written before the project can be considered by decision makers.

### **The EIR**

An EIR discusses the proposed project, its environmental setting, its probable impacts, realistic means of reducing or eliminating those impacts, its cumulative effects, and alternatives to the project. CEQA requires that Negative Declarations and EIRs be made available for review by the public and other agencies prior to consideration of the project. The review period allows concerned citizens and agencies to comment on the completeness and adequacy of the environmental review prior to its completion. When the decision making body (the city council, board of supervisors, or other board or commission) approves a project, it must certify the adequacy of the environmental review. If its decision to approve a project will result in unavoidable significant impacts, the decision making body must state, in writing, its overriding reasons for granting the approval and how the impacts are to be addressed.

An EIR is an informational document. It does not, in itself, approve or deny a project. Environmental analysis must be done as early as possible in the process of considering a project and must address the entire project. There are several different types of EIRs that may be prepared, depending upon the project. They are described in the *California Environmental Quality Act: Law and Guidelines* written by the Governor's Office of Planning and Research and the Resources Agency.

## **Glossary**

*These are some commonly used planning terms. This list includes several terms that are not discussed in this booklet.*

### **Board of Supervisors**

A county's legislative body. Board members are elected by popular vote and are responsible for enacting ordinances, imposing taxes, making appropriations, and establishing county policy. The board adopts the general plan, zoning, and subdivision regulations.

### **CEQA**

The California Environmental Quality Act (commencing with Public Resources Code Section 21000). In general, CEQA requires that all private and public projects be reviewed prior to approval for their potential adverse effects upon the environment.

### **Charter City**

A city which has been incorporated under its own charter rather than under the general laws of the state. Charter cities have broader powers to enact land use regulations than do general law cities.

### **City Council**

A city's legislative body. The popularly elected city council is responsible for enacting ordinances, imposing taxes, making appropriations, establishing policy, and hiring some city officials. The council adopts the local general plan, zoning, and subdivision ordinance.

### **COG**

Council of Governments. There are 25 COGs in California made up of elected officials from member cities and counties. COGs are regional agencies concerned primarily with transportation planning and housing; they do not directly regulate land use.

### **Community Plan**

A portion of the local general plan that focuses on a particular area or community within the city or county. Community plans supplement the policies of the general plan.

### **Conditional Use Permit**

Pursuant to the zoning ordinance, a conditional use permit (CUP) may authorize uses not routinely allowed on a particular site. CUPs require a public hearing and if approval is granted, are usually subject to the fulfillment of certain conditions by the developer. Approval of a CUP is not a change in zoning.

### **Density Bonus**

An increase in the allowable number of residences granted by the city or county in return for the project's providing low- or moderate-income housing (see Government Code Section 65915).

### **Design Review Committee**

A group appointed by the city council to consider the design and aesthetics of development within design review zoning districts.

### **Development Fees**

Fees charged to developers or builders as a prerequisite to construction or development approval. The most common are: (1) impact fees (such as parkland acquisition fees, school facilities fees, or street construction fees) related to funding public improvements which are necessitated in part or in whole by the development; (2) connection fees (such as water line fees) to cover the cost of installing public services to the development; (3) permit fees (such as building permits, grading permits, sign permits) for the administrative costs of processing development plans; and, (4) application fees (rezoning, CUP, variance, etc.) for the administrative costs of reviewing and hearing development proposals.

### **Downzone**

This term refers to the rezoning of land to a more restrictive zone (for example, from multi-family residential to single-family residential or from residential to agricultural).

### **EIR**

Environmental Impact Report. A detailed review of a proposed project, its potential adverse impacts upon the environment, measures that may avoid or reduce those impacts, and alternatives to the project.

**Final Map Subdivision**

Final map subdivisions (also called tract maps or major subdivisions) are land divisions which create five or more lots. They must be consistent with the general plan and are generally subject to stricter requirements than parcel maps. Such requirements may include installing road improvements, the construction of drainage and sewer facilities, parkland dedications, and more.

**Floor Area Ratio**

Abbreviated as FAR, this is a measure of development intensity. FAR is the ratio of the amount of floor area of a building to the amount of area of its site. For instance, a one-story building that covers an entire lot has an FAR of 1. Similarly, a one-story building that covers 1/2 of a lot has an FAR of 1/2.

**General Law City**

A city incorporated under and run in accordance with the general laws of the state.

**General Plan**

A statement of policies, including text and diagrams setting forth objectives, principles, standards, and plan proposals, for the future physical development of the city or county (see Government Code Sections 65300 et seq.).

**"Granny" Housing**

Typically, this refers to a second dwelling attached to or separate from the main residence that houses one or more elderly persons. California Government Code 65852.1 enables cities and counties to approve such units in single-family neighborhoods.

**Impact Fees**

*See Development Fees.*

**Infrastructure**

A general term describing public and quasi-public utilities and facilities such as roads, bridges, sewers and sewer plants, water lines, power lines, fire stations, etc.

**Initial Study**

Pursuant to CEQA, an analysis of a project's potential environmental effects and their relative significance. An initial study is preliminary to deciding whether to prepare a negative declaration or an EIR.

**Initiative**

A ballot measure which has been placed on the election ballot as a result of voter signatures and which addresses a legislative action. At the local level, initiatives usually focus on changes or additions to the general plan and zoning ordinance. The right to initiative is guaranteed by the California Constitution.

**LAFCO**

Local Agency Formation Commission. The Cortese-Knox Act (commencing with Government Code Section 56000) establishes a LAFCO made up of elected officials of



the county, cities, and, in some cases, special districts in each county. LAFCOs establish spheres of influence for all the cities and special districts within the county. They also administer incorporation and annexation proposals.

### **Mitigation Measure**

The California Environmental Quality Act requires that when an environmental impact or potential impact is identified, measures must be proposed that will eliminate, avoid, rectify, compensate for or reduce those environmental effects.

### **Negative Declaration**

When a project is not exempt from CEQA and will not have a significant effect upon the environment a negative declaration must be written. The negative declaration is an informational document that describes the reasons why the project will not have a significant effect and proposes measures to mitigate or avoid any possible effects.

### **Overlay Zone**

A set of zoning requirements that is superimposed upon a base zone. Overlay zones are generally used when a particular area requires special protection (as in a historic preservation district) or has a special problem (such as steep slopes, flooding or earthquake faults). Development of land subject to overlay zoning requires compliance with the regulations of both the base and overlay zones.

### **Parcel Map**

A minor subdivision resulting in fewer than five lots. The city or county may approve a parcel map when it meets the requirements of the general plan and all applicable ordinances. The regulations governing the filing and processing of parcel maps are found in the state Subdivision Map Act and the local subdivision ordinance.

### **Planned Unit Development (PUD)**

Land use zoning which allows the adoption of a set of development standards that are specific to the particular project being proposed. PUD zones usually do not contain detailed development standards; these are established during the process of considering the proposals and adopted by ordinance if the project is approved.

### **Planning Commission**

A group of residents appointed by the city council or board of supervisors to consider land use planning matters. The commission's duties and powers are established by the local legislative body and might include hearing proposals to amend the general plan or rezone land, initiating planning studies (road alignments, identification of seismic hazards, etc.), and taking action on proposed subdivisions.

### **Referendum**

A ballot measure challenging a legislative action by the city council or county board of supervisors. Referenda petitions must be filed before the action becomes final and may lead to an election on the matter. The California Constitution guarantees the right to referendum.

**School Impact Fees**

Proposition 13 put a limit on property taxes and thereby limited the main source of funding for new school facilities. California law allows school districts to impose fees on new developments to offset their impacts of area schools.

**Setback**

A minimum distance required by zoning to be maintained between two structures or between a structure and property lines.

**Specific Plan**

A plan addressing land use distribution, open space availability, infrastructure, and infrastructure financing for a portion of the community. Specific plans put the provisions of the local general plan into action (see Government Code Sections 65450 et seq.).

**Tentative Map**

The map or drawing illustrating a subdivision proposal. The city or county will approve or deny the proposed subdivision based upon the design depicted by the tentative map. A subdivision is not complete until the conditions of approval imposed upon the tentative map have been satisfied and a final map has been certified by the city or county and recorded with the county recorder.

**Tract Map**

*See final map subdivision.*

**Transportation Systems Management (TSM)**

A transportation plan that coordinates many forms of transportation (car, bus, carpool, rapid transit, bicycle, walking, etc.) in order to distribute the traffic impacts of new development. Rather than emphasizing road expansion or construction (as does traditional transportation planning), TSM examines methods of increasing the efficiency of road use.

**Variance**

A limited waiver from the requirements of the zoning ordinance. Variance requests are subject to public hearing, usually before a zoning administrator or board of zoning adjustment. Variances may only be granted under special circumstances.

**Zoning**

Local codes regulating the use and development of property. The zoning ordinance divides the city or county into land use districts or "zones", represented on zoning maps, and specifies the allowable uses within each of those zones. It establishes development standards such as minimum lot size, maximum height of structures, building setbacks, and yard size.

**Zoning Adjustment Board**

A group appointed by the local legislative body to consider minor zoning adjustments such as conditional use permits and variances. It is empowered to conduct public hearings and to impose conditions of approval. Its decisions may be appealed to the local legislative body.

### **Zoning Administrator**

A planning department staff member responsible for hearing minor zoning permits. Typically, the zoning administrator considers variances and conditional use permits and may interpret the provisions of the zoning ordinance when questions arise. His/her decision may be appealed to the local legislative body.

## **Bibliography: A Few Good Books**

*The reader is encouraged to refer to the following books for a better understanding of planning in California.*

**Alternative Techniques for Controlling Land Use: A Guide to Small Cities and Rural Areas in California**, by Irving Schiffman (University Center for Economic Development and Planning, California State University, Chico) 1982, revised 1989. *This book discusses, in detail, concepts such as hillside development standards, planned unit development, and specific plans.*

**California Environmental Quality Act: Statutes and Guidelines** (Governor's Office of Planning and Research, Sacramento, California) 1996, 301 pp. The CEQA Guidelines describe the requirements for evaluating environmental impacts. Out of Print, check in the government documents section of your local library.

**California Land Use and Planning Law**, by Daniel J. Curtin Jr., (Solano Press, Pt. Arena, California) revised annually. A look at the planning, zoning, subdivision, and environmental quality laws that is illustrated by references to numerous court cases.

**The General Plan Guidelines** (Governor's Office of Planning and Research, Sacramento, California) 1987, 368 pp. *The Guidelines discuss local planning activities and how to write or revise a general plan.*

**Guide to California Government**, (League of Women Voters of California, Sacramento, California) 13th Edition, 1986, 167 pp. An excellent summary of the processes of local and state government.

**Guide to the Cortese/Knox Local Government Reorganization Act of 1985**, by the Assembly Local Government Committee (Joint Publications Office, Sacramento, California), 1985, 228 pp. A compilation of the law that authorizes annexations and other local government reorganizations. It contains a flowchart illustrating the annexation process.

**Planning Commission Handbook** (League of California Cities, Sacramento, California) 1984. A well-written overview of the role of the planning commission and California planning law.

**Subdivision Map Act Manual**, by Daniel J. Curtin, Jr., (Solano Press, Pt. Arena, California), revised annually. A practitioner's guide to the Map Act, including pertinent legal precedents.

**Your Guide to Open Meetings, The Ralph M. Brown Act**, by the Senate Local Government Committee (Joint Publications Office, Sacramento, California), 1989. An easy to read explanation of the state's open meeting laws and the responsibilities of local government with regard to public meetings.

## Appendix G: Information Center Contact list

The following institutions are under agreement with the Office of Historic Preservation to:

1. Integrate information on new Resources and known Resources into the California Historical Resources Information System.
  2. Supply information on resources and surveys to government, institutions, and individuals who have a need to know.
  3. Supply a list of consultants qualified to do historic preservation fieldwork within their area.
- COORDINATOR: John Thomas, Historian II, (916) 653-9125

### Northwest Information Center

Counties: **Alameda, Colusa, Contra Costa, Lake, Marin, Mendocino, Monterey, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Yolo**

Ms. Leigh Jordan, Coordinator  
Sonoma State University, 1801 East Cotati Ave, Rohnert Park CA 94928  
(707) 664-2494, Fax (707) 664-3947  
nwic@sonoma.edu

### Northeast Information Center

Counties: **Butte, Glenn, Lassen, Modoc, Plumas, Shasta, Sierra, Siskiyou, Sutter, Tehama, Trinity**

Dr. Frank Bayham, Interim Coordinator  
Dept of Anthropology, Langdon 303,  
California State University, Chico CA 95929-0400  
Attn: Luchia Ledwith, Interim Asst Coordinator  
(530) 898-6256, Fax (530) 898-4413, please call first  
neinfocntr@csuchico.edu

### North Central Information Center

Counties: **Amador, El Dorado, Nevada, Placer, Sacramento, Yuba**

Dr. Christopher Castaneda, Coordinator, Dr. Terry Castaneda, Coordinator  
Dept of Anthropology, California State University, 6000 J St, Sacramento CA 95819-6106  
Attn: Marianne Russo  
(916) 278-6217, Fax (916) 278-5162  
ncic@csus.edu

### Central California Information Center

Counties: **Alpine, Calaveras, Mariposa, Merced, San Joaquin, Stanislaus, Tuolumne**

Ms. Elizabeth A. Greathouse, Coordinator  
Dept of Anthropology, California State University, 801 W Monte Vista Ave, Turlock CA 95382  
(209) 667-3307, Fax (209) 667-3324  
egreatho@toto.csustan.edu

### Central Coastal Information Center

Counties: **San Luis Obispo, Santa Barbara**

Dr. Michael A. Glassow, Coordinator  
Dept of Anthropology, University of California, Santa Barbara CA 93106  
Attn: Harry Starr  
(805) 893-2474, Fax (805) 893-8707  
hes0@umail.ucsb.edu

### Southern San Joaquin Valley Information Center

Counties: **Fresno, Kern, Kings, Madera, Tulare**

Dr. Robert Yohe, Coordinator  
California State University, 9001 Stockdale Hwy, Bakersfield CA 93311-1099  
Attn: Adele Baldwin  
(661) 664-2289, Fax (661) 664-2415  
abaldwin@subak.edu;  
<http://www.csubak.edu/ssjvic>

### San Bernardino Archeological Information Center

Counties: **San Bernardino**

Robin Laska, Acting Coordinator

San Bernardino County Museum, 2024  
Orange Tree Ln, Redlands CA 92374  
(909) 307-2669 ext. 255, Fax (909) 307-  
0539  
rlaska@earthlink.net

Yurok Tribe, 15900 Highway 101 N, Klamath  
CA 95548  
(707) 482-1822, Fax (707) 482-1722  
tgates@yuroktribe.nsn.us

South Central Coastal Information Center  
Counties: **Los Angeles, Orange, Ventura**  
Margaret Lopez, Coordinator  
California State University, Dept of  
Anthropology, 800 N State College Blvd, PO  
Box 6846, Fullerton CA 92834-6846  
(714) 278-5395, Fax (714) 278-5542  
sccic@fullerton.edu,  
<http://anthro.fullerton.edu/sccic.html>

Eastern Information Center  
Counties: **Inyo, Mono, Riverside**  
Dr. M. C. Hall, Coordinator  
Dept of Anthropology, University of  
California, Riverside CA 92521-0418  
Attn: Kay White  
(909) 787-5745, Fax (909) 787-5409  
eickw@ucr.ac1.ucr.edu

South Coastal Information Center  
Counties: **San Diego**  
Dr. Lynne Christenson, Coordinator  
Social Sciences Research Laboratory, 5500  
Campanile Dr, San Diego State University,  
San Diego CA 92182-4537  
Attn: Carrie Gregory  
(619) 594-5682, Fax (619) 594-1358  
lchriste@mail.sdsu.edu,  
<http://ssrl.sdsu.edu/scic/scic.html>

Southeast Information Center  
Counties: **Imperial**  
Mr. Jay von Werlhof, Coordinator  
Imperial Valley College Desert Museum, PO  
Box 430, Ocotillo CA 92259  
physical location: 11 Frontage Rd  
Attn: Karen Collins  
(760) 358-7016, FAX (760) 358-7827  
ivcdm@imperial.cc.ca.us

North Coastal Information Center  
Counties: **Del Norte, Humboldt**  
Dr. Thomas Gates, Coordinator

## **Appendix H: City of San Diego Sample Information**

The Information contained in this appendix is included as an illustration of the type of materials that are often distributed by local governments throughout California concerning their management of their CEQA responsibilities. For those readers who are preservation advocates, we would suggest you inquire with your local government as to the availability of such explanatory documents. For those readers who represent local governments that don't distribute such useful documents, we suggest you consider developing such guidance as the City of San Diego has produced.

*[This information is not available in electronic format. If you are interested in seeing this information, please contact the Office of Historic Preservation for a hard copy of this handout.]*

## **Appendix I: State Clearinghouse Handbook**

*[This information is not available in electronic format. However, it can be found on the Internet at <http://ceres.ca.gov/planning/sch/>]*



# EXHIBIT 'C'



## **Assessment of Historic Resource Impacts and Mitigations for the Paraiso Hot Springs Report Soledad, CA**

### **BACKGROUND (from DEIR sec. 3.5 *Cultural Resources And Historic Resources*)**

The Paraiso Springs Resort Draft Environmental Impact Report (DEIR)<sup>1</sup> report section 3.5 *Cultural Resources And Historic Resources* states that the historic impact analysis was based on environmental conditions that were extant in November 2003. This date would make the analysis based on conditions just prior to the removal of the cottages, therefore including/confirming the historic significance of the now-demolished cottages.

The DEIR states:

In 2005, the County prepared and circulated for public review an initial study/proposed Mitigated Negative Declaration for the after-the-fact demolition permit. [The] County received a comment letter from the state Office of Historic Preservation (SHPO), which requested preparation of an EIR based on the contention that the "the illegal demolition occurred in order to facilitate the resort project with new construction" and therefore the whole of the action includes the unpermitted demolition<sup>2</sup>. To the extent that plans were underway for a resort on site at the time of the demolition, the use of the pre-demolition baseline is justified for analysis of the impact on historic resources.

The report section continues that information regarding historic resources was derived [primarily] from previous cultural resource evaluations prepared for the project site. As with the DEIR this Assessment of Historic Resource Impacts and Mitigations (Assessment) does not include additional historic information or context, and assumes the previous historic context and significance of buildings, structures and objects to be sufficient for purposes of discussion of CEQA and appropriate mitigation measures.

### **Historical Resource Significance Summary<sup>3</sup>**

The State of California defines historic resources "...as buildings, sites, structures, objects, or districts that have been determined to be eligible for listing in the California Register of Historic Resources (CRHR), those resources included in a local register of historical resources as defined in section 5020.1(k) of the Public Resources Code, or any object, building, structure, site, area, place, record or manuscript which a lead agency determines, based on substantial evidence, to be historically significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military or cultural annals of California."<sup>4</sup>

The following historic surveys and/or evaluations have been conducted for Paraiso Hot Springs over the course of thirty-plus years. The varied statements of Historic Significance and Findings are largely due to the advances made in historic resource analysis and more in depth historic contexts, and do not indicate any lack of professionalism. The most recent and thorough report was that which was completed in 2008 but based of conditions in 2003 prior to demolition.

---

<sup>1</sup> State Clearinghouse #2005061016, EMC Planning Group Inc, July 11, 2013.

<sup>2</sup> Letter from SHPO to Therese Schmidt, dated June 29, 2005.

<sup>3</sup> Annotated from Painter Preservation & Planning, 2008.

<sup>4</sup> California PRC § 21084.1; 14 CCR § 15064.5.

## ASSUMPTIONS

For purposes of clarity and efficiency Circa assumes the following are correct:

- The nine Victorian cottages were historic resources prior to illegal demolition;
- Previous historic context and significance of buildings, structures and objects to be sufficient for purposes of discussion of CEQA and mitigation measures;
- Materials collected prior to April 1, 2014 are sufficiently comprehensive;
- The use of the pre-demolition baseline (November 2003) is the latest acceptable;
- Proposed mitigations were based on physical conditions just prior to the removal of the cottages in November 2003;
- Statements made by the project owner-developer [Thompson Holdings LLC] regarding project goals, including "The ultimate mitigation is allowing people to come back,"<sup>5</sup> are true.

## CALIFORNIA ENVIRONMENTAL QUALITY ACT AND SIGNIFICANCE OF IMPACTS

### California Environmental Quality Act and Impacts to Historic Resources

Under the California Environmental Quality Act (CEQA) a project that results in a "substantial adverse change in the significance of a historical resource may have a significant adverse effect on the environment"<sup>6</sup>. The Public Resource Code (PRC) defines "substantial adverse change" as "demolition, destruction, relocation or alteration" activities that would impair the significance of a historical resource.<sup>7</sup>

CEQA also defines activities that would impair the significance of a historical resource (i.e. that alter the physical characteristics that justify or account for its inclusion in the California Register or a local register) as follows:

(A) Demolishes or materially alters in an adverse manner those physical characteristics of a historical resource that convey its historical significance and that justify its inclusion in, or eligibility for inclusion in the California Register of Historic Resources; or

(B) Demolishes or materially alters in an adverse manner those physical characteristics that account for its inclusion in a local register of historic resources pursuant to Section 5020.1(k) of the Public Resources Code or its identification in an historical resources survey meeting the requirements of Section 5024.1(g) of the Public Resources Code, unless the public agency reviewing the effects of the project establishes by a preponderance of evidence that the resource is not historically or culturally significant; or

(C) Demolishes or materially alters in an adverse manner those physical characteristics of an historical resource that convey its historical significance and that justify its eligibility for inclusion in the California Register of Historical Resources as determined by a lead agency for purposes of CEQA."<sup>8</sup>

---

<sup>5</sup> *Paraiso Hot Springs Developer Apologizes For Demolishing Historic Buildings, County Mulls Fine*, Monterey County Weekly; September 26, 2013.

<sup>6</sup> Extracted from Painter Preservation & Planning 2008.

<sup>7</sup> CEQA Guidelines Section 15064.5 (b) (3).

<sup>8</sup> Public Resources Code Section 21084.1.

<sup>8</sup> CEQA Guidelines Section 15064.5(b)(2)(A)(B)(C).

Since the existing conditions in 2003 included historic resources (the nine now-demolished Victorian cottages) the proposed project should have followed the Standard for Rehabilitation, thereby mitigating the impacts of the proposed project to less-than significant.

However the historic resources were illegally demolished and, based on California law (CEQA) and confirmed in the DEIR, the illegal demolition of the Victorian cottages cannot be mitigated to a threshold of a less-than-significant impact.<sup>9</sup>

#### **California Environmental Quality Act and Mitigation Measures**

Regarding mitigation measures for such impacts CEQA Section 15126.4(b) Mitigation Measures Related to Impacts on Historical Resources, states

(1) Where maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of the historical resource will be conducted in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings<sup>10</sup> the project's impact on the historical resource shall generally be considered mitigated below a level of significance and thus is not significant.

(2) In some circumstances, documentation of an historical resource, by way of historic narrative, photographs or architectural drawings, as mitigation for the effects of demolition of the resource will not mitigate the effects to a point where clearly no significant effect on the environment would occur.

#### **SUMMARY OF 2008 HISTORIC RESOURCE EVALUATION FINDINGS**

Based on California law (CEQA), and confirmed and agreed to in the DEIR, the conditions of the Paraiso Hot Springs property in November 2003 included historic resources: the nine now-demolished Victorian cottages. The Painter Report evaluated Paraiso Hot Spring significance as a cultural landscape, specifically as a historic vernacular landscape and made the following determinations:

The **Area of Significance** for this property, as reflected in the buildings and site features extant in 2003, is "Entertainment/Recreation," defined as, "The development and practice of leisure activities for refreshment, diversion, amusement, or sport," commensurate with its history as a resort. This can be seen in the buildings and structures at Paraiso that provided for its use as a hot springs and resort, and the natural environment that made it a popular destination.

The **Period of Significance** is 1872 to 1928, which reflects the date the first resort structures were built on the site to the date of the fire that destroyed the main hotel, which was the main organizing feature of the site after the springs themselves. Landscape features on the site are also evaluated for their presence and importance during this Period of Significance.

The **architectural context** for the property addresses the Victorian Gothic Revival style, as well as Victorian-era vernacular structures, as seen in nine buildings of the 36 present on the site in 2003.

The **historic context** of Paraiso Hot Springs is as a popular Victorian-era resort in Monterey County.

Through analysis it was determined in 2008 that Paraiso Hot Springs does not retain sufficient integrity to be considered a historic landscape due to the alteration/removal of buildings that were directly significant

---

<sup>9</sup> DEIR, July 2013, 3-124.

<sup>10</sup> Weeks and Grimmer, *Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings*, NPS, 1995.

with the context of the Victorian-era spa movement in the Monterey region, i.e. the main lodge, and other spa-related buildings.

However, as the historic impact analysis was based on environmental conditions that were extant in November 2003 it was determined that nine of the Victorian-era cottages were individually historically significant. This significance was due to the cottages importance to the history of the site, their representation of important architectural trends at the time, their relative integrity, and their rarity on the project site, and as the last intact remnants of the Victorian-era resort movement in the Monterey region. For these reason the nine Victorian-era cottages were eligible for inclusion in the California Register of Historical Resources.

In total the Painter report identified **four areas** of significance that meet California Criteria that are quoted below:

1) The Natural Systems and Features of the site are significant and retain integrity. They **meet Criteria 1 and 3** for their historical association with the site and importance in local history, and their distinctive characteristics...[and are] a contributing element to the cultural landscape or historic vernacular landscape".

2) Land use for [Paraiso Hot Springs] **meets State Eligibility Criteria 1, 2 and 3** for determining historic significance...[and] is distinguished by being in *continual* use for its mineral hot springs from 1791 to the present. The...property's use as a resort has remained sufficiently intact for land use to be considered a contributing element to a cultural or historic vernacular landscape.

3) The cultural traditions landscape characteristic **meets Criteria 1, 3 and 4** of the State Eligibility Criteria for determining historic significance<sup>11</sup> and "...may provide informational value, which will be determined in the course of land development".

4) One cluster arrangement [the Victorian cottages] on the site in 2003 is **very important and is associated with Criteria 1 and 3** of the State Eligibility Criteria. The cottages are:

a) Evergreen Cottage meets Criteria 1 and 3 of the State Eligibility Criteria for determining historic significance. Evergreen Cottage is historically significant as a Victorian-era Gothic Revival building associated with the heyday of the Paraiso Springs Resort. Additionally it retains integrity of location, design, materials, workmanship and feeling. It is therefore concluded that Evergreen Cottage is a historic resource for purposes of CEQA, eligible for individual listing on the California Register of Historical Resources.

b) Brightside Cottage meets Criteria 1 and 3 of the State Eligibility Criteria for determining historic significance. Brightside Cottage is historically significant as a Victorian-era vernacular building

c) Monterey Cottage meets Criterion 1 of the State Eligibility Criteria for determining historic significance. Monterey Cottage is historically significant as a Victorian-era vernacular building with Colonial Revival influences, associated with the heyday of the Paraiso Springs Resort. It retains integrity of location, setting, materials, and workmanship.... [and if the] addition was removed, the building would be intact and be in compliance [and therefore] eligible for individual listing on the California Register of Historical Resources.

---

<sup>11</sup> Although finding the cultural traditions to meet 3 of the criteria the report concluded that the cultural traditions are not a contributing element to a historic vernacular landscape.

d) Cyprus Cottage meets Criteria 1 of the State Eligibility Criteria for determining historic significance. Cyprus Cottage is historically significant as a Victorian-era vernacular building, associated with the heyday of the Paraiso Springs Resort...and is eligible for individual listing on the California Register of Historical Resources.

e) Romie Cottage meets Criteria 1 and 3 of the State Eligibility Criteria for determining historic significance. Romie Cottage is historically significant as a Victorian-era vernacular building with Gothic Revival influences, associated with the heyday of the Paraiso Springs Resort... retains integrity of location, setting, design, materials, workmanship and feeling [and is] eligible for individual listing on the California Register of Historical Resources.

f) Buena Vista Cottage meets Criteria 1 and 3 of the State Eligibility Criteria for determining historic significance. Buena Vista Cottage is historically significant as a Victorian-era Gothic Revival building associated with the heyday of the Paraiso Springs Resort. Additionally it retains integrity of location, design, materials, workmanship and feeling [and is] eligible for individual listing on the California Register of Historical Resources.

g) Antlers Cottage meets Criteria 1 of the State Eligibility Criteria for determining historic significance. Antlers Cottage is historically significant as a Victorian-era cottage associated with the heyday of the Paraiso Springs Resort, and as one of the last remaining vernacular cottages from the era. It retains integrity of location, setting, design, materials, workmanship and feeling. The larger setting of the cottage has been compromised, but its immediate setting is intact... [and is] eligible for individual listing on the California Register of Historical Resources.

h) Pioneer Cottage meets Criteria 1 of the State Eligibility Criteria for determining historic significance. Pioneer Cottage is historically significant as a Victorian-era cottage associated with the heyday of the Paraiso Springs Resort, and as one of the last remaining vernacular cottages from the era. It retains integrity of location, design, materials, workmanship and feeling [and is] eligible for individual listing on the California Register of Historical Resources.

i) The Spreckels Cottage meets Criteria 1 of the State Eligibility Criteria for determining historic significance. It is significant as a Victoria-era vernacular cottage associated with the heyday of the Paraiso Springs Resort. It retains integrity of location...materials...workmanship [and] feeling...It is therefore concluded that Spreckels Cottage is... eligible for individual listing on the California Register of Historical Places.

In summary the 2008 report identifies four major elements of the Paraiso Hot Springs property that meet and/or have the potential to meet State of California Criteria:

- Natural Systems and Features
- Historic land use
- Cultural traditions landscape
- One cluster arrangement of nine buildings

In addition, the report concludes that "The Paraiso Springs landscape is the source of the historic value of the site; the presence of the hot springs is the reason the site has been continuously used and/or occupied since the time of the Esselen Indians. Accommodations and other facilities were constructed to take advantage of the springs, and their design followed trends of the time in architecture, site design, marketing and promotion."<sup>12</sup>

---

<sup>12</sup> Painter, 2008.

Based on the evaluations in the 2008 report it is evident that a "cluster" of nine Victorian era cottages or historic district did exist in 2003 and that given the identification of Natural Systems and Features, Land use, and a Cultural traditions landscape as also meeting the criteria for historic resources then a historic landscape or site also existed in 2003.

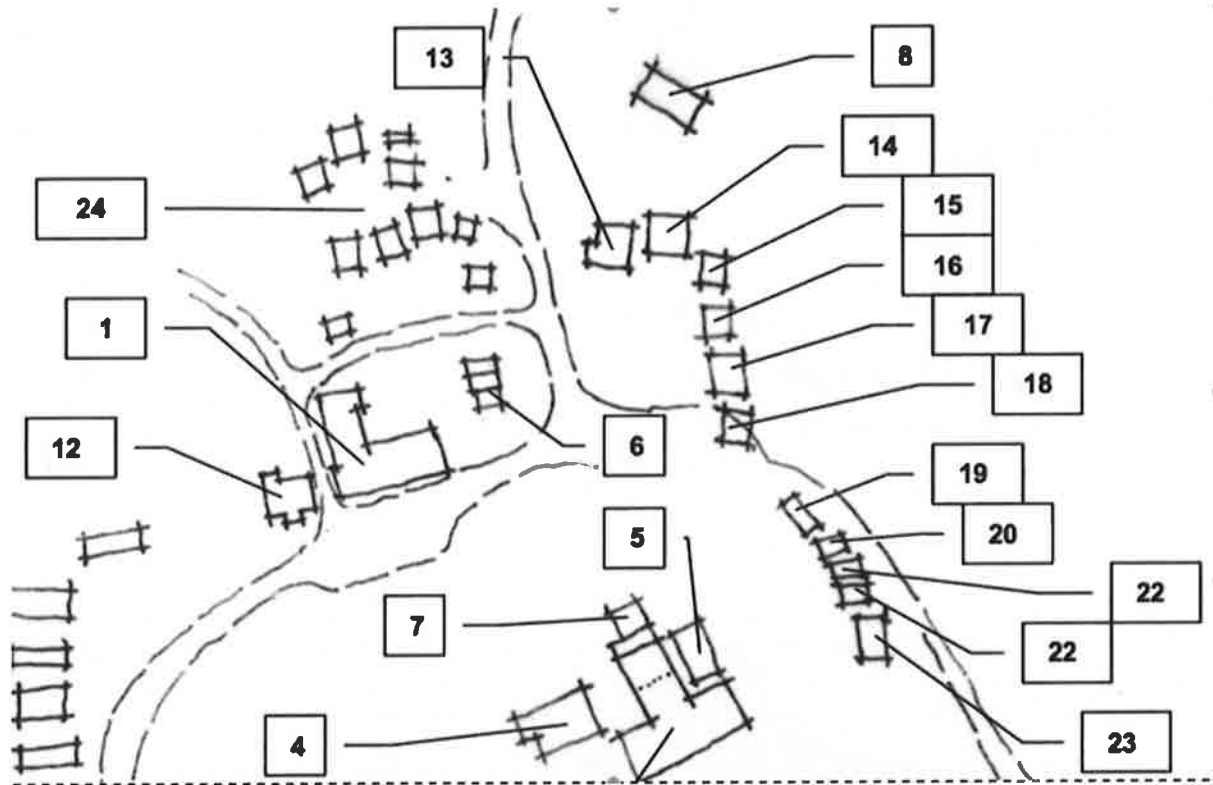


Figure identifies cluster of historic resources: #'s 12, 13, 14, 15, 16, 17, 18, 19 and 23<sup>13</sup>

## CULTURAL LANDSCAPE

A *Cultural Landscape* is defined by National Park Service (NPS) as a "geographic area, including both cultural and natural resources and the wildlife or domestic animals therein, associated with a historic event, activity, or person or exhibiting other cultural or aesthetic values."<sup>14</sup> As defined by NPS Cultural Landscapes include historic sites, historic designed landscapes, historic vernacular landscapes, and cultural (ethnographic) landscapes.

NPS defines a *Site* as "...the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archeological value regardless of the value of any existing structure."<sup>15</sup> NPS also defines *District* as "A district possesses a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development."<sup>16</sup>

<sup>13</sup> Painter 2008, Figure 1 enumerates two buildings with number 22 but they are not part of the cluster of historic resources.

<sup>14</sup> NPS, Preservation Brief 36: Protecting Cultural Landscapes,

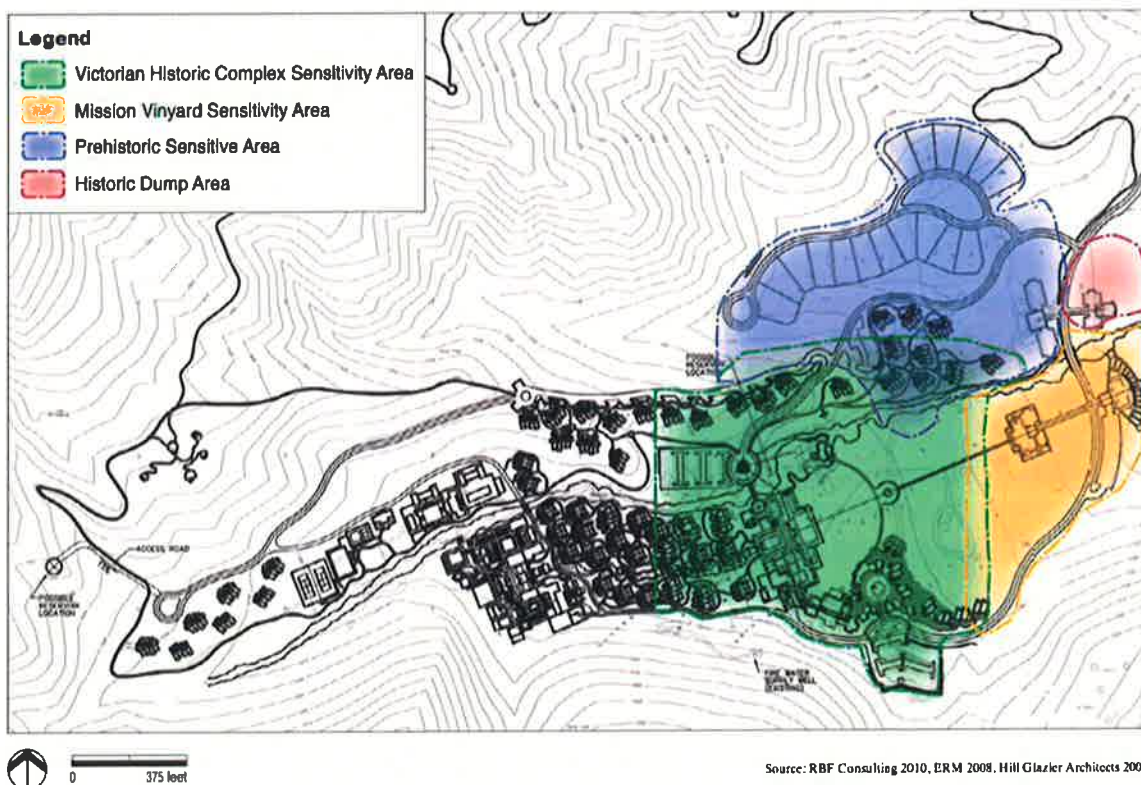
<sup>15</sup> NPS, *Bulletin 15: How to Apply the National Register Criteria for Evaluation*, [www.nps.gov/nr/publications/bulletins/nrb15](http://www.nps.gov/nr/publications/bulletins/nrb15).

<sup>16</sup> Ibid.



The County of Monterey defines *Site* as "...that portion of a parcel on which a significant historic resource is or has been situated and has been listed on the National Register of Historic Places, the State Historic Landmark Register, or the county register of historic sites."<sup>17</sup>

The DEIR report repeats these resource possibilities and, even though there is evidence (in 2008) that portions of the property did retain integrity and did meet historic resource criteria, concludes that "...the project site *as a whole* [emphasis added] does not meet the CRHR as a rural historic landscape or as a historic district due to an overall lack of integrity..."<sup>18</sup> This stated the DEIR mapped areas of sensitivity<sup>19</sup> which aptly illustrates, as NPS defines, a "...geographic area... associated with a historic event, activity, or person or exhibiting other cultural or aesthetic values of the historic built environment" which once contained the evolution of the historic significance of the Paraiso Hot Springs property.



<sup>17</sup> County Monterey Zoning Ordinance 21.54.030 Definitions.

<sup>18</sup> DEIR,

<sup>19</sup> 2004 and 2008 ARM report archaeological sensitivity map.

<sup>20</sup> Ibid.



It is clear from the definitions of the NPS that Paraiso Hot Springs, with its components correctly identified in the Painter 2008 report (Natural Systems and Features, Land use, Cultural traditions landscape, and "cluster" of nine buildings), was a Cultural Landscape in 2003.

Regardless of the exact designation of the once-eligible resource it is evident that the demolition of the nine Victorian cottages significantly reduced the historic significance of the property. And according to CEQA if a building or other potential resource is deemed a historic resource then demolition is considered a "substantial adverse change" and cannot be reduced to a less-than significant impact. To this end the proposed Mitigation Measure are reviewed and augmented in the following section.

## **MITIGATION MEASURES<sup>21</sup> FOR IMPACTS TO THE NINE VICTORIAN-ERA COTTAGES**

To approve a project that has un-mitigatable significant impacts CEQA requires consideration and implementation of feasible mitigation measures to minimize significant impacts even when the mitigation measures will not reduce the impact to a level of less than significant. Understanding that no mitigation measure can return the original, historic cottages to the site the DEIR identifies "Documentation" as a mitigation measure<sup>22</sup> to make amends to the public for the unpermitted removal/illegal demolition of the nine Victorian-era cottages.

The DEIR refers to CEQA Guidelines Section 15126.4(b)(2) for the "documentation of an historical resource, by way of historic narrative, photographs or architectural drawings" as mitigation for the effects of demolition of the resource when the mitigation cannot reduce the impact to a less than significant level. The report continues that such "...measures should be taken to document the resources and provide opportunities for interpretation of what was on the site into the future as a means of preserving and conveying the history of the Hot Springs to future generations and to visitors to the site."<sup>23</sup>

In this case the use of historic narrative, photographs, architectural drawings and/or displays does not mitigate the physical impact on the environment caused by demolition or destruction of the historical resource (14 CCR § 15126.4(b)). According to the California Office of Historic Preservation CEQA requires that all feasible mitigation be undertaken even if it does not mitigate below a level of significance. In this case, recordation and reconstruction in place of the illegally demolished structures are both feasible and serve a legitimate historical purpose. These mitigations are proportionate with the level of significance of the resource but the impact of the illegal demolition will nevertheless remain significant and unavoidable.<sup>24</sup>

It is important to note that the DEIR does not propose that documentation of the nine Victorian-era cottages replaces their physical contribution to the environment. Documentation is used to *help* communicate the historic significance of (in this case) the cottages and their importance in the historic context of Paraiso Hot Springs.

### **MM 3.5-1a**

Earth-moving activities associated with the project shall be monitored by a qualified archaeologist or architectural historian. If historic irrigation or related water conveyance structures are discovered during grading or construction, the following step shall be taken immediately upon discovery:

---

<sup>21</sup> Mitigation Measures 3.5-1a, 1b, 1c, 1d, 1e, and 1f include documentation and related interpretive projects.

<sup>22</sup> Mitigation Measures 3.5-1c.

<sup>23</sup> Draft EIR pg 3-124.

<sup>24</sup> California Office of Historic Preservation, *Technical Assistance Series #1: California Environmental Quality Act and Historical Resources*, 2002.

There shall be no further excavation or disturbance of the project site or any nearby area reasonably suspected to overlie adjacent structures until the find can be evaluated by a qualified archaeologist or architectural historian and, if determined significant, until appropriate mitigation measures are formulated, with the approval of the lead agency, and implemented. Mitigation shall include that the structure be thoroughly documented, preserved and interpreted, as appropriate.

**MM 3.5-1b**

The project applicant shall prepare and provide to the Monterey County Historical Society archival-quality reproductions of their own historic archives, as well as copies of additional historic archives as may be available from the California State Library and California Historical Society, that portray the historic character and setting of Paraiso Springs during the late nineteenth century. The historic archives shall be subject to review and approval by the Monterey County Historic Resources Review Board.

The project applicant shall submit archival-quality reproductions of the approved historic archives (described above) and any future archival and site research on the property that is not currently catalogued with the Monterey County Historical Society, the Monterey Public Library, and the California State Library for their permanent records

**MM 3.5-1c**

The project applicant shall provide a grant of \$10,000 to the Monterey County Historical Society to assist with accessioning, cataloging, displaying and archiving the collection with the goal to reach the broadest and most relevant audience.

**MM 3.5-1d**

The project applicant shall prepare a full-color brochure that describes the history of the project site (including Native American, Spanish, Mexican and American periods), that can be placed in a number of venues, including the Soledad Mission, local museums and other visitor-oriented locations, as well as any visitor-serving facilities on-site. The brochure shall include a map of the historic interpretive trails plan (described in Mitigation Measure 3.5-1-e), so that it can be used as a compendium for on-site interpretation. The applicant shall identify a plan and be responsible for all expenses associated with brochure development and the annual reproduction and distribution of these brochures, for as long as the resort is in operation. The full-color brochure shall be subject to review and approval by the Monterey County Historic Resources Review Board.

**MM 3.5-1e**

The project applicant shall prepare an historic interpretive trails plan that will be constructed on the project site. This plan shall include a designated pedestrian trail with scenic vista points and permanent interpretive signage that describes the historic events (including the Esselen Indians, Spanish Mission influences, and Victorian-era spa resort), features, and names (such as Romie's Glen) of Paraiso Springs. Construction of the trail and interpretive signage shall be completed at the applicant/developer's expense, prior to occupancy of any portion of the project site. The historic interpretive trails plan shall be subject to review and approval by the Monterey County Historic Resources Review Board.

**MM3.5-1f**

The project applicant shall provide an interpretive exhibit prominently placed within the new hotel lobby, or other appropriate location on site that is open to the public, that documents the historic events (including Native American, Spanish, Mexican and American periods) at Paraiso Hot Springs.

The exhibit shall be subject to review and approval by the Monterey County Historic Resource Review Board.

However, the DEIR proposes broad stroke mitigations that only minimally address the impacts. The proposed mitigation measures rely entirely on signage and research materials to communicate the property's historic significance. This approach is inadequate and does not properly honor and enhance the visitor's **experience** of a Victorian-era resort (historic district and landscape). To even partially compensate for the illegal demolition of the last remaining character defining features of the Paraiso Hot Springs during the period of significance [1872 to 1928] reconstruction of the cottages in place is necessary. Indeed, their re-creation is "...essential to the public understanding of the property."<sup>25</sup>

When a contemporary depiction is required to understand and interpret a property's historic value (including the re-creation of missing components in a historic district or site); when no other property with the same associative value has survived; and when sufficient historical documentation exists to ensure an accurate reproduction, Reconstruction may be considered as a treatment.<sup>26</sup> Such is the case here.

## SECRETARY OF THE INTERIOR STANDARD FOR RECONSTRUCTION<sup>27</sup>

The Standards for Reconstruction and Guidelines for Reconstructing Historic Buildings address those aspects of treatment necessary to re-create *an entire non-surviving building* [emphasis added] with new material. The goal of this Standard is to make the building appear as it did at a particular--and most significant--time in its history.<sup>28</sup>

1. Reconstruction will be used to depict vanished or non-surviving portions of a property when documentary and physical evidence is available to permit accurate reconstruction with minimal conjecture, and such reconstruction is essential to the public understanding of the property.
2. Reconstruction of a landscape, building, structure, or object in its historic location will be preceded by a thorough archeological investigation to identify and evaluate those features and artifacts which are essential to an accurate reconstruction. If such resources must be disturbed, mitigation measures will be undertaken.
3. Reconstruction will include measures to preserve any remaining historic materials, features, and spatial relationships.
4. Reconstruction will be based on the accurate duplication of historic features and elements substantiated by documentary or physical evidence rather than on conjectural designs or the availability of different features from other historic properties. A reconstructed property will re-create the appearance of the non-surviving historic property in materials, design, color, and texture.
5. A reconstruction will be clearly identified as a contemporary re-creation.
6. Designs that were never executed historically will not be constructed.

## FEASIBILITY OF RECONSTRUCTION OF NINE VICTORIAN-ERA COTTAGES

With the Reconstruction Standard there is far less, if any, extant historic material available. With this Standard there is "... the potential for historical error in the absence of sound physical evidence...

---

<sup>25</sup> [http://www.nps.gov/history/hps/tps/standguide/reconstruct/reconstruct\\_approach.htm](http://www.nps.gov/history/hps/tps/standguide/reconstruct/reconstruct_approach.htm) [Accessed 4/28/14].

<sup>26</sup> Ibid.

<sup>27</sup> Ibid.

<sup>28</sup> Ibid.

Documentation requirements prior to and following work are very stringent."<sup>29</sup> The demolished Victorian-era cottages were done so illegally and therefore without the essential and stringent documentation required for legal but unavoidable impacts.

In the case of the Paraiso Hot Springs archival and photographic documentation does exist and goes back many years before plans for the property's development was proposed in 2008. The Paraiso Hot Springs has been considered an oasis-like respite and has been romanticized as a relic of the "Old California", thereby inspiring amateur historians to collect important historic data that can be used for reconstruction.

The Reconstruction Standards have three important phases: documentation, implementation, and identification.

Research/Documentation: The original promotional materials such as brochures and advertisements are very helpful. The Paraiso Hot Springs property, including the Victorian-era cottages, has been documented over the course of its many operational years including just prior to demotion. The availability of materials to properly and accurately reconstruct the nine Victorian-era cottages is sufficient for purposes of the Reconstruction Standard.

Implementation: After the research and documentation tasks, the Secretary of the Interior Standards provides guidance for the reconstruction work itself. Character defining features (siding, windows etc) are addressed in general terms and require **accurate depiction**, i.e., careful duplication of the historic materials and finishes.

In the absence of extant historic materials, the objective in reconstruction is to re-create the appearance of the historic building for interpretive purposes. Thus, while the use of traditional materials and finishes is always preferred, in some instances, substitute materials may be used if they are able to convey the same visual appearance...It is expected that contemporary materials and technology will be employed. Re-creating the building site should be an integral aspect of project work. The initial archeological inventory of subsurface and aboveground remains is used as documentation to reconstruct landscape features such as walks and roads, fences, benches, and fountains.<sup>30</sup>

Identification: Finally, the Reconstruction Standard states that the reconstructed building must be clearly identified as a "contemporary re-creation" of the historic resource.

CEQA says that "...demolition and destruction are fairly obvious significant impacts"<sup>31</sup> and requires that mitigation of significant impacts must lessen or eliminate the physical impact that the project will have on the historical resource. CEQA is clear that photo-documentation and the installation of a marker or commemorative plaque at the demolition site cannot adequately mitigate the loss of the resource in this case.

In summary, documentation, exhibitions and a plaque do not reasonably begin to alleviate the impacts of the demolition of the nine Victorian-era cottages, and the disregard for the identified historic significance of the Natural Systems, Historic Land use and Cultural Traditions Landscape aspects of the property. Proposed mitigation measures are tentative and vague.

---

<sup>29</sup> Ibid.

<sup>30</sup> Secretary of the Interior Standards for Reconstruction

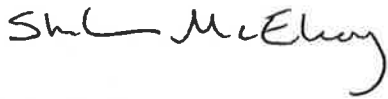
[http://www.nps.gov/history/hps/tps/standguide/reconstruct/reconstruct\\_approach.htm](http://www.nps.gov/history/hps/tps/standguide/reconstruct/reconstruct_approach.htm)

<sup>31</sup> OHP, Technical Assistance Series #1, 2001.

According to SHPO CEQA requires that **all feasible mitigation be undertaken even if it does not mitigate below a level of significance** [emphasis added]. In this context, recordation serves a legitimate archival purpose. The level of documentation required as mitigations should be proportionate with the level of significance of the resource.<sup>32</sup>

We conclude that the stated mitigation measures do not reduce the effects of the demolition to less than a level of significance. Reconstruction in place of the illegally demolished historic Victoria-era cottages is both feasible and necessary, even though the impact will remain significant.

Respectfully submitted

A handwritten signature in black ink, appearing to read "Sheila McElroy". The signature is fluid and cursive, with the first name "Sheila" written in a larger, more prominent script than the last name "McElroy".

Sheila McElroy  
Principal

---

<sup>32</sup> Ibid.

## Bibliography and Resources

ARM. *Evaluation of Historical Resource at the Paraiso Springs at 34358 Paraiso Springs Road in the County of Monterey*, 2004.

ARM. *Revised Evaluation of Historical Resource at the Paraiso Springs at 34358 Paraiso Springs Road in the County of Monterey*, 2005.

EMC Planning Group, Inc. *Paraiso Springs Resort Draft Environmental Impact Report* (State Clearinghouse #2005061016), 2005.

McAlester, Virginia and Lee. *A Field Guide to American Houses*. New York: Alfred A. Knopf, 2002.

Orser, Mary Beth. *It Happened in Soledad*. Soledad, CA: Community Action Team of Soledad, 1996, pg 74-80.

Painter Preservation & Planning. *Historic Resource Report – Paraiso Hot Springs Monterey County, California*, 2008.

----- Letter memo to RBF re: *Peer Review of Historic Resource Report for Paraiso Hot Springs* Prepared by Painter Preservation & Planning (Galvin Preservation Associates [GPA], 2008).

"Paraiso Hot Springs Developer Apologizes For Demolishing Historic Buildings, County Mulls Fine" *Monterey County Weekly*; September 26, 2013.

PAST Consultants LLC. *Historic Context Statement for Agricultural Resources in North County Planning Area, Monterey County, California*, 2010.

U.S. Department of Interior, National Park Service. "How to Apply National Register Criteria for Evaluation." *National Register Bulletin 15*. Washington, D.C.: U.S Government Printing Office, 1991.

U.S. Department of Interior, National Park Service. "Protecting Cultural Landscapes: Planning, Treatment and Management of Historic Landscapes." *Preservation Brief 36*. Washington, D.C.: U.S Government Printing Office, 1994.

U.S. Department of Interior, National Park Service. "Changes to Historic Site." *Interpreting The Standards [ITS] Number 39*. Washington, D.C.: U.S Government Printing Office, 2006.

U.S. Department of Interior, National Park Service. "Incompatible Alterations to the Setting and Environment of a Historic Property." *Interpreting The Standards [ITS] Number 41*. Washington, D.C.: U.S Government Printing Office, 2006.

U.S. Department of Interior, National Park Service. "Guidelines for Rehabilitating Cultural Landscapes". *Spatial Organization + Land Patterns*. Washington, D.C.: U.S Government Printing Office, 2008.

U.S. Department of Interior, National Park Service. *The Secretary of the Interior's Standards for the Treatment of Historic Properties*. Washington, D.C.: U.S Government Printing Office, 1995.

## Useful Websites

Office of Historic Preservation:

<http://ohp.parks.ca.gov/>

California State Historical Building Code:

<http://ohp.parks.ca.gov/>

Secretary of Interior Standards for Treatments of Historic Properties:

<http://www.cr.nps.gov/hps/tps/secstan1.htm>

The Secretary of the Interiors Standards for the Treatment of Historic Properties with Guidelines for the Treatment of Cultural Landscapes:

[http://www.nps.gov/history/HPS/hli/landscape\\_guidelines/index.htm](http://www.nps.gov/history/HPS/hli/landscape_guidelines/index.htm)

National Park Service: Technical Preservation Services: <http://www.cr.nps.gov/hps/tps/index.htm>

Preservation Briefs:

<http://www.cr.nps.gov/hps/tps/briefs/presbhom.htm>

Preservation Tech Notes:

<http://www.cr.nps.gov/hps/tps/technotes/tntime.htm>

National Register Bulletins:

<http://www.cr.nps.gov/nr/publications/bulletins.htm>

National Trust for Historic Preservation:

Maintaining Community Character: How to Establish a Local Historic District (Order No. 2158).

<http://www.preservationbooks.org> and click on "Historic Districts."

# EXHIBIT 'D'





Architectural  
Resources Group

**Paraiso Hot Springs Resort  
Mitigation Assessment Memo  
Monterey County, California**

**6 April 2018**

## **1. INTRODUCTION**

At the request of Fenton & Keller, Architectural Resources Group (ARG) has prepared the following memorandum to review Mitigation Measure MM3.5-1b, one of four (4) mitigations identified in the Cultural Resources and Historic Resources Section of the Paraiso Springs Resort Recirculated Draft Environmental Impact Report (RDEIR) dated 23 February 2018. Mitigation Measure MM3.5-1b calls for \$10,000 in financial compensation for the illegal demolition of nine (9) late 19th century residential cottages (cottages) on the Paraiso Springs Resort property. This memo will provide an opinion as to the adequacy of the proposed financial compensation amount and recommendations for determining an alternative level of financial compensation.

The nine demolished cottages were found to be eligible for listing in the National Register of Historic Places (National Register) and California Register of Historical Resources (California Register) and are considered historical resources under the California Environmental Quality Act (CEQA). The RDEIR prepared in February 2018 for the proposed redevelopment of the subject property concluded that the non-permitted demolition of the nine cottages is a significant and unavoidable impact. The RDEIR also requires mitigation measures ranging from archival documentation to interpretation to be implemented even though the mitigation will not reduce the level of impact to less than significant.<sup>1</sup>

To prepare this memorandum, ARG reviewed existing reports regarding the history and significance of the subject property.<sup>2</sup> ARG did not complete a site visit of the subject property or additional archival research as part of this analysis.

## **2. ASSESSMENT OF MM3.5-1B**

Consistent with California Environmental Quality Act California Environmental Quality Act, the RDEIR states that demolition is considered a "substantial adverse change." Therefore, the non-permitted demolition of the nine historic Victorian-era cottages in 2003 is considered to be a significant impact that cannot be mitigated to less than significant. CEQA guidelines require mitigation measures to minimize significant effects even when mitigation measures will not reduce the impact to a level of less than significant. Mitigation measure MM3.5-1b states:

Prior to recordation of the final map, the project applicant shall provide a grant of up to \$10,000 to the Monterey County Historical Society to pay for the time and effort of their personnel in assisting the Applicant and their Consultant with the review of the digital archives and consultation on, and technical costs for, linking the digital presentation to their website. The Historical Society may also use this fund for purchasing rights, accessioning, cataloging, displaying, creating archival-quality reproductions, and

---

<sup>1</sup> EMC Planning Group, *Paraiso Springs Resort Recirculated Draft Environmental Impact Report, State Clearinghouse #2005061016*, prepared for County of Monterey, 23 February 2018, Chapter 3.5 Cultural Resources and Historic Resources.

<sup>2</sup> See the bibliography in Section 6 for a list of the documents reviewed by ARG for this analysis.

archiving any identified materials from the catalog specified in MM3.5-1a. All previous reports submitted with the project application on the property's history will also be included.<sup>3</sup>

While there is no language that directly links this mitigation to the cost of demolished resources, in ARG's opinion the cost to replace the nine cottages would exceed the value identified in the MMS 3.5-1b, and the \$10,000 amount is not sufficient to offset the illegal demolition. An amount that better reflects the value of the demolished resources would be a more appropriate and feasible level of compensation.

### 3. RECOMMENDATIONS

Reconstruction is the act of accurate duplication of building features. The Secretary of Interior Standards for Reconstruction Standard 4 states: "Reconstruction will be based on the accurate duplication of historic features and elements substantiated by documentary or physical evidence rather than on conjectural designs or the availability of different features from other historic properties. A reconstructed property will re-create the appearance of the non-surviving historic property in materials, design, color and texture."

Because demolition of the nine contributing resources has already occurred, a methodology to determine reconstruction costs would need to rely on available documentary evidence to determine the buildings' size, features, and type to establish material quantities necessary to construct the cottages. Where a sufficient amount of documentary evidence is not available, professionals knowledgeable about 19th century design and construction should be consulted to identify appropriate precedents.

#### Assumptions

To establish an equivalent value for the replacement cost for those materials and workmanship lost through demolition an estimated value would:

- be based upon known documented construction practices of the period;
- recognize that 19th C. buildings products consistent with the period of original construction are no longer available. Therefore, custom fabrication of doors, windows, exterior wood siding, shaped shingles, and other decorative details would be required to replicate the material, dimensions, patterns, and details;
- include locally available basic construction materials (local stone, brick masonry, concrete, etc.) as an acceptable standard for construction;
- include interior features of the cottages proposed for reconstruction. Information based upon available historical background and interior finishes typical of the period for the type and style of building would be utilized. A reasonable assumption would be to assume walls and ceilings would be constructed of wood framing and lath and plaster, with minimal wood baseboards and window trim, minimal or basic plumbing and electrical services, and simple painted finishes; and
- improvement costs such as site preparation, modern utility services, or current state or local building code required improvements would not be included.

#### Required Information

A fair cost value would provide for the replacement of demolished materials and craftsmanship consistent with documentation describing the cottages' physical features. Identification for each structure's physical dimensions and material characteristics should be based upon available pre-demolition surveys and available photographs to determine each building's:

---

<sup>3</sup> EMC Planning Group, *Paraiso Springs Resort, Recirculated Draft Environmental Impact Report*, 23 February 2018, Chapter 3.5 Cultural Resources and Historic Resources.

- Physical Layout and Dimensions (Length, Width, & Height)
- Number of Habitable Floors
- Construction Type
- Materials Used

#### **Cost Estimate Components**

There are three (3) major components to a cost estimate. In addition to the cost of materials, labor, contractor overhead, and profit must be factored into a realistic cost for reconstruction.

- **Materials Cost:** Estimating the cost of reconstruction would take into account both materials for on-site construction and custom fabricated components.
- Basic construction materials such as wood, stone, masonry and metals should be estimated based upon local costs and determined by seeking bids from several different sources.
- Components such as doors, windows, wood siding, shaped shingles, and other functional and decorative features should be estimated based upon specifications replicating the historic physical characteristics of each component. Local experienced fabricators should be utilized in determining the cost of these items.

**Labor Costs:** Labor should be estimated using local prevailing wages for specified trades including but not limited to framers, finish carpenters, masons, roofers, electricians, and plumbers).

**Overhead and Profit:** The fee charged for contractor mobilization, profit and overhead (license, taxes, insurance, rents, and other fees and expenses associated with conducting business) should be based upon experienced general contractor fees identified in the local area.

#### **Conclusion**

While there is no mitigation that would reduce the demolition of the nine (9) Paraiso Springs cottages to less than significant, ARG feels that the \$10,000 amount specified for mitigation in MM3.5-1b is insufficient to compensate for the illegal demolition of the nine Victorian cottages. Compensation for the value of the lost historic materials and workmanship would more reasonably take into account the above referenced assumptions, material characteristics and quantities, and project costs.

# EXHIBIT 'E'

## **Preservationists call for Paraiso Springs developer to pay \$2 million**

**Money would fund Los Coches Adobe restoration, offset loss of historic resort cottages**

*By Jim Johnson, Monterey Herald*

Thursday, August 4, 2016

Salinas >> Area historic preservationists reiterated their call for the Paraiso Springs resort developer to pay \$2 million to renovate the historic Los Coches Adobe to offset the unpermitted demolition of nine historic Victorian cottages on the resort site.

On Thursday, the county Historic Resources Review Board failed to reach a quorum, drawing only three members, for a meeting that included contemplating a recommendation on appropriate mitigation for the cottage demolition. The meeting will be rescheduled for Sept. 1 or an earlier special meeting to be announced.

Though the board couldn't formally consider the matter, it did open the meeting for public comment, and Alliance of Monterey Area Preservationists members Nancy Runyon and Mike Dawson spoke up.

The duo argued that an analysis of the replacement costs for the nine cottages resulted in a \$1.7 million estimate and with inflation that would increase to about \$2 million. That was the amount they called for the board to recommend requiring the Paraiso Springs developer to pay to the city of Soledad for the adobe restoration.

Such a sum, they argued, would send a message to developers that historic resources can't be erased without serious consequence and would represent a more equitable mitigation than a \$10,000 donation to the Monterey County Historical Society and historic displays, as currently proposed.

Historically, the Los Coches Adobe was used as a stagecoach and train stop for visitors en route to the original Paraiso resort located in the foothills of the Santa Lucia Mountains near Greenfield. The new resort proposal envisions a 103-room hotel, timeshare condos, conference facilities, day spa and fitness center, wine and garden center, artists studios and stores, and restaurants on the 235-acre site.

*Jim Johnson can be reached at 831-726-4348.*

# EXHIBIT 'F'

April 25, 2018

Fenton & Keller  
c/o: John Bridges  
2801 Monterey – Salinas Highway  
Monterey, Ca 93942

**Technical Memorandum:**

**Hydrogeologic Evaluation of Recirculated Draft Environmental Impact Report (RDEIR)  
- Paraiso Springs Resort Project**

**EXECUTIVE SUMMARY:**

Bierman Hydro-Geo-Logic (BHgl) has completed a evaluation of Recirculated Draft Environmental Impact Report (RDEIR)<sup>1</sup> for Paraiso Springs Resort Project hydrogeology including an evaluation of the proposed project water quantity and quality as a long term water supply and whether there is any potential for onsite or offsite cumulative significant impacts to the groundwater resource. More specifically, whether there could be cumulative significant impacts to the Pura Spring which has historically served the properties livestock and associated residences east of the proposed project since 1918<sup>2</sup>.

Although the Comprehensive Hydrogeologic Report (CHR) by Todd<sup>3</sup> is complete and covers all of the major elements of a hydrogeologic study (minus a Q20 analysis<sup>4</sup>) including that there appears to be enough water to support this size/scale of a project. However, there remains some data-gaps that should be expanded upon to fully understand the site conceptual model and hydrogeology. Specifically;

1. A more detailed analysis of the hydrogeologic interaction between the alluvial and hardrock aquifer and, associated springs including reassessment and/or confirmation of aquifer transmissivity and storativity (T&S) values for both aquifer (alluvial and hardrock) settings<sup>5</sup>.
2. Reassessment of site precipitation values should be analyzed. It is BHgl opinion (based on Isohyetal overlay) that the precipitation values for the subject site should be more conservative that what is used in the CHR.
3. Reassessment of the aquifer storage and groundwater balance in relation to project water demand based on revised transmissivity, storativity and precipitation values.
4. Reassessment of impacts to the Pura Spring from "simulated pumping analysis". The calculated drawdown by Todd<sup>6</sup> has the potential to significantly impact localized spring flow and annual spring flow production as spring flows are generally more susceptible to minor fluctuations in groundwater level elevations.
5. Further assessment of the Pura Spring flow rate and its response to precipitation events. There is a lack of seasonal data on spring flow measurements and its relation to precipitation events.

This concludes the Executive Summary.

<sup>1</sup> Recirculated Draft Environmental Impact Report; Paraiso Springs Resort, Clearinghouse #2005061016, Appendix H & J, February 23, 2018.

<sup>2</sup> 1918 Water Rights Agreement and, 1985 Agreement Regarding Easements.

<sup>3</sup> Todd Groundwater, *Comprehensive Hydrogeologic Report* - Paraiso Hot Springs Resort dated August 26, 2014.

<sup>4</sup> Maathuis and Van der Kamp, 2006 - A analysis developed as a means of estimating the pumping rate on a well after 20-years of pumping continuously at the project demand rate and whether the drawdown would exceed the available water column above the pump. In recent subdivision projects (Stemler, December, 2015) MCEHB has required Q50-Analysis, 50-year -vs- 20-year analysis per Mannthuis and Van der Kamp.

<sup>5</sup> Also noted in the MCEHB memo dated 8/22/16.

<sup>6</sup> Todd Groundwater, *Comprehensive Hydrogeologic Report* - Paraiso Hot Springs Resort dated January 1, 2018.

## DATA SOURCES:

As part of our evaluation, the following Reports, Memos and/or Technical Memorandums were reviewed;

- Landset Engineers; Geologic and Soil Engineering Feasibility Report for Paraiso Hot Springs SPA Resort, Monterey County, California dated December 31, 2004.
- CH2MHill; Existing Hydrologic and Hydraulic Site Conditions dated July 15, 2005.
- Newman Well Surveys; Video Logs of Well #1, and #2, 2007.
- Oslick, Harvey; Review of CH2MHill Technical Memorandum - Preliminary Hydrology and Hydraulic Analysis and Erosion Control Measures, January 17, 2008.
- CH2MHill; Paraiso Springs Resort: Response to Hydrology and Hydraulic Analysis and Erosion Control Measures Review Comments, October 28, 2008.
- CH2MHill; Technical Memorandum - Paraiso Springs Resort 10-day Pumping Test Results, February 26, 2008.
- CH2MHill; Paraiso Springs Resort – Estimated Potable Water Demand and Potable Water Source, January 27, 2009, Revised August 3, 2010a.
- CH2MHill; Paraiso Springs Resort – Estimated Wastewater Production & Proposed Treatment, Irrigation & Storage, January, 2009, Revised, August 2, 2010b.
- CH2MHill; Response to Preliminary Engineering Reports for Paraiso Springs Hot Springs, dated August 2010c.
- CH2MHill; Paraiso Spring Resort – Drainage Analysis and Drainage Plan Comments, 2012.
- CH2MHill; Stream Setback Plan, 2012.
- CH2MHill; Letter Re: Paraiso Spring Resort PLN040183 Stream Channel Modification – Response to Comments from Monterey County, 2013.
- CH2MHill; Stream Setback Plan, 2013.
- Wallace Group; Memo to EMC Planning Group, Re: Paraiso Springs Resort – Review of Wastewater, November 9, 2012.
- Wallace Group; Memo to EMC Planning Group, Re: Paraiso Springs Resort – Review of Water System, November 16, 2012.
- Wallace Group; Memo to EMC Planning Group, subject: Paraiso Springs Resort – Review of Wastewater. Comments to Applicant's Response to Comments – Wastewater, February 12, 2013.
- Wallace Group; Memo to EMC Planning Group, subject: Paraiso Spring Resort – Review of Water System. Comments to Applicant's Response to Comments – Water, February 12, 2013.
- AdEdge Technologies; Field Pilot Test Report – Paraiso Hot Springs Potable Water Treatment Plant: Fluoride Treatment and AD74 Absorption, April 30, 2012.
- Culligan MATRIX Solutions; Paraiso Springs Resort –Fluoride Water Treatment Regeneration Effluent Analysis, May 29, 2012.
- Draft Environmental Impact Report; Paraiso Springs Resort, Appendix D, E, F, G, July 2013,
- Todd Groundwater, *Comprehensive Hydrogeologic Report* - Paraiso Hot Springs Resort dated August 26, 2014.
- Balance Hydrologics Inc., *Peer Review* of Comprehensive Hydrogeologic Investigation Report for the Paraiso Springs Resort dated May 25, 2016.
- Todd Groundwater, *Memorandum* regarding Responses to Peer Review of Comprehensive Hydrogeologic Investigation Report for the Paraiso Springs Resort dated July 25, 2016.
- Monterey County Environmental Health Bureau (MCEHB) *Memorandum* regarding PLN040183, Paraiso Springs Resort, dated August 22, 2016.
- Todd Groundwater, *Memorandum* regarding Response to MCEHB Comments - PLN040183, Paraiso Springs Resort, dated October 5, 2016.
- Maggiora Brothers Drilling Inc., *Well Development & Testing* Data for Paraiso Springs Resort Wells#1, #2, dated October 26, 2016.
- Monterey County Water Resources Agency (MCWRA), *Memorandum* regarding Todd Groundwater's Response to MCEHB Memorandum dated November 7, 2016.
- Todd Groundwater, *Comprehensive Hydrogeologic Report* - Paraiso Hot Springs Resort dated January 16, 2018.
- Recirculated Draft Environmental Impact Report; Paraiso Springs Resort, Clearinghouse #2005061016, Appendix H & J, February 23, 2018.

In addition, the following regulatory documents were referenced;

- Monterey County Code of Regulations, Title 15-Public Services, Chapter 15.04-Domestic Water Supply.
- Monterey County Code of Regulations, Title 19 – Subdivisions, Chapter 19.10- Design and Improvement Standards.
- California Department of Water Resources Bulletin 74-90 supplement to Bulletin 74-81, June 1991
- California Code of Regulations, Title 22, Chapter 15 – Domestic Water Quality & Monitoring Regulations.
- California Code of Regulations, Title 22, Chapter 16 – California Waterworks Standards.



## REGULATORY:

The County of Monterey has regulations for establishing minimum domestic water system requirements pursuant to Monterey County Codes;

- Title 15, Chapter 15- Domestic Water Supply
- Title 19, Chapter 19– Water Supply

In addition, the State of California requires a Non-Transient, Non-Community Water System (NTNCWS) served by groundwater wells to have specific quantity, quality and well construction standards, specifically;

- Title 22, Chapter 15 – Domestic Water Quality
- Title 22, Chapter 16 -Waterworks Standards
- California Department of Water Resources Bulletin 74-90, supplement to bulletin 74-81

This Technical Memorandum will address whether the RDEIR meets the above County Codes and State Standards and Bulletins.

## PROJECT SCOPE:

As BHgl understands, the project proposes 103-clustered room hotel units; 60 condominium timeshares (34 two-bdrm; 26 three-bdrm), 17 Villa timeshares (9 three-bdrm; 8 four-bdrm), Spa & Fitness Center (courtyard gardens, teahouse, spa water gardens, labyrinth, activity center lap pool, vitality pavilions, indoor golf school, putting greens, basketball, racquetball and tennis court pavilion and, ornamental therapy stream and pool) wine pavilion and vineyard, Paraiso Institute and Visitor Center, Amphitheater stage and lawn; garden center; and laundry and maintenance facilities, specifically - Wastewater Treatment Plant and Water Treatment Plant. The potable water supply is to be served by the two existing wells on the property, only of which one (Well #1) is currently permitted by MCEHB as a domestic water well.

## GROUNDWATER WELLS:

As noted in the DEIR<sup>7</sup> and RDEIR<sup>8</sup> there are three wells (#1, 2, 3) and one test well (#4) on the property. The below information on each of the site wells construction is either from what is legible on the Department of Water Resources (DWR) Well Completion Reports<sup>9</sup> or, from Video Logging<sup>10</sup>.

### Well#1 (aka: Main Well)<sup>11</sup>

- Formation Penetrated:	Alluvium to 95-ft, bedrock from 95-104-ft (as legible on DWR_WCR)
- Well Type:	Domestic
- Casing Type:	8" Steel
- Installation Date:	December 11, 1976
- Sanitary Seal Depth:	0-40 (well log indicates gravel pack from to 104' bgs)
- Well Completion Depth:	104-ft bgs (well log) 100.8-ft (Newman Well Surveys)
- Perforated Interval:	1/8" louvers from 45.5 to 104-ft, 6 per row and 6 rows per ft.
- Static Water Level:	69.71-ft bgs

<sup>7</sup> Draft Environmental Impact Report for Paraiso Springs Resort State Clearinghouse #2005061016 (EMC Consulting, July 2013)

<sup>8</sup> Recirculated Draft Environmental Impact Report; Paraiso Springs Resort, Clearinghouse #2005061016, Appendix H & J, February 23, 2018.

<sup>9</sup> The DWR Well Completion Reports provided in the LandSet Engineers Report (2004) were illegible. The DWR Well Completion Reports provided in the CH2MHill Technical Memorandum dated January 27, 2009 were slightly legible to illegible.

<sup>10</sup> Newman Well Surveys, December, 2007.

<sup>11</sup> Newman Well Surveys video log reports heavy biological fouling and geochemical precipitation of the perforated interval to the extent that the camera could not completely identify the perforated interval. Well was assumed to be fully penetrated to its completion depth. The video log reports old corroded electrical wire cable at bottom of well (92 to 99-ft).

Well #1 concerns or data-gaps:

- This well is comprised of old steel casing with heavy biological fouling and geochemical precipitation which could greatly affect its performance and could collapse.
- The sanitary seal does not meet State or County Regulations.
- There is electrical wire cable at the bottom of the well<sup>12</sup> that could degrade over contaminate the well.
- Although MCEHB is not requiring the well to be replaced<sup>13</sup>, BHgl recommends that this well be replaced with a new well that, maximizes setbacks to OWWTS, has an appropriate sanitary seal depth and, penetrates the full extent of the alluvial aquifer.

**Well#2 (aka: Fluoride Well)<sup>14\*\*</sup>**

- Formation Penetrated:	Non-Alluvial
- Well Type:	Irrigation
- Casing Type:	5" PVC (well log) 6" PVC to 5" PVC at 525-ft bTOC – glued (Newman Well Surveys)
- Installation Date:	June 28, 1992
- Sanitary Seal Depth:	70-ft (well log)
- Well Completion Depth:	640-ft (well log); 762.9-ft (Newman Well Surveys)**
- Perforated Interval:	114.9-132.9' three vertical saw-cuts, 0.5ft long every other foot 235-272.3' three vertical saw-cuts, 0.5ft long every other foot 370-388.1' three vertical saw-cut slots, 0.5ft long every other foot 389.4-470' three horizontal saw-cut slots, 1" vertical spacing between slots 470-505' three horizontal saw-cut slots, 1" vertical spacing every other foot. 530.4-762.9 three horizontal factory cut slots, 0.3" vertical spacing with 6- inches of slots and 2-inch breaks between slots.
- Static Water Level:	9.9-ft bgs

Well #2 concerns or data-gaps:

- There is a discrepancy in well construction between DWR Well Completion Report and Video Log for this well. It is recommend correcting DWR Well Completion Report to reflect actual well construction.
- The well is permitted as a irrigation well. Although there should be no trouble in converting the well to a domestic well status as the sanitary seal meets minimum setbacks, it will still need to be converted according to MCEHB standards.

**Well#3 (aka: Soda Springs Well)<sup>15</sup>**

- Formation Penetrated:	Non-Alluvial
- Well Type:	Irrigation/Hot Water Pools
- Casing Type:	Unknown
- Installation Date:	Unknown
- Sanitary Seal Depth:	Unknown
- Well Completion Depth:	37-ft (LandSet Report, 2004 and DEIR, 2013)
- Perforated Interval:	Unknown
- Static Water Level:	Unknown

Well #3 concerns or data-gaps:

- The well location is not depicted on Project Site Plan.
- There is no information on this wells construction or casing condition other than the well is known to serve the existing hot spas and hot-pool, is 37-ft deep and produces 30-40 gpm (DEIR).
- An update of this wells status is recommended.

<sup>12</sup> Newman Well Surveys, December, 2007.

<sup>13</sup> Monterey County Environmental Health Bureau (MCEHB) *Memorandum* regarding PLN040183, Paraiso Springs Resort, dated August 22, 2016.

<sup>14</sup> Newman Well Survey video logs indicates well is constructed deeper than reported on DWR Well Completion Report. Bottom of well as reported by Newman was 770-ft (versus 640-ft) based on 20-foot casing lengths, such that there may be 7-ft of debris (sand and mud) at bottom of well (Newman, 2007). Video log reports 6-inch "T" in well at a depth of 2.1 feet and the reason is uncertain, other than perhaps discharge during artesian conditions during well construction.

<sup>15</sup> The DWR Well Completion Report for the Soda Springs Well in the LandSet Report (2004) is illegible. No video log was completed.

**Well#4 (aka: Test Well)**<sup>16</sup>

- Formation Penetrated:	Non-Alluvial
- Well Type:	Test Well Only
- Casing Type:	Unknown
- Installation Date:	Unknown
- Sanitary Seal Depth:	Unknown
- Well Completion Depth:	Unknown
- Perforated Interval:	Unknown
- Static Water Level:	Unknown

Well #4 concerns or data-gaps:

- The well location is not depicted on Project Site Plan.
- There is no information on this wells construction or casing condition.
- An update of this wells status is recommended.

**WATER DEMAND:**

**Potable Water Demand:** As noted by Todd<sup>17</sup> the average annual potable water demand at build-out with average occupancy<sup>18</sup> was reported to be 34,400 gallons per day (gpd) or 38.53 afy. However, it is unclear if Todd<sup>19</sup> or the RDEIR<sup>20</sup> have accounted for System and Treatment Losses, Maximum Day Demand (MDD) or Peak Hourly Demand (PHD).

1. MCEHB uses a system loss of 7%. No system losses are believed to be used in assessing the project water demand.
2. The CH2MHill Memorandum<sup>21</sup> suggest a 5% treatment loss, whereas the AdEdge Report<sup>22</sup> (using activated aluminum for fluoride treatment) suggests a 14% treatment loss. Neither of these treatment losses are believed to be used in assessing the project water demand.
3. The Maximum Day Demand (MDD) has not been calculated nor compared to the wells post-recovery credited source capacity. A MDD peaking factor of 2.25 and a PHD peaking factor of 1.5 (both unitless) should be used.

The water demand should be recalculated to reflect a 7% system loss, a 14% Treatment loss (if not already imbedded in the current demand values) along with analysis of MDD and PHD with further assessment to determine whether the wells post-recovery pumping rates still meet the revised water demands.

**Irrigation Water Demand:** As reported by Todd<sup>23</sup>, the irrigation demand will be provided by treated wastewater return flows. It should be noted that the irrigation demand will initially be relied upon by the well-field which would gradually decrease as the wastewater treatment plant is brought to full capacity and that the tertiary treated wastewater would eventually offset the well-fields supply for irrigation.

The wastewater return flows were reported to be approximately 90% of consumptive demand or 36.7 afy at full build-out using average 75-80-80 occupancy. The peak irrigation demand was reported to be 36.7 afy which is less than or equal to what can be supplied by wastewater return flows and wastewater storage. During months of October to March, recycled wastewater would exceed irrigation demand and therefore wastewater would be stored in the underground reservoir until needed.

<sup>16</sup> This well has MCEHB Well Construction Permit # 04-10234 for APN: 418-381-021 was issued in 2005, presumably Well#4. Although it appears this well has been drilled and constructed, no DWR Well Completion Report was provided and its status is unknown. It should be noted that this well was for Test Purposes only – not for domestic use (as per MCEHB e-mail correspondence dated January 11, 2005 between Elizabeth Karis – EHB Staff and Dale Ellis – Assistant Director, Planning and Building Inspections).

<sup>17</sup> Todd Groundwater, *Comprehensive Hydrogeologic Report* - Paraiso Hot Springs Resort dated January 16, 2018.

<sup>18</sup> RDEIR suggests MC Planning Department is satisfied with using occupancy assumptions of 70% hotels - 85% condos -85% villas for the purposes of analyzing the groundwater balance (pg 16).

<sup>19</sup> Todd Groundwater, *Comprehensive Hydrogeologic Report* - Paraiso Hot Springs Resort dated January 16, 2018.

<sup>20</sup> Recirculated Draft Environmental Impact Report; Paraiso Springs Resort, Clearinghouse #2005061016, Appendix H & J, February 23, 2018.

<sup>21</sup> CH2MHill; Paraiso Springs Resort – Estimated Potable Water Demand and Potable Water Source, January 27, 2009, Revised August 3, 2010a.

<sup>22</sup> AdEdge Technologies; Field Pilot Test Report – Paraiso Hot Springs Potable Water Treatment Plant: Fluoride Treatment & AD74 Absorption, 4/30/2012.

<sup>23</sup> Todd Groundwater, *Comprehensive Hydrogeologic Report* - Paraiso Hot Springs Resort dated January 16, 2018.

### SOURCE CAPACITY & AQUIFER PARAMETERS ANALYSIS:

As per State<sup>24</sup> and County<sup>25</sup> regulations, Community Water System (CWS) are required to have:

- Two sources of supply that demonstrate reliability and capability of a long-term sustained yield,
- Sources are required to meet Maximum Day Demand (MDD) with the highest producer offline and,
- Project treatment facility to be sized to produce at least the MDD.

As noted in the DEIR<sup>26</sup> RDEIR<sup>27</sup> and Comprehensive Hydrogeologic Report (CHR)<sup>28</sup> a 10-day pumping test was completed simultaneously on Well #1 and Well #2 in November, 2007 by CH2MHill<sup>29</sup> (tests started within one hour of each other). Below is a summary of the 10-day pumping test on Well #1, #2 based on data provided and reviewed.

Well#1	Reported	Source
- Static Water Level:	68.7 ft bgs	Balance Hydrologics, Inc. 2016
- Lowest Sustained Flow Rate:	58.5 gpm	CH2MHill, 2008
- Saturated Thickness:	95 ft - 68.7 ft = 26.30 ft	Balance Hydrologics, Inc. 2016
- Available Drawdown:	13.15 ft (1/2 saturated thickness)	Bierman Hydrogeologic, 2017
- 24-hr Pumping Rate:	70 gpm	CH2MHill, 2008
- 24-hr Drawdown:	16-ft	Todd Groundwater, 7/25/16, pg 2, Figure 1
- 24-hr Pumping Water Level:	84.70-ft	BHgl, 2017 Extrapolated from 24-hr Dd from Todd 7/25/16
- 24-hr Specific Capacity:	4.38 gpm/ft of drawdown	BHgl, 2017
- 10-day Sustainable Pumping Rate:	58.5 gpm	CH2MHill, 2008
- 10-day Drawdown:	13-ft	Todd Groundwater, 8/26/14, pg 12
- 10-day Pumping Water Level:	81.70-ft	BHgl 2017, Extrapolated from 10-day Dd from Todd 8/26/14
- 10-day Specific Capacity:	4.5 gpm/ft	BHgl 2017, Extrapolated from 10-day Dd and 10-day Sustainable Pumping Rate from Todd, 8/26/14
- 1x Recovery Percentage:	Unknown	No Data Reported
- Credited Source Capacity:	29.3 gpm	CH2MHill 2008, Not accounting for recovery data
Well#2	Reported	Source
- Static Water Level:	3-ft bgs	Balance Hydrologics, Inc. 2016
- Lowest Sustained Flow Rate:	334.8 gpm	CH2MHill, 2008
- Saturated Thickness:	762.9 ft - 3 ft = 759.90 ft	Bierman Hydrogeologic, 2017
- Available Drawdown:	253.30 ft (1/3 saturated thickness)	Bierman Hydrogeologic, 2017
- 24-hr Pumping Rate:	Unknown	No Data Reported
- 24-hr Drawdown:	Unknown	No Data Reported
- 24-hr Pumping Water Level:	Unknown	No Data Reported
- 24-hr Specific Capacity:	Unknown	No Data Reported
- 10-day Pumping Rate:	334.8 gpm	CH2MHill, 2008
- 10-day Drawdown:	74-ft	Todd Groundwater, 8/26/14, pg 12
- 10-day Pumping Water Level:	77-ft	BHgl, 2017, extrapolated from 10-day Dd, Todd, 8/26/14
- 10-day Specific Capacity:	4.5 gpm/ft	BHgl 2017, extrapolated from 10-day Dd and 10-day Sustainable Pumping Rate (Todd, 8/26/14)
- 1x Recovery Percentage:	Unknown	No Data Reported
- Credited Source Capacity:	29.3 gpm	CH2MHill 2008, Not accounting for recovery

<sup>24</sup> California Code of Regulations, Title 22, Chapter 16, Waterworks Standards.

<sup>25</sup> Monterey County Code of Regulations, Title 15, Chapter 15 – Domestic Water Systems.

<sup>26</sup> Paraiso Springs Resort – Draft Environmental Impact Report – July 2013, Appendix D, E, F, G.

<sup>27</sup> Recirculated Draft Environmental Impact Report; Paraiso Springs Resort, Clearinghouse #2005061016, Appendix H & J, February 23, 2018.

<sup>28</sup> Todd Groundwater, *Comprehensive Hydrogeologic Report* - Paraiso Hot Springs Resort dated January 16, 2018.

<sup>29</sup> CH2MHill Technical Memorandum - Paraiso Springs Resort 10-day Pumping Test Results 2008.

**Based on review of the source capacity tests, the following data-gaps have been identified.**

1. BHgl concurs with Balance Hydrologics<sup>30</sup>, that the 10-day pumping test on well#1 was not completely carried out according to MCEHB standards<sup>31</sup>. Specifically, the flow rate was not constant and, the discharge line was not long enough and may have been artificially recharging the aquifer during the pumping test.
  - 1a. Despite the procedural irregularities of the pumping test on well#1, MCEHB<sup>32</sup> has acknowledged well#1 to have a source capacity credit of 29.3 gpm and well #2 at 167.4 gpm, these values are based on pre-recovery pumping rates, not post-recovery pumping rates. More specifically, analysis of recovery data for both wells was not provided in reports reviewed and is considered a data-gap. State and County regulations require wells to reach 95% or two feet from static water levels within one time the pumping period whichever is more stringent. Analysis of recovery data should be completed in determining each wells post-recovery credited source capacity. additionally, analysis of recovery data is important because recovery data generally provides the most appropriate data set for analyzing aquifer properties (transmissivity, hydraulic conductivity and storativity) as there are no pumping rate variations that may influence the calculations of aquifer parameters.
  - 1b. As noted by Balance Hydrologics<sup>33</sup> pumped groundwater during the testing period could have potentially been recharging the alluvial aquifer during the later stages of pumping and subsequent recovery test and could affect recovery test data more quickly for well#1 (an alluvial well) rather than well#2 (a sandstone formation). Todd suggests this is speculative<sup>34</sup> (which it could be) and based on review of the semi-logarithmic graph for well#2 at the scale provided in the Todd Response<sup>35</sup> indicates recharge on Well#2 during pumping was not clearly evident. However, no evaluation of recharge to well #1 during later-time pumping (from day 2 to, day 10) or subsequent recovery was evaluated and is considered a data-gap.
2. Source capacity credits are only compared to average annual demands which is not believed to account for system or treatment losses. Post-recovery source capacity credits for both wells should be compared to both Average Annual and Maximum Day Demands after accounting for system and treatment losses (~ 21%).
3. Todd<sup>36</sup> initially estimates transmissivity using specific capacities of well#1 and is questioned by Balance Hydrologics<sup>37</sup> as being too high of a value due to fluctuating flow rate and lack of adequate discharge line and uncertainty of artificial recharge during pumping-tests. Todd<sup>38</sup> re-calculates transmissivity using the first 25-hours of data (from Well#1) and suggests that the value is certainly too low. Todd<sup>39</sup> reasserts that the transmissivity values (including the lower values) used are adequate values for assessing the groundwater balance for the project. Due to aforementioned hydrogeologic consultant discrepancies of the most 'appropriate' T and S values to be used for this type, size and scale of project for assuring a long-term groundwater resource, including impacts to spring flows, it is recommended that verified aquifer parameters values be obtained and confirmed. This may require updated source capacity testing on both alluvial and hardrock wells with the potential of needing observation wells in the alluvial and/or hardrock formations.
4. Although a 2hr test was completed on well#1 in October, 2016<sup>40</sup> to support the data of the November 2007 pumping test, the pumping tests did not follow MCEHB pumping test requirements (i.e. a 8-hr test). In order to definitively understand the shallow hydrogeologic resource and the interaction between wells and springs, it is recommended that, at a minimum (per regulations) a 8-hr pumping test be completed on well#1 at the

<sup>30</sup> Balance Hydrologics Inc., *Peer Review of Comprehensive Hydrogeologic Investigation Report for the Paraiso Springs Resort* dated May 25, 2016.

<sup>31</sup> Monterey County Environmental Health Bureau, "Source Capacity Testing Procedures" dated August, 2011.

<sup>32</sup> Monterey County Environmental Health Bureau (MCEHB) *Memorandum* regarding PLN040183, Paraiso Springs Resort, dated August 22, 2016.

<sup>33</sup> Balance Hydrologics Inc., *Peer Review of Comprehensive Hydrogeologic Investigation Report for the Paraiso Springs Resort* dated May 25, 2016.

<sup>34</sup> Todd Groundwater, *Memorandum* regarding Responses to Peer Review of Comprehensive Hydrogeologic Investigation Report for the Paraiso Springs Resort dated July 25, 2016.

<sup>35</sup> Todd Groundwater, *Memorandum* regarding Responses to Peer Review of Comprehensive Hydrogeologic Investigation Report for the Paraiso Springs Resort dated July 25, 2016.

<sup>36</sup> Todd Groundwater, *Comprehensive Hydrogeologic Report - Paraiso Hot Springs Resort* dated August 26, 2014.

<sup>37</sup> Balance Hydrologics Inc., *Peer Review of Comprehensive Hydrogeologic Investigation Report for the Paraiso Springs Resort* dated May 25, 2016.

<sup>38</sup> Todd Groundwater, *Memorandum* regarding Responses to Peer Review of Comprehensive Hydrogeologic Investigation Report for the Paraiso Springs Resort dated July 25, 2016.

<sup>39</sup> Todd Groundwater, *Comprehensive Hydrogeologic Report - Paraiso Hot Springs Resort* dated January 1, 2018.

<sup>40</sup> Maggiora Brothers Drilling Inc., *Well Development & Testing Data for Paraiso Springs Resort Wells#1, #2*, dated October 26, 2016.

well's design rate (30 gpm) while observing groundwater levels not only in well#2, but in well#3, #4, Pura Spring and, three newly constructed piezometers<sup>41</sup> around Well#1. BHgl recommends expanding the piezometer monitoring program beyond what Todd suggests to also include evaluation of the shallow aquifer. Three piezometers appropriately spaced and constructed within the alluvium around well#1 will provide observation points that will allow a direct computation of T&S values (versus theoretical calculated values for T and S as presented by Todd in 2014, and 2016). Accurate T&S values are essential components to the long-term water supply analysis for the RDEIR.

## **WATER BALANCE**

The variables used in the water balance (precipitation, certain aquifer parameters and/or, lack of treatment and system water-use values) should be reevaluated to provide more conservative estimates of the projects water balance. More specifically, it is BHgl's opinion that;

1. Reevaluation of the projects precipitation value. Although Todd<sup>42,43</sup> uses precipitation values from two accepted sources; National Oceanic and Atmospheric Administration (NOAA) precipitation gauging stations located on the eastside of the Range (Soledad & Paloma stations), the precipitation value used in the water balance analysis of the CHR (17-to-18 in/yr) is based on a linear, uniform increase in rainfall between the two aforementioned stations. The uniform straight-line analysis between the two gauging stations for quantifying precipitation at the project site appears at odds with USGS Isohyetal Map<sup>44</sup> and the maps provided in the DREIR. Todd<sup>45</sup> indicates that the USGS Isohyetal Map shows approximately 15-in/yr at the project site, whereas, BHgl analysis of the Isohyetal overlay shows approximately 13-in/yr at the site (see attached Isohyetal Overlay Map). Due to these discrepancies it is recommended that a more accurate or, more conservative and/or, verified precipitation value for the project be obtained and confirmed. This main require onsite precipitation gauging and monitoring for a year.
2. Reevaluation of each aquifer transmissivity and storativity coefficients especially since there are conflicts of what is consider more appropriate value to use for this project based on pumping test previously completed. Additional pump testing using observation wells for assessing aquifer parameters would be more appropriate for this type/size project.
3. As discussed above, the water demand should be reevaluated to reflect a 7% system loss, a 14% Treatment loss (if not already imbedded in the current demand values, and if so, made clear) along with analysis of MDD and PHD with further assessment to determine whether the wells post-recovery pumping rates still meet the revised water demands.
4. The water balance must also take into account the amount Pura Ranch is able to extract through a one inch pipe as stipulated in the water system agreement. Todd<sup>46</sup> (pg 10) indicates "Pura Ranch has a easement to divert as much as can be conveyed in a 1-inch pipe, limited to normal residential use for two parcels and the watering of livestock".

Refined or, more accurate and at least mutually agreed upon variables should be used in assessing this projects sustainable long-term water supply.

## **ONSITE & OFFSITE IMPACT ANALYSIS:**

Todd<sup>47</sup> completed a "simulated pumping impact analysis" using USGS numerical finite difference program - MODFLOW to assess on and offsite impacts from using the wells for the project. Todd<sup>48</sup> analyzes impacts to

<sup>41</sup> Piezometers were also suggested by Todd to evaluate wetland vegetation impacts.

<sup>42</sup> Todd Groundwater, *Comprehensive Hydrogeologic Report* - Paraiso Hot Springs Resort dated August 26, 2014.

<sup>43</sup> Todd Groundwater, *Comprehensive Hydrogeologic Report* - Paraiso Hot Springs Resort dated January 1, 2018.

<sup>44</sup> USGS Isohyetal Map, Rantz, 1969.

<sup>45</sup> Todd Groundwater, *Comprehensive Hydrogeologic Report* - Paraiso Hot Springs Resort dated January 1, 2018.

<sup>46</sup> Todd Groundwater, *Comprehensive Hydrogeologic Report* - Paraiso Hot Springs Resort dated January 16, 2018

<sup>47</sup> Todd Groundwater, *Comprehensive Hydrogeologic Report* - Paraiso Hot Springs Resort dated January 1, 2018.

neighboring wells and springs using aquifer parameters from pumping test data. Assuming the aquifer parameter are accurate, the "simulated pumping impact analysis" indicates there could be drawdown in wells and springs. Specifically;

1. Todd<sup>49</sup> indicates (and BHgl concurs) that simulated drawdown value (0.5-feet) would not impact neighboring wells annual production or flow-rates (partly due to wells' larger saturated thicknesses and pumping performance curves) nor, dewater the neighboring wells screens or, introduce potential impacts related to well screen dewatering (bio-fouling).
2. Todd<sup>50</sup> indicates that "spring are sometimes associated with local hydrogeologic anomalies. It is possible that even if drawdown occurred in the general vicinity of the spring, the spring discharge might not be affected" . However, springs can be more sensitive to drawdown than wells because springs occur at the water table and have little depth to absorb groundwater level declines. Hence, even small groundwater elevation fluctuations (drawdown) could conceivably reduce or terminate spring flows. The modeling analysis in Todd<sup>51</sup> report indicates that drawdown in the Pura Spring could be as much as 0.8-feet which could be a cumulative significant impact to the Pura Spring and Pura Ranch diversion rights.
3. Todd<sup>52</sup> and Todd Response<sup>53</sup>, acknowledge the historical agreement<sup>54</sup> that allow water diversions up to the amount of flow that will pass through a 1-inch pipe. Specifically;

"If there is a reduction in spring flow attributable to project-related impacts, rather than to drought or, other non-project factors and, the decrease is significantly large that the spring no longer fills a 1-inch pipe, the applicant shall provide a 'supplemental supply' of water at the spring so that the total flow fills a 1-inch pipe".

And, in the updated CHR by Todd<sup>55</sup> (pg 10) the text indicates;

"Pura Ranch has a easement to divert as much as can be conveyed in a 1-inch pipe, limited to normal residential use for two parcels and the watering of livestock".

The secondary and cumulative impacts of project-development on the water rights of Pura Ranch to extract the total flow filling a 1-inch Sch. 40 pipe should be addressed and mitigated. The RDEIR fails to acknowledge the amount of potential water right diversion that could be apportioned by Pura Ranch. Attached is a Table showing flows through a rigid 1-inch, Sch 40 PVC pipe ranging from 16 gpm (gravity flow) to 58 gpm (high pressure ~86 psi).

**Additional potential impacts to the groundwater resource and the Pura Spring from other project build-out operations are discussed within the remainder of this Technical Memorandum.**

#### **WASTEWATER GENERATION & TREATMENT:**

As noted in the RDEIR<sup>56</sup>, Technical Memorandums<sup>57</sup> and finally the CHR<sup>58</sup>, the project is currently served by onsite wastewater treatment systems (OWWTS) by using conventional septic tanks and leach-fields. The proposed project would have increased wastewater flows over the existing conditions (approximated at 36.7 afy

<sup>48</sup> Todd Groundwater, *Comprehensive Hydrogeologic Report* - Paraiso Hot Springs Resort dated January 16, 2018.

<sup>49</sup> Todd Groundwater, *Comprehensive Hydrogeologic Report* - Paraiso Hot Springs Resort dated January 16, 2018.

<sup>50</sup> Todd Groundwater, *Comprehensive Hydrogeologic Report* - Paraiso Hot Springs Resort dated January 16, 2018.

<sup>51</sup> Todd Groundwater, *Comprehensive Hydrogeologic Report* - Paraiso Hot Springs Resort dated January 16, 2018.

<sup>52</sup> Todd Groundwater, *Comprehensive Hydrogeologic Report* - Paraiso Hot Springs Resort dated August 26, 2014.

<sup>53</sup> Todd Groundwater, *Memorandum* regarding Responses to Peer Review of Comprehensive Hydrogeologic Investigation Report for the Paraiso Springs Resort dated July 25, 2016.

<sup>54</sup> State of California, County of Monterey Grant of Easement dated June 24th 1959 and Agreement Re: Easement dated November 27, 1985

<sup>55</sup> Todd Groundwater, *Comprehensive Hydrogeologic Report* - Paraiso Hot Springs Resort dated January 16, 2018

<sup>56</sup> Recirculated Draft Environmental Impact Report; Paraiso Springs Resort, Clearinghouse #2005061016, Appendix H & J, February 23, 2018.

<sup>57</sup> CH2MHill; Technical Memorandum, Paraiso Springs Resort – Estimated Wastewater Production and Proposed Treatment, Irrigation and Storage, 2010 and, Wallace Group; Review of Wastewater, November, 2012 and February, 2013.

<sup>58</sup> Todd Groundwater, *Comprehensive Hydrogeologic Report* - Paraiso Hot Springs Resort dated January 16, 2018

for 75-80-80% occupancy) and therefore, the project proposes an OWWTS to treat the wastewater to tertiary standards which would allow the treated water to be used for irrigation use.

As reported, the OWWTS will be able to accommodate at wastewater return flows at build-out with a maximum size of the underground recycled wastewater reservoir to be 4.1 million gallons to meet County requirements of 120 days of storage (for winter months of no irrigation). Although the OWWTS proposed appears adequate for intended use for the project, the location and size of onsite waste water treatment storage and system components could impede on the groundwater resources especially given the many faults and seismic hazards in the area. Specifically;

1. Excavation and/or development of the underground recycled wastewater reservoir directly up-gradient of the Pura Spring could adversely affect spring quality and quantity and the RDEIR fails to identify mitigation measures to Pura Spring if the OWWTS system leaks and/or fails.
2. The wastewater conveyance line to the wastewater treatment system has been measured to be approximately 85-feet from the Pura Spring with the treatment building itself (which contains biological treatment tanks, residual waste dumpsters from primary screening and excess biomass storage after aeration treatment) less than 50-ft<sup>59</sup>. Although setbacks from the conveyance line to the spring appear to be met, setbacks from the treatment building to the spring should be increased. MCEHB requires a minimum 100-ft setbacks from a septic tank<sup>60</sup>. Since the treatment building contains biological treatment tanks, waste dumpsters and excess biomass storage, the treatment building should also meet 100-ft setbacks. Additionally, these setback distances are generally considered adequate where a significant layer of unsaturated, unconsolidated sediment less permeable than sand is encountered between ground surface and groundwater<sup>61</sup>. However, in contrary, there is no confining layer and the site conditions are very permeable. Lastly, the spring outcrop is at an approximate elevation of 990-ft while the floor of the building is noted as being 1000-ft<sup>62</sup>. The vertical separation is less than 10-ft and consists of unsaturated, unconsolidated sand, silt and trace gravel (noted as Qal<sub>2</sub>) and therefore, setback distances should be increased or system infrastructure moved to a different location to prevent degradation to Pura Spring.
3. The underground recycled wastewater reservoir was determined to be 216-ft from the spring. Although this meets minimum setbacks, the underground reservoir is going to be 20-feet deep, whereas naturally occurring seasonal high groundwater may be shallower thus, in direct contact with recycled wastewater reservoir storage. Although LandSet Boring Logs B-6 and B-8 (closest boring in proximity to the reservoir storage) were dry to 21.5 ft bgs they were drilled in August, 2004 and, drilling during seasonal high-groundwater may provide different groundwater conditions.
4. The location/size of the underground recycled wastewater storage reservoir could impede flow to the spring.
5. The RDEIR fails to consider potential impacts from the OWWTS possible failure to meet the goal of nitrate-nitrogen levels of less than 6 mg/L, especially due to the regional attention to nitrate contamination in groundwater.
6. Recommend monitoring of spring flow and turbidity during installation of wastewater reservoir activities. If any alteration to spring quantity or quality during construction activities is observed, alternative Best Management Practices (BMPs) shall be implemented.

#### **STORMWATER DETENTION:**

As noted in the RDEIR, there will be several acres of impervious area associated with the project at build-out and, as reported, not significantly increasing outflow from the basin although would alter the current drainage pattern of the basin.

<sup>59</sup> CH2MHill – Vesting Tentative Map, July 15, 2005.

<sup>60</sup> California Department of Water Resources, Bulletin #74-90, supplement to Bulletin #74-81, June, 1991.

<sup>61</sup> California Department of Water Resources, Bulletin #74-90, supplement to Bulletin #74-81, June, 1991.

<sup>62</sup> CH2MHill – Vesting Tentative Map, July 15, 2005.



The proposed project would have flows re-routed to culverts, piped storm drainage systems and/or open ditches (CH2MHill, 2005) and, pursuant to MCWRA design policy, have a storm water detention facility to limit the 100-yr post development runoff to the 10-yr pre-development runoff rate. Using Low Impact Development (LID) also known as Best Management Practices (BMPs) to include bioretention, buffer strips, vegetated swales, pervious paving and roof runoff controls, the project proposes to retain stormwater to maintain a flow rate of a 10-year storm during a 100-year storm event.

1. The preparation and implementation of a Storm Water Pollution Prevention Plan (SWPPP) may not reduce the impact of erosion to a less than significant level. The SWPPP should address the increased potential for seasonal flooding due to climatic change as it relates to erosion control, prevention, and mitigation.
2. Development up or side-gradient of any onsite spring could adversely affect spring quality and quantity especially with any excavating required for the stormwater detention basin.
3. An increase in impervious area could reduce percolation to source aquifer and Pura Spring quantity/quality.
4. Removal of existing culverts and re-routing of the drainage pattern may affect Pura Spring quantity/ quality.
5. A portion of the stormwater retention basin is noted as being within the 50-ft stream setbacks not meeting MC Code, Chapter 16.16.050K.
6. The soil type for where the Stormwater Dention Basin is located is considered marginal with moderate to high liquefaction potential. As reported on closest LandSet Boring Log B-1 – 2004, the lithology consists of; Clayey Sand to 9.5' bgs, and Well Graded Sand to depths of 45-ft below ground surface (bgs) with no impervious unsaturated layers present. More so, first groundwater was encountered at 18.5' which rose to 6.5' after 30-minutes. The stormwater detention basin may be in direct contact with seasonal high groundwater. Recommend a groundwater monitoring network to monitor stormwater detention, infiltration, and groundwater quality.

#### **APPLICABILITY TO SUSTAINABLE GROUNDWATER MANAGEMENT ACT:**

The Sustainable Groundwater Management Act (SGMA) requires groundwater sustainability planning for medium or high priority basins (Water Code § 10727). The project site is within the Forebay Aquifer Subbasin. Below is a list of SGMA requirements and an assessment of whether the RDEIR has met the conditions:

1. **Whether there could be chronic lowering of groundwater levels indicating a significant and unreasonable depletion of supply if continued over the planning and implementation horizon.** No long-term water supply analysis (Q20/Q50 Analysis) was completed for this project. The RDEIR should consider the impacts of SGMA implementation measures on the project's water supply.
2. **Significant and unreasonable reduction of groundwater storage.** Although the current analysis suggests no significant and unreasonable reduction of groundwater storage, aquifer parameters need to be verified and long-term water supply analysis (Q20/Q50 Analysis) should be assessed. The RDEIR does not consider the possibility that groundwater pumping to support the project may be restricted under the Groundwater Sustainability Plan under SGMA covering the Forebay Aquifer Subbasin.
3. **Significant and unreasonable seawater intrusion.** The RDEIR (and BHgl concurs) that there would be less than significant seawater intrusion impacts.
4. **Significant and unreasonable degraded water quality, including the migration of contaminant plumes that impair water supplies.** The RDEIR fails to identify whether potential impacts to spring quality could be degraded.

5. **Significant and unreasonable land subsidence that substantially interferes with surface land uses.** The RDEIR doesn't specifically indicate whether or not the project would cause unreasonable land subsidence that would interfere with surface land uses.
6. **Depletions of interconnected surface water that have significant and unreasonable adverse impacts on beneficial uses of the surface water.** The RDEIR fails to adequately substantiate whether the project would impact annual spring flows and volumes and Pura Ranch diversion rights.

#### **BASELINE MONITORING & MITIGATION:**

BHgl generally concurs with Todd<sup>63, 64</sup> regarding baseline monitoring and, mitigation response. Specifically;

1. A monitoring program should encompass static and pumping groundwater levels, wetland vegetation and spring flow monitoring every month for 2-years. Spring flow rate monitoring may require daily monitoring immediately prior to, during and, immediately after precipitation events to better understand the relationship of precipitation amounts and frequency, percolation recharge, and the lag-time (or lack thereof) of recharge to spring flow.
2. Groundwater quality sampling and stiff diagram analysis is recommended every two years.  
BHgl further recommends monitoring quarterly for 4-consecutive years to provide 6-years of information to determine whether impacts (if any) are related to groundwater pumping and water use for the project. A monitoring and/or, mitigation program can then be reinitiated after the 6-year study.

#### **SUMMARY:**

Although the RDEIR and supporting documentation including the CHR provides a very good assessment of the hydrologic conditions at the site, it is BHgl opinion that their remains insufficient hydrogeologic data at this time to confirm whether there would be cumulative significant impacts to the groundwater resource and sensitive environmental receptors, specifically the Pura Spring and Pura Ranch diversion rights.

#### **LIMITATIONS**

This report consists of professional opinions and recommendations based on the reports and data reviewed and field-testing which are necessarily limited. *Bierman Hydro-Geo-Logic P.C.* bases the conclusions on the reports, data and tests reviewed using accepted hydrogeologic principles and practices of the groundwater industry including comparison of the reports and data reviewed to regulatory guidelines. Additional data from future work may lead to modification of the opinions expressed herein.

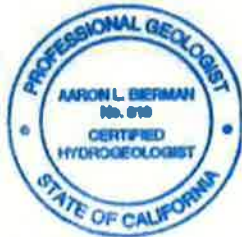
The conclusions included within this report are valid only as of the date and within the observational limitations of the reports and data reviewed. Our conclusions are intended for general comparison of the well and/or aquifer in its present condition against known water well standards and/or guidelines.

In accepting this report, the client releases and holds *Bierman Hydrogeologic, P.C.* harmless from liability for consequential or incidental damages arising from any different hydrogeologic evaluations.

Respectfully submitted,

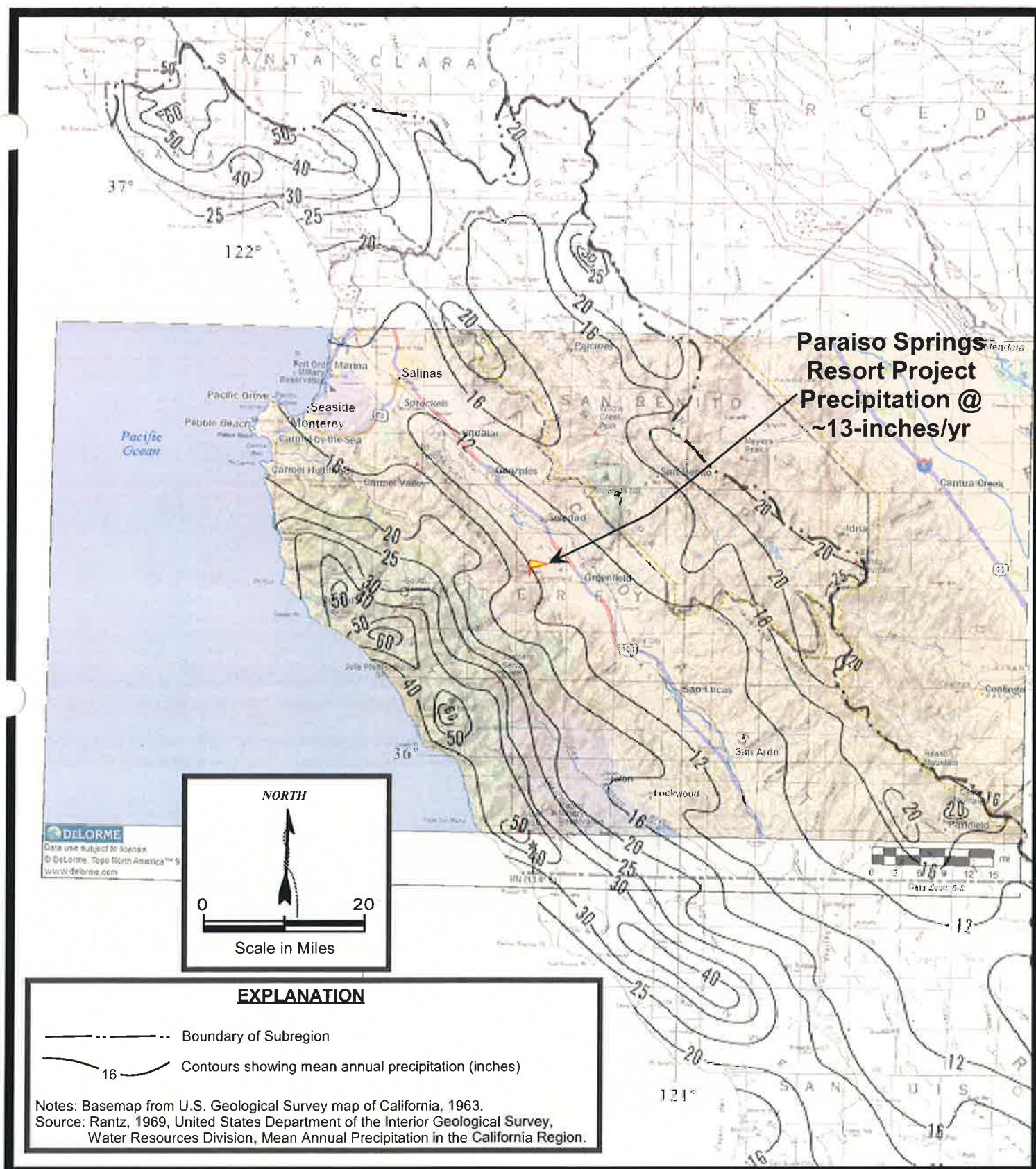


Aaron Bierman  
Consulting Hydrogeologist  
PG#7490, CHG#819



<sup>63</sup> Todd Groundwater, *Memorandum* regarding Responses to Peer Review of Comprehensive Hydrogeologic Investigation Report for the Paraiso Springs Resort dated July 25, 2016.

<sup>64</sup> Todd Groundwater, *Memorandum* regarding Response to MCEHB Comments - PLN040183, Paraiso Springs Resort, dated October 5, 2016.



BIERMAN

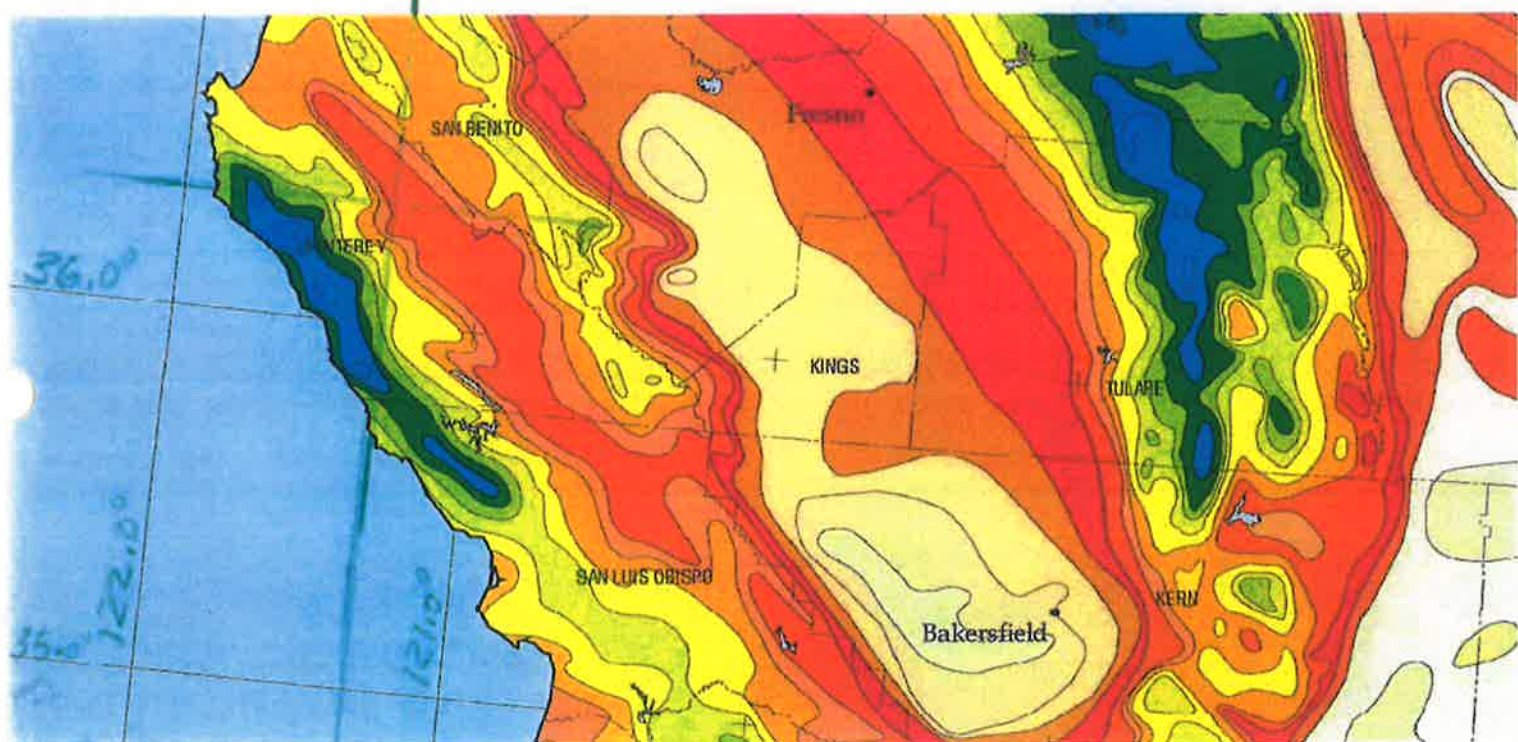
**Hydrogeo logic**  
A Professional Company

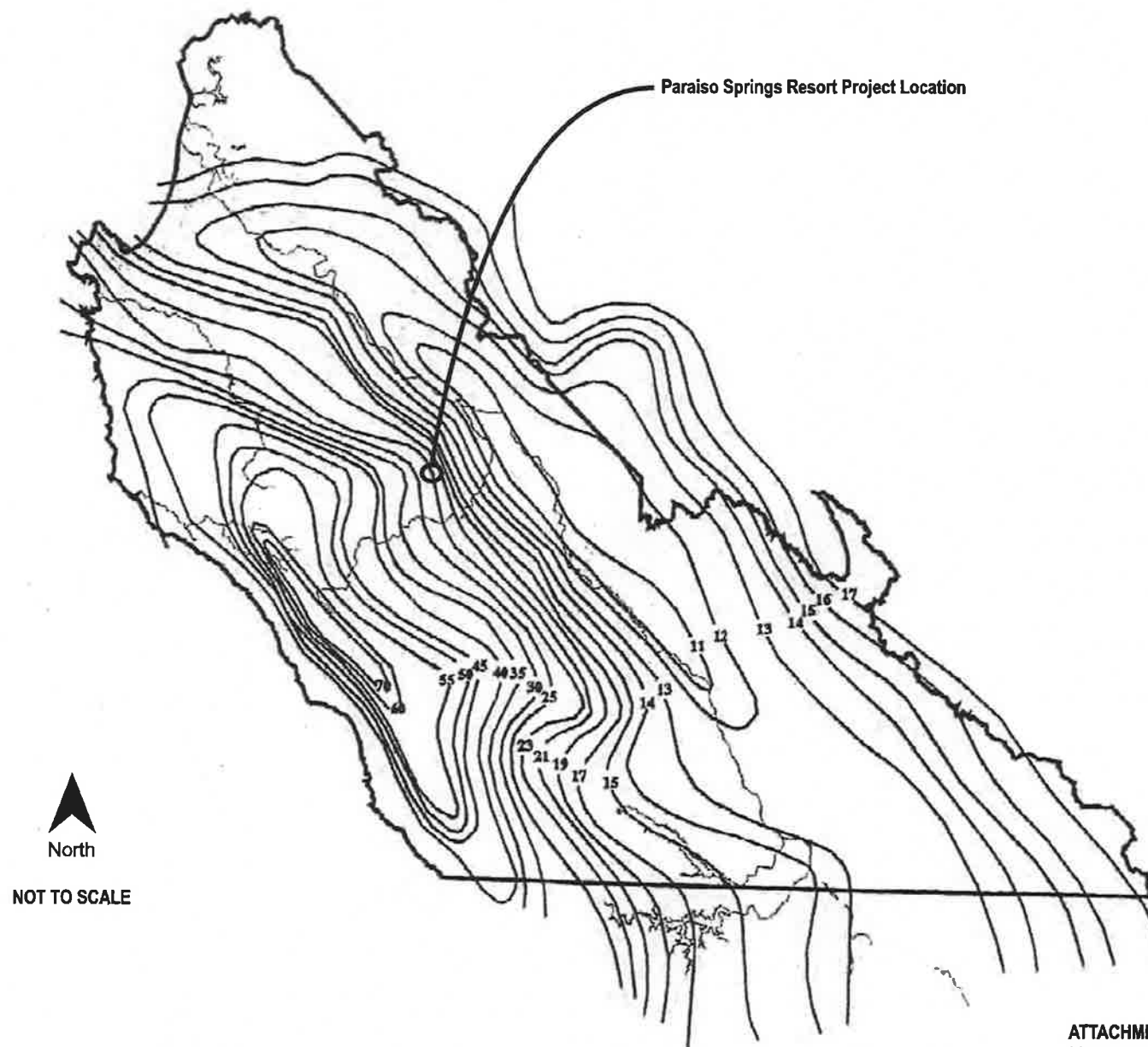
Hydrogeologic Consulting & Water Resource Management

**ISOHYETAL MAP  
PARAISO SPRINGS RESORT  
MONTEREY, CALIFORNIA**

**Figure  
XXX**








North

NOT TO SCALE

SOURCE: MCWRA Annual Report 1995 Water Year (MCWRA, 1997)  
WB052008003BAO Attachment\_4\_mean\_aanual\_precip.ai 05-15-08 dash

**ATTACHMENT 5**  
Monterey County Mean Annual Precipitation  
Paraiso Springs Resort Subbasin Delineation

**CH2MHILL**



**1-888-PVC-FLEX**

Call for technical & customer support M-F, 10am-4pm PST. Orders should be placed via the website. Thanks!


[View Cart](#)



90% of all pvc pipe & plastic pipe fittings we sell are **MADE IN THE USA** (and why it's so important to you!)

FlexPVC® Selection Guide

Flexible PVC By The Foot


Cut Rigid PVC Pipe & Rod

Furniture Fittings & Pipe

Snap Clamps

PVC Fittings Selection Guide


[email](#)



555 Labs Rates Our Security "A+"

[Pipe Size Chart](#)
[Reference Materials](#)
[Technical How To Articles](#)
[FAQ & Videos](#)
[Shipping Information](#)
[Site Navigation](#)



"If there be any among us who [disagree], let them stand undisturbed as monuments of the safety with which error of opinion may be tolerated, where reason is left free to combat it." Thomas Jefferson, March 4, 1801

[Clear PVC & Acrylic Pipe](#)   [Sch 40 White PVC Plumbing Pipe](#)   [Sch 80 Gray PVC Plumbing Pipe](#)   [Furniture Grade Glossy White Pipe](#)   [PVC CTS CPVC Pipe](#)   [Thinwall PVC Pipe](#)

**Water Flow Chart #1** The chart below takes into consideration the potential damage from hydraulic hammer (shock) and noise considerations due to excessive fluid velocity. For more detailed information [click here for our pipe selection based on pipe size and flow requirement Nomograph](#). You can flow more than what is shown in the chart (see **Chart #2** below) however, you may run into problems if you do.

**IMPORTANT:** The flow ratings in the charts below are for [Rigid PVC Pipe](#). Reduce flow by 3% (Multiply by .97) for flow going through [Flexible PVC Pipe](#).

Sch 40 Pipe Size	ID (range)	OD	Assume Gravity to Low Pressure. About 6f/s flow velocity, also suction side of pump		Assume Average Pressure. (20-100PSI) About 12f/s flow velocity		Assume "High Pressure" PEAK flow. About 18f/s flow velocity	
			GPM (with minimal pressure loss & noise)	GPH (with minimal pressure loss & noise)	GPM (with minimal pressure loss & noise)	GPH (with minimal pressure loss & noise)	GPM (with significant pressure loss & noise)	GPH (with significant pressure loss & noise)
1/2"	.50-.60"	.85"	7 gpm	420 gph	14 gpm	840 gph	21 gpm	1,260 gph
3/4"	.75-.85"	1.06"	11 gpm	660 gph	23 gpm	1,410 gph	36 gpm	2,160 gph
1"	1.00-1.03"	1.33"	16 gpm	960 gph	37 gpm	2,220 gph	58 gpm	3,510 gph
1.25"	1.25-1.36"	1.67"	25 gpm	1,500 gph	62 gpm	3,750 gph	100 gpm	5,940 gph
1.5"	1.50-1.60"	1.90"	35 gpm	2100 gph	81 gpm	4,830 gph	126 gpm	7,560 gph
2"	1.95-2.05"	2.38"	55 gpm	3300 gph	127 gpm	7,650 gph	200 gpm	12,000 gph
2.5"	2.35-2.45"	2.89"	80 gpm	4800 gph	190 gpm	11,400 gph	300 gpm	17,550 gph
3"	2.90-3.05"	3.50"	140 gpm	8400 gph	273 gpm	16,350 gph	425 gpm	25,650 gph
4"	3.85-3.95"	4.50"	240 gpm	14,400 gph	480 gpm	28,800 gph	700 gpm	42,000 gph
5"	4.95-5.05"	5.563"	380 gpm	22,800 gph	750 gpm	45,000 gph	1100 gpm	66,000 gph
6"	5.85-5.95"	6.61"	550 gpm	33,000 gph	1100 gpm	66,000 gph	1700 gpm	102,000 gph
8"	7.96"	8.625"	950 gpm	57,000 gph	1900 gpm	114,000 gph	2800 gpm	168,000 gph

#### Water Flow Chart #2

Here is a set of data predicting the amount of flow through an **orifice** based on pressure on one side of the **orifice**. Note: This is through an **orifice**, not a pipe. Adding pipe and fittings will drop this flow significantly. In other words, this would be the theoretical maximum amount of water through a **hole** based on the pressure above it. The table above is more "real world" information.

Pressure	Flow in GPM through a hole diameter measured in inches							
PSI	1"	1.25"	1.5"	2"	2.5"	3"	4"	5"
20	26	47	76	161	290	468	997	2895
30	32	58	94	200	360	582	1240	3603
40	38	68	110	234	421	680	1449	4209
50	43	77	124	264	475	767	1635	4748
60	47	85	137	291	524	846	1804	5239
75	53	95	153	329	591	955	2035	5910
100	62	112	180	384	690	1115	2377	6904
125	70	126	203	433	779	1258	2681	7788

## GPM/GPH Flow based on PVC Pipe Size

There are now 3 charts and one formula on this page showing water flow through a pipe. These 3 charts come from 3 different sources, and they all are just general guidelines. and should not be relied on as a precise source for information or as a substitute for engineering. The data between them does vary. In the chart to the left is a general guideline for how much liquid a pipe of specific size can flow in GPM (Gallons Per Minute) & GPH (Gallons Per Hour.) There are three columns. (Well there are really six, but each column is shown in Gallons per minute, and then again as Gallons per Hour.) The first set of columns would be the minimum you would expect for the pipe size shown using nothing but gravity in a low head pressure situation to power the flow. The 2nd set of columns show what you can expect using an average pump with a pressure from 20 to 100psi. The 3rd set of columns is the maximum flow based on maximum recommended velocity of the liquid in the pipe. You may exceed this, but you will have to contend with excessive noise and exceedingly high inertial impacts. (I.e. Possible system failure due to hydraulic hammer effects.) This is a very general guide and is subject to many variables. Pressure, noise allowance, bends, fittings, viscosity, etc. affect how much liquid will flow through a pipe of given size. If you can accept more noise and have higher pressure, you can pump more at the risk of system failure. If you have a lot of bends and fittings you will flow less. The flow rates shown should not produce unacceptable noise, however, many variables affect noise, so this is no guarantee that the system will be noiseless. Sometimes experimentation is the only sure way to know if a system will be noisy or not. The flow rates shown are for water, with viscosity of 1. Higher viscosity liquids will flow less, lower viscosity liquids may flow more. You can use the Hazen-Williams equation below to calculate the exact flow loss through a pipe.

#### Pipe Size vs Flow Nomograph

The nomograph (link above) allows you visually see the effect of pipe size and flow rates. You can click on the link and print it out to make it more usable to you. You should size your pipe so that your flow velocity stays in the green or yellow range. The green range is safest, most efficient and will produce little to no noise. Flow velocities in the yellow range may be noisy and have additional back pressure. Flow velocities in the red are not recommended because of the risk of hydraulic shock and pipe/fitting/joint & pump failure.

Note: Back pressure (restriction) is exponentially dependent on flow velocity. For example in a 1" pipe going from a flow velocity of 2 ft/sec (about 5gpm) to a flow velocity of 3.86 ft/sec (about 10gpm) will increase back pressure by 300%. Going to a flow velocity of 7.71ft/sec (about 20gpm) will increase back pressure by 1300%!

These figures are for straight pipe only! The effect of putting direction changes in will compound the back pressure even more and could even result in failure of the system or burning up the pump. You will never be hurt by going to a bigger pipe and will gain by using less electricity due to a more efficient system which may offset the initial price difference for the larger pipe.

Find your flow in the first column (GPM) and then select the pipe size you want in the second column (pipe, ID in inches.) Draw a straight line between them all the way to the last column. If the line ends up in the green you are good. If it ends in the yellow or red, increase the pipe size until your line ends in the green (best) or yellow (just okay) area.

#### Friction Loss Further Detailed Information

If you really want to get technical and calculate the exact friction loss through PVC and CPVC pipe you can use the Hazen-Williams equation as expressed below for water:

$$f = 0.2083 (100/c)^{1.852} q^{1.852} / d_h^{4.8655}$$

where

$f$  = friction head loss in feet of water per 100 feet of pipe ( $f_{h20}/100$  ft pipe)

$q$  = volume flow (gal/min)

$d_h$  = inside diameter (inches)

$c$  = a constant for internal pipe roughness. 150 is the commonly accepted value for PVC and CPVC pipe.

You can also print out and use the [Nomograph](#) courtesy of Plastics Pipe Institute, a division of The Society of The Plastics Industry. (Note: You normally want to keep your flow velocity under 12 feet per second for 4" and under and 5 feet/second for 5" and above to avoid hydraulic shock.)

What about fittings? How do they effect flow? See our [Friction loss due to pvc pipe fittings](#) chart.

Compared to other materials on construction for pipe, thermo-plastic pipe smoothness remains relatively constant throughout its service life.

If you are flowing something other than water, you'll have to adjust the formula for the viscosity of the liquid you are flowing.

150	77	139	224	478	859	1388	2958	8593
200	90	162	262	558	1004	1621	3455	10038

**Water Flow Chart #3**

This chart predicts how much flow you will get across a stainless metal ball valve of the diameter & length specified with a 1PSI pressure drop from one side of the valve assuming about 100psi on one side of the valve.

Size (ID, inches)	Length (inches)	Flow (GPM)
1/2	4.25	26
3/4	4.62	50
1	5.00	94
1-1/2	6.50	260
2	7.00	480
2-1/2	7.50	750
3	8.00	1300
4	9.00	2300
6	15.50	5400

Note: The data is for water through the valve only, and does not take into account the rest of the system. It does not give flow velocity, so there is some question as to the applicability of the data. The data comes from a book for industrial piping and probably assumes a massive pump, high flow velocities and metallic pipes. (Ie, where water hammer and noise are less of a concern than with PVC pipe.) As always, "you mileage may vary."

Note: One of the benefits of using **Flexible PVC pipe** is being able to make long gradual bends instead of using fittings which will allow more flow with less noise, less back pressure, and less load on the pump. **In other words, a more efficient system!**

\*"High Pressure" is a general and non-specific figure. What might be "high pressure" for 1/2" pipe (600psi) may not be "high pressure" for 2" pipe (280psi). There are just too many variables to consider to give a real world number. The fact of the matter is, on a pressurized system, the pump will dictate the flow and pressure as much as the pipe used. To achieve the flow figures in the peak column, it's assuming there are no bends and a short straight flow path. If your system has bends and T's, Wyes, etc, you should go to a larger pipe to achieve the flow desired. Also feed pressure effects the system. If the feed pressure is too low, you can get cavitation and you'll damage the pump and flow very little.

I appreciate not having a minimum order

**Ned R**  
January 12, 2017

Interesting site. You have a larger selection than most.

**Anthony T**  
January 11, 2017

[Home](#)  
[Contact](#)

**SIGN UP FOR OUR EMAIL LIST** - for free gifts every month, discount codes and product announcements.

[FAQ](#)  
[Technical Articles](#)  
[Technical References](#)  
[Technical Videos](#)

[Privacy Statement](#)  
[Terms & Conditions](#)  
[Warranty Disclaimer](#)  
[Shortcuts](#)  
[Shopping Cart](#)  
[Sitemap](#)

[Our Charities](#) and other Important Issues.

[Plumbing & Irrigation Directory](#)  
Location: 73.170.157.47  
[Links](#) [Blog](#)

All text, images, layout and design Copyright 2002 - 2017 FlexPVC®, PVC Distributors LLC. - - - FlexPVC® is a Registered Trademark of PVC Distributors LLC



# EXHIBIT 'G'



080.33389

1 ANDREW B. KREEFT, Esq. (SBN 126673)  
2 JOHN S. BRIDGES, Esq. (SBN 121343)  
3 DERRIC G. OLIVER, Esq. (SBN 290439)  
4 FENTON & KELLER  
5 A Professional Corporation  
6 2801 Monterey-Salinas Highway  
7 Post Office Box 791  
8 Monterey, California 93942-0791  
9 Telephone: (831) 373-1241  
10 Facsimile: (831) 373-7219  
11 Email: [AKreeft@FentonKeller.com](mailto:AKreeft@FentonKeller.com)  
12 Email: [JBridges@FentonKeller.com](mailto:JBridges@FentonKeller.com)  
13 Email: [DOliver@FentonKeller.com](mailto:DOliver@FentonKeller.com)

14 Attorneys for Plaintiff  
15 CYNTHIA E. PURA, Trustee of the 2001 Cynthia  
16 E. Pura Revocable Trust UDT dated July 11, 2001

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 COUNTY OF MONTEREY

14 CYNTHIA E. PURA, Trustee of the 2001  
15 Cynthia E. Pura Revocable Trust UDT  
16 dated July 11, 2001,

17 Plaintiff,

18 v.

19 THOMPSON HOLDINGS, L.L.C., a  
20 California limited liability company; and  
21 DOES 1-50, Inclusive,

22 Defendants.

Case No.: 17CV000158

**VERIFIED FIRST AMENDED  
COMPLAINT FOR INJUNCTIVE RELIEF  
AND DAMAGES FOR:**

- 1) **QUIET TITLE: EXPRESS EASEMENT;**
- 2) **INTERFERENCE WITH EASEMENT;**
- 3) **PRIVATE NUISANCE;**
- 4) **TRESPASS TO CHATTELS;**
- 5) **DECLARATORY RELIEF**

Date of Filing: January 13, 2017

Trial Date: None Set

23 Plaintiff CYNTHIA E. PURA, Trustee of the 2001 Cynthia E. Pura Revocable Trust UDT  
24 dated July 11, 2001 ("Plaintiff" or "Pura Trust"), alleges as follows:

**PARTIES**

25 1. Plaintiff Pura Trust is the owner of certain real property situated in the County of  
26 Monterey, California, and more particularly described as follows: (1) "Parcel I" in Exhibit "B" to  
27 that certain Agreement Re Easement recorded December 27, 1985 at Reel 1913, Page 151 of  
28 {DGO-00658185;3 }

1 Official Records of Monterey County ("1985 Agreement"), commonly known as 33211 Paraiso  
2 Springs Road, Solcudad, California 93960, and designated as APNs 418-381-016, 418-381 019,  
3 and a portion of 418-341-019 ("Pura Parcel I"); and (2) "Parcel II" in Exhibit "B" to the 1985  
4 Agreement, commonly known as 35021 Paraiso Springs Road, Soledad, California 93960, and  
5 designated as APN 418-381-012 ("Pura Parcel II"). Pura Parcel I and Pura Parcel II are  
6 hereinafter collectively referred to as the "Dominant Tenement."

7 2. Defendant THOMPSON HOLDINGS, L.L.C., ("Defendant") is a California  
8 limited liability company and the owner of certain real property situated in the County of  
9 Monterey, California, and more particularly described in Exhibit "A" to the 1985 Agreement and  
10 designated as APNs 418-361-004, 418-381-021, and 418-381-022 ("Servient Tenement").

11 3. Plaintiff is unaware of the true names and capacities of the defendants sued herein  
12 as Does 1 through 50, inclusive, and therefore sues those defendants by fictitious names. Plaintiff  
13 is informed and believes, and on that basis alleges, that each of these fictitiously named  
14 defendants is responsible in some manner for the actions or omissions alleged in this Complaint.  
15 When the true names and capacities are ascertained, Plaintiff will amend this Complaint by  
16 asserting their true names and capacities. Plaintiff is informed and believes that each fictitiously  
17 named defendant has done, or has caused to be done, those things of which Plaintiff complains.  
18 Any reference made to defendants individually or collectively shall, by such reference, be deemed  
19 a reference to, and an allegation against, each fictitiously named defendant.

#### 20 VENUE AND JURY TRIAL DEMAND

21 4. Venue is proper in this Court because the real property described herein is located  
22 within Monterey County. Plaintiff hereby demands a jury trial.

#### 23 GENERAL ALLEGATIONS

24 5. Pura Parcel I—a large (more than 400-acre) cattle ranch—is served by water from  
25 a spring ("Spring") located on the Servient Tenement, pursuant to a document dated June 1, 1918  
26 and recorded June 3, 1918 in Book 157 at Page 319 of Official Records of Monterey County  
27 ("1918 Document"). A true and correct copy of the 1918 Document is incorporated herein by  
28 reference and attached hereto as **Exhibit A**.  
{DGO-00658185;3 }

- 2 -

1           6. Under the 1918 Document, William C. Brandt (Defendant's predecessor-in-  
2 interest and then-current owner of the portion of the Servient Tenement upon which the Spring is  
3 located) granted to Mark L. Jolly (Plaintiff's predecessor-in-interest and then-current owner of the  
4 Pura Parcel I) "the right to the use of all of the water from" the Spring and carry said water to  
5 Pura Parcel I over and across the Servient Tenement through a pipeline no larger than one inch  
6 (1") in diameter. (Emphasis added.) Among other things, the 1918 Document also granted the  
7 right to enter the Servient Tenement "at all times" and to "develop the water therein." (Emphasis  
8 added.) The 1918 Document, and its benefits and burdens, runs with the dominant and servient  
9 tenements.

10           7. In or about 1985, the then-current owners of the Dominant Tenement (Cynthia E.  
11 Pura's parents, Jacob H. Pura and Helen B. Pura) and the then-current owner of the Servient  
12 Tenement (Defendant's predecessor-in-interest, Paraiso, Inc., a now-dissolved California  
13 corporation previously owned and controlled by Warren L. Perrine and Marjorie C. Perrine)  
14 intended and agreed to preserve the benefits of the easement and expand the real property  
15 benefitted by the Spring (i.e., Pura Parcel I only) to include Pura Parcel II. Cynthia Pura was  
16 involved when the 1985 Agreement was discussed between her parents (Jacob and Helen Pura)  
17 and the Perrines. Before selling the Servient Tenement, the Perrines wanted to ensure that the  
18 Puras' water rights granted in the 1918 Document were protected, and wanted to expand those  
19 water rights to serve an additional parcel (Pura Parcel II) and house located thereon. Consistent  
20 with that intent, the 1985 Agreement was executed and recorded. A true and correct copy of the  
21 1985 Agreement is incorporated herein by reference and attached hereto as **Exhibit B**.

22           8. The 1985 Agreement expanded the rights to all of the water under the 1918  
23 Document to include use on Pura Parcel II "so long as such usage is limited to normal residential  
24 uses for one single-family residence situated on [Pura Parcel II]." As for Pura Parcel I, the 1985  
25 Agreement defined usage of water under the 1918 Document as "normal residential uses for one  
26 single-family residence on [Pura Parcel I], and watering livestock on [Pura Parcel I]." Other than  
27 these aforementioned changes, the 1918 Document remains substantively unchanged and in  
28 effect.  
{DGO-00658185;3 }

1           9.     The 1918 Document and the 1985 Agreement are hereinafter collectively referred  
2 to as the "Spring Easement." Under the Spring Easement, Plaintiff's right to develop, divert, and  
3 take all of the water from the Spring may amount to approximately 47 gallons of water per minute  
4 (or 75.81 acre feet per year) through a rigid 1" Schedule 40 PVC pipe. The Dominant Tenement  
5 could reasonably and beneficially use more than that amount of water from the Spring annually  
6 for the purposes allowed under the Spring Easement.

7           10.    On or about July 1, 2016, Defendant's agent, John Thompson, told Plaintiff's  
8 ranch manager, Dennis Blomquist, that Defendant had, approximately a week earlier, installed a  
9 water flow meter ("Meter") on Plaintiff's Spring pipeline, and that Defendant had the right to do  
10 so pursuant County of Monterey instruction. Defendant installed the Meter without Plaintiff's  
11 permission.

12           11.    On or about July 2, 2016, and as a result of Mr. Thompson's admission that  
13 Defendant had installed the Meter on Plaintiff's Spring pipeline, Mr. Blomquist wanted to inspect  
14 the Spring for potential negative effects on the Spring equipment and water flow caused by the  
15 Meter. However, Defendant's agent, Luciano Reyes (aka "Chano"), denied Mr. Blomquist access  
16 to the Spring, shouted profanities at and threatened Mr. Blomquist and his wife, Yvette  
17 Blomquist. As detailed in the Monterey County Sheriff's report regarding that July 2, 2016,  
18 incident (Case #FG1603473), Mr. Blomquist notified Chano via text message, as he customarily  
19 did, that he was "heading to the spring" to check the Spring and Spring equipment. Chano  
20 responded via text message instructing Mr. Blomquist to "come to the front gate" of the Servient  
21 Tenement. Chano's request was a departure from the parties' prior custom. Mr. Blomquist's  
22 responding text message stated that he was going to use his usual point of entry onto the Servient  
23 Tenement, to which Chano replied, "No, I won't let you in." Mr. Blomquist responded, "That is  
24 my easement right of way." Chano responded, "Not true. Are you coming up[,] its [sic] been an  
25 hour[.] I'm not waiting all day for you." Mr. Blomquist responded, "In a few [minutes.] I'll let  
26 you know when. Heading to the front gate." Chano responded, "Use your entrance if you  
27 choose." Mr. Blomquist texted back, "Coming to the gate." Chano responded, "We will be  
28 closing that soon[;] its [sic] nothing personal we just can't have anyone on the property  
{DGO-00658185;3 }

1 unsupervised.” Upon Mr. Blomquist’s arrival at the gate of the Servient Tenement, and in the  
2 presence of a Monterey County Sheriff’s deputy, Chano immediately became angry and started  
3 yelling, “Fuck you! You’re not coming onto this property!” Chano also tried shutting the gate  
4 and told Mr. Blomquist, Mr. Blomquist’s wife, and the Sheriff’s deputy, to “fuck off” about 30-  
5 40 times, and told Mr. Blomquist and his wife, “Fuck you! Fuck you all! Fuck your wife! This  
6 ain’t over. You’re gonna pay for this!” According to the report, the Sheriff’s deputy construed  
7 Chano’s conduct as a threat toward Mr. Blomquist and his wife. Chano’s threatening and  
8 aggressive conduct resulted in the Sheriff’s deputy forcibly and physically restraining and  
9 handcuffing Chano.

10 12. On or about July 3, 2016, accompanied by a Monterey County Sheriff’s deputy,  
11 Mr. Blomquist was finally able to enter the Servient Tenement and inspect the Spring, Spring  
12 pipeline and equipment, and the Meter installed by Mr. Thompson on Plaintiff’s Spring pipeline.  
13 Upon inspection, Mr. Blomquist discovered that the Meter installed by Defendant without  
14 Plaintiff’s permission was the wrong size for the 1” Spring pipeline and that as a result of the  
15 Meter, the Spring pipeline was clogged with debris, thereby slowing the Spring’s water flow  
16 through Plaintiff’s Spring pipeline. In addition, Mr. Blomquist discovered that Defendant,  
17 without Plaintiff’s permission, had also dug up, exposed, and raised a portion of the Spring  
18 pipeline to an elevation above the Spring box so as to further slow the water flowing from the  
19 Spring through Plaintiff’s Spring pipeline, thereby interfering with Plaintiff’s rights to all of the  
20 water as provided in the Spring Easement. As a result of Defendant’s aforementioned conduct,  
21 Plaintiff’s water flow from the Spring was reduced by more than 2/3<sup>rds</sup> for approximately two  
22 weeks, requiring Plaintiff’s expenditure of time, effort, and money to haul in water from other  
23 sources as necessary to sustain Plaintiff’s day-to-day activities on the Dominant Tenement.

24 13. For approximately the next 10 days in July 2016, Mr. Thompson and Mr.  
25 Blomquist spoke daily on the telephone regarding Defendant’s unauthorized installation of the  
26 Meter and relocation of Plaintiff’s Spring pipeline. Mr. Blomquist informed Mr. Thompson of  
27 the negative impacts to Plaintiff caused thereby. During the course of those discussions between  
28 Mr. Thompson and Mr. Blomquist, Mr. Thompson questioned Plaintiff’s right to all of the water  
{DGO-0068185;3 }

- 5 -

1 from the Spring as described in the Spring Easement, telling Mr. Blomquist, effectively, "I don't  
2 think you have the exclusive on the Spring."

3 14. In or about mid-July 2016, Defendant also installed an inlet filter ("Filter") on  
4 Plaintiff's Spring pipeline without Plaintiff's permission.

5 15. On or about September 29, 2016, through legal counsel, Plaintiff informed  
6 Defendant, via email to Defendant's legal counsel, that Defendant had no right or legitimate  
7 reason to install the Meter and demanded that Defendant, by no later than October 7, 2016, at  
8 Defendant's sole expense, remove the Meter and repair all consequential damage to the Spring  
9 and Plaintiff's related equipment. The email also notified Defendant of Plaintiff's right of entry  
10 under the Spring Easement and its intent to enter the Servient Tenement to remove the Meter and  
11 repair the Spring pipeline if Defendant failed to timely do so. Finally, the email informed  
12 Defendant of Plaintiff's plans to ask the County Sheriff to accompany Plaintiff's agent when  
13 entering the Servient Tenement, in light of past threats made by Defendant's agents to Plaintiff's  
14 agents, and requested that Defendant control its agents. A true and correct copy of the email from  
15 Plaintiff's counsel, John S. Bridges, to Defendant's counsel, Anthony L. Lombardo, dated  
16 September 29, 2016, is incorporated herein by this reference and attached hereto as **Exhibit C**.

17 16. On or about October 4, 2016, Defendant's legal counsel and authorized agent, Mr.  
18 Lombardo, responded to Plaintiff's written demand, disputing the scope of Plaintiff's rights to the  
19 use of all of the water from the Spring, and specifically claiming that Plaintiff's right to water for  
20 livestock on Pura Parcel I is limited to "incidental" or "personal" livestock. In addition, Mr.  
21 Lombardo's October 4, 2016 letter admits that Defendant installed the Meter and Filter at the  
22 Spring. The letter then threatens, on Defendant's behalf, that Defendant will continue with the  
23 unlawful monitoring of the Spring's water flow unless Plaintiff withdraws its objections or  
24 concerns to Defendant's proposed development project on the Servient Tenement and the  
25 project's impact on the water supply from the Spring. The letter states, "Unless your client has  
26 determined that he [sic] no longer has concerns regarding the proposed projects [sic] effects on  
27 his [sic] water supply from the spring, the monitoring needs to continue." Finally, Mr.  
28 Lombardo's response, on behalf of Defendant, threatens criminal action against Plaintiff if  
{DGO-00658185;3 }

- 6 -

1 Plaintiff “attempts to in any way interfere with or remove the [Meter] from the [Spring].” A true  
2 and correct copy of the letter (sent via email) from Mr. Lombardo to Mr. Bridges, dated October  
3 4, 2016, is incorporated herein by this reference and attached hereto as **Exhibit D**.

4 17. On October 12, 2016, Plaintiff’s counsel, Mr. Bridges, responded in a letter (sent  
5 via email) to Defendant’s counsel, Mr. Lombardo, again explaining the nature and scope of  
6 Plaintiff’s rights under the Spring Easement, including but not limited to “the right to the use of  
7 all of the water” from the Spring through a 1-inch pipeline for the purposes of two residences  
8 (without regard to size or number of persons) and livestock (not limited to “personal” or  
9 “incidental”). On Plaintiff’s behalf, Mr. Bridges’ letter again demands removal of the Meter,  
10 explaining that it is within Plaintiff’s rights to remove the unlawful encroachment. Mr. Bridges’  
11 letter also offered to coordinate entry onto the Servient Tenement by Plaintiff’s ranch manager,  
12 Dennis Blomquist, if Mr. Blomquist desired to enter through Defendant’s Paraiso gate; otherwise,  
13 the letter explains, no such coordination is required under the Spring Easement. Finally, Mr.  
14 Bridges’ letter refutes the claim that Plaintiff’s agents have been “hostile” toward Defendant’s  
15 agents, explaining to the contrary that Mr. Blomquist needed to involve the County Sheriff due to  
16 prior instances of hostilities and threats made by Defendant’s agent, Chano. A true and correct  
17 copy of Mr. Bridges’ letter to Mr. Lombardo, dated October 12, 2016, is incorporated herein by  
18 this reference and attached hereto as **Exhibit E**.

19 18. On October 14, 2016, Defendant’s legal counsel and authorized agent, Mr.  
20 Lombardo, sent a responsive email to Plaintiff’s counsel, Mr. Bridges, again disputing the scope  
21 of Plaintiff’s rights under the Spring Easement. Despite Mr. Bridges’ prior correspondence citing  
22 to the 1985 Agreement (by recorded Reel and Page numbers), which clearly cites to the 1918  
23 Document (by recorded Book and Page numbers), Mr. Lombardo evidenced his apparent  
24 confusion regarding the 1918 Document, admitting his (correct) suspicion that he is “not certain  
25 that we are looking at the same easement documents.” Mr. Lombardo’s email further explains,  
26 “nowhere do I see any reference to the term “all of the water”” and attaches “copies of the two  
27 easements that I have in my possession.” The two documents attached to Mr. Lombardo’s email  
28 consisted of the 1985 Agreement and a portion of an Old Republic Title Company *title summary*  
{DGO-00658185;3}

- 7 -

1 *report* citing the 1918 Document. Mr. Lombardo did not attach the 1918 Document which  
2 contains the “all of the water” language that Mr. Lombardo, on Defendant’s behalf, claims does  
3 not exist. A true and correct copy of Mr. Lombardo’s email to Mr. Bridges, dated October 14,  
4 2016, and the two documents attached thereto, is incorporated herein by this reference and  
5 attached hereto as **Exhibit F**.

6 19. Defendant’s continued wrongful conduct, and each and every aforementioned act  
7 by Defendant has been, and will continue to be, without the consent and against the will of  
8 Plaintiff, and in violation of Plaintiff’s rights. In failing to abate its wrongful conduct, Defendant  
9 is acting with full knowledge of the consequences and damage being caused to Plaintiff, and  
10 Defendant’s conduct is willful, oppressive, and malicious, in that Defendant intentionally acted in  
11 conscious disregard of Plaintiff’s rights and contrary to Plaintiff’s requests to abate, thereby  
12 entitling Plaintiff to recover punitive and exemplary damages.

13 20. Defendant’s aforementioned actions were and continue to be intentional and for  
14 the purpose of harassing, annoying, upsetting, distressing, aggravating, and frustrating Plaintiff,  
15 and for the additional purpose of increasing Defendant’s own property value at the expense, and  
16 to the detriment, of Plaintiff and the value of the Dominant Tenement.

### 17 **FIRST CAUSE OF ACTION**

#### 18 **Quiet Title to Spring Easement**

19 21. Plaintiff re-alleges and incorporates by reference herein all of the allegations  
20 contained in the preceding paragraphs as though fully set forth herein.

21 22. Pursuant to the Spring Easement, Plaintiff has “the right to the use of all of the  
22 water from” the Spring, the right to pipe said water through a one inch (1”) pipeline, the right to  
23 “develop the water therein,” together with the right of entry onto the Servient Tenement for these  
24 and other purposes, as more fully described in the Spring Easement.

25 23. Defendant has and continues to interfere with Plaintiff’s rights under the Spring  
26 Easement, and has and continues to make false statements claiming Plaintiff does not have all of  
27 the rights in fact afforded to Plaintiff under the Spring Easement.

28 24. As such, Plaintiff seeks to quiet title to the Spring Easement as of the date of this  
{DGO-00658185;3 } - 8 -



1 action, as the adverse claims thereto by Defendant constitute a cloud on Plaintiff's title and create  
2 doubts as to Plaintiff's above described rights in and to the Spring Easement.

3 WHEREFORE Plaintiff prays for relief as set forth below.

4 **SECOND CAUSE OF ACTION**

5 **Interference with Spring Easement**

6 25. Plaintiff re-alleges and incorporates by reference herein all of the allegations  
7 contained in the preceding paragraphs as though fully set forth herein.

8 26. California Civil Code section 809 provides the statutory basis permitting an owner  
9 of any estate in a dominant tenement to maintain an action for the enforcement of an easement.  
10 Interference with the use of an easement deprives the easement owner of a valuable property  
11 right, and wrongful interference with an easement is a private nuisance that can be enjoined by  
12 the easement owner.

13 27. Defendant has and continues to unreasonably interfere with Plaintiff's above  
14 described rights in and to the Spring Easement by: (1) falsely claiming that Plaintiff does not  
15 have a right to use all of the water from the Spring as provided for in the Spring Easement; (2)  
16 falsely claiming that Plaintiff's ranch manager does not have a right of entry onto the Servient  
17 Tenement and actually interfering with said right of entry; and (3) installing a Meter and Filter on  
18 Plaintiff's Spring pipeline without Plaintiff's permission. Defendant also previously  
19 unreasonably interfered with Plaintiff's above described rights by relocating a portion of  
20 Plaintiff's Spring pipeline without Plaintiff's permission.

21 28. Defendant's conduct has and continues to deprive, interfere with, and obstruct  
22 Plaintiff's rights to develop and use "all of the water" pursuant to the Spring Easement, and as a  
23 result, Defendant has and continues to deprive, interfere with, and obstruct Plaintiff's comfortable  
24 use and quiet enjoyment of, and title to, the Dominant Tenement.

25 29. Plaintiff has given notice to Defendant of the damages caused by Defendant's  
26 aforementioned conduct and Plaintiff has requested abatement, but, other than relocating  
27 Plaintiff's Spring pipeline to its original location, Defendant has refused and continues to refuse  
28 to discontinue its wrongful conduct.  
{DGO-00658185;3 }

- 9 -

30. As a proximate result of Defendant's aforementioned wrongful conduct and failure to abate, Plaintiff has been and continues to be harmed. Unless Defendant is immediately and forever restrained by order of this Court from interfering with and obstructing Plaintiff's rights under the Spring Easement, Plaintiff will suffer irreparable injury, in that Plaintiff will be deprived of the full use and enjoyment of: (1) "all of the water" from the Spring, as provided by the Spring Easement, and (2) the Dominant Tenement, because the Spring provides the only source of water for the Dominant Tenement.

31. Further, unless Defendant is immediately and forever restrained by order of this Court from interfering with and obstructing Plaintiff's rights under the Spring Easement, it will be necessary for Plaintiff to commence successive actions against Defendant to secure compensation for damages sustained, thus requiring a multiplicity of suits, and Plaintiff will be exposed daily to the annoyance, frustration, and mental and emotional distress created by Defendant's aforementioned deprivations, interferences, and obstructions.

32. Plaintiff has no plain, speedy, or adequate remedy at law, and relief is expressly authorized by California Code of Civil Procedure sections 526 and 527 for a preliminary and permanent injunction, enjoining Defendant, its agents, servants and employees, and all persons acting under, in concert with, or for it, from in any way interfering with or obstructing in any manner Plaintiff's rights and interests under the Spring Easement, including but not limited to "all of the water" from the Spring and a right of entry over and across the Servient Tenement for the purposes described and set forth in the Spring Easement.

WHEREFORE, Plaintiff prays for relief as set forth below.

### THIRD CAUSE OF ACTION

## Private Nuisance

33. Plaintiff re-alleges and incorporates by reference herein all of the allegations contained in the preceding paragraphs as though fully set forth herein.

34. Defendant's aforementioned wrongful interference with Plaintiff's rights in and to the Spring Easement has and continues to interfere with and obstruct Plaintiff's free and comfortable use and enjoyment of the Spring Easement, thereby interfering with Plaintiff's

1 comfortable use and enjoyment of the Dominant Tenement.

2 35. Defendant's aforementioned conduct was a substantial factor in causing Plaintiff's  
3 aforementioned harm, and the seriousness of the harm outweighs the public benefit, if any there  
4 is, of Defendant's conduct.

5 WHEREFORE, Plaintiff prays for relief as set forth below.

6 **FOURTH CAUSE OF ACTION**

7 **Trespass to Chattels**

8 36. Plaintiff re-alleges and incorporates by reference herein all of the allegations  
9 contained in the preceding paragraphs as though fully set forth herein.

10 37. Without Plaintiff's consent, Defendant intentionally relocated a portion of  
11 Plaintiff's Spring pipeline and installed the Meter and Filter on Plaintiff's Spring pipeline.  
12 Defendant's aforementioned conduct has and, excepting Defendant's prior relocation of a portion  
13 of Plaintiff's Spring pipeline which has since been returned to its original location, continues to  
14 deprive, interfere with, and obstruct (1) Plaintiff's ownership and right to exclusive dominion,  
15 control, and use of Plaintiff's Spring pipeline; (2) Plaintiff's rights to "all of the water" as  
16 provided by the Spring Easement; and as a result, (3) Plaintiff's comfortable use and quiet  
17 enjoyment of, and title to, the Dominant Tenement.

18 38. Plaintiff has given notice to Defendant of the damages caused by Defendant's  
19 aforementioned conduct and Plaintiff has requested abatement, but Defendant has refused, and  
20 continues to refuse, to discontinue these deprivations, interferences, and obstructions.

21 39. As a proximate result of Defendant's aforementioned conduct and failure to abate,  
22 Plaintiff has been and continues to be harmed.

23 40. Defendant's aforementioned acts, and each related act or consequence, constitute a  
24 continuing trespass and each may, and should, be readily abated by Defendant.

25 41. Unless Defendant is immediately and forever restrained by order of this Court  
26 from interfering with and obstructing Plaintiff's rights under the Spring Easement, Plaintiff will  
27 suffer irreparable injury, in that Plaintiff will be deprived of (1) Plaintiff's ownership and right to  
28 exclusive dominion, control, and use of Plaintiff's Spring pipeline; (2) Plaintiff's rights to "all of  
{DGO-00658185;3 }

- 11 -

1 the water” as provided by the Spring Easement; and as a result, (3) Plaintiff’s comfortable use and  
2 quiet enjoyment of, and title to, the Dominant Tenement.

3 WHEREFORE, Plaintiff prays for relief as set forth below.

4 **FOURTH CAUSE OF ACTION**

5 **Declaratory Relief**

6 42. Plaintiff re-alleges and incorporates by reference herein all of the allegations  
7 contained in the preceding paragraphs as though fully set forth herein.

8 43. An actual controversy has arisen between Plaintiff and Defendant concerning the  
9 legal rights and duties of the parties regarding the Spring Easement, as set forth hereinabove.

10 44. Plaintiff desires a judicial determination as to the validity and enforceability of  
11 Plaintiff’s rights in, and to, the Spring Easement consistent with the factual allegations and legal  
12 theories, as set forth above.

13 45. A judicial declaration is necessary and appropriate at this time under the  
14 circumstances in order that Plaintiff may ascertain the parties’ rights and duties in relation to the  
15 Spring Easement.

16 WHEREFORE, Plaintiff prays for relief as set forth below.

17 **PRAYER**

18 WHEREFORE, Plaintiff requests judgment against Defendant as follows:

19 1. For an order of the Court declaring that, pursuant to the Spring Easement, Plaintiff  
20 has the right to access, develop, and pump all of the water from the Spring, thereby diverting  
21 from the Servient Tenement to the Dominant Tenement through a one inch (1”) pipeline, for the  
22 following purposes:

23 a. Normal residential uses for one single-family residence situated on Pura Parcel I,  
24 without regard to the size of the single-family residence or number of occupants  
25 therein;

26 b. Any and all livestock on Pura Parcel I, not limited to water for “incidental” or  
27 “personal” livestock; and

28 c. Normal residential uses for one single-family residence situated on Pura Parcel II,  
{DGO-00658185;3 } - 12 -

1 without regard to the size of the single-family residence or number of occupants  
2 therein;

3 2. For an order of the Court declaring that Plaintiff's rights to "all of the water" from  
4 the Spring, as defined in the Spring Easement, are superior to Defendant's groundwater rights in  
5 the Servient Tenement thereto;

6 3. For an order of the Court declaring that, pursuant to the Spring Easement, Plaintiff  
7 has a right to enter upon the Servient Tenement, at all times, as follows:

8 a. For the purpose of cleaning the Spring and to develop the water therein;

9 b. To deposit on the Servient Tenement, below the Spring, the dirt and other  
10 substances taken therefrom in the cleaning of the Spring;

11 c. For the purpose of repair, maintenance, or replacement of the Spring pipeline,  
12 provided that:

13 i. Plaintiff give Defendant prior notice of Plaintiff's intent to enter the  
14 Servient Tenement;

15 ii. Plaintiff's entry does not interfere with the activities of Defendant or its  
16 agents, employees, or invitees on the Servient Tenement; and

17 iii. Plaintiff saves, holds harmless, indemnifies and defends Defendant from  
18 any loss, injury or property damage arising out of Plaintiff's entry onto the  
19 Servient Tenement and Plaintiff's activities thereon; and

20 d. To enclose the Spring with a suitable fence to protect the Spring from destruction  
21 by livestock;

22 4. For an order of the Court quieting title to Plaintiff's easement and easement rights  
23 under the Spring Easement;

24 5. For a mandatory injunction, requiring Defendant to remove the Meter and Filter  
25 from Plaintiff's Spring pipeline;

26 6. For a preliminary and permanent injunction, enjoining Defendant, its agents,  
27 servants, and employees, and all persons acting in concert with, or for them, from interfering with  
28 or obstructing in any manner Plaintiff's full use and quite enjoyment of the Spring Easement and  
(DGO-00658185;3 }

- 13 -

1 the Dominant Tenement;

2 7. For a preliminary and permanent injunction, enjoining Defendant, its agents,  
3 servants, and employees, and all persons acting in concert with, or for them, to refrain from  
4 making any written or oral statements or claims which may be construed as casting doubt on  
5 Plaintiff's rights in and to the Spring Easement and/or the Dominant Tenement;

6 8. For a preliminary and permanent injunction, enjoining Defendant, its agents,  
7 servants, and employees, and all persons acting in concert with, or for them, to refrain from any  
8 and all violent conduct and threats thereof against Plaintiff and its agents, servants, and  
9 employees, and all persons acting in concert with, or for it;

10 9. For Plaintiff's costs of suit herein incurred; and

11 10. For such other and further relief as the Court may deem just and proper.

12 Dated: May 10, 2017

FENTON & KELLER, PC

13  
14 By: 

Andrew B. Kreeft, Esq.

John S. Bridges, Esq.

Derric G. Oliver, Esq.

Attorneys for Plaintiff

CYNTHIA E. PURA, Trustee of the 2001

Cynthia E. Pura Revocable Trust UDT

dated July 11, 2001

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

VERIFICATION

I, CYNTHIA E. PURA, declare:

I am a party in the above-entitled action. I have read the foregoing Verified First Amended Complaint for Injunctive Relief and Damages for: Quiet Title to Spring Easement, Interference with Spring Easement, Private Nuisance, Trespass to Chattels, and Declaratory Relief, and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein alleged on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Monterey County, State of California on May 9, 2017.


  
Cynthia E. Pura, Trustee of the 2001  
Cynthia E. Pura Revocable Trust UDT  
dated July 11, 2001

EXHIBIT A



IN WITNESS THEREOF, the said part...of the first part, ha...hereunto set....  
hand the day and year first above written.

Signed and Delivered in the Presence of } Frank E. Swanson  
Clara A. Swanson

STATE OF CALIFORNIA, )  
( SS.  
County of Monterey )

On this 28th. day of May in the year one thousand  
nine hundred and eighteen..., before me, P.E. SMITH, a Notary Public, in and for  
the County of Monterey, personally appeared Frank E. Swanson, and Clara A. Swanson,  
his wife...known to me to be the persons whose name are subscribed to the within  
instrument, and they duly acknowledged to me that they executed the same. IN  
WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal, at my  
office in the County of Monterey, the day and year in this certificate first above  
written. P.E. Smith Notary Public in and for the County of Monterey, State of California...  
(Notarial Seal)

Filed for Record at the Request of Monterey County Abstract Company May 31st A.D.  
1918 at 1 min. past 12 o'clock M.

WILLIAM C. BRANDT  
et al

TO

MARK L. JOLLY

\$1.00  
CASH

KNOW ALL MEN BY THESE PRESENTS;

That Frank Brandt, William C. Brandt, and Frank  
Daniels, all of the County of Monterey, State  
of California, the parties of the first part,

and Mark L. Jolly, of the same County and State; the party of the second part;

WITNESSETH; that the parties of the first part, for and in consideration  
of the sum of ten dollars, to them in hand paid, do grant, sell, and convey to Mark  
L. Jolly, the party of the second, the right to the use of all of the water  
from that certain spring situated on the premises now belonging to said parties  
of the first part, the location of which said spring is as follows:-

Situated in Lot 3 of the United States Official Subdivision of Section 30, Twp.  
18 S., Range 6 East, M.D.M., from which the corner post SV2 of the official survey  
of the Ex-Mission Vineyard tract bears S. 71 1/4 deg. West 24.40 chains distant;  
and the corner SV3 of the same tract bears S. 23 3/4 deg. West 4.80 chains distant.  
Course is true magnetic variation 17 deg. 20 min. East.

Together with the right to enter upon the said premises for the purpose of  
cleaning said spring and develop the water therein with the right to deposit on  
the land of the parties of the first part, below the said spring, the dirt and other  
substances taken therefrom in the cleaning of the same. Also the right to lay not  
over one 1/2 inch pipe from the said spring for the purpose of carrying the water from PHS

said spring to the lands of the party of the second part, and to enter upon the lands of the parties of the first part, at all times, for the purpose of the repair or renewal of the said pipes; and to extend such pipes as far as the County Road. Also the right to inclose the said spring with a suitable fence to protect the same from destruction by stock.

It is further understood and agreed that the right to the water of said spring herein granted is a permanent easement attached to the dominant tenement (the lands of the party of the second part) and a permanent burden upon the servient tenement (the lands of the parties of the first part herein above described) and shall be and remain a covenant running with the land.

The description of the lands of the party of the second part, and to which the easement is attached, is described as follows:-

NE 1/4 of Sec. 30, Twp. 18, S. R. 6 East, M.D.M. SE 1/4 of Sec. 19, Twp. 18 S, Range 6 East, M.D.M. Lot 6 and E 1/2 of SW 1/4 of Sec. 19, Twp. 18 S, Range 6 East, M.D.M. Lot 6 and NE 1/4 of SW 1/4; the N 1/2 of SE 1/4 of Sec. 24, Twp. 18 S, Range 5 East, M.D.M.

It is particularly understood and agreed that the said parties of the first part hereby transfer to the said party of the second part as herein above specified, the right to take the water from the said spring herein specifically described and from none other, on any premises owned by said parties of the first part.

IN WITNESS WHEREOF, the parties of the first part have herewith affixed their hands this 1 day of June, A.D. 1918.

SIGNED, SEALED AND DELIVERED

IN THE PRESENCE OF.....

Frank Brandt

William C. Brandt

Frank Daniels

STATE OF CALIFORNIA,     )  
County of Monterey     ) SS.

On this 1st., day of June...in the year one thousand nine hundred and Eighteen..., before me, P.H. SMITH, a Notary Public, in and for the County of Monterey, personally appeared Frank Brandt, William C. Brandt and Frank Daniels... known to me to be the persons whose names are subscribed to the within instrument, and they duly acknowledged to me that they executed the same. IN WITNESS WHEREOF, I have herewith set my hand and affixed my Official Seal, at my office in the County of Monterey, the day and year in this certificate first above written. P.H. Smith Notary Public in and for the County of Monterey, State of California... (Notarial Seal)

Recorded at the Request of Mark L. Jolly June 3rd 1918 at 1 minute past 9 A.M.

EXHIBIT B

Recording Requested By:  
Horan, Lloyd, Karachale  
& Dyer, Incorporated

When Recorded Return to:  
Horan, Lloyd, Karachale  
& Dyer, Incorporated  
P. O. Box 3350  
Monterey, CA 93942-3350

RECORDED AT REQUEST OF	
R	7
M	1
RF	5
T	13

DEC 27 10 02 AM '85  
OFFICE OF RECORDER  
COUNTY OF MONTEREY  
SALINAS, CALIFORNIA

65781

REEL 1913 PAGE 151

AGREEMENT RE BASEMENT

This instrument entered into by and between PARAISO, INC., a California corporation, (hereinafter referred to as "Grantor") and JACOB H. PURA and HELEN B. PURA (hereinafter referred to as "Grantee");

WHEREAS, on or about June 1, 1918, Frank Brandt, William C. Brandt, and Frank Daniels (hereinafter collectively referred to as "Grantor's Predecessors") granted to Mark L. Jolly the right to use water from a certain spring (hereinafter "the Spring") situated on certain real property (which property is referred to as "the Servient Tenement") in the County of Monterey, and more particularly described on Exhibit "A" attached hereto, by an instrument (which instrument is hereinafter referred to as "the 1918 Deed") recorded on June 3, 1918, in Book 157 of Deeds, page 319, Official Records, County of Monterey; and

WHEREAS, in the 1918 Deed, Grantor's predecessors also granted to Mark L. Jolly certain other rights appurtenant to the right to use water from the Spring, including the right to enter upon the Servient Tenement, provided water could only be taken in a one-inch (1") pipe; and

WHEREAS, 1918 Deed sets forth that the right to use water from the Spring is for the benefit of real property situated in the County of Monterey, State of California, which real property (hereinafter referred to as "Parcel I") is described as Parcel I on Exhibit "B" attached hereto; and

WHEREAS, Grantor is now the Owner of the Servient Tenement; and

WHEREAS, Grantee is now the owner, as a successor in title to Mark L. Jolly of real property situated in the County of Monterey, and described more particularly on Exhibit "B" attached hereto; and

WHEREAS, Grantee wishes to obtain the right to use water taken from the Spring on real property (hereinafter referred to as "Parcel II") situated in the County of Monterey, State of California, and which property is described as Parcel II on Exhibit "B"; and

WHEREAS, Grantor is willing to permit Grantee to use water from the Spring on Parcel II, provided the purposes for which such water can be used on Parcel I and Parcel II are limited.

NOW THEREFORE, the parties agree as follows:

1. Grantor hereby grants to Grantee the right to use water taken from the Spring on Parcel II so long as such usage is limited to normal residential uses for one single-family residence situated on Parcel II.

2. Grantor and Grantee hereby agree that Grantee's right to use water diverted from the Spring is limited to normal residential uses for one single-family residence on Parcel I, and watering livestock on Parcel I.

3. In any event, water taken from the Spring can only be diverted from a one inch (1") pipeline.

REEL 1913 PAGE 152

4. The easements granted herein include the following appurtenant rights:

A. The right to enter upon the Servient Tenement for the purpose of cleaning said Spring and to develop the water therein;

B. The right to deposit on the Servient Tenement, below the Spring, the dirt and other substances taken therefrom in the cleaning of the same;

C. The right to lay not over one one-inch (1") pipe from the said Spring for the purpose of carrying the water from said Spring to Parcel I, and to extend such pipes as far as the County Road.

D. To enter upon the Servient Tenement, at all times, for the purpose of repair or renewal of the said pipes, provided that:

(1) Grantee gives Grantor prior notice of Grantee's intent to enter the Servient Tenement;

(2) Grantee's entry does not interfere with the activities of Grantor, and the Grantor's agents, employees and invitees on the Servient Tenement; and

(3) Grantee saves, holds harmless, indemnifies and defends Grantor from any loss, injury or property damage arising out of Grantee's entry onto the Servient Tenement and Grantee's activities thereon.

E. The right to enclose the said Spring with a suitable fence to protect the same from destruction by stock.

5. It is further understood and agreed that the right to take water from said Spring granted herein is a permanent easement appurtenant to Parcel I and Parcel II, and a permanent burden upon the Servient Tenement and shall be and remain a covenant running with the land.

GRANTOR:

PARAISO, INC.  
a California corporation

DATED: November 27, 1985

By: Warren L. Perrine  
Warren L. Perrine, President

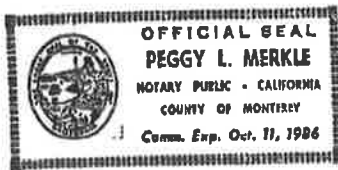
By: Marjorie C. Perrine  
Marjorie C. Perrine, Secretary

DATED: 12/11/1985

Jacob H. Pura  
JACOB H. PURA

Helen B. Pura  
HELEN B. PURA

STATE OF CALIFORNIA  
COUNTY OF MONTEREY



This document is only a general form which may be proper for use in simple transactions and is no way an act, or is intended to act, as a substitute for the advice of an attorney. The publisher does not make any warranty, either express or implied as to the legal validity of any provision or the availability of these forms in any specific transaction.

On this 11th day of December in the year 1985, before me

Peggy L. Merkle, a Notary Public, State of California, duly commissioned and sworn, personally appeared JACOB H. PURA and HELEN B. PURA personally known to me (or proved to me on the basis of satisfactory evidence) to be the person S whose name S are subscribed to the within instrument, and acknowledged to me that the Y executed the same.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal in the City of Geese Field County of Monterey on the date set forth above in this certificate.

Peggy L. Merkle  
Notary Public, State of California  
My commission expires 10-11-86

REEL 1913 PAGE 153

Cowdery's Form No. 32—Acknowledgement to Notary Public-Individuals (c.e. sec. 1169.)

STATE OF CALIFORNIA  
COUNTY OF MONTEREY



This document is only a general form which may be proper for use in simple transactions and is no way an act, or is intended to act, as a substitute for the advice of an attorney. The publisher does not make any warranty either express or implied as to the legal validity of any provision or the availability of these forms in any specific situation.

On this 27th day of November in the year Nineteen Hundred Eighty-Five before me Lynn K. Zander, a Notary Public, State of California, duly commissioned and sworn, personally appeared Warren L. Perrine and Marjorie C. Perrine

personally known to me (or proved to me on the basis of satisfactory evidence) to be the President, and the Secretary of the corporation that executed the within instrument, and also known to me to be the person B who executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the same

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal in the City of Monterey County of Monterey on the date set forth above in this certificate.

Lynn K. Zander  
Notary Public, State of California  
My commission expires May 20, 1988

Cowdery's Form No. 38 — Acknowledgement to Notary Public — Corporation (C. C. Secs. 1180-1190.1)

PARCEL 1:

THAT CERTAIN TRACT FORMERLY KNOWN AS AND CALLED THE VINEYARD OF MISSION LA SOLEDAD, BEGINNING AT A LIVE OAK TREE 10 INCHES IN DIAMETER MARKED "S.V.NO.1", FROM WHICH THE POST MARKED "C. NO. 6", AT THE SOUTHEAST CORNER OF THE CHURCH BEARS N. 7° 15' E., DISTANT 388 CHAINS AND THE SECTION POST AT THE CORNER OF SECTIONS 19, 24, 25 AND 30 IN TOWNSHIP 18 SOUTH, RANGES 5 AND 6 EAST, BEARS NORTH 4° WEST, DISTANT 49 CHAINS AND 12 LINKS; THENCE ACCORDING TO THE TRUE MERIDIAN, THE VARIATION OF THE MAGNETIC NEEDLE BEING 14° 30' E., N. 22° 45' W., OVER MARSHY LAND, 7 CHAINS TO A DRY RAVINE 40 LINKS WIDE, COURSE EAST, 9 CHAINS AND 50 LINKS TO A POST MARKED "S.V.NO.2" FROM WHICH A WHITE OAK TREE 6 INCHES IN DIAMETER BEARS SOUTH 75° WEST, DISTANT 115 LINKS AND A WARM SPRING SOUTH 50° EAST, ABOUT 4 CHAINS; THENCE N. 80° 30' E., ALONG THE FOOT OF THE HILLS TO THE LEFT OF THE LINE BEARING NORTH 60° EAST AT 12 CHAINS LEAVES THE FOOT OF HILLS AND ENTERS WILLOWS 18 CHAINS AND 50 LINKS TO A DRY RAVINE 45 LINKS WIDE, COURSE NORTHEAST AT 19 CHAINS AND 50 LINKS LEAVES WILLOWS 21 CHAINS AND 50 LINKS TO A POST MARKED "S.V.NO.3" STATION; THENCE SOUTH 3° EAST 4 CHAINS TO A STREAM OF WATER 6 CHAINS TO A LIVE OAK TREE 1 FOOT IN DIAMETER MARKED "S.V.NO.4" STATION; THENCE S. 52° 45' W., 7 CHAINS TO A ROAD TO SOLEDAD MISSION, COURSE NORTH AND SOUTH 12 CHAINS TO FOOT OF HILLS AND ASCEND 16 CHAINS TO A POST MARKED "S.V.NO.5" ON THE TOP OF A SMALL RIDGE STATION; THENCE DESCENDING N. 57° 30' W., 6 CHAINS AND 50 LINKS TO THE PLACE OF BEGINNING AND BEING DESIGNATED ON THE PLATS OF THE PUBLIC SURVEYS AS LOT NO. 38, TOWNSHIP 18 SOUTH, RANGE 6 EAST, M.D.M., AND BEING THE SAME PREMISES DESCRIBED AMONG OTHERS, IN LETTERS PATENT FROM THE UNITED STATES TO JOSEPH S. ALEMANY, BEARING DATE NOVEMBER 19, 1859 AND RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, IN BOOK A OF PATENTS AT PAGE 411, ON JUNE 20, 1874.

PARCEL 2:

LOTS 3, 4 AND 5 IN SECTION 30, TOWNSHIP 18 SOUTH OF RANGE 6 EAST, MOUNT DIABLO BASE AND MERIDIAN, AND THE SAME PREMISES DESCRIBED IN LETTERS PATENT OF THE UNITED STATES TO OSCAR A. REEVE, BEARING DATE AUGUST 20, 1878 AND OF RECORD IN THE RECORDER'S OFFICE OF MONTEREY COUNTY IN BOOK B OF PATENTS, AT PAGE 196, APRIL 12, 1882.

PARCEL 3:

LOTS 1 AND 2, AND WEST ONE-HALF OF SOUTHEAST QUARTER (W1/2 OF SE 1/4) OF SECTION 25 IN TOWNSHIP 18 SOUTH, RANGE 5 EAST OF MOUNT DIABLO BASE AND MERIDIAN, ACCORDING TO THE UNITED STATES GOVERNMENT SURVEY THEREOF.

EXHIBIT "A"

PARCEL I

Certain property situated in the County of Monterey, State of California, and more particularly described as NE 1/4 of Sec. 30, Twp. 18, S. R. 6 East, M.D.M. SE 1/4 of Sec. 19, Twp. 18 S, Range 6 East, M.D.M. Lot 6 and E 1/2 of SW 1/4 of Sec. 19, Twp. 18 S. Range 6 East, M.D.M. Lot 6 and NE 1/4 of SW 1/4; the N 1/2 of SE 1/4 of Sec. 24, Twp. 18 S. Range 5 East, M.D.M.

PARCEL II

Certain real property situate, lying, and being in the Southwest Quarter (SW 1/4) of the Northwest Quarter (NW 1/4) of Section 29 in T. 18 S., R. 6E., M.D.B. & M. in the County of Monterey, State of California, particularly described as follows, to-wit:

Beginning at a 1" diameter iron pipe standing in the fence line between Section 30 and said Section 29 and in the northerly fence line of the County Road leading to Paraiso Springs, and from which the Quarter Corner common to said Sections 29 and 30 bears SOUTH, 300.8 feet, more or less distant, and running thence from said place of beginning along said fence and line between Sections 29 and 30

(1) NORTH 171.25 feet to a 1" diameter iron pipe; thence leave said fence and line between Sections 29 and 30 and running

(2) EAST, 144.68 feet, at 60.35 feet a 2" x 3" redwood post, 144.68 feet to a 1" diameter iron pipe; thence

(3) SOUTH 131.85 feet to a 1" diameter iron pipe standing in said northerly road fence; thence along said road fence

(4) S. 76° 16' W., 75.0 feet; thence

(5) S. 73° 16' W., 75.0 feet to the place of beginning.

Containing an area of 0.5 acres of land.

**END OF DOCUMENT**

EXHIBIT "B"



EXHIBIT C

---

**From:** John S. Bridges  
**Sent:** Thursday, September 29, 2016 11:56 AM  
**To:** Tony Lombardo  
**Subject:** Paraiso Springs

Tony: Several months ago, under false pretense, your client Mr. Thompson (Paraiso Springs) installed a water flow meter into the water line of my client (Pura) which water line serves the Pura Ranch with water from the spring that is the subject of the Agreement of Easement recorded at Reel 1913 Page 151, Monterey County Records. At the time Mr. Thompson represented he was required to install the meter by Monterey County in order to collect data. We have since learned that was not true (see below email from John Ford). Your client has no right nor legitimate business metering the flow from the spring as the size of the pipe complies with the limitation in the easement. Please advise your client that he must remove the meter and repair all consequential damage caused to the spring box plumbing, at his sole expense and by a professional plumber, by October 7. If your client does not comply, my client will make arrangements to remove the meter and repair the pipe line during the week of October 10 and will thereafter send a bill for the cost of removal and repairs to your client for reimbursement. If this latter course becomes necessary we will coordinate gate access (which my client has the right to per easement paragraph 4.D) with you for the day the work will be done. In addition to a plumber, my client will also ask the Sheriff to accompany him given past physical threats made by Mr. Thompson's staff. Please control your client's staff. This email constitutes notice of intent to enter pursuant to easement paragraph 4.D.1.

Thank you in advance for your cooperation.

JOHN

**From:** Ford, John H. x5158 [<mailto:FordJH@co.monterey.ca.us>]  
**Sent:** Tuesday, September 13, 2016 7:39 AM  
**To:** Yvette Blomquist <[YBlomquist@wilburellis.com](mailto:YBlomquist@wilburellis.com)>  
**Subject:** RE: Paraiso Springs Resort

Hi Yvette:

I apologize for the late response, but we did not direct Mr. Thompson to collect data on your deeded spring line.

How has this resulted in a reduction in flow?

John

**John S. Bridges**

**FENTON & KELLER**

Post Office Box 791

Monterey, CA 93942-0791

831-373-1241, ext. 238

831-373-7219 (fax)

[jbridges@fentonkeller.com](mailto:jbridges@fentonkeller.com)

[www.FentonKeller.com](http://www.FentonKeller.com)

**FENTON & KELLER**

A PROFESSIONAL CORPORATION  
ATTORNEYS AT LAW

EXPERIENCE INTEGRITY RESULTS

#### **CONFIDENTIALITY NOTICE**

This is a transmission from the Law Firm of Fenton and Keller. This message and any attached documents may be confidential and contain information protected by the attorney-client or attorney work product privileges. They are intended only for the use of the addressee. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this information is strictly prohibited. If you received this transmission in error, please immediately notify our office at 831-373-1241. Thank you.

EXHIBIT D

**ANTHONY LOMBARDO & ASSOCIATES**

A PROFESSIONAL CORPORATION

ANTHONY L. LOMBARDO  
KELLY MCCARTHY SUTHERLAND  
MICHAEL A. CHURCHILL  
CODY J. PHILLIPS

October 4, 2016  
*Via E-Mail*

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

John Bridges, Esq.  
Fenton & Keller  
2801 Monterey/Salinas Highway  
Monterey, CA 93940

Re: Paraiso Springs

Dear John,

I am responding to your letter of last Thursday regarding your client's use of a spring located on the Paraiso Hot Springs property.

First, your client does not own the spring, the land the spring is located on, or any other interest in my client's property.

An easement was granted by my client's predecessor in interest for the non-exclusive use of water from this spring. The easement rights are limited to diversion of water from a 1 inch pipe for domestic purposes including incidental livestock.

You previously sent extensive comments in response to the Paraiso Springs DEIR that was prepared and circulated for the proposed project on the Paraiso Springs property.

In your comments, you questioned the impact which the project might have on both the quality and quantity of water available for your client's use pursuant to the aforementioned easement.

In response to these comments, the applicant prepared a comprehensive hydrological analysis which it submitted as a part of the new environmental analysis for the project being conducted by the County. That report was peer reviewed by the County's EIR consultant and hydrologic sub-consultant.

The hydrologic sub-consultant to the County recommended that both water quality and quantity sampling be taken at the spring in order to establish a baseline to allow proper mitigations to be developed in order to insure that impacts, if any, to the spring for the development of the project could be quantified.

The applicant and their hydrologist agreed with this recommendation and began water sampling and flow testing to establish baseline conditions at the spring. My client hired a licensed

plumber to install a flow meter on the spring outlet earlier this summer. The results are being provided to Monterey County for inclusion in the new EIR.

The data collected thus far shows the water in the spring does not meet drinking water standards and the flow from the spring is approximately 1 gallon per minute.

During the installation of the inlet filter and flow meter, my client learned that your client has surreptitiously installed a 1.5 inch pipe rather than a 1 inch pipe as allowed in the easement and that the pipeline from the spring does not follow the route described in the easement. This is especially disconcerting to my client since this easement is not an exclusive easement and my client may wish to use water from this spring in the future on its property.

While I can appreciate why your client may not wish either my client or the County to have this data since it will preclude a spurious claim by your client as to water quality and quantity impacts, the fact is that this monitoring is occurring as a direct response to your client's comments and complaints. In addition, the filter and flow meter that have been installed have no impact whatsoever on your client's access to water from the spring. In fact, the filter installed by my client should have a positive impact by reducing the amount of debris entering the pipeline your client installed.

The collection of this data is important to the completion of the EIR and specifically in reference to the comments made on behalf of your client.

Unless your client has determined that he no longer has concerns regarding the proposed projects effects on his water supply from the spring, the monitoring needs to continue.

My client has requested, but has not received, a response from your client regarding his use of the water from the spring. Your client is diverting water from the spring at a rate of approximately 1440 gallons per day. This amount would far exceed normal residential use in California for three people even after adding back some volume of water for personal livestock.

Your letter also references concerns about your client's access to the spring.

As my client has requested in the past, and I am formally requesting, please have your client provide my client with a time they or their representative wish to access the property at least one hour before and meet them at the main entrance to the resort so that they can have reasonable control and knowledge of who is entering their property, when and for what purpose. My client is also requesting to be notified as to when your client exits the property so that my client can secure the property after exit. Your client should not enter the property if no one is on the property to open the secure gate. In fact, my client has no evidence that your client has any interest in the dominant estate that would entitle him to enter my client's property for any reason. Because of the hostility your client has exhibited to my client and their representatives, and the obvious violation of the specific terms of the easement, my client feels that the property owner of

John Bridges, Esq.  
October 4, 2016  
Page 3

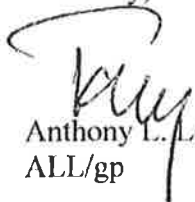
the dominant estate should designate a different representative to handle maintenance issues on the pipe.

In the event your client attempts to in any way interfere with or remove the metering device from the spring, my client would have to file a criminal complaint against your client for vandalism and also file a civil action against your client and the owner of the property on which your client lives to restrain both his access to the Paraiso Springs property and to determine the rights the owner of the property on which he lives has to the use of the spring.

My client has no issue with the owner of the dominant estate having reasonable and controlled access to the spring box, but my client does have issues with your client's attitude, apparent violation of the terms of the easement and continued hostile attitude about accessing the spring whenever and however he wishes is unacceptable.

If you would like to discuss appropriate means for a representative of the dominant estate to access the spring box, please contact me.

Sincerely,



Anthony L. Lombardo  
ALL/gp

cc: Client  
John Ford

EXHIBIT E



MARK A. CAMERON  
JOHN S. BRIDGES  
DENNIS G. MCCARTHY  
CHRISTOPHER E. PANETTA  
DAVID C. SWEIGERT  
SARA B. BOYNS  
BRIAN D. CALL  
TROY A. KINGSHAVEN  
JOHN B. KESECKER  
ELIZABETH R. LBITZINGER  
SHARILYN R. PAYNE  
CAROL S. HILBURN  
CHRISTINA J. BAGGETT  
ELIAS E. SALAMEH  
KENNETH S. KLEINKOPF  
DERRIC G. OLIVER  
ROXANA E. KHAN  
LAURA L. FRANKLIN  
EVAN J. ALLEN  
ANDREW B. KREEFT

FENTON & KELLER  
A PROFESSIONAL CORPORATION  
ATTORNEYS AT LAW

2801 MONTEREY-SALINAS HIGHWAY  
POST OFFICE BOX 791  
MONTEREY, CALIFORNIA 93942-0791  
TELEPHONE (831) 373-1241  
FACSIMILE (831) 373-7219  
www.FentonKeller.com

LEWIS L. FENTON  
1925-2005

OF COUNSEL  
CHARLES R. KELLER  
THOMAS H. JAMISON

October 12, 2016

JOHN S. BRIDGES

JBridges@FentonKeller.com  
ext. 238

**VIA EMAIL (tony@alombardolaw.com)**

Anthony Lombardo  
Anthony Lombardo & Associates  
144 W. Gabilan Street  
Salinas, CA 93901

Re: Pura Water Rights/Paraiso Springs Resort  
Our File: 34080.32126

Dear Tony:

This letter is in response to your letter dated October 4, 2016.

My client is Cynthia Pura who is the owner of the easement and the dominant tenement (which is a 1400 acre cattle ranch).

The easement to use the spring conveys "the right to the use of all of the water" from the spring through a 1 inch pipe for the purposes of two residences (without regard to size or number of persons) and livestock (not limited to personal or incidental). The amount of water Pura chose to divert this summer (i.e., whatever your meter might reflect) is irrelevant to the scope of the water right which is defined by the easement pipe size limit.

The easement also conveys the right to develop the water in the spring. When that right is exercised the amount of water that can be pumped from the spring through a 1 inch pipe will range from 16 gpm/25.81/afy (gravity flow) to 30 gpm/48.39 afy (27 psi standard rating for PVC pipe) to a maximum of 58 gpm/93.55 afy (75 psi maximum for PVC pipe).

Your hydrologist's suggestion the summer diversion flow from the spring be metered does not equate to being required by the County to do so.

The metered flow during the dry summer months of 2016 is not a legitimate baseline condition under CEQA nor is it the measure of Pura's water right. Pura's water right is defined

Anthony Lombardo  
October 12, 2016  
Page 2

in the easement and that is the amount of water that must be legally protected from any impact by the proposed project.

The slightly greater than 1 inch pipe you reference (perhaps 1.25 inch) is merely a manifold that directs water from the three spring boxes into a single 1 inch pipe through which water flows to the Pura property consistent with the easement. That manifold has been in existence for more than 15 years. Its size is irrelevant.

Pura owns the right to use all the water from the spring and your client's right to use groundwater that sources the spring is subordinate to Pura's express rights under the easement.

If Pura desires to access the spring through the Paraiso gate we will coordinate timing with you (as we already offered to do). Otherwise Pura has the right to access the servient tenement at all times and will do so consistent with the notice requirement set forth in the easement. You have been provided (and are by this letter again provided) such notice with regard to the week of October 10.

Pura's ranch manager, Dennis Blomquist will continue to handle the maintenance issues related to the spring. Mr. Blomquist has never been hostile to your client or his staff. In fact, he has taken steps to avoid any hostility by calling the sheriff onto the scene for a civil standby (due to hostilities and threats made by your client's staff). Again, I ask you to control said staff.

The meter is an unlawful encroachment on Pura's water pipeline and removal of it is within Pura's rights.

There has been no violation of the easement nor any hostile attitude from my client or the ranch manager.

Pura is fully prepared to defend her easement rights in court.

Very truly yours,

FENTON & KELLER  
A Professional Corporation



John S. Bridges

JSB:kmc

cc: Cynthia Pura (via email)  
Monterey County (Attn: John Ford (ref. PLN040183)) (via email)

EXHIBIT F

---

**From:** Tony Lombardo <tony@alombardolaw.com>  
**Sent:** Friday, October 14, 2016 11:02 AM  
**To:** John S. Bridges  
**Subject:** Paraiso Springs Resort  
**Attachments:** Easements.pdf

Dear John:

My client and I have reviewed your letter of October 12<sup>th</sup> and I'm not certain that we are looking at the same easement documents. I am attaching copies of the two easements that I have in my possession regarding the use of the spring and nowhere do I see any reference to the term "all of the water" in either of these documents. The easements which I have specifically reference a limitation on the use as "normal residential use for one single family residence".

I am also unclear as to why you provided me the information regarding the capacity of a 1 inch pipe to have water pumped through it. Your client does not have any right to pump water, place utilities or in any way alter the spring box. The spring produces 1 gallon a minute and that is what your client is diverting.

Your characterization of the fact that the suggestion regarding determining a baseline came from the applicant's hydrologist is also incorrect. As I explained in my last letter, that was a recommendation by the County's peer review hydrologist which my client implemented.

I do agree that Pura's water right is defined by the language of the easement. It appears that Pura is over-diverting the water based on the limitation contained in the easement that water use is limited to "normal residential use for one single family residence" on each of the parcels. That amount is far less than the amount that your client is diverting from the spring at this time.

I reiterate my admonition to you and your client from my last correspondence that if they attempt to damage or remove the measuring device that has been installed, my client will have no option but to proceed against your client both criminally and civilly.

Dennis Blomquist does not have any rights to enter my client's property. That right belongs to the owner of the property. Mr. Blomquist has incited violence on the property in the past and my client's employees believe that he frequently carries a firearm which he has no right to do on my client's property.

Please have your client or a representative which is acceptable to my client, arrange to enter the property from the main gate at a time that is mutually convenient for my client's employees and your client.

Sincerely,

Anthony L. Lombardo  
ANTHONY LOMBARDO & ASSOCIATES  
A Professional Corporation  
144 W. Gabilan St.  
Salinas, CA 93901  
Phone (831) 751-2330  
Fax (831) 751-2331  
Email [tony@alombardolaw.com](mailto:tony@alombardolaw.com)

**PRIVILEGED & CONFIDENTIAL -- ATTORNEY CLIENT PRIVILEGE -- ATTORNEY WORK PRODUCT**

The Information contained in this electronic transmission is legally privileged and confidential, and it is intended for the sole use of the individual or entity to whom it is addressed. If you are not the intended recipient, please take notice that any form of dissemination, distribution or photocopying of this electronic transmission is strictly prohibited. If you have received this electronic transmission in error, please immediately contact Anthony Lombardo at (831) 751-2330 or [tony@alombardolaw.com](mailto:tony@alombardolaw.com) and immediately delete the electronic transmission.

Recording Requested By:  
Horan, Lloyd, Karachale  
& Dyer, Incorporated

65781

Dec 27 10 02 AM '85

DEPT. OF REVENUE  
COUNTY OF MONTEREY  
SALINAS, CALIFORNIA

When Recorded Return to:  
Horan, Lloyd, Karachale  
& Dyer, Incorporated  
P. O. Box 3350  
Monterey, CA 93942-3350

#### AGREEMENT RE EASEMENT

This instrument entered into by and between PARAISO, INC., a California corporation, (hereinafter referred to as "Grantor") and JACOB H. PURA and HELEN B. PURA (hereinafter referred to as "Grantee");

WHEREAS, on or about June 1, 1918, Frank Brandt, William C. Brandt, and Frank Daniels (hereinafter collectively referred to as "Grantor's Predecessors") granted to Mark L. Jolly the right to use water from a certain spring (hereinafter "the Spring") situated on certain real property (which property is referred to as "the Servient Tenement") in the County of Monterey, and more particularly described on Exhibit "A" attached hereto, by an instrument (which instrument is hereinafter referred to as "the 1918 Deed") recorded on June 3, 1918, in Book 157 of Deeds, page 319, Official Records, County of Monterey; and

WHEREAS, in the 1918 Deed, Grantor's predecessors also granted to Mark L. Jolly certain other rights appurtenant to the right to use water from the Spring, including the right to enter upon the Servient Tenement, provided water could only be taken in a one-inch (1") pipe; and

WHEREAS, 1918 Deed sets forth that the right to use water from the Spring is for the benefit of real property situated in the County of Monterey, State of California, which real property (hereinafter referred to as "Parcel I") is described as Parcel I on Exhibit "B" attached hereto; and

WHEREAS, Grantor is now the Owner of the Servient Tenement; and

WHEREAS, Grantee is now the owner, as a successor in title to Mark L. Jolly of real property situated in the County of Monterey, and described more particularly on Exhibit "B" attached hereto; and

WHEREAS, Grantee wishes to obtain the right to use water taken from the Spring on real property (hereinafter referred to as "Parcel II") situated in the County of Monterey, State of California, and which property is described as Parcel II on Exhibit "B"; and

WHEREAS, Grantor is willing to permit Grantee to use water from the Spring on Parcel II, provided the purposes for which such water can be used on Parcel I and Parcel II are limited.

NOW THEREFORE, the parties agree as follows:

1. Grantor hereby grants to Grantee the right to use water taken from the Spring on Parcel II so long as such usage is limited to normal residential uses for one single-family residence situated on Parcel II.

2. Grantor and Grantee hereby agree that Grantee's right to use water diverted from the Spring is limited to normal residential uses for one single-family residence on Parcel I, and watering livestock on Parcel I.

3. In any event, water taken from the Spring can only be diverted from a one inch (1") pipeline.

4. The easements granted herein include the following appurtenant rights:

A. The right to enter upon the Servient Tenement for the purpose of cleaning said Spring and to develop the water therein;

B. The right to deposit on the Servient Tenement, below the Spring, the dirt and other substances taken therefrom in the cleaning of the same;

C. The right to lay not over one one-inch (1") pipe from the said Spring for the purpose of carrying the water from said Spring to Parcel I, and to extend such pipes as far as the County Road.

D. To enter upon the Servient Tenement, at all times, for the purpose of repair or renewal of the said pipes, provided that:

(1) Grantee gives Grantor prior notice of Grantee's intent to enter the Servient Tenement;

(2) Grantee's entry does not interfere with the activities of Grantor, and the Grantor's agents, employees and invitees on the Servient Tenement; and

(3) Grantee saves, holds harmless, indemnifies and defends Grantor from any loss, injury or property damage arising out of Grantee's entry onto the Servient Tenement and Grantee's activities thereon.

E. The right to enclose the said Spring with a suitable fence to protect the same from destruction by stock.

5. It is further understood and agreed that the right to take water from said Spring granted herein is a permanent easement appurtenant to Parcel I and Parcel II, and a permanent burden upon the Servient Tenement and shall be and remain a covenant running with the land.

GRANTOR:

PARAISO, INC.  
a California corporation

DATED: November 27, 1985

By: Warren L. Perrine  
Warren L. Perrine, President

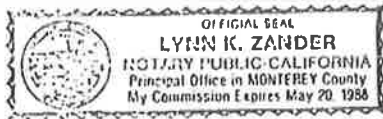
By: Marjorie C. Perrine  
Marjorie C. Perrine, Secretary

DATED: 12/11/1985

Jacob H. Pura  
JACOB H. PURA

HELEN B. PURA  
HELEN B. PURA

STATE OF CALIFORNIA  
COUNTY OF MONTEREY



This document is only a general form which may be proper for use in simple transactions and in no way acts as or is intended to act as a substitute for the advice of an attorney. The user who over-relied on any warranty, either express or implied as to the legal validity of any provision or the substance of these forms in any specific transaction, Cowdery's Form No. 28 — Acknowledgement to Notary Public — Corporation (C. C. Secs. 1190-1190.1)

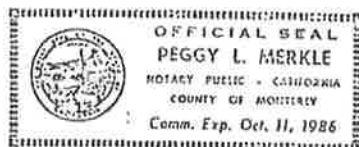
On this 27th day of November in the year nineteen Hundred Eighty-Five before me Lynn K. Zander, a Notary Public, State of California, duly commissioned and sworn, personally appeared Warren L. Perrine and Marjorie C. Perrine

personally known to me (or proved to me on the basis of satisfactory evidence) to be the President, and the Secretary of the corporation that executed the within instrument, and also known to me to be the person S who executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal in the City of Monterey County of Monterey

on the date set forth above in this certificate.  
Lynn K. Zander  
Notary Public, State of California  
My commission expires May 20, 1988

STATE OF CALIFORNIA  
COUNTY OF MONTEREY



This document is only a general form which may be proper for use in simple transactions and in no way acts as or is intended to act as a substitute for the advice of an attorney. The user who over-relied on any warranty, either express or implied as to the legal validity of any provision or the substance of these forms in any specific transaction, Cowdery's Form No. 32 — Acknowledgement to Notary Public — Individuals (c.c. sec. 1189.)

On this 11th day of December in the year 1985, before me

Peggy L. Merkle, a Notary Public, State of California, duly commissioned and sworn, personally appeared JACOB H. PURA and HELEN B. PURA

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person S whose name S are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal in the City of Greenfield County of Monterey on the date set forth above in this certificate.

Peggy L. Merkle  
Notary Public, State of California  
My commission expires 10-11-86

Cowdery's Form No. 32 — Acknowledgement to Notary Public — Individuals (c.c. sec. 1189.)



PARCEL 1:

THAT CERTAIN TRACT FORMERLY KNOWN AS AND CALLED THE VINEYARD OF MISSION LA SOLEDAD, BEGINNING AT A LIVE OAK TREE 10 INCHES IN DIAMETER MARKED "S.V.NO.1", FROM WHICH THE POST MARKED "C. NO. 6", AT THE SOUTHEAST CORNER OF THE CHURCH BEARS N. 7° 15' E., DISTANT 388 CHAINS AND THE SECTION POST AT THE CORNER OF SECTIONS 19, 24, 25 AND 30 IN TOWNSHIP 18 SOUTH, RANGES 5 AND 6 EAST, BEARS NORTH 4° WEST, DISTANT 49 CHAINS AND 12 LINKS; THENCE ACCORDING TO THE TRUE MERIDIAN, THE VARIATION OF THE MAGNETIC NEEDLE BEING 14° 30' E., N. 22° 45' W., OVER MARSHY LAND, 7 CHAINS TO A DRY RAVINE 40 LINKS WIDE, COURSE EAST, 9 CHAINS AND 50 LINKS TO A POST MARKED "S.V.NO.2" FROM WHICH A WHITE OAK TREE 6 INCHES IN DIAMETER BEARS SOUTH 75° WEST, DISTANT 115 LINKS AND A WARM SPRING SOUTH 50° EAST, ABOUT 4 CHAINS; THENCE N. 80° 30' E., ALONG THE FOOT OF THE HILLS TO THE LEFT OF THE LINE BEARING NORTH 60° EAST AT 12 CHAINS LEAVES THE FOOT OF HILLS AND ENTERS WILLOWS 18 CHAINS AND 50 LINKS TO A DRY RAVINE 45 LINKS WIDE, COURSE NORTHEAST AT 19 CHAINS AND 50 LINKS LEAVES WILLOWS 21 CHAINS AND 50 LINKS TO A POST MARKED "S.V.NO.3" STATION; THENCE SOUTH 3° EAST 4 CHAINS TO A STREAM OF WATER 6 CHAINS TO A LIVE OAK TREE 1 FOOT IN DIAMETER MARKED "S.V.NO.4" STATION; THENCE S. 52° 45' W., 7 CHAINS TO A ROAD TO SOLEDAD MISSION, COURSE NORTH AND SOUTH 12 CHAINS TO FOOT OF HILLS AND ASCEND 16 CHAINS TO A POST MARKED "S.V.NO.5" ON THE TOP OF A SMALL RIDGE STATION; THENCE DESCENDING N. 57° 30' W., 6 CHAINS AND 50 LINKS TO THE PLACE OF BEGINNING AND BEING DESIGNATED ON THE PLATS OF THE PUBLIC SURVEYS AS LOT NO. 38, TOWNSHIP 18 SOUTH, RANGE 6 EAST, M.D.M., AND BEING THE SAME PREMISES DESCRIBED AMONG OTHERS, IN LETTERS PATENT FROM THE UNITED STATES TO JOSEPH S. ALEMANY, BEARING DATE NOVEMBER 19, 1859 AND RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, IN BOOK A OF PATENTS AT PAGE 411, ON JUNE 20, 1874.

PARCEL 2:

LOTS 3, 4 AND 5 IN SECTION 30, TOWNSHIP 18 SOUTH OF RANGE 6 EAST, MOUNT DIABLO BASE AND MERIDIAN, AND THE SAME PREMISES DESCRIBED IN LETTERS PATENT OF THE UNITED STATES TO OSCAR A. REEVE, BEARING DATE AUGUST 20, 1878 AND OF RECORD IN THE RECORDER'S OFFICE OF MONTEREY COUNTY IN BOOK B OF PATENTS, AT PAGE 196, APRIL 12, 1882.

PARCEL 3:

LOTS 1 AND 2, AND WEST ONE-HALF OF SOUTHEAST QUARTER (W1/2 OF SE 1/4) OF SECTION 25 IN TOWNSHIP 18 SOUTH, RANGE 5 EAST OF MOUNT DIABLO BASE AND MERIDIAN, ACCORDING TO THE UNITED STATES GOVERNMENT SURVEY THEREOF.

EXHIBIT "A"

PARCEL I

Certain property situated in the County of Monterey, State of California, and more particularly described as NE 1/4 of Sec. 30, Twp. 18, S. R. 6 East, M.D.M. SE 1/4 of Sec. 19, Twp. 18 S, Range 6 East, M.D.M. Lot 6 and E 1/2 of SW 1/4 of Sec. 19. Twp. 18 S. Range 6 East, M.D.M. Lot 6 and NE 1/4 of SW 1/4; the N 1/2 of SE 1/4 of Sec. 24, Twp. 18 S. Range 5 East, M.D.M.

PARCEL II

Certain real property situate, lying, and being in the Southwest Quarter (SW 1/4) of the Northwest Quarter (NW 1/4) of Section 29 in T. 18 S., R. 6E., M.D.B. & M. in the County of Monterey, State of California, particularly described as follows, to-wit:

Beginning at a 1" diameter iron pipe standing in the fence line between Section 30 and said Section 29 and in the northerly fence line of the County Road leading to Paraiso Springs, and from which the Quarter Corner common to said Sections 29 and 30 bears SOUTH, 300.8 feet, more or less distant, and running thence from said place of beginning along said fence and line between Sections 29 and 30

(1) NORTH 171.25 feet to a 1" diameter iron pipe; thence leave said fence and line between Sections 29 and 30 and running

(2) EAST, 144.68 feet, at 60.35 feet a 2" x 3" redwood post, 144.68 feet to a 1" diameter iron pipe; thence

(3) SOUTH 131.85 feet to a 1" diameter iron pipe standing in said northerly road fence; thence along said road fence

(4) S. 76° 16' W., 75.0 feet; thence

(5) S. 73° 16' W., 75.0 feet to the place of beginning.

Containing an area of 0.5 acres of land.

EXHIBIT "B"

OLD REPUBLIC TITLE COMPANY

ORDER NO. 184644-C  
Update V

8. The Provisions and Reservations contained in the patent from the United States of America,  
To : Oscar A. Reeve  
Recorded: April 12th, 1882 in Volume "B" of Patents, Page 196  
Affects : As described therein

Said provisions and reservations are as follows:

Subject to any vested or accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local customs, laws and decisions of the courts; and also subject to the right of the proprietor of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted as provided by law.

Said matters affect Parcel II.

9. Water or water rights as granted in the instrument

Entitled : Deed  
By and Between : Mark L. Jolly  
Recorded : June 3rd, 1918 in Book 157 of Deeds, Page 319

Said document contains the following recital:

Right to enter upon the said premises for the purpose of cleaning said spring and develop the water therein with the right to deposit on the land of the parties of the first part, below the said spring, the dirt and other substances taken therefrom in the cleaning of the same. Also the right to lay not over one 1 inch pipe from the said spring for the purpose of carrying the water from said spring to the lands of the party of the second part, and to enter upon the lands of the parties of the first part, at all times, for the purpose of the repair or renewal of the said pipes; and to extend such pipes as far as the County Road. Also the right to inclose the said spring with a suitable fence to protect the same from destruction by stock. It is further understood and agreed that the right to the water of said spring herein granted is a permanent easement attached to the dominant tenement (the lands of the party of the second part) and a permanent burden upon the servient tenement (the lands of the parties of the first part herein above described) and shall be and remain a covenant running with the land.

OLD REPUBLIC TITLE COMPANY

ORDER NO. 184644-C

Update 9

10. Terms and provisions as contained in an instrument

Entitled : Agreement Re Easement

Executed by: Paraiso, Inc., a California Corporation and Jacob H. Pura and  
Helen B. Pura

Recorded : December 27th, 1985 in Reel 1913 of Official Records, Page 151

11. Any unrecorded and subsisting leases.

12. Facts which would be disclosed by a comprehensive survey of the premises herein described.

NOTE: In connection herewith, attention is called to Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys as adopted by American Land Title Association and American Congress on Surveying & Mapping in 1992.

A copy may be furnished upon request.

13. Mechanics', Contractors' or Materialmen's liens and lien claims, if any, where no notice thereof appears on record.

14. Rights and claims of partice in possession.

15. Any facts, rights, interests or claims which are not shown by the public records, but which could be ascertained by making inquiry of the adjacent land owners and those in possession thereof.

16. The consequences of the presence, if any, of hazardous substances, dangerous materials or harmful waste, as a health or safety hazard, or otherwise, which may affect said land.

17. NOTE: The requirement that satisfactory evidence be furnished to this Company evidencing the due formation and continued existence of Paraiso, Inc. as a legal entity under the laws of California.

18. The requirement that a certified copy of a resolution of the board of directors be furnished to this company authorizing or ratifying the proposed conveyance or encumbrance of Paraiso, Inc.

19. The requirement that this Company be provided with a Statement of Identity from John King in considering the following:

Various liens appear of record

1 **PROOF OF SERVICE**

2 I, Tanya Sampaolo, declare:

3 I am a citizen of the United States and employed in Monterey County, California. I am  
4 over the age of eighteen years and not a party to the within-entitled action. My business address  
5 is 2801 Monterey-Salinas Highway, Post Office Box 791, Monterey, California 93942. On May  
6 12, 2017, I served a copy of the within document(s):

7 **VERIFIED FIRST AMENDED COMPLAINT FOR INJUNCTIVE RELIEF AND  
8 DAMAGES FOR:**

- 9 1) **QUIET TITLE: EXPRESS EASEMENT;**  
10 2) **INTERFERENCE WITH EASEMENT;**  
11 3) **PRIVATE NUISANCE;**  
12 4) **TRESPASS TO CHATTELS;**  
13 5) **DECLARATORY RELIEF.**

14 ☐

15 (BY FACSIMILE) by transmitting via facsimile the document(s) listed above  
16 to the fax number(s) set forth below on this date before 5:00 p.m.

17 ☒

18 (BY U.S. MAIL) by placing the document(s) listed above in a sealed envelope  
19 with postage thereon fully prepaid, the United States mail at Monterey,  
20 California addressed as set forth below.

21 ☐

22 (BY OVERNIGHT SERVICE) by placing the document(s) listed above in a  
23 sealed \_\_\_\_\_ envelope and affixing a pre-paid air bill, and causing the  
24 envelope to be delivered to a Delivery Service agent for delivery.

25 ☐

26 (BY PERSONAL SERVICE) by causing to personally deliver the document(s)  
27 listed above to the person(s) at the address(es) set forth below.

28 ☐

(BY EMAIL) by transmitting via e-mail or electronic transmission the  
document(s) listed above to the person(s) at the e-mail address(es) set forth  
below.

☒

(BY ELECTRONIC FILING SERVICE) by transmitting a true copy thereof  
by electronic filing provider (EFSP) to the interested party(s) or their attorney of  
record to said action at the email address(es) of record and contained within the  
relevant EFSP database and listed below.

**Attorneys for Defendant THOMPSON HOLDINGS, LLC**

Rob Donlan, Esq.  
ELLISON, SCHNEIDER & HARRIS LLP  
2600 Capitol Avenue, Suite #400  
Sacramento, CA 95816  
Tel: (916) 447-2166  
Email: [red@eslawfirm.com](mailto:red@eslawfirm.com)

1 I am readily familiar with the firm's practice of collection and processing correspondence  
2 for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same  
3 day with postage thereon fully prepaid in the ordinary course of business. I am aware that on  
4 motion of the party served, service is presumed invalid if postal cancellation date or postage  
5 meter date is more than one day after date of deposit for mailing in affidavit.

6 I declare that I am employed in the office of a member of the bar of this court at whose  
7 direction the service was made.

8 Executed on May 12, 2017, at Monterey, California.

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
\_\_\_\_\_  
/s/  
Tanya Sampaolo

# EXHIBIT 'H'







April 10, 2018

John Bridges  
Fenton & Keller  
2801 Monterey-Salinas Highway  
Monterey, CA 93940

Mr. Bridges:

This letter summarizes our peer review of the transportation section of the Paraiso Springs RDEIR and associated documents. A brief summary of the documents reviewed and their contents is provided below.

- *Revised Traffic Analysis Report for Paraiso Springs Resort*, Hatch Mott Macdonald, revised January 21, 2011 and updated March 17, 2017. This report, prepared for the project applicant, is an updated version of the original traffic study conducted in 2008. This is the primary source of the information contained in the transportation and traffic section of the RDEIR.
- Peer review of the 2011 version of the above study, Hexagon Transportation Consultants, April 18, 2011. This letter, addressed to County of Monterey staff, recommends a number of changes or clarifications to the traffic study. The Hexagon peer review identifies issues with the trip generation analysis, safety analysis, and the roadway standards applied to the project.
- Peer review responses, Hatch Mott Macdonald, September 27, 2011. This letter responds to the Hexagon comments, and identifies changes resulting from the issues identified.
- Transportation and Traffic section of *Paraiso Springs Resort RDEIR*, February 2018. The RDEIR incorporates the analysis from the above studies.

The findings of our review are summarized below.

### TRIP GENERATION

The traffic study does not include vehicle trips generated by the 'Hamlet' component of the project, which includes a day spa, general retail store, artist studios, and wine tasting. These uses, along with the other visitor serving amenities on the site such as hot springs tubs, restaurants, and hiking trails would attract day use visitors to the site. There are at least ten wine tasting rooms within five miles of the project site, and Pinnacles National Park is in the area, so it is reasonable to expect substantial traffic from day-use visitors touring the area.

The traffic study ignores trips from these uses, noting on page 11 that "*due to the remoteness of the project site from urbanized areas, only a maximum of about 50 people per day are anticipated to make day trips to the site.*" The project is located less than 15 minutes driving time from US 101 so remoteness cannot justify lower trip rates. This estimate is unsupported and inconsistent with standard Institute of Transportation Engineers' (ITE) trip generation rates for the proposed uses. Table 1 estimates trips from the Hamlet using standard ITE rates. While some of these trips would be made by resort guests, a portion would be new trips from day use visitors.

Table 1: Hamlet Trip Estimates

Land Use	Size	Peak Hour	
		Daily Trips	Trips
Day Spa <sup>1</sup>	2,500 s.f.	130	13
Retail <sup>2</sup>	3,550 s.f.	164	16
Wine/Garden Center <sup>3</sup>	6,200 s.f.	1,262	226
<b>Gross Trips</b>		<b>1,556</b>	<b>255</b>
1. ITE Land Use Code 918, hair salon. Average Saturday peak hour rate used. Daily assumed to equal ten times peak hour.			
2. ITE Land Use Code 820, shopping center. Average Saturday daily and peak hour rates used.			
3. ITE Land Use Code 970, winery. Average Saturday daily and peak hour rates used.			

The traffic study assumes that 90 percent of employee trips will be made by shuttle when estimating project trips. The project description provides no assurance that this level of shuttle usage would occur. Mitigation Measure 3.4-1a specifies that the applicant shall provide an employee shuttle; this measure as written is inadequate to ensure 90 percent of employee trips are made by shuttle. Unless shuttle use is compulsory many employees will commute by private vehicle from Soledad (9 miles away), Greenfield (10.5 miles away), King City (23 miles away), and Gonzales (18 miles away).

To achieve the assumed level of guest and employee participation it would be necessary to have a detailed travel demand management program in place, with regular monitoring. No such program appears to have been prepared, making this key assumption speculative.

### IMPACTS TO TRANSIT

The RDEIR does not identify a potentially significant impact to mass transit due to employees overburdening the park and ride lot in Downtown Soledad. The project description (page 2-45) notes that the shuttle *"would transport the employees to the resort from existing park-and-ride lots in nearby cities, such as the one located on Front Street in downtown Soledad."* The Front Street parking lot has fewer than 50 spaces, all of which would be occupied by project employees. If this lot is used by the project it would likely result in secondary impacts to transit facilities by effectively eliminating park and ride spaces for the general public.

In order to meet the 90 percent shuttle usage more park-and-ride spaces will be needed, and this location should be identified in the RDEIR. It is possible that traffic to the proposed parking lots could result in secondary impacts which cannot be evaluated until the lots are identified.

This is a potentially significant impact to mass transit per the CEQA Guidelines and conflicts with Policy C-6.2 of the Monterey County General Plan, which states that "Major traffic generating events, activities and development shall provide facilities adequate to meet the anticipated demand...of mass transit..."

## RECOMMENDATIONS

We recommend the following actions to address these issues. Reducing the project size or developing an alternative roadway to serve the project could also address some of these concerns.

- Revise the traffic study and RDEIR section to reflect more realistic, reasonable worst-case estimates of trip generation consistent with similar uses in Monterey County. This should include trips generated by the 'Hamlet' component of the project as an independent traffic generating use.
- Implement a program to ensure the targeted shuttle usage levels are realized in perpetuity. This would include a monitoring program to ensure that the ADT on Paraiso Springs Road does not exceed daily trip levels estimated in the traffic study, provision of adequate parking supply for the shuttle pick-up/drop-off location, and a requirement that 90% of employees utilize the shuttle. The level of detail of this monitoring plan should be such that the project could receive a variance reducing the needed on-site parking supply to reflect the minimal usage of private vehicles.

Please let me know if you have any questions.

Sincerely,

**Central Coast Transportation Consulting**



Joe Fernandez, PE, AICP  
Principal

# EXHIBIT 'I'

FENTON & KELLER

A PROFESSIONAL CORPORATION

MEMORANDUM

TO: John S. Bridges FILE NO.: 34080.32126  
CC: Alex J. Lorca  
FROM: Derric G. Oliver  
DATE: April 26, 2018  
RE: Scope of impliedly dedicated road

---

This memorandum briefly reviews California law regarding the permissible scope of the public's continued use of a "public" road by implied dedication (i.e., a public easement) and analyzes whether the proposed development and expansion of Paraiso Springs Resort ("Resort")<sup>1</sup> would result in an impermissible expansion of the scope of the public's putative right to use the portion of Paraiso Springs Road that passes through the Pura Ranch ("Road").<sup>2</sup>

Short answer: Based on well-established California law, because the proposed development and expansion of the Resort ("Project") would dramatically increase traffic on the Road, the resulting increased public use of the Road (and attendant increased noise, pollution, dangers, and interruptions to Pura Ranch, its occupants and operations) would substantially increase the burdens on the Pura Ranch, and thus, impermissibly exceed the scope of the public's putative right to use the Road.

**A. The Project would result in an unlawful expansion of the scope of the public's putative right to use the Road**

Although characterized as "public," the public's putative right to use the privately-owned Road exists solely by virtue of a public easement by implied dedication, which is analogous in notable respects to a prescriptive easement (i.e., a servitude).<sup>3</sup> California Civil Code section 806 provides that, absent an express grant, the scope of a servitude is determined by "the nature of the enjoyment by which it was acquired." To that end, the California Supreme Court long ago established that "the rights thus acquired are limited to the uses which were made of the easements during the prescriptive period. [Citations.] Therefore, no different or greater use can be made of the easements without the [servient tenement owner's] consent."<sup>4</sup> Relatedly, the scope of a public easement created by implied dedication is limited to the public use that gave rise to the easement and may not be expanded to the detriment of the servient tenement.<sup>5</sup> Thus,

---

<sup>1</sup> The Resort is located at the western end of Paraiso Springs Road and is currently identified as APN 418-361-004, 418-381-021, and 418-381-022.

<sup>2</sup> The Pura Ranch is located at 33211 and 35021 Paraiso Springs Road and is currently identified as APN 481-381-012, 418-381-016, 418-381-019, and a portion of 481-341-019. The parcel of the Pura Ranch through which the Road passes is currently identified as APN 418-381-019.

<sup>3</sup> "[A] public easement arises only by dedication." (*Friends of the Trails v. Blasius* (2000) 78 Cal.App.4<sup>th</sup> 810, 820.) "When it comes to the issue of whether an impliedly dedicated public easement should be limited to the use that gave rise to it, prescriptive easements appear fully analogous." (*Burch v. Gombos* (2000) 82 Cal.App.4<sup>th</sup> 352, 362.)

<sup>4</sup> *O'Banion v. Borba* (1948) 32 Cal.2d 145, 155.

<sup>5</sup> *Burch, supra*.

the scope of the public's putative right to use the Road is limited to the public's historic use of the Road that gave rise to the claim of continued use.

As relevant here, the volume of the usage of an easement during the prescriptive period must be considered when determining the scope of the permissible future use of the easement, and an increase in traffic may be an impermissible, greater use of a road easement.<sup>6</sup> If the Project is approved, the projected resulting increase in traffic on the Road (by as much or more than 10,000% over current baseline conditions)<sup>7</sup> would constitute a substantial increase in the volume of the public's use of the Road, resulting in an unlawful substantial increase in the burdens on the Pura Ranch. Importantly, the astonishing projected traffic increases are based on *current* traffic conditions (the appropriate baseline for CEQA review). However, the *relevant* baseline traffic conditions for determining the scope of the legal right to use the Road are those that existed during the timeframe upon which the public's use of the Road gave rise to a putative claim of an implied dedication. To that end, the public (or perhaps pragmatically, Paraiso) has the burden of proof. Whatever that baseline traffic number may be, it will certainly be far less than contemplated by the Project, and thus, the Project will result in substantial and unlawful new burdens on the Pura Ranch. Until some other baseline number is proven by the Project's proponents, use of the CEQA baseline number is reasonable. Also, since there is no evidence that the Road was ever paved beyond its current width of 18 feet, the Road cannot be widened without Ms. Pura's consent, as the scope of the public's future use of the Road is limited to the width of the Road at the time the public's putative claim to continued use arose.

**B. The Project would result in unlawful and substantial increases in the burdens on the Pura Ranch**

Although some flexibility of use may exist, the "ultimate criterion in determining the scope of a prescriptive easement is that of avoiding increased burdens upon the servient tenement."<sup>8</sup> The Restatement of Property, section 478, comment d, explains, in relevant part:

"The asserted use may so greatly increase the burden upon the servient tenement that on that ground a conclusion that the use is not permissible may be reached. A prescriptive interest presupposes an assertion of privilege by the person whose adverse use created it and a failure on the part of the owner of the servient tenement to interrupt the use. An increase

---

<sup>6</sup> *Pipkin v. Der Torosian* (1973) 35 Cal.App.3d 722, 726-729.

<sup>7</sup> According to the traffic analysis report included in the Recirculated Draft Environmental Impact Report ("RDEIR"), traffic on the Road to the Resort currently averages approximately 22 vehicles per day. (RDEIR, p. 3-336.) That same study projects that, at 100% occupancy, the Project will result in daily vehicles on the Road to the Resort increasing to 406 (a 1745% increase). (RDEIR, p. 3-336.) Significantly, that projected increase doubles if a main assumption upon which the report relies (that an optional shuttle service will mitigate the projected daily vehicle increase by 440) is rejected. If so, the projected increase in traffic on the Road would be 846 (a 3745% increase). (RDEIR, p. 3-336.) Moreover, that report accounts only for Resort employees and hotel/timeshare occupants; it fails to account for any delivery, safety, construction, maintenance, and "hamlet" (Resort day use guest) traffic. By merely adding projected "hamlet" traffic (1,556 daily trips) to the report's projection, projected daily vehicles on the Road balloons to 2,402 (846 + 1,556) (a staggering 10,818% increase). See Central Coast Transportation Consulting's independent engineering analysis of the proposed project's traffic conditions, attached hereto as **Exhibit A**.

<sup>8</sup> *Pipkin, supra*, at 729.

in the burden on the servient tenement beyond that caused by the adverse use by which an easement was created is an undue increase if it is such an increase as, it may reasonably be assumed, would have provoked an interruption in the adverse use had the increase occurred during the prescriptive period. It is an increase such that its tolerance is not implicit in the tolerance of the adverse use by which the easement was created.”

At the time the public’s use of the Road gave rise to its putative claim to a continued right to do so, the Resort was a modest rural resort. In stark contrast, the Project aims to become a “world-class destination spa/resort hotel,” consisting of a large hotel with 103 guest rooms, three restaurants, 77 timeshare condominium units, and providing a wide array of amenities and recreational activities.<sup>9</sup> At buildout, the Project’s total footprint will exceed *one million* square feet (nearly 47 acres) and have capacity for more than 1,000 guests. Unless an alternate means of access to the Resort is developed, such a massive expansion of the Resort would indisputably and substantially increase the public’s use of the Road, thereby placing substantially increased burdens on the Pura Ranch. For the reasons discussed further below, it is unreasonable to assume (per the Restatement) that Ms. Pura’s predecessors-in-interest to the Pura Ranch would have acquiesced to those increased burdens on the Pura Ranch generations ago when the public’s putative claim to continued use of the Road ripened. Conversely, Ms. Pura’s predecessors would have never allowed the scope of the public’s use of the Road now contemplated by the Project to ripen into a permanent public right, as the attendant burdens on the Pura Ranch would have been intolerable.

**C. The public’s use of the Road may not be expanded to accommodate the Project without Ms. Pura’s consent**

Ms. Pura’s home and the long-existing cattle operations on the Pura Ranch are located immediately adjacent to the Road. The projected increase in daily vehicles on the Road resulting from the proposed Project would mean that an average of roughly 100 motorized vehicles per hour, 24 hours a day, will pass Ms. Pura’s home (and the home of her ranch manager, Dennis Blomquist and his wife, Yvette), which will disrupt their peace of mind and undermine the undeniably rural character of the area.<sup>10</sup> The proposed increased Road usage will also endanger Ms. Pura, her employees, her cattle and cattle operations on the Pura Ranch. For example, Ms. Pura’s ranch hands must frequently park on or next to the side of the Road to work with the cattle and guide them across the Road. The Road is very narrow and cattle operations equipment next to the Road can prevent other vehicles from passing. This is manageable with only 22 vehicles using the Road to access the Resort daily; however, 100 vehicles per *hour* would be another thing entirely. The proposed increased use of the Road by construction vehicles, Paraiso employees and guests, delivery vehicles, and other unwitting tourists, will also result in increased garbage, pollution, and necessary maintenance and repair of the Road, further burdening Ms.

---

<sup>9</sup> According to the RDEIR, the proposed expanded Resort will include, among other things, a 146,878 square foot hotel with 103 one- and two-story units, three restaurants, and nine meeting/conference rooms; 60 two- and three-bedroom attached timeshare condominium units; 17 detached timeshare villas; a day spa; a general retail store; artist studios; a wine pavilion, vineyard, and wine tasting; a spa/fitness center including lap and therapy pools, racquetball, basketball, croquet, bocce ball, and tennis courts, a golf school and putting greens; visitor center; an institute for classes, training and seminars; and an amphitheater stage and pavilion. See RDEIR, Figure 2-6, and Table 2.2.

<sup>10</sup> The anticipated increased use of the Road will also significantly increase noise impacts to the Pura Ranch.

Pura and the Pura Ranch far beyond and possible contemplation when the public's putative claim to continued use of the Road arose.

**D. The Project must be revised to avoid impermissible increased burdens on the Pura Ranch**

In conclusion, because of the resulting substantial increased burdens on the Pura Ranch, the Project, as proposed, would cause an impermissible increase in the public's use of the Road. Therefore, to avoid impermissible increased burdens on the Pura Ranch contemplated by the Project, Ms. Pura will protect her rights to the fullest extent. In other words, alternative access to the Resort must be defined and required as mitigation or the Project must be substantially reduced in scope to conform to the limited access rights over the Road.





# City of Gonzales

P.O. BOX 647  
PHONE: (831) 675-5000

147 FOURTH ST.  
FAX: (831) 675-2644

GONZALES, CALIFORNIA 93926  
[www.gonzalesca.gov](http://www.gonzalesca.gov)

March 26, 2019

Maria Orozco  
Mayor

Mr. Paul Getzelman, Chair  
Monterey Planning Commission  
Monterey County Government Center  
168 W. Alisal St.  
Salinas, CA 93901

Scott Funk  
Mayor Pro Tem

***RE: Paraiso Hot Springs Resort***

Liz Silva  
Councilmember

Dear Chair Getzelman:

Lorraine Worthy  
Councilmember

Please accept this letter of support from the City of Gonzales for revitalization of Paraiso Hot Springs Resort. Like the rest of the Salinas Valley Cities, the City of Gonzales believes that the project is a significant resource for the entire Salinas Valley, which when added to the growing list of destinations like Pinnacles National Park, the River Road Wine Trail, Soledad Mission, the Yanks Air Museum, and a renovated Los Coches Adobe, will provide yet another world-class tourism facility in our area.

Paul Miller  
Councilmember

The project as proposed is a significant positive development, which will bring much needed job opportunities and revenues to the Salinas Valley. Furthermore, while these positive impacts should be enough, perhaps more importantly, approval of this project signals a growing mindset and approach in the Salinas Valley to diversify our economy by utilizing our existing strengths, while respecting our natural resources and everything that makes our Valley unique and special.

René L. Mendez  
City Manager

On behalf of the Gonzales City Council, I urge you to support to approve the revitalization of Paraiso Hot Springs Resort. Thank you for your consideration of our comments and if you have questions or would like more information, please do not hesitate to contact Rene Mendez, our City Manager at (831) 675-5000 or via email at [rmendez@ci.gonzales.ca.us](mailto:rmendez@ci.gonzales.ca.us).

Sincerely,

Maria Orozco  
Mayor  
City of Gonzales

cc: Chris Lopez, 3<sup>rd</sup> District County Supervisor  
Monterey County Planning Commission  
Fred Ledesma, City of Soledad Mayor  
Soledad City Council

*Gonzales will continue to be a safe, clean, family-friendly community, diverse in heritage, and committed to working collaboratively to preserve and retain its small town charm*

**From:** shelly wilkinson <seashelleytoo@sbcglobal.net>  
**Sent:** Tuesday, March 26, 2019 8:07 PM  
**To:** Novo, Mike x5176  
**Subject:** Reject Paraiso Springs Mega-Resort

Dear Mr. Novo: As a resident of Monterey County, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort. Rather, the Commission should reject the Final EIR; downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides; and assess a sufficient penalty to deter this and future developers from illegal activities. This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

Sincerely,

Shelley Wilkinson and David Tefelski  
Seaside, CA, residents

**From:** Lillian Vaughan <lillianmvaughan@gmail.com>  
**Sent:** Tuesday, March 26, 2019 5:32 PM  
**To:** Novo, Mike x5176; LandWatch@mclw.org  
**Subject:** Reject Paraiso Springs Mega-Resort

Dear Mr. Novo:

As a resident of Monterey County, I urge the Planning Commission to reject the proposed Paraiso Springs Mega-Resort. Rather, the Commission should reject the Final EIR; downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides; and assess a sufficient penalty to deter this and future developers from illegal activities. This would address the significant environmental impacts to wildfire safety, views, and traffic safety that LandWatch identified in its review of the Environmental Impact Report.

Sincerely,

Lillian Vaughan  
Salinas



---

# City of Greenfield

---

March 27, 2019

Mr. Paul Getzelman, Chair  
Monterey County Planning Commission  
168 West Alisal Street  
Salinas, CA 93901

RE: Paraiso Hot Springs Resort

Dear Chair Getzelman and Planning Commission:

The City of Greenfield is pleased to support the development of the Paraiso Hot Springs Resort and urges the approval by the Planning Commission. This project will help the Salinas Valley economy in a huge way and will contribute to the continued development of our area as worldwide tourist destination.

The development of a world class establishment in the south Valley would provide jobs for locals, the incentive for other entrepreneurs to develop, and a general boost to the economic development of the entire region.

I trust the Commission will evaluate this project with the whole Salinas Valley in mind and come to the conclusion that the benefits of this project far outweigh the costs.

Sincerely,

Lance Walker  
Mayor



Gateway  
to the  
Pinnacles



March 26, 2019

Mr. Paul Getzelman, Chair  
Monterey Planning Commission  
Monterey County Government Center  
168 W. Alisal St.  
Salinas, CA 93901

***RE: Paraiso Hot Springs Resort***

Dear Chair, Getzelman:

Please accept this letter of support from the City of Soledad for the revitalization of Paraiso Hot Springs Resort. Like the rest of the Salinas Valley Cities, the City of Soledad believes that the project is a significant resource for the entire Salinas Valley, which when added to the growing list of destinations like Pinnacles National Park, the River Road Wine Trail, Soledad Mission, the Yanks Air Museum, and a renovated Los Coches Adobe, will provide yet another world-class tourism facility in our area.

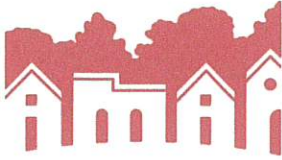
The project as proposed is a significant positive development, which will bring much needed job opportunities and revenues to the Salinas Valley. Furthermore, while these positive impacts should be enough, perhaps more importantly, approval of this project signals a growing mindset and approach in the Salinas Valley to diversify our economy by utilizing our existing strengths, while respecting our natural resources and everything that makes our Valley unique and special.

On behalf of the Soledad City Council, I urge you to support to approve the revitalization of Paraiso Hot Springs Resort. Thank you for your consideration of our comments and if you have questions or would like more information, please do not hesitate to contact Michael McHatten, our City Manager at (831) 223-5016 or via email at [mmchatten@cityofsoledad.com](mailto:mmchatten@cityofsoledad.com)

Sincerely,

Fred Ledesma  
Mayor  
City of Soledad





## Alliance of Monterey Area Preservationists

Board of Directors

Nancy Runyon, President  
James McCord, Vice President  
Judy MacClelland, Secretary  
James Perry, Treasurer  
Robin Aeschliman  
Jeffrey Becom  
Luana Conley  
Salvador Munoz  
Raymond Neutra  
Claudia Sawyer  
Mimi Sheridan

# Revised Policy on Paraiso Hot Springs Illegal Demolition of Historic Buildings

Adopted February 25, 2019

### AMAP finds:

- that nine historic cottages were illegally demolished without permits in 2003, causing great damage and loss to history and prestige of the county;
- these demolished buildings included one designed by Julia Morgan, a residence for Claus Spreckels, and other historic cottages that were of important historic value to the community, the county, and the state;
- that Paraiso Hot Springs historic buildings were featured on the covers of tourism brochures and enjoyed by visitors from around the world;
- that Paraiso Hot Springs is listed in the Monterey County Historic Inventory and considered a "Special Treatment Area" in the Central Salinas Valley Area Plan;
- and that the currently proposed replacement project is incompatible with the historical resources and cultural landscape.

### AMAP supports:

- appropriate mitigation for the loss of nine historic cottages illegally demolished that is at least equal in value to the cost of replacing the historic cottages today (estimated at \$1,731,150.00 in 2013);
- and mitigations proposed by the Monterey County Historic Resources Review Board on August 2, 2018;
- and that any new development reflect the original size and scale of the historic Paraiso Hot Springs that existed at the time of the illegal demolitions in 2003.

### History of AMAP efforts:

The demolition occurred in November of 2003 and has been a topic of concern at AMAP meetings since 2004. The AMAP Board of Directors sent letters to the Monterey County Planning Department on 12/12/07 and 9/18/13 with Replacement Cost Estimate prepared by James McCord, AIA-Historic Preservation and Adaptive Re-Use. AMAP members addressed the Monterey County Historic Resources Review Board requesting appropriate mitigation on 8/4/16 and 9/1/16. Presentation to Soledad City Council 3/1/17. Sent written proposal to developer 4/24/17. Comments on REIR 4/26/18, and at HRRB Meetings 7/12/18 and 8/2/2018.

AMAP, a 501(c)3 corporation dedicated to the appreciation and preservation of the Monterey Area's historic assets for public benefit, supports activities that interpret and share our rich cultural heritage with residents and visitors and encourages them to be advocates for ideas that contribute to the understanding of our cultural, ethnic, artistic, & architectural legacy



March 25<sup>th</sup>, 2019

Paul Getzelman, Chair  
Monterey County Planning Commission  
168 W. Alisal St.  
Salinas, CA. 93901

Chair Getzelman and Commissioners,

RE: Agenda item 3 - PLN040183 - PARAISO HOT SPRINGS RESORT

King City supports the Paraiso Springs project and urges approval by the planning commission. This project represents a significant opportunity and investment in South County for jobs, tourism, and hospitality.

Many in King City commute to work and the creation of local jobs will reduce vehicle miles traveled and help reduce congestion. It will give parents more time with their families instead of commuting and increase their quality of life. South County needs jobs and economic growth. This project is a great step forward in ensuring more economic opportunities for South County.

I encourage the commission to look at all the benefits this project will provide. Bringing equity to an underserved region and increased quality of life for our residents.

Support South County and approve this project.

Sincerely,

A handwritten signature in blue ink that reads "Mike LeBarre".

Mike LeBarre  
Mayor, King City California

Eddie Panziera

33821 Paraiso Springs Rd.

Soledad, CA 93960

(831) 678-2815

(831) 595-1991#3

[eddiepanziera@gmail.com](mailto:eddiepanziera@gmail.com)

To: Mike Novo, Senior Planner

Monterey County Resource Agency

1441 Schilling Place

Salinas, CA 93901

Re: Paraiso Springs Resort, PLN040183

34358 Paraiso Springs Rd., Soledad, CA 93960

Parcel No: 418-381-021, 418-361-004-000, and 418-381-022-000

March 27, 2019

1. The effect on neighboring wells and the inaccurate FEIR statements:

In the Final EIR, the hydrologist did an extensive study on how the increase in water usage for this project would affect neighboring wells. They predict it could lower groundwater by ½ foot. They reported that this lowering of the water levels should not concern anybody because if your well is only a foot deep it's not operational. In fact, in the late 80's the closest well to the project was down to a foot or less. With the help of a device called a pump saver and a storage tank we were able to keep that well operating. (Joe and Misty Panziera's well at 34352 Paraiso Springs Rd., Soledad)

The hydrologist stated there was no data available on neighboring wells. No request was made to neighbors to obtain this data and surely the county records could have been obtained.

The hydrologist stated that during their pump testing no neighbors reported a change in their well service. Neighbors pump into storage tanks and would not notice a shortage for several days. If we had been informed of the pump testing, we could have run a string down our wells. But that may have shown some inconvenient truths as to how the increased pumping at the Paraiso site to serve the increase in population would affect wells and springs in the area.



## 2. Diversion of Water to downhill creeks and a wetland:

My family moved into the house at 34352 Paraiso Springs Road in August 1980. There was a stream that ran behind that house year around almost down to the Pura home. This creek ran through the draught of the late 1980's and fed a wetland on the Gallo property next to Paraiso. The former owner of Paraiso, Marge Perrine, told me this was water from the hot springs after it ran through the tubs and the pools. Mrs. Perrine also told me this water increased substantially after the Loma Prieta Earthquake in 1989. Since the property was sold this downhill drainage from the hot springs has been stopped. At the field trip, the developer mentioned that a valve has been put on the hot spring water so that it can be pumped up to the proposed ridgeline hot tubs. At 40 gallons a minute, this spring would release approximately 57,600 gallons of water per day. How is this being allowed when it is illegal to divert water?

## 3. Green House Gases

With the use of electric carts, shuttles, and green buildings, the FEIR predicts the resort to be GHG neutral. Given Paraiso developers' claim that most of the guests will travel internationally and be shuttled from airports, how is all this travel to get to the site justified and said to be eco-friendly?

## 4. Traffic

When looking at the traffic part of the FEIR, it's even more difficult to believe. With 2 people living at the site and the entire site expected to be excavated, these two people are said to generate 22 trips a day. When the project is complete there is supposed to be around 1,000 guests with 200 to 300 employees, a tanker a day to haul out sewage, a tanker a day to haul out hazardous waste from water treatment, and service trucks for linens, garbage, food service for 3 restaurants, FedEx, UPS, housekeeping, spa, and gardening supplies. We are expected to believe that with the use of the alleged shuttle buses, there will only be less than 406 vehicle trips per day. Given the shuttle use can't be enforced and many people will wander up the road thinking that it is open to the public only to be turned around at the guarded gate, this estimate is meaningless and the number of trips on the small narrow one lane road will cause extreme congestion, many accidents and stalls, and making it near impossible to traverse in a timely manner and delay, if not at times prevent, emergency vehicles serving the site and neighbors. Where is the enforcement plan for the shuttle use? Why are we not given the maximum occupancy of the resort to determine how many people will have to be evacuated and use the roadway? This resort will have many more than "several hundred" people spending the night along with several hundred employees, most estimate around 1200 people unless a special event adds to this number.

#### 5. Parking spots indicate actual population count and number of trips resort will generate.

The FEIR has a count of the parking spaces, except the overflow Parking Meadow that appears only on one map without discussion. When questioned on the number of cars the overflow Parking Meadow will hold the answer is it doesn't matter because it not expected to be used. Yet, the Parking Meadow is larger than all the other parking areas combined. See Project Site Plan, Figure 2-6 #93. This leads us to conclude there will be unlimited trips generated by this project which will have a significant impact on the Service Level of the roadway and the Accident Rate.

#### 6. Evacuation Plan

Although this development is in a severe high fire area, no evacuation plan is included in the FEIR. The project proposal will put a new development in an area of high danger of fires in the future just as it has been in the past. We witnessed an evacuation of this site on March 9, 1995. The geologist report in the EIR does mention slides at Paraiso on this day but it was a slide below Paraiso that closed the road stopping the evacuation of a handful of people from the site by the Soledad Fire Truck that got stuck in the mud on the road at 34352 Paraiso Springs Rd. It's easy to see that slide today and tell that it is the same age as the slides on the Project Site. I was the one who opened the road that day that let the fire truck get to Paraiso and get residents out of the resort. The county road department was busy all over the county that day so was unable to assist. Luckily, I was able to use our farm's 2 yard scoop loader to clear the roadway for evacuation.

Just down the road from this mudslide, half of the road caved off for the better part of a year before it was repaired. All of this should concern planners looking at this high density project with one insufficient evacuation route.

#### 7. Illegal Bulldozing

Paraiso illegal bulldozing of historically significant cottages and code violation not cleared after 15 years.

Is it legal for the county not to have this violation punished in a timely manner? Is it legal for the county to issue a building permit when a code violation like this has not been cleared first?

#### 8. Employing Locals

This project is said to employ many local people using the park and ride lots in Soledad and Greenfield. Soledad expressed concerns that by the time the project is built they may not have parking for the shuttles available. Look at the response to the City of Soledad. The developers respond by stating that they might not be hiring from Soledad anyway. Are the shuttles going to be traveling further away to transport workers and how would that affect the carbon footprint of this project?

There are many people employed on farms between Highway 101 and this project site. Besides using the roads to get to work they are sometimes moving wide loads and slow equipment. The large influx of traffic generated by this project would cause significant increases in safety issues for agricultural employees and just add to the congestion already experienced on Highway 68, Highway 101, and add new congestion to Paraiso Springs Road and the connecting rural roadways.

*Eddie Panguin*

#3

Lois Panziera  
33821 Paraiso Springs Rd.  
Soledad, CA 93960  
(831) 678-2815  
(831) 595-1994  
[lpantziera@hotmail.com](mailto:lpantziera@hotmail.com)

To: Mike Novo, Senior Planner  
Monterey County Resource Agency  
1441 Schilling Place  
Salinas, CA 93901

Re: Paraiso Springs Resort, PLN040183  
34358 Paraiso Springs Rd., Soledad, CA 93960  
Parcel No: 418-381-021, 418-361-004-000, and 418-381-022-000

March 27, 2019

**1. Lack of Meetings and Public Awareness:**

When the new Paraiso Hot Springs Resort development was proposed, we were told that many meetings would be held. Only one meeting in Soledad has been held during the last 15 years where citizens could speak. At the recent field trip in January the notice said questions would be answered but once onsite the public were told that the Planning Commission wanted to listen to concerns but no questions would be taken at that time, and an opportunity in the future would be scheduled. Today, March 27, is that opportunity but a decision to approve the project is listed as the action planned for this meeting so it seems a decision has already been made without listening to our concerns.

**Newspaper Notification of Hearings:** Given the significant impact such a large development will have on the neighbors' residences, neighboring farmland, and anyone who needs to use the local roadways on a daily basis, notices about this project have not been announced by the county so that area residents are informed accurately about the size and scope of this project and how this project is expected to "urbanize" this rural area. Citizens have had to use their own resources to inform the public beyond those who read "The Weekly".

If the residents of Soledad knew that their fire truck could be 20 minutes or more away at a new private development at Paraiso when their house catches fire in Soledad, do you really think they would be in favor of this project? And, would locals favor this mega resort when they find out that most public access will be limited to overnight guests? Our local community has already been deprived of seeing the historical cottages that were illegally removed and now they will most likely find out the resort is not open to them but will be used by the wealthy flying in from outside the country.

## **2. Population Increase/Resort Capacity**

I have requested the maximum occupancy of the resort numerous times, but still have not received this information. The actual maximum number of people who can be accommodated or visit this site at one time is important for evacuation, increased fire potential, assessing the needs for police and security, water usage, noise, and traffic. It also needs to be considered a "significant impact" given the site has never had this many sizable permanent living units and structures. Campsites and small cottages cannot be compared and considered the same as large two and three-bedroom condos and even larger three and four-bedroom villas.

## **3. Ownership/Width and Reasonable Use of Paraiso Springs Road**

There is still debate about the ownership of the roadway for the last 1.3 miles from Clark Road to the site. More discussion and research are needed to determine the actual increase in usage that will most likely change the service level and accident rate given the analysis never addressed that this part of the roadway is not a two lane road because it doesn't meet the County standards of 9 feet both ways or the State standard of 10 feet both ways. This last part of the roadway goes through the Pura Ranch and at times in the past went through the Olson Ranch, but now also goes through the old Kubik property on the corner of 34352 Paraiso Springs Road, now Panziera and Berti properties.

The county road sign by the resort reads "County maintained road". Given the County requires county roads to have two 9-foot traffic lanes (Monterey County Code, 18.56.060(3) and State standards require a minimum of two 10-foot traffic lanes (Cal. Code Regs., tit. 14, 1273.01), how can this roadway be considered suitable for the "increase in traffic" and to evacuate a large population of people with only one escape route? The County and State also have standards that limit the length of dead-end roads to 5,280 feet, but Paraiso Springs Road is twice that length. Will the State and County Codes be violated to push this project through? (Monterey County code 18.56.060(11); Cal. Code. Regs., tit.14, 1273.09).

Why was the developer not informed by the Monterey County Resource Agency staff that has been working on this project for 15 years about the County and State Codes for required roadway widths and unacceptable lengths for dead end roads?

I still dispute the Historic Project Traffic report having lived 26 feet from the roadway for 25 years. Where is the proof of these statistics being accurate for the seldom used resort where the owner did not try to attract guests? **In the past visitors didn't go in and out daily to generate 399 trips as reported. The true count of trips was 25 to 50 trips daily as substantiated by us and the Shelby's who visited the resort for twenty years and I'm sure many more former guests would concur.**

Although the **Parking Meadow** only appears on one map with no discussion of the capacity or whether this area would be paved in the future, Mr. Novo referred to it on the field trip as the "more rigorous" parking area which I assume means for the vehicles that are not being accounted for in the FEIR Traffic Section.

Where are the tax records or entrance records to substantiate the historical use of the road? Only two people live on-site but they are said to generate 22 trips daily. Why haven't the owners worked with them to reduce this to a more reasonable number given this is supposed to be an eco-friendly project?

With the illegal demolition of the historical cottages and closure of the resort for 15 years, hasn't the resort forfeited any right of way if it had one due to non-use.

A mitigation for the increase in traffic will be **annual average monitoring** so that when the annual average of 406 vehicle trips a day goes up operations at the resort will be adjusted. But one day of congestion causing emergency service delays is one day too many. The project needs to be stopped or downsized to actual historical use so that the roadway does not become a continual traffic jam. Even with the proposed roadway improvements, this project will cause unreasonable congestion and delays just like it did on the day of the field trip with fewer vehicles than expected for this project.

The attached picture shows two wine buses on the part of the roadway not scheduled for widening. These vehicles are too wide to fit in their lane and when vehicles are forced to use dry grassy shoulders fire hazards increase.

Unreported accidents noted by residents are deemed "speculative" yet the EIR's data has been corrected for inaccuracies repeatedly by the same Paraiso Springs Road residents.

Praying that this project doesn't become the next Paradise Disaster where lives could have been saved if building was limited in high fire zones and adequate evacuation routes were established prior to allowing new development and population growth in these areas.

Thank you for your consideration of our significant concerns,

A handwritten signature in cursive script, appearing to read "Lois Panziera".

Lois Panziera

**From:** Dennis Blomquist  
**Sent:** Tuesday, March 26, 2019 10:11 AM  
**To:** Lois Panziera  
**Subject:** Road

These are the pictures of the buses I was telling you about a couple days ago.  
And some are where the road is not going to even be touched.



total	236	2014 = 7106
signature	191	2014 = 7106



APPROVE \* APPROVE \* APPROVE \* Our Paraiso Hot Springs Project In South County  
 We are working and cannot attend the 03/27/2019- 10:30am Meeting-  
 Please take our Signatures Into Consideration THANK YOU










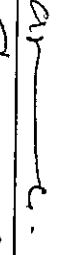

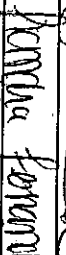
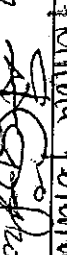




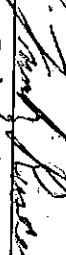


2019

2340

Printed Name	Signature	City	Occupation	Comments
1 Dyan Favela		Trinidad	Office Tech (T)	
2 Teresa Lopez		Soledad	Office Tech (T)	
3 Jessica Candelario		Salinas	Office Tech (T)	
4 Jackie Perez		Salinas	Office Tech (T)	
5 Grace Bittner		Salinas	RN	
6 Grace Guillen		Monterey	RN	
7 Maria Moran		Salinas	WNV	
8 Alicia Halstead		Soledad	RN	
9 Daniel Chavez		Trinidad	Correctional Officer	
10 Matthew Alvarado		Soledad	Correctional Officer	
11 Juan Pineda		Soledad	ONE of the 05	
12 Debrae Costa		Soledad	Correctional Officer	
13 Daniel Silva		Soledad	Correctional Officer	
14 Jose Silva		Soledad	Correctional Officer	
15 Aras Alhamani		Soledad	Cashier	
16 Salma Muthana		Soledad	Cashier	
17 Pedro J. Saez		Soledad	WNV	
18 Alma Jimenez		Soledad	Cashier	
19 Christine		Soledad	Cashier	
20 Epi Tinegro		Trinidad	Rep.	











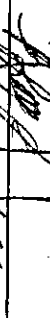


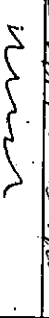
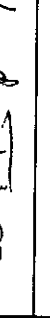

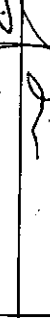



20

APPROVE \* APPROVE \* APPROVE \* Our Paraiso Hot Springs Project In South County

Printed Name	Signature	City	Occupation	Comments
21 ROJO MORALES		BRECKENRIDGE	AGENT	
22 Juana Parra		Salinas	Agent	
23 Alicia Hdez		Soledad	empleada - owner's Pastor	
24 Andres Coronado		SOLEDAD	owner - Soledad Repair	
25 Luis S. De		Soledad	USPS - clerk	
26 Miriam Ortega		Soledad	school employee	
27 Michelle Allen		Key West	clerk	
28 Andres Torres		Soledad	ATTORNEY	
29 Ashir Ahmed		Soledad	owner	
30 Sulem		Soledad	Cashier	
31 Sandra Fomela		Soledad	Receptionist	
32 Tiana Castellan		Soledad	Pastor	We Need Hot Springs!
33 Fernando Garcia		Greenfield	field Worker	
34 Reginald Miller		Soledad	waitress	
35 Carlos Diaz		Soledad	Employed	
36 FRANK RUSCOE		Soledad	CASHIERS	
37 Pablo Tabares		Soledad	CHOIR	
38 JOSEPH E. MURPHY		Soledad	B. OWNER	
39 Alexandra Zamudio		HOLLISTER	Truck Driver	
40 Adrian Millones		Soledad	Cashier	

(80)

APPROVE \* APPROVE \* APPROVE \* Our Paraiso Hot Springs Project In South County

Printed Name	Signature	City	Occupation	Comments
41 Linda Lara-Estrada		Coronado	Secretary	Approve
42 Paul Guzman		Gonzales	Retired/Disabled	Approve
43 Rosalie Reyes		Spedad	Retired	Approve
44 Juan Fernandez		Soledad	Office Tech.	Approve / needs
45 Joseph Roscos		Soledad	Welder	
46 Rosalinda Prieto		Coronado	Special Services	Approve
47 Alma Castellan		Soledad	Topi Super	Approve
48 Fabian Suarez		Soledad	Deservido	Resubmido trabajo
49 Alejandra Perez		Soledad	Secretary	Approve
50 Rosaura Garcia		Salinas	Teacher Aide	
51 Anne Castellan		Soledad	Witeward	approve
52 Adriana Diaz		Soledad	Business Owner	Approve
53 Mariana Gomez		Soledad	Salon	
54 Leidy Toledo		Soledad		
55 Patricia Polanco		Salinas / Hollister	L.V.N	Approve
56 Patricia Geronzo		Greenfield	Office Technician	
57 Nancy Soto		King City	Office Tech.	Approve
58 Laron Barton		Salinas	Health Records Tech	approve
59 Patricia Latham		Salinas	HR-II Sup	approve
60 Olympia Ortiz		Salinas	HR / SVSP	approve





















20

APPROVE \* APPROVE \* APPROVE \* Our Paraiso Hot Springs Project In South County

Printed Name	Signature	City	Occupation	Comments
61 Penny Cadenas	Penny Cadenas	Greenfield	Office Assistant	
62 Leann Sain	Leann Sain	Soledad	pppt	
63 Rocio Hernandez	Rocio Hernandez	Salinas	AAON	
64 Teresa Munder	Teresa Munder	Soledad	AAON	
65 Billy Lopez	Billy Lopez	Phing City	Office Technician	
66 Teresita Nuri	Teresita Nuri	San Martin	RD	
67 Maria Velazquez	Maria Velazquez	Soledad	Office Technician	
68 Kain Yang	Kain Yang	Salinas	RN	
69 Jesus Sander	Jesus Sander	Soledad	CSC	
70 Susan Turner	Susan Turner	King City	RN	
71 Debbie Calhoun	Debbie Calhoun	Concepcion	CRTS All (A)	
72 Cecilia Gabe	Cecilia Gabe	Greenfield	Long RT	
73 Janice Boran	Janice Boran	Gardner	Lab tech	
74 Manuel Lopez	Manuel Lopez	Soledad	C/O	
75 RAUSTINO V. MORA	RAUSTINO V. MORA	Salinas	corrected office	
76 Claudia Lopez	Claudia Lopez	Salinas	C/O	
77 Brian Jeffery	Brian Jeffery	Salinas	C/O	
78 D.L. Thompson	D.L. Thompson	Salinas	C/O	
79 Isaac Soria	Isaac Soria	Salinas	C/O	
80 Phuong Vho	Phuong Vho	San Jose	Pharmacist	

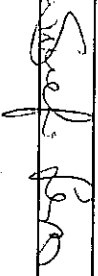
28

APPROVE \* APPROVE \* APPROVE \* Our Paraiso Hot Springs Project In South County

Printed Name	Signature	City	Occupation	Comments
81 Rufino Rodriguez		SOLEDAD	INTERVIEW TECH	APPROVE
82 Jonathan H.O		Greenfield	RPT	APPROVE
83 L. Lutz		San Jose	RPT	APPROVE
84 Lucario Cruz		SOLEDAD	OT	APPROVE
85 Juan Martinez		SOLEDAD	AGPA	APPROVE
86 Isabel Ceballos		Salinas	WNI	APPROVE
87 Kimberly Lopez		King City	OT	APPROVE
88 Adriana Villanueva		King City	SST	APPROVE
89 Tania Becerra		SOLEDAD	OT	APPROVE
90 JOLYN O'NEILL		SALINAS	OSS II	APPROVE
91 Jackie Gomez		SOLEDAD	WCT	APPROVE
92 Francisco Huynh		San Jose	RN	APPROVE
93 Tam, Phuc T		SALINAS	W.O	APPROVE
94 Victoria Diaz		SOLEDAD	MSST	APPROVE
95 Iseshine Lopez		SOLEDAD	Office Technician	APPROVE / need jobs!!
96 Sergio Gonzalez		SOLEDAD	Business Owner	Good for the Economy,
97 Patricia Herra		SOLEDAD	Washroom Cook/Employee	APPROVED
98 Maria Perez		SOLEDAD	Cosume Job ya	APPROVED
99 Maria Mendez		SOLEDAD	Agribusiness/Owner	APPROVE
100 Jorge Mota		SOLEDAD	SALES - Boost Mobile	APPROVE

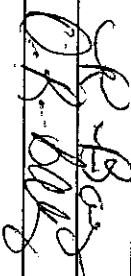
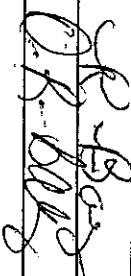
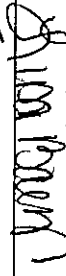




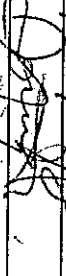


(8)

**APPROVE \* APPROVE \* APPROVE \* Our Paraiso Hot Springs Project In South County**  
 We are working and cannot attend the 03/27/2019- 10:30am Meeting-  
 Please take our Signatures Into Consideration **THANK YOU**

Printed Name	Signature	City	Occupation	Comments
441 SEBASTIAN LOPEZ		Kings City	cellar	
442				
443				
444				
445				
446				
447				
448				
449				
450				
451				
452				
453				
454				
455				
456				
457				
458				
459				
460				

(1)

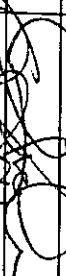




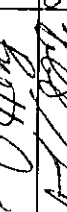





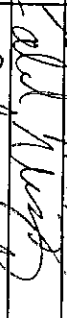
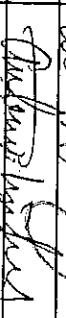
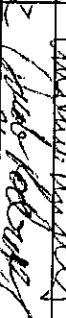




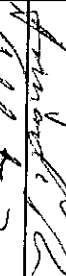

APPROVE \* APPROVE\* APPROVE\* Our Paraiso Hot Springs Project In South County  
 We are working and cannot attend the 03/27/2019- 10:30am Meeting-  
 Please take our Signatures Into Consideration THANK YOU

	Printed Name	Signature	City	Occupation	Comments
361	Roselia Baez		Gonzales	retired	Just like the old days
362	Oralia Baez		Gonzales	retired	hope its for the best
363	Miguel En Baez	M.C.B	Gonzales	day care	
364	Lisa Baez		Gonzales	CHP	Let's make it happen
365	Josef Condellari		<del>Gonzales</del> Salinas	Maintenance	
366	Miguel Baez		Salinas	Office Assistant	
367	Tom Mates		Salinas	Dole	
368	Reynaldo Ramirez		Salinas	Landscaper	
369	Reynaldo Ramirez		Salinas	Landscaper	
370	Reynaldo Ramirez		Salinas	Landscaper	
371	Reynaldo Ramirez		Salinas	Landscaper	
372					
373					
374					
375					
376					
377					
378					
379					
380					

# APPROVE \* APPROVE \* APPROVE \* Our Paraiso Hot Springs Project In South County

We are working and cannot attend the 03/27/2019- 10:30am Meeting-

Please take our Signatures Into Consideration **THANK YOU**

Printed Name	Signature	City	Occupation	Comments
421 Oscar Amador		King City	VP Branch Manager	
422 Elisa Canedo		Saladot	Branch Service Officer	
423 Terry Torres		King City	Banking Service Rep	
424 Helen Gutierrez		King City	Banking Service Rep	
425 Roberto Garbin		King City	Social Worker	
426 BRIETT JONES		King City	Assistant Winemaker	
427 Walter Morfin		King City	cellar master	
428 Steven King		San Lucas	Still Tech	
429 Jaime Canales		San Lucas	Skill Team/Barrel Room	
430 Salvador Amador		King City	Lab Tech	
431 Abel Marquez		King City	Barrel Tech	
432 Antonio Mielles		King City	Barrel Tech	
433 Jacobo Rodriguez		King City	Barrel Tech	
434 Jose Amador		King City	Production Supervisor	
435 Abel Lujan		King City	Skill Tech	
436 Ray Montoya		King City	Maintenance Tech	
437 Armando Perez		King City	Wine Tech	
438 Fernando Z		King City	Cellar	Field worker
439 Isidro Berrios		King City	Cellar	Field worker
440 Jesus		King City	Cellar	Field worker


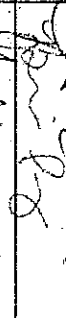
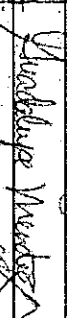
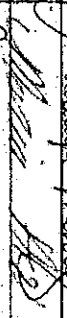

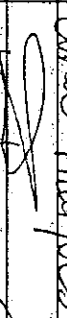
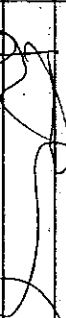
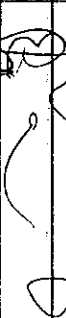
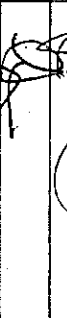







JP



APPROVE \* APPROVE \* APPROVE \* Our Paraiso Hot Springs Project In South County

We are working and cannot attend the 03/27/2019- 10:30am Meeting-


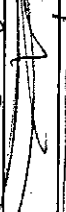



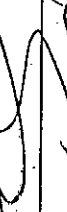




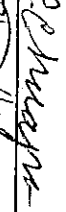

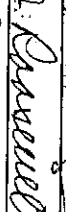
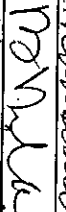
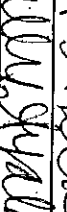




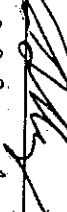
Please take our Signatures Into Consideration THANK YOU

Printed Name	Signature	City	Occupation	Comments
481 Isela Adriano Garcia		San Juan	Office Technician	I support the project
482 Bernice Perez		Guaymas	Office Tech	I support the project
483 Markisha Norder		Solida	Office Tech.	I support the project
484 Maria Arce		Guaymas	Office Tech	I support the project
485 Ana Marquez		Solida	Office Tech	I support the project
486 D. Good		San Juan	Psychologist	I support the project
487 J. N. G. N.		Solida	Psychologist	I support the project
488 E. G. N.		Solida	Psychologist	I support the project
489 J. G. N.		Solida	Psychologist	I support the project
490 J. G. N.		Solida	Psychologist	I support the project
491 Christina Zapata		Solida	Office Tech	I support the project
492 Darcia Bogh		Solida	Physician	I support the project
493 Kumar		Solida	Physician	I support the project
494 L. R. G.		Solida	Physician	I support the project
495 M. G. N.		Solida	Physician	I support the project
496 Seth Lane		Solida	Physician	I support the project
497				
498				
499				
500				

**APPROVE \* APPROVE \* APPROVE \* Our Paraiso Hot Springs Project In South County**

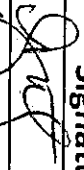















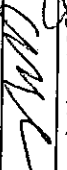



We are working and cannot attend the 03/27/2019- 10:30am Meeting-

**Please take our Signatures Into Consideration THANK YOU**

Printed Name	Signature	City	Occupation	Comments
501 A. French		Greenfield	Connections	
502 Kathleen Ventura		San Jose	Office Technician	
503 R. Rios		Montreal	Unit Supervisor	
504		Salinas	PT	
505 M. M. Garcia		Atascadero	HPT	
506 Sam Adams		Oakland	Physician	
507 Ann Bartley		Salinas	LVN	
508 Santa Lucia		Salinas	ROH Dental	
509 L. Tanaya		Emeryville	RDA Dental	we need jobs for kids
510 R. M. Garcia		San Jose	owner	
511 R. Patterson		Salinas	Sup. Dental	
512 J. Roosevelt		Salinas	Admin Assist	
513 B. Villa		Salinas	Office Technician	
514 A. Ayala		Salinas	Office Technician	
515 S. L. L. L.		Greenfield	Office Technician	
516 K. Machand		King City	Office Technician	
517 J. Campbell		Salinas	LVN	
518 J. S. S. S.		Salinas	Connections Officer	
519 N. M. M.		San Jose	clo	
520 E. Vargas		Salinas	lvn	

98

APPROVE \* APPROVE \* APPROVE \* Our Paraiso Hot Springs Project In South County  
 We are working and cannot attend the 03/27/2019- 10:30am Meeting-  
 Please take our Signatures Into Consideration THANK YOU

Printed Name	Signature	City	Occupation	Comments
521 Alicia Martinez		Genoa	Office Tech	
522 Tami Solines		King City	Health Program Specialist	
523 Cynthia Landers		Salinas	Office Tech	
524 Tami Solines		Salinas	C/O	
525 Cheryl Lopez		Providence	Directional Officer	
526 Devon Feary		Hollister	C/O	
527 Gilbert Garcia		Salinas	C/O	
528 Stephanie Morris		Greenfield	Correctional Officer	
529 Gregory Macias		Salinas	LUN	
530 Alfred Velaz		San Jose	LUN	
531 Ana D'Hamon-Smith		San Jose	C/O	
532 Olga Cam		Greenwood	LUN	
533 Paul Garcia		Salinas	C/O	
534 Rocio Barrera		Salinas	Correctional Sgt	
535 Jaime Moore		Salinas	C/O	
536 Kathleen Melick		Greenfield	CC /	
537 Melissa Diaz		Salinas	Correction Officer	
538 Mary Anne I		831	C/O	
539 Frank Hansen		Salinas	CC /	
540 Arturo Lopez		Monterey	Private Agent	

20

APPROVE \* APPROVE \* APPROVE \* Our Paraiso Hot Springs Project In South County

We are working and cannot attend the 03/27/2019- 10:30am Meeting-

Please take our Signatures Into Consideration THANK YOU

Printed Name	Signature	City	Occupation	Comments
461 Ana H.	Ana H.	Salinas	Commercial	Probop 1
462 Gisela T	Gisela T	Soledad	Washes	We need jobs.
463 Francisco	F. Boumy	Greenfield	Rutted	Bring jobs
464 J. Viny	J. Viny	Soledad	Cashier	Just
465 Agostino	Agostino	Soledad	Copier	
466 Monique S.	Monique S.	Greenfield	Washer	
467 Monica S.	Monica S.	Soledad	WSS	Good Luck -
468 Rosalba A	Rosalba A	Soledad	CSC	Need jobs
469 T. Guerrero	T. Guerrero	Salinas	Custodian	
470 C. Bascón	C. Bascón	Soledad	Cook	Need jobs
471 Carrasco	Carrasco	Pinatula	Cook	Need jobs
472 Ivan Viter	Ivan Viter	Soledad	Personnel	Need jobs
473 Naveez	Naveez	Soledad	Personnel Specialist	Need jobs
474 Moreno, T	T. Moreno	Greenfield	Personnel Officer	
475 J. P. S.	J. P. S.	Soledad	OT	
476 Rodriguez	Rodriguez	Soledad	OT	
477 Angelita	Angelita	Soledad	EA	Need jobs
478 Arun Cox	Arun Cox	Salinas	OT	
479 Cecilia Rodriguez	Cecilia Rodriguez	Soledad	HR Director	
480 Christian Vazquez	Christian Vazquez	Soledad	OT	

90

APPROVE \* APPROVE \* APPROVE \* Our Paraiso Hot Springs Project In South County  
 We are working and cannot attend the 03/27/2019- 10:30am Meeting-  
 Please take our Signatures Into Consideration **THANK YOU**

Printed Name	Signature	City	Occupation	Comments
541 RANDELL		MORRISVILLE	NURSE	
542 SUNDY		HOLLISTER	NURSE	
543 GUNDA		SAN JUAN	NURSE	
544 FLORENCE		KEY CITY	OFFICE	
545 M. ENCISO		SOLEDA	OFFICER	
546 M. BRUNCKS		SHARAD	NURSE	
547 M. GARCIA		SALINAS	NURSE	
548 M. NANTALE		S. J. C.	NURSE	
549 ANGELA HANSON		SAN JUAN	NURSE	
550 C. KIDGAY		SOLAD	NURSE	
551 KOTARDA S		KRACKENBAND ARCHITECT		
552 KARRISA G		KOPPEL PER L KUMER		
553 PISANO MARIANA		GOODMAN	ARMER	
554 PAM PISANO		GORDON	ARMER	
555 JANE HANCOCK		CARMEL CA	NINER	
556 GINA SAND		COSTA MESA	LAUNDRY	
557		COSTA MESA	RETIRED	
558 JILL KILLASNO		GONZALES	FARMER	
559 KILBI BOKANOW		CARMEL	WINEGROWER	
560 LUCIANO ROSE		SOLEDA	MANAGER	

APPROVE \* APPROVE \* APPROVE \* Our Paraiso Hot Springs Project In South County

We are working and cannot attend the 03/27/2019- 10:30am Meeting-

Please take our Signatures Into Consideration THANK YOU

Printed Name	Signature	City	Occupation	Comments
321 Armand		Solomon	Logistics	
322 Armand		Solomon	Logistics	
323 Tom Vaughn		Solomon	Operator	
324 DANA KENNEDY		Solomon	AGPT	
325 John Williams		Solomon	Engineer	
326 Seamed		Solomon	Plumber	
327				
328				
329				
330				
331				
332				
333				
334				
335				
336				
337				
338				
339				
340				

**APPROVE \* APPROVE\* APPROVE\* Our Paraiso Hot Springs Project In South County**

We are working and cannot attend the 03/27/2019- 10:30am Meeting-

**Please take our Signatures Into Consideration THANK YOU**

Printed Name	Signature	City	Occupation	Comments
341 Jessica Martinez	Jessica Martinez	Gonzales	Sales	
342 FANTASIA SHERA	FANTASIA SHERA	Gonzales	PROPERTY	
343 CHRISTINA CROOK	CHRISTINA CROOK	Gonzales	Home Care	
344				
345				
346				
347				
348				
349				
350				
351				
352				
353				
354				
355				
356				
357				
358				
359				
360				

To: Monterey County Board of Supervisors  
Fernando Armenta, Louis R. Calcagno, Simon Salinas,  
Jane Parker, and Dave Potter

Regarding: Paraiso Hot Springs Project, seven mile south west of Greenfield  
At the end of Paraiso Springs Road.

Dear Supervisors,

We would like to let you know we are very excited for a project of this magnitude to come to the South County Area. There has never been an opportunity like this offered to the residents of South County.

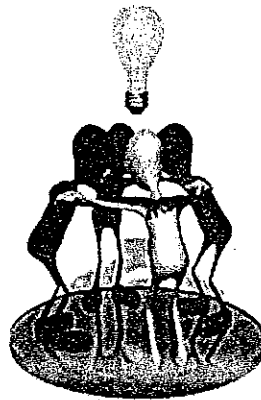
We have come across opposition to a great project which will expand job opportunities and increase revenues for South County.

There is always opposition to new projects that's why we live in such a great country where people can make their feelings and concerns heard.

South County has always been in the shadows of the Monterey Peninsula and its time to make South County known to all.

Please consider the attached signatures of support when making a decision on the future of this project.

**Thank You Very Much For Your Time and Attention, Thinking Together Makes Great Changes.**



**Let's Make The Right Decision For The Future Of Paraiso Hot Springs....**





2014

## Supporters For Paraiso Hot Springs Project:

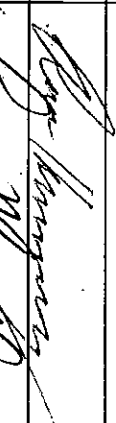
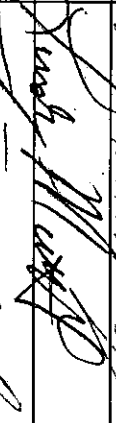




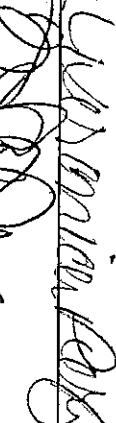

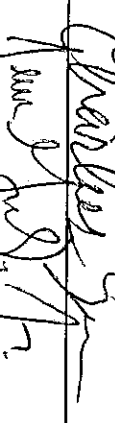



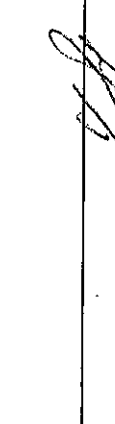
191

Printed Name	Signature	Occupation (Optional)	City
Edward Bagwell		Handy Man	Soledad ca.
Malissa Bagwell-Guzman		unemployed	Greenfield Ca.
Darlene Bagwell		Assesment Clerk	Soledad Ca
So Ann Ishmeal		Accountant	Soledad Ca
Mario Suenles		Driver	Soledad ca
Amber Kallias		Manager	Soledad, Ca
Roy Robinson		Security	Soledad
Christine Sifuentes		Student	Soledad
Walter Chestnut		Retired	Soledad Ca, 93960
Sergio Cavantes			Greenfield Cal.
Fernando Moya		Recluse	Soledad CA.
Victor Garg		Cellar hand	Greenfield. Cal.
Emmanuel Pimentel		Cellar hand	King City CA

# Supporters For Paraiso Hot Springs Project:

Printed Name	Signature	Occupation (Optional)	City
Bill Cagle	Bill Cagle	Maintenance Supervisor	Salinas
Jos Zazueta	Jos Zazueta	Maint	Salinas
José Estrada	José Estrada	Cellar Worker	Soledad
Angel Perez	Angel Perez	Janitorial	Salinas
Tom Sobrado	Tom Sobrado	Log Tech	Soledad
Abreu Tinagero	Abreu Tinagero	Barrels	Salinas, CA.
Raúl Valera	Raúl Valera	Barrels DYT.	Gonzalez
Maria Rangel	Maria Rangel	Barrels	Palmas
Dante Santos	Dante Santos	Barrels	Manima
José Morán	José Morán	Maint.	Greenfield
David Garcia	David Garcia	Cellar worker	Soledad
José Sanchez	José Sanchez	Barrels	Soledad
JUAN ESPARZA	JUAN ESPARZA	WINERY	SOLEDAD

# Supporters For Paraiso Hot Springs Project:

Printed Name	Signature	Occupation (Optional)	City
Rene Hernandez		cellar worker	Greenville
Andrey Mattheus		Music	Salinas
Jaime Alvarez		cellar worker	Contrales
Lord Shaw		Maintenance Foreman	Salinas
Marcos Vazquez		MAINTENANCE Worker	Solimar, CA.
Dominic Perez		COAS HAULER	ROSEVILLE Ca
VERONICA PEREZ		LEGAL TYPIST	ROSEVILLE, CA
Brooke Romero		CASHIER	ROSEVILLE, CA
Charles Yin		Dry Cleaner	Atascadero, CA
Joan Gonzalez		Recruiter / Staffer	Hanford, CA
Yvonne Zima		Analyst	Atascadero, CA.
Christina Tovar		Home-maker	Soledad, CA
Heleny Thomas		Mechanic	Soledad, CA

# Supporters For Paraíso Hot Springs Project:

Printed Name	Signature	Occupation (Optional)	City
92 RONALD RIVERA	<i>[Signature]</i>	ASSASSIN	Soledad
93 Allina Servano Luna Luna	<i>[Signature]</i>	Self-employed	Soledad
94 ADELTA-DELE	<i>[Signature]</i>	WORKER	Soledad
95 Fernando Conacho - Fernando Conacho	<i>[Signature]</i>	BRACER	Soledad
96 <del>Isabel Conacho</del>	<del><i>[Signature]</i></del>	BRACER	Soledad
97 Antonio Moreno Anderson	<i>[Signature]</i>	PEAS	Soledad
98 Fernando Torres	<i>[Signature]</i>	Land of fire	Soledad
99 Ramon Alvarado	<i>[Signature]</i>	Park	Soledad
100 ROBERTO PABLO	<i>[Signature]</i>	VA	Soledad D.C
101 Jorge Valle	<i>[Signature]</i>	Regador	Soledad. C.
102 ABEL HERNANDEZ	<i>[Signature]</i>	Labor	Soledad
103 Isabella Hernandez	<i>[Signature]</i>	RETIRED	Soledad. C.
104			

# Supporters For Paraiso Hot Springs Project:

Printed Name	Signature	Occupation (Optional)	City
79 Alejandro Ramirez	Alejandro Ramirez	FIELD	Seledad
80 Filomena Guerra	Filomena Guerra	ACTING	Seledad
81 APRIL R. MARILO	APRIL R. MARILO	WINERY	Seledad
82 Fanny Martinez	Stephane Martinez	HOUSE WIFE	Seledad
83 JAVIER GARCIA	JAVIER GARCIA	COOP EMPLOYEE	Seledad
84	JOSE GRANADOS	UNEMPLOYED	Seledad
85 Guillermo DelaPaz	Guillermo DelaPaz	RET US ARMY	Seledad
86 JOSE ALVARO GONZ	JOSE ALVARO GONZ	FARM	Seledad
87 Federico Amador	Federico Amador	AG. WORKER	Seledad
88 Ruben Terry	Ruben Terry	Stock holder	Seledad
89 Patricia Lopez	Patricia Lopez	AD WORKER	Seledad
90 Silvia	Silvia	RETIRED	Seledad
91 Cesar	Cesar	JUSTICE	Seledad

[illegible]

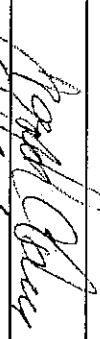






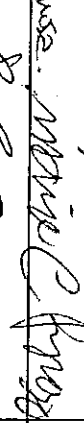

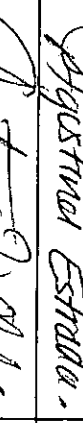



# Supporters For Paraiso Hot Springs Project:

Printed Name	Signature	Occupation (Optional)	City
FRANK RASCAR	<i>[Signature]</i>		Soledad
Philip Calape	<i>[Signature]</i>		Soledad
Francisco	<i>[Signature]</i>	TECHNICIAN	Soledad
Leangle N			Soledad
Wang Shun Xiam			Soledad
DR. DEAN CHEN	<i>[Signature]</i>	-	Soledad
PRINCE	<i>[Signature]</i>	PH	Soledad
Marina Rodriguez	<i>[Signature]</i>	Practitioner	Soledad
FRANK PEREZ	<i>[Signature]</i>	Janitor	Soledad
Allison Leyva	<i>[Signature]</i>	Housekeeping	Soledad
IRVIN MAK	<i>[Signature]</i>	Cook	Soledad
FRANK PEREZ	<i>[Signature]</i>	Donor's contact	Soledad
FRANCISCO	<i>[Signature]</i>		Watsonville
Ryo Yamamoto	<i>[Signature]</i>	Technician's contact	Napa

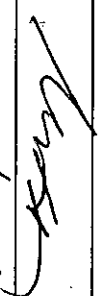
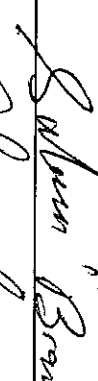
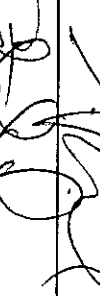




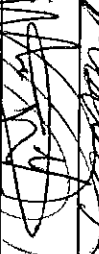









# Supporters For Paraiso Hot Springs Project:

Printed Name	Signature	Occupation (Optional)	City
Joseph Bustani		Valero - Clerk	Soledad
Frank Pascos		Valero - Clerk	Soledad
Miguel Hernandez		Los Girasoles (owner)	Soledad
Romero Hernandez		Los Girasoles	Soledad
Fatima Perez		True Value	Greenfield
Pedro Alcantara		True Value	Soledad
Rajmunt Suf		# 10 store (owner)	Soledad
Mari Gonzalez Benguse		Raysosa Super (owner)	Soledad
Juan Salvador		Admin.	Soledad
Agustina Estrada		ATB Fashion (owner)	Soledad
Antonia Villalobos		Hand Bk Shop (owner)	Soledad
Marina Gutierrez		Radios Shack (owner) / Soledad N.	Soledad
Dona Gutierrez		Radios Shack (owner) / Soledad N.	Soledad


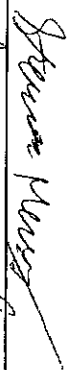



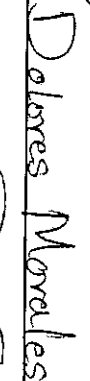

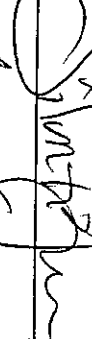
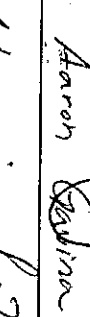




# Supporters For Paraiso Hot Springs Project:

Printed Name	Signature	Occupation (Optional)	City
MARCO		PROPERTY.	SOLEDA.
Solomón B.		TRACTOR DRIVER	200 PARK ST. SOLEDAD CA
CARNEBOIT		INSPECTION OFFICER	SOLEDA
CHRISTINA F.		PERMIT COORDINATOR	SOLEDA.
David D.		Hartnell College Student	SOLEDA.
Jason Wilder		Police Academy Student	SOLEDA
Chris Moral		SOLEDAD UNION STUDENT	SOLEDA
Mark Paul		Contractor	SOLEDA
Juan Carlos		SALESMAN Furniture & more.	S
Jesus Reyes		SOLEDA BUS SLES	SOLEDA
Martin Costill		LABOR FORMS FOOD PROCESS	SOLEDA
ERIC RODRIGUEZ		S. T.S	SOLEDA
	David Gonzalez	Police Soledad	SOLEDA

# Supporters For Paraíso Hot Springs Project:

Printed Name	Signature	Occupation (Optional)	City
Felicia Casillas	<i>Felicia Casillas</i>	looking for work	Soledad
Joaquin Villanueva	<i>Joaquin Villanueva</i>	Printer	Soledad
<del>Gerardo Espinoza</del>	<i>Gerardo Tr.</i>	YMCA Staff	Soledad
Gema Polanco	<i>Gema Polanco</i>	YMCA / School Maintenance	Soledad
Alfredo Penabaz	<i>Alfredo Penabaz</i>	Mine operator	Soledad
Gerardo Espinoza	<i>Gerardo Espinoza</i>	YMCA Program Director	Soledad
Christina Morán	<i>Christina Morán</i>	Auctioneer	Soledad
Alonso Ruelas	<i>Alonso Ruelas</i>	YMCA Sports/Maintenance	Soledad
Francisco Jensen	<i>Francisco Jensen</i>	custodian	Soledad
Lucy Jensen	<i>Lucy Jensen</i>	legacy real estate	Soledad
Mike Jensen	<i>Mike Jensen</i>	contractor	Soledad
Ana Ma y Herrera	<i>Ana Ma y Herrera</i>	Valley Harvesting	Soledad

# Supporters For Paraíso Hot Springs Project:

Printed Name	Signature	Occupation (Optional)	City
MARIA CHAVEZ			SOLEDAD
Stephan Mender		YMCA	Soledad
ISAC BOTELO		unemployed	Soledad
Amy Alamo		YMCA	Soledad
Anna Lopez		YMCA	SOLEDAD
Dolores Morales		YMCA Staff	Soledad, CA.
Aracelis Diaz		YMCA STAFF	Soledad
Silvia Figueroa		Ymera	Soledad.
Marion Jarama		YMCA	Soledad
Veronica Lopez		YMCA	Soledad
Flora		YMCA	Soledad
Elisavete		YMCA	Soledad
Jessica		Unemployed	Soledad


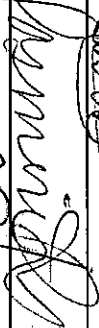
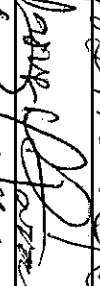
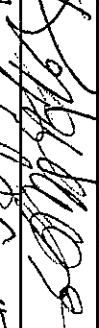
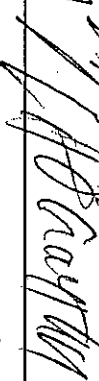





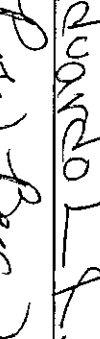


# Supporters For Paraiso Hot Springs Project:

Printed Name	Signature	Occupation (Optional)	City
Steven Terry	S. Terry	Lives on Foothill Road.	Soledad Cal.
Rosalie C. Reyes	Rosalee C Reyes	Retired	Soledad
Iruean Hernandez	Iruean Hernandez	Correctional Training Faculty - Officer	Soledad
Josephine Casillas	Josephine Casillas	YMCA Maintenance Supervisor	Soledad
Ruben Martin	Ruben Martin	Retired	Soledad
Frances Ledesma	Frances Ledesma	Retired / Part-time Care-taker	Soledad
Jennie Aquino	Jennie Aquino	Retired	Soledad
Luis Garcia	Luis Garcia	Shop n' Save (Indecipherable Senior)	Soledad
Andrew Velasquez	Andrew Velasquez	disabled	Soledad
Edo Huma	Edo Huma	Retired	Soledad
Horacio Valdez	Horacio Valdez	Herbalist (owner)	Soledad or horacio3.valdez@gmail.com
Armando Valdez	Armando Valdez	Herbalist (owner)	Soledad.

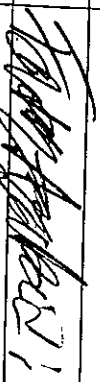






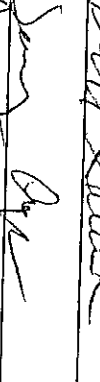
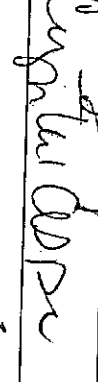

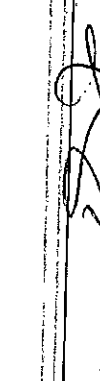


# Supporters For Paraiso Hot Springs Project:

Printed Name	Signature	Occupation (Optional)	City
JOSE MEDINA	Jose Medina	STATE EMPLOYEE	Soledad
<del>Jose Medina</del>	Simon Michel	Warranty Mate	Soledad
<del>Orlando</del>	Marcela Vasquez	Dietary Aides	Soledad
Madelin Iniguez	CA	<del>High</del> Student	Soledad
Michelle Gomez	Melissa	Student	Soledad
<del>Michelle</del>	<del>Michelle</del>	—	Soledad
Jose Noriega	Jose Noriega	Cashier	Soledad
Guadalupe	Guadalupe	—	Soledad
Jose A. Gassio	Jose A. Gassio	—	Soledad
Angelica	Angelica	—	Soledad
<del>Jose A. Gassio</del>	<del>Jose A. Gassio</del>	—	Soledad
Monica	Monica	Horse keeping	Soledad
Santha Pombo	Santha Pombo	Store	Soledad

# Supporters For Paraiso Hot Springs Project:

Printed Name	Signature	Occupation (Optional)	City
Irene Aldana		Agricultor	Soledad
Tamara Pantoja		Cashier	Soledad
Jesus Pantoja		Cashier	Soledad
William Pantoja		DRIVER	Soledad
Nito Pantoja		DRIVER	Soledad
Marlene Pantoja		—	Soledad
Victor Pacheco		AGRICULTURA	Soledad
Gerardo Vargas		Business	Rivera
Salvador Chavez		Business	Soledad
Manuel Chavez		Cashier	Soledad
Eduardo R. Chavez		labor	Soledad
Rosalia Baza		Paraprofessional	Soledad
Arturo Baza		Truck Driver	Soledad

# Supporters For Paraiso Hot Springs Project:

Printed Name	Signature	Occupation (Optional)	City
Teresa Anderson		High school senior/worker	Solaced
Robert Ortiz		Rtd. college student	Prescott
Nancy Gonzalez		worker	Solaced AZ
George Zarate		worker	Solaced AZ
Debbie Spence		Carved	Solaced
Nicholas Amel		Box	2025 DAD
Regina Lopez		crew Pksh-cars jr	Solaced, CA
Verne Jones		Valens Station	Solaced, CA
Bill Sullivan		FARMER	Greenfield
Peggy Adams		Tractor Driver	Solaced
Lyndiah Adams		connections	Solaced CTF
Ed Bach		Person	Solaced CTF
Frank De La Torre		connections	Solaced, CTF



