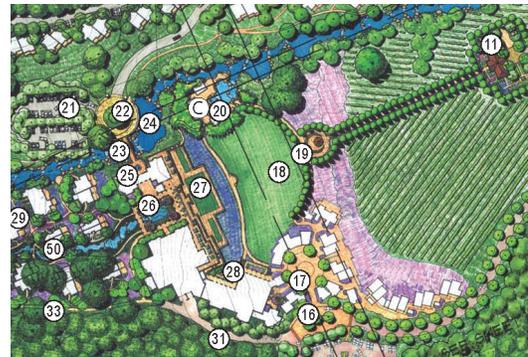


Final Environmental Impact Report  
**Paraiso Springs Resort**

State Clearinghouse #2005061016

October, 2019



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**SECTION 1.0**  
**INTRODUCTION**

## INTRODUCTION

### 1.1 PURPOSE AND ORGANIZATION

The County of Monterey, acting as the lead agency, determined that the proposed Paraiso Springs Resort (hereinafter “proposed project”) may result in significant adverse environmental effects as defined by the California Environmental Quality Act (CEQA) Guidelines section 15064. Therefore, the County of Monterey had a draft environmental impact report (DEIR) prepared to evaluate the potentially significant adverse environmental impacts of the project. The DEIR was circulated for public comment between July 15, 2013 and October 4, 2013. Monterey County received 29 comment letters. After the close of the public comment period, Monterey County staff determined it was necessary to add significant new information to the DEIR, specifically to the aesthetics and visual resources, biological resources, cultural and historic resources, hydrology and water quality, and noise sections of the DEIR, as well as to evaluate additional alternatives to the proposed project. In addition, staff determined that new sections on climate change and energy would also be added.

A recirculated draft EIR was prepared for the proposed Paraiso Springs Resort Development, circulated for public review between Wednesday, February 28, 2018 and Thursday, April 26, 2018, and public comment was received. In response to comments received on the 2018 recirculated draft EIR (2018 RDEIR), the County, as Lead Agency, recirculated portions of the draft EIR (2019 RDEIR). The 2019 RDEIR included significant new information related to aesthetics and visual resources (revised chapter), hazards and hazardous materials (revised sections), a new project alternative, miscellaneous edits to the 2018 RDEIR, and appendices (2019 RDEIR Section 1, Introduction). The 2019 RDEIR was circulated for public review between June 7, 2019 and July 9, 2019, and public comment was received. A shortened review period was granted pursuant to CEQA Guidelines section 15105(d) after the Clearinghouse determined the 2019 RDEIR met the requirements of CEQA Appendix K. CEQA Guidelines section 15200 indicates that the purposes of the public review process include sharing expertise, disclosing agency analysis, checking for accuracy, detecting omissions, discovering public concerns, and soliciting counter proposals.

This final environmental impact report (FEIR) has been prepared to address comments received during the 2018 and 2019 public review periods and, together with the 2018 RDEIR, as

amended by the 2019 RDEIR, constitutes the complete Paraiso Springs Resort EIR. The final environmental impact report dated March 14, 2019 is superseded by this final environmental impact report. The County is responding to public comments submitted on the recirculated draft EIRs pursuant to CEQA Guidelines section 15088.5(f)(1). This FEIR is organized into the following sections:

- Section 1 contains an introduction to the FEIR.
- Section 2 contains written comments on the RDEIR, as well as the responses to those comments.
- Section 3 contains a revised summary of the RDEIR, identifying the changes in the impacts and mitigation measures resulting from comments on the RDEIR. One mitigation measure (MM 3.8-9) was added to the summary; the text had been included in the RDEIR, but inadvertently left out of the RDEIR summary.
- Section 4 contains the revisions to the text of the 2018 RDEIR, as amended by the 2019 RDEIR, resulting from comments on the 2018 and 2019 RDEIRs.
- Section 5 contains the mitigation monitoring and reporting program.
- Section 6 is an appendix that contains additional technical information.

**SECTION 2.0**  
**COMMENTS ON THE DRAFT EIR**

## 2.0 Comments on the Draft EIR

### 2.1 CEQA REQUIREMENTS

CEQA Guidelines section 15132(c) requires that the Final Environmental Impact Report (FEIR) contain a list of persons, organizations, and public agencies that have commented on the draft EIR. A list of the correspondence received during the public review period is presented below.

CEQA Guidelines sections 15132(b) and 15132(d) require that the FEIR contain the comments that raise significant environmental points in the review and consultation process, and written response to those comments be provided. A copy of each comment letter or other form of correspondence received during the public review period is provided. The number of each letter is included at the top of the first page of each letter. Numbers inserted along the margin of each comment letter identify individual comments for which a response is provided. Responses corresponding to the numbered comments are presented immediately following each letter.

Where required, revisions have been made to the text or graphics of the Recirculated Draft Environmental Impact Report (RDEIR). Comments that trigger changes to the RDEIR are so noted as part of the response. Revisions to the RDEIR are included in Section 4.0, Changes to the Recirculated Draft EIR.

### 2.2 WRITTEN COMMENTS ON THE RDEIR AND RESPONSES TO COMMENTS

The following written correspondence that included comments on the 2018 RDEIR was received during the public review period on the 2018 RDEIR, and responses are provided:

1. Louise Miranda Ramirez, Ohlone/Costanoan-Esselen Nation (April 12, 2018)
2. Carlene Bell, the Soledad Mission Board (April 16, 2018)
3. Charles DeWeese (April 18, 2018)
4. Graig Stephens, Soledad Historical Society (April 18, 2018)
5. Judy & Frank Berti and Joe & Misty Panziera (April 24, 2018)
6. Judy Berti (April 25, 2018)
7. Lois Panziera (April 25, 2018)
8. Cynthia Pura (April 25, 2018)

9. Yvette & Dennis Blomquist (April 25, 2018)
10. John Farrow on behalf of LandWatch Monterey County (April 25, 2018)
11. Victor & Shayna Selby (April 25, 2018)
12. Alex J Lorca, Fenton & Keller (April 26, 2018)
13. Darren McBain, LAFCO (April 26, 2018)
14. James McCord, Alliance of Monterey Area Preservationists (April 26, 2018)
15. Hanna Muegge, Monterey Bay Air Resources District (April 26, 2018)
16. Donna Galletti, Monterey County Sheriff's Office (April 30, 2018)
17. City of Soledad (May 17, 2018)

Submitted substantially past the 2018 RDEIR public circulation period

18. California Department of Forestry and Fire Protection (undated, but received on February 6, 2019)

**Comments submitted for June 2019 Recirculated Portions of the Draft Environmental Impact Report:**

19. Alex Lorca, Fenton & Keller (July 5, 2019)
20. Michael DeLapa, LandWatch Monterey County (July 5, 2019)
21. Lois Panziera (July 9, 2019)
22. California Department of Forestry and Fire Protection (July 8, 2019)
23. California Department of Justice (July 9, 2019)
24. California Board of Forestry and Fire Protection (July 9, 2019)

Please note that response information related to Paraiso Springs Road right-of-way is found after the Master Responses.

Also note that references to the RDEIR generally refer to the 2018 document and the County generally tried to distinguish specific references to the 2019 RDEIR, which only recirculated portions of the EIR. However, the County may not have accurately captured all those occurrences. In addition, the 2018 RDEIR and 2019 RDEIR are commonly referred to as the RDEIR or the EIR.

Please also note that additional response information is found after the Responses to Letter 10.

- 1) Todd Groundwater, the applicant's hydrogeologist, provided a set of responses and technical information dated August 7, 2018. The County and Monterey County Water Resources Agency have independently reviewed the information contained in these Todd Groundwater responses and concur with the conclusions. County responses to comments will, where applicable, include reference to the information in those responses, which are identified by assigning BHgl and the corresponding number, such as BHgl-2, to the comment and response by Todd Groundwater. Those responses are included as part of the County's response to that comment and reflect the County's independent judgment and analysis. Responses provided by Todd Groundwater numbered BHgl-31, -34, -35 and -36 have been modified by County staff expert in the field.

Michael Baker International, under contract to the County, provided technical information related to potential lighting impacts. This information is included in 2019 RDEIR Appendix 3, is incorporated by reference as part of the County's response to comments, and reflects the County's independent judgment and analysis.

## Master Responses

### Master Response 1: Comment Related to Non-CEQA Concerns

Eighteen comment letters were submitted to the County during (or after) the public comment period pertaining to the Recirculated Draft Environmental Impact Report (RDEIR). Many comments within the letters do not provide a comment on the RDEIR, but on the project itself. All letters will be provided to the decision-making body, which will consider those comments as part of their deliberations on the project, including whether required findings can be made in light of such comments.

Direct and indirect impacts of the project on the environment, as well as potential cumulative and growth-inducing impacts on the physical environment have been analyzed as part of the Recirculated Draft Environmental Impact Report, and this Final EIR responds to the environmental issues raised by the comments.

### Master Response 2: Historic Structure - Demolition Penalty

The RDEIR addresses the potential effects on cultural resources primarily in RDEIR Chapters 3.5 and 4.0. A discussion on the site's history is included in section 3.5.2. RDEIR Table 3.5-1 describes a "significance conclusion" for each of the structures extant on the property in 2003. RDEIR section 3.5.3 discusses the regulatory background for cultural resources and section 3.5.4 describes the significance thresholds and an analysis of potential impacts. Mitigation Measures 3.5-1a through 3.5-1d will ensure that the history of the removed historic structures, and the site's history, is documented and provide interpretive opportunities into the future.

The impact on historic resources has been determined significant and unavoidable as the unpermitted removal of nine historic structures cannot meet the Secretary of the Interior's Standards for the Treatment of Historic Properties and cannot be mitigated to a less than significant level. Mitigation Measures have been incorporated to ensure that impacts to cultural resources will be mitigated to the extent feasible. As noted in technical reports associated with this project, the project site was not an eligible historic district or an intact cultural or historic landscape for purposes of the California Environmental Quality Act (*Response to Peer Reviews and Mitigation Measures Proposed in the Paraiso Hot Springs RDEIR*, Painter Preservation, June 15, 2018, pages 2 - 3, citing other technical reports prepared for this project and for environmental review; RDEIR section 3.5.4, pages 3-155 and 3-156). As stated in Painter 2018, "the intrusion of non-historic buildings, structures and landscape features undermined the ability of the property as a whole to convey this character," referring to the historic landscape.

Some commenters requested that a significant financial penalty be imposed as a deterrent to other property owners in the County. It is not the purpose of CEQA to act as a deterrent to the future possible destruction of historic structures, or to be punitive; CEQA's purpose is to provide a means of disclosure of potential environmental impacts from an agency's action and to provide mitigation measures, to the extent feasible, for physical environmental effects from projects affecting historic structures or property. Current 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. The County Code only provides penalties for code enforcement activities and does not impose any specific fines for the demolition of historic resources (Monterey County Code section 21.84.140, Fees for Retroactive Permit Application, Zoning Ordinance; Monterey County Code Chapter 18.25, Preservation of Historic Resources).

The demolition of the historic structures is the reason that an Environmental Impact Report was required, as no other topic areas were determined to result in significant impacts with mitigation (CEQA Guidelines sections 15060, 15063, 15064.5, and 15081 requiring an EIR for significant effects on the environment). The County included the removed historic structures in the baseline for purposes of determining impacts to historic resources, so that analysis of the project's potential impacts took into consideration the historic structures as if they were extant on the property (RDEIR section 3.5.1, page 3-133). For other properties with a historic resource, the potential that they would have to prepare an Environmental Impact Report could be a significant deterrent.

### **Master Response 3: Historic Structure - Reconstruction**

The RDEIR addresses the potential effects on cultural resources primarily in RDEIR Chapters 3.5 and 4.0. See discussion in Master Response 2. The impact on historic resources has been determined significant and unavoidable, as the unpermitted removal of nine historic structures cannot be mitigated to a less than significant level. Mitigation Measures have been incorporated to ensure that impacts to cultural resources will be mitigated to the extent feasible.

Reconstruction, even pursuant to the Secretary of the Interior standards, if possible, would not reduce the impact on the environment. Once a historic structure is removed, the impact is considered significant and unavoidable under the California Environmental Quality Act. Reconstruction may not be feasible, even if it were to provide additional mitigation for the impact. There is not sufficient information that “documentary and physical evidence to permit accurate reconstruction with minimal conjecture,” as required by the Secretary of the Interior for reconstruction (Painter Preservation, 2018, page 5). The Secretary of the Interior describes reconstruction as the least used of the four treatment standards:

“Reconstruction has the most limited application because so few resources that are no longer extant can be documented to the degree necessary to accurately recreate the property in a manner that conveys its appearance at a particular point in history.” (*The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings*, U.S. Department of the Interior, 2017, page 3 at <https://www.nps.gov/tps/standards/treatment-guidelines-2017.pdf>)

In addition, the cultural or historic landscape from the period of significance does not exist on the site, so reconstructing some or all of the historic structures on site would no longer provide the historic context or setting (*Response to Peer Reviews and Mitigation Measures Proposed in the Paraiso Hot Springs RDEIR*, Painter Preservation, June 15, 2018).

See the detailed response in Painter Preservation, 2018, pages 4 through 7, related to their expert opinion that reconstruction would not provide additional mitigation for this site. County staff concur with the conclusions explained in this document. The Monterey County Historic Resources Review Board made the following determinations, as outlined in a Memorandum from County Staff (Mike Novo, Management Specialist) to the Historic Resources Review Board for the June 7, 2018 public hearing:

Reconstruction, even pursuant to the Secretary of the Interior standards, would not reduce the impact on the environment. Once a historic structure is removed, the impact is considered significant and unavoidable under the California Environmental Quality Act. Reconstruction, if required, would not provide any additional mitigation to the impact of the removal of the

nine historic cottages. The package of mitigation measures recommended by staff is sufficient to document the resort's historic importance.

Reconstruction has not been part of a staff recommendation for this site and has not been a direction requested by the Historic Resources Review Board at any of the past public hearings. (Historic Resources Review Board Resolution No. PLN040183, dated August 2, 2018; see response to Letter 19, Number 2).

If reconstruction were to be recommended, the project's historian has determined that "documentary and physical evidence to permit accurate reconstruction with minimal conjecture" is not available, as required by the Secretary of the Interior. County staff concur with this conclusion.

The package of mitigation measures found in Chapter 3.5 is sufficient to document the resort's historic importance and would allow for the historic interpretation of the site. At the August 2, 2018 Historic Resources Review Board (HRRB) meeting, the HRRB recommended additional measures be taken to address the removal of historic resources, which will be provided to the decision-making body for consideration and may be adopted pursuant to CEQA Guidelines section 15092:

1. That the mitigation measures from Recirculated Draft Environmental Impact Report (2018) are included in the project resolution.
2. Mitigation measures be added to the Final EIR as follows:
  - a. A Context Statement for Recreation/Leisure and Tourism Resources shall be prepared pursuant to the Office of Historic Preservation standards prior to issuance of construction permits.
  - b. An interpretive trail plan shall be prepared incorporating a physical presentation of digital historic interpretive brochure.
  - c. The 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.
3. Mitigation Measure 3.5-1a – d from the DEIR and the Context Statement (recommended for inclusion as a mitigation or condition in 2.a, above) shall be completed prior to issuance of construction permits for the first phase.
4. Should the resort project not be approved or constructed, the portions of Mitigation Measures 3.5-1a through 3.5-1d that do not involve actual construction, and preparation of the Context Statement, shall be required for the demolition permit.
5. The Context Statement, trail plan, and cabin reconstruction plans are subject to review by the HRRB, with approval by the RMA-Director of Planning.

#### **Master Response 4: Historic Resources - Fund Off Site Historic Uses**

The request to collect fees to provide funding for preservation of off-site historical structures may be considered by the decision-making body; however, it would not reduce impacts identified to the nine historic structures on the Paraiso property beyond the level achieved by the mitigation measures already identified in the RDEIR. The mitigation measures identified in the RDEIR (Chapter 3.5, Mitigation Measures 3.5-1a through 3.5-1d, pages 3-157 through 3-159) directly relate to the loss of historic resources on the Paraiso Springs property. Funding to fund preservation

of off-site historic uses would not provide mitigation for the loss of the historic structures at Paraiso Springs (*Response to Peer Reviews and Mitigation Measures Proposed in the Paraiso Hot Springs RDEIR*, Painter Preservation, June 15, 2018, page 4; CEQA Guidelines section 15064.5).

## **Master Response 5: Traffic**

Several comments were received expressing concern about project traffic and the traffic analysis. Some comments questioned the existing traffic volumes, and some comments stated the increased traffic caused by the project would be significant. Some comments question the assumptions used for day use trips. Some comments expressed concern about the safety of the existing roadway, including sight distance, blind curves, and adding more traffic; the adequacy of the road width for emergency vehicles at the project site entrance; and accessing the road from adjacent driveways/roadways. These comments are addressed below in this Master Response.

There are other comments and questions about traffic and the traffic analysis that are addressed individually and are not included in this master response.

### **Existing Traffic Volumes**

As presented in Appendix K (Exhibit 3) of the RDEIR, the sources of existing traffic volumes on study area roadways include: 1) 2009 and 2015 Monterey County Traffic Counts, which were conducted by the County; 2) estimates from peak hour manual counts, which were conducted by Hatch Mott MacDonald on February 24, 2016; and 3) 2009 and 2014 Ramp Volumes on the California State Freeway System by Caltrans District 5.

The counts include all vehicles, including individual vehicles, buses transporting farm workers, and trucks and agricultural vehicles. These counts represent the best available information on existing traffic volumes from multiple sources.

The counts reflect the current and recent (after 2003) uses of the project site, which include an existing caretaker, a second single family dwelling and a few miscellaneous trips for private use of the property. The counts do not reflect the historic use of the project site as an active public resort. According to the Historic Resource Report<sup>1</sup>, the land was used as a resort open to the public as late as 2003. Using traffic counts from the existing use of the project site as the existing condition is what CEQA requires and provides for a more conservative analysis than comparing to traffic from historic use of the site, because it shows a greater increase in traffic attributable to the project in comparison to the existing baseline.

As described in RDEIR Section 3.12.2, *Environmental Setting* under *Existing Traffic to Project Site*, as well as in Appendix K (Exhibits 3 and 6A-6D), there is an average of approximately 22 vehicles per day traveling to the project site on Paraiso Springs Road, based on manual traffic counts taken in 2015. For comparison, the historic traffic volume to the project site when it was an

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<sup>1</sup> Historic Resource Report – Paraiso Hot Springs, Monterey County, California. February 2008. Prepared for Thompson Holdings, Horsham, Pennsylvania. Prepared by Painter Preservation & Planning, Petaluma, California, with Terra Cognita Design & Consulting, Petaluma, California.

active public resort is estimated at approximately 399 vehicles per day at full occupancy with day guests, as shown in Exhibit 6A-6D. Thus, the increased traffic resulting from the proposed project is in comparison to 22 trips, not the estimated 399 trips.

The estimated historic traffic volume of 399 vehicles per day is based on a calculation using trip generation numbers based on the historic 61-unit resort facility and appurtenant uses with 100 percent occupancy.

### **Significance of Increased Traffic Impact**

As described in Section 3.12.5, *Impact Analysis* (under *Project Traffic, Distribution and Assignment* and shown in Table 3.12-1), the net trip generation at project buildout would be 406 trips (after subtracting the trips eliminated due to employee and guest shuttles).

After subtracting the approximately 22 vehicles per day traveling to the project site on Paraiso Springs Road, there would be approximately 262 additional trips assuming 70% resort occupancy and 384 additional trips assuming 100% resort occupancy at Phase 4 Project Buildout, as shown in Table 3.12-2.

The increased traffic, from existing conditions to project development and operation at 100% occupancy, is 384 additional trips or 17.5 times more trips compared to existing conditions. Although this is a substantial change, it does not represent a significant environmental impact under CEQA, as demonstrated in the RDEIR.

As described in Section 3.12.4, *Methodology and Thresholds of Significance*, in accordance with the State CEQA Guidelines (including Appendix G) and agency and professional standards, increased traffic volumes would be considered a “significant” impact if it exceeds the capacity of the existing circulation system, based on an applicable measure of effectiveness.

Performance of the County’s roads (or circulation system) is evaluated based on level of service (LOS) calculations, which is a common measure of effectiveness used by most jurisdictions. There are six levels of service representing varying roadway conditions ranging from LOS A, which represents free flow uncongested traffic conditions, to LOS F, which represents highly congested traffic conditions with unacceptable delays.

As articulated in Appendix K, Traffic Analysis Report under *Introduction*, a significant impact on a study roadway segment is defined to occur under the following conditions:

- The addition of project traffic causes a roadway segment operating at LOS A through LOS E to degrade to a lower level of service D, E or F, or
- The addition of one project trip is added to a segment already operating at LOS F.

As described in Section 3.12.5, *Impact Analysis* (under *Project Traffic, Distribution and Assignment* at the end), the increase in traffic would not change the LOS of study intersections and roadways segments as all roadway segments would operate at an acceptable LOS A, with the exception of Arroyo Seco Road between Fort Romie Road and Highway 101, which would operate at LOS B. The Paraiso Springs Road/Clark Road intersection would also remain at the same LOS as under existing conditions.

Harvest season for agricultural land uses near the project site would increase traffic volume by approximately 5% (about eight trips per day on Paraiso Springs Road) during a one- or two-week period in late summer and would not result in a change in LOS.

Therefore, the project would result in a “less than significant” impact to study intersections and roadway segments.

There is no potentially significant impact because the traffic analysis determined that, with the estimated project net trip generation of 406 daily trips at buildout, all roadway segments would operate at an acceptable level of service, as described above. However, although not required, the County would monitor the traffic to maintain an average of 406 vehicles per day or less over a year-long period (406 = 22 existing trips + 384 additional trips attributable to the project based on 100% resort occupancy at Phase 4 Project Buildout). The County would monitor by requiring the installation of a counting system at the project gates, such as a buried loop. The County would require an annual report be submitted to the County, which would calculate the actual number of trips created by resort operations and ensure compliance. If an exceedance were to occur, the County would require that the operations be adjusted to meet the limitation imposed by the County through conditions of approval on the Use Permit.

### **Roadway Safety and Proposed Offsite Road Improvements**

The Traffic Analysis Report prepared for the project (located in Appendix K of the RDEIR) includes a Safety Impact Analysis in Section 6. Although not required, the Applicant proposed Roadway Improvements on Paraiso Springs Road as part of the project. These improvements are discussed in Section 7 of the traffic report and would serve to improve driver safety.

As described in Section 2.4 under *Overview* and *Circulation Improvements* of the RDEIR, the proposed project includes the following offsite improvements to Paraiso Springs Road, which would be constructed with the four project phases as follows. The referenced roadway sections A-E are shown in Appendix K (Exhibit 13 and Appendix O) of the RDEIR. Exhibit 13 and Appendix O provide the existing roadway widths.

- Phase 1. Installation of all advance curve warning and advisory speed signs.
- Phase 2. Widen roadway sections E and F to 18 and 20 feet, respectively, where feasible (as determined by County RMA- Public Works), including associated striping.
- Phase 3. Widen roadway sections C and D to 20 feet where feasible (including associated striping).
- Phase 4. Widen roadway sections A and B to 20 feet where feasible (including associated striping).

Details regarding pavement widening and striping, and advanced warning signs are provided in Section 7 of Appendix K.

RDEIR Figure 2-10, *Paraiso Springs Road Improvement Area*, has been revised to also show the planned roadway improvements. An analysis of potential environmental effects relating to these offsite improvements are addressed in RDEIR Section 3.12.5 under *Roadway Hazards*, Impact 3.12-2.

### **Adequacy of Road Width at Project Site Entrance and Emergency Access**

As described in Section 3.12.2 under *County Roads* of the RDEIR, Paraiso Springs Road is a two-lane County road with a pavement width that varies from less than 16 feet immediately east of the project site where the entrance is located to 20-22 feet near Clark Road. The project site entrance is part of roadway section E, which is proposed to be widened to 18 feet during Phase 2, as described County of Monterey

above. Fire requirements for roadway widths and turn-arounds are found in Monterey County Code Chapter 18.09, Appendix O<sup>2</sup>, and the minimum width required pursuant to Section O102.2 is 18 feet all-weather roadway surface. In addition, the County RMA-Public Works will place a condition of approval for the construction of on-site and off-site road improvements.

There would be adequate room at the project site entrance for lost truck drivers to turn-around.

The emergency access issue to be addressed, in accordance with the CEQA Guidelines Appendix G, is whether or not the project would result in inadequate emergency access. As described in Section 3.12.5, *Impact Analysis* under *Emergency Access*, the public roads leading to the project site are of adequate width and grade to provide access to emergency service vehicles without limitation. Based on review by registered professional engineers<sup>3</sup> and Monterey County fire requirements, the onsite circulation has been designed to provide emergency vehicle access close to all buildings with adequate turn-around facilities. Although the project will not result in significant increase in hazards on Paraiso Springs Road and is not required to provide off-site mitigation on the basis of safety, the proposed improvements would improve emergency access for fire protection and law enforcement, and will be required through conditions of approval.

Law enforcement patrols, including CHP and County Sheriffs, may increase on public roads in the project vicinity as a result of additional development in the area, including the proposed project if approved. This would be determined by respective law enforcement agencies and is not considered to be a physical effect of project development. As stated in the CEQA Guidelines Appendix G and the standards used by the County of Monterey (refer to Section 3.11.4 of the RDEIR), “a project may result in a significant environmental impact related to public services if it would result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities (e.g., construction of a new or addition to a police station), the construction of which could cause significant environmental impacts”. As described in Section 3.11.5 under *Physical Impacts on Fire Protection and Law Enforcement Services* of the RDEIR, the project would not warrant construction of new or expanded facilities in order to maintain service ratios, response times or other objectives for the Monterey County Sheriff’s Department; thus, the impact would be less than significant.

### **Safety Accessing Road from Adjacent Driveways/Roadways**

As described above and in Section 3.12.5, *Impact Analysis* under *Roadway Hazards* and Impact 3.12-2, the proposed project includes offsite improvements on Paraiso Springs Road that would minimize potential hazard impacts associated with the increased traffic on the existing roadway, as determined by the aforementioned professional traffic engineers. These improvements include pavement widening, centerline striping, edge line striping, post-mounted delineators, advance curve warning signs, and “road narrows” warning signs.

With respect to transportation/traffic hazards and safety, Appendix G of the CEQA Guidelines provides that a project would have a significant effect if the project would “substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible

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<sup>2</sup> Appendix O is applicable to residential construction. The Mission-Soledad Rural Fire District Fire Chief will utilize the California Fire Code to determine minimum requirements for this commercial operation, which are expected to be at least as stringent as those identified in Monterey County Code Chapter 18.09, Appendix O.

<sup>3</sup> Registered professional engineers who analyzed the project and offsite roadways include: Keith Higgins (No. 30489 Civil, No. 1385 Traffic), Keith Higgins Traffic Engineer and formerly Hatch Mott MacDonald; and Leopoldo Trujillo (No. 63950 Civil, No. 2458 Traffic), Hatch Mott MacDonald. 17 of 1030

uses.” The proposed project does not include hazardous design features, but it does include improvements to upgrade the current road design.

The discussion for Impact 3.12-2, *Roadway Hazards*, includes the following information with respect to accident frequency calculations.

Paraiso Springs Road will experience an increase in traffic from the existing 90 vehicles per day to approximately 352 vehicles per day under an average occupancy and 406 vehicles per day under 100 percent occupancy. On an average day, Paraiso Springs Road would continue to be a relatively low volume road. To put the anticipated average daily traffic into perspective, Paraiso Springs Road is approximately 1.3 miles long between the existing project site gate and Clark Road. At approximately 35 miles per hour, it would take approximately two minutes to traverse this length of roadway. Only about one vehicle would be experienced in each direction every four minutes on Paraiso Springs Road. During the peak hour, only one or two vehicles would be encountered.

Paraiso Springs Road experienced an accident rate of 0.51 accidents per million vehicle miles traveled from 1991 to 2015. This is less than half the average rate for two lane highways across California. This historic accident rate indicates that the existing Paraiso Spring Road does not constitute a hazardous condition.

Paraiso Springs Road is a low volume road with low travel speeds, which minimizes the potential for vehicular conflicts. The existing roadway is sufficient to accommodate the existing plus project traffic volumes.

Although the roadway improvements are not required based on the safety impact analysis, the project applicant has proposed to incorporate various roadway improvements...to benefit project safety.

Implementation of these improvements would further lower the expected accident rates along Paraiso Springs Road at project buildout. The roadway widening would provide additional pavement width for passing vehicles. Centerline and edge line striping would further improve the ability for vehicles to pass each other and improve nighttime driving. The edge lines and delineations would minimize vehicle travel off of the roadway. The advance warning signs would also provide advance warning of unexpected roadway geometric issues.

The project will not result in significant increases in hazards on Paraiso Springs Road. However, with implementation of the roadway improvements, it would further minimize the risk of motor vehicle accidents on Paraiso Springs Road. Therefore, the proposed project with the roadway improvements would not substantially increase hazards due to a design feature or incompatible uses and the impact is less than significant.

## **Master Response 6: Road Ownership, Right to Intensify Road Use, and Compensation**

Some commenters claim private ownership of part of Paraiso Road, inquire about compensation for increased traffic and safety issues associated with increased traffic and possible car accidents on their property, and state alternative access must be found. Some commenters ask if the road would

be maintained and if the County would pay for damage to privately owned vehicles if it were not maintained.

Paraiso Springs Road is a public road under County jurisdiction and thus can be used for the proposed project and associated improvements and increased use. See attached memorandum prepared by County staff (Michael Goetz, County Surveyor, Resource Management Agency, *Paraiso Springs Road*, August 7, 2018), which is attached to the end of the Master Responses section addressing private ownership of the road.

The County of Monterey Resource Management Agency, Public Works & Facilities, is responsible for management, operation, and maintenance of public roads within the unincorporated areas of Monterey County. The County currently maintains the public roads in the project vicinity and would continue to do so if the proposed project is approved and implemented.

Private property owners located adjacent to the roadway would not be entitled to monetary compensation for increased traffic or accidents on the roadway. However, if accidents were to occur on private property, it is anticipated that compensation would be provided from insurance companies where appropriate.

Similarly, if privately-owned vehicles incur damage due to deferred maintenance on County roads, it is not County practice nor legal obligation to provide compensation for the damage. It is anticipated that compensation would be provided from insurance companies where appropriate.

## **Master Response 7: CEQA Compliance and Adequacy of EIR**

Some commenters made broad general statements questioning the general adequacy of the RDEIR, in addition to offering specific criticisms on specific portions of the document. Although the County appreciates all of the input it has received on the RDEIR, and although the County has addressed the environmental issues raised and made modifications and additions to the RDEIR for clarification in response to such input, the County does not agree with general statements claiming that the RDEIR is legally deficient under CEQA. The County expended great effort to fully comply with CEQA in preparing and issuing the RDEIR, and continues to believe that the document is legally adequate under CEQA.

The general principles relating to EIR adequacy are explained in section 15151 of the CEQA Guidelines, which states:

“[a]n EIR should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure.”

CEQA Guidelines section 15204(a) adds:

“the adequacy of an EIR is determined in terms of what is reasonably feasible, in light of factors such as the magnitude of the project at issue, the severity of its likely environmental impacts, and the geographic scope of the project. CEQA does not require a lead agency to

conduct every test or perform all research, study, and experimentation recommended or demanded by commenters.”

As the California Supreme Court stated in *Laurel Heights Improvement Assn. v. Regents of the University of California* (1988) 47 Cal.3d 376, 415, “[a] project opponent ... can always imagine some additional study or analysis that might provide helpful information. It is not for them to design the EIR. That further study ... might be helpful does not make it necessary.”

According to CEQA Guidelines Section 15088.5(a), a lead agency is required to recirculate an EIR when significant new information is added to the EIR after a draft EIR is circulated for public review. “Significant new information” requiring recirculation include, for example, a disclosure showing that:

1. A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
2. A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.
3. A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project’s proponents decline to adopt it.
4. The draft EIR was so fundamentally and basically inadequate and conclusory in nature that a meaningful public review and comment were precluded.

Per CEQA Guidelines Section 15088.5(b), recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR, as is the case with respect to the additional information provided with respect to AASHTO standards.

Although the contentions raised by commenters reflect sincere concerns that the County has carefully considered, the contentions do not demonstrate that the RDEIR has failed to comply with any of the express legal requirements found in the CEQA statutes, the CEQA Guidelines, or CEQA case law. In addition, see response to Letter 19, Number 4.

## **Master Response 8: The County’s Wildfire Protection Ordinance & SRA Fire Safe Regulations**

The County received comments on the 2018 and 2019 Recirculated Draft EIRs’ analysis of the Project’s potential to expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires (CEQA Guidelines, Appendix G, § IX(g)). For the reasons explained in the RDEIR, County staff determined that, with mitigation, the Project would not result in significant environmental effects nor a significant risk of loss, injury or death involving wildland fires under CEQA significance criteria.

On August 6, 2019, the Mission-Soledad Rural Fire Protection District (MSRFPD), acting as the review and inspection authority, approved the 2019 Fire Protection Plan prepared by Dudek, which was included in the 2019 RDEIR as Appendix 2. The majority of the development area on

the property lies within the MSRFPD boundaries and the remaining area of the property is proposed to be annexed into the District as part of the project approvals.

Comments were received, including from Cal Fire and the State Attorney General's office, stating that the proposed Project must demonstrate compliance with the State Responsibility Area (SRA) Fire State Regulations found in Title 14 of the California Code of Regulations Section 1270.01 et seq. (SRA regulations), including regulations governing road width and dead-end roads, among others. "State responsibility areas" means areas of the state in which the financial responsibility of preventing and suppressing fires has been determined by the Board of Forestry to be primarily the state's responsibility (Pub. Resources Code, §§ 4102, 4125).

Although the comments largely raise regulatory code compliance and interpretation issues that are outside the scope of the EIR's environmental analysis required by CEQA, the County provides this master response to address the concerns of the commenters with respect to the applicability of the SRA regulations.

### **The Proposed Project**

As explained in the EIR, access to the Project site would remain from the County's existing Paraiso Springs Road, a public road that has existed since the late 1800's when the first lots on the property were created (see memorandum at end of these Master Responses and Master Response 6). Paraiso Springs Road was first created to serve the resort area, including the five lots of record which are now encompassed within the proposed Project site (See letter to Monterey County planner Taven Kinison Brown from Lombardo & Gilles (June 12, 2006), with enclosures).

The County determined that a portion of the development envelope of the proposed Project site is currently located outside of the MSRFPD boundaries and within the SRA (see <https://bof.fire.ca.gov/projects-and-programs/state-responsibility-area-viewer/>). The Project is also currently located in, assessed, and pays fees for fire protection and emergency services for the developed portion of the property to the Mission-Soledad Rural Fire Protection District (MSRFPD), which has served as the Reviewing and Inspection Authority. The Local Agency Formation Commission of Monterey County (LAFCO) requests and the applicant intends that, if the Project is approved by the County, the remaining portion of the property currently outside the MSRFPD would be annexed into the District boundaries, thereby relieving the state of the financial responsibility of preventing and suppressing fires on the property. It should also be noted that the portion of the site proposed for most or all structural development is in a High Fire Hazard Severity Zone, not a Very High Fire Hazard Severity Zone. Property within a Very High Fire Hazard Severity Zones is subject to additional regulations pursuant to Government Code sections 51175 through 51189.

The applicant has proposed to improve the County's Paraiso Springs Road to be 20 feet wide from Clark Road to the project site, except for that portion of the road (approximately 150 feet) that may only be improved to 18 feet due to the location of an existing utility pole. SRA standards for onsite fire prevention measures have also been incorporated into the Project as reflected in the RDEIR and project plans. Whether the County requires road improvements as proposed, or requires the full 20-foot width along its entire length from Clark Road, or an

exception is granted if required, the 2018 and 2019 RDEIR (together, the EIR) has analyzed the potential impacts of such actions and provided mitigation measures for the widening activities.

The County deemed the application for the proposed Project complete pursuant to Government Code section 65493 as of August 28, 2005. Government Code section 66474.2 (Approval of tentative map; ordinance, policies and standards applicable), provides that, with limited exception, when considering “whether to approve or disapprove an application for a tentative map, the local agency shall apply only those ordinances, policies, and standards in effect at the date the local agency has determined that the application is complete . . .” (subd. (a).)

### **The County’s Certified Ordinance Establishing Wildfire Protection Standards in State Responsibility Areas (SRAs)**

In 1992, the Monterey County Board of Supervisors adopted Ordinance No. 3600<sup>1</sup>, enacting Chapter 18.56 of the Monterey County Code, to implement Public Resources Code sections 4117<sup>2</sup> and 4290.<sup>3</sup> The purpose of the ordinance is to establish wildfire protection standards in conjunction with building, construction, and development in SRAs “located within the boundaries of the County and under the direct fire protection authority of the California Department of Forestry.” (Chapter 18.56, sec. 18.56.010.A.) These standards require that future design and construction of development in SRAs provide for emergency access and perimeter wildfire protection measures. Chapter 18.56 was added to Title 18 of the Monterey County Code where it has remained since 1992. In 1992, the Board of Forestry and Fire Protection (the Board of Forestry) certified the Ordinance.

In 1993 and 2009, the County adopted two ordinances amending Chapter 18.56 (See Ordinance No. 3659 [deleting severability clause] and Ordinance No. 5135 [name changes to staff and department titles to reflect creation of the Resource Management Agency of Monterey County]).

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<sup>1</sup> The County Code version on the County website does not match Ordinance 3600 as adopted by the Board of Supervisors and certified by the Board of Forestry. References in this chapter relate to the code section as found in Ordinance 3600 as amended. Ordinance 3600 and its amending ordinances are found in Final EIR Appendix 6.3.

<sup>2</sup> Public Resources Code section 4117 provides, “Any county, city, or district may adopt ordinances, rules, or regulations to provide fire prevention restrictions or regulations that are necessary to meet local conditions of weather, vegetation, or other fire hazards. Such ordinances, rules, or regulations may be more restrictive than state statutes in order to meet local fire hazard conditions.”

<sup>3</sup> Public Resources Code section 4290 requires the Board of Forestry to adopt regulations implementing minimum fire safety standards related to defensible space that are applicable to SRA lands under the authority of the department, and to lands classified and designated as “very high fire hazard severity zones.” The Legislature required the regulations to include, among others, road standards for fire equipment access. Subdivision (c) expressly states that the regulations “do not supersede local regulations which equal or exceed minimum regulations adopted by the state.”

When the County drafted the 2019 RDEIR, it was the County's understanding that the dead-end road and road-width requirements were not applicable to the offsite County-maintained Paraiso Springs Road, as the road had been in place for many years (see Master Response 6, response to Letter 5, Numbers 2 and 4, to Letter 10, Number 27, and to Letter 12, Numbers 49 and 56), which predated the code requirements (effective in February 1991 by the State). Monterey County Code section 18.56.020.B.2 (see original Ordinance #3600) states the following:

“2. Regulations contained in this chapter do not apply to the following building, construction or development activities requiring ministerial or discretionary permits;

a. Existing structures, roads, streets and private lanes or facilities.”

The County reads this ordinance language to mean that the dead-end road and road-width standards do not apply to the existing road that serves this project site. All proposed onsite roads are designed to comply with County Code and State regulations for dead-end road length and for road width.

The County has since received comments from the California Board of Forestry and Fire Protection that the regulations are to be interpreted only by the local Cal Fire Chief and raised a question whether the County's ordinance is currently certified. The Cal Fire letter also states, “exceptions to these standards may be allowed by the inspection entity listed in 14 CCR section 1270.05, where the exceptions provide the same overall practical effect as these regulations.” The applicant has not applied for an exception, as it was understood that one was not needed. Cal Fire originally deemed the Preliminary Fire Protection Plan “complete,” pursuant to Government Code section 65943, at the time the applicant filed its application. Prior to engaging an environmental consultant to prepare the Draft Environment Impact Report for the project, the County again reached out to Cal Fire for any comments related to the project. The Cal Fire representative replied in an email back to the County “The Paraiso Springs General Development Plan and accompanying Appendix D-Fire Protection Plan are acceptable to the fire authority. Please record FIRE as being COMPLETE for this application.” As stated above, MSRFPD, acting as the Reviewing Authority, approved the 2019 Fire Protection Plan and has not requested the applicant file for any exceptions nor did Cal Fire at the time the application was deemed complete. Due to the above comments, the County sought an opinion from the Board of Forestry in late 2019. As of this writing, no determination has been made by the Board of Forestry.

The County is restricted to applying the policies and standards for development in effect at the time the proposed Project application was deemed complete. (Gov. Code, § 66474.2.) If the County Ordinance remains in effect, for roads that are not exempt, Monterey County Code section 18.56.060 (Emergency access) states: “[a]ll roads shall be constructed to provide a minimum of two nine-foot traffic lanes providing two-way traffic flow unless other standards are provided in this article, or additional requirements are mandated by local jurisdictions or local subdivision requirements.” (subd. (3).) Requirements for dead-end roads are also included, among other standards. (See subd. (11).) For projects unable to meet the standards, an exception process for one or more alternative standard(s) is available as outlined in section 18.56.050 (Exceptions and regulations).

If the County Ordinance is not controlling, state law provides procedures for considering an exception if one is necessary. (Cal. Code Regs., tit. 14, § 1270.06.) The exception process requires a request for an exception made in writing to the inspection entity listed in 14 CCR 1270.5. (Cal. Code Regs., tit. 14, § 1270.05, subd. (a).) An application for exceptions may be allowed for a project “where the exceptions provide the same practical effect as [the SRA] regulations towards providing defensible space.” (Cal. Code Regs., tit. 14, § 1270.06, subd. (a).)

Under both the County Code and state law, the process includes the ability to appeal for an exception, as explained in the applicable regulations. If an exception is not granted, the applicant may appeal that decision ultimately to the Monterey County Board of Supervisors.

The question whether the Project complies with the regulatory standards is not relevant under CEQA, which examines reasonably foreseeable significant adverse effects on the physical environment. Whether Paraiso Springs Road is subject to the County Code, or to State requirements, the RDEIR has analyzed the potential impacts of the project on the physical environment and identified mitigation measures, where needed, for the off-site road improvements.

Government agencies that must make decisions related to the project do not act on documents individually until the EIR, in this case, has been certified (CEQA Guidelines section 15004(a) and (b), section 15050, and section 15352).

### **Analysis Pursuant to the California Environmental Quality Act**

The questions in CEQA Guidelines Appendix G are not required to be used in an environmental analysis. The County chose to use the new (2019) Appendix G Wildfire questions to analyze the potential impacts of the project on the environment in the 2019 Recirculated Draft EIR. The County determined that the older CEQA Checklist section IX(g) question relates to the environment’s potential impact on the project, not the project’s impact on the environment and that we adequately and fully analyzed the same topic by utilizing the new Appendix G questions in section XX (2019 CEQA Guidelines).

All of the proposed physical improvements and their potential environmental impacts have been considered in the RDEIR. They were included as part of the Project Description (2018 RDEIR Chapter 2) and potential environmental impacts were analyzed as amended by the 2019 RDEIR. All impacts were determined less than significant with mitigation other than impacts to historic resources. None of the proposed fire-safety related improvements have potential impacts on historic resources.

The RDEIR’s 2019 Fire Protection Plan (Dudek) lays out the general principles of the approach for fire safety for the project. An environmental document needs to look at the reasonably foreseeable and potentially significant adverse effects of a project on the physical environment. The County has analyzed the physical aspects of the application, including the proposed approach to fire operations (2019 RDEIR, including Appendix 2; Final EIR Appendices 6.1 and 6.2). The proposed infrastructure, fuel management areas, and the potential for an on-site fire station have all been considered and the conclusions supported by substantial evidence. The off-site improvements to Paraiso Springs Road were also analyzed for potential environmental

impacts. Mitigation measures have been crafted and identify that all potential environmental impacts will be less than significant after mitigation. For CEQA purposes, the RDEIR adequately describes the potential increase in environmental risks posed by the project (2018 RDEIR, section 3.7.5, Potential for Wildfire Hazards at the Project Site, as amended by 2019 RDEIR) and proposes mitigation measures to reduce potential environmental impacts to a less than significant level (2019 RDEIR, Impacts 3.7-6 through 3.7-9).

Memorandum from Michael K. Goetz, Monterey County  
Surveyor to Mike Novo and Wendy Strimling

Paraiso Springs Road

August 7, 2018

# 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  
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### MEMORANDUM

**Date:** August 7, 2018

**To:** Mike Novo and Wendy Strimling

**From:** Michael K. Goetz, County Surveyor 

**Subject:** Paraiso Springs Road

Mike and Wendy,

I have reviewed the memo from Mr. Derric G. Oliver, dated April 26, 2018, which alleges Paraiso Springs Road (“the Road”) is “a “public road” by implied dedication (i.e., a public easement)”. As such, he opines that the proposed development and expansion of Paraiso Springs Resort is unlawful and would specifically harm the Pura Ranch. I would like to provide a brief history of the portion of the Road from the Paraiso Springs Resort property to the intersection of Foothill Road.

#### **ROAD HISTORY:**

A road to the vicinity of Paraiso Springs dates back to the Mission Period (1791-1845). The vineyard of Mission Soledad was located just east of the future resort. The Road was shown on the following maps:

- 1869 - Official Plat of Township 18 South, Range 6 East, M.D.M.
- 1876 - Updated Official Plat of Township 18 South, Range 6 East, M.D.M. This updated plat notes the existence of a “Cottage at Paraiso Springs.”
- 1877 - “Map of the County of Monterey” by St. John Cox, dated February 1877. This map notes the location of “Paraiso Hot Springs.”
- 1879 - Petition, containing 28 signatures, was made to the County Board of Supervisors “for a road and public highway Sixty (60) feet in width... going from Paraiso Springs to Soledad Road.” The petition stated that the road “has been travelled and used as a public highway and road by the travelling public for many years.” In January 1879, the route of the road was surveyed by John H. Garber and established by Board Order, dated February 5, 1879 and contained in Board Minute Book “C”, at Page 233.

Therefore, at this point in history there was an established County Road, 60 feet in width, running from the boundary of the Paraiso Springs property to what is now Foothill Road.

A careful analysis of the courses of Garber's 1879 survey indicates that it contains significant directional and distance errors. In 1895, an apparent original portion of the Road was being considered for abandonment. This portion was surveyed in 1895 by Lou G. Hare, County Surveyor (See LGH Fieldbook #2, Pg. 26. See also SN34031). Hare's field notes describe a route that follows the current road alignment, so it can be concluded that this 1895 abandonment was never effected.

In 1912, Hare surveyed a new route from the south boundary of the Rancho Los Coches to the Paraiso Springs property (See LGH Fieldbook #176, Pg. 25. See also SN13425). This 1912 route conforms to the current road alignment. It appears that at least a portion of this route followed Garber's original route, specifically within the easterly one quarter mile of Section 30 and through the majority of Section 20. Although the original route was established as 60 feet wide, the 1912 realigned route has consistently been shown as being 40 feet in width. There has been no evidence found of an abandonment of the superseded portion of Garber's route, or an acceptance of Hare's 1912 route. However, nearly all the 1912 route change occurred in within the Olsen property. The Olsens would have observed and likely participated in the new road construction and the obliteration of the old road across their ranch. Therefore, the County's interest in the existing alignment of this portion of Paraiso Springs Road has strong basis.

Mr. Oliver's memo is specific to impacts to the Pura property. The only portion of the Pura ranch property that Paraiso Springs Road traverses is the Northeast 1/4 of Section 30 (APN 418-381-019). He asserts there is only an "implied dedication" of Paraiso Springs Road across this property. However, a careful analysis of the field notes and mapping of 1879 Garber's survey, along with evidence on the ground, indicates that there were no changes made to this portion of the road during Hare's 1912 realignment. Consequently, the portion of the Road through the Pura property was fully accepted and established by the Board Order contained in in Board Minute Book "C", at Page 233 referred to above. As such, this portion of the Road is 60 feet in width.

#### SUMMARY:

Paraiso Springs Road is not merely a "public" road by implied dedication, as alleged by Mr. Oliver. Rather, it is an officially established County Road based on the Board's action in 1879. Although there has been some realignment to portions of the Road within the lands under the same ownership (Olsen), it is my opinion that this would not change the "Established" status of the Road. Based on this status, there should not be any limitation of the use of the road by the public.

# Specific Responses

**Letter #1 – Louise Miranda Ramirez, Ohlone/Costanoan-Esselen Nation  
(April 12, 2018)**

1 /6 pages

*Ohlone/Costanoan-Esselen Nation*



Previously acknowledged as  
The San Carlos Band of  
Mission Indians  
The Monterey Band  
And also known as  
O.C.E.N. or Esselen Nation  
P.O. Box 1301  
Monterey, CA 93942

www.ohlonecostanoanesselenation.org.

March 12, 2018

Mike Novo, AICP  
Project Planner  
1441 Schilling Place, South Bldg. 2<sup>nd</sup> floor  
Salinas, CA 93901  
Email: novom@co.monterey.ca.us



Re: Paraiso Springs Resort (PLN040183, SCH#2005061016)

Saleki Atsa,

Ohlone/Costanoan-Esselen Nation is an historically documented previously recognized tribe. OCEN is the legal tribal government representative for over 600 enrolled members of Esselen, Carmeleno, Monterey Band, Rumsen, Chalon, Soledad Mission, San Carlos Mission and/or Costanoan Mission Indian descent of Monterey County. Though other indigenous people may have lived in the area, the area is the indigenous homeland of our people. Included with this letter please find a territorial map by Taylor 1856; Levy 1973; and Milliken 1990, indentifying Tribal areas.

1-1

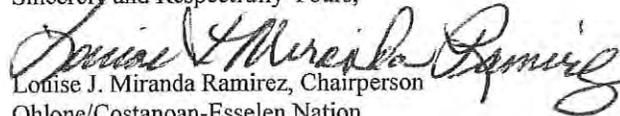
**Ohlone/Costanoan-Esselen Nation objects to all excavation in known cultural lands, even when they are described as previously disturbed, and of no significant archaeological value.** Please be advised that it is our priority that our ancestor's remains be protected and undisturbed. We desire that all sacred burial items be left with our ancestors on site or as culturally determined by OCEN. All cultural items returned to Ohlone/Costanoan-Esselen Nation. We ask for the respect that is afforded all of our current day deceased, by no other word these burial sites are cemeteries, respect for our ancestors as you would expect respect for your deceased family members in today's cemeteries. **Our definition of respect is no disturbance.**

OCEN's Tribal leadership desires to be provided with:

- Archaeological reports/surveys, including subsurface testing, and presence/absence testing.
  - OCEN request to be included in mitigation and recovery programs,
  - OCEN request that Cultural and Tribal mitigation measures reflect request for OCEN Tribal Monitor,
  - Reburial of any of our ancestral remains, burial artifacts,
  - Placement/return of all cultural items to OCEN, and that
  - A Native American Monitor of Ohlone/Costanoan-Esselen Nation, approved by the OCEN Tribal Council is used within our aboriginal territory.
- OCEN request consultation with the lead agency.**

We ask that a sacred lands search with the Northwest Information Center, Sonoma State University and the Native American Heritage Commission. Please feel free to contact me at (408) 629-5189. Nimasianexelpasaleki. Thank you

Sincerely and Respectfully Yours,

  
Louise J. Miranda Ramirez, Chairperson  
Ohlone/Costanoan-Esselen Nation

(408) 629-5189

Cc: OCEN Tribal Council

# MONTEREY COUNTY RESOURCE MANAGEMENT AGENCY

Carl P. Holm, AICP, Director



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## NOTICE OF AVAILABILITY OF DRAFT **FILED** RECIRCULATED DRAFT ENVIRONMENTAL IMPACT REPORT

FEB 27 2018

**PROJECT TITLE:** PARAIISO SPRINGS RESORT  
(PLN040183; SCH#2005061016)

STEPHEN L. VAGNINI  
MONTEREY COUNTY CLERK  
DEPUTY

**PROJECT LOCATION:** WESTERN TERMINUS OF PARAIISO SPRINGS ROAD,  
SEVEN MILES WEST OF GREENFIELD, CALIFORNIA

Notice is hereby given that the County of Monterey is seeking written comment on the Recirculated Draft Environmental Impact Report (RDEIR) on the Paraiso Hot Springs Project (PLN040183; SCH#2005061016) in accordance with the California Environmental Quality Act (CEQA), which has been recirculated in its entirety. One of the purposes of this Notice of Availability is to clarify, consistent with CEQA Guidelines Section 15088.5(f) that although a part of the administrative record, the previous comments submitted on the earlier Paraiso Hot Springs DEIR, dated July 11, 2013, do not require a written response in the final BIR, and the County of Monterey will not respond to these previously submitted comments. New comments must be submitted on the RDEIR to be considered by the County of Monterey.

The public review period for the RDEIR will begin on February 28, 2018 and end on April 26, 2018. This review period was established for the purpose of receiving written comments on the accuracy and adequacy of the RDEIR together with other information relative to the environmental effects of the project.

### PROJECT DESCRIPTION:

The proposed project is a request consisting of the following elements:

- A. "After The Fact" Demolition Permit to authorize demolition of nine historic cottages at the Paraiso Hot Springs Resort, November 2003 (to clear Code Violation Case CE030404/PLN040488);
- B. Combined Development Permit consisting of:
  1. Use Permit and General Development Plan to allow the phased redevelopment of the Resort, including the following:
    - a. 103 hotel units, restaurants, meeting and conference rooms, associated support facilities
    - b. Hamlet consisting of a day spa, retail, artist studios, wine tasting and real estate office
    - c. Spas and Fitness Center
    - d. Vineyard and Wine Pavilion

<sup>1</sup> Pursuant to CEQA Guidelines section 15087

- e. Water and wastewater facilities
  - f. Pedestrian and vehicular facilities
  - g. Appurtenant resort uses and facilities
  - 2. Use Permit for the creation of 77 Timeshare units
  - 3. Vesting Tentative Map (Condominium Map) for the creation of 60 airspace timeshare condominium units
  - 4. Standard Subdivision (Vesting Tentative Map) to allow the merger and resubdivision of approximately 235 acres into 23 parcels
  - 5. Use Permit for removal of 185 protected oak trees; and
  - 6. Use Permit for development on slopes in excess of 30 percent.
- C. Off-site road improvements on Paraiso Springs Road.

The project site is designated by the applicable General Plan, the 1982 Monterey County General Plan, and the 1987 Central Salinas Valley Area Plan, a part of the 1982 General Plan, as Commercial and Permanent Grazing. The project site is in the Visitor Serving/Professional Office and the Permanent Grazing, 40 acre minimum, Zoning Districts, consistent with its General Plan land use designation, and is consistent with the historic use of the site as a resort.

**LEAD AGENCY:** County of Monterey Resource Management Agency – Planning.

**ADDRESSES WHERE A COPY OF THE RECIRCULATED DRAFT EIR IS AVAILABLE FOR REVIEW:**

County of Monterey RMA – Planning 1441 Schilling Place, 2 <sup>nd</sup> Floor Salinas, CA 93901 (831) 755-5025	Monterey County Free Libraries Soledad Branch 401 Gabilan Drive Soledad, CA 93960 (831) 678-2430	Monterey County Free Libraries Greenfield Branch 315 El Camino Real Greenfield, CA 93927 (831) 674-2614
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Documents referenced in the RDEIR, including RDEIR Appendices, are available at Monterey County RMA – Planning at the address listed above.

**PUBLIC REVIEW PERIOD:** February 28, 2018 through April 26, 2018.

**POTENTIAL SIGNIFICANT ENVIRONMENTAL EFFECTS:**

The Recirculated Draft Environmental Impact Report identifies impacts in the following resource areas that are either less than significant or are significant but can be mitigated to a less than significant level: Aesthetics, Air Quality, Biological Resources, Climate Change, Cultural Resources, Energy, Geology and Soils, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Noise, Public Services and Utilities, and Transportation and Traffic.

The Recirculated Draft Environmental Impact Report identifies impacts in the following resource areas that are significant and cannot be mitigated to a less than significant level: Cultural Resources.

Public hearings will be held, subsequent to the public review period, at a time and place to be specified by legal advertisement in a local newspaper of general circulation. If you would like to be notified of the hearings or would like additional information, please contact:

Project Planner Mike Novo, AICP  
Monterey County RMA – Planning  
1441 Shilling Place, 2<sup>nd</sup> Floor  
Salinas, CA 93901  
Phone: (831) 755-5176  
E-mail: [novom@co.monterey.ca.us](mailto:novom@co.monterey.ca.us)

We welcome your comments during the public review period. You may submit comments in hard copy to the Project Planner at the name and address above. The Agency also accepts comments via e-mail or facsimile but requests that you follow these instructions to ensure that the Agency has received your comments. To submit your comments by e-mail, please send a complete document including all attachments to [CEQAcomments@co.monterey.ca.us](mailto:CEQAcomments@co.monterey.ca.us).

An e-mailed document should contain the name of the person or entity submitting the comments and contact information such as phone number, mailing address and/or e-mail address and include any and all attachments referenced in the e-mail. To ensure a complete and accurate record, we request that you also provide a follow-up hard copy to the Project Planner name and address listed above. If you do not wish to send a follow-up hard copy, then please send a second e-mail requesting confirmation of receipt of comments with enough information to confirm that the entire document was received. If you do not receive e-mail confirmation of receipt of comments, then please submit a hard copy of your comments to ensure inclusion in the environmental record or contact the Agency to ensure the Agency has received your comments.

Facsimile (fax) copies will be accepted with a cover page describing the extent (e.g., number of pages) being transmitted. A faxed document must contain a signature and all attachments referenced therein. Faxed documents should be sent to the contact noted above at (831) 757-9516. To ensure a complete and accurate record, we request that you also provide a follow-up hard copy to the Project Planner name and address listed above. If you do not wish to send a follow-up hard copy, then please contact the Agency to confirm that the entire document was received.

The Recirculated Draft Environmental Impact Report is available on CD for purchase from Monterey County RMA – Planning at 1441 Shilling Place, Second Floor, Salinas. The documents are also available on the County website at:

<http://www.co.monterey.ca.us/government/departments-i-z/resource-management-agency-rma/planning/current-major-projects/paraiso-springs-resort>

<b>Environmental Impact</b>	<b>Proposed Project</b>	<b>Alternative #1 No Project</b>	<b>Alternative #2 Valley Floor Alternative One (Units Reduced by 10%)</b>	<b>Alternative #3 Valley Floor Alternative Two (Units Reduced by 6.7%)</b>	<b>Alternative #4 Reduced Project Alternative (Units Reduced by 35.5%)</b>
<b>Biological Resources</b>					
3.3-1 Habitat loss for special status bat species, Monterey dusky-footed woodrat, coast horned lizard, and burrowing owl.	Less than significant	No impact <b>Avoids impact</b>	Less than significant <b>Reduced</b>	Less than significant <b>Reduced</b>	Less than significant <b>Substantially reduced</b>
3.3-2 Potential direct impact to special status bat species, Monterey dusky-footed woodrat, coast horned lizard, and burrowing owl.	Less than significant with mitigation	No impact <b>Avoids impact</b>	Less than significant with mitigation <b>Reduced</b>	Less than significant with mitigation <b>Reduced</b>	Less than significant with mitigation <b>Substantially reduced</b>
3.3-3 Potential direct impacts to nesting birds.	Less than significant with mitigation	No impact <b>Avoids impact</b>	Less than significant with mitigation <b>Reduced</b>	Less than significant with mitigation <b>Reduced</b>	Less than significant with mitigation <b>Substantially reduced</b>
3.3-4 Loss of potential jurisdictional wetland (0.40 acre, 7,771 linear feet).	Less than significant with mitigation	No impact <b>Avoids impact</b>	Less than significant with mitigation	Less than significant with mitigation	Less than significant with mitigation
3.3-5 Impede wildlife movement	Less than significant	No impact <b>Avoids impact</b>	Less than significant <b>Reduced</b>	Less than significant <b>Reduced</b>	Less than significant <b>Substantially reduced</b>
3.3-6 Removal of approximately 8.8 acres of coast live oak woodland habitat and up to 191 trees, including 185 protected oak trees.	Less than significant with mitigation	No impact <b>Avoids impact</b>	Less than significant with mitigation <b>Reduced</b>	Less than significant with mitigation <b>Reduced</b>	Less than significant with mitigation <b>Substantially reduced</b>
<b>Climate Change</b>					
3.4-1 Generation of greenhouse gas emissions above net zero	No impact with applicant-proposed mitigation	No impact	No impact with applicant-proposed mitigation <b>Similar</b>	No impact with applicant-proposed mitigation <b>Similar</b>	No impact with applicant-proposed mitigation <b>Similar</b>

Distribution of Ohlone/Costanoan-Esselen Nation Tribal  
Rancherias, Districts, Landgrants and Historic Landmarks

OCEN DIRECT LINEAL DESCENT

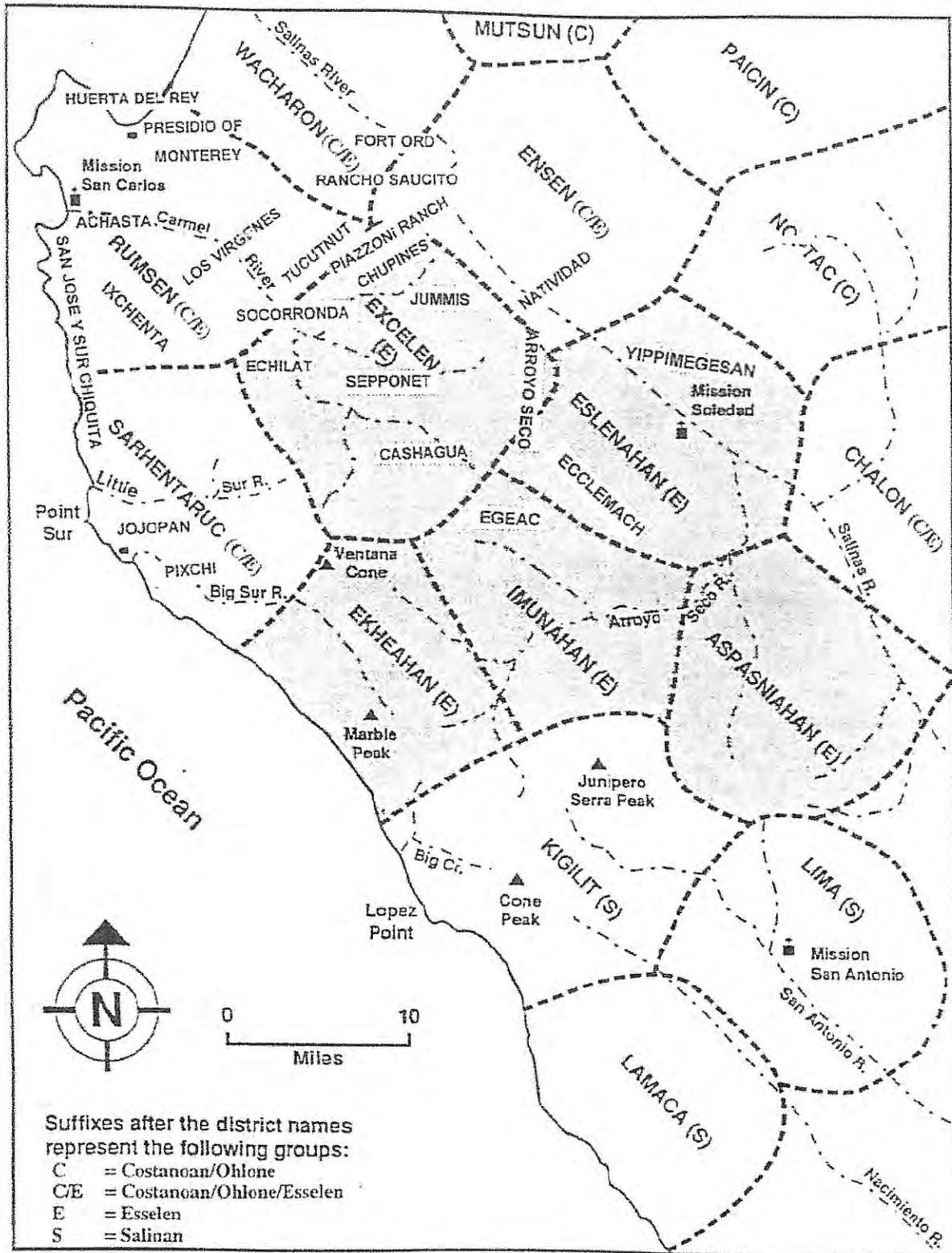


Figure 2:

Map after Taylor 1856; Levy 1973; Hester 1978; Milliken 1990

## **Response to Letter #1 - Louise Miranda Ramirez, Ohlone/Costanoan-Esselen Nation (April 12, 2018)**

1. The comment asks for all archaeological information related to the project, respect for tribal resources, that the tribe be included in mitigation, monitoring and recovery, and that information be obtained from state resource centers.

The RDEIR addresses the potential effects on cultural resources primarily in RDEIR Chapters 3.5 and 4.0. Mitigation Measures have been incorporated to ensure that impacts to archaeological and tribal cultural resources will be less than significant.

While the project is not subject to the requirements of CEQA section 21080.3.1 (Tribal Cultural Resources; RDEIR page 3-129), the County has consulted with the Ohlone/Costanoan-Esselen Nation Tribe on separate occasions as described in RDEIR section 3.5.3 on page 3-149. Mitigation measures included in Chapter 3.5 incorporate most of the measures identified through the consultation process (see RDEIR pages 3-160 through 3-168). The analysis considered the issues raised in the comment letter, provides mitigation for potentially significant impacts related to archaeological resources on the project site (Impact 3.5-2), archaeological resources related to off-site road improvements (Impact 3.5-3), and undiscovered human remains (Impact 3.5-4). Mitigation measures have been provided for each of these impact areas, with a conclusion that potential impacts related to these three impact areas would be reduced to a less than significant level.

**Letter #2 – Carlene Bell, Soledad Mission Board (April 16, 2018)**

1 /1 pages

April 5, 2018

APR 16 2018

Project Planner Mike Novo, AICP  
Monterey County RMA – Planning  
1441 Shilling Place, 2<sup>nd</sup> Floor  
Salinas, CA 93901

Re: Paraiso Springs Resort DEIR

Dear Mr. Novo:

2-1 The Soledad Mission is bound historically to the Paraiso hot springs because the Native Americans took the padres there to heal their ailments. We believe they also had some orchards there and a small vineyard. It was a part of their life at the time.

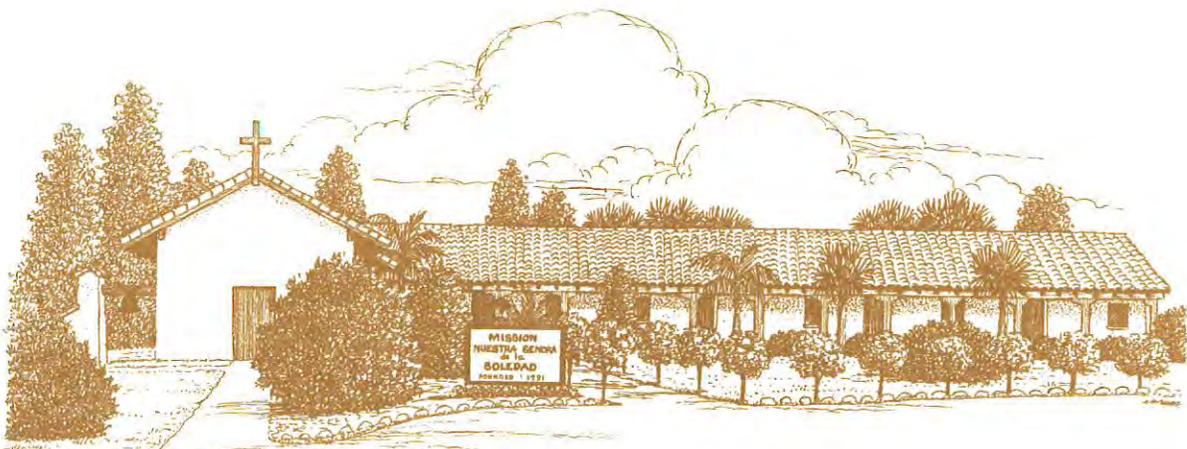
The Soledad Mission Board members of today are for the most part natives of this area and enjoyed the swimming and the picnics at Paraiso when they were young. They miss the availability of the hot springs. The Board is not opposed to developing Paraiso but they do have some concerns:

1. The scale of the project seems too massive for the area.
- 2-2 2. Traffic will be using a two lane road to get to the facility and will be traveling through farm lands where farm vehicles utilize the roads as well as farm workers. It appears that you have underestimated the number of vehicles that are used to bring the workers to the fields as buses are rarely used now.
- 2-3 3. In an emergency the curve in the road at the entrance to the site would not allow two large vehicles (such as fire engines, trucks or buses) to pass each other. It will be a bottleneck.
4. The mineral water at Paraiso is precious because of its healing properties. It needs to be protected and respected.

2-4 Also historic to the area is the Los Coches adobe which would be a natural signpost for travelers to Paraiso. There is room to the west of the structure to handle parking for employees that are to be shuttled to work. It would be advantageous to have one person or one family live on the site to oversee the vehicles as well as the adobe.

With respect,

*Carlene Bell, President*  
The Soledad Mission Board  
36641 Fort Romie Road  
Soledad, CA 93960



## **Response to Letter #2 - Carlene Bell, Soledad Mission Board (April 16, 2018)**

1. This comment is that the project is too large. See Master Response 1.
2. The commenter states that the traffic analysis may have underestimated the number of vehicles used to bring farm workers to the fields on the same two-lane roads that would be used to access the project site because buses are rarely used now. The commenter also states that the curve at the project site entrance would not allow two large vehicles to pass each other, resulting in a bottle neck.

Refer to the discussions under *Existing Traffic Volumes* and *Adequacy of Road Width at Project Site Entrance* in Master Response 5: Traffic.

3. This comment relates to protecting the site's mineral water. See Master Response 1.
4. This comment suggests the use of the Los Coches Adobe site for employee parking and shuttle. The RDEIR addresses the potential effects on cultural resources primarily in RDEIR Chapters 3.5 and 4.0. Mitigation Measures have been incorporated to ensure that impacts to historic resources will be reduced to the extent feasible, but will remain significant and unavoidable. See Master Responses 2 and 3 for a full discussion responding to comments raised related to mitigation measures proposed in the RDEIR related to historic impacts. In addition, at this time, no parking for shuttle use is proposed at the Los Coches adobe; the site is owned by the City of Soledad, has been vacant for many years, and is not currently developed for any type of use.

**Letter #3 – Charles DeWeese (April 18, 2018)**

1 /1 pages

# Charles DeWeese

1091 Paloma Rd  
Del Rey Oaks, CA 93940

Cell. 831-392-6157  
charlesdeweese@sbcglobal.net



September 22, 2013

John Ford, Senior Planner  
Monterey County Resource Management Agency  
Planning Department  
168 W. Alisal St., 2nd Floor  
Salinas, CA 93901

**Subject: Paraiso Springs Resort  
(PLN040183; SCH#2005061016)**

Dear Mr. Ford,

Thank you for the opportunity to comment upon the proposed development at Paraiso Hot Springs.

As a frequent visitor, I have come to deeply respect and revere Paraiso for its unique natural beauty and historical significance. Any proposed development and use of this locale must be in accord with these factors.

A large-scale project that alters the landscape, removes native trees, and overwhelms this special site would be a serious violation of our regional responsibility. An enclave for the privileged is not a good choice for this scenic, spiritual, and peaceful site.

3-1 The idea of an after-the-fact demolition permit is particularly abhorrent. I only wish that all my personal transgressions could be absolved in such a manner.

Paraiso is a prime example of the combination of history and matchless natural beauty that make all of Monterey County a place of world renown. When I am away from my beloved home on a vacation and I tell people where I am from they often look at me in wonderment and ask, "Why did you leave?" What we as a community do, as stewards of this heritage are so important in preserving that image.

Paraiso now sits quietly, empty and abused. This honorable place should be accessible again, but only in a way that shows our reverence and respect for what we are so blessed to have as residents of this wonderful county.

*please notify me about hearings*

Sincerely,

*Charles DeWeese 4/16/18*  
Charles DeWeese

*My opinion hasn't changed in 5 years!  
This should be an eco-tourism destination,  
not another "enclave for the privileged?"*

**Response to Letter #3 - Charles DeWeese (April 18, 2018)**

1. This comment letter asks that the resort be rebuilt as an eco-tourism destination, or a resort that fits the history and respect for the site. See Master Response 1.

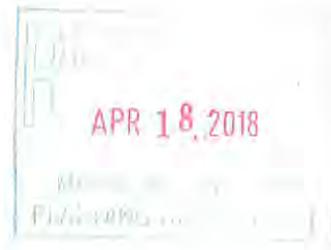
Also, Mr. DeWeese is included in the list for notification of hearings.

Comments related to the destruction of historic resources are addressed in Master Responses 2 and 3.

**Letter #4 – Graig Stephens, Soledad Historical Society (April 18, 2018)**

1 /2 pages

Project Planner Mike Novo, AICP  
Monterey County RMA – Planning  
1441 Shilling Place 2<sup>nd</sup> Floor  
Salinas, CA 9391  
(831) 755-5176  
novom@co.monterey.ca.us



Subject: Comments on Recirculated Draft Environmental Impact Report (RDEIR) for Paraiso Springs Resort (PLN040183; SCH#2005061016)

The Soledad Historical Society is commenting on these sections of the RDEIR: Historic Resources – Historic Structures Impact 3.5-1 and Mitigation Measures MM 3.5-1a through MM3.5-1d (pages 3-156 through 3-159)

The Soledad Historical Society finds the mitigation measures described in these sections for the unlawful and willful destruction without permit of nine historic structures totally inadequate. Although the creation of a historic catalog and digital interpretive display and the payment of \$10,000 to the Monterey County Historical Society for consulting is desirable, the cost for this mitigation compared to the loss of the historic cottages is minimal. According to Therese Schmidt, Senior Planner for Monterey County the estimated cost of an interpretive display would not exceed \$64,000. (RDEIR Appendix A Initial Study p12). In order to discourage and prevent developers from destroying historic structures, mitigation measures must be sufficient to accomplish that purpose.

- 4-1 Given the scope and price of the proposed project, a \$74,000 mitigation fee “fine” is not sufficient enough to discourage this developer or any other developer or individuals from destroying other historic buildings. Hence, levying such an inconsequential amount will not discourage or prevent such destruction. Instead it will just encourage developers or individuals to destroy historic properties without permits and then ask the County for forgiveness and minimal mitigation measures.

The destruction of the nine historic buildings cannot be undone. Historically, those buildings and the lodge were used by folks who traveled to Soledad by stage or train and then took a carriage or buggy from Soledad to stay at the Paraiso Resort. During the 1940s and 1950s Paraiso Springs was the local gathering spot for dinners and parties and the pool was where most of the children in Soledad learned to swim.

- 4-2 In short, Paraiso Springs played a major historic role for Soledad until its closure. That part of Soledad’s history was destroyed by this developer and cannot be replaced. But, there is a historic structure in Soledad that deserves to be saved and preserved. The Richardson Adobe on the old Los Coches Rancho is the oldest adobe in Monterey County. Built in 1843, one year before the Boranda Adobe, it first served as the main house for the Rancho and later as the last existing stage stop in Monterey County. The City of Soledad has spent some money to help preserve this historic site and resource, but given the present economic conditions, it is unlikely

that the City will have the financial resources to make additional improvements to preserve the Adobe. We all know what happened to the Dutton Hotel in Jolon because no action was taken to preserve it. It is now just a pile of mud with a pole barn covering it. It would be a tragedy if that fate was repeated at the Richardson Adobe. Therefore, while the developers of the Paraiso Springs Resort cannot replace historic buildings that were illegally torn down and that were part of Soledad's history, mitigation measures can be used to help preserve the Richardson Adobe, a building that has played a significant role in Soledad's and Monterey County's history. In so doing, the developers could redeem themselves by restoring this historical resource to replace the historic cottages that were a great source of community pride. We are requesting that the County impose mitigation measures on this developer that are significant enough to send a message to them and other developers to not act first and receive just a slap on the wrist, that it be significant enough to signify the County's intent to preserve our history, and that it be significant enough to provide enough funds to make major improvements to preserve the Richardson Adobe. We cannot save what we have lost, but we can save what we have.

Sincerely,

A handwritten signature in blue ink that reads "Graig R. Stephens". The signature is written in a cursive, flowing style.

Graig R. Stephens

President, Soledad Historical Society

**Response to Letter #4 - Graig Stephens, Soledad Historical Society (April 18, 2018)**

1. This comment states that the proposed mitigation measures are not adequate. See Master Responses 2 and 3. The RDEIR addresses the potential effects on cultural resources primarily in RDEIR Chapters 3.5 and 4.0. Mitigation Measures have been incorporated to ensure that impacts to historic resources will be reduced to the extent feasible. However, impacts to historic resources will remain significant and unavoidable.
2. This comment suggests that mitigation measures be substantial to send a message to those that may demolish historic resources without permits and that mitigation fees be utilized at the Richardson Adobe (Los Coches) site. See Master Responses 1, 2 and 4.

**Letter #5 – Judy and Frank Berti; Joe and Misty Panziera (April 24, 2018)**

1 /7 pages

# 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

## LETTER OF TRANSMITTAL

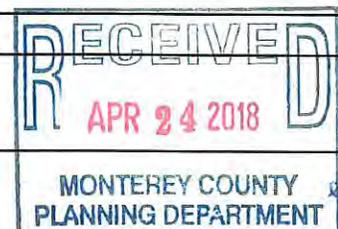
TO: Mike Novo DATE: 4/24/17  
 FROM: Lou Panziera for Joe Panziera / Frank Bert TELEPHONE: (831)678-2815  
 PROPERTY ADDRESS: Paraiso Spr. Rd., Soledad, CA 93960  
 A.P.N.: \_\_\_\_\_ PERMIT #: 20 PLN040183  
 NAME OF PROPERTY OWNER: Thompson Holdings  
Paraiso Springs Resort (PLN040183; SCA# 2005061016)  
 PURPOSE OF SUBMITTAL: Response comments to REIR

PLEASE LIST ALL ITEMS ATTACHED:

<u>From Judy &amp; Frank Bert,</u>	<u>From Joe &amp; Misty Panziera</u>
<u>34355 Paraiso Spr. Rd</u>	<u>34352 Paraiso Spr. Rd</u>
<u>Soledad, CA 93960</u>	<u>Soledad, CA 93960</u>
<u>(831) 678-9557</u>	<u>(831) 678-2170</u>
<u>2 Page Letter</u>	
<u>1 Page, with 4 pictures</u>	<u>3 Pages of Questions</u>

COMMENTS / INSTRUCTIONS: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

RECEIVED BY: \_\_\_\_\_



Mr. and Mrs. Frank Berti  
34355 Paraiso Springs Rd.  
Soledad, CA 93960  
(831) 678-9557  
April 22, 2018



Project Planner Mike Novo, AICP  
Monterey County RMA-Planning  
1441 Shilling Place, 2<sup>nd</sup> Floor  
Salinas, CA 93901  
Phone: (831) 755-5176  
E-mail: [novom@co.monterey.ca.us](mailto:novom@co.monterey.ca.us)

Dear Mr. Novo,

Please accept the following comments in regards to the Paraiso Springs Resort Project (PLN040183; SCH#2005061016.)

5-1

My name is Judy Berti, and with my husband Frank Berti, we own the ranch that borders the Paraiso Springs Development, planned by the Thompson's. I am writing to let you know our concerns about the traffic that will affect our roads. As you can see by the pictures I have enclosed, our biggest concern is just getting out of our driveway. When Paraiso Springs was open with very few people living or going there, we took our lives in our hands every time we pulled out onto the road. We hate to think what it will be like when the Thompson's start building their city up there!!! How will this situation be addressed?

Also enclosed is a picture of a rollover accident on Paraiso Springs Road just down from the closed resort that occurred Dec. 2, 2017 right as you come out of our gate. With no safety improvements along the roadway and with the significant increase in traffic, we can see this happening again! And we just pray that it doesn't happen to one of our kids, or grandkids! How are we going to safely enter the roadway when there will be so many shuttles, passenger vehicles, buses, delivery trucks, and tanker trucks making multiple trips a day to and from the resort?

5-2

My husband and I own 1/2 of the roadway adjacent to our property on Paraiso Springs Rd. The roadway is a County maintained road and there used to be a sign alerting drivers to it actually being a "one lane road" and it still is one lane going up to the resort. This roadway is not a standard two-lane roadway because it is often less than 18 feet in width and there is limited sight distance, blind curves, limited or no shoulder, and a dangerous curve at our gate. The amount of traffic that the Thompsons are planning to put on our roadway is 20 to 50 times the traffic ever seen on the road. This is not "reasonable or historic use" and with accidents just like what happened in Dec. of last year it will be an even more dangerous roadway. Will the owners of the road be paid per vehicle when the Thompsons' predictions of trips generated by the resort grossly exceeds these predictions or the shuttle program is not enforced?

5-3

We are also very concerned about what this huge development will do to our well water, and our neighbors' water. It is going to take a lot of water to run the Thompsons' city. Between my mother-in-law, Frank and I, we put \$55,000.00 into our wells, and that was seventeen years ago. I can tell you we would not be able to do that now if the resort use draws down the level of water in our well so that we have to drill a new one! Also, if we are lucky enough to still have water after this huge development goes in, we would be expected to run our pumps longer and run our energy bills up just so the Thompson's can make money. This is extremely unfair. How are we going to be compensated for this?

Thank you for considering my comments.

Sincerely,



Judy and Frank Berti

**COMMENTS, RESPONSES & QUESTIONS**

**To the**

**Paraiso Springs Resort Draft Environmental Impact Report**

**State Clearinghouse #2005061016**

**April 26, 2018**

**Prepared For**

**Mike Nova, Senior Planner**

**Monterey County Resources Management Agency**

**Planning Services**

**1441 Schilling Place**

**Salinas, CA 93901**

**Prepared By**

**Joe & Misty Panziera**

**34352 Paraiso Springs Road**

**Soledad, CA 93960**

**Tel 831-678-2170**

**mistypanziera@yahoo.com**



- 5-4 1. We own to the middle of the road, will we be compensated for all the excess traffic due to the resort?
2. Only one car has come and gone per day since we have lived here. How is adding 399+ to that not a significant change?
- 5-5 3. How will our water be replaced if our well is pumped dry? Our water doesn't need to be treated, it is already safe? No one has checked our well depth or attempted to acquire any data how is that right?
- 5-6 4. Our house is 26 feet from the road. EIR says we are 30 feet? Way too close for 1500 cars, tanker trucks, buses, shuttles, and passenger vehicles.
- 5-7 5. I don't want to raise my kids on treated water when our water is already safe and needs no treatment. With the significant increase in resort water pumping, will fluoride contaminate our wells?
- 5-8a 6. In the last 15 years only one car has lived above us on this road. In the last 40 years less than 100 have lived above us. It seems unreasonable to try and put 300+ up and down the road. My home will be less safe due to the increased risk of accidents. How will that be mitigated?
- 5-8b 7. Is it a Resort or a Subdivision? Why would the property be subdivided if it was intended to be strictly a resort?
- 5-8c 8. Will we be compensated when cars come crashing into our yard? Are they willing to put safer fencing up around our property beings they are bringing all the traffic?
- 5-8d 9. How will we deal with noise problems?
- 5-8e 10. Is this Resort open to the public and how will people know if they can go in and out? People already stop from time to time and ask for directions and don't realize the place has been closed for years.

- 5-9 11. How will the increased fire risk be dealt with? More cars brings a much higher risk of wildfire. Will we be compensated if our house is burned due to traffic that has not been here for over 30 years?
- 5-10 12. Will we be compensated in the event of a flood due to all the extra building going on above us?
- 5-11 13. Will we be compensated if our well is contaminated from run off, leaks and overflow from the sewage plant? Will we be provided a weekly or monthly report of water checks?
- 5-9 14. What is the escape plan for the resort in the event of a natural disaster? There is only one road in and out, it seems unreasonable to put a large number of people at risk with only one exit.
- 5-12 15. Where is the data that shows my well will only draw down 6 inches, and how is that acceptable even if it is proven? How do we know that only 6 inches will be drawn down on neighboring wells?
- 5-13 16. Why is the creek behind my house dry if there is so much water available at the Resort? What is happening with the soda spring daily overflow that feeds this creek and wetland? My well is much closer to the resort than stated. How can engineers have such trouble taking accurate measurements?
- 5-14a 17. Will a tow truck be on sight to clear the road when all the inevitable accidents occur?
- 5-14b 18. Why are they allowed to build on ridge lines and slopes when no one else is?
- 5-14c 19. Will Resort employees have strict background checks? Why should my children be exposed to increased risk of pedophiles and general criminals due to a huge increase in people traveling by our house with no added police or security for neighbors?

- 5-14d 20. Will we be compensated for increase in theft and other general crime in our neighborhood? What will the increase in crime in a remote area of the county tax our sheriff department?
- 5-15 21. How will all of the wildlife be dealt with during all of the construction?
- 5-16a 22. My wife and children are allergic to dust, how will this be mitigated while this giant project is underway?
- 5-16b 23. Where is the EIR for construction and road improvements
- 5-16c 24. Will the Resort operate a water truck, like farmers often do to keep the dust down on the Resort and along the roadway by our homes?
- 5-17 25. Will we be compensated for missed work when the road is blocked by trucks and other traffic that would otherwise not be there and hasn't been even when the resort has been open or closed for that matter?
- 5-18 26. How will all of the extra lighting effect our nighttime view, our homes and the habitat for all of the wildlife?

*Joe Payson 4-24-18*

## **Response to Letter #5 - Judy and Frank Berti; Joe and Misty Panziera (April 24, 2018)**

1. The commenter is concerned about increased traffic, getting out of their driveway safely, and accidents occurring if no safety improvements are made.

Refer to the discussion of *Roadway Safety and Proposed Offsite Road Improvements* in Master Response 5: Traffic.

2. The commenter states that Paraiso Springs Road is not standard (less than 18 feet wide), has limited sight distance and blind curves, and the project would add 20-50 times more traffic. They also state that they own half the roadway adjacent to their property and ask if road owners will be paid per vehicle for vehicles exceeding the predictions.

The commenter is correct that the pavement width of Paraiso Springs Road varies from less than 16 feet immediately east of the project site where the entrance is located to 20-22 feet near Clark Road. The existing conditions, safety issues, roadway improvements to address these issues, and additional traffic are addressed in the Section 3.12 and Appendix K, Traffic Analysis Report (Sections 6 and 7) of the RDEIR. Also refer to the discussion of *Roadway Safety and Proposed Offsite Road Improvements* in Master Response 5: Traffic.

Regarding road ownership and compensation for traffic exceeding predictions, refer to Master Response 6: Road Ownership, Right to Intensify Road Use, and Compensation.

3. This comment demonstrates a concern with impacts to the commenter's well and neighbor's wells. The RDEIR describes the environmental setting related to groundwater and water use in sections 2.2 and 3.8.2. The RDEIR describes the proposed use of water for the property in Chapter 3.8, and specifically addresses groundwater use and drawdown effects on wells and springs serving neighboring property (see note in response to Letter 12, Number 1) in Section 3.8.4, specifically in the discussions related to Impacts 3.8-4, 3.8-5, 3.8-6, and 3.8-7, as well as in section 3.11.5 related to Impact 3.11-2. Thresholds of significance related to hydrology and groundwater are identified in section 3.8.4. At buildout, net consumptive water use for the proposed project is estimated to amount to 15.5 to 17.8 acre-feet/year, whereas average annual groundwater inflow to the Paraiso Springs Valley Basin is estimated to be between 700 and 750 acre-feet/year (Todd Groundwater, 2018, Page 40). Potential environmental effects on Salinas Valley groundwater levels, wells, and springs in the area are described in Impacts 3.8-5, 3.8-6 and 3.8-7, respectively (RDEIR pages 3-248 through 3-252). Each of those was determined to have a less than significant environmental effect.

The RDEIR addresses potential cumulative effects on groundwater and hydrology in RDEIR Chapter 4.0. Potential impacts to hydrology have been identified as potentially significant (Short-term Erosion and Water Quality - Impact 3.8-1, Long-term Surface Water Runoff - Impact 3.8-2, and Long-term Surface Water Quality - Impact 3.8-2), so mitigation measures have been incorporated that reduce potential impacts to a less than significant level. Potential impacts to groundwater and hydrology topics of Long-term Water Supply (Impact 3.8-4), Effect on Salinas Valley Groundwater Levels (Impact 3.8-5), Well Interference (Impact 3.8-6), Potential Spring Impact (Impact 3.8-7), and Groundwater Water Quality (Impact 3.8-8) were found to be less than County of Monterey

significant. Impact analysis and conclusions related directly to this comment are addressed in these discussions found in the RDEIR.

The Monterey County Water Resources Agency staff and staff from the Monterey County Environmental Health Bureau have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-1, -4 through -10, -12, -20, -21, -22, -23, -25, -26, -30, -32, -33, -34, -38, and -39, in the Todd Groundwater document found at the end of the responses to Letter 10.

#### Panziera

4. The commenter states that they own to the middle of the road and that only one car has come and gone each day since they lived there. They also ask if they will be compensated for the excess traffic from the resort, and how adding 399+ cars is not a significant change.

Regarding existing traffic conditions and the significance of increasing traffic volume, refer to the discussions of *Existing Traffic Volumes* and *Significance of Increased Traffic Impact* in Master Response 5: Traffic.

Regarding road ownership and compensation for excess traffic, refer to Master Response 6: Road Ownership, Right to Intensify Road Use, and Compensation.

5. This comment relates to wells running dry or water quality issues from project use. See Response to this Letter, Number 3, above.

The RDEIR describes the technical studies that have been prepared, which determined that project water use would not cause wells to run dry (RDEIR Impact 3.8-6, Well Interference, pages 3-249 through 3-251; RDEIR Appendix H, and errata to RDEIR Appendix H found at <http://www.co.monterey.ca.us/home/showdocument?id=62723>). The technical reports prepared for the project use sampling and modeling techniques to predict off-site effects of project water use. The technical study explains, as does the RDEIR on pages 3-250 and 3-251, that potential effects on off-site wells were calculated using model simulations. The model was calibrated using site-specific soil borings and modeling conservatively calculated any drawdown, as it overstated the pumping by more than six times the actual pumping rate needed to supply the project (RDEIR page 3-250, second paragraph). The analysis indicates the potential for impacts to nearby wells from a decline in standing water level is not potentially significant. Therefore, no mitigation is necessary.

6. This comment states that their house is closer to the road than cited in the RDEIR.

The project traffic study calculates that daily trips would be 406; the County will require that the project, if approved, be limited to 406 trips per day, averaged annually. The analysis of that level of traffic on neighboring property has been addressed in Chapters 3.9 (Land Use), 3.10 (Noise), 3.12 (Transportation and Traffic), and Section 4.5 (Cumulative Impacts).

Impact 3.10-1 analyzes the potential impact of the project on groundborne vibration and determined that the effect would be less than significant. Reducing the distance from the road for this residence from 30 feet to 26 feet would result in a vibration level below the threshold of 0.25 in/sec PPV identified in the discussion on RDEIR pages 3-296 and 3-297. The groundborne vibration identified for the heaviest vehicles at 25 miles per hour is 0.014 in/sec PPV at five feet from the edge of the travelled roadway (RDEIR Appendix I, Illingworth and Rodkin, 2016, page 17). The text will be modified in the Final EIR to reflect the 26 foot distance; however, the conclusion related to the potential impact being less than significant does not change.

Errata

*Modify the first sentence of the first full paragraph on 2018 RDEIR page 3-297 to read as follows:*

Homes on Paraiso Springs Road are situated as close as ~~30~~ 26 feet from the edge of the roadway.

*Add the following after the second sentence of the first full paragraph on 2018 RDEIR page 3-297:*

The groundborne vibration identified for the heaviest vehicles at 25 miles per hour is 0.014 in/sec PPV at five feet from the edge of the travelled roadway (RDEIR Appendix I, Illingworth and Rodkin, 2016, page 17).

*Please refer to Section 4.0, Changes to the Recirculated Draft EIR.*

7. This comment is concerned with their well being affected by the project. Increased groundwater use is not expected to increase fluoride concentrations in the groundwater. Groundwater pumped for project use will have the same concentration of fluoride as the groundwater. That pumped water will be treated, but any wastewater from fluoride treatment will be hauled off site or blended back into the recycled water storage reservoir for use in landscape irrigation. From a quality standpoint, this blending would simply return fluoride that was originally in the groundwater basin. This would not change the groundwater quality that remains in the aquifer. Therefore, no changes in groundwater fluoride concentration would occur as a result of project operations. See Responses to Letter 5, Number 3; Letter 7, Numbers 35, 41, and 42; and Letter 8, Number 6.

The Monterey County Water Resources Agency staff and staff from the Monterey County Environmental Health Bureau have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-6 through -10, -15, -16, -21, -24, -25, -26, -27, -29, -30, -31, -32, -33, -34, -36, -38, and -39, in the Todd Groundwater document found at the end of the responses to Letter 10.

8a. This comment relates to an increased risk of accidents from traffic increases.

See Master Response 1. Traffic safety is not an environmental impact. If a lack of safety were to be found by the County, road improvements could be required. Those improvements would be subject to environmental review. In this case, the County has identified no additional safety improvements beyond those proposed as part of the application. All project-proposed road improvements have been analyzed in the RDEIR and mitigation measures have been added to ensure that no significant environmental effects would occur from that construction (RDEIR Chapters 3.2, 3.3, 3.5, and 3.12).

8b. This comment asks why a subdivision is needed. See Master Response 1. Subdivision of commercial property is typically done for financing purposes. Timeshare units also have legal descriptions prepared, typically using a condominium map, which is a subdivision (Government Code Section 66424). The inclusion of a subdivision for this project, which is included in the project description in Section 2.4, has been analyzed as part of the project.

8c. The commenter asks if they will be compensated when cars crash into their yard, and if they are willing to put up safer fencing around their property.

County of Monterey

Regarding compensation for car accidents in their yard, refer to Master Response 6: Road Ownership, Right to Intensify Road Use, and Compensation

The commenters' request for safer fencing around the property is noted and will be forwarded to decision makers (see Master Response 1). However, it is the County's standard practice to monitor road safety and accidents. If the County were to find a safety issue from traffic in the area, additional safety improvements, could be warranted.

8d. This comment asks how noise problems will be addressed. Noise related to project construction, operation, and off-site impacts was analyzed in RDEIR Chapter 3.10. Mitigation measures for Non-Transportation Operational-Related Noise (MM 3.10-3) and for Short-term Construction Noise (MM 3.10-4) were identified to reduce impacts to less than significant levels. This chapter was based on the September 8, 2016 *Paraiso Springs Resort Environmental Noise Assessment* report prepared by Illingworth and Rodkin, Inc. (RDEIR Appendix I), which is part of the consultant team hired by the County of Monterey for environmental review.

8e. This comment asks whether the project would be open to the public and how people will know its status before they get to the site. The resort will be open to the public after reconstruction. Many of the resort amenities will be accessible only to those staying overnight, but other portions will be open to the public, as described in the General Development Plan filed with the application (Thompson Holdings, LLC, *Paraiso Springs General Development Plan*, 2005; in project file PLN040183 at Monterey County RMA-Planning).

9. This comment is concerned with increased risk, evacuation, and compensation if a fire occurs. Any cars traveling along the public road that start a fire would be liable, as traffic along any county road would be, and insurance would provide coverage for any losses.

For on-site fire protection, the applicant and Cal Fire developed a Preliminary Fire Protection Plan (see RDEIR: Project Description, pages 2-55 through 2-56 and Figure 2-13). In addition to the infrastructure that was included in that preliminary plan, vegetation (fuel) management within and along the edges of the project have been included in the project description and analyzed as part of the project's potential environmental impacts (2018 RDEIR pages 3-75, 3-76 through 3-77, 3-81 through 3-85; Table 3.3-5, Additional Project Impacts to Vegetation Types due to Wildland Fuel Management Requirements; Figure 3.3-3, Defensible Space Vegetation Loss; Impact 3.7-6, Potential for Wildfire Hazards at the Project Site, 2019 RDEIR pages 60 through 62). Also see response to Letter 10, Number 2, and to Letter 18.

An updated Fire Protection Plan, which also included an Evacuation Plan, was developed and analyzed in the 2019 Recirculated Draft EIR. Potential impacts were identified for the following topics:

- Impact 3.7-6, Substantially Impair An Emergency Responses Plan/Emergency Evacuation Plan,
- Impact 3.7-7, Exacerbate Wildfire Risks, Which May Then Expose Occupants to Pollutant Concentrations From A Wildfire or Uncontrolled Wildfire Spread,
- Impact 3.7-8, Exacerbate Wildfire Risks Due To Infrastructure, and
- Impact 3.7-9, Increased Risk Associated with Runoff, Post-Fire Slope Instability, or Drainage Changes.

Mitigation Measures have been included that will reduce the potential impact for each of these topics to a less than significant level. The Mitigation Measures identified have been clarified and

amplified, in response to comments, as described in responses to Letter 20, Numbers 24 and 28, and to Letter 23, Number 5. While the Mission-Soledad Rural Fire Protection District has approved the Fire Protection Plan attached to the 2019 RDEIR, a final Fire Protection Plan will be required as part of the project approval process, in addition to any additional conditions of approval proposed from the Mission-Soledad Rural Fire Protection District prior to construction. The Fire Protection Plan addresses emergency ingress and egress. Also see Master Response 8.

10. This comment is concerned with flooding impacts from construction on the project property. A drainage plan is required as part of the project conditions of approval pursuant to county code requirements. All stormwater above the pre-development discharge level is proposed to be captured and detained on site through the use of low impact development (LID) methods and/or a detention basin, as described on RDEIR page 2-54. If any flood activities occur off site, it may be a result of a failure or a storm event beyond the county-required design criteria to limit the 100-year post-development runoff rate to the 10-year pre-development rate. Any compensation would be a result of insurance claims, if covered by the applicable insurance policy. See Responses to Letter 8, Number 7, and Letter 12, Number 24.

The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-33, -34, -35 and -36, in the Todd Groundwater document found at the end of the responses to Letter 10.

11. This comment asks if they will be compensated if their well is contaminated and if water information will be sent to them regularly. The recycled water system will require ongoing monitoring and reporting in accordance with a site-specific individual Waste Discharge Requirements for the production of the recycled water issued by the Regional Water Quality Control Board in coordination with the State Water Resources Control Board – Division of Drinking Water, as well as with State Water Resource Control Board Order WQ 2016-0068-DWQ, Water Reclamation Requirements for Recycled Water Use and the results could be obtained from that agency. Regarding compensation, see Master Response 1.

The Monterey County Water Resources Agency staff and staff from the Monterey County Environmental Health Bureau have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-6 through -10, -24, -25, -27, -29, -30, -31, -33, -36, -38, and -39, in the Todd Groundwater document found at the end of the responses to Letter 10.

12. The comment requests the location of well information and questions the significance of a lowering of the water table at their and their neighbor's wells. The RDEIR discusses the basis for the 0.5 feet drawdown conservatively predicted for the nearest well, located 0.7 mi from the project wells. The estimate is based on a groundwater flow model calibrated using data from on-site boreholes as well as water levels measured at the main project well. Even accounting for the 0.5 feet of predicted drawdown, pumping water levels are expected to remain above the well screen (Todd Groundwater, 2018, page 31; RDEIR pages 3-250 and 3-251).

The Monterey County Water Resources Agency staff and staff from the Monterey County Environmental Health Bureau have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-1, -7, -10, -12, -13, -14, -16, -17,

County of Monterey

-20, -21, -22, -28, -33, and -34, in the Todd Groundwater document found at the end of the responses to Letter 10.

13. This comment questions why the creek is dry, and the RDEIR description of the location of their well. Tributary creeks to the Salinas River are typically ephemeral and may be dry most of the year, despite large quantities of groundwater in storage. This is the case in the Paraiso Springs Valley, as discussed by Todd Groundwater, 2018, page 9. See Master Response 1.

Below the hot spring (known also as “Soda Spring” and “Paraiso Spring”) the flow rate is estimated to be 0.07 cfs, an amount that may not be apparent without close inspection. See RDEIR, Section 3.8, page 3-245 as well as in Todd Groundwater, 2018, page 9. RDEIR page 3-220 specifically includes the following statement: “flow from the hot springs percolates entirely into the creek bed within the project site.” Therefore, downstream of the site, the stream flow becomes groundwater unless the stream has excess flow from recent precipitation.

The Monterey County Water Resources Agency staff have reviewed the information provided by the applicant’s hydrogeologist and concur with the text found in response BHgl-8 found in the Todd Groundwater document at the end of the responses to Letter 10.

In regard to well distances from the resort, well distances are measured from the project pumping well to the off-site well and not from the edge or middle of the resort.

14a. This comment asks if tow trucks will be on site and alludes to inevitable accidents. See Master Response 1. Tow trucks will not be located on site. Accident frequency, analyzed in the RDEIR on pages 3-339 through 3-341, and in Table 3.12-4, show that expected accident frequency on Paraiso Springs Road, Clark Road, and at two nearby intersections at project build out would be less than the statewide average accident frequency rate and that road safety improvements beyond those proposed are not needed. Potential environmental impacts related to all proposed improvements are determined to be less than significant or less than significant with mitigation (RDEIR Impact 3.2-1, Impact 3.3-1, Impact 3.3-2, Impact 3.3-3, Impact 3.3-5, Impact 3.5-3, Impact 3.5-4, Impact 3.6-5, Impact 3.7-1, Impact 3.7-2, Impact 3.8-1, Impact 3.8-2, Impact 3.8-3, Impact 3.10-1, Impact 3.10-2, Impact 3.10-4, Impact 3.11-4, Impact 3.12-2, and section 4.5). Proposed roadway improvements are expected to further lower the accident frequency rate than the predicted data presented in Table 3.12-4, as explained on RDEIR page 3-341.

14b. This comment questions how they can propose development on ridges and slopes. See Master Response 1. The County has a permit process to develop on ridgelines and steeper slopes with many permits issued every year. See full discussion in Chapter 3.1, Aesthetics and Visual Resources, particularly in sections 3.1.3 and 3.1.4, and analysis for Impact 3.1-1 (pages 3-9 through 3-24). Also see discussion in Chapter 3.9, including policy discussions in Table 3.9-1 on pages 3-263 and 3-264.

14c. This comment questions how the employees will be screened to exclude pedophiles and criminals. See Master Response 1.

14d. This comment is concerned with criminal activity increasing in the area. See Master Response 1. The Sheriff has identified that no new sheriff facilities are needed to provide law enforcement support to, or as a result of, the project (RDEIR section 3.11.5, Comment Letter 16, and responses to Comment Letter 16). Mutual aid requests are also handled from nearby cities when needed.

15. This comment asks how wildlife will be handled during construction. Potential impacts to wildlife species are identified in Chapter 3.3. Mitigation measures have been included in the RDEIR to address potential impacts to wildlife species. All potential impacts have been found to be less than significant with the inclusion of the identified mitigation measures (pages 3-80 through 3-104; Mitigation Measures 3.3-2a through 3.3-2e, Mitigation Measure 3.3-3, Mitigation Measures 3.3-4a and b, and Mitigation Measures 3.3-6a through c).

16a. This comment asks how dust will be controlled during construction and operation. Dust impacts are analyzed in Chapter 3.2, Air Quality. In particular, the Impact Analysis for this chapter addresses construction and operational emissions, including dust generation, on pages 3-41 through 3-49. Mitigation Measure 3.2-1, related to short-term construction emissions, has been included in this chapter to address dust impacts that could create significant impacts. The mitigation measure includes standard best management practices provided by the Monterey Bay Air Resources District to ensure that dust is sufficiently suppressed to meet air quality standards, which are established to protect the public health (MBARD, 2017, *2012-2015 Air Quality Management Plan*, page 6).

16b. This comment questions where the EIR is for construction and road improvements. The RDEIR analyzes the potential environmental impacts from construction and road improvements, on site and off site (see RDEIR Impact 3.2-1, Impact 3.2-2, Impact 3.2-3, Impact 3.2-6, Impact 3.4-1, Impact 3.12-2, and section 4.5).

16c. This comment asks if a water truck will be used. Yes, or a soil treatment equally effective at dust suppression (RDEIR page 3-43). Mitigation Measure 3.2-1 requires watering active disturbance areas.

17. This comment asks if neighbors would be compensated if they miss work due to road construction or traffic. See Master Response 1. The County will require that traffic be accommodated while road construction occurs, as is done throughout the County for any road construction project. Some delays may occur, but notice of upcoming construction would be provided along Paraiso Springs Road; the road will not be blocked for long periods. Roads will not be blocked by project operations, as described in RDEIR Section 3.12.5.

18. This comment asks how nighttime views and wildlife would be affected by project lighting. The facility will have interior and exterior lighting that will increase lighting in the area. The County will be requiring a lighting plan, prior to issuance of permits, that meet California Code of Regulations Title 24 requirements and that shield light sources from public viewing areas, such as Paraiso Springs Road, Clark Road, Arroyo Seco Road, and Highway 101 (RDEIR pages 3-24 and 3-25). Lighting effects on neighbors will depend on the neighbor's location and topography or the amount of vegetation between the facility and the neighbor's location. Lighting is required to be directed or shielded to only illuminate the intended area, so off-site light effects would be based on indirect lighting from interior lighting or diffused light from outdoor light fixtures. Diffused light is "a soft light with neither the intensity nor the glare of direct light. It is scattered and comes from all directions. Thus, it seems to wrap around objects. It is softer and does not cast harsh shadows." (<https://sciencing.com/diffused-light-5470956.html>). No change is made to the conclusion found in Impact 3.1-2, Increase in Light and Glare—less than significant with standard condition of approval. See also Responses to Letter 7, Numbers 1 through 5, Letter 8, Number 1, and Letter 10, Number 5.

**Letter #6 – Judy Berti (April 25, 2018)**

1 /2 pages

# 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

Salinas, California 93901-4527

(831)755-4800

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## LETTER OF TRANSMITTAL

TO: Mike Novo, AICP DATE: April 25, 2018  
FROM: Lois Panziera for Judy Berti TELEPHONE: (831) 678-9557 Judy Berti  
PROPERTY ADDRESS: 34358 Paraiso Spr. Rd., Soledad, CA 93960  
418-361-064-000 418-381-021-000  
A.P.N.: 418-361-009-000 418-381-022-000 PERMIT #: PLN 040183  
NAME OF PROPERTY OWNER: Thompson Holdings

PURPOSE OF SUBMITTAL: Questions and comments on R.F.I.R  
for the proposed development.

PLEASE LIST ALL ITEMS ATTACHED: Picture of overturned vehicle  
with Fire Truck that responded to accident Dec 2, 2017  
at 34352 Paraiso Spr. Rd., Soledad, CA 93960

COMMENTS / INSTRUCTIONS: Please attach to comment letter  
delivered 4/24/2018

RECEIVED BY: [Signature]





FLN040 183

Accident at 34352 Paraiso Spring Rd., Soledad, CA  
Blocking road and my driveway at 34355 Paraiso  
Spr. Rd., Soledad, CA Date: Dec 2, 2017

RECEIVED  
APR 25 2018  
MONTEREY COUNTY  
PLANNING DEPARTMENT

**Response to Letter #6 – Judy Berti (April 25, 2018)**

1. This comment letter provides a request to attach this information to letter 5, Berti. See Responses to Letter 5, Numbers 1 and 2.

**Letter #7 - Lois Panziera (April 25, 2018)**

1 /45 pages

# 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

## LETTER OF TRANSMITTAL

TO: Mike Novo, AICP DATE: April 25, 2018  
FROM: Lois Panziera TELEPHONE: (831)648-2815  
PROPERTY ADDRESS: 34358 Paraiso Spr. Rd., Soledad, CA 93960  
418-361-004-000  
A.P.N.: 418-361-009-000 418-381-022-000 PERMIT #: PLN 040183  
418-381-021-000  
NAME OF PROPERTY OWNER: Thompson Holdings

PURPOSE OF SUBMITTAL: Written Comments on Paraiso Hot Springs Project

PLEASE LIST ALL ITEMS ATTACHED: Cover page, 43 pages of questions and comments

COMMENTS / INSTRUCTIONS:

RECEIVED BY: [Signature]



COMMENTS, RESPONSES & QUESTIONS

To the

Paraiso Springs Resort Draft Environmental Impact Report

State Clearinghouse #2005061016

PLN040183

April 25, 2018

Prepared for

Mike Nova, Senior Planner

Monterey County Resources Management Agency

Planning Services

1441 Schilling Place

Salinas, CA 93901

Prepared by

Lois Panziera

33821 Paraiso Springs Rd.

Soledad, CA 93960

(831) 678-2815

(831) 595-1994 (831) 595-1993

lpanziera@hotmail.com

PLN040183



**REIR COMMENTS-Edward and Lois Panziera, 33821 Paraiso Spr. Rd., Soledad, CA**

**(831) 678-2815 (831) 595-1993 (831) 595-1994 lpanziera@hotmail.com**

**Pg. 1-43**

**PROJECT IMPACTS**

Impacts to the Existing Visual Character and Its Surroundings due to Intensity of Road Usage

7-1 Paraiso Springs Road is part of the scenic viewshed for 5 homes located close to the roadway. One home at 34352 Paraiso Springs Road was cut off from a larger parcel and sits 26 feet from a sharp turn just below the resort. This is approximately .23 miles from the resort entrance. In the REIR the nearest homes are said to be "approximately one mile from the project site" but three homes are actually within .25 miles not "approximately 1 mile away." Berti's 34355 Paraiso Springs Rd. and Ed Panziera's 33821 Paraiso Springs Rd. 3-24

Since my husband and I lived at 34352 Paraiso Springs Rd. from 1980 to 2005, no more than 25-30 cars traveled into the resort passing our home on what would be considered a busy day with no nighttime traffic. There were very few motor homes coming to the resort and only approximately 20 people lived there full-time.

Nighttime Headlight Glare

7-2 How many vehicle trips will be made between dusk and dawn and how will headlights affect the nighttime sky for residents living along the roadway?

**The increase in vehicle traffic will change the scenic viewsheds of these residents to a significant level.**

7-3 Further reduction in traffic with the additional shuttles, carpooling, and bicycle use will help to mitigate the significant change to the viewshed for neighbors along Paraiso Springs Rd. However, no bicycle or pedestrian paths are included and the shuttle vehicle reduction plan will most likely begin after phase 1 and is not enforceable without a County Monitoring Program. How will the loss of a natural viewshed be mitigated when what once was a seldom used roadway is turned into a steady stream of numerous vehicles including large buses, shuttles, tanker trucks, and passenger vehicles?

Resort Lighting

7-4 Lighting at the resort also will change the environment for wildlife as well as neighbors. One light 3 miles away at McEntyre's Office on Arroyo Seco Rd. creates glare and obstructs the nighttime view from my home at 33821 Paraiso Springs Rd. (Brightest light on the left, April 14, 2018). Any similar lights at the Paraiso Springs Resort would create the same obstruction and glare for those citizens living or traveling along Arroyo Seco Road.

How much additional lighting will be used for the amphitheater and other outside event areas? How will these lights affect the nighttime sky for properties in the vicinity?



McEntye Office on Arroyo Seco Rd. with light on left in the foreground obscuring the night sky.

- 7-5 Gallo Vineyard by Clark Rd. also had a glaring light, but the building it was attached to burned down and so no longer is an obstruction. Who will monitor the excessive use of light for this project?

### **Section 3.2: Air Quality**

4-7 The MBUAPCD CEQA Guidelines indicate that projects that reduce intersection level of service to LOS E or LOS F may result in localized increases in Carbon Monoxide concentrations at those intersections.”

- 7-6 With the substantial increase in traffic and the suggested reduction in speed due to congestion and the dangerous curve at 34352 Paraiso Springs Rd., hazardous carbon monoxide emissions will most likely increase creating a “hot spot” in this area. This could become a significant health risk for the 5 children who live 26 feet from the roadway at that address.

What kind of filters do the developers plan to place along the roadway to reduce the release of harmful carbon emissions at this intersection/piece of roadway? One traffic jam at this sharp narrow curve could lead to a significant increase in emissions.

Will the shuttles be electric to reduce the amount of hazardous carbon emissions?

Will there be a metering light so that traffic doesn't congest around 34352 Paraiso Springs Rd. and cause dangerous levels of carbon emissions to accumulate at that location?

- 7-7 5-5 “Short-term air quality impacts are associated with construction activities (e.g., earthmoving vehicles)...” It is expected to take 10 months to construct Phase 1 of this project working 6 days a week from 7 a.m. to 7 p.m. What will the time gap be between all the project phases?

How will this construction affect air quality for the residents who live below and adjacent to the resort?

How many months and years will this project take to be completely built?

7-7  
(cont.)

What are the health impacts for the neighbors during this lengthy construction time with the massive excavation of the site?

What will this multiple year construction project and the reduction of air quality do to the values of neighbors' homes?

Will the air quality around neighboring homes be monitored for excessive dust and pollutants during construction and continuously monitor for "hot spots" of excessive traffic emissions?

7-8

With more vehicles traveling further than in the past, how will these added emissions be mitigated?

### **Section 3.3: Biological Resources**

7-9

How will the 19 protected oaks around 34352 Paraiso Springs Road along the roadway be preserved so that their dripline's aren't affected by the heavy weight and increase in volume of vehicles being driven so closely to their roots?

How will this development affect the territories of large wild predatory animals such as mountain lions who live in the area? Will they be caught and relocated, or destroyed?

7-10

Here are several pictures of some of the mountain lions adjacent to the resort property.



7-11

3-86 "All structures within the project site shall be surveyed with the exception of the house trailers, fire equipment room, and the main pump house."

Why are these structures excluded from bat surveys?

7-12 How will the resort respond to complaints from guests about bats swooping into their hot tubs at night? Will these bats be caught and relocated, or destroyed?

7-13 There is a large wild pig population in the area, how will these pigs who dig up lawns and cause damage to landscaping be dealt with? Will they be caught and relocated, or destroyed?

### **Section 3.4: Climate Change**

In 2003 when the resort was closed, guests staying there at the time have claimed that they were given one day to move and that the structures were bulldozed with all the appliances still inside. My husband and I heard the bulldozing but didn't dream that anyone would be destroying historic structures.

7-14 Where are the records proving that the disposal of appliances, (e.g. Refrigerators), from the illegally torn down cabins and historic Victorian cottages, was done legally?

If no proof of appropriate disposal of this hazardous waste, what kind of fine or mitigation will be required?

Will there be fireplaces in any of the residential units, lobby, or anywhere else at the resort site?

How many fireplaces?

How many vehicles will be making trips to the resort hauling firewood?

7-15 Will fireplaces be electric in order to reduce emissions and reduce wildfire hazards?

Will guests be able to BBQ using pits next to their residences? What kind of restrictions will there be on the use of open fire pits or outside barbecuing?

### **Section 3.5 Cultural Resources and Historic Resources**

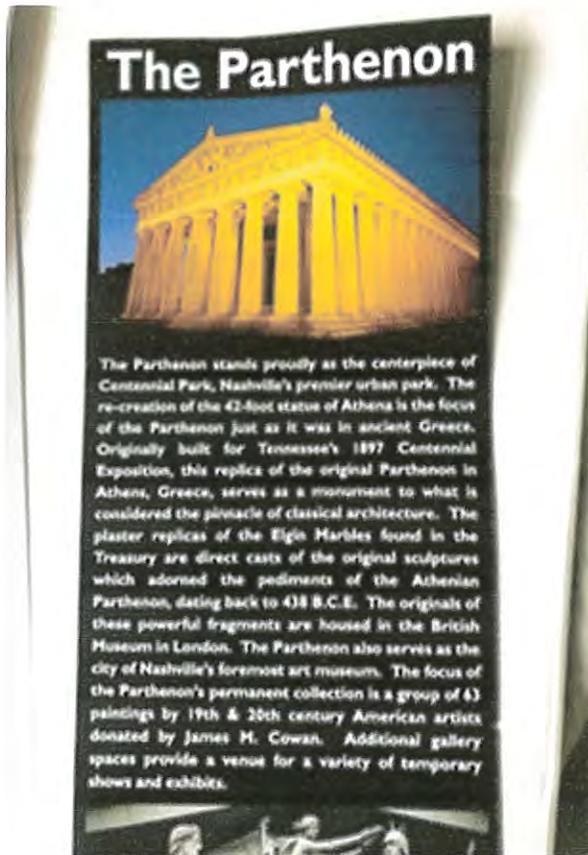
7-16 3-133 "In 2005, the County prepared and circulated for public review an initial study/proposed Mitigated Negative Declaration for the after-the-fact demolition permit." "County received a comment letter from the state Office of Historic Preservation (SHPO), which requested preparation of an EIR based on the contention that 'the illegal demolition occurred in order to facilitate the resort project with new construction' and therefore the whole of the action includes the unpermitted demolition." (Letter dated June 29, 2005 to Therese Schmidt.) To the extent that plans were underway for a resort on site at the time of the demolition, the use of the predemolition baseline is justified for analysis of the impact on historic resources."

5-6 "...impacts to historic resources cannot be mitigated to a less than significant level due to the "historic resources cannot be recreated, this would be considered a significant and unavoidable impact..."

7-17 According to the EIR, the historic cottages cannot be recreated so the point is "moot". But actually, these historic resources could be recreated just as parts of our California Missions have been rebuilt in order to accurately depict history. These historic resources could be rebuilt just like a full-scale replica of the Greek Parthenon was in Nashville, Tennessee.

Why are these developers not being expected to rebuild the 9 cottages that have been deemed individually historically significant?

What kind of precedent does it set for other historical resources to be torn down or degraded by developers who want to build on the top of them?



7-17  
(cont.)

Why is the rebuilding of the historic cottages not a mitigation for their illegal demolition?

How is a "grant of up to \$10,000 to assist with cataloging, displaying and archiving of the resources; and design and creation of a digital historic display..." enough mitigation for the loss of the real history of the resort being a Victorian-era Resort, not a Spanish-era Resort?

One mitigation for the illegal demolition of these priceless historical resources was for a visitor center to be maintained at the resort allowing the public access.

7-18 Where exactly will the visitor center be and will the public have access or only "timeshare resort guests" be able to view the real history of the resort?

**Emergency Fire, Ambulance, and Law Enforcement Services**

**3-315 Monterey County General Plan**

**Policy 17.3.3 “The County shall require all new development to be located within the response time of 15 minutes from the fire station responsible for serving this parcel. If this is not possible, on-site fire protection systems (such as fire breaks, fire retardant building materials, and/or water storage tanks) approved by the fire jurisdiction must be installed or development may only take place at the lowest density allowed for the parcel by the General Plan.”**

7-19

What is the highest number of people who could be at the resort at one time?

What would be the lowest density of people for all parcels in this proposal as allowed by the General Plan or The Central Salinas Valley Area Plan?

Monterey County

3-216 “Response times from the nearest fire station would be approximately 15 minutes.”

The closest fire department to the resort is in Soledad 8 miles away.

How would all the shuttle, tanker, delivery trucks, and passenger vehicle traffic as well as possible accidents with the varying widths of the roadway, little shoulder, few if any turn around areas, affect the response time of emergency vehicles?

7-20

What are the Fire Department’s standards for roadway width and turn arounds needed to serve the Paraiso area and resort?

3-314 According to the Monterey County General Plan: “In no case shall a roadway be less than 12 feet wide.” At least one area on Paraiso Springs Rd. is 14.2 ft. directly below the resort by 34352 Paraiso Springs Rd. ( Appendix O, Hatch McDonald).



In 1995, only a few people stayed at the resort and were evacuated due to mud slides by the Soledad Fire Truck. The only reason these Paraiso Resort guests could be rescued and pass 34352 Paraiso Springs Road was because the occupants of that house had a 150 horse scoop loader keeping mud off the road which at one time was 2 feet high. These mudslides occurred when no clearing of brush had been done. With all the clearing of vegetation to build this mammoth project and the additional clearing necessary for fire protection, how will the chances of erosion, increased run off and mudslides be mitigated?

What is the evacuation plan for the new resort?

7-21

If the resort residents couldn't evacuate via Paraiso Springs Rd. because the road was impassable as it has been several times in the past due to mud, accident, or a downed power line, how would the residents survive a large wildfire or other natural disaster? How would this large population so far from services get enough food and/or water to survive if a prolonged outage or road closure occurred?

Even with all the measures to deal with structural fires, a large population of people would need to be evacuated in the case of a large wildfire.

Given the limited road access to the resort, if the resort residents shelter in place during a large wildfire, what would the risk be for smoke and heat related injuries and death?

Soledad Fire District has responded to this proposal recommending that a fire substation be build on the site with 2 full-time firefighters. (Attached John Kesecker, Letter dated August 28, 2013)

7-22

How many security personnel will there be for each 100 persons at the resort? How much additional security will be on-site for special events?

Will security at the resort be armed?

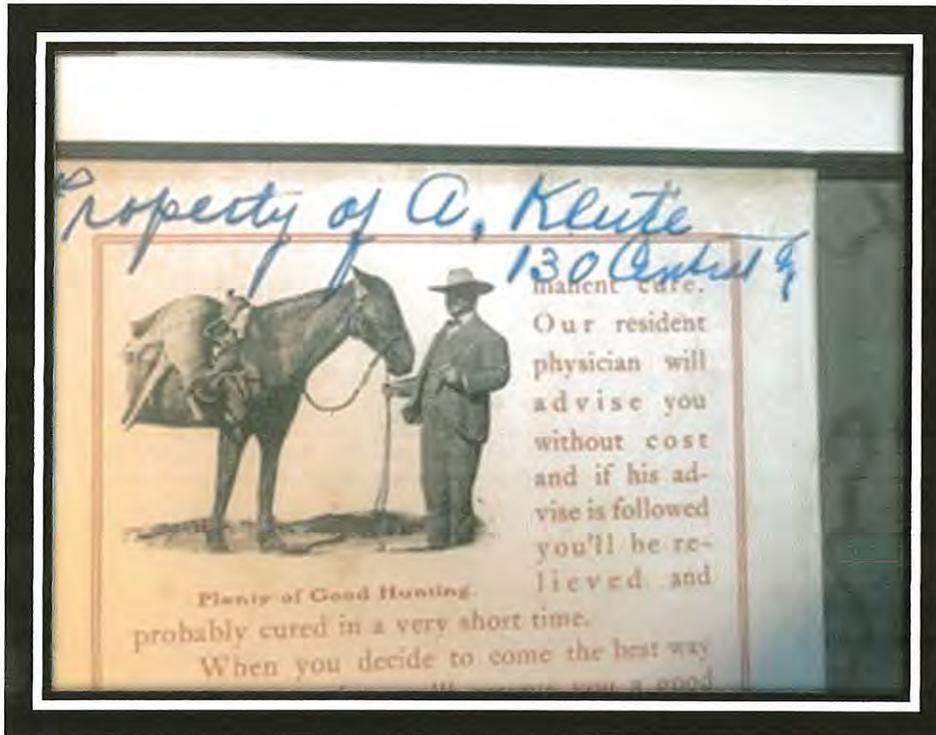
7-23

How will this mega resort with a large population of people in a remote area of the county affect the limited resources of the county's Sheriff Department?

What is the estimated response time of the Sheriff Department if an incident occurs given our sheriffs could be as far away as Parkfield, over an hour away?

7-24

Given Paraiso Spa Resort is advertising itself as a health resort, it could be assumed that there may be a number of people with health problems staying at and visiting the resort. Wouldn't an on-site physician be needed for such a large group of people so far from healthcare of paramedic services and in order to reduce the strain this project will have on the existing emergency services of the county?



Taken from Brochure, "Paraiso Hot Springs, The Carlsbad of America"

### Section 3.6: Geology and Soils

3-186 "According to the National Flood Insurance Program Map (Federal Emergency Management Agency (FEMA 2009), the project site is not located within a special flood hazard area. However, localized flooding of the project site did occur in March of 1995 as a result of channeling the drainage into a culvert of insufficient diameter. Debris in the form of brush, rocks, and sediment clogged the culvert and caused the drainage to overflow, resulting in significant damage to the road and pools at lower elevations."

7-25

During this flood, a handful of guests at the resort were evacuated by the Soledad Fire Truck which got stuck in the mud in front of 34352 Paraiso Springs Rd. The residents at 34352 Paraiso Springs Rd. used a scoop loader to clear the roadway of mud so the Paraiso guests could be evacuated.

During this flood, a drainage ditch on the Berti property adjacent to Paraiso Resort plugged up and then let a torrent of mud and water loose to flood Paraiso Springs Road at the 34352

Paraiso Springs Rd. residence. It caused so much mud to flow over the road that it left a large amount of debris on their patio and filled up their planter areas with mud.

How will drainage ditches offsite be monitored so as not to flood the roadway?

3-234 "The maintenance of the on-site drainage facilities, including detention ponds, shall be the responsibility of a homeowners' association or other similar entity, where applicable, and provisions for annual inspection and maintenance shall be included in the conditions, covenants and restrictions."

Does a timeshare community usually have a homeowner's association? Who exactly in the homeowner's association will be able to provide the expert advise on how to deal with all the run-off and drainage problems caused by the resort?

7-26 Usually property owners in homeowners' associations have to meet once a year; how will that happen for a timeshare community or is there an intent to sell these condos as permanent residences? If this plan includes the option to sell units as permanent residences how will that change the environmental impacts?

How would a homeowner's association deal with the need for ongoing assistance from engineers to deal with the maintenance of drainage, slope management, the sewer waste treatment plant, and the alumina process and shipment of waste off-site?

3-195 "The proposed project includes grading of approximately two million square feet with cuts and fills essentially in balance. The fill heights range from a maximum of approximately 14 feet, with the highest fills needed to construct the main hotel complex and adjacent Hamlet, and the roadway leading to the western most cluster of condominiums. The depth of cuts generally is less than 10 feet though out the site. However, deep cuts of up to 25 feet are required for the parking area south of the hamlet and the adjacent roadway. Significant retaining walls or upper slope benching will be required in this area. (CH2Hill 2005c, pages 1-2).

How will all this excavation and filling affect the amount of water that flows down or alongside the roadway and residences during construction as well as during operation of the reconstituted resort?

Will the parking lots and roadways at the resort be slanted away from the east side of the resort property to prevent massive amounts of run off from running down Paraiso Springs Rd.?

Grapes are not allowed to be planted on slopes over 30% and are removed when they are, why would condos be allowed to be built on these steep slopes?

7-27 3-199 )."Zinn Geology observed the presence of angular schist boulders (very large rocks) and cobbles in the sandy matrix which is indicative of long transport distance from the bedrock outcrops upstream, as well as rapid deposition in a high velocity hydraulic environment (i.e. debris flows or debris torrents)."

7-27 (cont.) With the massive reconstruction of the resort's geological subsurface, how will future debris flow and debris torrents be prevented?

**Section 3.7: Hazards and Hazardous Materials**

3-210 According to Appendix G of the CEQA Guidelines, a project may create a significant environmental impact if it would: "Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials; Create a significant hazard to the public or the environment through reasonable foreseeable upset and accident conditions involving the release of hazardous materials into the environment;...Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands."

7-28 How many other resorts or subdivisions utilize tanker trucks to haul off sewer waste? If the sewer tanker truck, that has to make one trip a day to a hazardous dump site, is unable to access the resort during a natural disaster or roadway blockage, how many days would it take at 100% occupancy for the sewer plant to overflow and contaminate neighboring wells, springs, and properties and cause an environmental hazard?

3-212 In order to reduce the fluoride level in the drinking water at the resort, the alumina process would be used. "The activated alumina process would result in generation of a waste stream equal to about 5% of the water usage that is high in fluoride and aluminum." If this can't be added to the reclaimed water for irrigation, there will be "one tanker trip per day taking effluent to the regional plant."

7-29 How large would this tanker be and will other cars/or large vehicles be able to safely pass this tanker going the opposite way?

What are the health risks for people being exposed to this effluent?

7-30 3-211 "Acid and caustic soda would be delivered to the site in 275-gallon totes: the totes would be stored on site and provided with secondary containment." 3-212 "The amount of materials stored on site will require the project to be permitted as a hazardous material handler and submit an inventory and business response plan."

How will the alumina process and the reclaimed water from the sewer plant affect neighboring wells, springs, and runoff? It's not clear in the REIR how much water is wasted using the alumina process; is it 5% or 14% or more? How expensive is this process per year? With such a huge development isn't it necessary to drill a well on-site that actually provides uncontaminated, pure drinking (potable) water that doesn't have to be treated for impurities?

7-31 Will neighbors and guests be warned when these hazardous chemicals are being transported along the narrow roadway?

How will the transport of hazardous chemicals along the narrow windy roadway to the resort increase the dangerousness of the roadway?

What will the response time for Hazmat Teams to arrive at the remote area of Paraiso if one of these hazardous chemical delivery trucks or the effluent tanker has an accident and spills these toxic chemicals and hazardous waste on the roadway by neighbors' residences?

7-32

Will there be an emergency response team on call 24/7 to notify neighbors of any leaks in the totes or roadway spills given 3 residences are ¼ mile away from the resort and 13 residences are near the roadway (Highway 101 to Paraiso Springs Rd.)?

3-215 "No schools are located within a quarter mile of the project site. Therefore, the proposed project would not emit or handle hazardous materials within a quarter mile of an existing or proposed school."

7-33

But, 5 children do live 1300 feet from the project and 26 feet from the roadway at 34352 Paraiso Springs Rd. They deserve as much protection as the wildlife and plant life do in the area.

What additional safety measures will be taken in transporting and handling these hazardous materials within a quarter mile of the residence with young children, two of which are toddlers?

### **Section 3.8: Hydrology and Water Quality**

Since 2003, the small creek behind 34352 Paraiso Springs Rd. stopped running year around as it did in the past. This spring was fed by the overflow of Paraiso hot spring water. According to the former owner, Marge Perrine, the daily hot water spring overflow was approximately 56,000 gallons a day. This overflow of spring hot water fed the wetland on Gallo's property below the resort and the mall creek behind 34352 Paraiso Springs Rd. Appendix 1118 pg. 5 of 5 Soda Springs hot water produces 30-40 gallons per minute at 115 degrees in temperature.

#### **Runoff**

Appendix Todd Groundwater, 4.3 August 2017 "A reach of the creek channel in PSV has perennial flow created by discharge from the hot springs. "...the small discharge (30-40 gallons per minute, or about 0.07 cubic feet per second) percolates entirely into the creek bed over a wetted reach that extends to approximately the downstream boundary of the property."

7-34

Appendix pg. 1436 See Photo 6 Main drainage channel with no water draining from the Soda Springs overflow.

Where has this water been diverted? What impact has this diversion of water affected the recharging of springs and wells in the area?

Why are there missing pages to the Appendix 4 of 5 RDD/102030005 (NLH2406.us) Table-Paraiso Resort 1 Water Calculations 5 of 5 then the document goes to pg. 8 Paraiso Springs Resort-Estimated Potable Water Demand and Potable Water Sources Table 2?

3-243 "The water drawn from the potable water wells meets water quality standards except for fluoride. An additional 1.9 acre-feet per year would be pumped to operate the fluoride removal facility (Todd Groundwater, 2018, Table 4; identified as "Water treatment backflush").

Appendix pg. Fluoride in Well #2 is 8.8 mg/L, 4x the legal limit for drinking water (potable water). 3/20/2012

Appendix pg. 1222 Wells 1 and Well 2 are both said to be "potable" but unless the costly process involving toxic chemicals and 5% to 14% water waste being sent to a toxic waste site in the county daily is not correct.

Appendix pg. 1246 Wallace group reports the treatment of the non-potable water will cause a loss of 5% more water and the AdEdge Report for every 1000 gallons treated, 140 gallons of waste will occur which is a 14% loss of water. Which figure is correct? Please clarify?

7-35 Will the water expected to be consumable at the resort need to be treated in any other way (ie. Chlorination), and if so what for and with what chemicals and with what kind of toxic waste or loss of water?

If the cost of treating the high fluoride is found to be unfeasible, will potable water be trucked in and by how many trucks, what size trucks, and how many a day?

Will the county use eminent domain to obtain easements though the property of neighbors in order to pipe potable water to this mega resort?

What is the layout of the drinking water treatment center?

What percentage of the water for consumption by the resort residents and guests does not have to be treated for too high of a fluoride contamination?

Appendix pg. 1233 Well #1 has a "high level of bicarbonates" 220 mg/L. It is expected to "require greater quantities of acids and bases to overcome the bicarbonate present."

Appendix pg. 1232 The "anticipated service life between regeneration is expected to be a least 3x greater for #1" well. What is the expected service lives of Well 1 and Well 2? Where is the next drilling site located to replace either of these wells?

Where are the well test records that should be posted by the Monterey County Health Department showing the water quality of the resort's wells 1 and 2? Why are these water quality records not up to date?

3-250 "The project site is in a very lightly populated area. The nearest irrigated agriculture located about one mile east of the project site, and nearly two miles from the project potable well sites; residential wells are located within 1.2 miles from the project's wells."

Neighbors' wells are actually closer to the projects' wells. Joe Panziera's well is .4 mi. from Paraiso Resort wells (1100 feet downhill from the Resort's Sewer Plant)

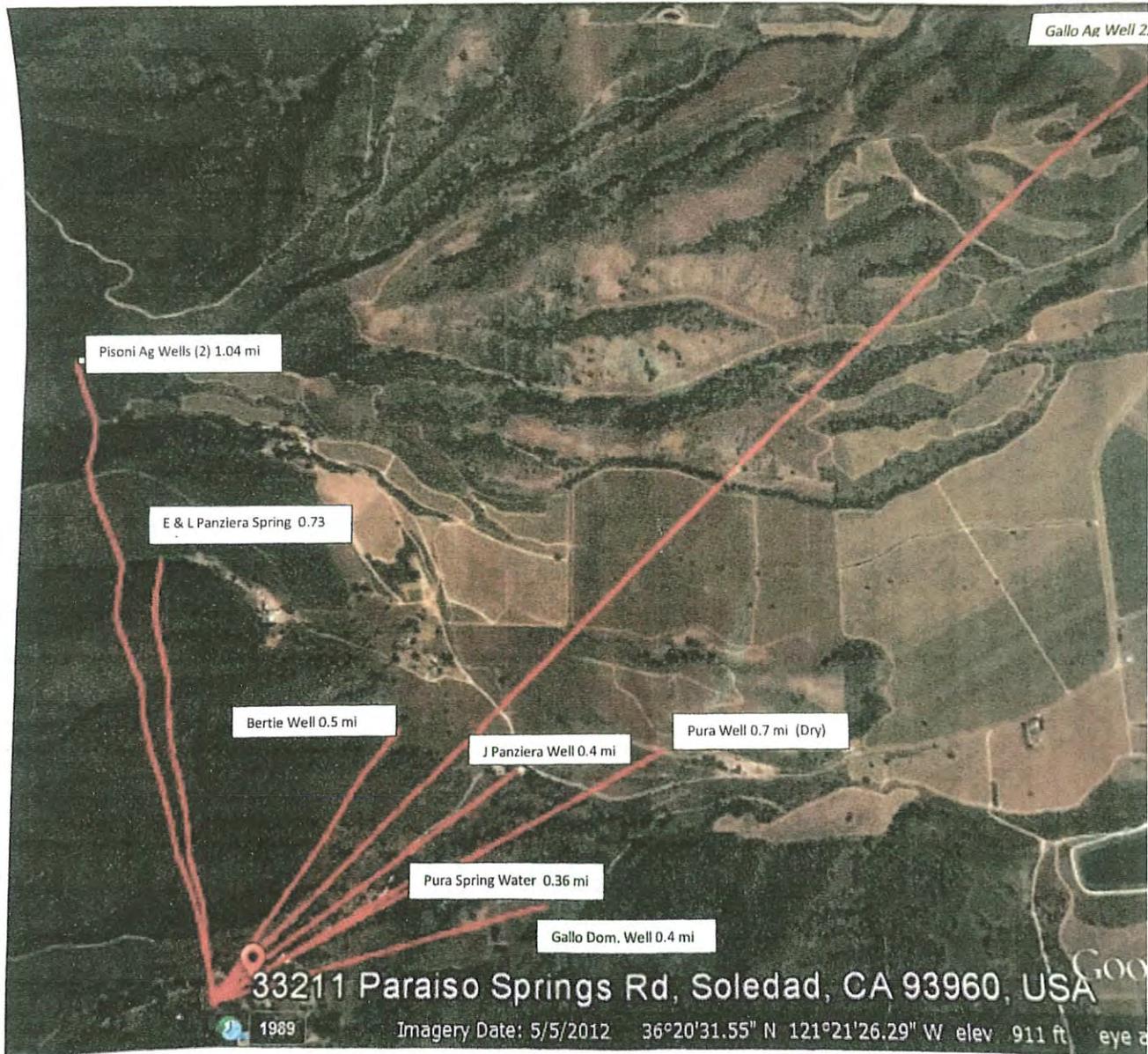
7-35  
(cont.) Berti's .5 mi. Ed Panziera's spring .73, Pisoni Ag wells (2) 1.04 mi, Pura dry well .7 mi, Pura spring water .36 mi, and Gallo domestic well .4 mi.

Why are the neighbor's well distances consistently being inaccurately measured?

3-244 "The wells and property are in an area of ample groundwater supply; with a high water table, even after five years of drought, a subbasin (Forebay) that periodically has surplus water (compared to a 1944 base level) inflow from natural causes, and the capacity for substantially higher sustainable well pumping rates than the project needs."

7-36 Where is the proof of this statement? None of the Paraiso neighbors have excess water and Gallo has to pump water for their 700 acres of grapes from 3 miles down Paraiso Rd. due to the wells they drilled being full of boron.

## Paraiso Area Wells and Springs



3-202 How can residents below the sewer plant be sure that the “sewage treatment or reclamation is not allowing sewage effluent containing greater than six mg/1 nitrate-nitrogen to percolate into the groundwater and (that) a nitrate monitoring program is approved by the Director of Environmental Health?”

If the nitrate monitoring program is approved, who will be responsible for monitoring it?

7-37 Will the resort pay the cost of testing neighboring wells and springs as part of this monitoring program?

Will neighbors be consistently informed of the changes in the groundwater quality at the resort which could affect the quality of water in their wells and springs?

MM 3.11-2 ES38 "Final water system improvement plans shall identify any necessary rehabilitation of Well No. 1 and Well No. 2 to increase longevity and efficiency..."

7-37 (cont.) Given that the well providing drinking water for the resort is contaminated with fluoride, why haven't the developers drilled a new well that will not require the intense chemical alumina process?

Shouldn't the development be stopped until adequate pure drinkable water is found?

What is the backup water source if Well #1 and Well #2 can't keep up with demand?

4-13 Water levels in neighboring wells will decrease by .5 feet and springs will also likely be affected by the resorts increase in water use.

7-38 What right does any for profit entity have to reduce the water levels in neighboring wells and the flow in springs?"

**3-250 "Drawdown would significantly impact a neighboring well if it lowered the static water level below the top of the well screen or lowered the pumping level enough to decrease the well pumping rate."**

**If no data has been collected on the wells and springs in the area, how can a determination of NO SIGNIFICANCE be found?**

7-39 Even though the resort owner pays "Zone 2C assessments", would this actually be a "fair share contribution toward these groundwater management projects" when the developers' project is introducing a large population of people into the county to make a profit?

4-13 The resort "water demand of up to 42.9 acre-feet per year, resulting in a modeled net water use of 15.5 acre-feet per year, or 17.8 acre-feet per year if supplemental water is needed for wetland mitigation, flowing from the property to the aquifer (a 2.1% decrease relative to existing flow conditions from the site to the aquifer) (Todd Groundwater, 2018), is considered less than significant." The "net water loss would accrue long term to the regional aquifer, not the local basin under the site."

Then why, would the project affect springs and lower well water by ½ foot in nearby wells?

7-40 Nearby areas such as Sycamore Flats in Arroyo Seco already have experienced Sulphur intrusion in their wells so the water isn't potable and their homes smell of rotten eggs. With this drawdown in the water table and the huge increase in water pumping, how long would it be until the Paraiso Springs resort and neighbors experience Sulphur intrusion into their water sources?

"The Todd Groundwater 2018 report points out that groundwater storage within the local basin would equilibrate to the new stresses and not continue to increase or decrease over the long run (section 8.2.2).

7-41 Does this mean that neighbors already short of water would not receive the benefits of additional rain in the future that would normally replenish existing wells and springs increasing their available water?

5-9 "The proposed project would use treated wastewater for irrigation. Evaporative concentration of irrigation water, and evaporation from the ornamental pond could increase total dissolved solids (TDS)

in the groundwater; the use of certain types of water softening equipment could increase calcium carbonate levels in groundwater to a level that could exceed drinking water standards. Resort operations could affect water quality by increasing salinity.”

7-41  
(cont.)

Will each condo and villa have its own water softener? Will each condo have laundry hook-ups? Will the condo owners be using biodegradable detergent to reduce waste water treatment?

If so, who will monitor the use of filters that won't increase calcium carbonate levels in the groundwater?

Will the developers be responsible to pay for well testing of neighbor's wells and springs to make sure that the resort's use of treated wastewater and water softening filters doesn't increase the total dissolved solids so as to make their drinking water undrinkable?

7-42

5-18 “The water supply for the proposed project currently exceeds the public health standard of 2.0 mg/l for fluoride”.

How will the over drafting of water at the Paraiso site affect the fluoride levels in neighboring wells?

How will the use of the alumina process affect neighboring wells and their water quality?

2-18 The project will include a “wastewater treatment plant with approximately 4 million gallon underground wet-season storage reservoir set on a gravel bed to allow aquifer pass through;...”

What are the dimensions of this 4 million gallon storage reservoir and how will it affect the replenishing of water to the Pura spring and nearby wells because the storage reservoir itself will not be permeable and will interrupt the historical permeation flow to these nearby water sources?

#### Water Balance

3-241 Impact 3.8-4 “A water balance was prepared for the project by Todd Groundwater;...”

7-43

“The balance was conducted to determine “whether changes in the water balance could impact local wetland habitats, neighboring groundwater users, and water resources of the overall Salinas Valley” (Todd Groundwater, 1018, section 8).”

**“As stated in the analysis, the project “would alter numerous aspects of the water balance. Impervious surfaces and irrigation would change the amount of rainfall recharge, irrigation return flow would become significant, consumptive use by irrigated vegetation and evaporation from water features would increase, as would groundwater pumping: (section 8.2)”.**

Shouldn't the project be reduced in size and scope, and reconfigured so that it doesn't affect rainfall recharge and so that it won't affect neighbors' wells and springs?

## 5-8 Well Interference

### 10.1 POTENTIAL IMPACT: LOSS OF YIELD AT NEIGHBORING WELLS AND SPRINGS (Todd Groundwater, August 2017) pg. 28

“Groundwater pumping at the two Project supply wells would lower water levels in the vicinity of the wells. This drawdown decreases with distance but could extend down the valley beyond the eastern Project boundary, where there are at least five residences supplied by on-site domestic wells or springs within 0.7-1.2 miles of the Project supply wells.” The well at Joe Panziera’s home at 34352 Paraiso Springs Rd. is 1100 ft. from the entrance of the resort. Where is the detailed map of all the wells and springs with accurate measurements? With inaccurate distance measurements, how can neighbors access the accuracy of the projected draw down’s of ½ foot. Could the drawdown’s to neighboring wells be greater than the expected ½ foot and if so, how much greater?

**5-15 “Implementation of the proposed project would lower water levels in nearby wells. Calculations show that water levels would be reduced by up to 0.5 feet in the closest well, which could affect that well’s pumping rate by .27 percent.” This well is located on an acre parcel at 34352 Paraiso Springs Road and does not have enough area to drill a new well if Paraiso Resort confiscates ½ of this well’s water.**

How is this fair to neighbors and their rights to water?

#### **The Joe and Misty Panziera Well at 34352 Paraiso Springs Rd., 1300 feet from resort**

Although this would not affect the capacity of the well, it could and would affect the amount of water in the well because it would be lowered ½ of a foot and if there is no water there anymore the pump will be pumping air, not water. In the drought of 1989, when a neighbor drilled a new well for his grapes, this well went dry for 2 weeks. The water sources in this area are inter-related. When this well came back, it only had a foot of water so if the resort confiscates a ½ foot of this well’s water, this well could lose total function. **It is unacceptable, that a for profit private resort, whose owners maintain that their project’s water use is insignificant, would propose an increase in water use that is calculated to “lower water levels in nearby wells”.**

**5-8 “Effects on wells at greater distances would be less than 0.5 feet lowering of the water table,...”**

7-44

**Exactly how much lower will the water table be for wells further from the resort?**

**Even an inch reduction in the water table is significant when it is caused by the intensified development of a property.**

**It is stated that no data for nearby wells or springs exist. Appendixes pg. 28 “Well logs are not available...for potentially impacted wells.”**

No data was requested from neighbors. Wells are said to be 200-400 ft, but the closest is only 110 ft. The other closest well, the Berti’s, is approximately 800 feet deep.

In assessing whether there is adequate water for a project of this scope, where is the data on all attempts to find potable water at the resort site, how many wells have been drilled and how much water was found?

7-44

(cont.)

How many wells and springs have gone dry in the area in the last 50 years?

Maybe, more water will be diverted from neighbors' springs or wells than calculated, then who will be supplying these homes and properties with water?

**Potential Spring Impact**

5-8 "Implementation of the proposed project would lower water levels in the water table, which could affect flow from the spring that supplies water to neighboring property. The construction of an underground storage tank for treated wastewater could interrupt the flow of water to the springs."

5-9 Ensuring that the sewer tank "is constructed on a base that allows aquifer transmissivity" wouldn't necessarily prevent its interference with the flow of water to the spring. It could also interfere with the flow of water to the Panziera well that is only 110 feet deep and sits 1100 feet below this proposed sewer pond.

The measurement of flow to the Pura spring has been done during a drought period, how do we know that this spring didn't produce double or triple in a period of higher rain?

7-45

Where does the Pura spring's flow originate and how close to the surface is it?

Where does the Eddie Panziera's spring's flow originate?

If these water sources can't be tracked to where they originate, how can the hydrologists actually know what the impacts of this project will be?

How will all the compaction and excavating affect nearby wells and springs?

Will the resort create a water company and provide free water to neighboring properties when their wells and springs dry up due to the resort's over pumping?

The base of the sewer tank will "allow transmissivity" for the Pura spring, but the sewer tank itself will not be permeable so it will block ground water which supplies the spring and possibly the Joe Panziera and Berti wells.

If it is important to put a base on the sewer tank that allows "transmissivity" to the Pura spring, wouldn't it also be necessary to put a similar base on all the buildings built on the site so that groundwater is not disturbed?

How close can a sewer plant be to a drinking water source such as the Pura spring and the 34352 Paraiso Panziera and Berti's wells?

7-46

Where is the environmental health review of this location for the sewer pond with its proximity to springs, wells, and residences?

What is the resort's decontamination plan if their sewer plant and storage tank leaks due to age or natural disaster and neighboring wells and springs become contaminated (considering that four fault lines could impact the proposed project area)? 3-175

**4-11 “The 2010 Monterey County General Plan Final Environmental Impact Report identifies that impacts to groundwater quality and the indirect effects from future water supply projects would be cumulatively considerable. In addition, the document identifies significant and unavoidable impacts for 1) exceeding capacity of existing water supplies for year 2030 and buildout, 2) secondary impacts from increased demand for storage, treatment, and conveyance for 2030 and buildout...”**

7-47

The year 2030 is less than 12 years away and this project could have a significant impact on the water available to the entire area of Paraiso Springs Road. The county already changed wasteland to grazing and then to farming allowing Gallo to plant over 700 acres of grapes just southeast of this project, building a large dam, and pumping water from 3 miles down Paraiso Springs Road to water these grapes, and Pisoni’s planting 200 acres of grapes just northeast of the project on what was all unirrigated in the past.

What will the cumulative affect of the vineyards’ water use and the proposed project?

In the San Luis Obispo area, the irrigation of grapes has depleted neighbor’s wells? (Attached news article, “SLO residents irked at wine growers”, Salinas Californian, Sept. 3, 2013)

What is the county’s long-term plan for residents to be able to maintain their wells and spring water?

### **Section 3.9: Land Use and Planning**

**3-141 “Paraiso Springs was part of 20 acres of land that was granted to the Spanish Padres by the King of Spain in 1791.”**

How is it that the resort was 20 acres in size and now parcels are being joined making it over ten times larger than it was historically (235 acres, approximately 50 buildable)?

The property owner, Thompson Holdings, have made a request to the county to change the zoning of four parcels they own in the resort area. (Exhibit B, #152) The acres of the REIR is 235 but the requested acres to change is 274.9.

The existing land use for these parcels:

418-361-004-000 157.88 acres zoned PG40/VO/F 40,  
418-361-009-000 40 acres  
418-381-021-000 77.27 acres zoned VO/F 40  
418-381-022-000 .49 acres zoned VO

7-48

Current zoning for these parcels is Farming/40 acre minimum for a home, Visitor serving/Professional Office, and Pasture Grazing/40 acre minimum for a home).

**2-19, Exhibit B The developers, the Thompsons, have made a request to change the zoning of four parcels noted above to Visitor Serving/Professional Office from farming and grazing with a 40 acre minimum for a home to be built. Given the Thompsons also want to have all 17 timeshare villas on separate lots and refer to this part of the proposal as the “residential portion”, shouldn’t the Thompson’s have to submit a proposal to the county for a “subdivision” instead of a “visitor serving development because it is highly likely that these villas will be sold as homes for permanent residents.**

**EXHIBIT B**  
**PROPERTY OWNER REQUESTS - 2006 GPU**

REQ #	AREA PLAN	PROPERTY OWNER	EXISTING LAND USE	OWNER REQUEST	BOARD 11/2002	2006 GPU CHANGE	PC RECOMMENDATION	APN	AREA (Ac.)
136	GS	Bondesen-Smith (Brian Finegan)	F/40	LC, MDR/2 to MDR/20	Retain F/40	N/A	No Change. Apply UR designation if LAFCO approves change to sphere of influence to include subject property		
151	GS	Tavernetti	F/40; RC/40	LC or HC	Commercial	HC	Change from F to HC	002-881-031-000	2.8
152	CSV	Thompson Holding	F/40, VO, PG/40	VO	Expand Comm and STA to include all request parcels	STA- Policy CSV-1.1	AMEND STA - change to include requirement for GDP (418-361-004, 418-361-009, 418-361-021, 418-361-022)	418-361-004-000; 418-361-009-000; 418-381-021-000; 418-381-022-000	274.9
155	GS	Wilson	F/40	Cottage Industry	Retain existing & create new STA (with #19, 95, & 128)	Study Area- Espinosa Road Policy GS-1.11	Part of Espinosa Road Study Area	253-012-051-000	2.6
156	T	Amaral	F/40-D	LDR/5	Apply STA to allow 4-lot subdiv	LDR/5	Provide LU designation to allow subdivision to 4 parcels	139-091-015-000; 139-091-016-000	22.7
173	T	Merrill & Gheen	F/40-D	LC, HDR/5	Mixed Use, add parcel S. of Reservation Rd to Toro RC	STA - Policy T-1.7	Change LU from F to STA (mixed use) and include in Toro RC boundary.	161-011-074-000	28.0
192	GS	Anderson	F/40	AI or HI	AI	AI	Change from F to AI	137-061-018-000	20.7
197	CSV	Elliot, Robert & Marilyn	F/40	AI	Matrix, but not 2002 list	AI	Change from F to AI	137-101-006-000; 137-101-016-000	9.4
202	CSV	Harris, Succs	F/40	HI	Defer to Pine Canyon CP	HI	Change from F to HI	221-181-003-000	13.1



2-19 #4 "Standard Subdivision (Vesting Tentative Map) to allow the merger and resubdivision of the site's parcels of 157.88 acres (Assessor's Parcel Number 418-361-004), 77.27 acres (Assessor's Parcel Number 418-381-021) and 0.49 of an acre (Assessor's Parcel Number 418-381-022) into 23 lots, recorded in phases, as presented in Table 2.1, Project Features by Lot.

Why would this project need to be subdivided into 23 lots if it is proposed to be one resort?

Will these lots be allowed to sell as separate entities or homes in the future?

2-19 Table 2.1 Project Features by Lot

**Table 2.1 Project Features by Lot**

Lot No.	Use	Acreage
1	Hotel, Hamlet, Spa, Fitness Center	214.44
2	Wine Pavilion, Vineyard	6.69
3-19	17 Timeshare Villas	4.38
20	20 Timeshare Condominium Units	3.79
21	12 Timeshare Condominium Units	1.97
22	14 Timeshare Condominium Units	2.24
23	14 Timeshare Condominium Units	2.42
	<b>Total</b>	<b>235.93</b>

Source: Preliminary Vesting Tentative Map, HG Architects, 7/15/05, revised 5/18/12.

The project will be developed in phases, as described in Table 2.3 later in this

The 17 timeshare villas would be on 4.38 acres on separate lots of approximately .25 acres each.

The Central Salinas Valley Area Plan, pg. 101 "High Density Residential is defined by the Countywide General plan as having a range of 0.2 acres per dwelling unit to .05 acres per unit, or a range from more than 5 units per acre to 20 units per acre." How would this development conform to the Residential Land Use Plan of the Central Salinas Valley Area Plan?

Given the density of residences (17 on .25 acre parcels/lots) proposed for the Paraiso Resort Project, wouldn't this development be more accurately described as a multi-family high density residential project?

7-48  
(cont.)

With 103 hotel rooms, 60 2 and 3 bedroom condos, and 17 three to four bedroom residences/villas all on 50 acres at the Paraiso site, the area will become a remote bedroom community far from full sewer treatment facilities, public transit, and emergency fire and ambulance services. It will also have an inadequate water supply for a residential subdivision in a remote area of the county.

7-48 Would the separation of these villas serving single families be sold as single family residences?

(cont.) What would prevent these timeshare villas from being sold separately once they're built in a 40 acre minimum area of the county?

How many years will the county mandate that this project remain a "timeshare" community before individual lots and condos can be sold as permanent residential housing?

4-2 "Redevelopment of the planning area to support intensified urban uses including a hotel, spa and fitness center and timeshare units, is regarded as a permanent and irreversible change. Grading, utility extensions, new and improved roadways, and construction of additional structures at the project site would change the character of the project site to one that is significantly more urbanized than current site conditions. The proposed project would generally commit future generation to similar intensified urban uses within the project site."

Why should Paraiso residents who have lived in the area for decades have to have their quiet rural country community turned into an urban center?

4-2 "Growth inducing impacts can also result from substantial population increase, if the new population may impose new burdens on existing community service facilities, such as increasing the demand for service and utilities infrastructure and creating the need to expand or extend services, which may induce further growth?"

7-49

Exhibit B, pg. 5 of 8 Request #152, CSV Area Plan, by Thompson Holding, is to amend the Special Treatment Area of Paraiso Hot Springs Resort to expand Commercial and Visitor Serving/Professional Office zoning to four parcels totaling 274.9 acres eliminating the 40 acre minimum for individual homes.

This would change this project from visitor serving "vacation homes" to permanent residences. Therefore, this project would either have an impact on the transient population and/or the permanent population affecting schools as well as all other county resources.

3-319 "The proposed project would result in an increase in the transient population within the project site. No standard residential homes are proposed with the project." So what would the "residential" part of the project be referring to other than the 17 individual parcels for single family villas or otherwise known as homes be for? How would the county prevent the subdivision of parcels at the resort from being sold off individually as homes?

3-261 "Therefore the proposed project would not divide an established community. There is no impact." Actually, this small community is established around farming and livestock and involvement with Mission 4-H. The proposed private resort will pit farmers and livestock owners who want roadways to be less hazardous for farm laborers and the movement of livestock against vineyard growers who want development and increased wine sales.

7-50

When hot tubbing timeshare owners take the limited water of nearby residents and flood the road with traffic volumes never experienced before limiting residents' access to their homes, don't you think this community will be divided?

How does the proposal support the wine corridor if only resort guests get use the tasting room?

7-50  
(cont.)

Pg. 12 Hatch Mott MacDonald "Later phases of the project include a small visitor's center near the entrance of the facility, providing guests with information regarding shuttle tours and other area amenities. As it is for exclusive use by guests and will be staffed by resort employees, its trip activity is already accounted for elsewhere in the overall trip generation estimate." So essentially, the "public" will not have access to the visitor's center but may come up Paraiso Springs Rd. to visit the center, but they will be turned away by the security guard at the gate. Trips will be added to the roadway for the "public" who expect to be able to visit the Paraiso Hot Springs Resort Visitor's Center only to find out that the center is only for residents or guests staying at the resort. How does this conflict with the county's plans to have a visitor serving resort?

### **Section 3.9: Noise**

Impact 3.10-3 ES-36 "Loud and unreasonable sounds are those that exceed 45 dBA Leq (hourly) or a maximum of 65 dBA at or outside the property boundaries of the project site." Nighttime noise will be limited between 10 p.m to 7 a.m.

7-51

Given the developers only want to add an advisory sign that the road narrows and that the suggested speed is 15-25 mph around the dangerous curve in front of 34352 Paraiso Springs Road can't be enforced, how can the noise levels caused by traffic be determined to be insignificant?

Because the advisory sign suggesting 15-25 mph around the curve by 34352 Paraiso Springs Road can't be enforced, vehicles will be driven faster than this will generate more and louder noise. This could be significant.

Will this resort be adult only or will it be allowing children on the site?

Are the basketball courts and racquetball courts indoors or outdoors?

How will noise from a large number of playing children be reduced?

7-52

How will noise complaints for individual residential units and for the resort itself be handled?

Will fines be issued for individual guests and their units and/or the resort itself?

Will there be a neighborhood advisory panel that administers these citations for the guests and for resort management include neighbors not owners of timeshare properties?

7-53

Will a noise ordinance be put in place similar to the one in the City of San Luis Obispo that puts residents on a no warning list after one noise warning and then subsequent violations result in a \$350 fines to the guests and to the resort administrators. The second violation results in a \$700 fine for the violator and for the property owner, and the third results in a \$1000 fine for each. The fourth noise violation in a 9 month period can lead to the revocation of the rental permit.

ES-36 Impact 3.10-3: "Operation of the proposed project would result in an increase in noise levels at the project site." The closest residence is 1300 feet, 34352 Paraiso Springs Rd., away from the Sewer Plant, Enhanced On-Site Treatment Center. This residence "(adjacent to sound level measurement LT-2)".

7-54 3-297 If according to the developers, traffic levels will remain the same, then how would the operation of the new resort increase noise levels? "Considering the existing conditions, project traffic would be expected to result either in no change or an increase of up to 3 dBA in the existing noise environment at the homes along Paraiso Springs Road." "Additionally, the sound levels produced by project traffic would not exceed the levels considered normally acceptable for residential use by the Monterey County General Plan. Therefore, the impact associated with the proposed project's increase in traffic noise levels would be considered a less than significant impact."

7-55 3-286 The Illingworth and Rodkin Study measured ambient noise for a 24 hour period in 2016 across from 34352 Paraiso Springs Rd. Conclusions from this 24 hour study makes claims about "Long Term" ambient noise at the project site and vicinity. Unless these measurements were taken on a day when Pisoni's vineyard tractor was operating at night, it is hard to believe that the noise level at this residence didn't decrease significantly during the nighttime hours with no traffic on the roadway due to the closure of the resort.

Shouldn't a study that makes long term conclusions, take measurements for a longer period than 24 hours given that if a tractor is running in the area on that particular day or night (which doesn't happen often) the study could be skewed?

7-56 The residence at 34352 Paraiso Springs Rd. will be 2300 feet from the proposed amphitheater.  
How will the noise from that amphitheater be monitored?

5-17 "Development creates short-term noise impacts from the operation of construction equipment and on-term noise impacts from increased vehicle traffic and operations."

7-57 Construction noise from 7 a.m. to 7 p.m. 6 days a week for 10 month out of a year for several years is a long-term noise impact.

How can construction operations for a 10 month period for 6 days a week from 7 a.m. to 7 p.m. for several years to get to buildout be considered a "short-term" impact?

7-58 5-17 The developers claim that there will not be an increase in traffic, so how will there be "long-term noise impacts from increased vehicle traffic and operations"?

**3-286 Table 3.10-1 Project and Vicinity Ambient Noise Measurements (Long-Term)**

7-59 LT-2 "On a utility pole on the opposite side of Paraiso Springs Road from the closest residence to the project site" Day L eq (dBA) 37-56 Night L eq (dBA) 36-50 L dn 52 8/10/16 to 8/11/16 12:00 PM-12:00 PM

Note: Leq-Average Hourly noise Level shown as ranges during the day and night, Ldn-Average Day-Night Noise Level

3-290 "Residential uses are normally unacceptable in areas where CNEL exceeds 70 dBA, and conditionally acceptable within 60 to 70 dBA."

### 3-291 Monterey County Noise Control Ordinance

"The Monterey County Noise Control Ordinance prohibits the operation of any device within 2,500 feet of any occupied residential dwelling that produces a noise level exceeding 85 dBA at a distance of 50 feet from the source (County Code, Chapter 10.60, County of Monterey 1988)."

7-60

3-293 "Automobile and other light vehicle traveling at 15 to 25 miles per hour typically produce sound levels of between 51 to 59 dBA at 50 feet. Parking lot activities such as engine starts, door slams and low speed vehicle movements typically produce maximum sound levels ranging from 53 dBA to 63 dBA at 50 feet."

Given the home at 34352 Paraiso Springs Rd. is 26 feet from the roadway not (30 as stated in the REI), what will be the average nighttime dBA given the various vehicles using the roadway?

3-295 "Long-term noise impacts would be considered significant if operational noise generated by the project created a substantial increase in ambient noise levels that exceed the County's General Plan Land Use standards of 60 dBA Ldn at noise sensitive single family residential uses in the site vicinity. A substantial increase would occur at the residences if: a) noise level increases is 5 dBA Ldn or greater, with a future ambient noise level at the residence of less than 60 dBA Ldn; or b) the noise level increase is 3 dBA Ldn or greater with a future ambient noise level at the residence of 60 dBA Ldn or greater."

7-61

"The County Code (Section 10.60.030) restricts noise from mechanical equipment to 85 dB at 50 feet from the source if it operates within 2,500 feet of an occupied residence. Construction noise would be also considered significant if noise from construction activities would exceed 60 dBA Leq and the ambient noise environment by at least 5 dBA Leq for a period of greater than one year or more at exterior areas of noise sensitive uses in the project area. For projects within Monterey County, the duration and intensity of construction noise may be regulated by time limits on grading and other heavy equipment operations (County Code Section 16.08.140)

3-296 "The nearest existing structures to the project construction area are more than 1,300 feet from the closest site work areas."

7-62

3-298 "The closest adjacent sensitive noise receptor is the single family home on Paraiso Springs Road east of the site. This home is located approximately 1,300 feet from the easternmost (closest) proposed project facility, identified on the project drawings as the Enhanced On-Site Treatment Center (wastewater plant), and 2,300 feet from the proposed amphitheater stage and pavilion. Other residences to the east and north are significantly further distant from the project facilities as shown on Figure 3.10-2.

"Operational noise from the closest project facility, day use and overnight guest activities would attenuate to sound levels of 42 dBA or less at 1,300 feet away, the closest residence to the project site."

3-299 "Amplified wedding (or similar type even) Music" Noise Level at 50 Feet 72 dBA,

Distance Needed to Attenuate Noise Level to 45 dBA=1,125 feet.

Will the resort hold special events such as weddings for the public or solely for timeshare owners? What is the maximum number of people allowed at these special events?

7-63

What will the cut off times for these events be?

Where will parking for these events be?

What will the restrictions for noise be for these special events?

3-301 "The nearest residence may be exposed to noise levels above 60 dBA eq during the construction of roads, buildings, and other features located within the northeastern to eastern area of the project site."

What will be done to reduce the dBA at this residence given the length of construction and that this residence is the home of two toddlers and three other children"

3-302 "The project developer/applicant shall designate a "disturbance coordinator" to be responsible for responding to any concerns or complaints about construction noise."

7-64

Will there also be a county monitor to assist with the enforcement of noise reduction and construction period time limits?

Given this is a rural setting, will the daily construction times be reduced along with the number of days a week allowed for construction?

In San Luis Obispo, limits are put on how many minutes an hour power equipment can be used so not to disturb the other residents living nearby.

Two other homes, the Bertis and the Eddie Panzieras have residences very close to the resort, within .25 miles.

### Odors

3-47 "Projects with the potential to frequently expose members of the public to objectionable odors would be deemed to violate the air district standards."

7-65

Given the influx of marijuana growing facilities and the increase in medicinal uses, will there be a pot growing area and will it emit odors?

The City of Greenfield has already allowed pot growing facilities to emit odors that can be smelled from vehicles using the main street.

### 3.11 Public Services and Utilities

With the addition of about 1200+ people to the end of Paraiso Springs Rd., how many additional power poles and transmitters will be added to the landscape?

7-66

Will these power lines be placed underground to preserve the aesthetic beauty of the area and decrease the fire hazard?

How much electricity will the new development's average use be in comparison to past uses?

### 3.12 Transportation and Traffic

Paraiso Springs Road is not a consistent two-lane road. According to the U.S. Department of Transportation, a local roadway minimum would be 18 feet wide. Paraiso Springs Road's width varies significantly passed Clark Road up to the Paraiso Springs Resort. One section close to the resort is 14.3 ft. wide. In the past, there was a county sign on the roadway warning "one lane road ahead". In order to pass another vehicle and/or truck, it is often necessary to move to the edge or off onto the shoulder if there is one to allow clearance.

3-329 "Access to the project site is provided by Paraiso Springs Road, which is a two lane County road with a pavement width that varies from less than 16 feet immediately east of the project site to between 20 and 22 feet in the vicinity of Clark Road." "...from less than 16 feet east of the project site..." means it is reduced to a one lane roadway in stretches with one being 14.3 ft. in width.

How many areas on the last mile of Paraiso Springs Rd. to the resort is less than 16 feet and how much less?

7-67

Are any areas 12 feet or less?

What are the exact widths of the asphalt from Clark Road to the resort?

What is the condition of the asphalt?

What kind of soil is along both sides of the road and how stable would the sides of the road be when wet and heavy vehicles have to pull off the roadway to allow other vehicles to pass?

In the areas where there is no shoulder, how will vehicles be able to pass each other going the opposite direction?

Traffic generated by individuals thinking that they can get into the resort without being a registered guest and lost truck drivers driving doubles will increase traffic counts and the need for a turn around area at the resort. Otherwise, the trucks will have to back down the roadway as they have in the past but the amount of traffic increase isn't going to allow for this.

Appendix K Hatch Mott MacDonald pg. 12 "The proposed project traffic volume will be very similar to the traffic formerly generated by the existing rental units, mobile homes, camp facilities and day usage. Based upon information from the project applicant (who was also the operator of the historic use of the site), the historic and existing use generated about 399 average daily trips with 14 during the morning peak hour, 25 during the evening peak hour and 53 during the Saturday peak hour."

According to Shana Selby, who rented a cabin at the resort for 20 years before the resort was closed in 2003, the resort would have about 25-30 cars traveling to and from the resort on a busy day, approximately 20 people would be living there full time. The busy days would be mostly in the summer or on three day weekends.

7-68

I lived right next to the road for 25 years and never witnessed 399 trips being made to the resort on any day. Where are the sign in logs or financial records to document this claim?

Although the baseline for new trips used to assess level of service impacts was the current daily trips from the caretaker, the REIR does in fact claim that the proposed trips would be "similar" to the pre-

2005 use. RDEIR, appendix K, Page 12. There is not evidence to support this claim and it appears to be incorrect. First, the trips prior to 2005 were not measured; they were calculated using the same 6.13 trips per unit that was used for resort hotels and assuming there were 61 resort hotel units. But the prior use was not a resort hotel. It was a set of cabins, some camp sites, and some RV parking. The owner did not permit in-and-out privileges, so it is unlikely that guests left the property. The use was largely seasonal. And the owner did not actually encourage substantial use.

How many parking places were at the former resort? Who and how were past vehicle trips counted, for how long per day, for how many days, and what dates during the year? Who made the count and were they a paid by the new resort owners?

Where is the actual evidence of the “399 average daily trips” to the resort?

Marge Perrine who owned the resort from 1980 to 2003 when the Thompson’s purchased it, never tried to enlarge the site or increase the number of guests. She charged \$20 per person and then later \$30 per person even if the person was an infant. Marge Perrine didn’t care for children and didn’t encourage families to frequent the resort.

7-68  
(cont.)



Here is a newspaper documenting some of the resort’s rather limited use from 1901.

Currently, with only two persons living at the resort, the applicant claims that 22 vehicle trips daily are being made into the resort with the residents and repair people. At that rate, the approximately 1200 guests staying at the resort if this project is approved would be generating 26,400 vehicle trips daily.

Appendixes pg. 1544 10 bungalows are mentioned. How many cars would these generate daily?

Appendix K Hatch Mott MacDonald Where are the records of the resort' historic use before the Thompson's purchased the property and destroyed the historic cottages?

The intensified maximum use of the resort will have at the least 406 vehicles to as much or more than 886 vehicles daily on the narrow, windy less than two lane roadway.

7-68 (cont.) Will all guests and all employees be "mandated" to take the shuttles with a monitoring program supervised by the county in order to reduce traffic congestion, noise, headlight glare, and interruption of the visual character of the surrounding area caused by this increase in traffic?

Does Monterey County have the staff to monitor the traffic reduction shuttle program at the resort?

If not, who will monitor this program? Will a curfew be placed on guests so that nighttime noise and glare from vehicles will be minimized because of the proximity of the neighbors' homes to the roadway and the significant increase in use?

**Why would the shuttles and other traffic decreasing methods not be instituted until the second phase of the project?**

7-69 How will this affect climate change?

The use of the "Park and Ride" in Soledad and Greenfield will most likely continue to increase, will the developers be mandated to purchase other properties to facilitate this traffic reduction program using shuttles once these parking lots become too full to accommodate Paraiso employees?

The Soledad Park and Ride has 45 parking spots. On April 9, 2018 at 7:15 a.m. and 9:00 a.m., 20 spaces were filled with vehicles. This would leave 25 spots open for additional users.

The Greenfield Park and Ride has 20 parking spaces. On April 9, 2018 at 10:30 a.m., 5 cars were in spots leaving 15 for additional users.

7-70 If no "Park and Ride" places are secured for the shuttle program, will the shuttles go to the employees' homes to pick them up?

Will employees be paid from the time they are on the shuttle to the time they get off?

If they are paid for this time, will this expense and the shuttle program be discontinued as soon as a monitoring program is no longer maintained?

Will the shuttles run if they are half empty?

3-335 "Ninety percent of the employees working on-site will be required to use the employee shuttle." Will the county implement a monitoring program similar to the one at the Gilroy Buddhist Temple which counts vehicles and regulates the shuttle program?

3-335 If each condo has 2 parking places, what are the odds that travelers from the airport will use the shuttles when they might want to go to the beach, go out to dinner in Monterey, go see the Aquarium, the Pinnacles, or shop in Monterey and Carmel?

Without trip reductions measures, "the project would generate 886 daily trips."

Would all trip reduction measures be monitored year around by the county and begun at the time of construction? If not, why?

“One quarter of the guest parties are anticipated to make an off-site trip per day, and 20% of those trips would be served by the resort shuttle bus service.”

How can these predictions be made without knowing each guest party personally and what their plans are?

How many special events will the resort be allowed to have each year? How many more vehicles will be added to the roadway for these events?

When the resort is operating at 100%, how many people will be living/visiting there?

What is the total number of people that will be on the premises, including employees, day visitors, delivery people, people at the convention center and institute, at one time?

7-70  
(cont.)

So, what is the maximum number of people or the maximum total occupancy of the resort?

How many trips will be generated by the resort’s administration or guests using delivery services such as UPS and FedEx?

Only six trips for lightweight service trucks are included in the trip totals, how many trips will be generated by the ancillary services such as the gift shop, boutiques, lectures, real estate office, conference center, culinary school, special events, and tours of the facility? How will additional trucks and larger trucks be prevented from making deliveries (ie. Fed Ex, UPS)?

3-333 Levels of service on roadways are based partly on whether there are “highly congested traffic conditions with unacceptable delay to vehicles at intersections.” The Berti’s, Eddie Panziera’s, and Pisoni’s Vineyard driveway is on the dangerous curve across from 34352 and the entrance to the roadway has limited visibility of oncoming traffic due to the natural features of the roadway. This entrance to the roadway will become unacceptably dangerous due to the high volume of oncoming traffic with no way of knowing if it will be safe to enter the roadway.



Top Picture: Berti's entrance to Paraiso Springs Rd. on blind curve heading north.

Middle Picture: Next blind curve heading north past 34352 Paraiso Springs Rd.

Bottom Picture: Blind curve heading south to the resort.

Where is the study of the sight visibility along the last section of roadway to the resort?

What kind of delays to entering the roadway can neighbors expect during morning, Saturday, and evening peak traffic times? What kind of delay will there be for travelers coming up Clark Road and turning left up Paraiso Springs Road during these heaviest traffic times?

7-70  
(cont.) What would constitute an unacceptable delay in being able to enter the road way or turn at an intersection?

Will the resort guests be mandated not to use Fed Ex or UPS during their stays in order to reduce traffic on the inadequate roadway?

What will be the increase in truck traffic for these delivery services that are commonly used when people are on vacation?

Will restaurant delivery services from outside the resort be utilized and if so how many more vehicles will be entering and leaving the resort?

The 17 timeshare villas are expected to generate 9.57 vehicle trips per day, why such a high trip rate?

If the villas generate almost ten trips a day, isn't it realistic to expect the two and three bedroom condos to generate at least 5-7 trips a day?

How would that affect the trip estimate?

Isn't it unrealistic that traffic mitigation measures of using an unenforceable shuttle program would actually keep people from driving up and down Paraiso Springs Road as many times as they would want?

Many south Monterey County residents travel to Monterey or Carmel to go to dinner and shop, so chances are these visitors will be no different.

How can the number of cars to the ancillary services such as the three restaurants and spa be accurately counted when many people will drive up to the resort, expecting to get in, only to be turned around at the gate?

7-70  
(cont.)

Each of the 17 timeshare villas have two parking spaces and another 19 spaces for their guests, totaling 53 parking spaces. Each of these villas are expected to add 9.57 trips daily to the traffic estimates. That would be almost 170 trips daily, just for the 17 timeshare villas if no one chose to use the shuttle as they are not mandated employees.

Will there be a policy for employees that prohibits them from being dropped off at the site and then later picked up again after their shift?

How many part-time employees will there be and how will that affect the trip generation estimates?

#### **Pedestrian Facilities and Bicycle Facilities**

Given the narrowness of the roadway and high expected volume of traffic, how can people wanting to walk or ride their bikes down or up Paraiso Springs Road safely do so without bike or pedestrian paths?

If no bike or pedestrian paths are possible, what increase in fatalities will there be due to the lack of an adequate roadway?

People visiting this remote resort area are going to expect to be able to ride their bikes or walk down the roadway with their dogs.

7-71

Bicycles were ridden on Paraiso Springs Rd. in the past. Our two sons road their bikes down the road 5 miles every day during the summer to work on the family farm. I also led a bicycle project for Mission 4-H members and we would ride from our home on Paraiso Springs Rd. to Greenfield.

What will be the resort's policy for foot traffic and bike traffic down Paraiso Springs Road because of the lack of adequate roadway to accommodate this kind of use?

Will bikes and pedestrians from the resort increase the hazards for vehicles on the roadway?

#### **Parking**

3-342 There is "one guest parking space provided for every four timeshare condominium units." Two parking places are designated for each 2 bedroom timeshare and 2.2 spaces for 3 bedroom units. The guests of guests cannot be estimated and all the parking spots will potentially have vehicles that leave and return to the resort once or multiple times a day leaving the calculations spurious as to the real total of trips that will be generated by this resort.

7-72

Project Site Plan, Figure 2-6 #13 Parking Meadow-Overflow Parking

7-72  
(cont.)

Why is there a plan for overflow parking? The overflow parking area is only presented on one map with no discussion. How often will this overflow parking area be used? Will the overflow parking area be paved in the future? What is the maximum number of vehicles that can be parked at the resort, the individual condos, villas, hotel, hamlet, and overflow parking area? Why would there need to be an overflow parking area if no public amphitheater events will be held? What is the capacity of the amphitheater?

### **Safety Concerns**

During the flood of 1995, the roadway north of the resort passed 34352 Paraiso Springs Road caved off half of the roadway.

How will weight and vehicle volumes affect the structure of the roadway?

With Sheriffs and Highway Patrol not frequenting the Paraiso Springs area very often, how will speeders and wreckless drivers be ticketed?

Will cameras be placed on the roadway to address speed violators and monitor for accidents?

Will guard rails along the steeper areas of the roadway be installed so drivers aren't run off the road?

7-73

People will be driving up the road in which they are unfamiliar and will be expecting at least a two lane roadway and won't be expecting the narrowness and blind turns.

Shuttle drivers in a hurry to make the next shuttle run will become familiar with the road only to drive at excessive speeds. How will this increase the accident rate?

### **Design Features and Incompatible Uses**

The blind sharp curve and narrow roadway at 34352 Paraiso Springs Road continues to be of concern. The turn has been a place of numerous unreported accidents.

From 1980 to 2005, even with minimal traffic during that time there were a number of single car accidents close to the curve at 34352 Paraiso Springs Road and a few further north on Paraiso Springs Rd.

In addition to a number of vehicle spin outs on this curve, here are just some of the accidents that Eddie and Lois Panziera witnessed or became aware of:

1. Vehicle ran off road and took out barbed wire fence along the upper portion of their property.
2. Vehicle hit their mailbox.
3. Vehicle hit the telephone pole and ran into Berti's pasture.
4. Vehicle ran over the Panziera's driveway gate and then back over the gate when they left the scene of the accident.
5. Vehicle spun out and hit bank across from our house.
6. Vehicle spun out and dislodged an oak tree along our bank.
7. Vehicle ran off road going downhill, man died of a heart attack.
8. My mother's caretaker, Sofia Gonzales from Soledad, rolled her car going down into the vineyard across from Cynthia Pura's house in 2006
9. 250 lb. wild boar was hit by Ella Guidotti's in 1998

10. A deer ran into the side of a pickup

Because of the remote location of these accidents and little Sheriff and Highway Patrol coverage in this area, few accidents get officially reported.

11. The latest accident that blocked Paraiso Springs Rd. with a car on its hood in the middle of the roadway occurred on Dec. 2, 2017. A sheriff and the Soledad Fire Truck came to assist but again no official report was made. The following picture of the accident was taken from inside the home at 34352 Paraiso Springs Rd.

7-73  
(cont.)



4-17 In the REIR it states that there will not be any increase in traffic, yet the payment “of regional traffic impact fees would reduce the cumulative impacts on the regional roadway system to a less than significant impact.”

If the claim is that traffic won't increase along Paraiso Springs Road then why would the resort owners expect to “contribute their fair share towards the regional traffic impact fee” in order to “reduce the project's cumulative impact on regional intersections and roadway segments?”

There still are incompatible uses of the roadway. The garbage truck at 34355 blocks the road on the blind turn across from 34352 every Monday morning.

Will the resort provide garbage receptacles at the entrance for neighbors who will no longer get garbage service due to the safety issues for the garbage truck drivers?

What kind of protective railing will be put along 34352 to protect the 5 children who play in the yard next to this once quiet rarely travelled rural roadway?

There have been a number of new gated entrances to the Paraiso Springs and Clark Roads since "food safety" for farmers and keeping deer and pigs out of the vineyards has become more of an issue. Were these new entrances taken into account when assessing future accident estimates?

7-73  
(cont.)

Here are just some of the pictures of incompatible roadway use that will likely result in fatalities if project traffic is added and emergency access is delayed to the resort.



Farm Equipment along Paraiso Springs Rd. blocking 1/2 of the roadway, stopped and fueling



Wide load going up Clark Rd. with no room to pass another vehicle without going off roadway.

7-73  
(cont.)



Crew blocking Ft. Romie Rd. on Sat. April 21, 2018

### Emergency Access

3-342 "The public roads leading to the project site are of adequate width and grade to provide access to emergency service vehicles without limitation."

7-74

What are the widths of the last 1.3 miles from Clark to the resort entrance?

What are the standards for the fire department in regard to adequate roadway widths and grade?

With the increase in congestion in the area of 34352 said to be 18x (see attached Larry Hail, Pinnacle Traffic Engineering Letter), how would this increase affect emergency response time?

3-342 The Soledad Fire District wrote a letter in response to the last EIR, recommending a fire substation with two full time firefighters to mitigate the long response time expected for emergencies with a firetruck coming from Soledad, 8 miles away, which would take longer than the 15 minutes county response time standard. This REIR continues to state that "the proposed project would not have an impact on emergency access."

7-75

4-16 Even with the addition of approximately 1200 people to the population of Paraiso Springs Resort and the Fire District identifying "a need for a fire station for the District" at the resort with two full time firefighters (See attached Letter from John Kesecker, Fire Board President, dated August 28, 2013), the developers maintain that they "would pay their fair share of the construction of the station through their tax assessments and possible other fees adopted by the District."

Why wouldn't the developers of a for profit private resort have to pay for the fire substation that would protect their guests?

4-16 "Potential wildfire impacts are less than significant for the project." A wild turkey took out a power line across from 34352 in the past starting a small fire that was extinguished by the residents

before the fire truck made it to the location of the fire in the past. Another fire was started by the former owner of our current home while trying to execute a control burn. A downed electric line crossed the road by the Blomquist blocking the roadway and started another fire that was extinguished before becoming more dangerous. This downed electric wire blocked residents from the resort and those at 34352 from using the roadway to evacuate.

7-75  
(cont.)

When more people are added to a high severity fire area, the potential for fires will occur. The resort owners maintain that because they will have a sprinkler system in the new multi-family high density condo/villa/hotel complex that wildfires will not pose a significant risk.

When the road is blocked by traffic congestion, a vehicle accident, or a downed power line as it has in the past, when a wildfire breaks out, how will residents at the resort and nearby be able to evacuate?

If they are unable to evacuate, what percentage of the guests and other Paraiso residents will die or be harmed by smoke inhalation?

#### 4.3 Growth-Inducing Impacts

4-2 According to CEQA, a "project would have growth-inducing effects if it would:

Foster economic or population growth, or the construction of additional housing (either directly or indirectly) in the surrounding environment;

Remove obstacles to population growth;

Tax existing community services or facilities, requiring the construction of new facilities that could cause significant environmental effects; or

Encourage and facilitate other activities that could significantly affect the environment, either individually or cumulatively."

7-76

We contend that the Paraiso Springs Project will in fact increase the population of the area (1 mile from resort) from approximately 18 people to 1200 or more. That is 216 times the use since 2003 and at least 12+ times the increase of all the historic use. The new Paraiso Resort population may be a transient one with guests/residents changing every 3-4 days or weekly, but it still will be a large group of people inhabiting the resort far exceeding any population ever using the site historically.

4-4 At buildout the population growth impact will "increase transient population at the site but would not result in a substantial increase in permanent residential population at the project site or in the vicinity." If the timeshares are sold to one entity, which can happen, these can be used as permanent residences which would make this development a housing development not a visitor serving resort.

Parcels of land, not formerly part of Paraiso Springs Resort, are being joined in order to expand this development. This resort lies in a 40 acre minimum area needed to build one home. This proposal plans to build 77 homes on the 235 acre joined parcels. The original resort was 20 acres in size.

Whenever the timeshare project fails or changes ownership, what would stop these units from being sold as housing?

Would they be used as H2A housing for farmworkers in the future?

7-76  
(cont.)

The proposal will have growth inducing impacts. The addition of “urban services and the extension of infrastructure (including roadways, sewerage, or water service) into an undeveloped area.” The building of a sewer plant, the extension of electric poles and transformers, adding significant amounts of asphalt for roadway up to the resort and inside the resort will change the environment from a quiet rural rarely used resort in a sparsely populated area of the county to a densely populated area.

7-77

What happens when not enough water can be pumped from the existing Paraiso wells and new wells drilled do not provide enough water?

Because most of the current longtime residents along Paraiso Springs Road know that water is scarce in this area and that is why development hasn’t occurred in this area. The late Richard Smith from Paraiso Vineyard attempted to obtain easements from neighboring properties to pipe water to the resort in order to hasten the development. The former owner, Margaret Perrine, never wanted this kind of development but did attempt numerous times to drill for more potable water for the handful of people who stayed at the resort when she owned the resort.

7-78

This project will also “impose new burdens on existing community service facilities” such as Sheriff, Highway Patrol, Firefighters, and Ambulance Services. Only 2 Sheriffs serve Monterey County at one time. These Sheriffs have to cover an extremely large area and some remote areas such as Parkfield. Adding a large population in another remote area such as Paraiso Resort will tax these officers and our community’s ability to serve the current residents. With only two caretakers at the resort, the Sheriff had to be summoned so that the Pura family could attend to its deeded spring on Paraiso property. This recent incident could have led to the arrest of the Paraiso caretaker who was placed in the back of the Sheriff’s patrol car. This is not the only time that Paraiso Resort neighbors have had to deal with belligerent resort residents or guests.

When living at 34352 Paraiso Springs Rd. for 25 years, my husband and I had to deal with a number of vehicle accidents with drivers wanting to use our phone, our restroom, our help in getting their cars pulled out from where they were stuck, and even one group of people camping overnight in the driveway across the road when they were turned away from being able to stay at the resort. A Sheriff was called to help with the campers, but they were allowed to camp across the road after they picked up their beer cans.

7-79

Given that there is limited shoulder along Paraiso Springs Road and that there will be an increase in traffic from 4 times to 8+ times historical traffic given the volume and congestion at the dangerous curve next to 34352 Paraiso Springs Road, our highway patrolmen will have little ability to ticket speeders, wreckless drivers, and drivers under the influence which will make the roadway even more dangerous. And, just like on Dec. 2, 2017, the roadway at 34352 was blocked by a wreckless driver who overturned his car and blocked the roadway for over an hour. The following picture was taken by Misty Panziera at 34352 Paraiso Springs Rd. from her family room inside her house. A fire truck or ambulance would not have been able to travel to the resort to serve that new community to put out a fire or help people who need paramedic services.

7-80

4-3 “The proposed project includes approximately 77 timeshare housing units, which would function as vacation homes rather than full-time residences” but these homes could be used as full-time residences along with the hotel rooms and the villas that are going to be on subdivided individual lots.

7-80  
(cont.)

What once were well kept hotels in the small town of King City 23 miles south of Paraiso have been turned into residences even when they didn't have cooking facilities; residents cooked in their bathrooms. I know this because my mother lived behind the Silver Saddle Motel on Broadway of King City and could smell cooking grease coming out of the open bathroom windows.

7-81

Once these residences are built, this area will not longer be a rural area with a resort, it will be a rural area with a high density multi-family condo complex/villa subdivision in a remote area of the county without an adequate sewer system, water supply, law enforcement, fire and ambulance emergency services, and congested roadway with excessive noise, lights interfering with the view of the nighttime sky, and a new population demanding additional services from the county.

7-82

4-4 "The 2010 Monterey County General Plan Final Environmental Impact Report identifies that impacts to population growth are significant and unavoidable at year 2030 and buildout, and also that population growth impacts are cumulatively considerable."

4-17 In the REIR it states that there will not be any increase in traffic, yet the payment "of regional traffic impact fees would reduce the cumulative impacts on the regional roadway system to a less than significant impact. If the claim is that traffic won't increase along Paraiso Springs Road then why would the resort owners expect to "contribute their fair share towards the regional traffic impact fee" in order to "reduce the project's cumulative impact on regional intersections and roadway segments?"

Attachments:

John Kesecker President of Mission-Soledad Rural Fire Protection District, August 28, 2013

Re: Paraiso Springs Resort Project

Newspaper Article: "SLO Residents Irked at Wine Growers"

MISSION-SOLEDAD RURAL  
FIRE PROTECTION DISTRICT  
P. O. Box 1205  
Soledad, CA 93960  
jkesecker@fentonkeller.com

August 29, 2013

John Ford, Senior Planner  
Monterey County Resource Management Agency  
Planning Department  
168 W. Alisal St., 2<sup>nd</sup> Floor  
Salinas, CA 93901

Re: Paraiso Springs Resort Project ("Proposed Project")  
PLN040183; SCH2005061016

Dear Mr. Ford:

My name is John Kesecker and I am currently the President of Mission-Soledad Rural Fire Protection District ("District"). The District has met regarding the Proposed Project, and I am submitting this letter on the District's behalf as its comments regarding the Paraiso Springs Resort Project Draft Environmental Impact Report:

1. Although the Proposed Project was previously reviewed for fire protection code compliance, the District believes that it should be reviewed again for accuracy and compliance with updated codes. The initial review was performed by persons and a company with whom the District no longer has a relationship. Although the Draft EIR states that the review has been completed, this is not a final review of the Proposed Project's fire protection systems, fire system water supply, and road improvements to accommodate clearance/access for emergency vehicles. Because of this, the District cannot reliably confirm or support the fire code compliance or adequacy of the fire protection systems without a further review. Of particular concern to the District is ensuring that there is an adequate source of water dedicated to fire prevention activities.

2. The Proposed Project is currently located in the State Responsibility Area (SRA) for fire protection. This fire protection is limited to wild land or watershed protection and not the Proposed Project and its development. It is the District's understanding that the Proposed Project is within the District's sphere of influence. Accordingly, prior to County approval, the proponents of the Proposed Project must apply to LAFCO for annexation in the District before construction begins. The District would appreciate being promptly advised if its understanding in that regard is incorrect.

3. The District is headquartered at 525 Monterey Street, Soledad, CA 93960. Due to the location of the Proposed Project, the response time to any emergency is 15 minutes, which is a rather long response time for fire and EMS emergencies. The District currently staffs one fire engine with two firefighters to service the entire District. Accordingly, as part of the fire

(JEK-315976;2)

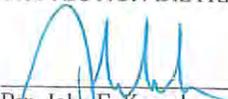
Monterey County Resource Management Agency  
August 29, 2013  
Page 2

mitigation efforts for the Proposed Project, the District would request the developer to provide funding to build a fully equipped and functional fire station in accordance with the District's requirements and specifications. This would also require additional funding so that the District could sustain 2 fulltime firefighter positions. The District views this as the only viable mechanism available to provide adequately staffed and timely emergency response to serve the Proposed Project, and would want to see such station built during the Phase One of the Proposed Project.

The District appreciates the opportunity to comment on the Draft EIR, and the attention of staff in connection with this matter.

Sincerely,

THE MISSION-SOLEDAD RURAL FIRE  
PROTECTION DISTRICT



By: John E. Kesecker  
Its President

{JEK-315976;2}

# SLO residents irked at wine growers

Associated Press

PASO ROBLES — Wine connoisseurs may be enjoying the latest Zinfandel or Syrah from the Paso Robles region, but residents are complaining the growing number of vineyards is straining the local water supply.

A dispute has been bubbling lately between residents and winemakers over the use of an ancient aquifer that covers nearly 800 square miles and is large enough to support annual demand.

However, the wine grape acreage has more than tripled in the past 15 years and some residents say the basin water is flowing freely into the

vineyards.

The water level has sunk 70 feet or more since 1997 in some parts due to persistent drought and agricultural and urban growth.

More than two-thirds of basin water usage is for farming, most of which are vineyards. California and Texas are the only two states that allow landowners unlimited access to groundwater.

"There's too many doctors and lawyers moving in here and putting in their Chateau Cashflow," Zan Over-turf, owner of a Paso Robles plant nursery, told the Los Angeles Times. Denise Smith, a retired teacher, is among

dozens of homeowners whose wells have run dry.

She's unable to afford a deeper well which costs about \$30,000, so she resorts to eating meals on paper plates and taking showers that last 45 seconds.

"We used to think we were so lucky to live here," said Jan Seals, 60, a Bay Area transplant whose well water dropped 70 feet in the decade she and her husband have lived outside Paso Robles. "Now we've got two choices: drill another well or put our house on the market. But I wouldn't buy our house given the situation with the basin." Wine growers are

backing a proposal to form a water district and acquire supplemental water from the California State Water Project.

"I feel vilified. We're trying to solve the problem," said Jerry Reasugh, a grape grower leading an alliance to create a water district. "We're the only people who showed up at the table that have positive solutions. The other solutions are: 'You've got to stop, you've got to stop, you've got to stop.'"

County supervisors voted Tuesday to cap the current level of pumping from the basin, a strategy that would help buy time until a long-term solution can be found. The dispute may end



Wine grapes and the water they use is causing a rift in San Luis Obispo, D.L. Taylor/The California

Signed: Lois Panzera Date: 4/25/2018

## Response to Letter #7 - Lois Panziera (April 25, 2018)

1. The comment is correct that the 2018 RDEIR identifies, on page 3-24, that the “nearest residential units are located to the east approximately one mile from the project site.” However, the 2019 RDEIR corrected the text that the nearest residential unit is located within a quarter mile.

The 2018 RDEIR, in the same chapter (Aesthetics and Visual Resources) describes the location of residences “located below and to the east of the project site...” (pages 3-4 and 3-18). The 2019 RDEIR corrects an error in the section (Impact 3.1-2) discussing potential light and glare impacts. The distance of a quarter mile does not change the conclusion of this section that potential environmental impacts from light and glare, with the standard condition imposed by the County along with California Code of Regulations Title 24 requirements, would be less than significant. Potential environmental effects related to lighting are established by thresholds identified in 2019 RDEIR Section 3.1.4, page 30. These thresholds establish levels that protect the environment when the project meets the threshold. Specific discussion related to lighting is found in 2019 RDEIR Impact 3.1-2. The project will maintain existing vegetation near its eastern border, which, along with topography, would screen nearby residences from the site. The standard condition and Title 24 requirements would ensure that project lighting only illuminates the intended area while keeping lighting from shining toward the sky, thereby protecting nighttime views. See also Response in Letter 10, number 5.

For the second paragraph of this comment, see Master Responses 1 and 5.

2. This comment asks the number of nighttime traffic trips and how the headlights will affect the nighttime sky.

Headlights that shine on people viewing the night sky would cause a temporary reduction in viewing ability for those viewers. If the headlights do not illuminate the area of the viewers, little to no effect would occur. Car trips during the evening peak hour would pass any single location on average about once or twice per minute (up to two vehicles encountered on a road that takes two minutes to traverse—Hatch Mott MacDonald, 2017, page 14). Peak Hour for the afternoon is defined as 4 to 6 p.m. (Hatch Mott MacDonald, 2017, page 8, number 7). The sky grows dark around 5 p.m. on the shortest day of the year (December 21), so more vehicles would pass by anyone viewing the night sky during the winter time than in summer, when the sky darkens around 9 p.m. on the longest day of the year. When the sky grows dark after 6 p.m. (February 1 through October 31 for this area), non-peak hour traffic will pass by resulting in relatively fewer trips passing anyone viewing the night sky. Any headlights passing by people viewing the night sky would be transitory and not considered to be a significant impact on the environment.

3. This comment asks how the loss of the viewshed will be mitigated due to such a large increase in traffic. The project will increase traffic by up to 406 vehicle trips per day on Paraiso Springs Road at buildout. The RDEIR does not identify a significant environmental impact related to a loss of scenic qualities related to increased traffic. The County does not consider traffic that is well within the capacity on public roadways as being a significant change to the public viewshed.

4. This comment suggests that wildlife will be affected by resort lighting and questions the amount of lighting for the amphitheater and other event areas. See Response to Letter 5, Number 18, and Letter 7, Numbers 1 and 2. The outdoor lighting for the amphitheater and any other outdoor  
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activity areas would be subject to the same requirements of illuminating only the intended area and eliminating the visibility of the light source from sensitive areas (aesthetic or biological). See discussion in RDEIR Impact 3.1-2, pages 3-24 and 3-25).

5. This comment asks who will monitor lighting for the project. Monitoring of lighting will be done by the County, initially through approval of a lighting plan. The lighting plan will need to comply with state regulations for the specified lighting zone designated for this site, as well as the County standard condition of approval referenced in the RDEIR on pages 3-24 and 3-25. Fixtures will need to direct light to illuminate only the intended area. Any subsequent changes to exterior light fixtures would require approval by the County. See Response to Letters 5, Number 18 and Letter 7, Numbers 1 and 2.

6. This comment asks about traffic generating hazardous carbon monoxide emissions. Carbon monoxide “hot spots” are discussed on RDEIR pages 3-30, 3-36, 3-46 and Impact 3.2-4, page 3-47. As stated in the RDEIR, under certain meteorological conditions, carbon monoxide concentrations close to a congested roadway or intersection may reach unhealthy levels, affecting local sensitive receptors. Congested intersections with high volumes of traffic could cause carbon monoxide hot spots, where localized high concentrations of carbon monoxide occur.

Several factors combine to make substantial concentrations of carbon monoxide at the curve at 34352 Paraiso Springs Road, or at any other road segments along Paraiso Springs Road, highly unlikely. Existing physical constraints such as high density, high profile buildings or other obstructions that could prevent dispersion of carbon monoxide are absent. Predominant weather conditions in the area include air movement that would help facilitate carbon monoxide dispersion. Congested traffic conditions that otherwise could result in concentration of carbon monoxide would rarely occur, or be of short duration (RDEIR Impact 3.12-1, pages 3-334 through 3-338; Table 3.12-3). Further, under existing state regulatory and legislative mandates, emissions volumes from all classes of vehicles in the vehicle fleet will continue to decline. Given these factors, substantial concentrations of carbon monoxide are not expected at, or along, the roadway. There is no need for mitigation to reduce vehicle emissions on the roadway to address carbon hot spots.

7. This comment asks questions about project construction and phasing, and construction impacts on air quality. Short-term construction emission impacts are evaluated on pages 3-41 through 3-44 of the RDEIR. Emissions produced during grading and construction activities are “short-term” because they occur only during construction. Construction emissions would include the generation of fugitive dust, on-site generation of construction equipment exhaust emissions, and the off-site generation of mobile source emissions related to construction traffic. Mitigation measure 3.2-1 (RDEIR pages 3-43 through 3-44) will address potential health impacts by ensuring that the proposed project does not exceed the air district’s thresholds of significance for short-term construction emissions.

The project’s anticipated operational date (all four phases) is 2028. Periods of construction, and periods in between construction phases, will be dependent on the needs of the project related to the public demand.

There will be no need to monitor for potential hot spots for carbon monoxide, as no hazardous concentrations of such emissions will occur (RDEIR page 3-47, Impact 3.2.4, Localized Carbon Monoxide Emissions).

The effect of construction activities on the value of homes is not an environmental issue subject to evaluation in a CEQA document.

8. This comment asks about air quality mitigation due to longer vehicle trips. The RDEIR (page 4-7) discusses regional emissions and emission forecasts. The discussion includes the following: “The AQMP [Air Quality Management Plan] includes current air quality data, revises

the emission inventory and emission forecasts, provides an analysis of emission reductions needed to meet and maintain State ozone standards, and includes adoption of five stationary source controls to achieve emission reductions. In developing the emission forecasts, the AQMP accounts for population growth for cities and counties located within the basin based on the population projections of the Association of Monterey Bay Area Governments (AMBAG). These forecasts are then accommodated within the AQMP.” The proposed project is consistent with the regional forecasts and the AQMP and, therefore, would not result in a cumulative regional air quality impact. Mitigation is not required.

9. This comment asks how oaks will be protected from increased traffic on the roads. The RDEIR (pages 3-101 to 3-102) identifies indirect impacts to the protected oaks due to vehicular traffic near/compaction of root zones. The compaction from road construction is the greatest concern. Vehicle traffic would not significantly impact the trees. Mitigation measure 3.3-6b (RDEIR pages 3-103 to 3-104) states “the project applicant shall implement the following tree protection best management practices during construction activities within the project site and include these measures on construction contracts for the proposed project, subject to review and approval by the County of Monterey Resource Management Agency-Planning.” The measure then includes nine specific methods to protect all retained regulated oak trees from indirect adverse construction impacts.

10. This comment asks how large animals will be affected by the project. Project impacts to large native animals are addressed in the wildlife movement discussion in the RDEIR (pages 3-99 to 3-100). There is no need to or plans to catch, relocate, or destroy native wildlife.

See Response to Letter 5, Number 15 regarding the RDEIR analysis of potential impacts on wildlife. If mountain lions were determined to be a public safety threat, they would be killed by the California Department of Fish and Wildlife, or local law enforcement. Mountain lions are not listed as a Special Status species. The passage of the California Wildlife Protection Act of 1990 (Proposition 117) by California voters established that mountain lions are a specially protected mammal in California, and that it is unlawful to possess, transport, import or sell any mountain lion or part or product thereof (including taxidermy mounts) (<https://www.wildlife.ca.gov/conservation/mammals/mountain-lion/>).

11. This comment wondered why certain buildings were excluded from bat surveys. Special-status bats are evaluated in the RDEIR (page 3-86 through 3-87).

As discussed on RDEIR page 3-86, Central Coast Bat Research Group surveyed all the structures on the property and recommended which would need to be surveyed prior to certain demolition or construction activities. As stated on page 3-86, "All structures within the project site shall be surveyed with the exception of the house trailers, fire equipment room, and the main pump house." They specifically recommended that the house trailers, fire equipment room, and main pump house would not require surveys (RDEIR page 3-86, Mitigation Measures 3.3-2b) as the earlier surveys showed no sign (house trailers and fire equipment room) or minimal night roost activity (main pump house) of bat use in these structures (RDEIR Appendix E, *Interim Report for the Bat Assessment Survey for Paraiso Springs Resort, March 25<sup>th</sup>, 2008*, Central Coast Bat Research Group, page 6).

12. This comment asked how bat complaints would be handled. There are no plans to catch, relocate, or destroy bats, except through passive exclusion techniques as described in Mitigation Measure 3.3-2b. Bats are protected by the California Department of Fish and Wildlife and

County of Monterey

appropriate permits would be required. Some species of bats found on the site are considered CDFW Species of Special Concern while others are considered California Special Animals, as explained in RDEIR Table 3.3-3, pages 3-71 and 3-72. Regulatory requirements are described in RDEIR section 3.3.3. Potential impacts to special status animals, including bats, is described in the discussion related to Impact 3.3-2; bats are more specifically addressed on pages 3-85 through 3-87 of that section. The discussion includes the regulations related to non-listed bat species, as well (page 3-86). If the resort has complaints or problems associated with bats, they should contact CDFW for guidance.

13. This comment questioned how wild pigs would be handled. There are no plans to catch, relocate, or destroy wild pigs. Wild pigs are not a protected species. The resort may choose to fence areas susceptible to damage or to trap or hunt wild pigs. A hunting license and wild pig tag are generally required to take wild pig in California, with no limits on the number of wild pigs hunted. Hunting season for wild pig is open all year (<https://www.wildlife.ca.gov/Hunting/Wild-Pig>). If the resort has complaints or problems associated with wild pigs, they should contact CDFW for guidance. See Master Response 1.

14. This comment questioned the past disposal of hazardous waste from the site. The disposal of construction debris and appliances occurred with demolition activities in 2003; these materials were removed from the property. The condition of the property, with the materials removed, is considered the baseline condition (existing setting) for purposes of analyzing potential environmental impacts.

15. This comment questioned the use of burning wood in barbecues and fireplaces. Wood burning fireplaces or barbecues will not be permitted with the county's required condition of approval (see Response to Letter 10, Number 8). The hauling of firewood to the resort for fireplaces associated with facilities is not relevant, as wood-burning fireplaces would be prohibited per the condition of approval identified above.

16. This comment cites sections of the RDEIR. See Master Response 1.

17. This comment asks why the nine removed historic cabins are not being rebuilt and questions some of the proposed mitigation. See Master Responses 2 and 3. A visitor's center is proposed. Digital information and displays regarding the site's history are required by Mitigation Measures 3.5-1a and 3.5-1d; the information shall be available on the property at areas where the public and most customers can view it. The information will also be made available to others as described in the mitigation measures, along with other information distribution as required by Mitigation Measures 3.5-1b and 3.5-1c.

18. This comment asks the location of the visitor's center and the accessibility of the historic mitigation display to the public. The visitors' center's proposed location, near the project entrance, is identified on RDEIR Figure 2-6 as number 14 (page 2-21), included in the narrative on page 2-27 (Other Amenities), and included in the list of uses in RDEIR Table 2.2 (page 2-28).

Information demonstrating the site's history would be located on the web and in on-site locations that are accessible to the majority of guests, and offered to historic locations, visitor's centers and museums, as described in Mitigation Measure 3.5-1a. Mitigation Measure 3.5-1d requires that a second digital display be provided in a publicly accessible area of the resort.

19. This comment is concerned with the number of people at the site. The number of people on the resort property would be dependent on the occupancy of the different uses of the site, including day uses. The RDEIR analyzed potential impacts to the environment based on average occupancy

for many impacts, and peak impact for topics such as potential transportation, aesthetic, noise, water and wastewater impacts.

In response to the question regarding lowest density, Commercial zoning districts as established under the applicable 1982 General Plan, and as described for this site in RDEIR Sections 3.9.2 and 3.9.3, do not have minimum density requirements. While not subject to the 2010 General Plan, the site is designated as a Special Treatment Area in 2010 General Plan policy CSV-1.1, which allows redevelopment of the site with specified uses. This policy also does not have a minimum density requirement.

20. The commenter asks how the project traffic and varying roadway widths affect the response times of emergency vehicles, and what the fire department's standards are for roadway width and turn-arounds.

The potential impacts on emergency response is addressed in Section 3.11, Public Services and Utilities, of the RDEIR. As described in Section 3.11.5, Impact Analysis, the project would not require the provision of new or physically altered facilities, the construction of which could cause significant environmental impacts, to maintain acceptable response times or other performance objectives for fire and police protection. Additionally, as described in Section 3.12, Transportation and Traffic, of the RDEIR and Master Response 5: Traffic above, the project would not generate traffic that would change the level of service on project roadways, and the project includes roadway improvements to address roadway width and safety concerns. Also, see responses to Letter 18.

Fire requirements for roadway width are found in Monterey County Code Chapter 18.09, Appendix O, section O102.2. A minimum 18 foot all-weather roadway surface width is required. Turnaround requirements are included in Appendix O, sections O102.3 and O103.1. Roadway improvements are proposed as part of the project and potential environmental impacts of these improvements have been analyzed in the RDEIR. The proposed improvements will be required through conditions of approval. See Master Response 1.

21. This comment is concerned with erosion and mudslides caused by resort vegetation clearing and emergency evacuation plans.

Erosion control regulations and requirements are analyzed in RDEIR Chapters 3.6 and 3.8. Within Chapter 6, Geology and Soils, landsliding, slope stability and erosion are specifically addressed for on site development on pages 3-181 through 3-187. The applicable regulatory background is found in section 3.6.3. Significance Threshold Criteria are described on page 3-192. The potential environmental impacts of the project on the environment are described in section 3.6.5, with mitigation measures identified for seismic groundshaking, liquefaction, landslides, and short-term and long-term erosion. Feasible mitigation measures have been identified for each of these categories, with each potential impact reduced to a less than significant level (pages 3-193 through 3-202).

Within Chapter 8, Hydrology and Water Quality, drainage and surface water quality (erosion) is specifically addressed for on site development on pages 3-219 and 3-220. The applicable regulatory background is found in section 3.8.3, with specific discussions on drainage and erosion control found on pages 3-233 and 3-234. Significance Threshold Criteria are described on pages 3-235 and 3-236. The potential environmental impacts of the project on the environment are

County of Monterey

described on pages 3-236 through 3-241 for these topic areas, with mitigation measures identified for Short-term Erosion and Water quality, Long Term Surface Water Runoff, and Long-Term Surface Water Quality. Feasible mitigation measures have been identified for each of these categories, with each potential impact reduced to a less than significant level (pages 3-236 through 3-241).

Related to resort evacuation and issues identified in this comment, see Responses to Letter 5, number 9, Letter 8, Number 5, Letter 18, and Master Response 1. For the reference to the comment about a new fire substation being built on site, this possibility was analyzed on RDEIR pages 3-304 through 3-308 and in section 3.11.5. The analysis included a description of potential impacts from constructing a fire station on the property, finding that no additional environmental impacts would occur from on-site construction of a fire station. As described in the RDEIR, an on-site fire station is not proposed.

22. This comment asks questions about security personnel; see Master Response 1. No special events are proposed as part of the project.

23. This comment asks how the project would affect Sheriff operations. See discussion in RDEIR section 3.11-2 (particularly page 3-309), applicable policies on page 3-315, and analysis on pages 3-317 through 3-319. Also see response to Letter 16, Number 1, including an errata provided by the Sheriff's Office. No potential environmental impacts have been identified. Also, see Master Response 1.

Response time to the site is varied depending on the location of deputies in the area. If none are in the area, and an immediate response is needed, the County has mutual aid agreements with cities in the area. Response time from Soledad would be between 10 and 15 minutes.

24. This comment suggests that the resort have an on-site doctor. See Master Response 1.

25. This comment presents information on previous mudslides and flooding in the area. Culverts that have caused localized flooding in the past are proposed to be removed (RDEIR page 2-54) and replaced with bridges. Drainage plans will be required to be submitted for review and approval to the County for any improvements. Drainage is proposed (and required) to be fully controlled on site (RDEIR page 2-54). Any off-site monitoring for drainage issues would be the responsibility of the affected property owner or the County, in the case of the public roads and their drainage infrastructure.

The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-30, -33, and -34, in the Todd Groundwater document found at the end of the responses to Letter 10.

26. This comment relates to monitoring of drainage facilities and general comments about drainage. The resort operator, who will be managing the whole facility including the timeshare units, will be responsible for maintenance of on-site drainage facilities. The resort operator would hire a licensed professional engineer to provide the monitoring and maintenance oversight. The project, if approved, would not be allowed to sell units as permanent residences. A condition of approval will limit the uses allowed for the entire resort to those uses proposed under the application, which is described in RDEIR Chapter 2.

For drainage comments, see Response to Letter 7, Number 21. Drainage facilities will collect all on-site runoff and release any flows off-site by metering the runoff at no more than the 10-year pre-development level when storm flows are greater than the 10-year storm intensity.

The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-25, -30 through -36, -38 and -39, in the Todd Groundwater document found at the end of the responses to Letter 10. Also, see Master Response 1.

27. This comment relates to construction on slopes.

See Response to Letter 5, Number 14b. For the comment related to geology, technical reports were submitted as part of the project application packet. The *Geologic and Soil Engineering Feasibility Report for Paraiso Hot Springs Spa Resort*, prepared by Landset Engineers, Inc., dated December 2004 (RDEIR Appendix F), includes an overview of the relative geologic hazards for the areas of proposed site development. The report identifies potential measures to address the potential risk for faulting, liquefaction, debris flow, and landsliding. The report identifies geologic and soil constraints that will assist in the project design, and will be revisited when site specific improvements are designed. Prior to issuance of any related grading or building permits, a site-specific investigation will be submitted to provide design level construction recommendations. This investigation will be reviewed by County staff to ensure adequate safety is included in project design.

The potential environmental impacts related to grading, construction techniques to assure structure protection, and seismic shaking were evaluated in RDEIR Chapter 3.6, Geology and Soils. The requirements of the state codes were discussed (section 3.6.3), as were recommendations from the technical experts described in section 3.6.1. Significance Threshold Criteria were identified in section 3.6.4. An analysis of potential impacts was provided in section 3.6.5. In particular, see Impact 3.6-4, Landslides, found on pages 3-196 through 3-200. However, many geologic topics discussed in section 3.6.5 can directly or indirectly relate to debris flows.

28. This comment relates to hauling of waste and potential spills from the wastewater treatment plant. See Master Response 1. Routine hauling of liquid waste is not proposed with the project. Biosolids removed during the treatment process will be bagged and removed from the site by the franchise waste hauler. In the event access to the site is limited, the bags of biosolids can be managed on the site until access is restored.

If a roadway blocked the resort access to the point where the sewer system was to overflow, the resort would be shut down prior to, or as a result of, such an occurrence. The shutdown would be important for other reasons of public safety, as well. If a tanker truck could not access the site, neither could first responders. At that point, evacuation activities would occur to the point where the sewer system would not be taxed to the point of overflowing.

29. The commenter asks about the size of the tanker that would be used to transport effluent to the regional plant if required and if it could safely pass other cars or large vehicles.

The tanker would be sized appropriately for the roadway, and the County would require a Transportation permit for an oversized vehicle. Therefore, the tanker could be accommodated on the two-lane roadway accessing the proposed resort without impeding vehicles traveling in the opposite direction. Also see Response 7-20 and Master Response 5: Traffic.

30. This comment relates to how the activated alumina process could affect other water sources. 2018 RDEIR Section 3.7.5, Impact Analysis, and Impact 3.8-8, Groundwater Water  
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Quality, addresses the potential environmental impacts from resort operations, including the use of the wastewater treatment system.

The comment also sought to understand how much water is wasted in the alumina process. The water is not wasted, but is a byproduct of the process. The April 30, 2012 Field Pilot Test Report by AdEdge for well #2 indicates that waste generation is approximately 14%. For every 1000 gallons of treated water produced, 140 gallons of wastewater is also produced. However, it can be noted that this wastewater from the treatment process can be blended into the treated wastewater and used for irrigation, thereby not increasing water use for the site. The Activated Alumina cartridges will be hauled off-site to be backflushed at an approved wastewater facility.

The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-10, -14, and -19, in the Todd Groundwater document found at the end of the responses to Letter 10. As explained in BHgl-10, a five percent treatment loss is considered conservative and was used in the water balance calculations (Todd Groundwater, 2018, Table 4). The treatment waste for well #1 was 2 percent (Todd Groundwater, 2018, section 8.2.2). Five percent was used in the water balance analysis for the following reasons: 1) the water system may blend water from Wells #1 and #2 used on site, 2) the pilot test showed a two percent treatment loss for Well Number 1, and 3) Well number 1 would be cheaper to operate so is more likely to be the main well utilized for project operations.

It is important to note that a non-community water system, which is the category for the water system for this project, may combine multiple sources to demonstrate that maximum day demand (MDD) is available. The combined capacity of Wells No. 1 and No. 2 meet and exceed the source capacity requirement necessary to meet maximum day demand, even if treatment loss is 14% and system loss is 7% (industry-accepted standard). Pursuant to California Code of Regulations (CCR) Title 22, Section 64554, all public water systems shall determine Maximum Day Demand and Peak Hourly Demand. Storage may be considered in accordance with CCR Section 64554.a2: *(2) For systems with less than 1,000 service connections, the system shall have storage capacity equal to or greater than MDD, unless the system can demonstrate that it has an additional source of supply or has an emergency source connection that can meet the MDD requirement* (personal communication, Nicole Fowler and Roger Van Horn, Monterey County Environmental Health Bureau, December 27, 2018).

The comment related to the cost for the activated alumina process is not related to the CEQA document. The applicant has proposed this treatment system as part of the project description (RDEIR Chapter 2).

One comment suggests that a well is required to be drilled that provides potable water without treatment. However, public water systems may utilize a treatment system that is considered a Best Available Technology by the State Water Resource Control Board - Division of Drinking Water (Chapter 15 of Title 22 of the CA Code of Regulations).

31. The commenter asks if neighbors and guests would be warned when hazardous materials are being transported and how the transport would increase the dangerousness of the roadway. As described in 2018 RDEIR Section 3.7.5 of the *Hazards and Hazardous Materials* Chapter, the storage, handling and transport of hazardous materials would adhere to Monterey County Health Department, Environmental Health Bureau and other applicable state and federal regulations described in Section 3.7.3 of the RDEIR for the storage, handling, transport and disposal of hazardous materials and waste. There is no law requiring resort guests and neighbors be notified

when materials are being transported; however, there are reporting requirements that could be made available to the public upon request.

Additionally, as described in Section 3.12.5 of the *Transportation and Traffic* section under *Roadway Hazards* (Impact 3.12-2) and in Master Response 5: Traffic, the proposed roadway improvements would improve the safety for all vehicles traveling on the roadway, and there would be no significant environmental impact related to roadway safety.

32. This comment asks about availability of first responders and response time. In an emergency, first responders would likely be from the Mission-Soledad Rural Fire District. The status of this responding agency is described in RDEIR section 3.11-2 on pages 3-304 through 3-308. Response time to the resort is described at 15 minutes in this section, but response time would depend on the location of a spill. The Fire District is on call 24 hours per day. The Fire District personnel on site would assess whether additional response personnel would be needed depending on the incident. The Sheriff would also respond to an incident and would assist as needed; mutual aid agreements may mean that law enforcement response is from the California Highway Patrol or local police department staff either in lieu of or in addition to the County Sheriff deputies. Also see responses to Letter 18.

33. This comment is concerned with how hazardous materials are safeguarded during transportation. State and federal laws regulate the storage, handling and transportation of hazardous materials. The facility will be required to maintain a hazardous materials permit from Monterey County to confirm the safe storage and management of materials on the site (Monterey County Code Chapter 10.65; Chapter 6.95 of Division 20, commencing with Section 25500 of the Health and Safety Code). No additional safeguards are required. Also see discussion in 2018 RDEIR Chapter 3.7, Hazards and Hazardous Materials.

34. This comment questions why water has been diverted from the creek fed by previous overflow from the pools and spas, and the impacts of such a diversion.

The water has not been diverted. The cited Todd Groundwater comment (more fully described in Todd Groundwater, 2018, section 4.3) describes the creek as ephemeral, with the exception of the perennial flow below the hot springs. Below the hot springs the flow is estimated to be 0.07 cfs, an amount that may not be apparent without close inspection. See Todd Groundwater, 2018, page 9, for full discussion as well as Response to Letter 5, Number 13. Water from the springs is either surface flow or infiltrates into the ground depending on the season.

The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in response BHgl-8, in the Todd Groundwater document found at the end of the responses to Letter 10.

Regarding the question of missing pages, all pages are in the document (RDEIR, Appendix J [Appendix page 1113], *Paraiso Springs Resort – Estimated Potable Water Demand and Potable Water Source*, CH2MHILL, August 3, 2010). In Table 1 (5 pages), the order of pages 4 and 5 were apparently reversed when scanned. Also, the numbering used for Table 1 (pages 1 of 5 through 5 of 5) is imbedded within the overall page numbering. The last page of Table 1 is page 7 of the document. Page 8 is the correct number for the next page, which includes Table 2.

35. This comment asks what other treatment systems are required, whether water will be hauled to the site, whether eminent domain would be used, the layout for the water system, the percentage of water consumption by the resort guests that does not have to be treated, the service life of wells proposed to provide potable water, and the availability of water quality data and the distance of neighbors wells and springs from the project wells

The County Environmental Health Bureau prepared a memorandum dated August 22, 2016 that indicates a disinfection system is required for Well No. 1; there is no water loss or treatment waste with a chlorine disinfection system, so no new potential environmental impacts would occur from this disinfection system. Water would not be hauled to the site. If the wells were to no longer meet standards for production or water quality, with or without treatment, the public water system would be required to obtain a new source of supply that meets drinking water standards (with or without treatment) (Bacteriological Quality - CA Code of Regulations, Title 22, Division 4, Chapter 15, Article 3, Sections 64421-64427; Primary Inorganic Chemicals - CA Code of Regulations, Title 22, Division 4, Chapter 15, Article 4, Section 64431; Radioactivity - CA Code of Regulations, Title 22, Division 4, Chapter 15, Article 5, Section 64442; Organic Chemicals - CA Code of Regulations, Title 22, Division 4, Chapter 15, Article 5.5, Section 64444; Secondary Drinking Water Standards - CA Code of Regulations, Title 22, Division 4, Chapter 15, Article 16, Section 64449; CA Code of Regulations, Title 22, Division 4, Chapter 16, Section 64554, New and Existing Source Capacity, (a) At all times, a public water system's water source(s) shall have the capacity to meet the system's maximum day demand (MDD).

Eminent domain would not be required, as all water would be provided by on-site wells. A schematic of the treatment system components is available in the Potable Water Source section (pg. 8-9) of the CH2MHill January 27, 2009 memo (CH2MHill\_2010a\_Estimated Potable Water Demand). The general location is indicated on Attachment 2 of the document. The service life of the wells are not known; the potential environmental impacts of pumping groundwater from beneath the project site have been analyzed throughout the RDEIR, in particular in Chapters 3.3, 3.7, 3.8, 3.11, and 4. If an alternative well location were needed, a future well construction permit would be applied for and evaluated for conformance with Monterey County Code, Chapter 15.08. Water quality analysis information for the Paraiso Hot Springs water system is publicly available at <https://sdwis.waterboards.ca.gov/PDWW/>.

All water directly consumed by resort guests will be treated. The RDEIR assumes that all project water use would be treated.

In response to the comment regarding well locations, the RDEIR section related to the location of other wells appears to be correct. The third paragraph on RDEIR page 3-250 states, “five residences are served by wells within 1.2 miles of the project wells,” which is consistent with the comment. The comment points to language in the second paragraph on RDEIR page 3-250, which is consistent with that language.

The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant’s hydrogeologist and concur with the text found in responses BHgl-6 through -12, -21, -25, -27, -29, and -33, in the Todd Groundwater document found at the end of the responses to Letter 10.

36. This comment questions the statement that the Forebay Aquifer has had surpluses in the past. See Todd Groundwater’s description and discussion of inflows to the Paraiso Springs Valley groundwater basin, RDEIR, Appendix H, section 8.1.1. Additionally, the Forebay Aquifer Subbasin, within which the project’s wells are located, is recharged by groundwater flow from the Upper Valley Aquifer Subbasin, Salinas River flows, and the Arroyo Seco River, a major, un-

dammed tributary to the Salinas River that drains the Santa Lucia mountains to the west. Groundwater level data spanning the period 1944-2017 show fluctuating water levels in the Forebay Aquifer Subbasin, including water levels that have recovered to near 1944 levels and in some cases exceeded them (Brown and Caldwell, 2015, Figure ES-5; RDEIR page 3-226).

Not all wells in the basin will have access to the full depth of the aquifer. The Todd Groundwater report, 2018, describes the groundwater setting for the wells proposed to be utilized for this project and prepared a water balance demonstrating adequate water supply for the project (see also RDEIR Impact 3.8-4 discussion) based on aquifers found under the project site. The Todd Groundwater report also described, and analyzed project impacts to, the regional aquifer (Forebay) and the Salinas Valley Groundwater Basin. RDEIR Chapter 3.8 analyzed project impacts related to each of these aquifers as well as cumulative groundwater issues in RDEIR section 4.5. The water quality of the project's wells was analyzed and the water quality does not exceed standards for boron, only fluoride, which will be treated for domestic use (RDEIR page 3-243 and RDEIR pages 3-323 through 3-325).

37. The comment questions how wastewater treatment will meet nitrate standards and who would monitor. The wastewater facility will be required to submit quarterly nitrate monitoring reports to the County Environmental Health Bureau, as required by Monterey County Code, Chapter 15.23. The facility will be required to make adjustments and/or modify the treatment system as needed to meet effluent discharge requirements (6 mg/L nitrate-nitrogen); additional treatment would not result in new or increased environmental impacts as any modified system components would be located on the treatment facility footprint (personal communication, Nicole Fowler and Roger Van Horn, Monterey County Environmental Health Bureau, December 27, 2018).

For comments related to well water needing treatment and well capacity, see Responses to this letter, numbers 30 and 35, above.

The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-10, -25, -27, -29, -38, and -39, in the Todd Groundwater document found at the end of the responses to Letter 10.

38. This comment questions the right of an owner to reduce water levels.

Water rights, in the context of a CEQA document, are important to understand so that the water supply being proposed and analyzed is certain for the project. If a project site does not have clear rights to a proposed water supply, other potential water sources would also need to be analyzed. In this case, the project site overlies an aquifer that is proposed to provide water from pumping of groundwater.

According to the State of California "[a] water right is a legal entitlement authorizing water to be diverted from a specified source and put to beneficial, nonwasteful use. Water rights are property rights, but their holders do not own the water itself. They possess the right to use it. The exercise of some water rights requires a permit or license from the State Water Resources Control Board (State Water Board), whose objective is to ensure that the State's waters are put to the best possible use, and that the public interest is served."

[https://www.waterboards.ca.gov/waterrights/board\\_info/water\\_rights\\_process.html](https://www.waterboards.ca.gov/waterrights/board_info/water_rights_process.html)

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Article X, Section 2 of the California Constitution requires that all use of water be “reasonable and beneficial.” Under that provision, water may not be wasted ([http://leginfo.legislature.ca.gov/faces/codes\\_displayText.xhtml?lawCode=CONS&article=X](http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=CONS&article=X)).

Percolating groundwater is often defined as water moving through the soil by gravity along the path of least resistance. In California, the term covers all groundwater that is not flowing in a known and defined channel. With few exceptions, the rules applicable to overlying rights are similar to those applied to riparian rights. Correlative rights, while acknowledging that shortages may occur, only require that all property owners share equally in the resource until it is exhausted. Overuse of any water resource that would destroy its future utility is generally deemed to be an “unreasonable” use and therefore is forbidden by state law (<https://www.watereducation.org/aquapedia-background/groundwater-law>).

Also according to the State of California, “[i]n most areas of California, overlying land owners may extract percolating ground water and put it to beneficial use without approval from the State Board or a court. California does not have a permit process for regulation of ground water use. In several basins, however, groundwater use is subject to regulation in accordance with court decrees adjudicating the ground water rights within the basins.

The California Supreme Court decided in the 1903 case *Katz v. Walkinshaw* that the “reasonable use” provision that governs other types of water rights also applies to ground water. Prior to this time, the English system of unregulated ground water pumping had dominated but proved to be inappropriate to California’s semiarid climate. The Supreme Court case established the concept of overlying rights, in which the rights of others with land overlying the aquifer must be taken into account. Later court decisions established that ground water may be appropriated for use outside the basin, although appropriator’s rights are subordinate to those with overlying rights.” ([https://www.waterboards.ca.gov/waterrights/board\\_info/water\\_rights\\_process.html#rights](https://www.waterboards.ca.gov/waterrights/board_info/water_rights_process.html#rights))

In the instance for this project, no adjudication of water rights has occurred in the geographic area of this project. The Seaside Area (described on RDEIR page 3-220), a portion of the Salinas Valley Groundwater Basin, is an adjudicated basin, but over 25 miles (direct line; miles farther as the water flows) away from the project site. The Carmel Valley Aquifer is under a Cease and Desist Order, but is not a part of the Salinas Valley Groundwater Basin. Groundwater pumped from the groundwater basin and used for the project will be recycled and reused on site for landscape irrigation. For these reasons, the amount of groundwater use proposed is reasonable, beneficial, and not wasteful. The potential environmental effects of pumping groundwater were analyzed (Todd Groundwater, 2018) and disclosed in the RDEIR in Chapter 3.8, Hydrology and Water Quality, and Section 4.5, Cumulative Impacts. No significant effects, with mitigation measures identified, result from using this groundwater for the project, as proposed.

The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant’s hydrogeologist and concur with the text found in responses BHgl-22 and -23, in the Todd Groundwater document found at the end of the responses to Letter 10.

39. Regarding the comment related to lowering of static water levels, see response to Letter 5, Number 5.

The population of the project is not relevant to the potential water demand of a project. For example, agricultural land without a residence would use far more water (on average, approximately 3.6 acre-feet per acre of irrigated crop land (this example for vegetables) or approximately 1.4 acre-feet per acre of vineyard - *2015 Groundwater Extraction Summary Report*, Monterey County Water Resources Agency, April 2017, Figure 18: 2015 Acre-Feet/Acre by Crop

Type and Subarea, found at the Monterey County Water Resources Agency website at <https://www.co.monterey.ca.us/home/showdocument?id=24160>). As discussed on RDEIR pages 3-248 through 3-251 of the RDEIR, the estimated project net consumptive water use of 15.5 to 17.8 acre-feet/year will be lost from the regional Forebay Aquifer Subbasin and will be used within the local (Paraiso Spring Valley) basin resulting in a water level diminishment of 0.5 feet or less at nearby neighboring wells. The amount of water consumption calculated for the project would, therefore, be equivalent to irrigation of 4.94 acres of vegetables or 12.7 acres of vineyard (17.8 acre-feet per year divided by 3.6 and 1.4, respectively). Also see Master Response 1 related to the comment on Zone 2C assessments.

The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-1, -4, -10, -12, -13, -14, -16, -22, -23, -33, -34, and -37, in the Todd Groundwater document found at the end of the responses to Letter 10.

40. This comment questions how long until resort wells are affected by Sulfur, as found in wells at Sycamore Flats in the Arroyo Seco area.

Sycamore Flats is not in the Forebay aquifer area (Monterey County Water Resources Agency, 2006, Figure 1-2; Monterey County General Plan, Figure LU-4, Central Salinas Valley Land Use Plan; Monterey County Geographic Information System, location [http://gis.co.monterey.ca.us/Html5Viewer/Index.html?configBase=http://gis.co.monterey.ca.us/Geocortex/Essentials/external/REST/sites/PBI\\_Viewer\\_External2/viewers/BaseMapView/virtualdirectory/Resources/Config/Default](http://gis.co.monterey.ca.us/Html5Viewer/Index.html?configBase=http://gis.co.monterey.ca.us/Geocortex/Essentials/external/REST/sites/PBI_Viewer_External2/viewers/BaseMapView/virtualdirectory/Resources/Config/Default); RDEIR Figure 3.8-1). Wells in that area are drilled into hard rock areas and in a different watershed (Arroyo Seco River watershed) than that underlying the Paraiso Springs property. The wells proposed to be used for this project pump from a local aquifer found under the resort; this small aquifer is miles from the Arroyo Seco River and perched much higher in elevation (RDEIR Chapter 2; Figure 2-6, Project Site Plan, page 2-21; page 3-3; Figure 3.8-1, Regional Hydrology; page 3-242). Sulfur was not identified as a constituent at levels requiring treatment in the wells proposed to provide potable water for the project (CH2MHill 2010a).

41. This comment questions groundwater effects, including water levels and water quality. See RDEIR, pages 3-241 through 3-252, which describes potential environmental impacts on long-term water supply, groundwater levels, well interference, and potential spring impact. At buildout, net consumptive water use for the proposed project is estimated to amount to 15.5 to 17.8 acre-feet/year, whereas average annual groundwater inflow to the Paraiso Springs Valley Basin is estimated to be between 700 and 750 acre-feet/year (Todd Groundwater, 2018, page 40). Project water usage will not prevent recharge of rainfall to aquifers providing water for existing wells and springs. The water balance efforts included rainfall, recharge and project water use inputs as well as analyzing the potential effect on "local wetland habitats, neighboring groundwater users, and water resources of the overall Salinas Valley" (RDEIR page 3-241). For the comment on water softeners, see Mitigation Measure 3.8-8, which will reduce the potential impact to a less than significant level and will be made a condition of approval as part of the adoption of the Mitigation Monitoring and Reporting Plan. See responses to Letter 5, number 5, to Letter 5, number 12, to Letter 7, number 44 and to Letter 10, number 18.

The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-5, -12, -16, -17, -37, -38 and -39, in the Todd Groundwater document found at the end of the responses to Letter 10.

42. This comment relates to water quality testing off site and the effect of off site groundwater quality.

These issues were analyzed in RDEIR Chapter 3.8, specifically in Section 3.8.4: Impact 3.8-1, Short-term Erosion and Water Quality, Impact 3.8-2, Long Term Surface Water Runoff, Impact 3.8-3, Long Term Surface Water Quality, Impact 3.8-4, Long Term Water Supply, Impact 3.8-6, Well Interference, Impact 3.8-7, Potential Spring Impact, and Impact 3.8-8, Groundwater Water Quality. Mitigation Measure 3.6-5 would reduce Impact 3.8-1 to a less than significant impact by requiring preparation and implementation of a Storm Water Pollution Prevention Plan to protect surface water quality. Mitigation Measure 3.8-2 would reduce Impact 3.8-2 to a less than significant impact by requiring preparation and implementation of a drainage plan that controls runoff and requires the use of low impact development (LID) features and best management practices (BMPs) to clean storm water prior to release to the environment. Mitigation Measure 3.8-3 enhances the requirements of Mitigation Measure 3.8-2 by requiring additional active and passive stormwater cleansing techniques and how cleaned stormwater may be discharged to the environment. Mitigation Measure 3.8-8 controls the type of water softening equipment that can be used, to protect groundwater quality. The RDEIR concluded that the impacts to groundwater quality would be less than significant with the identified mitigation measures.

The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-10, -14, -25, -27, -29, -30, -31, -32, -33, -34, -36, -38 and -39, in the Todd Groundwater document found at the end of the responses to Letter 10.

43. This comment has questions related to the underground wastewater storage tank and the water balance information. The dimension of the underground wet-season storage reservoir is 250 feet x 115 feet x 20.4 feet deep (CH2MHill 2010b). See responses to Numbers 44 and 45, below, regarding potential impacts to nearby wells and the spring serving neighboring properties.

The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-24, -25, -27, -28, in the Todd Groundwater document found at the end of the responses to Letter 10.

For the comment related to reducing the size and scope of the project, see Master Response 1. In addition, the potential impacts of the proposed project on the environment have been disclosed in the RDEIR. A range of reasonable project alternatives has been analyzed that are smaller in size; the potential environmental impacts of those alternatives were disclosed in the document (RDEIR Chapter 5).

44. This set of comments relates to well interference.

The RDEIR (Impact 3.8-6) discusses potential well interference and describes the basis for the 0.5 feet drawdown, conservatively predicted for the nearest well, located 0.7 miles from the project wells and not from the resort's entrance. The estimate is based on a groundwater flow model calibrated using data from onsite boreholes as well as water levels measured at the main project well. Figure 8, Simulated Long-Term Drawdown from Net Project Pumping, of the Todd Groundwater (2018) report (RDEIR Appendix H) shows all neighboring wells and the simulated

groundwater drawdown in feet. All off-site wells were calculated to have a drawdown of less than 0.5 feet. See response to Letter 7, Number 41, above, as well as the responses cited in that response. One comment states that this project's water use would confiscate half of a neighbor's well's water. Since the drawdown would be less than a half foot at any off-site well, that implies the neighbor's well has a foot of water. A well with only a foot of water would not operate, as it would dry up as soon as the pump is turned on (personal communication, Nichole Fowler and Roger Van Horn, Environmental Health Bureau, December 27, 2018). In addition, no water users in the area stated that they observed any effects on their water sources during well pump testing on the project site. The pump tests required much greater amounts of water to be pumped than will be utilized by the project (see Todd Groundwater response BHgl-4, *Responses to Bierman Hydrogeological (BHgl) Comments and LandWatch Hydro Comment D*, August 7, 2018, at end of responses to Letter 10).

For the comments relating to water rights, please see Response to Letter 7, Number 38, above.

The amount of water found on site from wells has been described in Chapter 3.8 on pages 3-242 through 3-245 and in Chapter 3.11 on pages 3-310 and 3-311 and on pages 3-322 and 3-323. The amount of information provided by bore holes and well tests was sufficient to demonstrate an adequate water supply for the project to the County.

One comment questioned how many water sources have gone dry in the last 50 years. The number is unknown, but is unrelated to the potential impacts of the project, as any such occurrence was in the past. See Master Response 1. Also see Responses to Letter 7, Number 30 and to Letter 12, Number 7.

The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-1, -6 through -10, -12, -13, -14, -16, -20, -21, -28, -31, -33, and -34, in the Todd Groundwater document found at the end of the responses to Letter 10.

45. This set of comments relates to potential spring impacts. See Master Response 1 and Response to Letter 7, Number 38, above. Also see Responses to Letter 7, Number 30 and to Letter 12, Numbers 7, 26, 28, 35, 41, and 57.

Spring flow for the spring where water is collected for the neighboring properties, whether it varies over time, would be a natural occurrence and is not a CEQA issue. The RDEIR has a responsibility to analyze potential impacts of the proposed project on the environment and has provided that information. The RDEIR analyzes potential environmental impacts from the project on the spring utilized by neighboring property, in particular, on pages 3-251 through 3-254. Potential environmental impacts on wells were analyzed on pages 3-241 through 3-251, with a particular emphasis on well production in the discussion for Impact 3.8-6 (pages 3-249 through 3-251).

Relating to the question of spring origination, springs flow from aquifers or rock fractures wherever they break through the surface. The origins of springs are from aquifers or fractured rock containing water. See the following excerpt from the federal government on spring sources:

“A spring is a water resource formed when the side of a hill, a valley bottom or other excavation intersects a flowing body of groundwater at or below the local water table, below which the subsurface material is saturated with water. A spring is the result of an aquifer being

filled to the point that the water overflows onto the land surface. They range in size from intermittent seeps, which flow only after much rain, to huge pools flowing hundreds of millions of gallons daily” (<https://water.usgs.gov/edu/watercyclesprings.html>).

The source of water flowing from the Paraiso Springs is percolating rainfall in the Paraiso Valley watershed above the springs. See Todd Groundwater’s (2018) discussion of the Spring response during well pump tests, which extracted groundwater at a rate an order of magnitude greater than the maximum buildout demand of the proposed project.

The Monterey County Water Resources Agency staff and staff from the Monterey County Environmental Health Bureau have reviewed the information provided by the applicant’s hydrogeologist and concur with the text found in responses BHgl-4, -5, -12, -13, -14, -20, -22, -23, -25, -26, -27, -28, -30, -32, -33, -34, -38 and -39, in the Todd Groundwater document found at the end of the responses to Letter 10.

While the underground treated wastewater storage tank may encounter portions of an aquifer, foundations for structures would not be placed in aquifers. Even if that were to occur, any water encountered would be drained around a structure through an underground drainage system to protect the foundation's integrity and, therefore, remain in the aquifer. The underground treated wastewater storage tank, if it encounters groundwater, may divert any flow through that area, but the water would remain in the aquifer. The aquifers in the area of the proposed tank are sufficiently thick and wide that the tank would not block all flow (Landset Engineers, 2004, pages 13 and 14, and Appendix A (RDEIR Appendix F); Todd Groundwater, 2018, section 6.2). Tank dimensions are described in response to Number 43, above. The average width of the aquifer (525 feet—Todd Groundwater, 2018) is more than twice the width of the tank (250 feet—CH2MHill, 2010b), even if it was oriented with the longest axis across the aquifer. The area where the tank would be located is much wider, being in the area where the aquifer is the widest (CH2MHill, 2010b, Appendix 1, Attachments 1 and 4). The alluvial aquifer is approximately 55 acres in size; the area affected by the tank is approximately 0.66 acres (28,750 square feet). Data related to the top of the aquifer below ground level in this area is found in Landset Engineers, 2004. Boring locations B-1, B-3, B-6 and B-10 are in the general vicinity of the proposed location for the treated wastewater storage tank. Boring location B-1 found groundwater at 18 feet below ground level (6.5 feet after 30 minutes) and appears to be saturated through depth of 34 feet. Boring location B-3 found groundwater at 15 feet below ground level (19 feet after 30 minutes) and appears to be saturated through a depth of 30 feet. The other two borings did not encounter groundwater at boring depths of 21.5 feet below ground surface for Boring B-6 and a depth of 10.5 feet below ground surface for Boring B-10 (Landset Engineers, 2004). The underground reservoir would also be constructed on a bed of gravel to ensure that groundwater is not impeded. In the event that the water table on the upgradient side of the reservoir rises above the bottom of the reservoir, the high permeability of the gravel envelope, and the width of the aquifer in proportion to the tank's width, will ensure that groundwater continues to flow to the downgradient side as fast as it would without any obstructing effect of the reservoir.

46. The comments relate to the proximity of the wastewater treatment facility to other water sources. The setback requirements are 100 feet in accordance with State Water Resource Control Board Order No. 2014-0153 DWQ, Table 3 (Specified for Impoundment of disinfected tertiary recycled water) and either Domestic Well or Flowing Stream; setbacks are the same for both of these with no specific setback for springs. However, see Response to Letter 12, Number 36 for setback exceptions.

The nearest part of the wastewater treatment building would be about 58 feet from the spring. The setback requirements listed in State Water Resource Control Board Order No. 2014-0153 DWQ, Table 3, will be applied to the project during review of construction plans, as determined by the County Health Bureau. Any required relocation of the facilities can be accommodated within the project footprint (Nicole Fowler, personal communication, August 2, 2018).

There is no sewer pond proposed in the project (RDEIR Chapter 2; CH2MHill 2010b-*Paraiso Springs Resort – Estimated Wastewater Production and Proposed Treatment, Irrigation, and Storage*).

The comment also suggests the possibility that the spring or neighboring wells could be contaminated if liquid holding tanks at the treatment plant leaked. This possibility is negligibly  
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small for several reasons. First, wastewater would be treated by a membrane bioreactor and disinfection, which would reduce nitrogen and pathogen concentrations to meet drinking water standards. A leak of treated water would not cause any contamination to surface or ground water. Second, the tanks will be engineered structures designed not to leak. Third, the tanks in the wastewater treatment plant will be above ground and rest on concrete slabs. Any leakage would be immediately visible and rapidly repaired.

The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-25 through -28, -35, and -36, in the Todd Groundwater document found at the end of the responses to Letter 10.

47. This comment questions water use from cumulative growth in the area. See analysis in Chapter 3.8 and section 4.5.2 (cumulative impacts analysis). Each of the examples cited in these comments is subsumed in the analysis of the potential environmental impacts of the project, individually and cumulatively. On-site vineyard water use is included as part of the project's landscaping, which will be irrigated with treated wastewater. The project description in Chapter 2 of the RDEIR includes the landscaping and water treatment system. Analysis of the related water usage impacts is described in RDEIR Section 3.8.

48. This set of comments asks about property size, earlier requests for rezoning the property, the proposed subdivision of the property, and the number of units in the proposal. See Master Response 1.

The property boundaries have changed over the time since the Spanish period when the Mission was constructed, but is the same property as it was when the most recent resort was operating from the late 1800s through the late 1900s. The proposed resort will have a larger overall footprint, but the property is the same size. Potential environmental impacts of the proposed project have been analyzed, irrespective of the historic use or size of the site.

The request to change the zoning was part of a General Plan update for the whole county and was not adopted. The land use designation for this site has not changed from the 1982 General Plan designation to the 2010 General Plan designation. Instead, a specific policy was added to the 2010 General Plan providing a Special Treatment designation for this site. However, the project is being processed pursuant to the 1982 General Plan, as explained on RDEIR page 2-1, so the 2010 General Plan Special Treatment policy is not applicable. No rezoning or general plan amendments have been requested and none are required to construct this project.

A subdivision has been included in the request, including condominium maps for the conveyance of timeshare units. No residential uses are proposed or will be approved as part of the proposed project (see RDEIR Chapter 2, section 2.4, in particular sections B.3 and B.4).

49. This comment relates to the urbanization of the area and questions whether residential uses will be allowed. See Master Response 1 regarding the first two comment paragraphs.

For the remaining comments, see response to Number 48, above.

50. This comment suggests that the project will physically divide the community, asks how the project will support the winery corridor, and questioned the visitor serving aspects of the proposed project. See Master Response 1. Potential environmental impacts related to transportation were analyzed in RDEIR Chapter 3.12. All potential environmental impacts from construction and operation of the proposed project were found to be less than significant (RDEIR section 3.12.5, pages 3-334 through 3-343).

Prior to construction of the Visitor's Center, other public portions of the resort will be open. See RDEIR Chapter 2, including a discussion on the Hamlet area on page 2-20 and in Table 2.2, page 2-28. Guests staying at the resort are expected to take advantage of day trips, including for wineries (RDEIR page 2-45). The use of shuttles for local day trips by guests is described in the project's traffic study (Appendix K) and in RDEIR sections 3.12.4 and 3.12.5.

51. This comment relates to traffic speed and its resulting noise. Exposure to increased transportation-related noise is evaluated in RDEIR Impact 3.10-2 (page 3-297).

As identified on page 3-297, residences along this roadway are currently exposed to noise levels of less than 60 dBA ( $L_{dn}$ ). The project would result either in no change or an increase of up to 3 dBA in the existing noise environment at the homes along Paraiso Springs Road due to transportation-related noise. This change is considered to be less than significant.

The determination was based on the noise report prepared by Illingworth & Rodkin and the traffic analysis report prepared for the project by Hatch Mott MacDonald. The noise report assumed an average vehicle speed of 35 mph passing the homes on the section of Paraiso Springs Road nearest the project (RDEIR Appendix I, Illingworth & Rodkin, *Paraiso Springs Resort Environmental Noise Assessment*, September 8, 2016, page 19). Noise levels are reduced at lower speeds (RDEIR Appendix I, Illingworth & Rodkin, *Paraiso Springs Resort Environmental Noise Assessment*, September 8, 2016, page 4 of Appendix A). Therefore, the evaluation of traffic noise would be conservative if a majority of vehicles reduce their speed to 15-25 mph around the curve in front of the residence at 34352 Paraiso Springs Road.

52. This comment has a number of questions related to operations and resulting noise effects.

Recreation facilities, including basketball and racquetball courts were analyzed as part of the noise study prepared for the project. Those activity courts are in the middle of the project, not near the eastern property boundary, which would be closer to off-site residences. The resort is planned to provide a quiet environment for guests, which would necessarily require that noise levels within the project site be at a lower level. The County would investigate any noise complaints. Also see Master Response 1.

53. This comment questions whether a noise ordinance will be established. See Master Response 1 and response to Number 52, above. The comments do not address environmental issues. These comments will be provided to the Planning Commission and Board of Supervisors for consideration.

54. This comment questions how the increase in traffic will affect noise levels. The traffic report determined that an average of 22 vehicle trips currently utilize the site per day. At build-out of the proposed project and assuming full occupancy, traffic volume would increase to a total of 406 trips per day (RDEIR Table 3.12-1, page 3-336). The noise report concluded that the project traffic above the baseline level would be expected to result either in no change or an increase of up to 3 dBA in the existing noise environment at the homes along Paraiso Springs Road (page 3-297). See also response to comment 39 above.

55. This comment questioned why the noise study did not find that noise levels reduce more at night and the length of the noise study. To evaluate the existing noise environment on the project site and at representative residential uses in the area, Illingworth & Rodkin conducted three, long-term noise measurements. The first long-term sound level measurement (LT-1) was on the project site on an existing flagpole at approximate position of the project amphitheater lawn. The second long-term sound level measurement (LT-2) was conducted on a utility pole on the opposite side of County of Monterey

Paraiso Springs Road from the closest residence to the project site. The third long-term sound level measurement (LT-3) was conducted on a utility pole at approximately 25 feet from the centerline of Arroyo Seco Road on a residential property line frontage north of Clark Road.

The average noise levels did not decrease significantly in the evening at any of the three locations. As described in the noise report (pages 8-10), this was due to either evening truck passbys (at the Arroyo Seco Road location), or natural evening noise sources (at the project site and at Paraiso Springs Road).

Specifically, as described in the noise report (Appendix I, page 9), a review of the measured noise level chart for the Paraiso Springs Road location (LT-2) shows a fairly constant noise source between about 9 pm and 5 am. This source, which measures between about 40 dBA and about 35 dBA, is judged to be a result of insect, frog, or other natural noise sources based on experience with similar wooded and rural sites.

In conducting a long-term noise analysis, Illingworth and Rodkin evaluated not only average day and night noise levels, but also average hourly and day/night levels. When a distinctive reading is identified in the noise measurements, an attempt is made to identify the source, and to determine if it is a “typical” noise event that accurately describes the average noise environment or if it is an anomaly and should be discarded. In the case of the long-term noise measurement at the Paraiso Springs Road location, the nighttime readings were similar to typical wooded and rural sites and deemed to be an accurate representation of typical evening noise levels at that location (RDEIR Appendix I, Illingworth & Rodkin, *Paraiso Springs Resort Environmental Noise Assessment*, September 8, 2016, pages 8 and 9).

56. This comment wondered how noise from the amphitheater would be monitored.

Mitigation Measure 3.10-3 includes the requirement that “Resort Staff shall be informed of, and trained in, these limitations and Resort Management shall be responsible to address any noise complaints. Resort Staff shall ensure that all activities and bookings follow the limitations and that those booking at the resort for activities that could create noise are provided information regarding these limitations. Timeshare owners shall be informed of these restrictions prior to purchasing their units as part of the real estate transaction paperwork.” The RDEIR determined that with implementation of Mitigation Measure 3.10-3, the significant operation-related noise impacts would be reduced to a less-than-significant level.

57. This comment questions the term “short term” in relation to construction periods.

A “short-term” noise impact is considered to be “a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project” (State CEQA Guidelines Appendix G; RDEIR page 3-294). A “long-term” noise impact is considered to be “a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project” (State CEQA Guidelines Appendix G; RDEIR p 3-294). Construction noise is considered to be a “short-term” impact because it does not result in a substantial permanent increase in noise levels. The RDEIR found that construction noise would be less than significant with mitigation (pages 3-300 through 3-302).

58. This comment questions the statement that no increase in traffic will occur. The RDEIR determined that there would be an increase in traffic (page 3-336). The thresholds of significance for noise are described on RDEIR page 3-294. Long-term noise impacts can result from increased vehicle traffic. However, the noise report concluded that the increased project traffic would be expected to result either in no change or an increase of up to 3 dBA in the existing noise environment at the homes along Paraiso Springs Road (RDEIR Impact 3.10-2, page 3-297). Therefore, the noise impact from increased traffic is less than significant. See also response to comment Number 42 above.

59. The comment identifies the location of a long-term noise measurement used in the noise report. No response is necessary.
60. The comment questions noise levels at a residence in the area. The noise report identified that the four homes on Paraiso Springs Road between the project entrance and Clark Road, including the home at 34352 Paraiso Springs Road, are situated between 50 and 60 feet from centerline of the roadway (page 19). Considering an average vehicle speed of 35 mph (per the traffic report), highest average noise levels due to automobile and light vehicles passing the four homes on this section of Paraiso Springs Road would be 64 to 65 dBA. The corresponding  $L_{dn}$  (day/night average) noise levels produced by project traffic at the homes would be 43 to 52 dBA. Long-term exposure to unacceptable noise levels from increased transportation-related noise was evaluated on page 3-297 of the RDEIR. Resulting noise levels from increased traffic would be within County noise standards for single-family residential uses (RDEIR Impact 3.10-2, page 3-297). Therefore, this is considered a less than significant impact.
61. The comment cites a portion of the Monterey County Code and also a citation from page 3-296 of the RDEIR. See Master Response 1.
62. The comment cites portions of the RDEIR. See Master Response 1.
63. The comments are questions related to on-site events. See Master Response 1.
64. The comment asks what mitigation will be provided for noise impacts to nearby residences and asks who will monitor noise levels. The nearest residence may be exposed to noise levels above 60 dBA  $L_{eq}$  during the construction of roads, buildings, and other features located within the northeastern to eastern area of the project site (RDEIR page 301). Implementation of Mitigation Measure 3.10-4 is required to reduce noise effects on noise sensitive receptors located within the project vicinity from noise-generating construction activities during the more noise-sensitive daytime hours. The mitigation addresses permitted hours of construction, maintaining distance between noise generating construction equipment and sensitive noise receptors, and requires a noise monitor to ensure implementation of the construction noise limitations.
65. The comment cites that other areas are allowing pot growing facilities and wonders about this project. The proposal does not include any application for marijuana growing; see RDEIR Chapter 2 for a complete project description.
66. This comment asks about the need for new power poles and whether the facilities will need to be placed underground.

The proposal does not require additional power poles, power lines, or facilities, other than those that will be located on site to provide the power needs (see RDEIR Chapter 2 for a complete project description). Total power use of 2,212,999kWh per year was determined for this project (RDEIR section 3.13.4, page 3-349). Existing distribution lines provide power through the area to the project site. PG&E has stated that the project will be able to be supplied by power using the existing off-site power poles, or perhaps upgraded poles in the same easement location. However, new off-site infrastructure such as a new substation would not be needed. On site power will be undergrounded from the local distribution lines that arrive at the project site to provide service to the individual structures.

The quantity of energy use for the project is described in RDEIR Chapter 3.13. Electricity demand is specifically disclosed on RDEIR pages 3-348 and 3-349.

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67. The commenter states that the width of Paraiso Springs Road is not consistent and asks several questions about the road width, condition of asphalt, stability of soil alongside, and how vehicles will pass each other going the opposite direction.

The existing condition of Paraiso Springs Road is presented in the RDEIR in Section 3.12.2 under *Existing Roadway System* and in Appendix K, *Traffic Analysis Report* (in Section 7 and Exhibit 13). Information on existing soils is provided in Section 3.6, *Geology and Soils* (refer to Figure 3.6-5 and the descriptions under *Soils*).

As described in RDEIR Section 3.12.5 of the *Transportation and Traffic* section under *Roadway Hazards* (Impact 3.12-2) and in Master Response 5: Traffic, the proposed roadway improvements would improve the safety for all vehicles traveling on the roadway, and there would be no significant impact related to roadway safety. Thus, vehicles would be able to pass each other going the opposite direction.

68. The commenter is concerned about traffic generated by visitors who are not registered guests and lost truck drivers who need a turn-around. The commenter questions the historic, existing use, and projected traffic volumes, as well as parking. The commenter asks if all guests and employees will be mandated to take shuttles with a monitoring program to reduce traffic congestion, noise, and other disruptions; who will monitor the program; if a curfew will be placed on guests; and why the shuttles and traffic reducing methods won't be instituted until the second phase of the project.

The questions and concerns related to the traffic volumes, shuttle use, and safety are addressed in Master Response 5: Traffic and Responses to Letter 10, Numbers 22, 23, 24, and 26.

There would be adequate parking provided onsite, as described in RDEIR Section 3.12.5 under *Parking Capacity*, based on the proposed project features and Monterey County Zoning Ordinance parking requirements (Section 21). The number of parking places at the former resort is irrelevant.

The project phasing for shuttle use and traffic improvements is based on the proposed phased development of the project, as described in Section 2.4 and Table 2.3 of the RDEIR, and the estimated traffic volumes associated with each phase, which is detailed throughout Appendix K, *Traffic Analysis Report*. The shuttle may be deferred to the later phase as long as daily trips remain below the 406 vehicle trip limit, which will be required by County conditions of approval.

69. This comment asks how the project will affect climate change. The climate change analysis is found in RDEIR Chapter 3.4, with potential impacts analyzed in section 3.4-1. The project proposes to fully offset greenhouse gas emissions through applicant-proposed on-site and off-site mitigation as described on RDEIR pages 3-128 through 3-131.

70. The commenter asks several questions about the shuttle program and the assumptions used, including what happens if the Park and Ride lots in Soledad and Greenfield become too full, will employees be paid for time on the shuttle, will the shuttles run if half empty, will the County implement a monitoring program for the shuttle and other trip reduction measures. The commenter is also concerned about accessing the road from driveways near dangerous curves. The commenter asks several questions about the trip estimates, the assumptions used, enforcing shuttle use and controlling trips.

Most of these questions are addressed by information provided in Master Response 5: Traffic and Responses to Letter 10, Numbers 22, 23, 24, and 26. When responding to comments and questions, the lead agency need only respond to significant environmental issues and does not need to provide all information requested by reviewers (CEQA Guidelines sec 15204[a]). The overall approach by

the County is that the project will be required to not exceed 406 trips per day (annual average), which will be monitored through a verifiable method, such as a buried loop detector system.

71. The commenter asks how people will walk or ride bikes safely on Paraiso Springs Road, what the increase in fatalities will be, and how it might increase hazards for vehicles.

As described in RDEIR Section 3.12.2 under *Pedestrian Facilities and Bicycle Facilities*, there is not a significant amount of foot-traffic in the vicinity of the proposed project, and therefore sidewalks are not provided along Paraiso Spring Road or other roadways in the project vicinity. According to the Transportation Agency for Monterey County's (TAMC's) *2011 Bicycle and Pedestrian Master Plan*, there are no existing or proposed bicycle facilities provided in the vicinity of the project site. River Road and Arroyo Seco Road are identified as "Cross County Bike Routes" in the 2016 Monterey County Bike Map by TAMC.

Bicycle and pedestrian use along Paraiso Springs Road is not expected to increase substantially with project development because of the remote nature of the proposed resort, and because of the many amenities and activities that would be provided onsite and the shuttle service provided to destinations offsite. As described in RDEIR Section 2.4, proposed amenities onsite include pedestrian pathways, gardens, walking trails with scenic lookouts, and hiking trails through natural areas. Other planned activities are listed (e.g., swimming, spa, art, putting greens, basketball, racquetball, tennis, croquet, bocce), but there is no mention of bike riding or bicycle rentals. However, it is possible that guests may bring bicycles and travel offsite for bike riding or ride along Paraiso Springs Road and other public roads in the vicinity.

As stated in the traffic analysis (Section 3.12.4, *Methodology and Thresholds of Significance*), a project impact may be considered significant if the proposed project would exceed the capacity of the existing circulation system, taking into account all relevant components of the circulation system, including pedestrian and bicycle paths. As mentioned, Paraiso Springs Road is a two-lane rural road with no sidewalks or bicycle lanes or paths. As noted by the commenter, bicycles and pedestrians have shared the roadway and would be expected to continue sharing the roadway. As described in Section 3.12.5 under Impact 3.12-1, although traffic would increase, the level of service on Paraiso Springs Road would continue to operate at LOS A. The level of service on Arroyo Seco Road, which is identified as "Cross County Bike Routes" in the 2016 Monterey County Bike Map, could drop from LOS A to LOS B under cumulative conditions, which is still considered acceptable. Therefore, the project would have a less than significant impact on the circulation system for purposes of analysis in compliance with CEQA without quantifying the potential increase in bike and pedestrian accidents and increased hazards for vehicles. Bicycle and pedestrian use of public roads in this area is expected to remain similar to existing conditions because bicycle and pedestrian use along these roadways is not expected to increase substantially from this project.

72. The commenter states that the timeshare condominium units could have guests of guests who leave multiple times causing spurious calculations of the total trips, and questions the need for and amount of parking in the overflow parking area shown in Figure 2-6.

Regarding the assumptions used to estimate total trips, refer to Master Response 5: Traffic and Responses to Letter 10, Numbers 22, 23, 24, and 26.

Regarding parking, there would be adequate parking provided onsite in the planned parking areas (not including the “13 Parking Meadow – Overflow Parking” area shown in Figure 2-6), as described in RDEIR Section 3.12.5 under *Parking Capacity*, based on the proposed project features and Monterey County Zoning Ordinance parking requirements (Section 21). The number of parking spaces in the overflow parking area was not identified because it is not anticipated to be needed and thus was not included in the calculations.

73. The commenter is concerned about safety, including a narrow roadway and blind curves, and asks a series of questions such as: can the roadway structure handle the weight of vehicles, how will speeders and reckless drivers be ticketed and accidents reported if the area isn’t patrolled often, will cameras and guard rails be used, and how will speeding shuttle drivers increase the accident rate. The commenter also asks why the resort owners would contribute their fair share to the regional traffic impact fee if traffic won’t increase.

Most of these questions are addressed by information provided in Master Response 5: Traffic.

Regarding the regional traffic impact, the 2010 Monterey County General Plan Final EIR identifies that traffic increases from buildout are a significant and unavoidable impact, as discussed in RDEIR Section 4.5, *Cumulative Impacts*. A cumulative impact is that of the project combined with other past, current and reasonably foreseeable projects. Therefore, although the proposed project would not result in a significant traffic increase impact by itself, it would contribute to the identified cumulative impact; and the project applicant would be required to contribute their fair share towards the regional traffic impact fee to help fund regional transportation improvements.

When responding to comments and questions, the lead agency need only respond to significant environmental issues and does not need to provide all information requested by reviewers (CEQA Guidelines sec 15204[a]).

74. The commenter asks for the existing roadway widths, the fire department standards, and how traffic increase would affect emergency response time.

Refer to Master Response 5: Traffic. Also see responses to Letter 18.

The project includes a proposal to widen and provide signage along Paraiso Springs Road, as described on RDEIR pages 2-19 and 2-45, Figure 2.10, and Appendix O of the Traffic Analysis Report (RDEIR Appendix K). An analysis of potential environmental effects relating to these off-site improvements are included in a number of locations, and specifically addressed in RDEIR Chapter 3.12 on pages 3-339 through 3-341.

75. This comment relates to fire safety and increased fire risk.

Discussions and analysis of potential impacts related to fire safety is included in several sections of the RDEIR (references are to the 2018 RDEIR unless otherwise stated):

- Section 2.2, Project Description Environmental Setting (page 2-15)
- Section 2.4, Project Description (pages 2-55 and 2-56; Figure 2-13, Fire Protection Plan)
- Chapter 3.3, Biological Resources (pages 3-75; 3-76 through 3-77; section 3.3.5, Impact 3.3-1, pages 3-80 through 3-85, including Figure 3.3-3, Defensible Space Vegetation Loss)
- Chapter 3.7, Hazards and Hazardous Materials (page 3-204 through 3-205; Figure 3.7-1; pages 3-208 and 3-209; Impacts 3.7-6 through 3.7-9, 2019 RDEIR pages 60 through 72)
- Chapter 3.9, Land Use and Planning (pages 3-270 through 3-271; pages 3-278 through 3-279)
- Chapter 3.11, Public Services and Utilities (pages 3-304 through 3-308; Figure 3.11-1;

- Section 4.5, Cumulative Impacts (page 4-16)

The requirements of the California Environmental Quality Act are to disclose the potential environmental impacts of the project on the environment. As such, the RDEIR looked at what physical environmental effects could result from the project relating to wildfires and fire protection services. The analysis in RDEIR section 3.11.2 describes that the Fire District staffing levels and the fire station are sufficient to serve the existing population and the proposed project, that a portion of the project site will need to be annexed into the Mission-Soledad Rural Fire Protection District, discusses earlier correspondence from the Mission-Soledad Rural Fire Protection District relating to this proposed project, discusses concerns by the Fire District relating to response time to the site and their request for a fire station on site to reduce the response time, and describes the potential environmental impacts of constructing a fire station on site. As a result of the District's concern relating to response time, an analysis of potential environmental impacts relating to constructing a fire station on site, or within the area, was disclosed in section 3.11.2 on pages 3-307 through 3-208.

See Master Responses 1 and 8, and responses to Letter 18.

76. This set of comments relates to growth inducing impacts.

Growth inducing impacts were analyzed in RDEIR section 4.3. The impacts of constructing and operating the project, including its occupants and employees, was analyzed by the RDEIR. The project would not directly cause the construction of residences, schools, fire stations, police station, or the widening of roads (other than that proposed and included in the project description, RDEIR Chapter 2), or the construction of other infrastructure that could allow other growth to occur as a result of solving an existing constraint. Other potential growth inducing impacts were discussed on pages 4-2 through 4-3 and determined that "little to no growth-inducement" would result from the project (page 4-3).

See Response to Letter 7, Number 48 regarding converting timeshare units to residential units. Creation of a sewer system, which would only provide capacity for on-site resort uses, would not cause growth-inducing impacts to this agricultural area. The zoning districts for land surrounding the project site includes designations that establish densities of at least 40 acres per parcel ([http://gis.co.monterey.ca.us/Html5Viewer/Index.html?configBase=http://gis.co.monterey.ca.us/Geocortex/Essentials/external/REST/sites/PBI\\_Viewer\\_External2/viewers/BaseMapView/virtualdiectory/Resources/Config/Default](http://gis.co.monterey.ca.us/Html5Viewer/Index.html?configBase=http://gis.co.monterey.ca.us/Geocortex/Essentials/external/REST/sites/PBI_Viewer_External2/viewers/BaseMapView/virtualdiectory/Resources/Config/Default)).

77. This comment asks what will happen if the wells cannot provide sufficient water for the project. See Master Response 1 and responses to Letter 5, Number 5, Letter 5, Number 12, Letter 7, Number 41, Letter 7, Number 44 and to Letter 10, Number 18.

The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-1, -4, -6, -7, -8, -10, -11, -12, -13, -14, -15, -16, -20, -33, and -34, in the Todd Groundwater document found at the end of the responses to Letter 10.

78. This set of comments is concerned about impacts related to public services. See Master Response 1 and Responses to Letter 7, Numbers 23 and 32.

County of Monterey

79. The commenter is concerned that increased traffic, limited road shoulders and congestion at dangerous curves would limit the ability of highway patrolmen to ticket speeders and reckless drivers. Refer to Master Response X: Traffic.

80. This comment is concerned that the timeshares will be used as residences. See Master Response 1.

81. This comment relates to concern that the project will be in a rural area without adequate public services and infrastructure. See Master Response 1. The potential environmental impacts of the project, related to the issues raised in this comment, have been analyzed in the RDEIR, as explained in the Responses provided in response to comments from this letter.

82. The commenter asks why the resort owners would pay the regional traffic impact fee if the project won't increase traffic. As described in the traffic analysis (Section 3.12.5 of the RDEIR), the project would result in an increase in traffic, but not to the point of causing a significant environmental impact. Also refer to Master Response 5: Traffic. Although the project would not result in a significant traffic increase impact, the project applicant is required to pay the regional traffic impact fee to compensate for the project's contribution to a regional traffic impact identified in the 2010 Monterey County General Plan Final EIR and by the Transportation Agency of Monterey County. Also refer to Response to Letter 7, Number 73.

**Letter #8 – Cynthia Pura (April 25, 2018)**

1/4 pages



Project Planner Mike Novo, AICP  
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1441 Shilling Place, 2nd Floor  
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Re: Paraiso Springs Resort Development  
(PLN040183; SCH2005061016)

Ref: 3.1. Aesthetics and Visual Resources

8-1

Vehicle lights flashing as they go past homes are not consistent with a good quality of life and a full night's sleep, in addition to vehicle noise.

Ref: 3.2. Air Quality, Impact Analysis, Consistency with Air Quality Plan

8-2

Will the shuttle service be utilizing electric vehicles? Will service vehicles be electric ones to reduce air pollution and noise pollution?

Will there continue to be monitoring of air quality after construction is completed ?

Why do the proposed condominium/timeshare units not constitute a population increase? People will be utilizing them. It is a partial residential project with the resultant air quality decrease from multiplicity of use.

Ref: 3.10

8-3

"Third, residences could be constructed closer to the resort's property line in the future." Are there plans for further development in addition to this proposed project? What is the impact on the spring where we get our water due to residences being constructed closer to the resort's property line?

According to the Monterey County General Plan (Policy 26.1.1), "The County shall manage the type, location, timing and intensity of growth in unincorporated areas". Is this small city the County's idea of managing?

## Traffic

In one area of this document it is stated there will be 384 trips per day under 100% capacity. In another area it states total vehicles per day of 406 under 100% occupancy. Which is it? Is it 384 trips per day in addition to 406 vehicles? Are these support vehicles? If so, why are they not included in the total number of vehicles per day? How can the residents of the resort be forced to utilize the shuttle service? Wouldn't most people prefer to use their own vehicles? How many additional vehicles would there be for special events? What about "day guests"? Parking spaces for 33 to 67 day guests obviously means this number of cars in addition to the hotel guests, etc., thus not using the shuttle.

How can this not have significant effects on air quality, control emissions and traffic volume of 406 /384 vehicles per day under 100% occupancy in addition to all other vehicles not included in this calculation? How can people be forced to use the shuttle? Who will monitor shuttle use?

8-4

What about the blind curve at the entrance to the Eddie Panzieras' and Berti's driveway and across from the Joe Panzieras' home? When service trucks are rounding this curve, it would be extremely dangerous trying to get out of their driveways, as well as the additional traffic congestion affecting the rest of the roadway.

Also, since this is a rural area there are animals crossing the road as well as farming equipment, field workers, and cattle trucks to be included in traffic congestion. Have these elements been taken into account?

Will there be increased patrols by the Sheriffs' Department? Since this will now be an urban area, will the Highway Patrol also come up here? There will be an increase in tipsy and reckless drivers who may cause harm to themselves and others as well as damaging property.

## Fire

8-5

Due to the extremely dry conditions in the area, why is no fire station required? The closest fire station is in Soledad (about 8 miles away). The road is not a highway that can be driven at 65+ mph, thus the response time would be slowed. A fire can get started rapidly in the dry conditions in this area and any wind that might occur could take the fire in directions toward neighboring homes and out of the Paraiso Hot Springs direct area where their "on-site fire protection systems" would not be helpful. Also so much additional traffic would hamper fire trucks' response time from Soledad.

### 3.12.2

8-5  
(cont.)

35 miles per hour with new road signs. Traveling downhill on the road will not be 35 MPH. This road has turns that are slight but to someone not used to the road, could potentially be hazardous due to speed. People do not realize that going downhill increases their speed and they can overcorrect or miss an incline that prevents them from seeing an oncoming car. The report states there were less than half the average accident rate for two lane roads. Of course there were less accidents due to less traffic! Also, there are areas where the road narrows to a one lane road.

In case of an emergency such as fire, how will all those people evacuate? Will there be spare shuttles to take everyone? What about the neighbors trying to get out of their own homes and having the traffic clog their way?

### 8.2 Project Conditions

8-6

“Project would alter numerous aspects of water balance.” There would be increased groundwater pumping. How would that affect the neighboring wells and Pura Spring? Why is it not significant that the proposed project would affect the interrelated water sources for this area and possibly lower water levels in neighboring wells and springs?

Would there be someone constantly monitoring the levels? If wells went dry, would Paraiso supply water to those affected?

Why are oak trees being removed? It takes 30+ years for one to grow. Won't this allow for mud sliding in potential heavy rain years (as has happened in the past)?

8-7

If the grape growers in this county can't have their vines on a 30% slope, why are buildings being allowed?

What would happen to the water runoff if there was a good rainfall year and all the water that would normally be soaked into the ground could not be because of all the blacktop and buildings? Are there going to be water detention ponds? If so, where will they be located?

### Time Shares

8-8

These are usually short-term residences, so they would want their cars with them. Therefore - many more trips and pollution.

Policy 20.1.4. The County should concentrate commercial development in designated

centers that may be more easily served by public transit.

8-8  
(cont.) If these are timeshares and not considered permanent residences, why has Thompson Holdings applied for a request to change the zoning for four parcels from farming and grazing with a 40 acre minimum for a home to be built and they are calling 17 timeshare villas the "residential portion" of this project. Wouldn't this be called a subdivision?

#### Noise

8-9 If this resort is to have an amphitheater, how will noise be abated for neighboring homes? The sounds carry differently in this area with the various canyons than in a flatter area. Will gatherings such as weddings, parties, etc. have specific shut down times and how will this be enforced?

8-10 The previous Paraiso Springs Resort was active in the 1930's, was a smaller development, and had horse and buggy traffic. Why must this small city be allowed today when there are so many more hazards (speeding, traffic congestion, increased fire hazards, water loss)? Please give serious consideration for the lives of the homeowners in the area.



Cynthia Pura  
35021 Paraiso Springs Road  
Soledad, CA 93960

## Response to Letter #8 – Cynthia Pura (April 25, 2018)

1. This comment relates to vehicle headlights and noise affecting residences in the area.

The County does not regulate light from vehicles using public roads. No potential significant environmental impacts were identified from vehicle headlights (see RDEIR Chapter 3.1). Lights on roadways are common and expected but transitory and occasional. While increased traffic would increase the frequency of headlights on local roads, the frequency of those trips would be less than one per minute (RDEIR, Appendix K, Hatch Mott McDonald, 2017, page 12). With the transitory nature of headlights, the potential physical environmental impacts from the lighting on wildlife would occur from vehicular accidents with animals. Day and night traffic was included as part of the project description, and therefore part of the analysis of potential impacts, including RDEIR Impact 3.3-5, pages 3-99 and 3-100, related to biological resources. See Master Response 1.

Noise and vibration from traffic on the public road was analyzed in RDEIR Chapter 3.10. See analysis relating to potential environmental impacts from traffic driving on Paraiso Springs Road, and other county roads, in section 3.10-5, Impact Analysis, Impacts 3.10-1, Exposure to Groundborne Vibration, and 3.10-2, Long-Term Exposure to Unacceptable Noise Levels from Increased Transportation-Related Noise. Each of these potential environmental impacts were found to be less than significant with no mitigation required (pages 3-296 through 3-297).

2. This comment asks about electric vehicle use and why the project is not considered a population increase.

The project will use a mix of electric and gas powered vehicles and equipment. See RDEIR Chapter 2, Project Description. See, in particular the following discussions in that chapter:

- Section 2.3, Project Objectives, 12<sup>th</sup> and 13<sup>th</sup> bullets, (pages 2-16 and 2-17)
- Section 2.4, Project Description, Internal Circulation and Parking (page 2-45)
- Section 2.4, Project Description, Energy Conservation and Greenhouse Gas Emissions Reductions, 4<sup>th</sup>, 5<sup>th</sup> and 8<sup>th</sup> bullets (pages 2-54 and 2-55)

As identified in all these sections, some electric vehicles and equipment will be utilized.

In addition, RDEIR Chapter 3.4, Climate Change, and Chapter 3.13, Energy, describe the project's efforts to reduce carbon emissions (see in particular pages 3-125 through 3-131; pages 3-348 through 3-350). The conclusion of these chapters is that the project, with the imposition of the applicant-proposed mitigation measures, would have a less than significant impact on climate change and would not result in inefficient, wasteful, and unnecessary energy consumption.

The Monterey Bay Air Resources District monitors air quality in the region; no specific on-site monitoring will be done as a component of this project (see RDEIR Chapter 3.2, Air Quality).

See Response to Letter 7, Numbers 23 and 32, which explain that the project does not include a residential component, so population will not be affected.

3. This comment asks if any further development is proposed on the project site.

The sentence cited refers to the fact that the neighboring properties can construct residences anywhere within their property, including near the resort property line in the future. It does not refer to any specific plans for off-site future development in the area. The potential environmental impacts of the proposed project were analyzed in the RDEIR, including potential impacts to the

spring in Chapter 3.8. Detailed discussions relating to springs are included throughout the chapter, with specific discussions in Impact 3.8-7 and Impact 3.8-8 (pages 3-251 through 3-254).

See Master Response 1.

4. The commenter has several questions and seeks clarification on the estimated trips per day, the effects on air quality, use and monitoring of the shuttle service, and safety issues associated with increased traffic, blind curves, farm vehicles, and law enforcement. The questions related to safety and law enforcement are addressed in Master Response 5: Traffic. The estimated traffic trips and shuttle service are also addressed in Master Response 5: Traffic with additional detail provided in Responses to Letter 10, Numbers 22, 23, and 24.

Regarding the estimated 384 trips per day versus 406 vehicles per day at 100% occupancy, the estimated traffic increase is 384 trips, plus the 22 existing trips equals 406 trips. Although shuttle use would not be monitored, the total traffic trips would be monitored to ensure the total remains within the 406 trips per day (annualized) limitation.

The air quality impacts from the increased traffic are evaluated in RDEIR Section 3.2, *Air Quality*, and were determined less than significant. The method for determining the impacts and analysis are discussed in RDEIR Sections 3.2.4 and 3.2.5 (under *Long-Term Operational Emissions*, Impact 3.2-3). As stated in Section 3.2.1, *Introduction*, the air quality modeling that was used in the analysis included trip generation identified in the traffic analysis, and the modeling is included in RDEIR Appendix D.

Traffic from growth is accommodated in the Air Quality Management Plans adopted by the Monterey Bay Air Resources District every three years, as long as the growth is consistent with the current General Plan of the jurisdiction ([http://mbard.org/pdf/CEQA\\_full%20\(1\).pdf](http://mbard.org/pdf/CEQA_full%20(1).pdf)). This project is consistent with the Monterey County General Plan growth projections as it will not generate new population growth (refer to Section 4.3, *Growth-Inducing Impacts*) and the project site is identified as a Special Treatment Area for redevelopment of the resort in the 2010 Monterey County General Plan.

Law enforcement patrols may increase on public roads in the area as a result of additional development being found in the area. That would be a decision of the law enforcement agencies and is not considered to be a physical environmental impact of the project. Potential environmental impacts on law enforcement were discussed in the RDEIR, as described in Response to Letter 5, Number 14d, Letter 7, Number 23 and Letter 16.

5. This set of comments relate to fire safety and emergency response. See Master Response 1.

Wildland management of flammable vegetation is evaluated in the RDEIR (pages 3-81 and 3-82). Page 3-81 states “given the very high fire hazard level of the project area, the proposed development would also require wildland management of flammable vegetation surrounding all structures in 0 to 30-foot and 30 to 100-foot buffer zones surrounding proposed structures per state law, and California Department of Forestry and Fire Protection (CAL FIRE) and Monterey County Fire Code fire clearance/fuel modification requirements for defensible spaces.” The project would comply with all required fire prevention measures.

If a fire station is required to be constructed on site, the potential physical environmental impacts were discussed on RDEIR pages 3-307 and 3-308.

County of Monterey

Response times and fire protection issues are discussed in the RDEIR in the following sections:

- Section 3.7.2, Fire Hazards, 2019 RDEIR pages 49 through 55
- Section 3.7.3, Regulatory Background, as amended by 2019 RDEIR pages 55 through 59
- Section 3.7.4, Analytical Methodology and Significance Threshold Criteria, as amended by 2019 RDEIR pages 59 and 60
- Section 3.7.5, Impact Analysis, Impacts 3.7-6 through 3.7-9, 2019 RDEIR pages 60 through 72
- Table 3.9-1 on pages 3-270 and 3-271
- Section 3.11.2 on pages 3-304 through 3-308.
- Section 3.11.5, Impact Analysis, Physical Impacts on Fire Protection and Law Enforcement Services, pages 3-318 and 3-319

The roads to the site will allow two-way travel as first responders travel to the site from any fire station (RDEIR Chapter 2; Response to Letter 7, Number 20). Detailed evacuation plans, depending on the type or location of incident, were included in 2019 RDEIR, Appendix 2, and will be included in the final fire protection plan (see 2018 RDEIR page 3-307 and 2019 RDEIR discussion and mitigation relating to Impacts 3.7-6 and 3.7-7).

Also see Master Response 8 and responses to Letter 5, Number 9, to Letter 7, Numbers 21 and 63, to Letter 18, to Letter 20, Number 24, to Letter 23, Number 5, and to Letter 24.

6. This comment asks about the project's effects on wells and springs.

The potential effects on neighboring wells and springs are addressed in RDEIR Chapter 3.8, Hydrology and Water Quality. Section 3.8.2 provides the environmental setting for these topics, specifically identifying groundwater and water quality on pages 3-219 through 3-230. The potential environmental impacts on wells and springs is addressed in section 3.8.4, with detailed discussions found in Impact 3.8-4, Long-term Water Supply (pages 3-241 through 3-248), Impact 3.8-6, Well Interference (pages 3-249 through 3-251), and Impact 3.8-7, Potential Spring Impact (pages 3-251 and 3-252). Water quality that could potentially affect wells and springs is addressed in many areas, with a specific discussion in Impact 3.8-8, Groundwater Water Quality (pages 3-253 and 3-254).

Cumulative impacts related to groundwater are addressed in RDEIR section 4.5; a discussion on cumulative hydrology and water quality is found on RDEIR pages 4-11 through 4-14. The RDEIR found that the project's contribution to a cumulative impact is less than cumulatively considerable and thus is not significant (RDEIR page 4-14).

The RDEIR uses substantial evidence to identify potential environmental impacts to the physical environment. Based on the evidence presented, mitigation measures were not identified to monitor groundwater levels at the site, as no significant impacts were identified to groundwater levels. RDEIR Impacts 3.8-4, Long-Term Water Supply, 3.8-5, Effect on Salinas Valley Groundwater Levels, 3.8-6, Well Interference, 3.8-7, Potential Spring Impact, and 3.8-8, Groundwater Water Quality, were all determined less than significant, with the exception of a potential increase to calcium carbonate in the groundwater. Mitigation Measure 3.8-8 requires limitations on the type of water softening equipment that can be used at the project to protect groundwater quality.

No monitoring of groundwater levels is required through the Environmental Impact Report for this project. The Monterey County Water Resources Agency monitors groundwater continuously on a regional basis. Monitoring of groundwater is not required of a water system permit and is not needed as a mitigation measure to ensure that the project has a less than significant impact on the

environment. See Master Response 1 and Response to Letter 7, Number 38, above (regarding water rights).

The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-1 through -39, in the Todd Groundwater document found at the end of the responses to Letter 10.

7. This comment relates to removal of oak trees, allowing development on slopes, and drainage impacts.

The removal of oak trees would not lead to mudsliding as the area would be developed with structures, infrastructure, and landscaping. Monterey County Code requires that sufficient erosion control and long-term techniques be installed to prevent erosion (Monterey County Code Chapter 16.08, Grading, Chapter 16.12, Erosion Control, Chapter 18.11, Green Building Standards, and Chapter 18.16, Grading). See response to Letter 5, Number 14b related to building on slopes greater than 30 percent.

Regarding the drainage comments, "low impact development" methods will be scattered throughout the property to control drainage within the project site (Landset Engineers, 2004, *Geologic and Soil Engineering Feasibility Report for Paraiso Hot Springs Spa Resort, Monterey County, California*; CH2MHill, October 28, 2008, *Paraiso Springs Resort – Response to Hydrology and Hydraulic Analysis and Erosion Control Measures Review Comments*; CH2MHill, May 2, 2012, *Paraiso Springs Resort – Drainage Analysis and Drainage Plan Comments*). A detention pond would be provided only if needed to meet requirements beyond the level provided by the proposed low impact development methods. Low impact development, also known as stormwater best management practices, refers to systems and practices that use or mimic natural processes that result in the infiltration, evapotranspiration or use of stormwater in order to protect water quality and associated aquatic habitat (<https://www.epa.gov/nps/urban-runoff-low-impact-development>).

The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-31 through -36, in the Todd Groundwater document found at the end of the responses to Letter 10.

8. The commenter states that people using timeshares would want their cars with them, resulting in more trips and pollution, and the County should concentrate commercial development in designated centers more easily served by public transit. The commenter also questions the applicant's request for changing the zoning.

Regarding the estimated traffic trips, refer to Master Response 5: Traffic with additional detail provided in Responses to Letter 10, Numbers 22, 23, and 24. As noted in these responses, the traffic analysis estimated traffic trips for the timeshare condominiums and villas, conservatively, with a trip generation number similar to a Recreational Home (as identified in Institute of Traffic Engineers, 2008, Land Use Code 260—Appendix K, Exhibit 6A, Footnote 3) and a single family residence, respectively (as identified in Institute of Traffic Engineers, 2008, Land Use Code 210—Appendix K, Exhibit 6A; and in the RDEIR Table 3.12-1, Project Trip Generation and Trip Reduction Summary [Project Buildout]). Also refer to the RDEIR Sections 3.12.4, *Methodology* County of Monterey

and *Thresholds of Significance*, and 3.12.5, *Impact Analysis*, which includes a discussion of project trip generation.

Regarding increased pollution from increased traffic, the potential air quality impacts are addressed in Section 3.2, *Air Quality*, of the RDEIR. Also refer to Response to Letter 8, Number 7 above. The RDEIR addresses potential environmental impacts related to climate change in Section 3.4, *Climate Change*, and energy usage was analyzed in Section 3.13, *Energy*, with trip generation calculations included as one of the variables in those analyses.

No change in zoning has been proposed with this application. Also refer to Response to Letter 7, Number 48.

9. This comment relates to noise impacts to neighboring residences. See Master Response 1.

Noise impacts, including noise from the amphitheater area, were analyzed in Chapter 3.10. Operational noise was specifically analyzed in Impact 3.10-3, Long-term Exposure to Non-Transportation Operational-Related Noise. Non-transportation operational-related noise, including operation of the amphitheater, is evaluated on pages 3-298 through 3-300 of the RDEIR. The analysis is based on a noise report prepared by Illingworth and Rodkin. The noise report took into account the specific sound attenuation characteristics for the Paraiso Springs Resort site and vicinity, as well as noise generated by use of the amphitheater.

Mitigation Measure 3.10-3 requires that the project be subject to recently adopted regulations for noise control. The project is not otherwise subject to those regulations, as explained on page ES-1, Background, second paragraph; therefore, the mitigation measure requires that nighttime noise be controlled as required by the current Monterey County Code. The mitigation measure requires that no greater than 45 decibels result at the property line between 10 p.m. and 7 a.m. the next day. County code enforcement staff would investigate complaints. County Environmental Health is also charged with monitoring noise levels in the event of any complaints and will work with code enforcement staff to achieve compliance if a violation of county code is determined.

With the implementation of Mitigation Measure 3.10-3, which applies the 2014 County noise ordinance requirements to this project, all on-site uses, including the amphitheater, would have to meet noise standards at the property lines of the resort. This mitigation measure would reduce any potential impact to a less than significant level.

**Letter #9 – Yvette and Dennis Blomquist (April 25, 2018)**

1 /16 pages

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# **COMMENTS, RESPONSES & QUESTIONS**

**To the**

**Paraiso Springs Resort Draft Environmental Impact Report**

**State Clearinghouse #2005061016**

**April 26, 2018**

**Prepared For**

**Mike Novo, Senior Planner**

**Monterey County Resources Management Agency**

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**Prepared By**

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### **3.6 Geology and Soils:**

**Project proposed impact level:** Less than significant, no significant impact has been identified; therefore no mitigation is proposed.

**Liquefaction, Lateral Spreading & Dynamic Compaction:** Soil liquefaction occurs where saturated, cohesionless or granular soils undergo a substantial loss in the strength due to build-up of water pressure within the pores during cyclic loading such as earthquakes. Due to the loss of strength, soils gain mobility that can result in significant deformation, including both horizontal and vertical movement where the liquefied soil is not confined. Intensity and duration of seismic shaking, soil characteristics, overburden pressure and depth to water are all primary factors affecting the occurrence of liquefaction. Soils most susceptible to liquefaction are saturated, loose, clean, uniformly graded, Holocene age, and fine grained sand deposits. Silts and silty sands have been proven to be susceptible to liquefaction to partial liquefaction. The occurrence of liquefaction is generally limited to soils within 50 feet of the ground surface.

#### **Expansive Soils:**

Expansive soils shrink and swell with moisture content. This shrink-swell feature of expansive soils can cause distress and damage to structures. According to the Monterey County Survey (U.S. Department of Agriculture, 1978), the Cropley silty clay, 2 to 9 percent slopes (CNC). The Cropley silty soil is deep, well drained soil and alluvial fans and terraces formed in alluvium derived from sedimentary rock. A representative profile for the series consist of very dark grey and black clay from 0 to 36 inches and dark grayish brown clay 36 to 60 inches. Erosion is slow and the erosion hazard is minimal.

#### **Liquefaction and/or Lateral Spreading**

**Impact 3.6-3:** Implementation of proposed project may result in potential permanent structural damage and associated human safety hazards resulting from direct and indirect slope-failure related to hazards such as liquefaction and/or lateral spreading. This is considered a potentially significant impact.

**Continue Impact 3.6-3:**

Grading (cut and fill) can lead to unstable soils if not properly engineered. The proposed project includes grading of approximately two million square feet with cuts and fills essentially in balance. The fill heights range up to a maximum of approximately 14 feet, with the highest fills needed to construct the main hotel complex and adjacent Hamlet, and the roadway leading to the western-most cluster of condominiums. The depth of cuts generally is less than 10 ft throughout the site. However, deep cuts of up to 25 ft are required for the parking area south of the Hamlet and the adjacent roadway. Significant retaining walls or upper slope benching will be required in this area.

Lateral spreading is a potential hazard commonly associated with Liquefaction. Lateral spreading causes ground cracking and settlement in response to lateral movement of the liquefied subsurface cause by liquefaction. Since the potential liquefaction to occur on the project site is moderate, the potential for lateral spreading is also moderate.

**Response to this Impacts:** The OWTS of the 500,000 gallons is the recycled water in Under Ground Storage Tank (UST) will be located within 52 feet and we are concerned:

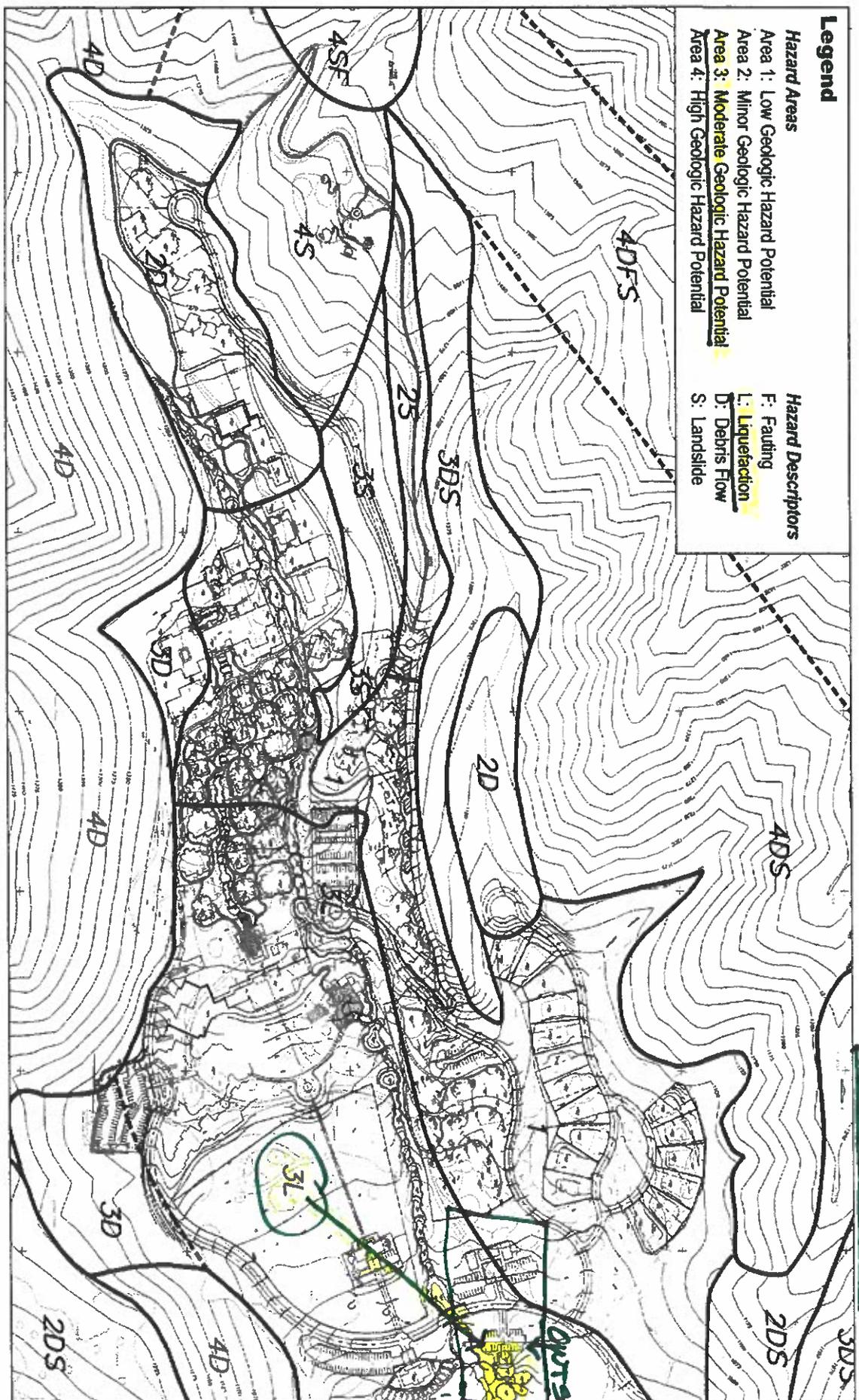
1. Our spring is in the 3L Area and is 52 feet below the OWTS. The Pura Hill Spring is our only water source for the Pura Hill Ranch. This use of the Spring Water has been deeded from within the Paraiso Springs Resort as a permanent easement and recorded 1918, Book 157, page 319, official records, County of Monterey. The deed was rerecorded by the previous owners of the Paraiso Spring Resort on October 27, 1985-Reel 1913, page 151 specifying permanent easement to the Pura Hill Ranch.
2. Will leachfields be a component of the OWTS? Where would it be located?
3. Groundwater levels in the project area are encountered from 11 to 55 feet, which is rather shallow. What mitigation measures would be provided to ensure that the course of the Pura Hill Spring would not be altered due to a significant amount of deep excavation in the Liquefaction area and throughout the project site? A prime example would be the recycled water UST which will be installed 20 feet deep and located in the 3L area.

9-1

**Conclusion:** Because this area is a moderate geologic hazard-liquefaction potential there is an increased risk to the environment. At full buildout waste water production is estimated to be 36,495 gpd. Should a leak or failure of the OWTS occur, contamination could be quite extensive due to the ability of fluids moving quickly through the porous soil material. Contamination or alteration of the Pura Hill Spring flow would be a major impact to our only water source.

**Attachments:**

1. Area 3 Liquefaction and Onsite Wastewater Treatment System
2. Pura Hill Spring and Onsite Wastewater Treatment System
3. Pura Hill Spring, Wetland ID W8, Fresh Marsh
4. Spring Well-Number 8, three spring boxes
5. Spring GPS



Source: RBF Consulting 2010, LandSet Engineers 2004

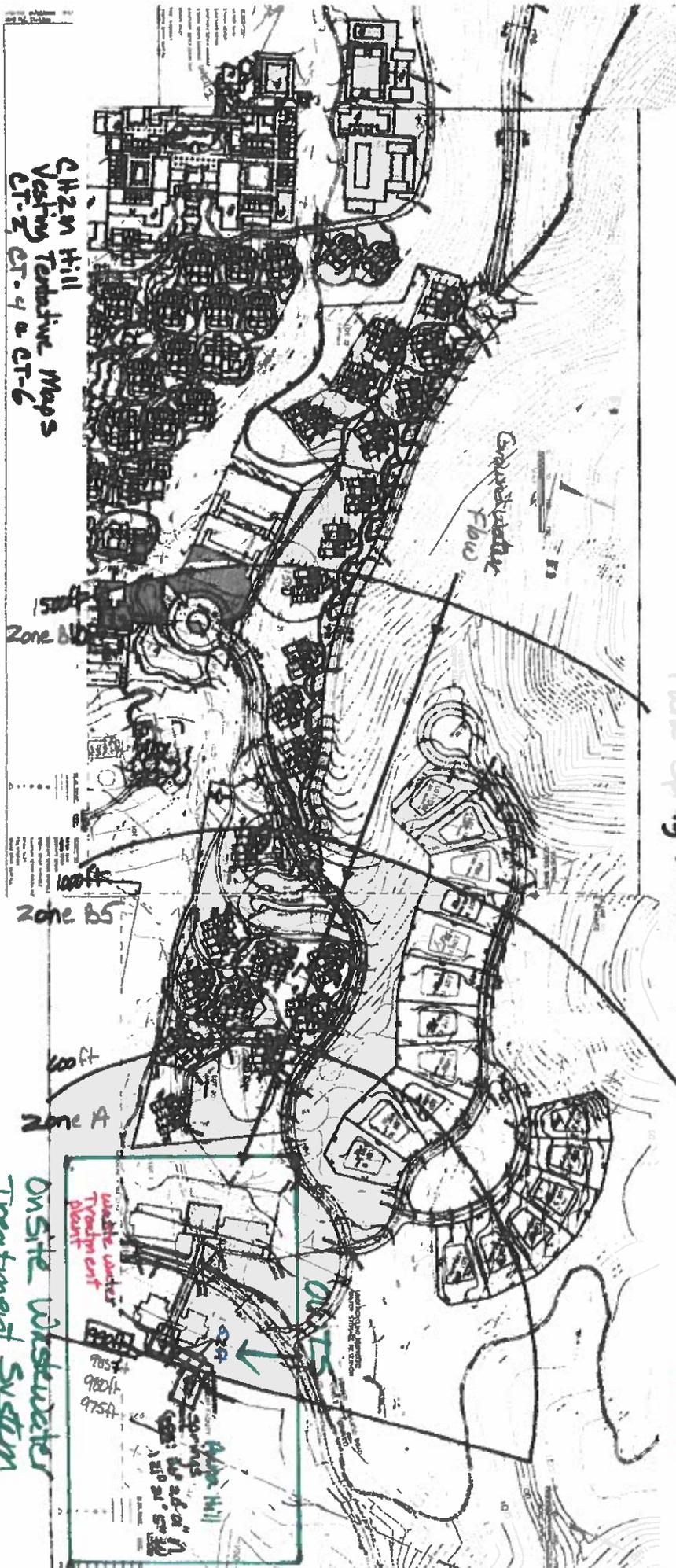
Figure 3.6-4  
Relative Geologic Hazards

Paraiso Springs Resort EIR



Delineation of Ground Water Protection Zones  
Pura Spring water

Attachment 2  
4/25/15  
3/2/11/15



Citizen Hill  
Vesting Tentative Maps  
CT-2 CT-4 & CT-6

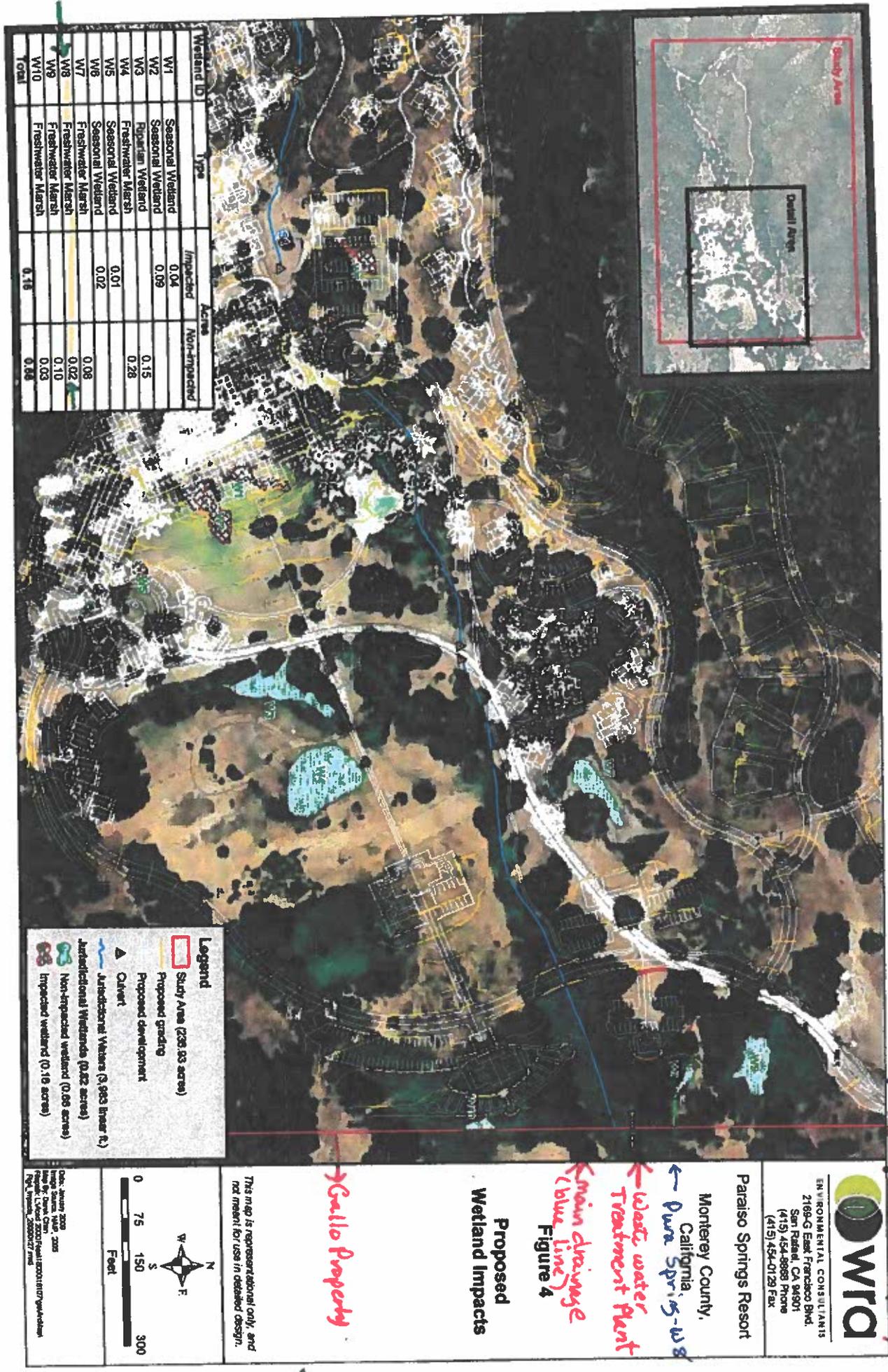
On Site Wastewater  
Treatment System

Pura Hill Spring WETLAND

8/21/2018

Attachment 5

Project Gate  
Property line  
Gallo Property



Wetland ID	Type	Impacted Acres	Non-impacted Acres
W1	Seasonal Wetland	0.04	
W2	Seasonal Wetland	0.09	0.15
W3	Riparian Wetland		0.28
W4	Freshwater Marsh	0.01	
W5	Freshwater Marsh	0.02	
W6	Seasonal Wetland		0.08
W7	Seasonal Wetland		0.02
W8	Freshwater Marsh		0.10
W9	Freshwater Marsh		0.03
W10	Freshwater Marsh		0.04
<b>Total</b>		<b>0.18</b>	<b>0.44</b>

**Legend**

- Proposed grading
- Proposed development
- Outvert
- Jurisdictional Wetlands (3,983 linear ft.)
- Jurisdictional Wetlands (2022 acres)
- Non-impacted wetland (0.68 acres)
- Impacted wetland (0.18 acres)

**Proposed Wetland Impacts**

← Main drainage (blue line) Figure 4

← Waste water Treatment Plant

← Gallo Property

Scale: 0, 75, 150, 300 Feet

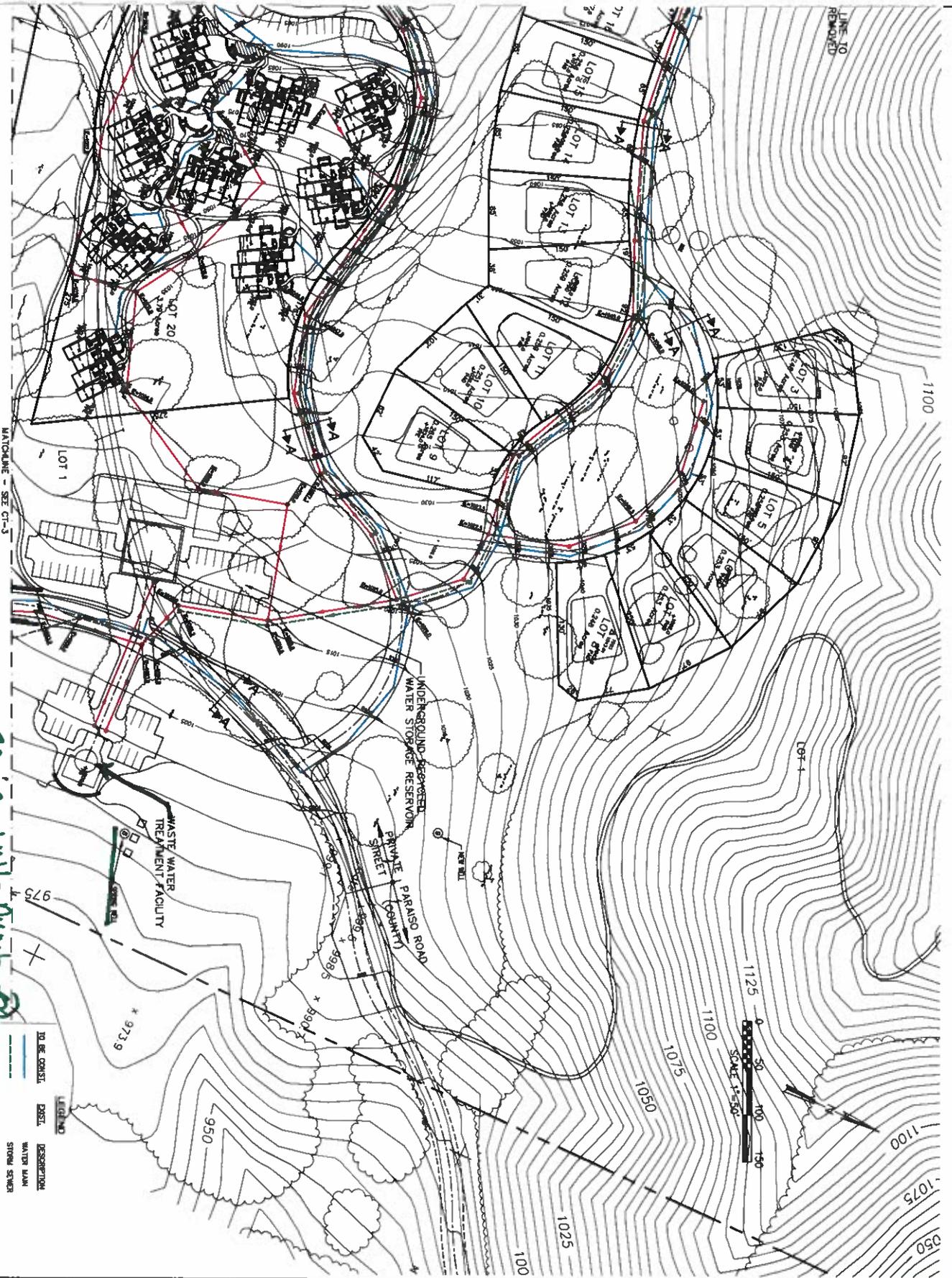
North arrow pointing up.

**WTRC**  
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Paraiso Springs Resort  
Monterey County,  
California,  
Pura Springs-W8

This map is representational only, and not meant for use in detailed design.

LINE TO  
REMOVED



Spring Well - Rembour  
Three Spring Boxes

TO BE CONSTR.	EXIST.	DESCRIPTION
		WATER MAIN
		STORM SEWER
		SANITARY SEWER
		SANITARY SEWER MANHOLE
		STORM SEWER MANHOLE
		SANITARY SEWER CLEAN OUT
		DRAIN VALVE
		PRE-INSTALMENT
		STORM DRAIN OUTFALL

# Paraiso Springs Resort

Soledad, California



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REVISION	DATE	DESCRIPTION
REV. 1	02/26/05	ISSUED FOR PERMIT
REV. 2	11/11/05	ISSUED FOR PERMIT
REV. 3	07/15/05	ISSUED FOR PERMIT
REV. 4	07/15/05	ISSUED FOR PERMIT
REV. 5	07/15/05	ISSUED FOR PERMIT

SHEET TITLE  
VESTING TENTATIVE  
MAP

PROJECT	JACKSON
DATE	07/15/05
SCALE	AS SHOWN
SHEET	CT-2
OF	5 SHEETS



### **3.11.2 Environmental Setting**

#### **Public Services:**

#### **Fire Protection:**

Monterey County is currently provided by more than 20 different organizations, including Fire protection districts, volunteer fire departments, fire brigades, California Department of Forestry and Fire Protection (CalFire), the US of Forest Service, the National Parks Service and the Military.

The closest service would be with response time the City of Soledad (CalFire) which is very busy. If there was a fire in the project would they be in time? Probably not, as response time would be approximately twenty minutes to the gate of the project, not to mention the time to go through the project to reach the incident location. As you go farther into the project it comes to extreme amounts of dry brush on very steep slopes. Unfortunately, the staff has only has one chief, one fire captain, two engineers and two career firefighters.

The District has stated that a new small fire station should be constructed on the project site, providing firefighting equipment, and the continuous funding of two positions, all funded by the project.

The Project stated that the fire station on the project site would be incompatible with the resort operations due to noise impacts and would be on the edge of the 60 square mile district. And if the vineyard or other irrigated landscaped areas were converted to the fire station use, water use would be partially or fully offset by the reduction irrigation. In addition, wastewater from the station would be recycled in the same manner as the rest of the project and used for irrigation.

The project states 1000 guest at full capacity, not counting employees. The project has only one entrance/exit. The town of Chualar has a population of 1440, four roads that serve the town: Chualar Rd, Highway 101, Chualar River Rd and Foletta Rd Chualar also has a fire department and a Sherriff that patrol several times daily.

What would be more important? The project site would be incompatible with resort operations of a fire station OR Keep the Fire Station to save People and Wildlife?

9-3

## **TRAFFIC**

**Roadway Hazards:** Impact 3.12-2: Paraiso Spring Road is a rural road that will experience an increase in heavy traffic. With implementation of the project, no significant impact related to roadway safety would occur. The proposed project includes improvements on Paraiso Springs Road that could further minimize potential hazard impacts associated with the increase in traffic. This would be a less significant impact (Less than Significant).

Paraiso Spring Rd between the project and the Clark Road will experience an increase in traffic from the existing 90 vehicles per day to approximately 352 vehicles per day under an average 70 percent occupancy. Under 100 percent occupancy, the proposed project would result in a traffic volume of approximately 406 vehicles per day.

**Exceed the capacity of the proposed circulation system & conflict with congestion management program:** Paraiso Spring Rd and Clark Rd are classified as Rural Minor Access Roads. Such roads primarily provide access to properties and are predominantly used by the drivers that are familiar with the area. The Project would introduce drivers that are unfamiliar of the terrain and road. The project would only allow wealthy people to enter the project. The Project stated that the client's would use the shuttle's, but most likely that would not happen.

The project has two wells which both have issues. Well 2: Fluoride adsorption process is preceded with an injection of hydrochloric acid to create an optimized pH and sulfates 20% higher. The activated aluminum would require regeneration approximately every week and using acid solution, NaOH Sodium Hydroxide, H<sub>2</sub>SO<sub>4</sub> Sulfuric Acid, HCl Hydrochloric Acid, & Caustic for pH adjustment. These hazardous waste products will be sent to the Monterey Regional Water Pollution Control Agency for the special disposal & treatment. That Special Hazardous Waste product's are treated at both Wells. Well 1 and Well 2 cannot be used for potable water unless that they remove heavy metals such as fluoride and aluminum. These products are very heavy and the trucks would be even more heavy which will ruin the Road.

March

ANALYTICAL CHEMISTS  
and  
BACTERIOLOGISTS  
Approved by State of California

TEL: 831-724-5422  
FAX: 831-724-3188

# SOIL CONTROL LAB

42 HANGAR WAY  
WATSONVILLE  
CALIFORNIA  
95076  
USA

Profile of Liquid Waste Discharge

Century Environmental Services  
18499 More Road  
Salinas, CA 93907  
Attn: Paul Schneider

Work Order #: 2030532  
Reporting Date: March 27, 2012

Date Received: March 20, 2012  
Project # / Name: None / Paraiso Springs  
Water System #: 2701001 PARAIISO HOT SPRINGS WS  
Sample Identification: BW01-315-1800-L, sampled 3/15/2012 6:00:00PM  
Sampler Name / Co.: RPS / Century Environmental Services  
Matrix: Water  
Laboratory #: 2030532-02

	Results	Units	RL	State Drinking Water Limits *	Analysis Method	Date Analyzed	Flags
* Fluoride	250	mg/L	50	2	EPA 300.0	03/23/12	
* Aluminum	66000	ug/L	50	1005	EPA 200.7	03/23/12	

RL - are levels down to which we can quantify with reliability, a result below this level is reported as "ND" for Not Detected.

State Drinking Water Limits - as listed by California Administrative Code, Title 22.

\* - a \* in the left hand margin of the report means that particular constituent is above the California Drinking Water Limits.

*Mike Gallows*

ANALYTICAL CHEMISTS  
and  
BACTERIOLOGISTS  
Approved by State of California

March

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# SOIL CONTROL LAB

42 HANGAR WAY  
WATSONVILLE  
CALIFORNIA  
95076  
USA

Century Environmental Services  
16499 Moro Road  
Salinas, CA 93907  
Attn: Paul Schneider

Work Order #: 2030532  
Reporting Date: March 27, 2012

Date Received: March 20, 2012  
Project # / Name: None / Paraiso Springs  
Water System #: 2701001 PARAIISO HGT SPRINGS W3  
Sample Identification: BW02-319-1730-L, sampled 3/19/2012 5:30:00PM  
Sampler Name / Co.: RPS / Century Environmental Services  
Matrix: Water  
Laboratory #: 2030532-03

	Results	Units	RL	State Drinking Water Limits *	Analysis Method	Date Analyzed	Flags
* Fluoride	<u>110</u>	mg/L	50	<u>2</u>	EPA 300.0	03/23/12	
* Aluminum	<u>69000</u>	ug/L	120	<u>1000</u>	EPA 200.7	03/22/12	

RL - are levels down to which we can quantify with reliability, a result below this level is reported as "ND" for Not Detected.

State Drinking Water Limits - as listed by California Administrative Code, Title 22

\* - a \* in the left hand margin of the raster means that particular constituent is above the California Drinking Water Limits.

*Mike Galloway*

ANALYTICAL CHEMISTS  
and  
BACTERIOLOGISTS  
Approved by State of California

*April*

TEL: 831-724-5422  
FAX: 831-724-3188

# SOIL CONTROL LAB

42 HANGAR WAY  
WATSONVILLE  
CALIFORNIA  
95076  
USA

Century Environmental Services  
18499 Moro Road  
Salinas, CA 93907  
Attn: Paul Schneider

Work Order #: 2030697  
Reporting Date: April 4, 2012

Date Received: March 27, 2012  
Project # / Name: Paraiso / None  
Water System #: 2701001 PARAIISO HOT SPRINGS WS  
Sample Identification: SW03-321-1700-L, sampled 3/21/2012 5:00:03PM  
Sampler Name / Co.: RPS / Century Environmental Services  
Matrix: Water  
Laboratory #: 2030697-04

	Results	Units	RL	State Drinking Water Limits	Analysis Method	Date Analyzed	Flags
* Fluoride	140	mg/L	5.0	2	EPA 300.0	03/28/12	
* Aluminum	26000	ug/L	50	1000	EPA 200.7	04/02/12	

RL - are levels down to which we can quantify with reliability, a result below this level is reported as "ND" for Not Detected.

State Drinking Water Limits - as listed by California Administrative Code, Title 22

\* - a \* in the left hand margin of the report means that particular constituent is above the California Drinking Water Limits.

*Mike Galloway*

**March 2012 and April 2012 Sampling the wells.**

**In March**, Flouride results of 250 and 110 which is over the drinking water limit, the drinking water limit is 2.

Aluminum results of 56000 and 99000 which is over the drinking water limit, the drinking water limit is 1000.

9-6

**In April**, Aluminum result of 28000, the drinking water limit is 1000.

These profiles are for Liquid Waste Discharge

**Attachment 6:**

1. Pariaso Wells Water System, Some Results of Well's March & April 2012

9-7

Would you maintain the Pariaso Spring Road? Will you pay for the damage of our cars, pickups and trailer's for not maintaining the road?

**Final Conclusions:**

The Project owners are going way out. There are several families that have lived in this canyon for many years and we all want to maintain our rural /agricultural. The Project does not seem to care. The Project will not want adequate fire protection. The Project thinks that CalFire will come in 15 minutes, but most likely it would be a half hour or more. There is only one exit and most of the Project is covered with dry brush.

9-8

The families in this canyon have been very diligent to keep this canyon safe. The clients that come to the Project would most likely not know what to what to do and would hinder our local families, animals and livestock to save in the event of a natural disaster.

## **Response to Letter #9 – Yvette and Dennis Blomquist (April 25, 2018)**

1. This comment asks if leachfields are proposed as part of the wastewater treatment system. The proposed treatment plant is a tertiary wastewater treatment plant with 100 percent of the effluent used for on-site irrigation. No leachfields, which are used for wastewater disposal underground, are proposed (RDEIR Chapter 2; CH2MHill 2010b-*Paraiso Springs Resort – Estimated Wastewater Production and Proposed Treatment, Irrigation, and Storage*). On site excavation is not expected to intrude into, alter, or impact the groundwater basin. Liquefaction potential will be addressed as part of the requirements for Mitigation Measure 3.6-3a, which requires preparation of a site-specific supplemental liquefaction investigation pursuant to California Department of Mines and Geology Special Publication 117 (RDEIR page 3-195).

2. This comment is concerned about a leak or failure of the wastewater treatment system contaminating surface or groundwater. Potential environmental impacts from leaks from the wastewater storage tank were discussed in Impact 3.8-7, Potential Spring Impact, and found to be less than significant (RDEIR page 3-252). Any leaks from the treatment plant would be above ground and identification and response by the system operator would be immediate to avoid environmental damage and resulting fines. See responses to Letter 7, Numbers 45 and 46.

The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-24, -25, and -27, in the Todd Groundwater document found at the end of the responses to Letter 10.

3. This set of comments relates to fire protection for the site. See Master Response 1 and responses to Letter 5, Number 9, to Letter 8, Number 5, and to Letter 18.

4. With respect to Impact 3.12-2 concerning roadway hazards, the commenter is concerned about increased traffic volumes exceeding the capacity of the proposed circulation system and conflicting with the congestion management program, and that the project would introduce drivers who are unfamiliar with the terrain/roadway and are unlikely to use the shuttles.

Refer to Master Response 5: Traffic, which addresses the impacts of increased traffic volumes, safety issues, and monitoring future traffic volumes.

5. This comment states that fluoride treatment is needed. The County concurs and the applicant has proposed a treatment system. The potential environmental impacts of the treatment were analyzed in the RDEIR (Sections 3.6.5, 3.7.5, and 3.8.4). Trucks carrying materials to or from the site would be subject to weight limitations for all roads utilized by the project operations. Traffic trips would be limited to an average of 406 trips per day, including hauling of any materials used for fluoride treatment.

6. This is a statement of past water quality sampling and does not include any comments on the RDEIR. No response is necessary. See Response to number 5, above.

7. The commenter asks if the County would maintain Paraiso Spring Road and pay for damage to personal property if the road is not maintained.

As described in the RDEIR and in Master Response 5: Traffic, the project includes several roadway improvements including road widening and associated paving and striping.

The County is responsible for maintenance of all County roads in unincorporated areas, including Paraiso Springs Road. Regarding compensation for private property damaged on public roadways, refer to Master Response 6: Road Ownership, Right to Intensify Road Use, and Compensation.

8. This comment relates to fire department response and safety of guests. See Master Response 1.

**Letter #10 – John Farrow, LandWatch Monterey County (April 26, 2018)**

1/73 pages plus electronic information (References 1 through 30)

**Friedrich, Michele x5189**

**From:** jfarrow@mrwolfeassociates.com  
**Sent:** Wednesday, April 25, 2018 5:15 PM  
**To:** ceqacomments  
**Cc:** Michael DeLapa  
**Subject:** LandWatch comments on Paraiso Springs Resort RDEIR  
**Attachments:** LW comments on Paraiso RDEIR - final.pdf



Dear Mr. Novo,

Attached please find comments submitted on behalf of LandWatch Monterey County regarding the RDEIR for the proposed Paraiso Springs Resort project.

We would appreciate it if you would confirm receipt of these comments by replying to this e-mail.

Thank you,

John Farrow

--  
John H. Farrow | **M. R. Wolfe & Associates, P.C.** | Attorneys-At-Law  
555 Sutter Street | Suite 405 | San Francisco, CA 94102  
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The information in this e-mail may contain information that is confidential and/or subject to the attorney-client privilege. If you have received it in error, please delete and contact the sender immediately. Thank you.

April 25, 2018

**Via e-mail and hand delivery**

County of Monterey Resource Management Agency - Planning  
Attn: Mike Novo  
1441 Schilling Place, 2nd Floor  
Salinas, CA 93901  
ceqacomment@co.monterey.ca.us.



Re: Paraiso Springs Resort RDEIR  
SCH # 2005061016

Dear Mr. Novo:

LandWatch submits the following comments on the Recirculated Draft EIR (RDEIR) for the Paraiso Springs Resort project (Project). As the comments make clear, the RDEIR does not adequately assess and mitigate Project impacts.

More problematic, the Project is grossly out of character with the surrounding rural farm community. Among its many failings, the Project is simply too large for this location. The Project would provide three times as many guest units as the historic use. It would provide substantial new visitor-serving amenities that would significantly intensify use and generate more than three times the impacts to water, traffic and other services and resources. The Project would impinge on the neighboring agricultural operations and the rural community and therefore threaten farmworkers, agricultural jobs, and agricultural families.

The Project would allow hillside condominiums that would substantially impair visual resources 24 hours a day. It is unlikely that the County could make the findings required by the General Plan for this steep slope development, and it is clear that the visual impacts could not be mitigated.

Approval of the proposed Project or any of the narrow range of alternatives that the RDEIR proposes would reward an applicant who bulldozed the historic resort without permits or consideration of his neighbors.

LandWatch asks that the RDEIR be revised and recirculated to provide an adequate analysis. The County should, at minimum, evaluate an alternative that is no larger than the historic use and that avoids any development on the steep hillsides.

## A. Visual Impacts

### 1. Failure to flag and stake

As the RDEIR acknowledges (RDEIR, p. 3-14), the Project is located within an area designated by the Central Salinas Valley Area Plan in its Figure 5, Scenic Highway and Visual Sensitivity, as “highly sensitive.” Figure 5 designates some areas as visually “sensitive,” some as “highly sensitive,” and some as “critical viewshed.” Monterey County 1982 General Plan, Central Salinas Valley Area Plan, Figure 5. And indeed, because they are designated as “highly sensitive,” the visual resources of the Project site have regional and countywide significance:

Visually sensitive areas of the Central Salinas Valley include the foothills of the Gabilan and Sierra de Salinas Mountains, Pine Canyon, Chualar Canyon, Arroyo Seco watershed, and the Salinas Valley floor. Areas identified as highly sensitive are those possessing scenic resources which are most unique and which have regional or countywide significance. The highly sensitive areas in Figure 5 are so designated because the prominence of the ridgelines and frontal slopes with their unique vegetation are important in giving the Planning Area its rural character. Other highly sensitive areas are found along the Arroyo Seco River.

Monterey County 1982 General Plan, Central Salinas Valley Area Plan, p. 20, emphasis added.

10-1

Under the County’s Staking and Flagging Criteria, staking and/or flagging are mandatory when “[a]ll or part of the project site is designated as Visually Sensitive (“VS”) on an adopted visual sensitivity map (Toro Area Plan, Greater Monterey Peninsula Area Plan, North County Area Plan).” Staking and/or Flagging Criteria, Monterey County Board of Supervisors Resolution No. 09-360, Attachment 1, p. 1. Since the Project site is designated as “highly sensitive” (not merely “sensitive”), on the adopted visual sensitivity map for the Central Salinas Valley Area Plan, flagging and staking is clearly mandatory.

Flagging and staking is also independently mandated under the County’s Staking and Flagging Criteria, when “[w]hen the project/site has potential to create ridgeline development, as determined by the project planner.” *Id.*, emphasis added. Ridgeline development is defined as “development on the crest of a hill which has the potential to create a silhouette or other substantially adverse impact when viewed from a common public viewing area.” 1982 General Plan, p. 115 (Policy 26.1.9), emphasis added; see also Monterey County Code, § 21.06.950. Note that potential ridgeline development does not require potential silhouetting above a ridgeline; it merely requires a potential substantially adverse impact.

The purpose of flagging and staking is to determine whether the “potential” ridgeline impact would in fact be realized by the project under review.

The purpose of staking and/or flagging is to provide visualization and analysis of projects in relation to County policies and regulations. Staking and/or flagging is intended to help planners and the public visualize the mass and form of a proposed project, or to assist in visualizing road cuts in areas of visual sensitivity.

Staking and/or Flagging Criteria, Monterey County Board of Supervisors Resolution No. 09-360, Attachment 1, p. 1. If the actual realization of this potential impact could be determined without flagging and staking the county would not have bothered to require flagging and staking.

The RDEIR concludes that the Project is not ridgeline development, but the evidence does not support the conclusion.

The proposed development is not on the crest of a hill and does not meet the criteria for having a silhouette or a substantially adverse impact as described in this chapter. Substantial adverse visual impact is defined in MCC section 21.06.1275 as follows: “Substantial adverse visual impact means a visual impact which, considering the condition of the existing viewshed, the proximity and duration of view when observed with normal unaided vision, causes an existing visual experience to be materially degraded.”

10-1  
(cont.)

RDEIR, p. 3-10. The RDEIR claims that the Project is not on the crest of a hill. However, the condominium units proposed for lots 20, 21, and 22 are in fact located on the tops of steep slopes, i.e., the crest of a hill or a ridge. RDEIR, p. 3-21, Figure 3.1-4. The RDEIR acknowledges that the Project will include 60 condominium units “along an east/west oriented ridge in the northern portion of the project site within the area identified as 30 percent or greater slope.” RDEIR, p. 3-19. And another essential component of the Project, the vegetation removal required to mitigate fire hazards, will result in clearing oak woodlands and other vegetation from these ridges. RDEIR, p. 3-83, Figure 3.3-3. Landowners would be required to annually clear at least a 30-foot-wide perimeter, and on steeper slopes the requirement may be to clear a 100-foot wide perimeter. RDEIR, pp. 3-82 to 3-84. Some condominium units that are not themselves on the very crest of the ridge will require vegetation clearance that extends to the ridgetop. RDEIR, p. 3-83, Figure 3.3-3. As discussed below, the vegetation removal requirements are inconsistent with the Project Site Plan (RDEIR, Figure 2-6), which shows the hillside condominium units surrounded with the vegetation, and are inconsistent with the visual mitigation requirements, which call for screening these units with oak trees (RDEIR, p. 3-20).

The RDEIR also argues that the “project site includes ridges surrounded by topographic features that are much higher in elevation, so development at this location will not constitute ridgeline development . . .” RDEIR, p. 3-23. The RDEIR also argues that there would be no “silhouettes against the sky.” *Id.* The apparent implication is that only development on the crest of the highest hill could ever constitute ridgeline development and that as long as there are higher mountains in the background there can be no ridgeline

development. However, nothing in the County's definition of ridgeline development excludes development on the crest of a hill that happens to have a higher hill behind it or states that silhouettes only count when they are against the sky.

Furthermore, as the RDEIR acknowledges, there is another basis to define ridgeline development than silhouetting, the existence of "a substantially adverse visual impact" from development on the crest of a hill. The RDEIR acknowledges that this condition would be met "where a viewshed is interrupted by an unexpected adverse visual intrusion," but then argues that the visual impacts "would be expected as the location has operated as a resort for over 100 years." RDEIR, p. 3-23. However, the visual impact of the previous resort did not include the development on the proposed lots 20, 21, and 22, which would be visible from many more locations and greater distances. RDEIR, pp. 3-17, 3-19. As the RDEIR's alternatives analysis acknowledges, the development on lots 21 and 22 are would be at "higher and more visible locations." RDEIR, p. 5-11, see also RDEIR, p. 5-19. The intrusion of a dozen multi-unit condominium buildings along a 1,000-foot ridge, surrounded by a perimeter of cleared vegetation would be a new and "unexpected" visual intrusion.

10-1  
(cont.)

Flagging and staking is intended to permit the public and the Land Use Advisory Committee to visualize the actual dimensions of a project because it must remain in place for the duration of the review period. The visual analysis in the RDEIR cannot substitute for flagging and staking. The RDEIR does not even provide dimensions for the condominium units, which the zoning would permit to be 35 feet tall. (Elevations of "casitas" are provided, but those units are on the valley floor.) Placement of a single 5 foot by five foot traffic sign "on the ridge at a location among where the 2 and 3 bedroom time share villas are proposed" (RDEIR, Appendix C, pp. 2-3) was not a substitute for flagging and staking. This single traffic sign did not mark the locations of each of the proposed condominium units, which would be spread along hundreds of feet of ridgeline. Nor is there any evidence that the traffic sign was placed at the height that the condominium units would reach. A single sign cannot give any indication of the mass and visual intrusion of the thirteen multi-unit condominium buildings spread along 1,000 feet of the ridge comprising lots 21 and 22. Nor was there any opportunity for the LUAC or the public to view this purported evaluation of visual impacts, because it was not set up for the duration of the review period. Indeed, the RDEIR admits that the traffic sign does not even "show up in the pictures" that were taken to document visual impacts. RDEIR, App. C, p. 4.

The photo-simulation in the visual analysis is not an adequate substitute for flagging and staking. The County's Staking and Flagging Criteria expressly prohibit the substitution of photo-simulation for flagging and staking in areas that are designated as "highly sensitive on an adopted visual sensitivity map." Staking and/or Flagging Criteria, Monterey County Board of Supervisors Resolution No. 09-360, Attachment 1, p. 7.

## 2. Visual impact from vegetation removal

10-2

As noted, the Project will require annual clearing of a defensible space from 30 to 100-feet to mitigate wildfire risk. RDEIR, pp. 3-81-3-85. This will result in clearing up to 20.3 acres of vegetation. RDEIR, p. 3-82, Table 3.3-5. Much of the cleared vegetation

will be on steep slopes visible from a distance and will include oak woodlands. RDEIR, p. 3-83, Figure 3.3-3.

Vegetation, including 185 oaks trees, will also be removed to accommodate the footprint of the development itself. RDEIR, p. 3-18.

The RDEIR does not provide an adequate evaluation of the impact of vegetation removal. The applicant-supplied photo-simulations do not disclose whether they include the vegetation clearing required for fire control. Nor do these photos disclose whether they include the screening landscaping required by Mitigation Measure 3.1-1.

The RDEIR acknowledges that visual impacts from tree removal and development of condominiums “along a ridge that supports oak woodland” would be a significant impact. RDEIR, p. 3-19. Mitigation Measure 3.1-1 requires “strategic” screening of portions of buildings, leaving “well designed openings in the canopy to allow views from the resort of the valley.” RDEIR, p. 3-20. The screening must be accomplished using transplanted native oak trees in five-gallon containers. RDEIR, pp. 3-20. Mitigation Measure 3.3-6a requires that transplanted oaks be from on-site or local stock. RDEIR, p. 3-102. The dominant native oak, *Quercus agrifolia* (RDEIR, p. 3-58), is a slow to moderate growing tree. California Native Plant Society, Coast live oak website, visited April 16, 2018, available at [http://calscape.org/Quercus-agrifolia-\(Coast-Live-Oak\)](http://calscape.org/Quercus-agrifolia-(Coast-Live-Oak)). Thus, the effective screening of portions of the 30-35 foot condominium buildings by planting trees from on-site or local stock in five-gallon containers might not be achieved for 20-40 years, depending on the availability of on-site or local stock, the tree survival and replanting rates, and the actual growth rates. Even if conditions were ideal, there would be a sustained period in which the visual impacts of the condominiums would remain unmitigated. And the allowance for “well designed openings in the canopy to allow views from the resort of the valley” would effectively ensure that the buildings would remain visible – and present a source of light and glare to the Valley – indefinitely.

10-2  
(cont.)

Finally, the requirement to maintain a defensible space around structures to prevent fire hazards is inconsistent with the requirement to screen the condominiums with oak trees. The RDEIR states that fuel management of trees may merely require that trees be thinned or limbed, and not require tree removal. RDEIR, p. 3-82. That may suffice for mature trees; however, thinning or limbing immature trees would not be sufficient to prevent them from becoming a fuel ladder, because thinning and limbing is typically required to remove vegetation within six feet of the ground. RDEIR, p. 3-82. If the Project is to comply with the defensible space requirements to control wildfire risk, the new screening trees could not get started.

State-mandated defensible space requirements severely limit the screening options for the condominiums. The general guidelines call for completely clearing a 30-foot area:

Maintain a firebreak by removing and clearing away all flammable vegetation and other combustible growth within 30 feet of each building or structure, with certain exceptions pursuant to PRC §4291(a). Single specimens of trees or other vegetation may be retained provided they are well-spaced, well-pruned, and create a condition that avoids spread of fire to other vegetation or to a building or structure.

10-2  
(cont.)

California Department of Forestry and Fire Protection General Guidelines for Creating Defensible Space, 2006, p. 4, available at [http://bofdata.fire.ca.gov/pdf/copyof4291finalguidelines9\\_29\\_06.pdf](http://bofdata.fire.ca.gov/pdf/copyof4291finalguidelines9_29_06.pdf). Although a single specimen of a tree may be retained, it must be spaced to avoid any spread of fire to other vegetation or a structure. *Id.* Thus, the tree could not be placed close enough to the structures to effectively screen them. Furthermore, the canopy of a tree on a slope of 20% to 40% must be spaced at least 20 feet from the canopy of another tree. *Id.*, pp. 6, 7. Since the canopy of a Coast live oak may be 35 feet, new trees would have to be spaced 55 feet apart. California Native Plant Society, Coast live oak website, visited April 16, 2018, available at [http://calscape.org/Quercus-agrifolia-\(Coast-Live-Oak\)](http://calscape.org/Quercus-agrifolia-(Coast-Live-Oak)). This effectively precludes using oak trees to screen the condominiums since only a few trees could be planted along the ridge and since the trees could not be placed close to the structures.

### 3. Photo simulations inadequate

The visual impact analysis consists largely of references to applicant-supplied visual simulations. As discussed above, photo-simulations cannot be substituted for flagging and staking. Staking and/or Flagging Criteria, Monterey County Board of Supervisors Resolution No. 09-360, Attachment 1, p. 7. However, even as supplementary information the photo-simulations are not adequate.

First, the photo simulations do not include simulations with and without proposed mitigation in order to permit the public to understand how effective the mitigation would be.

10-3

Second, the photo-simulations do not reflect the removal of vegetation for wildfire fuel management. It appears that the simulations simply insert buildings into the existing vegetation, without reflecting the need to clear a 100-foot perimeter.

Third, the applicant, not by the County, prepared the photo-simulations. The County identified a set of seven locations from which it determined the traffic sign it placed on one hillside would be visible. RDEIR, App. C, p. 4. Those locations “were provided to the applicant, who worked with the Project architect to provide photo renderings of the site from these locations.” *Id.* An agency may not delegate its duty to gather information to the applicant; the applicant’s vested interest may render its representations questionable. *Save our Peninsula Committee v. Monterey County Board of Supervisors* (2001) 87 Cal.App.4th 99, 121-122.

It is unlikely that the photo-simulations reflect the County's independent judgment because they were prepared by the applicant and because they omit information that County staff presumably would have included, including an assessment of the Project with and without mitigation and an assessment of the vegetation lost to fuel modification. Public Resources Code section 21082.1(c)(2) requires a lead agency to "circulate [CEQA] documents that reflect its independent judgment." This specifically requires the agency to vet the draft EIR. Guidelines, § 15084(e).

Despite these shortcomings, the simulations do reveal substantial visual encroachments from the Project, but that is only evident with viewing the simulations on a monitor where the viewer can flip through the simulations for a particular view location with and without the Project and with and without the relocation of the hillside condominiums that would occur in the alternatives. Although relocation of the hillside condominiums does reduce the visual impact somewhat, it is evident that the remaining portions of the Project would cause much of the visual impact. Comparison of all of the view studies with and without the Project shows that the Project would result in very visible development with or without the condominium relocation.

10-3  
(cont.)

Furthermore, the evidence from the view studies is inconsistent with the claims in the RDEIR. For example, the RDEIR states that most of the visual impact at location 5 is due to the hillside condominiums. RDEIR, p. 3-17. However, comparison of the simulations for viewpoint 5 with and without the condominium relocation does not bear this out: most of the impact remains even after the condominiums are removed.

The RDEIR admits that "the buildings have the potential to create a distinct break in the vegetative cover" from location 2. RDEIR, p. 3-17, emphasis added. Comparison of the studies from location 2 with and without the Project demonstrates that this impact would not be merely "potential" but actual and substantial.

The RDEIR acknowledges a "disruption of the natural vegetation pattern" from location 1 on Highway 101, and then seeks to minimize this by claiming that the existing palm trees already "alter the existing vegetation but this is not noticeable to the traveling public." RDEIR, p. 3-17. Again, comparison of the existing vs. with Project simulations at location 1 shows that there would be a substantial impact from a very visible mass of rooftops visible against the vegetation. It is disingenuous to suggest that the impact from this long mass of buildings would be similar to the impact of the existing palm trees: the palm trees are not visible at all in the existing conditions view study from location 1.

#### **4. Impact to Arroyo Seco Road**

Project buildings will be "highly visible" from Arroyo Seco Road. RDEIR, p. 3-19. The visual impact from a "single mass off buildings on the landscape" would be "most pronounced from location 2 at Arroyo Seco Road. At this distance the buildings

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will have the potential to create a distinct break in the vegetation cover, which is part of the unique scenic resource in this location.” RDEIR, p. 3-17.

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Arroyo Seco Road qualifies as a Scenic Road, and Policy 40.1.2 of the Central Salinas Valley Plan requires the County to pursue that official designation. Impairment of the view from Arroyo Seco Road would clearly frustrate that General Plan Policy 40.1.2, rendering the Project inconsistent with the General Plan.

## 5. Light pollution

We asked James Benya, an expert in light pollution analysis and mitigation, to review the RDEIR. As his attached comments demonstrate, the RDEIR dismisses the possibility of significant impacts from light pollution without meaningful analysis or mitigation. RDEIR, pp. 3-24 to 3-25.

First, the RDEIR is inadequate because it fails to provide an adequate description of the environmental setting with respect to light pollution impacts. The description of baseline conditions “must permit the significant effects of the project to be considered in the full environmental context.” Guidelines, § 15125(c). Here, the RDEIR fails to discuss the ambient night lighting conditions, which, Benya explains, are unusually dark. The significance of night lighting impacts and the standards for mitigation depend on the existing ambient illumination. Thus, the RDEIR’s description of existing conditions is flawed because it fails to “make further analysis possible.” *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 954.

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Second, the RDEIR is inadequate because it fails to provide an adequate description of the Project’s proposed lighting. A project description must contain the information that is “needed for evaluation and review of the environmental impact.” Guidelines, § 15125(c). As Benya explains, the analysis and mitigation of impacts require a lighting plan; but the RDEIR fails to provide this basic information.

Third, the proposed mitigation by way of compliance with the County’s “Standard Condition” PD014(B) is not sufficient. Benya explains that this condition will do nothing to prevent glare, visual trespass, and sky glow contribution from the interior light sources from hillside development. The County’s standard condition for exterior lighting, that it not be directly visible from common public viewing areas such as public roads, would not avoid light pollution coming from interior sources such as hillside guest units. Nor would compliance with the maximum allowable backlight, uplight, and glare ratings in Title 24 Part 11 control the effects of interior lighting from hillside units, because those standards are applicable to exterior lighting. Partial screening by trees, which would intentionally leave view openings, will result in glare, light trespass, and sky glow impacts from the interior lights in the hillside units. The RDEIR does not even consider this problem, which could only be mitigated by relocation the hillside units to an area from which interior lighting is not visible to neighbors and roadways.

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Furthermore, as Benya explains, the proposed Standard Condition would not suffice to mitigate exterior lights. Screening bulbs would not necessarily prevent a sky glow contribution or lighting trespass to neighboring properties, even if it avoided direct glare. And meeting Title 24 Part 11 standards for rural areas would not prevent significant impacts to the Project vicinity, because those standards are not intended to protect unusually dark night sky areas. For example, the applicable Title 24 Part 11 standards for control of exterior sources of backlight, uplight, and glare for rural areas would not be sufficient because that standard assumes a “moderate” level of ambient illumination, not the relatively pristine ambient conditions in the area of the project.

Fourth, the RDEIR fails to provide any discussion of cumulative lighting impacts from other development in the viewshed or to evaluate this Project in the cumulative context. RDEIR, p. 46. Benya explains that the unusually dark conditions that now exist are under threat from cumulative lighting sources in the Valley. In this context, the Project’s contribution to a significant cumulative impact should have been assessed. As Benya concludes, the inadequately mitigated lighting impacts would contribute to cumulative light pollution.

#### **B. Steep slope development**

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 assess consistency with this policy. Since the policy bans building sites on slopes over 30 percent, the condominium units proposed on such slopes should not be included.

Furthermore, 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

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- “[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 three alternatives that would not require development on slopes of 30 percent

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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.

### C. Air quality

The RDEIR states, “A non-residential project is considered to be consistent with the air quality plan.” RDEIR p. 3-41. This is an incomplete statement of the Monterey Bay Air Resources District Guidelines which state, “Consistency of indirect emissions associated with a commercial, industrial or institutional project intended to meet the needs of the population as forecast in the AQMP is determined by comparing the estimated current population of the county in which the project is to be located with the applicable population forecast in the AQMP. If the estimated current population does not exceed the forecasts, indirect emissions associated with the project are deemed to be consistent with the AQMP.” Since the Project is a visitor-serving project rather than one to meet the needs of the current population, the Air District should be contacted for an up-to-date consistency analysis.

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Table 3.2-5 Long-term Unmitigated Operational Emissions identifies wintertime emissions for the proposed Project. Emissions should be calculated for summer time, which is more representative of the ozone season.

The RDEIR does not address consistency with the following County General Plan policies:

**Policy 20.1.2** The County should encourage the use of mass transit, bicycles and pedestrian modes of transportation as an alternative to automobiles in its land use plans.

**Policy 20.1.4** The County should concentrate commercial development in designated centers that may be more easily served by public transit.

### D. Climate change

The RDEIR states the CalEEMod was adjusted to account for the air district’s prohibition of wood-burning stoves/fireplaces. RDEIR, p. 3-126. The Monterey Bay Air Resources District does not have such a prohibition. Therefore, a mitigation measure

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prohibiting wood-burning stoves/fireplaces should be added to the list of mitigation measures.

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As discussed below in comments on traffic, the RDEIR substantially understates Project trip generation. Please re-run the CalEEMod to recalculate the carbon emissions so that all of the trips are included.

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The RDEIR finds that the Project would not have a significant impact on climate change based on implementation of proposed mitigation measures. Beyond measures specifically identified in the RDEIR, the applicant would be required to purchase offsets to achieve a total of 2,239.63 MT of CO<sub>2</sub>e of additional GHG emissions reductions needed to reduce Project emissions to net zero (MM 3.4-1b). Mitigation by offsets is relatively new and unproven. Accordingly, the permanent availability and cost of the required offsets should be identified in the EIR to determine if the proposed mitigation measure is in fact feasible. A condition of approval should require that the applicant acquire the specifically identified offsets or their equivalent.

If the EIR cannot identify permanent offsets that the applicant will commit to acquire, then additional feasible mitigation measures should be proposed. These should include at least:

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1. Air conditioning units shall be Freon-free.
2. Recycling facilities consistent with the local waste collection company shall be provided for each residential unit and in all public or common areas that generate trash.
3. Recycling education shall be provided to all visitors.
4. 75% of demolition and construction waste shall be recycled.
5. Building energy use shall exceed the Title 24 Energy Efficiency standards applicable at the time the building permit is issued by 20%.
6. Programmable thermostat timers shall be provided.
7. Multimetering “dashboards” shall be provided in each dwelling unit to visualize real-time energy use.
8. On-site energy generation using solar power units shall be provided on each available roof that does not face north
9. At least 75% of Project electrical energy shall be provided through on-site solar power or other on-site electrical generation facilities that do not emit carbon.
10. All residential roofs and other building roofs that have adequate solar orientation (not north-facing) shall be designed to be compatible with the installation of photovoltaic panels or other current solar power technology.
11. Large buildings shall use a combined heating and cooling system (cogeneration).
12. All pools and spas shall be heated using solar water heaters unless they use naturally heated water.
13. Pumps and motors for pools and spas shall be energy efficient.

14. Pools and spas that are not naturally heated shall have automatic covers to retain heat.
15. Roofs shall be light colored to minimize cooling requirements.
16. Tree planting double that required to mitigate loss of oak woodlands shall be required in order to sequester additional carbon.
17. Construction equipment shall be powered by clean-burning fuel, bio-diesel fuel, and/or other alternative fuels, or shall use electric or hybrid-electric engines so as to reduce construction emissions by 33% over 2013 "business as usual" construction equipment emissions.
18. The Project shall use clean-burning fuel, bio-diesel fuel, and/or other alternative fuels for heavy construction equipment to reduce construction emissions by 25% over 2010 "business as usual" construction equipment emissions.
19. Operational vehicles supporting the Project, including shuttles, shall be electric or other zero emission vehicles.
20. Construction equipment idling shall be limited to 5 minutes.
21. Delivery vehicle idling shall be limited to 3 minutes.
22. All employees, including management employees, shall be required to use the shuttle service unless they reside on the Project site.
23. On-site parking shall not be provided for employees except for emergency access outside regular shuttle hours. Alternatively, employees shall be charged \$20 per day for on-site parking.
24. The Project applicant shall organize employee carpooling or vanpooling from employee homes to the shuttle pick-up site.
25. The Project applicant shall provide vehicles and/or subsidies for employee carpooling or vanpooling to the shuttle pick-up site.
26. The Project applicant shall provide a subsidy of 50% of the cost of public transit to employees using public transit to get to the shuttle pick-up site.
27. The Project applicant shall provide a guaranteed ride home program whereby employees who carpool, vanpool, bike, walk, or take transit are provided with a ride home or to an emergency location in the event that they cannot return home using the same mode due to an emergency.
28. The Project applicant shall compress work hours so that employees work longer hours but fewer days.
29. The Project applicant shall provide an information center for transportation alternatives that provides information about all available alternatives and measures including shuttles, carpooling, vanpooling, flextime, and transit options.
30. The Project applicant shall provide on-site childcare for employees to avoid additional travel requirements.
31. Parking spaces shall be unbundled from condominium and villa time-share pricing so that units may be acquired without parking. The unbundled price for parking shall be at least 5% of the unit price.
32. Hotel guests shall be charged \$20 per day for parking and this requirement shall be enforced with parking permits.

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33. Electric vehicle recharging facilities shall be provided for each condominium and villa parking space and for hotel guests.

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The mitigation is based on the quantification of emissions in the RDEIR via CalEEMod. At least one aspect of the CalEEMod modeling is inaccurate. Appendix D states that the modeling included loss of carbon sequestration for 37.4 acres of vegetation as provided in RDEIR Table 3.3-4. In fact that table identifies a loss of 41.8 acres of vegetation. RDEIR, p. 3-81. Furthermore, Table 3.3-5 identifies an additional vegetation loss of 20.3 acres from fuel management activities. RDEIR, p. 3.82. The modeling and the proposed mitigation must be revised to include the loss of sequestration from the total vegetation loss of 62.1 acres.

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Emission levels may change over time if the assumptions in the modeling are not met. Accordingly, the mitigation measure should require audits of the Project's greenhouse gas emission every five years to determine if the offsets remain adequate to attain the net zero standard.

#### **E. Analysis of cumulative water supply impacts to the Salinas Valley Groundwater Basin**

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LandWatch asked hydrologist Timothy Parker to review the RDEIR's analysis of cumulative water supply impacts to the Salinas Valley Groundwater Basin (SVGB). His comments are attached. Mr. Parker is familiar with the SVGB based on his work on the Technical Advisory Committee to the Monterey County Water Resources Agency in connection with its ongoing study of the Salinas Valley Groundwater Basin that is mandated by Policy PS-3.1 of the 2010 Monterey County General Plan.

#### **1. CEQA's requirements for cumulative water supply analysis**

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Cumulative impact analysis is a two-step process that requires an agency to make two determinations: (1) whether the impacts of the project in combination with those from other past, present, and future projects are cumulatively significant, and (2) if so, whether the project's own effect is a considerable contribution. CEQA Guidelines ("Guidelines"), 14 C.C.R. § 15130(a); *see* Kostka and Zischke, Practice Under the California Environmental Quality Act (2nd Ed., 2014 Update), § 13.39; Remy, Thomas, et al., Guide to CEQA (11th Ed., 2007), pp. 474-475. The CEQA Guidelines require an agency to support both its step one and step two determinations with "facts and analysis." Guidelines, §15130(a)(2) (step one), (a)(3) (step two).

In step one, the agency must determine whether the combined effect of the project and other past, present and/or future projects "when considered together" is significant, because those impacts may be "individually minor but collectively significant." *Communities for a Better Environment v. California Resources Agency* ("CBE v. CRA") (2002) 103 Cal.App.4th 98, 119-120. Thus, step one must consider all sources of "related impacts," including impacts of past, present, and potential future projects.

Guidelines, § 15130(a)(1), (b). The agency must identify cumulative impact sources either by listing the cumulative projects or by providing “a summary of projections contained in an adopted local, regional or statewide plan, or related planning document, that describes or evaluates conditions contributing to the cumulative effect.” Guidelines, § 15130(b)(1)(A), (B). To support a step one conclusion, “some discussion of total supply and demand is necessary to evaluate the ‘long-term cumulative impact of development on water supply.’” *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (“*Vineyard*”) (2007) 40 Cal.4th 412, 441. Demand data is essential to analysis:

“Absent some data indicating the volume of groundwater used by all such projects, it is impossible to evaluate whether the impacts associated with their use of ground water are significant and whether such impacts will be mitigated . . .” *Kings County Farm Bureau v. City of Hanford* (“*Kings County*”) (1990) 221 Cal.App.3d 692, 728-729.

Part of the cumulative demand is the existing, baseline demand from past and present projects. That baseline information, and the cumulative analysis itself, must be presented in the draft EIR, not later in the EIR process. Guidelines, § 15120(c) (DEIR information requirements); *Save Our Peninsula, supra*, 87 Cal.App.4th at 120-124, 128; *Communities for a Better Environment v. City of Richmond* (“*CBE v. Richmond*”) (2010) 184 Cal.App.4th 70, 89.

In step two, if there is a significant combined effect, the agency must then separately consider whether the project’s contribution to that effect is itself considerable, i.e., “whether ‘any additional amount’ of effect should be considered significant in the context of the existing cumulative effect.” *CBE v. CRA, supra*, 103 Cal.App.4th at 119, emphasis added. An EIR may not conclude a cumulative impact is insignificant merely because the project’s individual contribution to an unacceptable existing condition is, by itself, relatively small. *Los Angeles Unified School Dist. v. City of Los Angeles* (“*LAUSD*”) (1997) 58 Cal.App.4th 1019, 1025-1026; *CBE v. CRA, supra*, 103 Cal.App.4th at 117-118, 121. Instead, a valid determination whether a project’s contribution to a significant cumulative impact is considerable must reflect the severity of the cumulative problem: “the greater the existing environmental problems are, the lower the threshold should be for treating a project’s contribution to cumulative impacts as significant.” *CBE v. CRA, supra*, 103 Cal.App.4th at 120. If mitigation is required, it may be provided through impact fees; however, “payment of fees must be tied to a functioning mitigation program.” *California Native Plant Society v. County of Eldorado* (2009) 170 Cal.App.4th 1026, 1055; Guidelines, § 15130(a)(3).

## **2. The RDEIR fails to provide an adequate analysis of cumulative impacts to the Salinas Valley Groundwater Basin.**

As noted, the first step in cumulative analysis requires a determination whether there is a significant cumulative impact from past, present, and foreseeable future

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projects. A significant cumulative impact may be represented by (1) a substantial depletion of the SVGB such that there is a net deficit, (2) a degradation of water quality through seawater intrusion, or (3) by secondary impacts caused by groundwater management projects implemented to avoid deficits or seawater intrusion. RDEIR, pp. 3-235, 4-12.

The RDEIR relies on the analysis in the Salinas Valley Water Project (SVWP) EIR and the 2010 Monterey County General Plan EIR to conclude that there will be no significant cumulative impact through the year 2030. RDEIR, pp. 3-246. As Parker explains, this conclusion is not supportable.

First, the conclusion is inconsistent with the clear evidence that overdraft conditions persist and that seawater intrusion continues. The most recent data show that the seawater intrusion front, i.e., the area behind which groundwater has become unusable, advanced inland at an accelerating rate between 2013 and 2015, the last years for which data are available. Intrusion is expected to continue due to the latent effect of the recent drought.

Second, as Parker explains, seawater intrusion will not be adequately controlled by current groundwater management projects because actual groundwater pumping far exceeds the demand assumptions for these projects. The RDEIR relies on the analysis in the SVWP EIR to conclude that there will be no cumulative impact through 2030. However, as Parker explains, the SVWP EIR's conclusions were based on the assumption that groundwater pumping in the SVGB would decline from 463,000 afy in 1995 to 443,000 afy in 2030. The SVWP EIR also assumed that the amount of irrigated agricultural acreage would decline during this 35-year period. In fact, both assumptions were incorrect. Reported groundwater pumping has averaged 502,759 afy since 1995, and if this figure is corrected for unreported pumping, the figure would be 533,416 afy. MCWRA now admits that the SVWP EIR demand assumptions were understated. Irrigated agricultural acreage has not declined since 1995; it has increased substantially.

If an EIR's cumulative water supply analysis depends on demand and supply data in referenced documents, the EIR must present that information clearly, explain any differences among the figures, and "provide an analytically complete and coherent explanation" of the relation of the referenced documents to the EIR. *Vineyard, supra*, 40 Cal.4th at 439-443. Here, the RDEIR relies on the EIR's for the SVWP and the 2010 Monterey General Plan without setting out their water supply and demand estimates and without explaining how their conclusions could remain accurate in light of the actual groundwater pumping since 1995 and the ongoing seawater intrusion.

Third, as Parker explains, additional groundwater management projects would be required to halt seawater intrusion. The County, MCWRA, and the RDEIR itself acknowledge the need for additional projects. However, projects that would be sufficient to halt seawater intrusion have not been environmentally reviewed, funded, or committed. Thus, there is no basis to conclude that the existing cumulative impact will be avoided.

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Where an EIR concludes that there is no significant impact based on the expectation of future groundwater mitigation projects, it must discuss the projects and show them to be feasible. *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 728

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Even if the necessary projects were eventually constructed, there is no basis to conclude that this would avoid significant cumulative impacts through 2030, as the RDEIR claims. Significant cumulative impacts from aquifer depletion and seawater intrusion already exist, and the seawater intrusion is worsening.

Furthermore, if the necessary projects were constructed before 2030, they would cause secondary impacts, which the EIR fails to disclose. Where there is uncertainty as to the sufficiency of existing supplies, an EIR must include a discussion of “possible replacement sources or alternatives to use of the anticipated water, and of the environmental consequences of those contingencies.” *Vineyard, supra*, 40 Cal.4th at 432, emphasis added; see *Santiago County Water District v. County of Orange* (2013) 118 Cal.App.3d 818, 831 (EIR must assess effect of using pumping capacity).

**3. The RDEIR fails to provide an adequate determination whether the Project makes a considerable contribution to the significant cumulative impact to the SVGB.**

As discussed above, if there is a significant cumulative impact from past, present, and foreseeable future projects, an EIR must then determine whether the Project would make a considerable contribution to that impact. Here, the RDEIR admits that there would be a significant cumulative impact after 2030, but it fails to make an adequate determination whether the Project would make a considerable contribution. The RDEIR’s conclusion that the Project would not make a considerable contribution to a significant cumulative impact is not only unsupported but also incorrect.

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First, the EIR fails to evaluate the Project’s effects in the context of the severity of the existing and future cumulative impact. Placing the Project’s pumping in that context is essential because “the greater the existing environmental problems are, the lower the threshold should be for treating a project’s contribution to cumulative impacts as significant.” *CBE v. CRA, supra*, 103 Cal.App.4th at 120. However, the RDEIR fails even to acknowledge that there is a significant cumulative impact before 2030, and it fails to disclose the severity of the cumulative impacts it admits will occur after 2030.

Second, the RDEIR offers the irrelevant argument that the Project has an assured water supply because the water stored in the SVGB can be mined through overdrafting. The argument is irrelevant because the “ultimate question” in an EIR is not pumping capacity but the impact from using that capacity. *Vineyard, supra*, 40 Cal.4th at 434, 441; *Santiago County Water District, supra*, 118 Cal.App.3d at 831.

Third, the RDEIR improperly conflates the analysis of cumulative impacts with the analysis of project-specific impacts by applying the same threshold of significance for

both analyses: whether the Project “would substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level.” RDEIR, pp. 4-13, 3-235. This is a fundamental misunderstanding of the purpose of cumulative analysis because it fails to recognize that an individually minor impact may nonetheless be a considerable contribution to a significant cumulative impact. CEQA Guidelines, §15355; *LAUSD, supra*, 58 Cal.App.4th at 1025-1026; *CBE v. CRA, supra*, 103 Cal.App.4th at 117-118, 121.

Fourth, the RDEIR seeks to trivialize the Project’s 17.8 afy of new consumptive water use by comparing it to the total amount of water in storage in the SVGB and to the total amount of annual pumping. Implicit in this comparison are both a legal and a factual error. It is a legal error to dismiss the significance of a project’s impact simply because it is a small percentage of the overall problem. *Kings County Farm Bureau, supra*, 221 Cal.App.3d at 718 (rejecting “ratio” theory as error). In *Kings County Farm Bureau*, the Court held that the relevant question was “whether any additional amount” of incremental impact “should be considered significant in light of the serious nature” of the problem. *Id.* at 718. Here, as Parker explains, because the SVGB is in overdraft, any additional pumping contributes to seawater intrusion. In light of the serious and ongoing seawater intrusion problem, the Project’s pumping should be acknowledged to be a considerable contribution.

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The factual error in the RDEIR’s analysis is that it fails to compare the Project pumping to the environmental problem. As Parker explains, here, the problem cannot be measured by the amount of water in storage or even the annual pumping. The problem is the amount of pumping in excess of sustainable yield, i.e., the amount of overdraft that causes seawater intrusion. If a comparison were relevant, it would be to the amount of overdraft. By that measure, the Project’s incremental pumping is a considerable contribution.

Fifth, the RDEIR points to the landowner’s payment of the MCWRA assessments for Zone 2C as evidence that the Project would mitigate cumulative water supply impacts. However, payment of impact fees can only be considered adequate mitigation under CEQA if the needed project has been environmentally reviewed, because “payment of fees must be tied to a functioning mitigation program.” *California Native Plant Society, supra*, 170 Cal.App.4th at 1055. Here, the needed projects have not been reviewed, and the RDEIR does not and cannot disclose their efficacy or their secondary impacts. Furthermore, the Zone 2C assessments paid by the Project fund only existing projects, not the needed future projects, which have not yet been funded, and to which the County has not yet committed itself. Mitigation fees paid must actually constitute a fair share of all needed projects; if the impact fee program does not actually include a fair share of all of the necessary, committed facilities to mitigate cumulative impacts, even the fact that the agency may plan to increase the impact fee to cover them is not sufficient. *Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173, 1188.

#### **F. Analysis of impacts to wells**

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The RDEIR concludes that the Project would reduce groundwater elevations as much as 0.5 ft. (RDEIR, p. 3-250), and would reduce them an additional 0.2 ft. if pumped groundwater is required to sustain wetland areas (RDEIR, p. 3-127). The RDEIR also concludes that the Project may cause a groundwater decline of 1.2 feet during a drought period. RDEIR, p. 3-251. The RDEIR concludes that this would not be a significant impact because it is “very unlikely” that the water table is close to the screened intervals of local wells. RDEIR, p. 3-250. However, there is no evidence that the EIR consultants or the County actually investigated the status of each of the potentially affected wells. The County should contact each potentially affected neighboring well owner to determine the actual status of the affected wells.

We note that at least one neighboring well is reported to be dry. Todd, Figure 5. Presumably at some point, as that well dried up, the water table for that well was in fact at the screened interval.

#### **G. Analysis of impacts to Pura spring**

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Then RDEIR fails to provide a definitive analysis as to whether the Project will affect the Pura spring on which the adjacent properties rely. The RDEIR admits that the spring flow could be diminished or eliminated by either the reduction in groundwater levels or by the placement of a storage tank for treated wastewater. It concludes that a gravel base for the storage tank would allow aquifer flow. However, the RDEIR does not explain whether the general drawdown of groundwater levels will or will not halt or diminish the spring. Instead, the RDEIR relies on the conclusion that the spring “might not be affected” by the projected reduction in groundwater levels to conclude that the Project will not cause a significant impact. RDEIR, p. 3-252. In effect, the RDEIR simply assumes the problem away. However, CEQA requires that an EIR’s conclusions be based on substantial evidence. *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376,404; Guidelines, §15130(a)(2); *Vineyard, supra*, 40 Cal.4th at 442.

The RDEIR then states that the neighbor may be forced to bring a legal claim to enforce rights to the spring if its flow is in fact halted or diminished; and, depending on the results of the lawsuit, the Project “may or may not” have to provide additional pumping from its wells to replace the spring water. RDEIR, p. 3-252. The RDEIR then argues that there would be no environmental impact if this occurred, because the same overall amount of groundwater would be used. RDEIR, p. 3-252.

In effect, the RDEIR fails to acknowledge that the Project may in fact cause a significant impact to the spring on which the neighbors depend. And the RDEIR also

fails to propose effective mitigation for that impact, which might consist of providing replacement water. It is not sufficient to argue that the provision of replacement water after a successful lawsuit would not cause the secondary impact of increased groundwater use. The RDEIR must be revised to acknowledge that the Project may cause the primary significant impact of drying up the spring due to the general drawdown of groundwater elevations. And the proposed mitigation cannot depend on the neighbors' efforts to litigate a claim because mitigation must be "fully enforceable through permit conditions, agreements, or other legally-binding instruments." Guidelines, § 15126.4(a)(2).

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Furthermore, the RDEIR contends that leaking from the underground storage tank for recycled wastewater would not cause a water quality impact to the spring because, it contends, the recycled water "would be of better quality than that found in the aquifer." RDEIR, p. 3-252. This claim is directly contradicted by the admission, three pages later, that the total dissolved solids in the recycled water would be higher than that in the ambient groundwater. RDEIR, p. 2-255. The inconsistency in these factual claims precludes substantial evidence. *Vineyard, supra*, 40 Cal.4th at 439. If the TDS for leaked recycled water is in fact higher than for ambient groundwater, then there would be a potential significant impact and additional mitigation would be required.

#### **H. Salt loading**

The RDEIR admits that the Project would cause increased salt loading to the aquifer, which would affect the Pura spring. However, the RDEIR dismisses the significance of the impact by arguing that (1) the spring water is already over drinking water standards for sulfate and TDS so the users would have to treat it to drink it anyway and (2) only a "slight increase" in irrigation would be required to maintain soil salinity within vegetation tolerance ranges. RDEIR, p. 3-254. The RDEIR fails to determine whether the spring users do in fact already treat spring water for salts.

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More problematically, the RDEIR indicates that the spring water entitlement is limited to the amount that can be delivered through a one-inch pipe. However, the RDEIR fails to determine whether the increase in irrigation demand for a given amount of vegetation would limit other uses in light of this constraint.

#### **I. Biological resource mitigation**

Vegetation disturbance and construction activity by the Project would cause potentially significant impacts to a number of special status species, including four bat species, burrowing owls, coast horned lizards, dusky-footed woodrat, and nesting birds. The RDEIR acknowledges that 20 acres of fuel modification to mitigate wildfire impacts would be required, and that this fuel modification would require ongoing and regular mowing and trimming. RDEIR, pp. 3-8- to 3-85. The RDEIR claims that the impacts to special status species from the action to remove vegetation are assessed in Impact 3.3-2. RDEIR, p. 3-80. However, the mitigation measures proposed for Impact 3.3-2 do not address ongoing fuel modification work, including future mowing and tree trimming.

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Accordingly, the requirement to train construction workers in MM 3.3-2a should be revised to require training of all personnel involved in future fuel modification maintenance. The requirement for bat surveys, mitigation, maternal colony protection, and coordination with CDFW in MM-3.3-2b should be revised to require these measures for future fuel modification maintenance. Similarly, MM-3.3-2c, d, and e to mitigate impacts to for woodrats, burrowing owls, and coast horned lizards should be revised to require these measures be implemented for future fuel modification maintenance. The surveys and protections for nesting birds in MM3.3-3 must be extended to fuel modification activities, particularly where those activities would result in noise or disturbance of nesting areas.

## **J. Traffic**

### **1. Traffic analysis understates day use trips**

The Project Description states that the amenities will be made available for resort guests and for day use by persons who are not staying at the resort. Amenities include a day use spa, an 18,550 square foot "hamlet which will accommodate on site guests and day users" (RDEIR, p. 2-20), three restaurants, a wine pavilion, wine tasting, artist studios, and a visitor center. RDEIR, p. 2-18.

The traffic report states that it includes only 6-10 trips per day to bring in an estimated maximum of trip users on organized tours.

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"Amenities available at the proposed project would include three sit-down restaurants, a day spa, a wine tasting area and other small retail and guest demonstration spaces, many of which are typically present in a resort hotel. Although the amenities will be geared towards hotel guests, some of these amenities could attract day trips on an organized tour to the site. However, 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. Most of these day trips would be made by groups of people, e.g., "day trips" from other hotels and resorts in the greater Monterey Bay area, and thus would only generate 6-10 vehicle trips per day. This day trip traffic is already accounted for in the hotel trip generation estimate, as these types of trips are typical for resort hotels. In addition, day trip traffic is not anticipated during the morning or evening peak traffic periods."

RDEIR, App. K, pp. 11-12. This claim is unsupported by evidence and inconsistent with the rest of the analysis.

First, there is no basis for the contention that the site's remoteness will limit day-trip use to only 50 persons. The site is in the midst of Monterey's wine country, and the stated objectives of the Project include "services and amenities for both overnight and

day guests" and providing visitor serving amenities to the Agricultural and Wine Corridor area. RDEIR, pp. 2-16 to 2-17. Part of the proposed Project is a wine-tasting facility. Please explain how the traffic consultant arrived at the assumption that only 50 persons would make day trips to the Project.

Second, there is no basis for the contention that all of the day use will be through organized tours in vehicles containing 5-9 passengers, as is implied by the assumption that 50 persons would generate only 6-10 trips. If the 50 day-trip users arrived in private cars, we might expect 25 trips or more trips. Please explain how the traffic consultant arrived at the assumption that all day users would arrive in organized tours.

Third, the contention that day use would be limited to 6-10 trips is inconsistent with the assumptions made to calculate parking demand. The traffic report states that parking demand for day use is included in the demand for the hotel and restaurant use. RDEIR, App. K, Exh. 12. However, the hotel and restaurant parking generation analysis assumes that 80% of the 165 spaces will be required for resort guests; thus, the analysis of required parking is assuming that 20% of the parking spaces, i.e., 33 spaces, would be required for day users. Furthermore, the Project would actually provide 67 parking spaces above and beyond the spaces needed for resort guests, since 310 parking spaces are proposed to meet the calculated parking requirement of 276 spaces. Please explain why the Project would provide parking spaces to accommodate 33 to 67 additional day guest trips if the actual trips are assumed to be only 6 to 10 per day.

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Fourth, the traffic report states that when the much smaller resort was in operation prior to 2005, it generated 25 average daily trips from day guests. RDEIR, App. K, Exhibit 6A. It is not reasonable to assume that day use will decline substantially even though the proposed Project is much larger and would be operating in an area in which the County and the winery industry have invested substantial resources since 2005 to encourage day trips.

Fifth, the traffic report does not actually contain a line item for day use trips generation, because it claims that the "day trip traffic is already accounted for in the hotel trip generation estimate, as these types of trips are typical for resort hotels." RDEIR, App. K, p. 12. Please provide evidence that the ITE trip rates for Resort Hotels include trips for day uses.

Please explain why in estimating the trips from the previous use the traffic analysis adds in 25 trips for day guests for the previous use even though it uses the same ITE trip rate for resort hotels (6.13 trips per occupied room) and then claims that 6.13 trip per room rate already includes the trips for day uses. If the ITE Resort Hotel trip rate at trip rate already includes day users, then it would not be appropriate to add a separate line for day uses in calculating the previous use trip generation.

Sixth, if the day uses were in fact included in the ITE trip rates for Resort Hotels, then it would be incorrect to apply the guest vehicle trip reduction credits to those day use

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trips. Presumably the Project will not provide shuttles in order to reduce the off-site trips by day users.

## 2. Employee trip generation

The traffic analysis cites ITE trip rates 330, 210, and 260 for Resort Hotel, Residential, and Recreational Homes respectively. RDEIR, Att. K, Exhibit 6D. The 984 gross trips for 100% occupancy are based on multiplying these rates times the number of units for each of these respective uses.

A separate line identifies a trip rate of 2.50 daily trips per employee, but no ITE code is provided for that trip rate. Although the traffic analysis projects 218 daily employees for purposes of determining shuttle trip reductions, the analysis does not separately calculate the gross employee trips (i.e., the employee trips before trip reduction through the employee shuttle). Although a footnote claims that the ITE code 330 for resort hotels includes trips generated by “all facilities and activities at the site associated with the hotel, such as restaurants gift shops, conference facilities and recreational facilities” (RDEIR, Att. K, Exhibit 6D), it is unclear if the analysis assumes that the employee trips are included in the ITE trip rates for resort hotels that is used to determine the Project’s gross trip generation. We note also that the traffic analysis states that the “ITE trip generation data for the Resort Hotel land use indicates that resort hotels are staffed at the rate of 1.7 employees per room.” RDEIR, App. K, p. 7. Please explain if the traffic analysis does assume that the ITE Resort Hotel trip rate of 6.13 trips per occupied room includes employee trips.

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In this regard, we note that the traffic analysis states that the peak hour trip rates for employees were based on the ITE trip rate for Manufacturing. RDEIR, App. K, p. 8. However the only line items for employee peak hour trips appear in the employee trip reduction calculations in Exhibit 6D; there is no provision for peak hour employee trips in the line items for gross trips.

Even if the Resort Hotel trip rate does include the employee trips for the 103 units of Resort Hotel land use, there is no indication that the ITE trip rates 210 and 260 for the 17 Residential single-family homes and for the 60 Recreational Homes include any resort employee trips. If not, please explain why the traffic analysis omits the gross employee trips related to these uses.

We note that the trip reduction analysis does assume that the recreational homes and the residential single family homes will require the same number of employees per unit as the hotel units, i.e., 1.7 employees per each of the 180 total units of all types. RDEIR, Att. K, p. Assuming at least the same number of employees per unit for the villas and condominium units is realistic since the Project amenities would be sized to accommodate guests at the villas and the condominium units, not just the hotel guests. Indeed, the villas and condominiums may require more employees per unit since they will accommodate many more guests per unit than a hotel room unit will accommodate.

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In effect, it appears that the trip generation analysis fails to include the gross trips generated by the employees for 77 of the 180 total Project units even though it has taken a trip reduction credit for shuttle use by these employees. If so, the total trips are substantially understated.

### 3. Overall trip generation

The traffic analysis acknowledges that prior to 2005, the 61 units for guests generated 399 trips daily. RDEIR, App. K, Exhibit 6D. The traffic analysis concludes that the new Project, with 180 total guest units, would generate only 284 trips at the assumed 70% average occupancy. We understand that much of the trip reduction is based on the assumption that employee trips would be reduced by 90% by mandated shuttle use and guest trips reduced by 20% via voluntary shuttle use. However, it defies common sense that that the number of guest units would triple but the daily trips would decline by 29%.

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First, the provision of shuttle service for guests may already be reflected in the ITE trip generation rates for Resort Hotels. If so, it would be double counting the trip reductions to take a 20% trip reduction credit for guest shuttles. At minimum, the analysis should only take a trip reduction credit for the marginal increase in expected guest shuttle use, i.e., if the ITE trip rate already includes 15% guest shuttle use, then the Paraiso analysis should only take an incremental 5%. Please explain whether any information in the ITE manuals used for analysis discusses the use of shuttles or transportation services for guests. Please explain how the traffic analysis arrived at its estimates of shuttle use by Project guests.

Second, the Project does not propose to enforce the assumed level of shuttle use by guests, and it would likely be infeasible to require a certain percentage of guests to use shuttles. Please explain whether and how the County would monitor and enforce the use of shuttles by guests. Please explain whether and how the traffic analysis and mitigation would be revisited if the assumed level of guest shuttle use were not realized.

Third, although the RDEIR states that employee shuttle use would be mandatory, nothing in the proposed mitigation would require this. Please explain whether a binding condition of approval would require 90% of employee trips to be by shuttle. Please explain how this would be enforced. Employees could easily evade the shuttle requirement since the Project proposes to include substantially more parking than is required for guests.

The RDEIR states that the shuttle round trip would take 45 minutes. Please explain whether employees would be compensated for this time.<sup>1</sup> The resort operator

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<sup>1</sup> Whether commute time is compensable in part or whole depends on the mode and purpose of employer provided transportation, and whether use is mandated or voluntary. An employer must

may choose to abandon the shuttle program in light of the additional expense to compensate employees for this time.

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Please explain whether and how the County would monitor and enforce the use of shuttles by employees. Please explain whether and how the traffic analysis and mitigation would be revisited if the assumed level of employee shuttle use were not realized.

Please explain how many employees the Paraiso resort employed on a daily basis as of 2005 when it was last in use. What was the staffing ratio of employees to guests? We would like to understand how many of the 399 daily trips generated by that 61-unit resort were attributable to employee trips.

#### 4. Accident data

The safety analysis is dependent on the accuracy of accident reporting for the local roads since the significance threshold is predicated on the relation of historic accident frequency and statewide averages. RDEIR, app. K, p. 18. If the accident rate were above the statewide average, then any additional increase in accident frequency, which would be an inevitable conclusion given that the volume of traffic will increase, would be a significant impact. Traffic Report, App. K, p. 18.

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The RDEIR concludes that the historic accident frequency is less than the statewide average, using reported accident data from Monterey County. The traffic report states that the AASHTO HSM model predicts just over 3 crashes should have occurred, and then states that only two have been reported. RDEIR, Appendix K, pp. 19-20 and Exhibit E to Appendix K. Thus, it appears that if there were just one or possibly two unreported accidents in the past 25 years, the accident rate would be above the statewide average and the significance conclusion would change.

We understand that there have in fact been unreported accidents on Paraiso Springs Road. The RDEIR's safety analysis should be revised after efforts are made to determine the level of unreported accidents.

Furthermore, it appears that the analysis is predicated on a very small sample. If the significance conclusion turns on the difference between 2 and 3 accidents, it is not statistically robust, and other considerations should have informed the safety analysis, e.g., whether the Project will ensure that AASHTO roadway safety standards will be met.

#### 5. Roadway safety standards

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compensate employees for travel time if they are mandated to use an employer shuttle. *Morillion v. Royal Packing Co.* (2000) 22 Cal. 4th 575, 583.

In view of the fact that the significance determination made solely on the basis of accident data may be equivocal, the EIR should have discussed whether and to what extent the roads fail to meet the applicable AASHTO standards. The RDEIR fails to provide a substantive discussion of this issue.

The RDEIR mention of AASHTO roadway standards is brief and conclusory:

The American Association of State Highway and Transportation Officials *Geometric Design Guidelines for Low Volume Roads* states “cross section widths of existing roads need not be modified except in those cases where there is evidence of a site-specific safety problem.” The guidelines further indicate “the designer is discouraged at most sites from making unnecessary geometric design and roadside improvements.” This establishes that the existing road network and roadway widths are adequate to accommodate existing traffic volumes.

RDEIR, p. 3-339, emphasis added. The RDEIR’s conclusion that the existing roadways are adequate simply does not follow from the fact that AASHTO discourages unnecessary improvements.

Furthermore, it appears that AASHTO *Guidelines for Geometric Design of Very Low-Volume Local Roads* may be the relevant handbook, not the cited handbook. Please clarify which AASHTO guidance should be applied and why.

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If the existing roadways do not meet AASHTO’s standards for safe roadways, then the RDEIR should have disclosed this fact as a potentially significant impact and should have proposed mitigation. Relying exclusively on potentially equivocal accident data to determine significance is improper here in light of the evidence that the affected roadways do not meet applicable safety standards. CEQA does not permit an agency to rely uncritically on a significance threshold that “would foreclose consideration of other substantial evidence tending to show the environmental effect to which the threshold relates might be significant.” *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1109; *see Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322, 341-342.

The peer review of the traffic report for the previously released 2013 draft EIR points out that the road should be required to meet at least the design standards of a Rural Recreational and Scenic Road, not merely the less stringent design standards for a Rural Minor Access Road, because it does not meet ASSHTO’s functional classification for a Rural Minor Access Road. The critical difference is that more conservative design standards are required for Rural Recreational and Scenic Roads because a higher proportion of drivers may not be familiar with the road. A Rural Recreational and Scenic Road must be at least 20 feet wide with a 6-foot clear zone width with more conservative barriers, sight distances, horizontal alignment, and vertical alignment. See draft EIR, App. H, Hexagon Transportation Consultants, letter to J. Onciano, May 6, 2011, p. 5.

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The RDEIR should be revised and recirculated to identify the applicable AASHTO roadway standards for each section of Paraiso Springs Road. The discussion should justify the identification of the applicable standard, taking into consideration the actual expected uses of the roadway, e.g., use by recreational drivers. The discussion should identify each area in which the existing roadway fails to meet the AASHTO standards. Where the standards are not met, the discussion should propose effective mitigation.

#### **6. Feasibility of roadway improvement**

The Project as proposed would include roadway widening. Roadway widening may be required after an adequate discussion of applicable roadway safety standards

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Please explain whether the roadway has been determined to be publicly owned so that widening and improving the road is feasible. If private permission would be required to widen or improve the roadway, to increase traffic volumes, or to change its use, please indicate what legal agreements exist that would permit improvement of the roadway and an increase of traffic.

#### **K. Additional parcel**

The Project consists of three parcels, APN-s 418-381-021, 418-361-004, and 418-381-002. The RDEIR does not discuss or propose any uses for the parcel located to the southwest of the Project site that is included in the Special Treatment Area for Paraiso Hot Springs under the 2010 General Plan Policy CSV-1.1. However, it is likely that the Project proponents will seek to develop this parcel, which appears to be a 35-acre parcel identified as APN 418-361-009.

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The application for the current Project was accepted as complete in 2005. RDEIR, p. 3-259. The Paraiso Springs area was not identified as a “special treatment area” under the 1982 General Plan, although recreational and visitor serving uses for the Paraiso Hot Springs Property” were permitted under Policy 28.1.1.1 (CSV). 1982 General Plan, pp. 90, 103. However, in connection with the development of the 2010 General Plan, Thompson Holding requested that a “special treatment area” be added that would include the three parcels that are part of the proposed Project and APN 418-361-009. This request was honored, and the 2010 General Plan identifies all four parcels as part of the Paraiso Hot Springs Special Treatment Area in which recreational and visitor-serving uses are permitted. 2010 General Plan, Policy CSVB-1.1.

It is apparent from this history that development of APN 418-361-009 with recreational and visitor serving uses is intended and foreseeable. These additional uses would certainly increase environmental impacts, e.g., impacts to water supplies, biological resources, and visual resources. However, the RDEIR fails to discuss the impacts from this foreseeable development – either as part of the Project under review or as part of cumulative projects. CEQA requires evaluation of the whole of the project,

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including its foreseeable future expansion. Guidelines, § 15378; *Laurel Heights Improvement Assn., supra*, 47 Cal.3d at 396 (future expansion of medical center). CEQA also requires analysis of foreseeable cumulative projects. Guidelines, § 15130. The RDEIR must be revised and recirculated to identify foreseeable future development impacts, including cumulative impacts, from development of APN 418-361-009.

#### **L. Analysis of residential use impacts or restrictions to avoid residential use**

The villas and condominiums are proposed to be occupied only through timeshare arrangements. Accordingly, the EIR does not evaluate the impacts from using the site for year-round residential use. Residential use would result in different and additional impacts, including impacts to schools, traffic, and increased growth-inducing impacts.

Unless the Project is conditioned to bar residential use, the EIR must be revised and recirculated to assess the impacts of residential use on the site, which is foreseeable.

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The Project proposes to subdivide the site so that each timeshare villa is situated on a separate lot. Since the Project proposes that the right to use the villas be sold through timeshares, there is no apparent reason that the lots need to be subdivided. LandWatch is concerned that the subdivision may be intended to accommodate, or will in fact accommodate, the eventual transformation of the time-share villas into permanent residential use. LandWatch is also concerned that the condominiums might also be transformed into permanent residential use.

A condition of Project approval should require that all of the subdivided lots be deed-restricted to bar residential use other than temporary residential use through timeshare arrangements. The deed restriction should bar ownership of more than a one-month timeshare interest annually in order to prevent year-round residential use by any party.

#### **M. Inadequate historic resource mitigation**

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Proposed mitigation for destruction of historic resources is not adequate. The mitigation consists of documentation and display of the destroyed resources, but does not make a definite commitment to reconstruction in a manner that would recreate some of the lost heritage. The only portion of the proposed mitigation that addresses the construction of the Project itself is two sentences in MM 3.5-1, which call for hiring a “qualified historical consultant” and then having that consultant “define a consistent and cohesive themes [sic] (Native American, Spanish, Mexican, and America) for the site.” RDEIR, p. 3-157. In short, do a study to figure out the mitigation, later.

Since this measure is identified as mitigation for historic resources, presumably it is intended that the study establish designs that would in some measure recreate the lost resources. Comments by peer reviews of the historic resources analysis recommend mitigation via construction in the historic style that was destroyed. The 2005 report

prepared by Archaeological Resource Management recommended the following specific measures:

- The resort complex should be constructed in a historical style, appropriate to the historic associations of the springs with the California missions. Examples of appropriate historical styles would include the Mission Style, Spanish Eclectic, or Spanish Colonial Revival Styles of architecture. Appropriate historical design should be determined through consultation with the planning department, or design review committee.
- Much of the landscaping at the Paraiso Springs resort can be considered a supporting element which adds to the historic integrity of the complex. Wherever possible the historic landscaping, including the palm trees, oak trees, evergreen trees, and succulents should be maintained and integrated into the new resort complex.

The letter from Galvin Preservation Associates to RBF Consulting, June 30, 2008, also recommends a specific requirement for historic reconstruction:

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- I do not believe that it is outside the purview of the County to require that the cabins be reconstructed according to the Secretary of the Interior's Standards for Reconstruction or that any new construction adopt the Gothic Revival style in its design to reflect the historic architectural tradition of the nine historic resources that were present on the site.

However, despite these specific recommendations, the RDEIR simply calls for a future study, which may or may not require use of a design that recreates the lost historic resources.

Deferral of mitigation is not permitted when an agency calls for mitigation measures to be created based on future studies or when the agency fails to commit itself to specific performance standards. *California Clean Energy Committee v. City of Woodland* (2014) 225 Cal.App.4th 173, 195; *Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 794. Nothing in the proposed mitigation commits the Project to adopt a design that would address the lost historic resources. And the mitigation does not identify any performance standard that must be met.

Furthermore, an agency must have, and must articulate, a good reason for deferring the formulation of mitigation. *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 670, 684. Absent such a reason, deferral is simply not acceptable. Here, the RDEIR provides no justification for deferring the identification of the "consistent and cohesive themes" for the site.

## **N. Alternatives**

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As discussed above, the proposed 180-unit Project would triple the number of visitor serving units previously permitted on the site and would add a number of additional victory-serving amenities that would increase use and concomitant environmental impacts. It would locate condominium units on hillsides where they would cause visual impacts, including nighttime impacts that could not be mitigated. The Project is simply too large for this location.

The RDEIR evaluates alternatives that would reduce the number of units by 7%, 10%, and 30%. It is helpful that these alternatives would relocate the proposed condominium units so that they would not be on steep slopes and would be less visible. However, the EIR should also evaluate an alternative that would provide visitor-serving amenities at the scale of the previous use, i.e., a 61-unit proposal with appropriately scaled amenities.

Yours sincerely,

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

A handwritten signature in black ink, appearing to read 'JF', written over a faint, illegible typed name.

John Farrow

JHF:hs

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30. Monterey County, Staking and/or Flagging Criteria, Monterey County Board of Supervisors Resolution No. 09-360

April 23, 2018

### **To Whom It May Concern:**

This letter has been prepared in response to the recirculated Draft Environmental Impact Report (DEIR) regarding the proposed Paraiso Springs Resort (hereinafter the "Resort"). I have been retained as an expert reviewer of the DEIR with respect to the report's position with respect to light and lighting. I am a registered professional engineer in California (E12078), a Fellow of the Illuminating Engineering Society and a Fellow of the International Association of Lighting Designers. I am qualified in the field and my expert research and testimony regarding exterior lighting and light pollution issues has been accepted in courts and public hearings in twelve states (including California) and three Canadian provinces. My resume including special expertise regarding light, light pollution and its mitigation is attached.

Regarding the actual environmental impact of outdoor lighting, the American Medical Association (AMA) issued a position statement in 2016 declaring that light at night (LAN) is both a human health concern and has a general environmental impact. Researchers at the University of Southern California have confirmed the impact of light at night on virtually all living beings because it upsets their circadian systems. This alone should cause lighting to be considered a significant environmental impact under CEQA, but it is not mentioned in the DEIR.

Furthermore, CEQA requires consideration of all negative impacts that might affect the environment or view. In addition to its impacts to the health of living beings, LAN causes three types of measurable and observable light pollution:

1. Anthropogenic sky glow, which negatively affects astronomy and the enjoyment of the vast majesty and mystery of the night sky.
2. Excessive lighting that trespasses objectionably onto adjacent properties and offends neighbors and detracts from views of the night sky and environment.
3. Glare, that causes discomfort, distractions, or accidents and ruins the enjoyment of view.

The current state of light pollution in a particular region can be measured from satellite data and classified according to the Bortle Scale. The proposed Resort would be in an unusually dark sky region of coastal California (see attached **Figure 1**). With a Bortle value of about 3.5, the area can be described as possessing a dark sky offering views of the zodiacal light, thousands of stars, and the Milky Way. But the Milky Way lacks detail, clouds are illuminated from below and the light domes of San Jose and small cities are visible on the horizon caused by regional light pollution. Due to commercial and agricultural growth along the US 101 corridor, the night sky in the region risks becoming brighter without careful regional planning and sensible control over lighting that can easily be caused by projects such as the Resort. Commercial and mixed-use developments such as the Resort are among those that can worsen the light pollution and move the region into Bortle Class 4 or 5, virtually eliminating views of dim stars, the Milky Way and zodiacal light. This should have been a major finding of the DEIR, but no such assessment is provided.

Regarding the view of the surrounding hills and the development as approaching from US 101, the DEIR's authors made considerable effort to demonstrate the daytime visual impact of the proposed Resort including several alternatives. But preservation of the view at night is an equally important part of preserving view quality in an area so connected to nature. Poor lighting practices in both commercial and residential properties are commonplace, and without proper restrictions, the Resort and the associated residential development will probably cause a significant and immitigable negative impact on the views of the valley and hills as well as contributing to regional light pollution. The most offensive

impacts will likely be caused by properties built on the sides of hills and along ridgelines and can be caused by interior lighting seen through windows as well as from outdoor lighting.

Mitigation of light pollution is possible, but the measures suggested in the DEIR are very far from adequate, particularly with respect to light sources from within hillside buildings. For example, the DEIR states that screening caused by trees would mitigate some visual impacts of the proposed buildings, but it provides that the tree canopies would remain open to permit views of the Salinas Valley. Therefore, this screening would not prevent the down-valley glare of indoor lighting from hillside and ridgeline homes and buildings. For the same reason, the County's standard condition for exterior lighting, that it not be directly visible from common public viewing areas such as public roads, would probably not be prevented by trees, either.

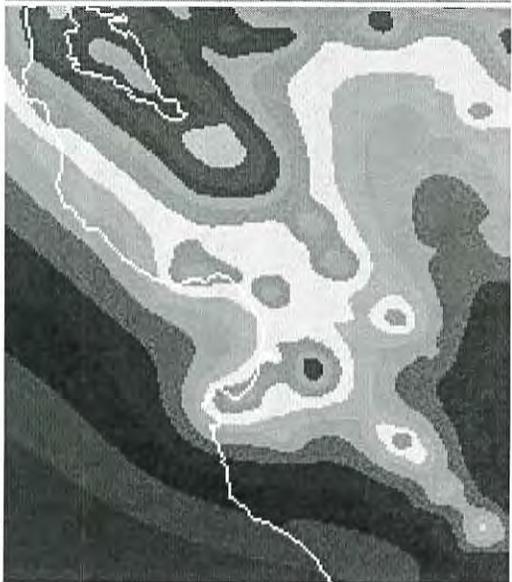
Furthermore, illumination from exterior sources in this unusually dark sky area, even if shielded to prevent direct glare by the County's standard condition, may still contribute to cumulative light pollution, including sky glow, light trespass and offensive glare. As a minimum, the applicable Title 24 Part 6 and Part 11 standards for control of exterior sources of light should be implemented by declaring that the entire development be strictly governed by Lighting Zone 1 (LZ1) for residential and commercial areas and Lighting Zone 0 (LZ0) for all landscaped and natural space around the Resort. Furthermore, strict requirements limiting lumen output, color temperature and shielding must be extended to residential portions of the project.

In summary, the DEIR essentially fails to address light and lighting relative to standards, best practices, and other well-established measures. It provides no assessment of the current condition, no delineation of the significant environmental impacts, no plans of what lighting will be part of the project and how its impacts will be mitigated, and no recommendations for the application of planning tools, development restrictions, covenants or other means to ensure that poor lighting practices do not occur. I am especially concerned with the potential for residential and guest properties on hillsides and ridgelines, as the impacts on view from distant vantages are immitigable and almost impossible to prevent. To meet the requirements of CEQA for an EIR involving lighting, I believe that the DEIR should contain a complete lighting plan involving all planned buildings and uses including specific design and technical specifications, a full analysis of the light levels, a calculation of added upward light, calculations of light trespass, and accompanying restrictions for development. The calculations and practices that should be presented should be referenced to publications of the Illuminating Engineering Society (IES) and should be consistent with California Title 24 Parts 6 and 11 with a permanent declaration of Lighting Zones 0 and 1 for the project filed with the California Energy Commission pursuant to Title 24, Part 1, Section 10-114. I would also recommend adopting carefully written development restrictions using a nationally recognized standard such as the Model Lighting Ordinance, LEED 4, or similar standard properly interpreted and applied to the Resort project.

I can be reached at [jbenya@benyaburnett.com](mailto:jbenya@benyaburnett.com) and (+1) 503-519-9631.

**James R Benya, PE, FIES, FIALD**





Conditions at Zenith			
Color	Artificial / Natural Sky Brightness	Sky Brightness mag/sq arcsec V Band	Bortle Scale approx.
	< 0.01	22.00 to 21.99	1
	0.01 to 0.06	21.99 to 21.93	2
	0.06 to 0.11	21.93 to 21.89	2
	0.11 to 0.19	21.89 to 21.81	3
	0.19 to 0.33	21.81 to 21.69	3
	0.33 to 0.58	21.69 to 21.51	4
	0.58 to 1.00	21.51 to 21.25	4
	1.00 to 1.73	21.25 to 20.91	4.5
	1.73 to 3.00	20.91 to 20.49	4.5
	3.00 to 5.20	20.49 to 20.02	5
	5.20 to 9.00	20.02 to 19.50	5
	9.00 to 15.59	19.50 to 18.95	6
	15.59 to 27.00	18.95 to 18.38	7
	27.0 to 46.77	18.38 to 17.80	8
	>46.77	>17.80	9

**Figure 1**

(Upper Left): Site location contained in the DEIR

(Lower Left): Site location map (from Light Pollution Atlas 2006)

Right: Bortle Scale

Excerpted from

[www.clearsky.com/lp/CACtyCAlp.html](http://www.clearsky.com/lp/CACtyCAlp.html)

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## Curriculum Vitae

# JAMES ROBERT BENYA, PE, FIES, FIALD

Principal, the Benya Burnett Consultancy

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*Winner of the 2008 Edison Award*

*"At the leading edge of light" Metropolis, 1999*

*"One of the top lighting designers in the US", Departures by American Express, 1999*

*"Top 25 Retail Lighting Designers in US", Display and Design Ideas, 2002*

*"Hot designer", SNAP Magazine, 2011*

*"Jim has been at the forefront from the start, specializing in integrated daylighting strategies and sustainable lighting approaches long before most designers knew what that was," Architectural Lighting, 2011*

*Inaugural member of the Michigan Lighting Hall of Fame, 2013*

Jim Benya is a professional illuminating engineer, lighting designer, educator and consultant with 40 years of experience. He is a Registered Professional Electrical Engineer, Fellow of the Illuminating Engineering Society of North America (FIES), and Fellow of the International Association of Lighting Designers (IALD). A member of the legendary Smith Hinchman & Grylls Lighting Group, he established and led California's seminal lighting design firm Luminæ Souter Lighting Design as Principal and CEO before starting Benya Lighting Design in 1994 in Portland, Oregon. His design work has been published in every major lighting design and architectural journal, including Architecture, Architectural Record, Architectural Lighting, Progressive Architecture, LD&A, Lighting Dimensions, Interiors, Interior Design, Designers West, Northern California Home and Garden, Architectural Digest, and Building Design and Construction. He has won numerous lighting design awards, including the Edison Award, the Edison Award of Excellence (7 times), the Edison Award for Environmental Design (thrice), the International Illumination Design Award of Excellence, and the Source Awards First Place Award. He is the author of **Lighting Design Basics** (Wiley 2012) and **Lighting Retrofits and Relighting** (Wiley 2011) and his work is featured in nine books, including the Best of Lighting Design. In 2012 he returned to northern California to begin the Benya Burnett Consultancy with partner Deborah Burnett in Davis, California and to work extensively with the California Energy Commission and Southern California Edison.

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## PROFESSIONAL DESIGN AND ENGINEERING HISTORY

Principal, the Benya Burnett Consultancy	2012-present
Principal, Benya Lighting Design, West Linn, OR	1994-2013
Principal, Pacific Lightworks, Portland, OR	1996-1998
Principal, Luminæ Souter Lighting Design, San Francisco	1983-1994
Associate and Chief Electrical Engineer, the Smith Group, Detroit	1980-1983
Electrical Engineer and Project Manager, the Smith Group, Detroit	1973-1980

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## EDUCATIONAL HISTORY

BSE, University of Michigan, Electrical Engineering	1973
BS, University of Michigan. Computer Science	1973
Graduate work in Computer Science, University of Michigan	1973
Professional Development Work in Building Energy Systems, Iowa State	1978
Professional Development Work in Daylighting, Harvard Graduate School	2009

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## ACADEMIC TEACHING HISTORY

Adjunct Professor of Architecture, Lawrence Technological University	1974-1978
Adjunct Professor of Architecture, Wayne State University	1979
Adjunct Professor of Design, University of Michigan	1980-1983
Adjunct Professor of Architecture, University of California at Berkeley	1984-1985
Adjunct Professor of Architecture, California College of Art	1986-1995
Artist in Residence, University of Nebraska School of Architecture	1998
Adjunct Professor of Interior Design, Marylhurst University	2002
Guest Lecturer, Oregon State University Interior Design Lighting Class	1999-2010
Special studio in Daylighting, Daylectric Lighting, Ball State University	2007-2009
Director of the Advanced Lighting Design Program, UC Davis	2012-2013

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## PROFESSIONAL DEVELOPMENT TEACHING/LECTURE HISTORY

### National and International Venues

LightFair International (58 presentations)	1990-2017
Prof. Lighting Design Conference (Berlin, Madrid, Copenhagen, Rome, Paris)	2009, 2011, 2013, 2015, and 2017
Professional Lighting Design (Alingsås, Copenhagen, Wismar, Venice)	2011
Pan Pacific Lighting Conference, (San Francisco)	1984, 1986, 1989
Intl. Daylighting Conference (Bilbao, Rotterdam, Lausanne, Copenhagen, London)	2007, 2009, 2011, 2013 and 2015
IALD Annual Conference	2000, 2002, 2010
IES Annual Conference	1985, 1988, 1990 2000, 2005, 2017
International Dark Sky Association Annual Meeting	2002, 2003, 2008
AIA Annual Conference	2001, 2005, 2007
ASID Annual Conference	1985, 1986, 1989 1990, 1994, 1998
Green Build	2002, 2003, 2007 2008, 2009
Neocon Chicago	1998, 2002, 2009
Strategies in Light (LED and OLED conferences)	2009, 2011, 2012, 2015, 2017
LED Show	2013, 2015
LightShow West	2013, 2014, 2015
LED Specifier Summit	2013, 2014
US DOE LED/OLED Manufacturer Summit	2014
IES Airport Lighting Conference	2014

## Local and Regional Venues

Flagstaff Regional Dark Sky Conference	2014
Designers Saturday, New York	1992
Lighting Academy, Southern California Edison (5 classes, multiple times)	2007-2011
AIA Professional Development Classes Presented 20 programs local level)	2001-2011
ASID Professional Development Classes presented (82 programs local level)	1983-2009
APEM Professional Development Classes presented (local level)	1985-1995
IES Regional and Sectional Meetings -75 programs	1975-2011
Professional Development Classes for Commercial Clients	1983-2011
Commercial presentation and program clients include Acuity Brands Lighting, Cooper Lighting, GE Lighting, Sylvania Lighting, Lutron Electronics, ELP Lighting, Efficiency Vermont, Southern California Edison, Pacific Gas & Electric, LA DWP, Southern California Gas Co, San Diego Gas & Electric, California Lighting Technology Center, Oklahoma Gas & Electric, Edison Electric Institute, American Lighting Association, Oregon Energy Trust. Pacific Power Company, BC Hydro, Connecticut Power and Light, Con Edison, Com Edison, Atlantic Electric, Georgia Power, Lucifer Lighting, NEEA, NEEP, CHPS, ASHRAE, Energy Center of Wisconsin, ACEEE, NRDC, Professional Lighting Design magazine, Architectural Lighting magazine, Architect magazine, AMC Trade Shows, the Atlanta Mart, the Merchandise Mart, LA Design Center, SF Mart, the Miami Merchandise Mart, Dallas Mart, Specs Retail Conference, the Electric Show, Electric West, EWEB, IIDA	
College Lectures	1983-2011
Programs include University of Oregon, Oregon State University, Mt. Hood Community College, University of Washington, University of California Davis, University of California Berkeley, Cal Poly Pomona, Cal Poly San Luis Obispo, University of California Santa Barbara, University of California San Diego, Cal State Chico, Cal State Sacramento, California Art Institute, La Canada College, UCLA, University of Nevada, Las Vegas, University of Texas, UT San Antonio, Venice School of Architecture, Hochschule Wismar, University of Montana, University of Idaho, Arizona State University, Oklahoma State University, University of Nebraska, Lawrence Technological Institute, University of Alabama, Memphis State University, Rhode Island School of Design, Louisiana Tech, University of Colorado, University of Virginia, University of Hawaii, Fashion Institute of Design, University of Vermont, University of Wisconsin, University of Minnesota, Parsons School of Design, University of Rochester, Chaminade College, Ball State University	
Papers Presentations	
IES, IALD, ASHRAE, USGBC, ACEEE, AIA, various programs.	
Internet Classes and Webinars	
Federal Energy Management Program (FEMP) Lighting Class	1997-2002
Bonneville Power ETC Program	2013
Focus on Energy Webinars (Wisconsin)	2013, 2014
IES Light Up Philadelphia Conference	2012
NECA Annual Conference, Las Vegas	2012
IES Conference Australia New Zealand, Auckland	2011
IES Conference Australia New Zealand, Queenstown, Keynote Address	2008
International Daylighting Conference, Bilbao	2007
Trade Commission of Spain, Barcelona	2005
IES Annual Conference, Keynote Address	1997

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## MEMBERSHIPS

Illuminating Engineering Society (IES)	1975-2017
Fellow Emeritus	2016
Board of Fellows	2003-2007
	1994-1998
Airport Lighting Committee	2014
ASHRAE AEDG Schools	2005-2007
Technical review committee	2007
Spectral effects committee	1998-2002
ASHRAE/IES90.1 representative	1992-1997
Elected Fellow	1991
Energy Management committee	1983-2008
Health Care Committee	1979-1983
Chair, annual meeting program committee	1985
Annual conference papers	1975,1983,2010
Elected member	1975
International Association of Lighting Designers (IALD)	1987-2017
Fellows Selection Committee	2010-2012
Elected Fellow	2005
Special presidential citation	2003
LightFair Management Board	2002-2004
NCQLP Board	2002-2003
Member of Board, Director of External Affairs	2002-2003
Member of Board, Director of Education	2001
LightFair Program Committee	1998-2001
Elected Professional Member	1987
International Dark Sky Association (IDA)	2001-2017
Chair, Model Lighting Ordinance Task Force	2001-2017
Chair, Technical Committee	2013-2015
Board of Directors	2001-2015
Treasurer	2008-2009
Technical Committee	2001-2012
American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE)	
Member, SPC 189.1	2009-2010
Member SPC 90.1	1992-1997
AEDG Schools	2005-2007
High Efficiency Buildings Conference Paper presenter	2010, 2012
US Green Buildings Council (USGBC)	2002-2012
Institute of Electrical and Electronic Engineers (IEEE)	2005-2009
National Council on Qualifications for the Lighting Professions (NCLQP)	
Chairman, Examination Committee	2000
Chairman, Test Committee	1997-1999
Member, organizing committee	1995-1996
Lighting Certified	1998-2010
General Electric Consumer Advisory Council (GE CAC)	2001-2012
California Energy Commission (CEC)	
Advanced Lighting Professional Advisory Committee	1987-1994
Advanced Lighting Advisory Committee	1995-1998

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## PUBLICATIONS

### Books (Author and Co-Author)

Lighting Design Basics Second Edition, Wiley	2012
Lighting Retrofits and Relighting, Wiley	2011
Lighting Design Basics Wiley	2004
Lighting Fundamentals, EPRI	1997
Lighting Retrofit Handbook, EPRI	1997
Daylighting Fundamentals, EPRI	1998
Lighting Controls: Patterns for Design, EPRI	1996

### Contributing Editor and Author

Advanced Lighting Guidelines , California Energy Commission	1990,1993
Advanced Lighting Guidelines, New Buildings Institute	2001,2003,2009
Lighting Controls Patterns for Design, EPRI	1997

### Author and Columnist

Architectural Lighting Magazine	1988-1992
Architectural Record Magazine	1992-1997
Architectural Lighting Magazine	2001-2012
Blog, Architectural Lighting	2008-2009
Lighting Design and Application	Centennial

### Articles and papers

Architectural Lighting	55 articles and columns
Architectural Record	16 articles and columns
Progressive Architecture	1 article (1983)
Building Operating Management	3 articles
Better Bricks Website	4 articles
EC&M (McGraw Hill)	2 articles
Building Design and Construction	2 articles

### Published White Papers

Lighting Calculations Using LED, Cree Website	2011
GaN on GaN LED Technology, SORAA Website	2012

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## REGISTRATIONS AND CERTIFICATIONS

Professional Engineer, California 12078	1984-present
Professional Engineer, Michigan 24679	1977-1984
Class A Energy Auditor, Iowa	1978
Certified Lighting Efficiency Professional (CLEP)	1992-1995
Lighting Certified (NCQLP)	1998-2010

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## LIGHTING DESIGN AND OTHER AWARDS

- 2013 Edison Award for Environmental Design, REDDING SCHOOL FOR THE ARTS
- 2011 Edison Award for Environmental Design, UNIVERSITY OF ARIZONA SIXTH STREET HOUSING
- 2008 The Edison Award, SACRAMENTO MEMORIAL AUDITORIUM
- 2008 Edison Award for Environmental Design, SACRAMENTO MEMORIAL AUDITORIUM
- 2002 Edison Award for Environmental Design, LEWIS AND CLARK LAW LIBRARY
- 1996 Award of Merit, IL FORNAIO PORTLAND
- 1992 Award of Merit, ESPRIT DE CORP
- 1989 Award of Excellence, RUSS BUILDING
- 1989 Award of Excellence, BANK OF THE WEST
- 1989 Award of Merit, BROWN AND BAIN
- 1984 The Edison Award, FRANCO FERINI
- 2008 Guth Award of Merit and Lumen Award, SIDWELL FRIENDS SCHOOL
- 2003 Guth Award of Merit, WEST LINN LIBRARY
- 2003 Guth Award of Merit, SYMANTEC SPRINGFIELD
- 2003 Guth Award of Merit, LEWIS AND CLARK LAW LIBRARY
- 2000 Guth Award of Merit, THE HOTEL PATTEE
- 2000 Guth Award of Merit, THE STREET OF DREAMS
- 1997 Guth Award of Merit, HARRAH'S MARDI GRAS CASINO
- 1996 Guth Award of Merit, CITY OF PHOENIX STREET LIGHTING
- 1995 Guth Award of Merit, PALACE CASINO
- 1994 Guth Award of Merit, CITY OF MEMPHIS TROLLEY AND MAIN STREET
- 1993 Guth Award of Merit, ESPRIT DE CORP
- 1993 Guth Award of Merit and EPRI Efficiency Award, BEECH RESIDENCE
- 1992 Guth Award of Merit, STANFORD CHILDREN'S HOSPITAL
- 1991 Guth Award of Merit, WOLF RESIDENCE/MARIN DESIGNERS SHOWCASE
- 1991 Guth Award of Merit, THE RESORT AT SQUAW CREEK
- 1991 Guth Award of Merit, THE MARIN CIVIC CENTER
- 1990 Guth Award of Merit, HILLSBOROUGH RESIDENCE
- 1989 Guth Award of Merit, EMBASSY SUITES KAA NAPALI, MAUI
- 1988 Award of Excellence, ST. MARY'S CATHEDRAL
- 1987 Guth Award of Merit, PAN PACIFIC LIGHTING EXPOSITION
- 1987 Guth Award of Merit, FRANCO FERINI
- 1986 Guth Award of Merit, RESIDENCE IN MARIN
- 1984 Guth Award of Merit, COMPREHENSIVE HEALTH SERVICES OF DETROIT
- 1984 Guth Award of Merit, AYL A FOR MEN
- 1981 Guth Award of Merit, ATLANTA INTERNATIONAL AIRPORT
- 2012 Beyond Green Honor Award - First Place for a New Academic Complex, REDDING SCHOOL FOR THE ARTS
- 2012 Design Excellence Award, AIA Educational Facility Design Awards, REDDING SCHOOL FOR THE ARTS
- 2011 Beyond Green Advanced Building Citation, PORTLAND COMMUNITY COLLEGE
- 2011 Design Excellence Award, Community Facilities, HAVEN FOR HOPE
- 2009 AIA COTE Top Ten, THE CHARTWELL SCHOOL
- 2006 AIA COTE Top Ten, THE SIDWELL FRIENDS SCHOOL
- 2004 IALD Presidential Special Service Citation
- 2003 Better Bricks Professional Services First Runner Up

- 2003 IALD International Lighting Design Awards Special Citation, SYMANTEC
- 1998 AIA Award, Architecture+Energy Program
- 1995 US Department of Transportation and Endowment for the Arts  
Design for Transportation Award of Merit
- 1994 IESNA Presidential Citation
- 1990 IESNA South Pacific Coast Vice-President's Award
- 1990 Halo/ASID First Place Commercial, BANK OF THE WEST
- 1980 Michigan Governor's Award
- 1976 Electrical Consultant Energy Efficiency Design Award

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## **HIGH PERFORMANCE AND EFFICIENT BUILDINGS INCLUDING LEED**

- (3) Zero Net Energy Buildings (Fort Huachuca Colonel Smith Middle School, Redding School for the Arts, the Chartwell School)
- (15) LEED Platinum Buildings
- (1) WELL Platinum Building
- (20) LEED Gold Buildings
- (15) LEED Silver and Qualified Buildings

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## **PATENTS**

- 8502480 (2013) for a complex lighting control system that choreographs the lighting of environments and apparel, with emphasis on LED's.
- 20080005044 (2008) for an electronic signaling system to reduce power demand in buildings.

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## **CONTACT INFORMATION**

James R Benya  
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[www.benyaburnett.com](http://www.benyaburnett.com)

## Qualifications as Outdoor Lighting Expert

James Benya is a professional electrical engineer and lighting designer with 45 years of experience. He is a Fellow Emeritus of the Illuminating Engineering Society and a Fellow of the International Association of Lighting Designers. His primary work is in the field of illumination, as a designer, educator, researcher, and expert witness, with a career-long emphasis on environmentally responsible lighting.

Currently, Benya's primary design work involves outdoor lighting renovations. With the introduction of LED lighting, clients seek new lighting systems that save energy and offer significantly better environmental characteristics. Benya serves as the principal or co-principal lighting designer and illuminating engineer for a number of significant projects, including:

- Western Riverside Council of Governments (WRCOG), responsible for the conversion of 63,000 street lights throughout 16 smaller communities and unincorporated Riverside County
- City of Riverside, responsible for conversion of 34,000 street lights including over 20,000 in historic and conservation districts
- City of San Diego, conversion of over 4,000 street lights in the historic Gaslight district and implementation of a district-wide Smart City wireless control systems
- Relighting of Grand Canyon National Park's entire outdoor lighting systems to save energy and improve the night sky quality
- Relighting of Flagstaff Arizona, with over 4,000 street lights, to preserve the regions dark skies while replacing obsolete and aging low pressure sodium lighting systems with LED.

Benya's expert design work spans his entire career. His work includes two projects winning IDA Awards for Dark Sky Design and two Edison Awards of Environmental Design for exterior lighting. He has designed master street lighting programs for San Jose, CA, Tucson, AZ, and an award-winning program of new lighting for downtown Phoenix. He recently completed designing the master lighting plan for Old Sacramento. A key client is the US National Park Service (NPS) with projects commencing in 1990 at Sequoia National Park and Kings Canyon National Park, involving primarily the design of responsible outdoor lighting and park standards for reducing light pollution. Additional projects and programs included Yosemite National Park, Denali National Park, and Mount Rainier National Park.

Benya's recent expert work includes forensic illuminating engineering, environmental impact assessments, zoning and planning matters, and assisting communities in developing lighting ordinances. Recent assignments include the EIR for the Rosemont Copper mine in Pima County, AZ; environmental challenges to two petrochemical facilities in Alberta; lawsuits involving lighting issues in Toronto and Virginia sports lighting issues in Malibu, San Diego, Seattle, Vancouver BC, Austin, Los Angeles, Medford (OR), Tucson and Mattawan (NJ); petrochemical projects in Beaumont, TX and Edmonton, AB; rural light pollution problems in western Michigan, southern Washington and Oregon near Salem; community ordinance efforts in La Quinta (CA), State of Oregon, Lake Oswego (OR), Wilsonville (OR), Malibu and Tucson; and a number of other legal expert cases in Washington, Oregon, California, Idaho, British Columbia and Texas.

In 2002, Benya was invited to join the Board of the International Dark Sky Association (IDA) with a primary assignment to lead the development of a standards-quality Model Lighting Ordinance (MLO). After his nine years as Task Force Chair, both IDA and IES jointly published the MLO. The MLO is the first national standard for controlling light pollution that is formally recognized by the lighting industry. Benya is the outgoing Chairman of the IDA Technical Committee and incoming Chairman of the Lighting Ordinances and Regulations Committee, primarily responsible for revising and updating the MLO and developing a new model sign ordinance.

**Technical Memorandum**

April 23, 2018

**To:** John H. Farrow, M.R. Wolfe Associates, P.C., Attorneys-at-Law

**From:** Timothy K. Parker, PG, CEG, CHG, Parker Groundwater

**Subject:** Technical Review of Revised Draft Environmental Impact Report (RDEIR) for the Paraiso Springs Resort Project

At your request I have reviewed the Revised Draft Environmental Impact Report (RDEIR) for the Paraiso Springs Resort project together with the documents cited in the discussion below.

I am a California Professional Geologist (License #5584), Certified Engineering Geologist (License # EG 1926), and Certified Hydrogeologist (License #HG 12), with over 25 years of geologic and hydrologic professional experience. I served as a member of the Technical Advisory Committee to the Monterey County Water Resources Agency in connection with its ongoing study of the Salinas Valley Groundwater Basin that is mandated by Policy PS-3.1 of the 2010 Monterey County General Plan. The purpose of that study is to evaluate historic data and trends in seawater intrusion and groundwater levels in the Salinas Valley Groundwater Basin, to evaluate the likely future groundwater demand, to determine whether groundwater level declines and seawater intrusion are likely to continue through 2030, and to make recommendations for action. This study has not been concluded, but a preliminary report was released in January 2015 by the prime consultant for the PS-3.1 study.<sup>1</sup> My Resume is attached.

My conclusions are set out in the discussion below. The main issues we lay out and disagree with in the RDEIR are:

- I. That there is now and will continue to be a significant cumulative impact in the Salinas Valley Groundwater Basin that is not presently or in the future being adequately addressed with mitigation measures.
- II. That additional groundwater pumping for the Paraiso project will make a considerable contribution to that significant cumulative impact.
- III. The Basin should be managed under a water neutral growth policy.

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<sup>1</sup> MCWRA, State of the Salinas River Groundwater Basin, January, 2015, available at <http://www.co.monterey.ca.us/home/showdocument?id=19586>

**A. Contrary to the RDEIR, there is now a significant cumulative impact in the Salinas Valley Groundwater Basin because cumulative groundwater pumping has resulted in aquifer depletion and associated seawater intrusion, and current groundwater management efforts are not sufficient to avoid this.**

The RDEIR defines significance threshold criteria to include “substantial depletion of groundwater supplies . . . such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level.” RDEIR, p. 3-235. Under these criteria, overdraft of the SVGB would be a significant cumulative impact. The RDEIR’s significance criteria also include substantial degradation of water quality, which would include the seawater intrusion of the SVGB that is induced by cumulative groundwater pumping. *Id.* In addition, the RDEIR acknowledges that “secondary impacts from increased demand for storage, treatment, and conveyance” may be significant cumulative impacts associated with water demand. RDEIR, p. 4-12. To the extent that cumulative groundwater pumping results in the need for additional groundwater management projects, these secondary impacts may occur.

The RDEIR concludes that there will be no significant cumulative water supply impact in the Salinas Valley Groundwater Basin until the year 2030. RDEIR, p. 3-246. For this conclusion, the RDEIR relies on the Monterey County 2010 General Plan EIR conclusion that “current water supply planning, with mitigation, is adequate to address overdraft and saltwater intrusion in the Salinas Valley up to the 2030 planning horizon (page 4.3-2), with a determination that growth beyond 2030 caused a significant and unavoidable impact.” RDEIR, p. 3-246.

As set out below, the conclusion that cumulative water supply impacts are now less than significant and will remain less than significant through 2030 is not supported by the evidence and is incorrect in light of (1) existing overdraft and sea water intrusion conditions; (2) the projection of increasing groundwater pumping through 2030, and (3) the lack of committed, funded projects to mitigate these impacts.

**1. The Salinas Valley Groundwater Basin has historically experienced, and is now experiencing overdraft conditions, which cause ongoing seawater intrusion.**

The project will obtain its water supply from wells in the margin and source water contributing area of the Forebay Aquifer Subbasin of the Salinas Valley Groundwater Basin (SVGB). RDEIR, p. 4-13. The Forebay Subbasin is one of the eight interconnected subbasins making up the Salinas Valley Groundwater Basin

(SVGB).<sup>2</sup> Overdraft in the Forebay Subbasin has averaged about 2,000 acre-fee per year (“afy”) from 1944 to 2014, and the SVGB as a whole is “currently out of hydrologic balance by approximately 17,000 to 24,000 afy.”<sup>3</sup> Pumping from the SVGB has exceeded recharge since the 1930s, causing significant and chronic seawater intrusion as inland groundwater elevations dropped below sea level, permitting the hydraulically connected seawater to flow inland.<sup>4</sup>

The Monterey County Water Resources Agency (MCWRA) reported that, as of 2013, seawater intrusion had advanced more than 5 miles inland, rendering significant groundwater unusable for irrigation or domestic uses.<sup>5</sup> The rate of seawater intrusion is variable, increasing and decreasing with changes in precipitation, but the long-term trend has been a progressive advance.<sup>6</sup> MCWRA acknowledged in 2015 that the prognosis was for further chronic seawater intrusion because groundwater elevations were too low:

The fact that groundwater elevations are well below the documented protective elevations indicates that the P-180 Aquifer continues to be susceptible to chronic seawater intrusion, and it is unlikely that this situation will be reversed in the coming years, particularly if the current drought conditions continue.<sup>7</sup>

And in 2017, the most recent MCWRA mapping showed a rapid and continued increase in seawater intruded areas.<sup>8</sup>

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<sup>2</sup> RDEIR, pp. 3-221, 4-13; Monterey County Water Resources Agency (MCWRA), Protective Elevations to Control Seawater Intrusion in the Salinas Valley (“Protective Elevations”), 2013, p. 2, available at <http://www.co.monterey.ca.us/home/showdocument?id=19642>; MCWRA, State of the Salinas River Groundwater Basin Section 3.

<sup>3</sup> MCWRA, State of the Salinas River Groundwater Basin, pp. ES-11, 6-3.

<sup>4</sup> MCWRA, Protective Elevations, pp. 4-5; MCWRA, State of the Basin, pp. 2-4, 5-2; MCWRA, Salinas Valley Water Project Draft EIR (SVWP DEIR), 2001, pp. 1-2 to 1-8, available at <http://www.co.monterey.ca.us/home/showdocument?id=24180>.

<sup>5</sup> MCWRA, State of the Salinas River Groundwater Basin, pp. 5-2 to 5-6.

<sup>6</sup> MCWRA, State of the Salinas River Groundwater Basin, pp. 5-2 to 5-9.

<sup>7</sup> MCWRA, State of the Salinas River Groundwater Basin, pp. 5-7 to 5-8, see Tables 3-2 and 4-6 in Sections 3.4 and 4.4.

<sup>8</sup> MCWRA, Historic Seawater Intrusion Map, Pressure 400-Foot Aquifer, June 7, 2017, available at <http://www.co.monterey.ca.us/home/showdocument?id=19378>; MCWRA, Historic

The California Department of Water Resources (DWR) is required by the Sustainable Groundwater Management Act to designate as “critically overdrafted” those groundwater basins for which “continuation of present water management practices would probably result in significant adverse overdraft-related environmental, social, or economic impacts.”<sup>9</sup> DWR identified the 180/400-Foot Aquifer of the Salinas Valley Groundwater Basin as critically overdrafted in January 2016.<sup>10</sup>

Although seawater intrusion occurs in the coastal areas, not the Forebay Subbasin from which the project will obtain its water, the Subbasins of the SVGB are hydrologically interconnected. Thus, MCWRA’s EIR for the Salinas Valley Water Project explains that “pumping in each area affects seawater intrusion because each subarea draws water from the same Basin.”<sup>11</sup> The Paraiso RDEIR and the Todd Groundwater Comprehensive Hydrogeologic Report for the Paraiso project also acknowledge that a substantial increase in consumptive groundwater use in the Salinas Valley could exacerbate groundwater overdraft and seawater intrusion.<sup>12</sup> RDEIR, p. 3-249

**2. Seawater intrusion will not be controlled by current management efforts because demand has exceeded the pumping projections on which the current groundwater management projects were predicated.**

The Monterey County Water Resources Agency (“MCWRA”) and predecessor agencies have implemented several projects to address seawater intrusion by storing surface water, increasing recharge, and reducing groundwater pumping along the coast. These include the Nacimiento and San Antonio Reservoirs, water recycling to support the Castroville Seawater Intrusion Project, and the Salinas Valley Water Project (SVWP). The SVWP is the most recent of these projects, completed in 2010.

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Seawater Intrusion Map, Pressure 180-Foot Aquifer, June 7, 2017, available at <http://www.co.monterey.ca.us/home/showdocument?id=19376>.

<sup>9</sup> DWR, Critically Overdrafted Basins, available at <http://www.water.ca.gov/groundwater/sgm/cod.cfm>.

<sup>10</sup> DWR, Critically Overdrafted Basins (1/2016), available at [http://www.water.ca.gov/groundwater/sgm/pdfs/COD\\_BasinsTable.pdf](http://www.water.ca.gov/groundwater/sgm/pdfs/COD_BasinsTable.pdf).

<sup>11</sup> MCWRA, SVWP Final EIR, p. 2-35 to 2-36 (emphasis in original).

<sup>12</sup> Todd Groundwater, Comprehensive Hydrogeologic Report, Paraiso Hot Springs, Jan. 16, 2018, p. 33.

The 2002 SVWP EIR predicted that the SVWP could halt seawater based on the amount and location of 1995 demand.<sup>13</sup> However, the SVWP EIR cautioned that “any additional water needs within an intruded groundwater basin would exacerbate seawater intrusion.”<sup>14</sup>

Attachment 1 presents a discussion of the SVWP modeling assumptions compared to subsequent conditions and a discussion of MCWRA’s current acknowledgement and scientific documentation that the existing groundwater management projects are not sufficient to halt seawater intrusion in the SVGB. Attachment 1 demonstrates that:

- The SVWP EIR assumed that Basin groundwater pumping would decline substantially from 1995 to 2030, from 463,000 afy to 443,000 afy, based on large expected reductions in agricultural pumping, which dominates Basin water demand. However, groundwater pumping in the 21 years since 1995 has substantially exceeded 1995 levels, averaging well over 500,000 afy.
- Modeling for the SVWP understated the level of post-1995 pumping that has actually occurred and that, in any event, the SVWP EIR only claimed the SVWP would halt seawater intrusion based on 1995 land use.
- Thus, MCWRA has concluded that a new project or projects supplying at least an additional 48,000 afy of groundwater recharge, over and above that supplied by the SVWP, would be required in order to maintain protective groundwater elevations sufficient to control seawater intrusion.

**3. The County acknowledges that the existing groundwater management project, including the SVWP, will not halt seawater intrusion and that additional projects are required; however, the essential projects are not funded, environmentally reviewed, or committed.**

The RDEIR states that the County is undertaking a five-year study of groundwater conditions and that it is too soon to draw hard conclusions as to the adequacy of the SVWP. RDEIR, p. 3-225. The County’s has not completed the five-year study, even though it was required to be completed by March 31, 2018.<sup>15</sup> Despite the absence of this study, MCWRA and the County Board of Supervisors have already determined

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<sup>13</sup> MCWRA, SVWP DEIR, pp. 3-23 to 3-24.

<sup>14</sup> MCWRA, SVWP Draft EIR, p. 7-7.

<sup>15</sup> See Monterey County General Plan, Policy PS-3.1.

that the SVWP is *not* sufficient to halt seawater intrusion and that additional projects are required.

The MCWRA has acknowledged that the SVWP will not in fact be sufficient to halt seawater intrusion. In testimony to the Monterey County Planning Commission, MCWRA's Rob Johnson stated that the SVWP is not the final water project needed to halt seawater intrusion and that it will in fact be necessary to find additional water supplies totaling at least 58,000 afy to achieve this.<sup>16</sup> The 58,000 afy figure is based on 2013 modeling performed by MCWRA in connection with its efforts to secure surface water rights on the Salinas River in order to mitigate seawater intrusion.<sup>17</sup> The County's Board of Supervisors has also acknowledged that additional groundwater management projects are required in order to halt seawater intrusion.<sup>18</sup>

Most recently, the Board of Supervisors received a report showing that, despite existing groundwater management projects, there has been a continued substantial increase in seawater intruded areas.<sup>19</sup> Groundwater levels continue to decline, especially in the 400-foot aquifer, and elevations in the Forebay Aquifer in the King City area have also dropped 35 feet since 2013.<sup>20</sup> MCWRA reports that acreage within the 500 mg/l or greater Chloride contour in the 400-foot aquifer has increased by nearly 50 percent from 11,882 acres in 2005 to 17,125 acres in 2015.<sup>21</sup> Furthermore, because increases in intrusion may lag periods of drought, there may be substantial increases in intrusion still to come in response to the recent 4-year

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<sup>16</sup> Transcript of Monterey County Planning Commission Hearing, Oct. 29, 2014, AR 5164, 5178-5179, 5189-5190.

<sup>17</sup> Geoscience, Protective Elevations, p. 11.

<sup>18</sup> See, e.g., Monterey County Board of Supervisors, Resolution No. 14-371, p. pp. 16-17 (Ferrini Ranch Subdivision approval).

<sup>19</sup> MCWRA, Historic Seawater Intrusion Map, Pressure 400-Foot Aquifer, June 7, 2017; MCWRA, Historic Seawater Intrusion Map, Pressure 180-Foot Aquifer, June 7, 2017.

<sup>20</sup> MCWRA, presentation of Groundwater Level Contours And Seawater Intrusion Maps, July 13, 2017, available at <http://www.co.monterey.ca.us/home/showdocument?id=31294>.

<sup>21</sup> *Id.*

drought. In light of the continuing advance of seawater intrusion, MCWRA staff have recommended a number of urgent actions pending a longer term solution.<sup>22</sup>

The Paraiso RDEIR acknowledges that additional projects are needed to halt seawater intrusion and are “being worked on.” RDEIR, p. 3-229. The RDEIR identifies these additional projects as “a) the Salinas River Stream Maintenance (which helps with flood control, though it also removes vegetation from the channel that uses water, thus not allowing the water to be delivered to the coast), b) the Monterey County Resource Conservation District Arundo removal project (same premise as previous project; Arundo is presumed to transpire somewhere between 40,000 and 60,000 acre-feet of water per year), c) the Interlake Tunnel Project, and d) the SVWP Phase II, which is currently scheduled to be on line in 2026.” RDEIR, p. 3-229.

Although MCWRA has considered these projects and begun the implementation of two of them, it has not completed environmental review of a project or projects that would be sufficient to mitigate existing and projected seawater intrusion, nor has it actually approved or obtained funding for such a project or projects.

Salinas River Stream Maintenance: The EIR for the Salinas River Stream Maintenance identifies the purpose of the project as flood control, not groundwater management.<sup>23</sup> Although that EIR does discuss other existing and proposed projects intended to address seawater intrusion, it does not mention or quantify any incidental benefits that the Salinas River Stream Maintenance project might provide to control seawater intrusion. There is no evidence in the Paraiso RDEIR or in the Salinas River Stream Maintenance Program EIR that this project would substantially abate seawater intrusion.

Arundo removal project: The Monterey County Resource Conservation District Arundo removal project began in 2008 and has the goal of eradicating 1500 acres of Arundo in 20 years.<sup>24</sup> As of 2014, Phase I had removed 50 acres, Phase II had begun to treat another 109 acres, and a Phase III was planned for another 350 acres. There is no indication that there is a committed, funded plan to completely remove the Arundo, nor is there evidence

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<sup>22</sup> MCWRA, Recommendations to Address the Expansion of Seawater Intrusion in the Salinas Valley Groundwater Basin, October 2017, pp. 2-9, available at <http://www.co.monterey.ca.us/home/showdocument?id=57394>.

<sup>23</sup> MCWRA, Salinas River Stream Maintenance Program, Revised Final EIR, June 2014, available at <http://www.co.monterey.ca.us/home/showdocument?id=19196>.

<sup>24</sup> Monterey County Resource Conservation District, Salinas River Watershed Arundo Control Program, visited April 13, 2018, available at <https://www.rcdmonterey.org/salinas-river-arundo-and-tamarisk-control>.

at the Resource Conservation District website to support the claim that eventual removal of 1500 acres of Arundo would prevent transpiration of 40,000 to 60,000 afy. The California Invasive Plant Council reports that the likely maximum net gain from Arundo removal and vegetation replacement is 20 acre-feet per year per acre.<sup>25</sup>

Furthermore, despite its initial efforts to implement the Salinas River Stream Maintenance project and the Arundo removal project, MCWRA is not relying on these projects to halt seawater intrusion. MCWRA indicates that additional capital projects are still required, e.g., the SVWP Phase II and the Interlake Tunnel project.

SVWP Phase II: The MCWRA has made efforts, under a settlement agreement with the State Water Resources Control Board, to perfect surface water rights to 135,000 afy of Salinas River water in order to construct an additional Salinas Valley water project to attempt to halt seawater intrusion.<sup>26</sup> MCWRA seeks to retain the right to the surface water entitlement by asserting the need for another project to halt the chronic seawater intrusion. Modeling undertaken for the MCWRA in 2013, establishes that an additional 135,000 afy of surface water flows will be needed in order to supply the additional 60,000 afy of groundwater that is now projected to be required to maintain groundwater elevations and a protective gradient to prevent further seawater intrusion.<sup>27</sup> The MCWRA has not yet conducted environmental review for a new project to supply the needed water.<sup>28</sup> There is no assured funding source for it.

Although the MCWRA website refers to the currently proposed new project as "SVWP Phase II," it is not the same project that was identified as a potential second phase of the SVWP in the 2001/2002 SVWP EIR. The second phase of the SVWP envisioned in the 2001/2002 SVWP EIR would have consisted of only an additional 8,600 afy of Salinas river diversion, increased use of recycled water, supplemental

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<sup>25</sup> California Invasive Plant Council (Cal-IPC), *Arundo donax* (giant reed): Distribution and Impact Report, March 2011, available at [http://www.cal-ipc.org/wp-content/uploads/2017/11/Arundo\\_Distribution\\_Impact\\_Report\\_CovertoExecSummary.pdf](http://www.cal-ipc.org/wp-content/uploads/2017/11/Arundo_Distribution_Impact_Report_CovertoExecSummary.pdf); see Chapter 4 at [http://www.cal-ipc.org/wp-content/uploads/2017/11/Arundo\\_Distribution\\_Impact\\_Report\\_4ImpactsWaterUse.pdf](http://www.cal-ipc.org/wp-content/uploads/2017/11/Arundo_Distribution_Impact_Report_4ImpactsWaterUse.pdf).

<sup>26</sup> See MCWRA, Salinas Valley Water Project Phase II, available at <http://www.co.monterey.ca.us/government/government-links/water-resources-agency/projects-facilities/salinas-valley-water-project-phase-ii#wra>.

<sup>27</sup> Geoscience, Protective Elevations to Control Seawater Intrusion, Nov. 13, 2013, p. 11.

<sup>28</sup> See MCWRA, Salinas Valley Water Project Phase II, Project Status, available at <http://www.co.monterey.ca.us/government/government-links/water-resources-agency/projects-facilities/salinas-valley-water-project-phase-ii/project-status#wra>.

pumping in the CSIP area, and a pipeline and delivery to an area adjacent to the CSIP area.<sup>29</sup> The currently proposed project is much larger in scope and would include different and more extensive infrastructure: it would divert an additional 135,000 afy at two new diversion facilities and would deliver that water through injection wells, percolation ponds, direct supply of raw water, or a treatment system.<sup>30</sup>

To my knowledge, neither the SVWP Phase II project identified at the conceptual level in the 2001/2002 SVWP EIR nor the newly proposed SVWP Phase II has been planned at any level of significant detail or environmentally reviewed. The SVWP EIR and the Monterey County 2010 General Plan EIR both acknowledge that impacts related to the initially conceived second phase project have not been evaluated, and the Monterey County 2010 General Plan EIR treated these impacts as significant and unavoidable because they remain largely unknown.<sup>31</sup> The phase two project now being discussed has not had any environmental review, but it would likely result in significant potential environmental impacts, based on MCWRA's determination that an EIR is required.<sup>32</sup>

Although the Paraiso RDEIR states that the SVWP Phase II is "currently scheduled to be on line in 2026," it appears that work on the SVWP Phase II project has been deferred pending evaluation of the Interlake Tunnel Project. The last reported activity on the SVWP Phase II was the issuance of the Notice of Preparation of an EIR in 2014 and a June 29, 2014 report that "MCWRA requested resources from Monterey County for development of an Environmental Impact Report. At the direction of the Monterey County Board of Supervisors, initial funding agreement discussions have taken place."<sup>33</sup> In March, 2015, staff reported to the Board of Supervisors that work on the Water Rights Permit # 11043, needed to implement

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<sup>29</sup> SVWP EIR, p. 3-23 to 3-24.

<sup>30</sup> MCWRA, SVWP Phase II website, Notice of Preparation, Project Description, available at <http://www.co.monterey.ca.us/government/government-links/water-resources-agency/projects-facilities/salinas-valley-water-project-phase-ii/project-status#wra>.

<sup>31</sup> SVWP FEIR, pp. 2-92, 2-243; Monterey County 2010 General Plan, p. 4.3-146.

<sup>32</sup> MCWRA, SVWP Phase II website, Notice of Preparation, Project Description, available at <http://www.co.monterey.ca.us/government/government-links/water-resources-agency/projects-facilities/salinas-valley-water-project-phase-ii/project-status#wra>.

<sup>33</sup> MCWRA, Salinas Valley Water Project Phase II, Project Status, available at <http://www.co.monterey.ca.us/government/government-links/water-resources-agency/projects-facilities/salinas-valley-water-project-phase-ii/project-status#wra>.

the SVWP Phase II, was “on hiatus” because the “Interlake Tunnel and SGMA are higher priority.”<sup>34</sup>

Interlake Tunnel Project: MCWRA is still in the preliminary planning stages for the Interlake Tunnel Project. This project was estimated to cost \$63 million as of March 2015, with the likely funding requiring majority voter approval though Proposition 218.<sup>35</sup> MCWRA has contracted for some initial project feasibility work, but “MCWRA will not proceed beyond the preliminary engineering and water rights requirements analysis until environmental review is completed and authorization to proceed is received from the Board of Supervisors of the MCWRA.”<sup>36</sup> MCWRA acknowledges that the Interlake Tunnel Project may have a number of significant environmental impacts, but it has not yet prepared an EIR for the project.<sup>37</sup> In sum, the Interlake Tunnel Project has not yet been environmentally reviewed and there is no committed funding for its construction.

Existing groundwater management projects are insufficient to prevent cumulative groundwater pumping from further aggravating seawater intrusion. If groundwater pumping in the SVGB is not to be curtailed in order to mitigate seawater intrusion, then major additional water supply projects with currently unknown but potentially significant environmental impacts will be required to mitigate the cumulative impact of seawater intrusion. Thus, there is no evidence to support the contention in the Paraiso RDEIR that there will be no significant cumulative water supply impact in the Salinas Valley Groundwater Basin until the year 2030. In particular, the claims of the Monterey County 2010 General Plan EIR as to the sufficiency of the SVWP, cited by the Paraiso RDEIR (RDEIR, p. 3-246), are unsupportable.

**B. The conclusion that the project will not make a considerable contribution to a significant cumulative impact is not supported and is incorrect.**

Although the RDEIR incorrectly concludes that there would be no significant cumulative impact from groundwater pumping until 2030, the RDEIR’s analysis of

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<sup>34</sup> Monterey County Board Report, WRAG 15-009, March 24, 2015.

<sup>35</sup> Monterey County Board Report, WRAG 15-009, March 24, 2015.

<sup>36</sup> MCWRA, Interlake Tunnel web site, visited April 13, 2018, available at <http://www.co.monterey.ca.us/government/government-links/water-resources-agency/projects-facilities/interlake-tunnel#wra>.

<sup>37</sup> MCWRA, Notice of Preparation of EIR, April 2016, <http://www.co.monterey.ca.us/home/showdocument?id=18922>.

cumulative impacts to water supply in the Salinas Valley does acknowledge that “the long-term (beyond 2030) cumulative effect of development reducing groundwater levels in the Salinas Valley is an existing significant effect.” RDEIR, p. 4-13. The significant and unavoidable effects from cumulative groundwater pumping after 2030 that are acknowledged by the 2010 General Plan EIR include “1) exceeding capacity of existing water supplies for year 2030 and buildout, 2) secondary impacts from increased demand for storage, treatment, and conveyance for 2030 and buildout, 3) increased demand on water supplies and groundwater for 2030 and buildout . . . .” RDEIR, p. 4-12.

However, despite its acknowledgement of future cumulative significant water supply impacts, the RDEIR concludes that “the Paraiso Springs project’s incremental contribution to that effect is less than cumulatively considerable.” RDEIR, p. 4-13. This conclusion is not supported by evidence and incorrect because (1) it fails to acknowledge the fact and the magnitude of the existing significant cumulative impact and to evaluate project pumping in that context; (2) it assumes that only a “substantial” depletion of the aquifer should count as a considerable contribution to a significant cumulative impact; and (3) it assumes that payment of a share of the cost of existing groundwater management projects is sufficient mitigation, even though these projects are known to be insufficient to mitigate cumulative impacts.

We understand that under CEQA principles, the determination whether a project’s incremental impact is a considerable contribution to a significant cumulative impact requires that the analysis first recognize the existence and magnitude of the cumulative impact. This recognition is required because the worse the existing cumulative problem, the smaller the increment that should be deemed a considerable contribution.

As discussed above, the RDEIR relies on the analysis in the Monterey County 2010 General Plan EIR and the SVWP EIR to conclude that there is no significant cumulative impact before 2030. The RDEIR’s cumulative analysis relies on the “anticipated balancing effect of the SVWP and CSIP by 2030.” RDEIR, p. 4-13. The conclusion that there is no ongoing cumulative impact or that the existing groundwater management projects will cure the problem by 2030 cannot be supported in light of the reality of substantial continuing and chronic seawater intrusion and the recognized need for additional groundwater management projects to balance the SVGB and ensure groundwater elevations that prevent continued and future increased expansion of seawater intrusion. Thus, in the first instance, the RDEIR simply fails to provide the required information as to the existence and magnitude of the ongoing significant cumulative impact.

The RDEIR's cumulative analysis claims that it does not rely only on the analysis in the Monterey County 2010 General Plan EIR and the SVWP EIR. RDEIR, p. 4-12. The RDEIR's cumulative analysis makes a number of additional arguments to support its conclusion that the project pumping would not be a considerable contribution to a significant cumulative impact.

First, the RDEIR claims that there is "an assured long-term water supply associated with this development in that the project draws from a groundwater basin with 16.4 million acre-feet in storage." RDEIR, p. 4-13. However, the relevant question is not just whether there is a water supply, but whether the use of that supply will contribute to significant cumulative impacts, e.g., continued groundwater level declines and associated chronic seawater intrusion and aquifer depletion, or the potentially significant secondary impacts from groundwater management projects that are necessary to avoid these impacts. The fact that a water supply can be mined from storage does not support the conclusion that this water mining would be without impact.

Second, the RDEIR confuses the threshold for evaluating a project's individual, non-cumulative impacts with the threshold for determining whether it makes a considerable contribution to a significant cumulative impact:

The threshold against which the project is measured is whether it would substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level.

RDEIR, p. 4-13, emphasis added. This threshold is the same as the threshold that the RDEIR applies to evaluate the significance of the direct, project-specific impacts. RDEIR, p. 3-235. The use of the same "substantial" depletion threshold for both the project-specific and the cumulative analysis makes the cumulative analysis superfluous. The point of cumulative analysis is to identify those circumstances in which individually minor impacts nonetheless contribute to a significant impact due to cumulative sources. Here, the problem of significant and chronic Basin-wide overdraft and seawater intrusion is in fact due to the groundwater pumping from many individual projects, not from some single project or just from a few large projects. There are hundreds of individual wells in the SVGB supporting hundreds of existing uses.

Using this "substantial" depletion threshold, the RDEIR concludes that the project would not make a considerable contribution to a significant cumulative impact by making irrelevant comparisons. The RDEIR concludes that there is no considerable contribution because the project's demand is a small fraction of aquifer storage

“and, therefore does not meet the threshold of substantially depleting groundwater supplies.” RDEIR, p. 4-13. The RDEIR also argues that the project “does not meet the threshold of substantially depleting groundwater supplies” because its pumping is a small fraction of annual aquifer pumping. RDEIR, p. 4-14. However, CEQA does not permit an agency simply to dismiss a project’s impact as less than a considerable contribution because it is relatively small. The potential significance must be evaluated in the relevant context of the severity of the environmental problem, which the RDEIR fails to do. Here, the relevant context is the amount of overdraft or storage loss that drives seawater intrusion, not the absolute amounts of water in storage or the total of annual pumping.

The most recent comprehensive study of the SVGB explains that the magnitude of the annual storage loss measured by groundwater head changes and estimated aquifer parameters in the SVGB from 1959 to 2013 is about 6,300 afy.<sup>38</sup> Another 11,000 to 18,000 afy of storage is lost through seawater intrusion. The estimated yield for the SVGB, i.e., the level of pumping that could be sustained without seawater intrusion, is from 499,000 to 506,000 afy, but groundwater pumping exceeds this yield by about 17,000 to 24,000 afy.<sup>39</sup> The significance of the proposed 17.8 afy net increase in consumptive groundwater use for the Paraiso project (RDEIR, p. 3-244), should be assessed in relation to these marginal figures, not in relation to the entire pumping from the SVGB, because seawater intrusion is caused by marginal effects, i.e., storage changes (aquifer depletion) and pumping in excess of sustainable yield, not by total pumping. However, the RDEIR does not provide a comparison of project pumping to the marginal problem that is causing seawater intrusion, which is the size of the continuing overdraft.

The project’s pumping would be a considerable contribution to the 15,000 to 22,000 afy overdraft. Indeed, in view of the acknowledged need for “Basin-wide redistribution and reduction of groundwater pumping” to address seawater intrusion,<sup>40</sup> there is no longer any cushion for increased pumping; and any additional pumping at the margin should be deemed a considerable contribution.

Another way to understand the relation between any marginal increase pumping and seawater intrusion is to recognize that that, in light of existing overdraft conditions, there is a direct connection between any additional groundwater

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<sup>38</sup> MCWRA, State of the Salinas Valley Groundwater Basin, p. 4-26.

<sup>39</sup> MCWRA, State of the Salinas Valley Groundwater Basin, p. 4-26.

<sup>40</sup> MCWRA, State of the Salinas Valley Groundwater Basin, p. 6-3, emphasis added.

pumping and increased seawater intrusion. The 2015 State of the Salinas Valley Groundwater Basin Report explain that “[s]eawater intrusion can account for 18,000 afy of the total storage loss of 24,000 afy.”<sup>41</sup> In short, each additional acre-foot of pumping induces an additional 0.75 acre-foot of seawater intrusion. Under the circumstances, the project’s incremental impact should be seen as a considerable contribution.

Third, the RDEIR argues that the project does not make a considerable contribution to a significant cumulative impact because the landowner pays the MCWRA assessment for a share of the cost of “projects that seek to balance water input and water output within Zone 2C.” RDEIR, p. 4-14. However, as discussed above, the existing projects are insufficient to balance the SVGB and halt seawater intrusion. Zone 2C assessments pay only for existing projects, not the possible future projects, which have not been committed or funded and for which there has been no environmental review or finding that their environmental impacts are acceptable.

Finally, the RDEIR alludes to evidence that seawater intrusion was slowing prior to the recent five-year drought. RDEIR, p. 4-14. However, the existence of a period in which there was a slowing of the rate of advance of the seawater intrusion front (i.e., the forward edge of the 500 mg/L Chloride concentration area) does not demonstrate that the problem has been solved. Analysis recognizes that there will be multi-year wet and dry periods, but what matters is the long-term relation of recharge and pumping:

“This study emphasizes the importance of cumulative precipitation surplus, which quantifies precipitation on timescales longer than a year to examine the impacts of multi-year dry and wet periods. The cumulative precipitation surplus reached a high of about 41 inches at the end of WY 1958, and declined to zero by the end of WY 2013. During the extended drought from WY 1984 to 1991, the cumulative precipitation surplus declined by about 36 inches, an average of about 4.5 inches per year. The major declines in cumulative precipitation surplus had and continue to have negative effects on groundwater storage in Basin aquifers (see Storage Change discussion below).”<sup>42</sup>

As long as there are periods in which pumping exceeds recharge, there will be overdraft conditions that lead to falling groundwater elevations. If groundwater

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<sup>41</sup> MCWRA, State of the Salinas Valley Groundwater Basin, 2015, p. 6-3.

<sup>42</sup> MCWRA, State of the Salinas Valley Groundwater Basin, 2015, p. ES-6.

elevations are below the level that prevents seawater intrusion, there will be a continued advance of the intrusion front. And, in fact, MCWRA acknowledges that as of its most recent mapping, seawater intrusion is advancing again – despite the existing groundwater management projects.<sup>43</sup>

**C. The Salinas Valley Groundwater Basin should be managed under a water neutral growth policy.**

The Salinas Valley Groundwater Basin is overdrafted and has chronically significant and unreasonable declining groundwater levels and associated seawater intrusion. Until adequate measures are in place to halt seawater intrusion and bring the basin into sustainable balance, the Salinas Valley Groundwater Basin should be managed under a “water neutral growth” or “water demand offset” policy to avoid any increase in groundwater demand on the basin.

Water neutral growth (or water demand offset) policies require action on the part of developers to ensure that construction of new or modifications to existing developments do not result in an increase in overall water demands, or in this case groundwater demands. The basic components of a water neutral growth policy include:

- A condition that triggers the requirement for a groundwater neutral design
- Groundwater demand projection of new development
- Methodology for estimating savings of on-site and off-site efficiency measures
- Water demand offset ratio (e.g., minimum ratio of 1:1 would require 100 percent of the projected demand to be offset; the literature suggests a greater than 1:1 offset ratio to provide a buffer)
- Demand mitigation implementation options, such as
  - On-site efficiency measures
  - Off-site efficiency measures
  - On-site recycled water use
  - Possible fee option in lieu of developer-implemented efficiency measures, if there is an adequate offset program in place and the fee provides a fair-share payment
- Administrative fees and other costs
- Verification of demands and implementation of efficiency measures
- Specification in policy that ensures demand reductions are permanent

(See Water Offset Policies for Water-Neutral Community Growth, Alliance for Water Efficiency, 2015.)

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<sup>43</sup> MCWRA, presentation of Groundwater Level Contours And Seawater Intrusion Maps, July 13, 2017, available at <http://www.co.monterey.ca.us/home/showdocument?id=31294>

## **Attachment 1 – Groundwater demand modeling assumptions for the SVWP vs. actual groundwater pumping**

### **1. The SVWP EIR did not project that the SVWP would halt long-term seawater intrusion.**

MCWRA prepared and certified an EIR for the SVWP in 2001 and 2002.<sup>44</sup> Based on specific assumptions about future demand and safe yield (discussed below), the SVWP EIR projected that the proposed SVWP “would reverse the annual reduction in groundwater storage to an approximately 2,500 afy increase in groundwater storage.”<sup>45</sup> (SVWP FEIR 3-30.) Thus, it projected that seawater intrusion could be halted. However, the SVWP EIR qualified this conclusion in two critical respects.

First, the SVWP EIR cautioned that “any additional water needs within an intruded groundwater basin would exacerbate seawater intrusion.” (SVWP EIR, p. 7-7.) So the conclusion was tied to specific assumptions regarding water use. As discussed below, future water use is projected to exceed the levels projected in the SVWP EIR. Indeed, MCWRA’s Rob Johnson acknowledged to the Monterey County Planning Commission that the SVWP EIR demand projections were not accurate and that pumping was more than projected.<sup>46</sup>

Second, the SVWP EIR acknowledged that the proposed project would only halt seawater intrusion based on 1995 levels of demand. (SVWP DEIR, p. 3-23.) The Department of the Interior pointed out that the SVWP EIR contradicts itself in stating that “the proposed action would halt seawater intrusion” and also that “hydrologic modeling shows that the project may not halt seawater intrusion in the long-term future” and asked for clarification. (SVWP FEIR, p. 2-82, comment 2-12.) In response, the SVWP FEIR again acknowledged that its modeling only showed that the SVWP would “halt seawater intrusion in the near term” based on 1995 water demand. (SVWP FEIR, p. 2-91.) However, with anticipated 2030 demand, that

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<sup>44</sup> MCWRA, Salinas Valley Water Project Draft EIR, June 2001 (SVWP DEIR), available at <http://www.co.monterey.ca.us/home/showdocument?id=24180>.

<sup>45</sup> MCWRA, Salinas Valley Water Project Final EIR, June 2001 (SVWP FEIR), available at <http://www.co.monterey.ca.us/home/showdocument?id=24186> and <http://www.co.monterey.ca.us/home/showdocument?id=24188>.

<sup>46</sup> Transcript of Monterey County Planning Commission, Oct. 29, 2014, page AR 5187; available in video file at [http://monterey.granicus.com/MediaPlayer.php?view\\_id=14&clip\\_id=2745](http://monterey.granicus.com/MediaPlayer.php?view_id=14&clip_id=2745).

modeling showed that “seawater intrusion with implementation of the proposed project may total 2,200 afy (10,500 afy of intrusion is anticipated to occur without the project). For this reason, the Draft EIR/EIS reports that the SVWP may not halt seawater intrusion in the long term.” (SVWP FEIR, p. 2-91.) The 2010 Monterey County General Plan EIR itself acknowledges that the SVWP may only halt seawater intrusion in the short term.<sup>47</sup>

Questioned about this at the October 29, 2014 Monterey County Planning Commission hearing, MCWRA’s Rob Johnson acknowledged that the SVWP would only halt seawater intrusion based on 1995 land use.<sup>48</sup> As discussed below, Mr. Johnson also acknowledged that groundwater pumping is higher than anticipated by the SVWP EIR and that an additional 58,000 afy of groundwater, beyond that provided by the current suite of water supply projects, is still needed to halt seawater intrusion.<sup>49</sup>

**2. As MCWRA acknowledges, groundwater pumping has exceeded the level assumed in the SVWP EIR, and this vitiates its analysis, which was expressly based on the assumption that groundwater pumping would decline over time.**

MCWRA reports show that pumping is much higher than predicted by the SVWP EIR. To determine the extent of overdrafting and seawater intrusion, the SVWP EIR relied on modeling provided by the Salinas Valley Integrated Ground and Surface Water Model (“SVGISM”), which in turn was based on assumptions regarding land use, population, and water use.<sup>50</sup>

As set out in the table below, the SVWP EIR reported its assumptions and modeling results for two scenarios: 1995 baseline conditions and 2030 future conditions:

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<sup>47</sup> Monterey County, 2010 General Plan EIR, p. 4.3-38, available at <http://www.co.monterey.ca.us/home/showdocument?id=43990>.

<sup>48</sup> Transcript of Monterey County Planning Commission Hearing, Oct. 29, 2014, p. AR 5188.

<sup>49</sup> Transcript of Monterey County Planning Commission Hearing, Oct. 29, 2014, pp. AR 5178-5179, 5189-5190.

<sup>50</sup> SVWP DEIR, pp. 5-1 (identifying baseline and future conditions), 5.3-10 to 5.3-11 (overview of SVGISM), 7-4 to 7-5 (detailing major assumptions used in the SVGISM regarding population and irrigated acreage).

SVWP EIR: population and land use assumptions with baseline and projected water use	1995	2030
Population	188,949 persons	355,829 persons
Urban water pumping	45,000 afy	85,000 afy
Farmland	196,357 acres	194,508 acres
Agricultural water pumping	418,000 afy	358,000 afy

Source: SVWP DEIR, pp. 1-7 (Table 1-2, "Estimated Existing and Future Water Conditions"); pp. 5-1, 6-3, 7-3, 7-10 (identifying baseline and future conditions).

The SVWP DEIR assumed that agricultural water use would decline by 60,000 afy from 1995 to 2030 due to a 5% increase in water conservation, changes in crop uses, and a 1,849 acre decrease in irrigated agricultural acreage. (SVWP DEIR pp. 1-7, 7-5, 7-10.) The SVWP DEIR assumed that urban water use would increase by 40,000 afy between 1995 and 2030 based on population growth and an assumed 5% per capita reduction in water demand due to conservation. (SVWP DEIR, pp. 1-7, 7-5.)

In sum, the SVWP EIR assumed that groundwater pumping in Zone 2C would decline 20,000 afy over a 35 year period, from a total of 463,000 afy in 1995 to 443,000 afy in 2030.

In fact, in the 21 years since 1995, pumping has greatly exceeded the SVWP EIR projection. Reported groundwater pumping in Zones 2, 2A, and 2B has averaged 502,759 afy. Adjusted to include an estimate for non-reporting wells in these zones, the average is 528,843. These data are based on the annual Groundwater Summary Reports published by MCWRA in 1995-2014.<sup>51</sup> The data, reported in afy, are summarized in the table below.

<sup>51</sup> MCWRA, Groundwater Extraction Summaries, 1995-2015, available at <http://www.co.monterey.ca.us/government/government-links/water-resources-agency/documents/groundwater-extraction-summaries#wra>.

<b>Year</b>	<b>Ag</b>	<b>Urban</b>	<b>Total</b>	<b>Percent of wells not reporting</b>	<b>Total divided by percent of wells reporting to adjust for non-reporting wells</b>
1995	462,268	41,884	504,512	2%	514,808
1996	520,804	42,634	563,438	4%	586,915
1997	551,900	46,238	598,139	7%	643,160
1998	399,521	41,527	441,048	7%	474,245
1999	464,008	40,559	504,567	9%	554,469
2000	442,061	42,293	484,354	11%	544,218
2001	403,583	37,693	441,276	18%	538,141
2002	473,246	46,956	520,202	7%	559,357
2003	450,864	50,472	501,336	3%	516,841
2004	471,052	53,062	524,114	3%	540,324
2005	443,567	50,479	494,046	2%	504,129
2006	421,634	49,606	471,240	4%	490,875
2007	475,155	50,440	525,595	3%	541,851

2008	477,124	50,047	527,171	3%	543,475
2009	465,707	45,517	511,224	3%	527,035
2010	416,421	44,022	460,443	3%	474,684
2011	404,110	44,474	448,584	3%	462,458
2012	446,620	42,621	489,241	3%	504,372
2013	462,873	45,332	508,205	3%	523,923
2014	480,160	44,327	524,487	2%	535,191
2015	478,113	36,601	514,714	2%	525,218
<b>21 year average</b>			<b>502,759</b>		<b>528,843</b>

Source: Ground Water Summary Reports published by MCWRA, 1995-2015.

The reported pumping data does not include any pumping from the portion of Zone 2C that is located outside of Zones 2, 2A, and 2B.<sup>52</sup> The County estimated that this pumping amounted to at least 4,574 afy in 2005.<sup>53</sup> Adding this to the adjusted average pumping total for Zones 2, 2A, and 2B, average pumping has been 533,416. This is 70,416 t higher than the SVWP EIR's 1995 baseline and 90,416 afy higher than its projected 2030 demand.

As noted, the SVWP EIR analysis was based on specific assumptions about future water demand, and it cautioned that "any additional water needs within an intruded groundwater basin would exacerbate seawater intrusion." (SVWP DEIR, p. 7-7.)

<sup>52</sup> See Monterey County 2010 General Plan FEIR, pp. S-13, S-127, available at <http://www.co.monterey.ca.us/home/showdocument?id=46080>.

<sup>53</sup> Monterey County 2010 General Plan FEIR, p. S-136, available <http://www.co.monterey.ca.us/home/showdocument?id=46080>.

In sum, for the first approximately 20 years of the planning period covered by the SVWP EIR's 1995-2030 projections, groundwater pumping has greatly exceeded its previously estimated demand levels. The amount by which actual demand exceeds previously estimated demand is two to three times greater than the amount of incremental water that the SVWP was expected to provide.<sup>54</sup>

MCWRA's Rob Johnson acknowledged that actual demand has exceeded the SVWP EIR's projections.<sup>55</sup> Mr. Johnson acknowledged that additional water supply projects delivering at least 58,000 afy will be required to halt seawater intrusion.<sup>56</sup>

The growth in estimated versus actual demand is mainly associated with increases in agricultural land use and associated pumping. As noted, the SVWP EIR assumed that irrigated agricultural acreage would decrease from 196,357 acres in 1995 to 194,508 acres in 2030. (SVWP EIR, p. 7-10.) However, agricultural acreage has actually increased since 1995.

- The SVWP Engineers Report reports that there were 212,003 acres of irrigated farmland in Zone 2C as of 2003.<sup>57</sup> This is substantially more irrigated acreage than the 196,357 acres that the SVWP EIR reported for 1995. (SVWP EIR, p. 7-10.) The SVWP Engineers Report data were based on "parcel information, including land use, acreage, zone and other data" developed by MCWRA.<sup>58</sup>

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<sup>54</sup> The SVWP was intended retain up to an additional 30,000 afy of water in dams and then provide about 9,700 afy of that water to the Castroville Seawater Intrusion Project ("CSIP") to replace groundwater pumping, about 10,000 afy to increase basin recharge, and another 10,000 afy for instream flow augmentation. Monterey County 2010 General Plan DEIR, pp. 4.3-36 to 4.3-38; Monterey County 2010 General Plan FEIR 2-68 to 2-71, available at <http://www.co.monterey.ca.us/home/showdocument?id=43990>; <http://www.co.monterey.ca.us/home/showdocument?id=45384>. The rest of the Monterey County General Plan DEIR, FEIR Supplemental materials, and FEIR are available at <http://www.co.monterey.ca.us/government/departments-i-z/resource-management-agency-rma-/planning/resources-documents/2010-general-plan/general-plan-final-environmental-impact-repo>; <http://www.co.monterey.ca.us/government/departments-i-z/resource-management-agency-rma-/planning/resources-documents/2010-general-plan/draft-environmental-impact-report-deir>.

<sup>55</sup> Transcript of Monterey County Planning Commission Hearing, Oct. 29, 2014, p. AR 5187.

<sup>56</sup> Transcript of Monterey County Planning Commission Hearing, Oct. 29, 2014, pp. AR 5178-5179, 5189-5190.

<sup>57</sup> SVWP Engineers Report, pp. 3-10, 3-15 (Tables 3-5 and 3-9 providing acreage totals for "Irrigated Agriculture"), available at <http://www.co.monterey.ca.us/home/showdocument?id=24202>.

<sup>58</sup> SVWP Engineers Report, p. 3-10.

- The 2010 Monterey County General Plan EIR reported Department of Conservation farmland mapping data showing an increase of 8,209 acres of habitat converted to new farmland from 1996-2006 but only 2,837 acres of existing agricultural land lost to urban use.<sup>59</sup> This represents a net gain of farmland of 5,372 acres, and does not account for additional water demands from multiple crops (2-4) per acre per season.

Furthermore, there is every reason to believe that the increase in irrigated acreage will continue and that the decrease in irrigated agricultural land between 1995 and 2030 projected in the SVWP EIR will not occur. Based on the past data related to conversion of habitat to farmland, the 2010 Monterey County General Plan DEIR projected that future agricultural acreage would increase from 2008 to 2030, and the General Plan FEIR admitted that the large future net increase in farmland would create additional water demand not anticipated by the SVWP EIR: 17,537 afy of water.<sup>60</sup>

Citing the Todd report, the Paraiso RDEIR states that MCWRA expects consumptive groundwater use to increase by 8,600 afy between 1995 and 2030. RDEIR, p. 4-12. The Todd report cites a 2014 telephone call with MCWRA and the 2001 SVWP EIR for this claim. However, as discussed above, the SVWP EIR does not project an increase in groundwater pumping from 1995 to 2030; instead it assumes that groundwater pumping in Zone 2C would decrease by 20,00 afy during the 1995 to 2030 period, from a total of 463,000 afy in 1995 to 443,000 afy in 2030. (SVWP DEIR, pp. 1-7 (Table 1-2, "Estimated Existing and Future Water Conditions"); pp. 5-1, 6-3, 7-3, 7-10 (identifying baseline and future conditions)). MCWRA staff's 2014 acknowledgement that pumping will actually increase does not alter the fact that the efficacy of the SVWP, as evaluated in the modeling for the 2001 DEIR, was predicated on the assumption that pumping would decrease. Furthermore, as discussed, average groundwater pumping since 1995 exceeds the level of pumping assumed in the SVWP EIR modeling by 70,000 to 90,000 afy, not by a mere 8,600 afy.

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<sup>59</sup> Monterey County 2010 General Plan DEIR, pp. 4.9-46 and 4.2-7 (showing farmland gains and losses 1996-2006 based on FMMP data), available at <http://www.co.monterey.ca.us/home/showdocument?id=43988> and <http://www.co.monterey.ca.us/home/showdocument?id=44002>.

<sup>60</sup> Monterey County 2010 General Plan DEIR, p. 4.9-64 (Table 4.9-8); Monterey County 2010 General Plan FEIR, pp. 2-38, 4-129 (revised table 4.9-8), S-19 to S-20, S-137 to S-138 (revised Table 4.3-9(c), note 7), available available at <http://www.co.monterey.ca.us/home/showdocument?id=44002>, <http://www.co.monterey.ca.us/home/showdocument?id=45384>, <http://www.co.monterey.ca.us/home/showdocument?id=45388>, <http://www.co.monterey.ca.us/home/showdocument?id=46080>.

## **RESUME**

***Timothy K. Parker, PG, CEG, CHG***  
***Principal***

### **WORK EXPERIENCE**

**2009 – Present: Parker Groundwater, President/Principal.** Sacramento, California. Privately owned business, specializing in strategic groundwater planning, groundwater monitoring, groundwater modeling, groundwater recharge and aquifer storage recovery projects, program implementation, stakeholder facilitation, groundwater monitoring, policy and regulatory analysis, environmental document review and litigation support. Provides strategic planning, policy consulting and groundwater technical expertise to public and private sector clients to develop effective, sustainable solutions to complex problems in the water and evolving environmental and energy industries.

**2005 – 2009: Schlumberger Water Services, Principal Hydrogeologist.** Sacramento, California. Provided hydrogeologic expertise and project management on groundwater recharge and aquifer storage recovery projects, groundwater monitoring, groundwater resources management, and groundwater contaminant projects for public and private sector clientele. Application of advanced oilfield tools and technologies to groundwater projects. Integration of groundwater quality monitoring and protection on CO<sub>2</sub> sequestration projects; liaison to Schlumberger Carbon Services, including planning, scope development, technical implementation, facilitation, and oversight. **Business Development** activities included strategic planning, prospect assessments, sales presentations, targeted workshops, client development and exploitation. Mentored and provided direction to staff; developed, tracked and controlled projects; worked closely with clients and other public and private organizations to implement projects on schedule, on budget with high level of quality.

**2001 – 2005: California Department of Water Resources, Division of Planning and Local Assistance, Conjunctive Water Management Branch, Senior Engineering Geologist.** Provided local technical and economic assistance to Sacramento and San Joaquin Valley groundwater authorities and water districts planning, developing, and implementing conjunctive water projects, groundwater recharge and aquifer storage recovery projects, and local and regional groundwater monitoring programs. Elements include developing technical scope, implementing work, providing geologic and groundwater technical expertise, attending and speaking at public meetings. **Central District, Groundwater Planning Section, Sacramento, California** (early 2001 prior to joining CWMB). **Senior Engineering Geologist, Groundwater Planning Section.** Elements included: Integrated Storage Investigations Program conjunctive use project technical support, coordination, and project management; technical support

on local groundwater monitoring and subsidence programs; technical support on Bulletin 118; Proposition 13 groundwater grant applications screening and ranking process for Central District geographic area. Supervised and provided direction to staff; developed, tracked and controlled program budgets; worked closely with other DWR groups, agencies and outside organizations to develop additional local assistance opportunities for DWR.

**2000-2001: California Department of Conservation, Division of Mines and Geology, Sacramento, California. Associate Engineering Geologist.**

Responsible for: multi-year aerial photograph review, identification of landslides and potentially unstable areas, field reconnaissance and confirmation, preparation of maps and images using MapInfo, Vertical Mapper, ArcView, Spatial Analyst, Model Builder, and ArcInfo working closely with GIS specialists; assisting in development of GIS methodologies and database for Northern California watersheds assessment/restoration project; review of timber harvest plans and pre-harvest inspections; review of regional CEQA documents as related to engineering geologic issues; watershed assessment; technical presentations at multi-agency meetings and landslide/mass wasting public workshops.

**1997-2000: CalEPA Department of Toxic Substances Control, Stringfellow Branch, Sacramento, California. Hazardous Substances Engineering Geologist.**

Responsible for: groundwater monitoring and analysis; developing approach and preparing a work plan for a Stringfellow site revised hydrogeologic conceptual model; researching, providing, and maintaining a comprehensive environmental data management system; assembling and contracting with an expert panel for consultation on the site; evaluating an existing MODFLOW porous media groundwater flow model; providing direction on the strategy and approach for the development of a revised groundwater flow and fate & transport model for the Stringfellow site; providing input on an as needed basis in support of the litigation and community relations elements of the project.

**1993 - 1997: Law Engineering & Environmental Services, Inc., Sacramento, California. Manager Project Management.**

Responsible for supervising and providing direction to senior project managers; maintaining appropriate tracking system and controls for assurance of successful execution of scope, schedule and budget of major projects; maintaining quality assurance and controls on projects. Responsibilities included development/implementation of group budget spending plan, establishing performance standards and evaluating program progress and quality, staff recruiting, mentoring, maintaining utilization, business development, proposal preparation, commercial and government project marketing, client maintenance. **Project Manager** and **Senior Hydrogeologist** on hydrogeologic evaluations, site and regional groundwater quality monitoring programs, hazardous substance site investigations and remediation. Responsibilities included technical direction of projects, project scoping, schedule, budget, supervision of field activities, preparation of documents, developing cost-effective strategies for follow-on

investigations and removal actions, and negotiating with state regulators on three Beale Air Force projects totaling more than \$15 million.

**1988 - 1993: Dames & Moore**, Sacramento and Los Angeles, California. **Senior Geologist**. Provided hydrogeologic technical support, project management, regulatory compliance, technical/regulatory strategy, and on a variety of commercial and industrial DTSC- and RWQCB-lead hazardous substance sites. Responsibilities included project technical direction, scope implementation, budgetary control, groundwater quality monitoring and analysis, supervision of field investigations, document preparation, client interface, negotiation with regulatory agencies on projects totaling approximately \$5 million.

**1986 - 1988: California Department of Health Services, Toxic Substances Control Division**, Southern California Region, Assessment and Mitigation Unit, Los Angeles, California. **Project Manager** in the Assessment and Mitigation Unit. Responsibilities included development and implementation of work plans and reports for, and regulatory oversight of, State Superfund preliminary site assessments, groundwater quality monitoring and analysis, remedial investigations, feasibility studies, remedial action, and interim remedial measures. **Engineering Geologist**. Provided technical support to Permitting, Enforcement, and Site Mitigation Unit staff, including evaluation of hydrogeologic assessments, groundwater quality monitoring programs, work plans, and reports on federal and state Superfund sites and active facilities; assistance in budget preparation; assistance in zone drilling contract review.

**1983-86: Independent Consultant**, Sacramento, California. Provided technical assistance on variety of geologic and geophysics projects to other independent consultants in local area.

**1982: Gasch & Associates**, Sacramento, California. Geologic assistant conducting shallow seismic reflection surveys in the Sierra Nevada for buried gold-bearing stream deposits.

**1981 - 1982: Geologic Assistant**, Coast Ranges, Avawatz Mountains, White Mountains, and Kinston Peak Range. Geologic Assistant on various geological field studies, including gravity surveys, magnetic surveys, landslide and geologic mapping projects.

#### **PROFESSIONAL REGISTRATION**

California Professional Geologist No. 5594  
California Certified Engineering Geologist No. 1926  
California Certified Hydrogeologist No. 0012

#### **PROFESSIONAL AFFILIATIONS**

**California Department of Water Resources, Public Advisory Committee, Water Plan Update 2013**

2010-2013: Appointed to participate on PAC and to lead new Groundwater Caucus

**Department of Interior, Advisory Committee on Water Information, Subcommittee on Ground Water**

2010-Present: Member - Work Group for Pilot Project Implementation, Nationwide Groundwater Monitoring Network

2007-2010: Co-Chair - Work Group on Implementation for development of the Framework for a Nationwide Ground Water Monitoring Network

2007-2010: Member - Work Group on Network Design for development of the Framework for a Nationwide Ground Water Monitoring Network

**National Ground Water Association**

2014-Present: Director - Scientists and Engineers Division

2007- 2010: Director - Scientists and Engineers Division

2007 - 2009: Member - Government Affairs Committee

2007 - Present: Chair - Groundwater Protection and Management Subcommittee

2005 - Present: Chair - Regional Groundwater Management Task Force, Government Affairs Committee

2004 - 2005, 2007,2009-10: Chair - Theis Conference Committee

2002 - Present: Member - Theis Conference Committee

2002 - Present: Member - Regional Groundwater Management Task Force, Government Affairs Committee

2003 - Present: Member - Groundwater Protection and Management Subcommittee

2009 - Present: Member - ASR Task Force

2009 - Present: Member - Hydraulic Fracturing Task Force

2008 - 2009: Member - CO2 Sequestration Task Force

**American Ground Water Trust**

2009 - 2012: Chair

2005 - 2013: Director

**California Groundwater Coalition**

2007-Present: Director

**Groundwater Resources Association of California**

2000 - Present: Director

2000 - 2001: President State Organization

2001 - Present: Legislative Committee Chair

1998-1999 Vice President

1996-1997 Secretary

1995-1996 President Sacramento Branch

1993-1994 Member-at-Large Sacramento Branch

**ACADEMIC BACKGROUND**

BS 1983, Geology, University of California, Davis

Graduate studies in hydrogeology, hydrology, engineering geology, waste management engineering

***Selected Publications***

*California Groundwater Management, Second Edition*, Groundwater Resources Association of California, co-author and project manager, 2005.

*Water Contamination by Low Level Organic Waste Compounds in the Hydrologic System*, in *Water Encyclopedia*, Wiley, 2004.

*Potential Groundwater Quality Impacts Resulting from Geologic Carbon Sequestration*, Water Research Foundation, co-author, 2009.

*Aquifer Storage and Recovery in the US, ASR 9*, American Ground Water Trust, Orlando Florida, September 2009 – a compilation of key ASR issues on DVD, contributing editor and speaker, 2010.

*Sustainability From The Ground Up – Groundwater Management In California – A Framework*, Association of California Water Agencies, principal author, 2011.

*ISMAR9 Call to Action: Sustainable Groundwater Management Policy Directives*, Principal Author, 2016.

**REFERENCES 1 THROUGH 30 ARE SAVED ON A "USB" DRIVE  
LOCATED IN THE MANILA ENVELOPE ATTACHED TO THE  
4/25/18 LETTER FROM JOHN FARROW OF M R WOLFE &  
ASSOCIATES PC**

## Response to Letter #10 – John Farrow, LandWatch Monterey County (April 26, 2018)

### Prelude

See Master Response 1.

The commenter, on the bottom of page 1, requests that the County evaluate an alternative that is no larger than the historic use and that avoids any development on steep hillsides.

Two of the project alternatives, Alternative #3, titled Valley Floor Alternative Two, and Alternative #5, titled Timeshare Relocation Alternative, reduce the amount of development on steeper slopes (see 2018 RDEIR pages 5-19 through 5-29 and 2019 RDEIR pages 75 through 83). Alternative 4, Phases 1 and 2 Project, also could eliminate much development on steeper slopes. CEQA Guidelines section 15126 requires that an EIR describe a range of reasonable alternatives to the project. This section describes that the range of alternatives should be governed by the “rule of reason” (CEQA Guidelines section 15126.6(f)) and should analyze only those alternatives “that would avoid or substantially lessen any of the significant effects of the project” on the environment and that the lead agency “need examine in detail only the ones that the lead agency determines could feasibly attain most of the basic objectives of the project” (emphasis added). The only significant effect on the environment remaining, after mitigation identified, relates to the demolition of historic structures. All other significant effects have mitigation measures identified that would reduce their impact to a less than significant level, and would be imposed where applicable to the project alternatives, as described in RDEIR Chapter 5.0. The County has established basic project objectives (RDEIR page 2-17). One of the County’s basic objectives is to maximize the use of this historic resort site to reduce pressure to convert agricultural land to visitor supporting uses in the Agricultural and Wine Corridor. In addition to the site being previously used for resort purposes with large areas converted from open space to commercial use in the past, it also has a unique developed hot springs resource found nowhere else in the Salinas Valley and Agricultural and Wine Corridor area.

1. The comment suggests that improper staking and flagging of the site was done and makes other comments related to development on slopes and that the visual simulations are an inadequate substitution for staking and flagging. The comment relates to the Staking and/or Flagging Criteria adopted by the Board of Supervisors by Resolution 09-360 on July 21, 2009, claiming that the County was required to conduct flagging and staking rather than the visual simulations utilized in analyzing visual impacts.

California Government Code section 66474.2, subdivision (a), provides that “in determining whether to approve or disapprove an application for a tentative map, the local agency shall apply only those ordinances, policies, and standards in effect” on the date the agency determined the application is complete pursuant to Government Code section 65943. Here, the County Board of Supervisors adopted Resolution 09-360 on July 23, 2009 – almost 4 years after it deemed the applicant’s application complete on August 28, 2005. Accordingly, as correctly held by the trial court in its decision filed August 3, 2017 in the matter of the *Highway 68 Coalition; Landwatch Monterey County v. County of Monterey* (Superior Court of California, County of Monterey Case No. M130660) (i.e. Ferrini Ranch), and incorporated herein by reference for inclusion in the record, Resolution 09-360 does not apply to the Project. In the County’s determination, the flagging and staking criteria adopted via Resolution 09-360 constitute policies or standards

County of Monterey

encompassed by Government Code section 66474.2(a). Although under different reasoning, the Court of Appeal upheld the trial court's decision (See *Highway 68 Coalition; Landwatch Monterey County v. County of Monterey* (Court of Appeal, Sixth Appellate District) (Case No. H045253) (July 26, 2019)), and incorporated herein by reference for inclusion in the record.

If, as it argued in the Ferrini Ranch litigation, the commenter claims in the alternative that even if Resolution 09-360 is found not to apply, its predecessor, the 1994 flagging-and-staking policy, applied and required flagging and staking, the commenter would be mistaken. The 1994 version of the resolution gave County staff discretion whether to require flagging and staking. The commenter has failed to show staff abused its discretion in not requiring flagging and staking here.

The commenter's reference to "an adopted visual sensitivity map (Toro Area Plan, Monterey Peninsula Area Plan, North County Area Plan)," as described in the Board Resolution, does not relate to this project site, which is located in the Central Salinas Valley Area Plan area. The parenthetical list is not a set of examples, but are the list of plans subject to the category. The Central Salinas Valley Area Plan and the Cachagua Area Plan both contain visual sensitivity maps but are not included in this category. As referenced in the 2019 RDEIR on page 26, the project is subject to Policy 26.1.6.1 of the Central Salinas Valley Area Plan, which requires "appropriate review where it is permitted in sensitive or highly sensitive areas as shown on the Scenic Highways and Visual Sensitivity Map."

Even if the project were subject to the category where the project is located within "an adopted visual sensitivity map," County staff determined that photo simulations would better allow an analysis of potential impacts for the purpose of application review and for preparation of the environmental document, as allowed by the adopted criteria. Staking and/or Flagging Criteria section 1, Delineation, states that "[d]elineation may be accomplished using one (emphasis added) of the following." Method number 4 allows photo simulation as one of the four methods of delineation. The other three methods are string with colored flag, continuous orange netting, or multiple staking and/or flagging. Due to the distance from the site to the common public viewing areas, as explained in more detail below, planning staff determined that a photo simulation would better meet the purpose as outlined in the Board of Supervisors adopted Staking and/or Flagging Criteria (Board Resolution 09-360, Attachment 1, first paragraph) even if, as the commenter claims, such flagging and staking were actually required. That paragraph states:

"The purpose of staking and/or flagging is to provide visualization and analysis of projects in relation to County policies and regulations. Staking and/or flagging is intended to help planners and the public visualize the mass and form of a proposed project, or to assist in visualizing road cuts in areas of visual sensitivity."

There is no mandate under the CEQA statute or the CEQA guidelines requiring flagging and staking.

As stated in the Board Resolution, it is the discretion of county staff to determine the appropriate manner of delineation. The comment generally provides only the commenter's opinion regarding the alleged inadequacy of the EIR's analysis under CEQA, which is distinctly different than the applicability of the County's requirements for staking and flagging/visual delineation.

With respect to the commenter's concern regarding the aesthetic impacts of the referenced timeshare condominium units, the Inland Zoning Ordinance provides regulations and definitions for determining ridgeline development. The definition of ridgeline development is found in MCC section 21.06.950:

"Ridgeline development" means development on the crest of a hill which has the potential to create a silhouette or other substantially adverse impact when viewed from a common public viewing area.

Common public viewing areas are the locations from which potential visual impacts are analyzed. The definition of common public viewing area is found in MCC section 21.06.195:

"Common public viewing area" means a public area such as a public street, road, designated vista point, or public park from which the general public ordinarily views the surrounding viewshed.

The definition of substantial adverse visual impact is found in MCC section 21.06.1275:

"Substantial adverse visual impact" means a visual impact which, considering the condition of the existing viewshed, the proximity and duration of view when observed with normal unaided vision, causes an existing visual experience to be materially degraded."

No additional regulations or definitions are included in the County Code for analyzing visually sensitive areas identified in the General Plan; county practice is to analyze the project's visibility from the locations identified as common public viewing area, as defined by the County Code, for the analysis of visually sensitive areas.

County staff determined Arroyo Seco Road and Highway 101, depicted in the HKS visual viewshed report as vantage points 2 and 1, respectively, as common public viewing areas. These common public viewing areas are between 2.5 to 4.5 miles away from the site. At this distance, physical staking and flagging pursuant to the Board of Supervisors resolution would not have been visible with normal, unaided vision, as required by the definition for "substantial adverse visual impact," even if it were an applicable requirement, which it is not as explained above. Due to staff's determination that there would be a lack of visibility using the staking and flagging method, County staff requested a 5 x 5 foot orange sign to identify the project's location (2019 RDEIR page 29) for the purpose of preparing a visual analysis. The site's visibility was then documented by driving the roads in the area to identify areas from where the proposed project would and would not likely be visible, with the aid of the requested sign as a reference point to prepare the visual analysis. As a result, county staff requested that photo simulations be used to convey the visual impact information to the public and to provide the basis for staff's analysis of visibility of the proposed project, and of potential visual impacts from common public viewing areas.

County staff's determination for this project is that it would not constitute ridgeline development, which is a policy issue, not a CEQA significance threshold. The standard for review with respect to visual impacts is not whether the project is visible from a common public viewing area, but whether there is a 'substantial adverse visual impact.' The RDEIR reviewed the project from the perspective of the degree to which project elements might be visible including distance from the viewing point, interruptions in the landscape that would naturally screen project elements and timeframe during which a project element might be seen. Referring back to the HKS visual simulations for vantage points 1 and 2, which are the common public viewing areas designated by county staff, the commenter can see that the site is barely discernable if at all from those points. Also, staff took into account that the general public potentially viewing the site would be travelling at speeds of 55 to 65 miles per hour on Arroyo Seco Road and Highway 101 thus giving the general public a short viewing period into the project's location.

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The commenter quotes the Staking and/or Flagging Criteria as stating that the determination of potential ridgeline development is “determined by the project planner,” which was done in this case. County staff concur that a silhouette against the sky (county’s pattern and practice for 30 years) is not determinative, with the inclusion of the language “other substantially adverse impact” in the definition for ridgeline development (MCC section 21.06.950). The ultimate finding on whether a project constitutes ridgeline development is a determination from the decision making body (MCC sections 21.66.010.C and D). The analysis for ridgeline development is a two part test: 1) that the development is on the crest of a hill and 2) the development would create a silhouette or other substantially adverse impact. The requirements for this analysis will be included in the staff report and findings submitted to the decision-making body.

The RDEIR describes the potential physical environmental impacts related to aesthetics in Chapter 3.1, Aesthetics and Visual Resources. The potential environmental impacts were analyzed in the RDEIR against the significance thresholds identified in section 3.1.4, Analytical Methodology and Significance Threshold Criteria, page 3-13. The analysis of potential environmental impacts is found on pages 3-14 through 3-25. The visual analysis prepared by the County and found in RDEIR Appendix C, and summarized on RDEIR pages 3-11 through 3-13, determined that the site would be visible from several locations, from near, mid-range, and long-range locations. RDEIR section 3.1.4, Impact Analysis, provides an assessment and determination, based on the County’s visual analysis, on pages 3-14 through 3-25. Viewshed impacts were reduced to a less than significant level through the imposition of Mitigation Measure 3.1-1, which require techniques to break up the mass of the project from mid- and long-range views (page 3-20). In addition, as identified in the RDEIR, standard conditions of approval related to putting steeper slopes in a conservation and scenic easement, as well as the standard condition of approval related to controlling lighting within visually sensitive areas will be required for the project. The conservation and scenic easement, which is granted to the county, would limit what activities and structures may be allowed within the easement. Structures substantially visible from common public viewing areas would not be allowed and only open space uses as listed in the easement deed would be allowed. Installation and maintenance of fencing and underground utilities would be allowed in the easement area.

Although the commenter seems to imply that oak trees cannot be planted as part of the landscaping plan (page 3), oaks can be included as part of a landscape plan that takes into account fuel modification zones and maintains vegetation consistent with fuel modification best management practices, such as removing dead vegetation and keeping trees properly limbed off the ground to prevent fire “ladders.” The commenter refers to Figure 2-6 as being inconsistent with the visual mitigation requirements. Figure 2-6 is an artistic rendering meant to show the site plan components and is not indicative of the final landscaping plan with fuel modification zones. Mitigation measures, such as those identified for potential visual impacts (Mitigation Measure 3.1-1), are applied to the project description to avoid or reduce potentially significant environmental impacts. Therefore, there is no expectation that the project description chapter would include mitigation built into the figures. Also, it is important to remember that the hill where some of the timeshares are proposed to be located is already maintained as a fire break and ranch road so vegetation there is already limited.

See Master Response 1.

2. This set of comments suggests that the County underestimated visual impacts because it did not consider vegetation removal.

Vegetation will not be entirely cleared for fuel management areas, but will be either mowed, shortened, trimmed, or removed and replaced with a fire resistant landscape, depending on the material. Vegetation and trees will also be removed for structural development as analyzed in the RDEIR. Some vegetation and trees around buildings are allowed in fire control zones; native vegetation may have to be cleared depending on the type of vegetation but it would be replaced with a fire resistant landscape. The visual simulations showed structures in areas where vegetation is currently located, so they accurately depict vegetation removal for structural development.

Fuel management areas adjacent to structural areas will not be cleared of vegetation as the commenter suggests, but maintained or replaced as stated above. Vegetation will be managed through proper best management practices and finished landscaping will include native vegetation where appropriate, and fire resistant plantings where appropriate. For those reasons, as well as the distance from common public viewing areas, the site, as viewed from common public viewing areas, is expected to be as depicted in the visual simulations provided.

The common public viewing areas are quite a distance away, primarily Arroyo Seco Road, Clark Road, and Highway 101 and vegetation types will not be distinguishable from those distances. This is further supported by the commenter's last sentence of their comment section 3 where they state that you cannot distinguish the palm trees "at all" from view study location 1. The fact that vegetation will not be fully grown during the early years of the resort is not a county standard requirement. With existing vegetation on the property and off-site, with the even rise of the alluvial slopes in this area (which makes near views of the project less visible due to dense vegetation at the eastern portion of the site that will remain and existing vegetation off-site), with low hills surrounding the canyons where much of the development is proposed, only certain areas of the project would be visible from off-site common public viewing areas. As the commenter notes, those visible areas are where development is proposed on the slopes between the valley floors. Vegetative screening does not need to be planted close to structures, but in locations that help to break up the mass. In addition to trees, shrubs will also be used, some of which may be faster growing, to provide screening of building masses. There is no requirement for the development to be invisible from common public viewing areas, as opposed to County requirements for development to be indiscernible from Highway 1 and designated areas, in the Critical Viewshed, in Big Sur. The RDEIR adequately analyzes the potential environmental impact related to aesthetics, as described in RDEIR Chapter 3.1. See also response to Number 1, above, and to Letter 5, Number 9.

3. This comment suggests that the photo simulations are inadequate and that the simulations are not consistent with RDEIR statements.

See Response to Letter 10, Numbers 1 and 2. The fact that the photo simulations do not show the proposed mitigation ignores the analysis found in Impact 3.1-1, which, as a result of the analysis of the photo simulations, requires the techniques identified in Mitigation Measure 3.1-1. This mitigation measure requires different techniques to help break up visual massing, not just the use of existing vegetation and landscaping, as described on page RDEIR 3-20.

In response to the comment that the County "may not delegate its duty to gather information to the applicant," the applicant submitted the simulations but they were independently reviewed, and ultimately accepted, by County staff. The simulations were accepted based on the County staff's knowledge of the site and field visit in which they drove the main roads in the project area. At that point, County staff prepared the Visual Analysis found in Appendix C and wrote the EIR section.

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The County has not delegated its duty and has provided its independent judgment and analysis, as required by CEQA Guidelines section 15084(e), in preparing the RDEIR analysis. We concur that portions of the project will be visible; see Response to Letter 10, Number 2. That visibility has been disclosed in the RDEIR and feasible mitigation measures have been proposed in accordance with the County's analysis of that impact (Impact 3.1-1), with a result of a less than significant environmental impact.

Related to the comment in the third paragraph on page 7, the text cited on RDEIR page 3-17 regarding the visual impact from location 5 is presented in relation to locations 6 and 7, with less visibility at location 5 than at locations 6 and 7. In addition, the photo simulations for location 5 show the visibility of the hillside condominiums on Lot 20, which are not being relocated as part of the relocation (in one of the Alternatives) that the commenter cites. The condominiums on Lot 20 are along the front of the hill facing the Salinas Valley and are visible from location 5. The condominiums on Lots 21 and 22 are on the south side of the hill and not visible, or barely visible, from location 5 (RDEIR Figure 2-8, page 2-25). The condominiums on Lots 21, 22, and 23 are most visible from location 7 (page 29 of visual simulations). From location 6, the condominiums on Lots 21, 22 and 23 add slightly to the visibility of the project. This is best demonstrated by comparing the visual simulations on page 25 versus page 26, where the alternative (Valley Floor Alternative Two, RDEIR page 5-21) relocates the hillside condominiums from Lots 21, 22 and 23. The text in the RDEIR is correct as it relates to the visibility of the site from location 5.

The comments in the last two paragraphs of comment number 3 (page 7), relating to views from locations 1 and 2, ignore Mitigation Measure 3.1-1 identified in the RDEIR. The mitigation measure is designed to reduce a potentially significant impact to less than significant. As noted above, that does not mean that the development will not be visible from these locations but are intended to "occasionally break up the mass...and to use color and vegetation to break up the visual massing from mid-range and long-range views. This can be achieved by using topography, landscape plantings, and a variety of colors to create variety in the mass" (RDEIR page 3-20). This results in a less than significant impact on aesthetics.

4. This comment relates to visual impacts from Arroyo Seco Road. See Response to Letter 10, Numbers 1 through 3, above. The County never obtained an official scenic road designation for Arroyo Seco Road. This General Plan policy is no longer in effect, as the County adopted a new General Plan in 2010, which does not include the policy (<https://www.co.monterey.ca.us/home/showdocument?id=45822> showing the Central Salinas Valley Area Plan supplemental General Plan policies). The commenter suggests that the buildings will be highly visible from Arroyo Seco Road, which is not what was stated in the RDEIR. The RDEIR specifically states on page 3-19, "Some of the project's buildings may become highly visible traveling from (emphasis added) the intersection of Arroyo Seco Road and Clark Road, and along Clark Road approaching the Paraiso Springs Road intersection." This observation that the project could be visible in passing does not equate to a significant adverse aesthetic impact under CEQA.

5. This set of comments relates to light pollution and the description of the environmental setting. The County hired Michael Baker International to provide expert analysis relating to lighting, in addition to staff's response provided in this section. The Michael Baker International memorandum, which provides expert technical information related to lighting impacts on the environment, assists the County in responding to the comments related to potential lighting impacts, and is included as Appendix 3 to the 2019 RDEIR.

The following discussion amplifies the information found in the 2019 RDEIR in section 3.1.2, Environmental Setting, Aesthetics and Visual Resources, section 3.1.4, Impact Analysis,

Aesthetics and Visual Resources, and in section 4.5.2, Cumulative Impacts Assumptions and Analysis (2019 RDEIR page 15).

The RDEIR addresses the potential effects of project lighting primarily in RDEIR Chapters 3.1 and 3.9, as described below. The environmental setting for the project, related to aesthetics, is found in 2019 RDEIR Section 3.1.2 (pages 16 through 24); the discussion related specifically to light and glare (defined below for this response) is found on 2019 RDEIR pages 41 through 46. The general visual setting for the project is described in Section 3.1.2. The threshold of significance related directly to light and glare is found on 2019 RDEIR page 30:

Create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area.

Cumulative impacts related to aesthetics were discussed in section 4.5.2, Aesthetics, which describes the geographic area for cumulative aesthetic impacts and provides an explanation that includes an analysis related to potential light and glare impacts. This section reads as updated and found in the 2019 RDEIR (page 15).

A resort facility found in a commercial zoning district requires outdoor lighting for safety purposes and may include lighting for aesthetics. RDEIR Pages 2-54 and 2-55 describe Energy Conservation components of the project description, including use of energy efficient outdoor lighting. The County does not require development project applications to submit final lighting plans prior to approval of a residential or commercial development, as technology changes and code requirements change on a regular basis.

The property is subject to the lighting requirements for controlling effects of light pollution, glare, sky glow and light trespass imposed by California Code of Regulations, Title 24, parts 6 and 11 for a rural designation under a designated Lighting Zone 2 classification, as well as the County applied standard conditions to implement policy or regulations related to protecting resources, including biological and aesthetic resource protection from lighting impacts. Application of these mandatory standard conditions as a result of a project's approval allows the final design, in this case for lighting, to reflect the latest in regulations and technology. The primary controls related to lighting of this property are explained in this response.

### **Existing Conditions**

As described in the RDEIR, the Project site is located approximately 130 miles south of San Francisco in the unincorporated central part of Monterey County in the western foothills of the Central Salinas Valley, approximately seven miles west of the City of Greenfield and the City of Soledad at the western terminus of Paraiso Springs Road. The project consists of about 50 acres of development area on a 235 acre property with development mostly located in the Paraiso Springs Valley and Indian Valley. The site is bordered to the east by grazing and farmland and to the north, south and west by the Santa Lucia Mountains. Land uses surrounding the Project site include single-family residences and agricultural operations to the east of the project on Paraiso Springs Road, with wineries and tasting rooms within a few miles of the site.

The current nighttime illumination levels on the project site are consistent with rural residential use. Sources of nighttime lighting on the Project site include interior and exterior lighting from one

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mobile home occupied by the on-site property manager and one pole mounted light fixture about 20 feet high located near the occupied mobile home. Ancillary buildings on the property are only lighted during the rare times when in use in the evening. Vehicles arriving at and departing the property at night represent an additional source of light and, potentially, glare and is generally limited to ingress and egress of the caretaker's family (2018 RDEIR page 2-2 and 2019 RDEIR pages 15, 16, 22, and 23). Because of the site's location within a steep-sided valley and the general location of the mobile home near the center of the site, light on the site is currently only visible from certain vantages within the site itself and not able to be seen from any roadway offsite.

The residences east of the Project site on Paraiso Springs Road exhibit low nighttime light levels consistent with the mobile home occupied by the on-site manager. No street lighting exists along local roadways.

As stated in the 2019 RDEIR in section 3.1.2, the project vicinity is primarily rural residential and agricultural; therefore, there are very limited sources of light and glare. The highest nighttime illumination levels are found approximately seven miles east of the Project site in the urban settings of Greenfield and Soledad, with the highest light pollution levels emanating from the two state prisons ("Correctional Facilities") in Soledad (<https://cires.colorado.edu/Artificial-light>). Portions of the city of Greenfield can be seen from the project site at night. Major fixed light sources associated with these cities are streetlights, residential, commercial and industrial developments, and schools and athletic facilities, which include parking lot lights, interior lights and decorative outdoor lights. Highway 101, east of the project site, is a major highway with two travel lanes in each direction and runs north and south. Headlights from traffic traveling the highway at night can be seen from portions of the project site at night.

### **Monterey County Standard Conditions of Approval for Lighting Control**

The County has been controlling the off-site effects of lighting since at least 1982, when the County General Plan included the following policy:

*Policy 26.1.20: All exterior lighting shall be unobtrusive and constructed or located so that only the intended area is illuminated, long range visibility is reduced, and off-site glare is fully controlled. (2019 RDEIR pages 15 and 26, section 3.1.5, and 2018 RDEIR pages 3-264 and 4-6)*

To implement this policy, the County applies standard conditions to control the type, intensity and location of lighting to ensure that fixtures illuminate only the intended area and to control lighting in a manner that off-site property and the night sky are not adversely affected by a project. In visually sensitive areas, a more restrictive standard condition is imposed that requires that the lighting source (bulb) is not visible from the area being protected from light pollution. Screening of the light source substantially reduces intrusion of any lighting effects on areas on and off the site (2019 RDEIR pages 41 through 46).

The County's extensive experience over more than 35 years includes areas of Big Sur, where the County requires that development cannot be seen from Highway 1 and other specified areas. The County developed and applies a more restrictive standard condition for visually sensitive areas, such as Big Sur. Because the Paraiso Springs Resort property is identified as being within a visually sensitive area (2019 RDEIR Section 3.1.2), the 2019 RDEIR identifies (pages 41 through 46) that this more restrictive condition of approval would be applied for this project. The visual sensitivity standards of this area, as opposed to County requirements in Big Sur, allow development to be seen from common public viewing areas. However, lighting would be strictly controlled through the condition of approval to illuminate only the intended area and control the

visibility of the light source, which would minimize off-site impacts of project lighting. The resort is allowed to, and will, be seen from offsite according to County regulations and policies.

### **CEQA Considerations and Project Impacts**

As explained in the RDEIR the proposed project would introduce new sources of nighttime lighting within the project site. Most of the new buildings would be located on the valley floor except for some of the timeshare condominiums along a hillside (RDEIR Chapter 2, Figure 2-6, Figure 2-8, Figure 2-12). These timeshare units would be two story structures. These uses would operate 24 hours per day, 7 days per week and would be illuminated at night when occupied; however, nighttime interior lighting of guest units/timeshares and guest areas would be turned off, or automatically turned off by required sensors, when unoccupied.

The remainder of the Project site would be undeveloped and not be lighted at night, Sources of lighting would include visible interior building illumination, exterior building security and decorative facade lighting, lighted pedestrian walkways and common areas such as courtyards and swimming pools, and lighting along internal driveways and roadways and at Project site entrances.

Light levels for proposed on-site development would be required to comply with the County standard condition for visually sensitive areas as well as with state law (2019 RDEIR pages 41 through 46), Title 24, which incorporates the following Illuminating Engineering Society of North America recommendations:

- Select luminaires emitting little to no light above the plane of the horizon;
- Avoid excessively bright spots on ground or surfaces;
- Limit the use of non-cutoff luminaires;
- Turn off non-critical lighting late at night; and
- Use internal or external shielding, such as louvers, hoods, or other screening devices, to minimize up light and resulting sky glow when luminaires need to be tilted or aimed.

Proposed development on the Project site would use building materials with low-reflectivity properties and would not introduce large expanses of glass or light-colored surfaces that could generate glare perceptible from off-site locations (see discussion above related to architectural style). The project is setback from surrounding roadways and surrounded by 3 sides of mountains, and large mature oak trees along with the incorporation of landscaping into the site design to further reduce the potential for Project glare generation. Portions of the project would be visible from mid-range and long-range visibility views (RDEIR section 3.1.4). Any glare that may occur from on site structures would be visible for a very short time as the common public viewing areas are high speed county roads and Highway 101 at distances of two to seven miles (2019 RDEIR pages 35 and 36).

### **Cumulative Impacts**

A cumulative light and glare impact would occur if the proposed project, together with other projects located within the proposed project's area, would contribute to a cumulative increase in ambient nighttime light levels or glare generation in that area, as defined in RDEIR section 4.5.2 related to Aesthetics (2018 RDEIR page 4-6, as amended by 2019 RDEIR page 15).

The project area includes lighting from residential and agricultural facilities (including wineries).

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The area does not include substantial lighting from these uses and only one currently proposed project, a residential care facility located within the Las Palmas Ranch project, and one approved project (Ferrini Ranch subdivision) is included in the area subject to the cumulative analysis. The Las Palmas community, which contains approximately 1000 residential units near Spreckels, is 18 miles north of the project site. Due to the distance, light emitting from this project near Soledad would not add cumulatively to light emissions from either area. Also, the Las Palmas Ranch project would also have to comply with the lighting standards controlling light pollution set forth in Title 24. The Ferrini Ranch project is even further away and is primarily located along the Highway 68 corridor (2019 RDEIR page 15), on the north and west side of the Sierra de Salinas mountain range. Very little of that project is visible within the Sierra de Salinas foothills area.

**Summary:**

To summarize, the effects of interior and exterior lighting were analyzed in the RDEIR. The determination is that, with the requirements of state law (Title 24) and the imposition of the County's standard condition requiring a lighting plan for visually sensitive areas, the effects of project lighting would be less than significant when analyzed against the threshold of significance described above. As discussed in 2019 RDEIR chapter 3.1, the project setting among a vegetated canyon, the proposed Mission Revival architectural style, its distance to significant public viewing areas, the requirements of California Code of Regulations Title 24, Parts 6 and 11, which took effect January of 2017, and the requirements from the County's standard conditions of approval related to design, landscaping and lighting controls would result in a less than significant effect on the environment and no additional mitigation is required.

6. This set of comments relates to the proposed development on slopes and required findings to allow such development.

General Plan Policy 3.2.3 does not relate to development on slopes over 30 percent; however, there is no strict prohibition on developing on slopes over 30 percent. Policy 26.1.10 establishes a process where development may be allowed on slopes over 30 percent if certain findings can be made. The implementing ordinance for this policy is found in MCC section 21.64.230, which allows development over 30 percent slopes subject to obtaining a Use Permit and making the specified findings. Policy 3.2.4(CSV) relates to residential development and is not applicable to this project.

The required findings for allowing development to occur on slopes greater than 30 percent will be considered by the decision making body for the permits. The potential physical environmental impacts of the development on steeper slopes, as proposed, was analyzed in the RDEIR, including in Chapter 3.1 – Aesthetics (2019 RDEIR), Chapter 3.2 - Air Quality, Chapter 3.3 - Biological Resources, Chapter 3.6 - Geology and Soils, Chapter 3.7 - Hazards and Hazardous Materials (as amended by 2019 RDEIR), Chapter 3.8 – Hydrology and Water Quality, Chapter 3.9 – Land Use Planning, Chapter 4 – CEQA Considerations (as amended by 2019 RDEIR), and Chapter 5 – Alternatives (as amended by 2019 RDEIR). Also see Response to Letter 5, Number 14b and Response to this comment letter, Number 1, above.

7. This comment relates to determining project consistency with the air quality plan, the season for estimating emissions, and questioning the project's consistency with general plan policies.

The Air District has stated that if “there is no residential component (to a project), a consistency determination is not necessary” (MBUAPCD 2011; email from Bob Nunes, Air Quality Planner,

MBUAPCD to Richard James, EMC Planning Group, on November 21, 2016). Note: MBUAPCD is now known as the Monterey Bay Air Resources District.

Emissions of criteria pollutants are typically greater during the winter months in the air basin; therefore, only winter emissions were reported in the RDEIR assessment. However, the difference between winter and summer emissions volumes is usually small. CalEEMod produces both summer and winter operational emissions projections. The modeling conducted for this project indicated that most criteria pollutant emissions would be at their highest during the winter months. The exception is Reactive Organic Gases (ROG). Emission of ROG in summer is identified as 22.49 pounds per day as opposed to 22.36 pounds per day in winter. The long-term unmitigated operational emissions of ROG for both winter and summer are significantly below the air district threshold of 137 pounds per day. This information does not change the conclusions of the analysis.

Consistency with County General Plan policies 20.1.2 and 20.1.4 are addressed in the RDEIR on page 3-265. The project was determined to be consistent with both policies.

8. The comment relates to prohibiting wood burning stoves and fireplaces. The County acknowledges the comment. To ensure that wood-burning stoves/fireplaces are prohibited, a condition of approval will be required which prohibits wood-burning stoves/fireplaces. A condition of approval is being used as the enforcement tool, as long-term stationary and vehicular emissions impacts are less than significant and do not require mitigation (see RDEIR Impact 3.2-3 on page 3-45). The condition of approval would be as follows:

Solid fuel heating appliances (i.e., wood-burning fireplaces; wood stoves; barbecues, etc.) shall be prohibited.

This prohibition shall be included as a condition of approval of the Combined Development Permit and reflected on the Use Permit for creation of 77 timeshare units, the Vesting Tentative Subdivision Map, all Final Maps, and on all building permits.

#### Errata

*An addition to the text at the end of Impact 3.2-3 has been made to clearly identify this condition of approval.*

To ensure that wood-burning stoves/fireplaces/barbecues are prohibited, a condition of approval will be required that prohibits wood-burning stoves/fireplaces/barbecues. A condition of approval is being used as the enforcement tool, as long-term stationary and vehicular emissions impacts are less than significant and do not require mitigation. The condition of approval is as follows:

Solid fuel heating appliances (i.e., wood-burning fireplaces; wood stoves; barbecues, etc.) shall be prohibited.

This prohibition shall be included as a condition of approval of the Combined Development Permit and reflected on the Use Permit for creation of 77 timeshare units, the Vesting Tentative Subdivision Map, all Final Maps, and on all building permits.

*Please refer to Section 4.0, Changes to the Recirculated Draft EIR.*

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9. This comment states that traffic trip generation is understated. Please refer to the responses to Letter 5, Number 6, and Letter 8, Number 4. The County will include a condition of project approval that limits trip generation to an annual average of 406 trips per day. This is the same volume assumed in the RDEIR. Therefore, there would be no change in GHG emissions volume from mobile sources, and no need to re-run CalEEMod.

10. This comment questions the certainty of purchasing carbon offsets.

The commenter states “mitigation by offsets is relatively new and unproven.” In addition to the on-site measures proposed by the applicant, off-site carbon credits are proposed to bring the project to a zero net emission level for greenhouse gases. Mitigation using offsets has been discussed as an option for several years. The approach was most recently validated by the California Air Resources Board in its 2017 Scoping Plan, which states in part, “...it may be appropriate and feasible to mitigate project emissions through purchasing and retiring carbon credits issued by a recognized and reputable accredited carbon registry” (2017 Scoping Plan, p. 136).

The cost of voluntary certified GHG reduction credits generally ranges from about \$2.00 to \$6.00 per metric ton. With the requirement in RDEIR mitigation measure 3.4-1b that the applicant purchase 2,239.63 metric tons of GHG emission reduction credits to reduce GHG emissions to zero, the approximate cost of the reductions could range from approximately \$4,500 to \$13,439.

The commenter provides no evidence that this mitigation approach is unproven. Services provided by the Climate Action Registry, a program of the Climate Action Reserve, serve as an example of the availability of certified GHG offset credits (<http://www.climateactionreserve.org/about-us/california-climate-action-registry/>). The Climate Action Reserve is one of the most well respected GHG emissions reduction credit certification and clearinghouse bodies in the U.S. As of June 26, 2018, the Climate Action Reserve showed an inventory of approximately 20,000,000 metric tons of GHG offset credits available for purchase as CEQA mitigation. The offset demand for the proposed project represents approximately 0.01 percent of the credits available as listed by the Climate Action Reserve. The Climate Action Reserve is one of several GHG emission reduction certification bodies in the United States; additional offsets are available through other certification bodies. The project demand is miniscule relative to the pool of certified voluntary GHG emissions reduction credits available. In the fall of 2018, the Climate Action Reserve will launch its CEQA GHG Mitigation Registry. This new registry is designed to specifically serve CEQA compliance needs in California (versus broader demand from many types of offset credit buyers).

A condition of approval to require purchase of the offsets identified in Mitigation Measure 3.4-1b is not necessary. The mitigation measure itself will be a condition of approval, as is standard practice with the County, and a mitigation monitoring or reporting program will be adopted as part of the decision, as required by CEQA Guidelines section 15097(a) and also as required by CEQA Guidelines section 15091(d).

11. This comment suggests a list of methods that can reduce greenhouse gas emissions if purchasing of carbon offsets is not feasible. Please refer to the response in comment 10 above. Mitigation Measure 3.4-1b requires the applicant to purchase permanent GHG offsets that are retired once purchased. There is no need for additional mitigation. The applicant has stated that they will likely implement some of the carbon reduction strategies identified in the commenters list to reduce the cost of purchasing carbon credits.

12. This comment points out an error in the air quality modeling.

As stated on page 8 of the CalEEMod Assessment Memo, “Based on information provided in the RDEIR Table 3.3-4, Existing Vegetation Types and Proposed Impacts within the Project Site, a loss of sequestration potential was modeled for the conversion of approximately 37.3 acres of natural communities (grassland, scrub, eucalyptus, hardwood forest, oak woodland, and riparian).” The CalEEMod Assessment Memo incorrectly identifies the acreage used in the modeled estimate of the loss in sequestration potential from conversion of natural plant communities. The conversion of approximately 38.3 acres was modeled, not the 37.3 acres reported in the memorandum (refer to 2018 RDEIR Appendix D, Assessment Memo, Attachment b, Table 11.1). This error does not change the conclusions of the analysis. As explained in the Assessment Memo (page 8), only the conversion of natural communities was included in the modeling, which is why there is a difference between the 41.8 acres identified in RDEIR Table 3.3-4 and the 38.3 acres modeled.

According to CAL FIRE, for fuel management activities conducted pursuant to Public Resources Code section 4291 (defensible space<sup>8</sup> requirements), mandatory clearing is not necessary and does not involve vegetation removal or soil disturbances as long as they do not form a means of rapidly transmitting fire from the native growth to any building or structure and, therefore, would not result in the loss of vegetation. This section of state law also does not apply to single specimens of trees, ornamental shrubbery, or similar plants that are used as ground cover. Only hazardous fuels are removed and most “clearing activities” consist of pruning and mowing thin dead brush or other plant matter from the understory and overstory to reduce fuel loads and remove ladder fuels that create a pathway from ground fire to tree canopies. The defensible space area in this project will remain vegetated and maintained and/or replanted with fire resistant vegetation. Including this acreage in the CalEEMod estimates of the loss in sequestration potential would overestimate the potential loss of sequestration.

13. This comment suggests audits of the project’s emissions every five years.

Mitigation Measures 3.4-1a and 3.4-1b require the applicant to implement specific actions to reduce GHG emissions. The applicant has also proposed specific GHG reduction measures for incorporation into the project as described in the RDEIR (page 2-54). The GHG reductions from these measures have been modeled based on validated data using CalEEMod, the most widely accepted methodology for modeling GHG emissions from land use projects in California. Thus, the RDEIR meets the standard to disclose the GHG effects of the project based on the best currently available information. While the County is obligated to ensure that the GHG mitigation

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<sup>8</sup> Defensible space is defined as: “The area within the perimeter of a parcel, development, neighborhood or community where basic wildland fire protection practices and measures are implemented, providing the key point of defense from an approaching wildfire or defense against encroaching wildfires or escaping structure fires. The perimeter as used in this regulation is the area encompassing the parcel or parcels proposed for construction and/or development, excluding the physical structure itself. The area is characterized by the establishment and maintenance of emergency vehicle access, emergency water reserves, street names and building identification, and fuel modification measures.” (California Code of Regulations, title 14, § 1271.00.)

measures and applicant proposed measures are implemented, the County is not obligated to audit the project after the point that the applicant has complied with the mitigation measures.

14. This comment introduces a series of questions related to water supply impacts and groundwater.

See Master Response 1. Responses related to groundwater comments are included in the following responses.

15. This set of comments relates to CEQA requirements for cumulative analysis.

The County of Monterey concurs with the commenter related to the two-step process for analyzing cumulative impacts and prepared such an analysis related to water supply in RDEIR section 4.5. As explained on RDEIR pages 4-11 through 4-14, the County determined that cumulative impacts to groundwater levels are “an existing significant effect” (RDEIR page 4-13). The RDEIR, in this section, goes on to state that “...however, the Paraiso Springs project’s incremental contribution to that effect is less than cumulatively considerable” as described in the discussion in that section. It is important to remember, as well, that the cumulative analysis discusses the potential environmental effects related to the project and other *probable* (emphasis added) future projects (CEQA Guidelines section 15130(a)(1)), while taking into account the existing baseline condition (past projects). The County conservatively used General Plan buildout, which will not occur, as part of the cumulative analysis related to groundwater (RDEIR pages 4-11 through 4-13) for step one. This is conservative when compared against the list approach that would only look at past, present and probable future projects. That typically involves looking at the existing baseline conditions and adding project applications approved and not constructed or those being processed. The General Plan buildout used in the analysis for this project is substantially more conservative in that it anticipates that every potential future project would be built. It is not probable that the General Plan would fully build out for an unincorporated area of over 3300 square miles.

For step two, as pointed out in the comment, “the agency must then separately consider whether the project’s contribution to that effect is itself considerable.” The RDEIR describes the projects that the Monterey County Water Resources Agency has worked on for over 70 years, including water conservation and groundwater management, to attempt to solve groundwater overdraft conditions in the Salinas Valley (RDEIR pages 4-12 through 4-14). The RDEIR describes the larger regional aquifer (SVGB) and the Forebay Aquifer Subbasin, in which the project is located. The Forebay Aquifer Subbasin has, at times, seen surplus water compared to the 1944 baseline year (RDEIR page 3-222). The Forebay Aquifer Subbasin does not experience seawater intrusion (RDEIR pages 3-227 through 3-229; Brown and Caldwell, 2015; Monterey County Water Resources Agency 2017a; Monterey County Water Resources Agency 2017b). The RDEIR concludes that the project’s contribution is less than cumulatively considerable (RDEIR page 4-13), resulting in a less than significant cumulative impact when analyzed against the threshold of significance (RDEIR pages 3-235 and 4-5):

Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level.

In addition, see responses to Number 16 and 17, below.

16. This set of comments states that the County failed to provide an adequate analysis of cumulative impacts to the groundwater basin.

Cumulative impacts are addressed in an Environmental Impact Report pursuant to CEQA Guidelines section 15130. Some key provisions of this section, relating to the comments and the County's responses are as follows:

- 15130(b) “The discussion of cumulative impacts shall reflect the severity of the impacts and their likelihood of occurrence, but the discussion need not provide as great detail as is provided for the effects attributable to the project alone.”
- 15130(b)(1)(B) Include “a summary of projections contained in an adopted local...plan, or related planning document, that describes or evaluates conditions contributing to the cumulative effect.” “A summary of projections may also be contained in an adopted or certified prior environmental document for such a plan. Such projections may be supplemented with additional information...”
- 15130(c) “With some projects, the only feasible mitigation for cumulative impacts may involve the adoption of ordinances or regulations rather than the imposition of conditions on a project-by-project basis.”

To summarize the above provisions of the CEQA Guidelines in relation to the County's approach for analyzing cumulative impacts related to groundwater for this project, the RDEIR quantified the severity of the impacts, including the amount of groundwater in storage, the trends of groundwater use for the Salinas Valley Groundwater Basin, and the project's specific contributions to that effect. Greater detail was provided in Chapter 3.8 for the effects attributable to the project (15130(b)). The cumulative analysis utilized General Plan buildout, which for an unincorporated County area would likely not occur, as a conservative assumption for the analysis related to the cumulative effects. The RDEIR cumulative discussion utilizes the General Plan Environmental Impact Report and the Salinas Valley Water Project Environmental Impact Report, but also additional subsequent information as described below in this response (15130(b)(1)(B)). The cumulative impact discussion describes that the property owner contributes to the Zone 2C assessment district, a mitigation program that funds groundwater management activities for a significant portion of the Salinas Valley Groundwater Basin (SVGB), including the project site and the entire Forebay Aquifer Subbasin, within which the project site lies and would extract groundwater (15130(c)). See more detail following in this response related to this paragraph.

The thresholds of significance raised by the commenter at the top of page 15 are paraphrased versions of the thresholds analyzed in the RDEIR for project and cumulative environmental impacts. The three thresholds cited, depletion of the SVGB, degradation of water quality, and secondary impacts caused by groundwater management projects, were analyzed in the RDEIR in Chapter 3.8 for potential project environmental impacts, and for potential cumulative environmental impacts in Chapter 4, section 4.5 (RDEIR pages 4-11 through 4-14). This section of the RDEIR provides specific calculations on the impacts on groundwater levels from the project's contribution to the significant cumulative effect (RDEIR pages 4-13 and 4-14).

Thresholds must be analyzed in the context of significance, not absolutes. In the court case cited by the commenter, *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4<sup>th</sup>, the court did not establish a “zero molecule” threshold of significance. The County has determined, for this project, that the project's contribution to a cumulative impact is “less than significant,” not “no impact.” It is up to the Lead Agency to make that determination based on substantial evidence. Substantial evidence was presented in the RDEIR based on site specific and regional information related to the Salinas Valley Groundwater Basin, the area of potential

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cumulative impact (information used - RDEIR pages 3-217 and 3-218; area of impact - RDEIR page 4-11). The County, which is the Lead Agency, has stated that the potential cumulative effect is less than significant for this project's contribution to the cumulative impact, which is consistent with the findings for other projects' contribution to cumulative effects (e.g., *Ferrini Ranch Subdivision Draft EIR*, August 2012, page S-38). That project also proposes to use water from the Salinas Valley Groundwater Basin.

One comment (page 15, first paragraph) asserts that the RDEIR "relies on the analysis in the Salinas Valley Water Project (SVWP) EIR and the 2010 Monterey County General Plan EIR..." The comment points to RDEIR page 3-246, but appears to miss the discussion in Chapter 4.5, Cumulative Impacts, related to groundwater (pages 4-11 through 4-14). The last paragraph on RDEIR page 4-12 specifically contradicts the comment and explains the information utilized in determining the significance of the cumulative impacts for hydrology and water quality. Updated groundwater and groundwater basin information cited in this section (Chapter 4.5, Cumulative Impacts) includes the following technical documents and presentations prepared since the SVWP EIR and 2010 Monterey County General Plan EIR were certified:

- *Addendum No. 1 to Final Environmental Impact Report #07-01, SCH#2007121001 Pursuant to California Environmental Quality Act Guidelines Article 11, Section 15164; 2010 Monterey County General Plan, Planning File No. REF120078, Amendment of General Plan* (Monterey County, 2013)
- *The Sustainable Groundwater Management Act of 2014* (State of California, 2014)
- *State of the Salinas River Groundwater Basin Report* (Brown and Caldwell, January 26, 2015)
- *California Groundwater, Bulletin 118, Interim Update 2016* (California Department of Water Resources, 2016)
- Peter Kwiek, Hydrologist, Monterey County Water Resources Agency, personal communication, June 2, 2017
- *Board Report, Monterey County Water Resources Agency, Legistar File Number: WRAG 17-167, July 11, 2017* (Monterey County Water Resources Agency, 2017a)
- *Board Report, Monterey County Water Resources Agency, Legistar File Number: 17-0712, July 11, 2017* (Monterey County Water Resources Agency, 2017b)
- *Comprehensive Hydrogeologic Report, Paraiso Hot Springs Resort* (Todd Groundwater, January 16, 2018)

The above documents provided substantial evidence used in developing Section 4.5 of the RDEIR related to potential cumulative impacts from groundwater use. This section discusses 1) the assessment district (Zone 2C) that provides funding to construct and operate facilities and methods that manage groundwater resources in this area of the Salinas Valley (RDEIR pages 3-229 and 3-230), 2) that the project is within Zone 2C and the property owner pays assessments to fund those operations, 3) references the suite of projects that help to manage groundwater resources (listed in RDEIR section 3.8), 4) describes the location of the project site within the Forebay Aquifer Subbasin and that this subbasin at times provides surplus groundwater (RDEIR page 3-222), and 5) summarizes the detailed information found in Chapter 3.8 related to these topics.

As pointed out at the bottom of RDEIR page 3-246 and the top of page 3-247, a 2013 General Plan Amendment addressed the issue of long-term water supply in the Salinas Valley. The policy cited on these RDEIR pages provides a framework for monitoring and solving groundwater overdraft. Although we agree with the comments that "overdraft conditions persist" and that "seawater intrusion will not be adequately controlled by current groundwater management projects" (comment letter page 15), the question is whether the project's contribution to a cumulative impact

is cumulatively considerable. Based on the substantial evidence found on RDEIR pages 4-11 through 4-14, as well as the information disclosed in RDEIR Chapter 3.8, the County determined that the project's impact on cumulative groundwater overdraft is less than significant (RDEIR page 4-14). See discussion related to the Sustainable Groundwater Management Act and its requirements to bring the basin into balance on RDEIR pages 3-231 and 3-232.

In response to the paragraph in the middle of comment letter page 15, the information about groundwater pumping assumptions used in earlier documents was not relied on for this RDEIR. This was explained in Chapter 3.8, pages 3-220 through 3-230. These pages describe the SVGB including the Forebay Aquifer Subbasin (a portion of the SVGB), the geologic makeup of the SVGB, the results of more recent information on the SVGB and Forebay Aquifer Subbasin, the variability of recharge in the Forebay Aquifer Subbasin, and the results of 2017 reports on seawater intrusion. The Engineer's Report of the Salinas Valley Water Project (*Salinas Valley Water Project Engineer's Report, RMC, 2003*) based on 1995 Land Use (used for the SVWP EIR) found that the SVWP would improve the groundwater balance of the basin and halt seawater intrusion as defined in the report. However, this report also found that the SVWP would not meet water demands and balance the SVGB based on projected 2030 Land Use and that additional projects would be needed. Also see Monterey County General Plan, Final Environmental Impact Report, SCH#2007121001, March 2010, pages 2-49 through 2-74 and pages 2-92 through 2-94.

The RDEIR discloses that the Monterey County Water Resources Agency continues to work on efforts, including future projects and continued studies, to achieve a balance in the SVGB (RDEIR pages 3-228 and 3-229). The comment states that irrigated agricultural acreage is substantially increasing; however, the relevant factor is not acreage, but water use within the SVGB, which has been addressed throughout the RDEIR.

In relation to the comment related to using demand and supply data in referenced documents, the County relied on the 2010 General Plan for the land use assumptions for buildout, not for water demand. For water demand and supply we relied on the project specific hydrogeologic report as well as the documents listed above in this response.

As we stated earlier in this response, we agree with the comment at the bottom of page 15 of this comment letter that "additional groundwater management projects would be required to halt seawater intrusion." The seawater intrusion is occurring in the Pressure 180/400 Foot Aquifer Subbasin, many miles distant from the Forebay Aquifer Subbasin, from which this project pumps groundwater. The Forebay Aquifer Subbasin is not a critically overdrafted basin as identified in Bulletin 118 (see RDEIR pages 3-231 and 3-232); the Pressure 180/400 Foot Aquifer Subbasin, where seawater intrusion is occurring, is classified as a critically overdrafted basin. The Forebay Aquifer Subbasin is classified as a Medium Priority Subbasin (RDEIR page 3-232; California Department of Water Resources 2016-*California Groundwater, Bulletin 118, Interim Update 2016*). While increased extraction of groundwater in any of the hydrogeologically connected subbasins of the SVGB affects conditions within the Pressure 180/400 Foot Aquifer Subbasin, the effect of this project on seawater intrusion would be immeasurable. See discussion related to the Sustainable Groundwater Management Act and its requirements to bring the basin into balance on RDEIR pages 3-231 and 3-232.

Contrary to the statement at the top of comment letter page 16, the County did not take the position of no impact based on the expectation of future projects that may bring the basin into balance and

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halt seawater intrusion. We concluded that the project's incremental contribution to the cumulative effect would be less than significant (RDEIR page 4-14).

Regarding the comment that the RDEIR fails to analyze the environmental effects of "necessary projects," it is not up to this project to solve the overdraft situation for the SVGB. Projects proposed by agencies to address groundwater overdraft are proposed by the Monterey County Water Resources Agency or other agencies. The project contributes to groundwater management efforts as explained in RDEIR pages 3-229 and 3-230 related to Monterey County Water Resources Agency Zone 2C; also see discussions on RDEIR pages 3-245 through 3-249, RDEIR pages 4-11 through 4-14, and Monterey County General Plan Final EIR pages 2-49 through 2-74. The RDEIR conclusion does not rely on any future groundwater projects for its determination of a less than significant cumulative impact. The RDEIR also recognizes the existence of the Sustainable Groundwater Management Act of 2014 and its legislatively required mandates to bring the aquifer into balance (RDEIR pages 3-231 and 3-232).

17. This set of comments states that the County failed to provide an adequate determination for the project's contribution to cumulative impacts to the groundwater basin.

The initial paragraph in this comment states that the RDEIR fails to make an adequate determination whether the project would make a considerable contribution to a significant impact. For the reasons stated in this response and in response 16, above, we disagree with the statement.

To address the 'first' comment on page 16 of the comment letter, the County disagrees that the RDEIR does not discuss the project's pumping in the context of the severity of the cumulative impact. The RDEIR agrees that a net deficit "currently" exists in the Salinas Valley Groundwater Basin (RDEIR page 4-13, second full paragraph) and that buildout of the County General Plan would have a significant and unavoidable impact on groundwater levels beyond the year 2030 (RDEIR page 4-13, first full paragraph). We disagree that the RDEIR fails to acknowledge that the pre-2030 (existing) situation is significant. RDEIR Section 4.5.2 concludes that the long-term cumulative effect of development reducing groundwater levels in the Salinas Valley is an "existing significant effect" due to uncertainty of success of water supply programs and implementation of Monterey County General Plan (2010) policies. The Monterey County General Plan Final EIR identifies that, with mitigation, the impact would be less than significant (pages 2-62 through 2-64). The statement about the "existing significant effect" is included in a sentence that also discusses the beyond 2030 time period as well, so we want to clarify that this RDEIR does recognize that impacts to the SVGB groundwater basin for the existing and post-2030 periods are significant and unavoidable until water supply projects or reduced groundwater use are demonstrated effective in providing a more balanced aquifer and halting seawater intrusion in the SVGB. The first sentence of the last paragraph on RDEIR page 4-13 acknowledges "a current deficit currently exists in the Salinas Valley Groundwater Basin..." In addition, the RDEIR clearly describes the continuing overdraft in the SVGB (RDEIR pages 3-222, 3-225, 3-228, and 4-13).

Discussion of the volume of groundwater in the aquifer was provided for the cumulative analysis on RDEIR page 4-14 (in addition to more detailed discussions in Chapter 3.8: pages 3-220 through 3-230; pages 3-245 through 3-249). RDEIR section 4.5 further states that the project's incremental contribution to this cumulative effect is less than significant as described on RDEIR pages 4-11 through 4-14, and as summarized on RDEIR pages 4-13 and 4-14.

Related to the comment on page 16 where the paragraph starts with "Second," we provide the following response. The determination of an assured water supply will be made ultimately by the decision making body, utilizing all information available to them, including information disclosed in the EIR for the project. The comment that the "SVGB can be mined through overdrafting" is not

accurate for the Forebay Aquifer Subbasin, based on its ability to recover during wetter periods, as described in the RDEIR and summarized in the next paragraph.

The RDEIR discusses the effect of using water from the overdrafted SVGB aquifer. Historically, the Forebay Aquifer Subbasin has, at times, recovered fully, as discussed in the RDEIR (RDEIR page 3-222; Brown and Caldwell, 2015, page ES-9). This recovery is in the context of a comparison to groundwater levels in 1944, prior to construction of the San Antonio and Nacimiento Reservoirs. However, the RDEIR also describes that the recent trend has been a decline in storage (RDEIR page 3-222, last sentence of first paragraph). RDEIR Section 3.8.4, Analytical Methodology and Significance Threshold Criteria, addresses the project's potential environmental impacts to water supply and on Salinas Valley Groundwater Basin groundwater levels (RDEIR pages 3-241 through 3-249). The project effects discussed in the RDEIR include the project's water balance, local aquifer characteristics, regional aquifer characteristics, project water use, and the characteristics of the Salinas Valley Groundwater Basin. To summarize key points about groundwater use in the Forebay Aquifer Subbasin, the RDEIR states that the yield for the Forebay Aquifer Subbasin is 154,000 acre-feet per year (RDEIR page 3-225) and that the pumping demand had decreased in the Forebay Aquifer Subbasin to 148,000 acre-feet per year in 2013 (RDEIR page 4-14), which was during the recent drought period. The RDEIR provides substantial evidence related to the fluctuations in the groundwater elevations in the aquifers and also calculations of the project's water use, for analysis of project (summarized on RDEIR pages 3-248 and 3-249) and cumulative impact (RDEIR pages 4-12 through 4-14).

RDEIR project impacts on groundwater levels are disclosed throughout RDEIR Chapter 3.8. RDEIR Section 3.8.2, Environmental Setting, describes the SVGB, its subbasins, the setting of the Forebay Aquifer Subbasin as part of the SVGB, the capacity and amount in storage of the Forebay Aquifer Subbasin, and storage trends in the Forebay Aquifer Subbasin (RDEIR pages 3-220 through 3-230). This section describes recent studies and reports, including public hearings at the Board of Supervisors, prepared for the SVGB. It describes that the Salinas Valley Water Project went into operation in 2010 and that its effectiveness is not yet known. The current study underway will recommend additional measures if the results show that more changes in supply or demand are needed to stop declining groundwater levels or halt seawater intrusion.

The cumulative effect related to this project was described in RDEIR pages 4-11 through 4-14, as described in this response and the response to comment Number 16 to this letter, above.

The comment further states that the impact that should be analyzed is that of using pumping capacity. The potential impact of a substantial lowering of regional groundwater levels, including drilling of deeper wells, water quality impacts (i.e., seawater intrusion), increased energy use, and the need for, and construction of, projects to try to alleviate the overdrafting. The RDEIR discusses the projects that have been constructed to address overdraft. The project's contribution is less than significant.

The comment about the threshold of significance found in the paragraph on pages 16 and 17 states that we should not have used the same threshold for the project as we used for the cumulative analysis. While similar, the threshold is not the same. The RDEIR analyzes the project against a threshold of significance related to the local aquifer (RDEIR page 3-235, Section 3.8.4, Significance Threshold Criteria, second bullet). The cumulative analysis reviewed the project's contribution to impacts to the much larger Salinas Valley Groundwater Basin (RDEIR page 4-13). The potential cumulative impact from a lowering of water levels in the SVGB is an appropriate County of Monterey

threshold of significance to be analyzed and disclosed in the RDEIR as both direct and indirect effects could result.

In response to the first full paragraph on page 17, the RDEIR does not seek “to trivialize the project’s...water use.” The RDEIR was very specific in addressing the project’s water use and in analyzing and disclosing the potential environmental impacts. The amount of water to be used was fully disclosed, including 1) water use by project phase (RDEIR pages 3-242 and 3-243), 2) potential additional water demand needed for mitigation (RDEIR pages 3-243, 3-244, and pages 3-254 through 3-256), and also 3) water demand for the possibility of constructing an on-site fire station (RDEIR page 3-308) (Note: the fire station is not proposed as part of the project, but a request for such a station has been included in earlier comment letters, so the possibility was analyzed in the RDEIR). While we concur that the Lead Agency may not “dismiss the significance of an impact simply because it is a small percentage of the overall problem,” the County has not done so. We have determined, based on the specific facts related to the project’s water demand and its potential impact to the overdrafted SVGB, that the project has a less than significant contribution to the cumulative impact. The commenter may disagree with our conclusion, but we have based our conclusion on two factors: consistency with findings adopted by the county on other projects that use water from the SVGB, and the specific information provided in technical studies summarized in this RDEIR and the fact that the project is located and drawing water from the Forebay Aquifer Subbasin, which is an area that does not have seawater intrusion and has recovered fully in past wetter periods (see responses above, including in response to this comment and in response to this letter, Number 16). Substantial evidence has been provided to support the environmental setting, the calculations used in the analysis of impacts, and the conclusions found in the RDEIR. Full disclosure of information to the public, and needed by the decision-making body (Lead Agency), has been provided, all based on substantial evidence, even if the commenter disagrees with the conclusions.

The next paragraph from the commenter states that the RDEIR “fails to compare the project pumping to the environmental problem.” They state that the project’s pumping should be compared to the amount of pumping in excess of sustainable yield. For additional disclosure to the public and the County’s decision-making body, we provide those calculations here. The amount of annual pumping that needs to be reduced, or provided by supply projects, to achieve a balance and theoretically halt seawater intrusion is 17,000 to 24,000 acre-feet per year (Brown and Caldwell, 2015, page ES-12). The amount of project pumping (15.5 to 17.8 acre-feet per year) would be approximately 0.1% of that annual amount utilizing the more conservative 17,000 acre-foot deficit. Those numbers are for the entire SVGB. If you compare the quantities for just the Forebay Aquifer Subbasin, the project would have no significant effect as that subbasin has fully recovered during wetter periods in the past. As pointed out in the project specific hydrogeologic report, the net loss to the larger SVGB is actually closer to the level of approximately nine acre-feet per year (RDEIR page 3-249, citing Todd Groundwater, 2018, sections 10.2 and 12), so 0.1% overstates the potential contribution to the cumulative effect (would be approximately 0.05%; 9/17,000). The commenter does not provide any specific evidence why this would be considered a significant cumulative effect.

Related to the last paragraph in this comment, the County did not take the position that the assessments for Zone 2C will pay for future projects, or that existing projects fully mitigate the water supply impacts. That was not the basis for our conclusion of a less than significant contribution from this project to a cumulatively significant impact on groundwater supply. We concur that future projects that may be used to fully offset groundwater use in the SVGB have not been reviewed or funded, and that they cannot be relied upon in making a determination on the project’s contribution to a cumulative impact. That is the reason we found the cumulative impact potentially significant, as opposed to the General Plan Final EIR finding that the impact was less

than significant (Monterey County General Plan Final EIR, March 2010, pages 2-62 through 2-64). Agencies, as pointed out in the RDEIR, have more work to do to bring the SVGB into balance and to halt seawater intrusion (RDEIR pages 3-220 through 3-230; RDEIR pages 3-231 and 3-232; RDEIR pages 3-245 through 3-249; RDEIR pages 4-11 through 4-14). That information has been disclosed to the public and to the decision making body. Zone 2C projects have instituted water projects that provide benefits to the SVGB by funding dam operations and other facilities and operations (e.g., Salinas Valley Water Project) that supply additional groundwater to benefit users of the groundwater. See discussion related to the Sustainable Groundwater Management Act and its requirements to bring the basin into balance on RDEIR pages 3-231 and 3-232.

In summary, the RDEIR does not find that the project has no contribution to a cumulative impact, but a less than significant contribution to an existing and future cumulative impact. It is not the obligation of this individual project to solve the groundwater situation, which continues to be addressed on a basin wide level. The project is within the assessment district that has been, and is, funding solutions toward the goal of achieving a balanced basin and halt seawater intrusion (RDEIR page 3-229 and 3-230). The RDEIR presents all the relevant information for the public to understand the potential effects of the project on the environment, and provides substantial evidence for the decision-making body to make a determination on significance for cumulative impacts related to water supply.

18. This comment states that evidence has not been presented about well impacts being less than significant. The RDEIR (Page 3-250) discusses the basis for the 0.5 feet drawdown, conservatively predicted for the nearest well, located 0.7 mi from the project wells. The estimate is based on a groundwater flow model calibrated using data from onsite boreholes as well as water levels measured at the main project well.

The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-1, -6 through -17, -20, -21, -31, -33, -34, and -37, in the Todd Groundwater document found at the end of the responses to Letter 10.

19. This comment states that no definitive statement about impacts to a spring were included in the RDEIR. See Todd Groundwater's discussion of the spring response during well pump tests, which extracted groundwater at a rate and order of magnitude greater than the maximum buildout demand of the proposed project (Todd Groundwater, 2018, section 10.1; Todd Groundwater, BHgl-5 found at the end of the responses to this Letter). See also the discussion in RDEIR Impact 3.8-7, Potential Spring Impact, which discloses the potential environmental impacts related to the spring and finds the potential impact as less than significant.

The Monterey County Water Resources Agency staff and staff from the Monterey County Environmental Health Bureau have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-1, -4, -5, -20, -22, -23, -25, -26, -27, -28, -30, -32, -33, -34, -38 and -39, in the Todd Groundwater document found at the end of the responses to this Letter.

In the partial paragraph at the top of page 19 of the LandWatch letter, last sentence, the commenter cites a proposed mitigation. There is no proposed mitigation, so we assume they are referencing their argument of a potential significant environmental effect related to what is being discussed in

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this paragraph of this comment. Todd Groundwater, in responses to comments on the RDEIR (attached at the end of responses to Letter 10), notes that, any changes in spring flow would not be environmental impacts, but rather impacts to water users “since spring discharge is presently conveyed away from the spring in a pipe” (“Responses to Bierman Hydrogeological (BHgl) Comments and Landwatch Hydro Comment D, 8/17/2018,” BHgl-22). To state this another way, the entire flow from the spring is collected and not dispersed to the physical environment, so no impacts on the environment are determined for water flow from this spring. Also, see section B in the Todd Groundwater responses found at the end of the responses to Letter 10.

Also see Responses to Letter 7, Number 30 and to Letter 12, Number 7.

20. This comment relates to salt loading and its effects on the spring providing water for the neighbors’ properties. It is unclear why the commenter requests that the County determine if off-site users currently treat the spring water. The RDEIR does rely on substantial evidence of existing groundwater water quality for the project site (Todd Groundwater, 2018), and identifies mitigation measures to ensure that groundwater water quality is not adversely affected by the project operations (including Mitigation Measure 3.8-8, specifically related to salt loading in groundwater).

The County does not monitor single-connection water distribution systems (like a spring); however, in this case the water quality of this spring was analyzed and determined to not be potable. However, if a development permit application was submitted for a new dwelling to be served by a single-connection water source (well, spring, etc.) that did not meet drinking water standards, the County Environmental Health Bureau would require a treatment system be installed so that drinking water standards would be met (CA Plumbing Code, Section 601.2).

With reference to the comment on whether the neighbor already treats the spring water for salts and whether treatment would increase irrigation demand for a given amount of vegetation see Todd Groundwater responses listed below in this response. While the RDEIR stated that a “slight increase” in irrigation would be required to maintain soil salinity within vegetation tolerance ranges, Todd Groundwater states that a slight salinity increase would actually not affect vegetation tolerances. See section B in the Todd Groundwater responses found at the end of the responses to Letter 10. Therefore, additional irrigation would likely not be necessary and would not limit water for other normal residential uses by the neighbors using spring water piped from the project site.

The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant’s hydrogeologist and concur with the text found in responses BHgl-25, -27, -38, and -39, in the Todd Groundwater document found at the end of the responses to Letter 10.

21. This comment requests alterations to mitigation measures for biological resource impacts from vegetation modification activities for fire protection.

The RDEIR includes mitigation measures to protect special-status wildlife species in highly suitable habitat areas where they are now expected to occur. These mitigation measures would be implemented during the initial vegetation removal/reduction, as that is when the habitat areas are likely to contain these species/individuals. On-going/future fuel modification is not expected to significantly impact special-status wildlife species, because in the future, the habitat would have been altered by the initial vegetation removal/reduction and no longer provide highly suitable habitat to special-status wildlife species. It is not proposed that these mitigation measures would be implemented in perpetuity. However, nesting birds may occur in the fuel modification areas even

after the initial vegetation removal/reduction; nesting birds are protected at all times by state and federal laws as addressed in RDEIR Section 3.3.3, Regulatory Background.

22. The commenter states that the traffic analysis understates day use trips and makes six points, which are summarized below as a-f.
- a. The traffic analysis understates day use trips, and there is no basis for assuming the site's remoteness would limit day trip use to 50 persons.
  - b. There is no basis for assuming day use will be through organized tours in vehicles holding 5-9 passengers (as implied by the assumption that 50 persons would generate 6-10 trips);
  - c. The contention that day use would be limited to 6-10 trips is inconsistent with the assumptions made to calculate parking demand.
  - d. The traffic report states that when the smaller resort was in operation, it generated 25 average daily trips from day guests. It's not reasonable to assume that day use would decline substantially, compared to when the smaller resort was in operation.
  - e. Provide evidence that the ITE trip rates for Resort Hotels includes trips for day uses, and explain why the traffic analysis adds 25 trips for day guests for the previous use.
  - f. It would be incorrect to apply the guest vehicle trip reduction credits if the day uses are included in the ITE trip rates for Resort Hotels and the previous use traffic analysis is overstated.

22a. The trip generation rates used in the traffic analysis are based on those provided in the Institute of Transportation Engineers (ITE) *Trip Generation Manual* (all editions) for Resort Hotels.

The ITE *Trip Generation Manual* 9<sup>th</sup> Edition (page 677) and 10<sup>th</sup> Edition, Volume 2 (page 144), provide the following definition of a Resort Hotel (Land Use 330).

A resort hotel is similar to a hotel (Land Use 310) in that it provides sleeping accommodations, restaurants, cocktail lounges, retail shops, and guest services. The primary difference is that a resort hotel caters to the tourist and vacation industry, often providing a wide variety of recreational facilities/programs (golf courses, tennis courts, beach access, or other amenities) rather than convention and meeting business.

The trip generation rates for Resort Hotels include all traffic entering and exiting a project site including overnight guests, day users, employees, deliveries, ancillary uses, and people making U-turns in the parking lot. To determine the trip generation rate, the total number of trips entering and exiting the site is divided by the independent variable, whether number of rooms, number of occupied rooms, square feet or employees. When trip reduction strategies (e.g., use of shuttles) are used to reduce a trip component, they are deducted from the gross trip generation estimate. This was done for the proposed project, as shown in Table 3.12-1.

It is important to note that the definition of Resort Hotel includes multiple restaurants, cocktail lounges and retail shops (which would include wine tasting). All of these uses are included in the characteristics of and overall trip generation rate for a resort hotel, as described in the Traffic Analysis Report (Appendix K, under 3.1 *Project Traffic Generation*).

Additionally, the ITE trip generation rate for Resort Hotels includes day use guests, which includes those visitors who are not overnight guests at the resort but using resort facilities for the day. While the ITE trip generation rates do not break down the day use trips (i.e., distinguish between overnight guests leaving the resort for a day trip and offsite guests visiting the resort for the day), the project would be conditioned to limit trips to the 406 daily trips, as described in Master Response 5: Traffic under *Significance of Increased Traffic Impact*.

The traffic consultant also reviewed the day trip assumption with the applicant. The applicant, as a proxy for day trip use, asked the neighboring wine tasting room for the number of average visitors to visit their tasting facility daily to back test the assumption. That facility averaged in 2017 about 69 visitors per the four days per week that it was open. This average was then calculated to about 17 visitors per day. The assumption of 50-day trip users per day seemed very conservative based on the traffic to the neighboring facility. It is anticipated that wine tasting, restaurant and day spa use would be packaged to provide a complete experience.

22b. The RDEIR does not state nor did the traffic analysis assume that all of the day use trips would be through organized tours.

As part of the project applicant's business plan, it is intended that the resort would operate day trip shuttles for resort guests (originating on site); and for day guests wishing to visit the resort and/or coordinate these types of trips with other tour operators or hotels. This would also reduce individual traffic trips to and from the site.

Further, as stated above in response 22a, day trip users are included in the standard trip generation rate for Resort Hotels. It is the intent of the project applicant to capture some of the day trip users similar to what is done with shuttle services in the Napa Valley, Paso Robles, Santa Barbara, Sonoma, Temecula and other wine regions.

22c. In accordance with standard County practice, the parking supply needed onsite is based on the Monterey County Zoning Ordinance, not project trip generation rates. The Monterey County Zoning Ordinance provisions require parking supply for employees, restaurants and other ancillary uses while applying some reasonable credits for overlap of project specific components. Based on this approach, the Traffic Analysis Report (Appendix K) recommends 140 parking spaces for the Paraiso Hot Springs Resort not inclusive of the timeshare components of the project, which generate their own parking demand.

For comparison and back testing to the 140 spaces recommended using the Monterey County Zoning Ordinance approach, 133 parking spaces would be required using the ITE *Trip Generation Manual* and *Parking Generation* (4<sup>th</sup> Edition, 2010). As described above, the trip generation estimate for a Resort Hotel (Land Use 330) includes trips generated by employees, restaurants, retail spaces and other ancillary facilities. The ITE *Parking Generation* indicates that the average peak parking demand for a Resort Hotel (Land Use 330) is 1.29 vehicles per occupied room. Using this rate for the 103 units at Paraiso Hot Springs Resort, 133 parking spaces would be required.

The ITE description for Resort Hotel (Land Use 330) states, "A unique characteristic of resort hotels is the hourly variation in parking demand. One of the peak periods for parking demand is in the early afternoon (between 2:00 and 3:00 pm). This time frame corresponds with people checking out and checking in (for example, people tend to stay at the resort to the end of the checkout time and arrive at the beginning to maximize their stay and use of amenities). The pattern is unlike other hotels and motels that tend to report peak parking demand during the overnight and

lunchtime.” In other words, the parking facility must handle the parking demand from the overlap of arriving and departing guests.

As described in RDEIR Section 2.4 *Project Description* under *Internal Circulation and Parking*, the proposed project includes six surface parking lots that would be constructed in various locations to provide a total of 310 parking spaces for overnight guests, time share visitors, shuttle use, day users, and employees. The proposed project includes 310 parking spaces to meet the calculated parking requirement of 269 listed in table 3.12-5 on RDEIR page 3-343, which is to ensure the project meets all requirements of the Monterey County Zoning Ordinance provisions and provides an ample buffer for overlap of arriving and departing guests. As subsequent phases of the project are implemented and parking demand becomes clearer, it is likely there would be less demand for parking and the amount of parking could be scaled back to reflect actual use patterns.

22d. The historical trip generation (25 average daily trips from day guests) is provided in Exhibits 6A-6D of the Traffic Analysis Report (Appendix K of the RDEIR) as a point of reference only, to remind the reviewers that the project site was previously a resort destination. The historical trip generation was not used in any of the calculations, including those shown in Exhibit 6, and no credit is given for the historical trip generation at the site.

Day use with the project is not assumed to decline substantially compared to historical use. As stated in response 22a above, the ITE trip generation rate for Resort Hotel (Land Use 330) is inclusive of all day trips. Further, as stated in response 22b above, it is part of the applicant’s business plan to also operate day trip shuttles for day guests wishing to visit the resort and/or coordinate these types of trips with other tour operators.

22e. Refer to Responses 22a and 22d above.

22f. The historical trip generation is for reference only and the ITE trip rate for resort hotels does include day trips. The 25 trips for day guests for the site’s historic use can be eliminated and has no bearing on the environmental analysis; it is not part of the baseline for traffic trips.

The guest vehicle trip reduction credit, as shown in Section B of Exhibit 6D in the Traffic Analysis Report (Appendix K of the RDEIR), refers to overnight guests that would make an offsite trip. As stated in footnote 6 of Exhibit 6D and in RDEIR Section 3.12.5 *Impact Analysis* under *Project Trip Generation* of the RDEIR, the analysis assumes a credit for 20% of these overnight guest day trips (9 round trips total) because the resort would provide a shuttle for their overnight guests for these day trips. This credit has nothing to do with the day users who do not stay at the resort. As described in Response 22b, above, it is intended the resort would operate day trip shuttles for day guests (originating offsite) wishing to visit the resort and/or coordinate these types of shuttle trips to the site with other tour operators, which would be included in the 406 daily trip limitation.

23. The commenter makes several statements about employee trip generation, which are summarized below as a-d.

- a. The commenter asks if the ITE 330 trip generation rate for Resort Hotel (which is 6.13 average daily trips) includes employee trips and seeks clarification on peak hour employee trips.

- b. There is no indication that ITE 210 and 260 trip generation rates for Residential and Recreational Homes, respectively, include resort employee trips.
- c. The villas and condominium units may require more employees per unit than a hotel room because they will accommodate more guests.
- d. It appears the trip generation doesn't include gross trips by employees, yet takes a trip reduction credit for shuttle use, which understates the total trips.

23a. As stated in response 22a and indicated in the Traffic Impact Analysis (Exhibits 6A-6D, footnote 2), the trip generation rates for Resort Hotels (Land Use 330) include all traffic entering and exiting a project site including employees. The employee trip generation is not broken out in the gross trip generation rate for Resort Hotels (Land Use 330); however, employees are a substantial contributor to resort hotel traffic. With that said, for peak employee travel, the traffic engineer used ITE Land Use Code 140, Manufacturing, which is primarily employee trip generation, as a reasonable surrogate to obtain that number. Please See Page 8, point number 10 of the traffic report. Once again, the employee trips are included in the gross project trip generation estimate.

23b. The ITE 210 (Residential) and ITE 260 (Residential/Recreational Homes) trip generation rates were used for the Timeshare Villas and Timeshare Condos, respectively, and include resort employee trips. However, the Residential single-family home rate likely overestimates the traffic generated by that component of the project. This is because the standard single-family home includes multiple drivers going to and from work, school, shopping, deliveries, visitors, home repairs, and the like which would not all occur at a resort hotel site. The Recreational Home rate also likely overestimates the traffic because it is not anticipated that visitors would travel in and out on a daily basis, given the relatively remote location. However, with all things considered in the trip generation estimates, including anticipated trip reduction from shuttle service, the trip generation estimates are considered reasonable and would be limited to 406 trips per day (annual average) through the County's conditions of approval.

23c. The number of employees assumed for villas and condominiums is the same as that for the hotel units to provide for a conservative estimate and analysis of employee trip rates. Although they may accommodate more guests than hotel units, condominiums and villas include kitchens and cleaning/laundry facilities. Therefore, typically, housekeeping is not anticipated to be as frequent compared to hotel units. Further, the analysis is conservative because it anticipates full occupancy.

23d. As stated in response 23b, the ITE 210 (Residential) and ITE 260 (Residential/Recreational Homes) trip generation rates used for the Timeshare Villas and Timeshare Condos, respectively, include employee trips. To ensure the employee trips are not underestimated, the traffic engineer removed the Employee Shuttle Trip Reduction credits for the Timeshare Condos. The traffic engineer did not add them back for the Timeshare Villas because the traffic generated by that component of the project and represented by ITE 210 (Residential) was already conservative, even when applying the employee shuttle reduction (refer to response 23b, above).

None of these increases would change the level of service on the road, which would be maintained at LOS A, nor would it change the safety analysis presented in the report. Further, employee trips are included in the ITE 260 (Residential/Recreational Homes) source trip number, which provides for a conservative analysis.

24. The commenter makes several statements about the overall trip generation, which are summarized below as a-e.
- a. The commenter states that it does not make sense the number of guest units would triple but daily trips would decline, and asks if the ITE trip generation rates for Resort Hotels discusses the use of shuttles and how the traffic analysis determined the estimates for shuttle use.
  - b. The commenter asks if the County would monitor and enforce shuttle use by guests, and traffic would be revisited if assumed shuttle use is not realized.
  - c. The commenter asks if employee shuttle use would be mandatory and how it would be enforced.
  - d. The commenter asks if employees would be compensated for the time on the shuttle.
  - e. The commenter would like to know how many trips were attributable to employees at the Paraiso resort when it was last in operation.

24a. The lower net trip generation associated with the project is due to an aggressive traffic management program, which includes shuttle service. Employees would not be able to park in the nearby neighborhood and walk to and from the project site because road Right-Of-Way would not allow parking; vehicles would block the roadway; all the property surrounding the resort site is private property and generally fenced, there is no parking available on the road, and there would be a security gate at the entrance to enforce employee use of the employee shuttle.

The ITE manual with the rate assumptions does not provide information on the amount of shuttle and tour bus use by guests that is included in the ITE database for Resort Hotel. The facilities included in the database are located throughout the United States. Based on observations of resort hotels, visitors can arrive via taxi, other ridesharing services, private automobile and shuttle service. To be conservative, shuttle trips are assumed to not be included in the ITE trip rates and are added separately in this analysis. The assumptions used in the analysis result in a reduction of 40 daily trips with one in the AM peak hour, two in the PM peak hour and 10 (5 in and 5 out) in the Saturday project peak hour. Exhibit 6D of Appendix K references the assumption for the reduction of 40 daily trips on pages 9 and 13; page 10, items 14 and 15 provided narrative on the assumptions. This is a very modest assumption that has no quantitative effect on the project impact, particularly given that all roads and the intersection in the study area currently operate at LOS A and would continue to operate at LOS A through the long-term cumulative scenario (Phase 4 Buildout). Further, as noted in Master Response 5: Traffic, the County would condition the project to limit road usage to the 406 trips per day net trip generation.

24b. Refer to response 24a, above, regarding assumptions for guest shuttle use. The County does not plan to monitor shuttle use by guests, but will monitor total trips to and from the site. However, to ensure the traffic remains free flowing (i.e., within level of service A at Phase 4 project buildout), the County would condition the project to limit road usage to the 406 trips per day net trip generation. This is described further in Master Response 5: Traffic.

24c. The condition of approval will require compliance to the analyzed average 406 trips per day number. The applicant will be responsible for managing how they would comply with this limitation. As described in Master Response 5: Traffic, the County would monitor traffic volumes to maintain an average of 406 vehicles per day or less.

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24d. The project applicant would be required to comply with all applicable labor laws, as well as all conditions of approval imposed by the County, and thus manage its transportation programs accordingly to ensure compliance.

24e. Traffic volumes when the resort was last in use are provided in Appendix K, *Traffic Analysis Report* (e.g., Exhibits 3, 6A-6D, 18A-18D) for reference only and have no bearing on the environmental analysis. The ITE 330 trip generation rate for Resort Hotel was used in a simple calculation to provide an “apples to apples” comparison to the proposed project. However, the previous resort operation was much different than the proposed project. In 2003, there were approximately 25-30 full time residents at the resort. Using a similar ITE 210 trip generation rate for Residential of 9.57 trips per single family residence for these permanent residents, as was used in the project traffic analysis for the Timeshare Villas, alone could account for between 250-300 daily trips. Keeping in mind that the property at that time had no food service and visitors and employees would often leave the property daily for breakfast, lunch and or dinner and adding in the remaining available cabins, yurt compound, camping and trailer hook ups along with day guests and 10 employees then the historical reference number seems very reasonable.

25. The commenter states that the safety analysis is based on reported accidents and should account for unreported accidents and other considerations (e.g., AASHTO roadway safety standards).

It is standard procedure in traffic analyses to use reported accidents because unreported accidents, while acknowledged they occur, are speculative. Non-reporting is considered a constant that does not affect the relative rates when comparing collision rates at a specific location with statewide averages; those averages are also inclusive of unreported accidents. It is acknowledged that very low volume roads have volatile accident rates because a single accident can greatly increase the short-term accident rate, which is why 25 years of data was assembled in the traffic analysis.

26. The commenter makes several statements about the overall trip generation, which are summarized below as a-e.

- a. The commenter states that EIR should have more discussion regarding the project meeting applicable American Association of State Highway and Transportation Officials (AASHTO) standards, and the conclusion that the existing roadways are adequate doesn't correlate with AASHTO discouraging unnecessary improvements. The commenter also asks if the AASHTO *Guidelines for Geometric Design of Very Low-Volume Local Roads* should be used instead of the cited *Geometric Design Guidelines for Low Volume Roads*.
- b. The commenter states that if the existing roadways do not meet AASHTO's standards for safe roadways, then the RDEIR should have disclosed this as a potentially significant impact. The commenter also states that relying exclusively on potentially equivocal accident data to determine significance is improper.
- c. The commenter states that the peer review of the traffic report for the 2013 draft EIR states the road should be required to meet the design standards of a Rural Recreational and Scenic Road, not the less stringent design standards for a Rural Minor Access Road.
- d. The commenter states that the RDEIR should be revised and recirculated to identify applicable AASHTO standards for each section of Paraiso Springs Road.

26a. The commenter is correct regarding the cited handbook, and the RDEIR (Section 3.12.5, third paragraph under Roadway Hazards) has been revised to reference *Guidelines for Geometric Design of Very Low-Volume Local Roads*.

## Errata

*The 2018 RDEIR has been revised to correct the title name of a reference.*

*Modify section 3.12.5, Page 3-339, third paragraph, first sentence under Roadways Hazards to read as follows:*

“The American Association of State Highway and Transportation Officials Guidelines for Geometric Design ~~Guidelines~~ for Very Low-Volume Local Roads states...”

*Please refer to Section 4.0, Changes to the Recirculated Draft EIR.*

The fact that the existing road does not meet recommended AASHTO geometric standards does not indicate that the existing road is not safe, or that the impact of the project would create an unsafe road, which is why the safety analysis was performed as part of the traffic analysis for the project. The applicant’s traffic engineers also reviewed proposed project roadway improvements and opined that these improvements would further lower the expected accident rates along Paraiso Springs Road. Refer to Appendix K, *Traffic Analysis Report*, Sections 6 and 7, of the RDEIR. The County’s traffic engineers concur with this conclusion.

To provide additional detail as it pertains to the guidelines for AASHTO road standards, a review of the standards for the *Rural Recreational and Scenic Road* and the *Rural Minor Access Road* classifications indicate that 20 feet of pavement width should be provided for both classifications along the tangent (straight) sections of a roadway. A width of 18 feet is allowed for both classifications for speeds of 35 miles per hour or lower. Widths of less than the minimums may be appropriate in mountainous terrain as indicated on page 19 of the guidelines. Based on the guidelines clear zones are not mandatory. Also refer to response 26c, below.

RDEIR Appendix K, *Traffic Analysis Report* (Appendix O), provides four sheets with the current and proposed roadway pavement widths for each section of Paraiso Springs Road measured at 50-foot increments. Source: Atlas Land Surveys, Inc., Aug. 18, 2008

<http://www.co.monterey.ca.us/home/showdocument?id=62650>

Information from these sheets and additional information regarding roadway widths is provided below. Mountainous areas are not indicated on any of the sheets, but are indicated in the discussion below.

Sheet 1 of 4 (top half): Beginning at the Paraiso Gate, this section represents approximately 1,150 lineal feet of the road and is in a mountainous area with steep terrain. The current road pavement widths range from 14’ 3” to 20’ 2”, with approximately 87% of the road below 18 feet wide. The road pavement is proposed to be widened to 18 feet where feasible in Phase 2 of project buildout. All areas in this section seem feasible to achieve the 18 foot width.

Sheet 1 of 4 (bottom section): This section represents approximately 850 lineal feet of the road and is in a mountainous area with steep terrain. The current road pavement widths range from 14’ 2” to 18’, with approximately 95% of the road below 18 feet. The road pavement is proposed to be widened to 20 feet where feasible in Phase 3 of project buildout. There is a 25-foot section of the

road, which curves in the mountainous area between stations 14+00 and 15+00, that is currently 17' 4" and could be widened to just under 20 feet. Minimally, the entire section will be 18ft.

Sheet 2 (top section): This section represents approximately 1,125 lineal feet of the road and is in a mountainous area with steep terrain. The current road pavement widths range from 15' 9" to 18' 5", with approximately 83% of the road below 18 feet. The road pavement is proposed to be widened to 20 feet where feasible in Phase 3 of project buildout. There is a 200-foot section of the road, in the mountainous area between markers 21+00 and 23+00, that currently ranges from 15' 9" to 17' 4" and may be constrained from widening up to 20 feet but will minimally achieve 18ft and above for this entire section

Sheet 2 (bottom section): This section represents approximately 1,125 lineal feet of the road and is relatively straight. The current pavement widths range from 15' 3" to 18' 9", with approximately 57% of the road below 18 feet. Almost all portions of the road pavement are proposed to be widened to 20 feet in Phase 3 of the project buildout and will achieve the 18ft minimum.

Sheet 3 (top section): This section represents approximately 1,110 lineal feet of the road and is relatively straight. The current road pavement widths range from 16' 8" to 20' with approximately 43% of the road below 18 feet. All portions of the road pavement are proposed to be widened to approximately 20 feet in Phase 4 of the project buildout.

Sheet 3 (bottom section): This section represents approximately 1,150 lineal feet of the road and is relatively straight. Pavement widths range from 16' 5" to 19' 4", with approximately 43% of the road below 18 feet. All portions of the road pavement are proposed to be widened to 20 feet in Phase 4 of the project buildout.

Sheet 4: This section represents approximately 1,000 lineal feet of the road. Pavement widths range from 15' 9" to 25', with approximately 30% of the road below 18 feet and 35% below 20 feet. All portions of the road pavement are proposed to be widened to approximately 20 feet in Phase 4 of the project buildout. The portion of the road pavement that is currently 25 feet (around the curve near Clark Road) would remain 25 feet wide.

These improvements were developed by the traffic engineers at Hatch Mott McDonald in coordination with Monterey County RMA-Public Works. The final improvement design would be refined based on detailed field topographic survey data and subject to approval by Monterey County. Also, additional pavement striping, delineation and signing would be provided to further enhance road safety. Also refer to Master Response 5: Traffic.

26b. CEQA does not require that an EIR identify impacts from existing conditions. The purpose of an EIR is to assess the impact of a proposed project on the environment by comparing potential changes caused by the project with existing conditions. In CEQA terminology existing conditions are referred to as the "baseline," and typically represents the "physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published" [CEQA Guidelines §15125(a)].

The accident data used in the analysis is not "equivocal". It is based on 25 years of County data and is the basis for the County managing County roads. Also refer to response 25, above.

The fact that the existing road does not meet recommended AASHTO geometric standards does not indicate that the existing road is not safe. AASHTO's *Guidelines for Geometric Design of Very Low-Volume Local Roads* (page xxi) states: 270 of 1030

The fact that new design values are presented herein does not imply that existing streets and highways are unsafe, nor does it mandate the initiation of improvement projects. *A Policy on Geometric Design of Highways and Streets*, 6<sup>th</sup> Edition, AASHTO, 2011 states that specific site investigations and crash history often indicate that the existing design features are performing in a satisfactory manner. This is especially true for very low-volume roads, which experience substantially fewer crashes than higher volume roads. These guidelines recommend an approach to geometric design for very low-volume roads, including both new construction and projects on existing roads, that is based on research concerning safety cost-effectiveness of geometric elements and on reviews of site-specific safety conditions.

26c. The County acknowledges that it is a prudent recommendation to use *Rural Recreational and Scenic Road* standards where feasible. Both the *Rural Recreational and Scenic Road* and *Rural Minor Access Road* standards indicate that 20 feet of pavement width should be provided along the tangent (straight) sections of a roadway, a width of 18 feet is allowed for speeds of 35 miles per hours or lower, and widths of less than the minimums may be appropriate in mountainous terrain as indicated on page 19 of the guidelines. This potential reduction in width would apply where the road has horizontal curves and or steep terrain.

The AASHTO *Guidelines for Geometric Design of Very Low-Volume Local Roads* are just that, “guidelines”. As stated on page 19 of the Guidelines: “Where minimum roadway widths are used for a selected functional subclass, the designer should consider providing a wider roadway at sharp horizontal curves. By contrast, widths less than the minimums shown in Exhibit 1 may be appropriate adjacent to historic structures or in mountainous terrain. In determining appropriate roadway widths, the designer should refer to the discussion of design flexibility in Chapter 3... Designers should be afforded great discretion in the use of Exhibit 1, even for new construction. Small differences in the existing and proposed dimensions from those shown in Exhibit 1 may be completely acceptable.”

With respect to the clear zone width, page 48 of the Guidelines states, “the risk assessment discussed in Section 3 of this guide found that it is not generally cost-effective to provide clear zones, also known as clear recovery areas, on very low-volume local roads. Nevertheless, a clear zone of any width should provide some contribution to safety.”

26d. Information regarding AASHTO standards is presented in response to number 26a, above, and the RDEIR has been revised to include this information as described in the response to 26a, above.

This provides additional detail and clarification as part of this Final EIR, and the RDEIR does not need to be recirculated. Also refer to Master Response 7: CEQA Compliance and Adequacy of EIR.

27. The commenter asks why the roadway has been determined to be publicly owned and, if private permission would be required to widen it, what legal agreements exist to permit improvements.

Refer to Master Response 6: Road Ownership, Right to Intensify Road Use, and Compensation.

28. This set of comments relates to another property, adjacent to the proposed development parcels, that is included in the Special Treatment designation in the 2010 General Plan.

See Master Response 1. The property the commenter cites is not part of the application, as they point out. The property owner does not need to include all their property in an application. The adjacent property, only adjacent at a point, is Assessor's Parcel Number 418-361-009. While we agree foreseeable development related to this project would need to be analyzed in the RDEIR, this parcel is not amenable to any development related to the resort operation, or perhaps any uses other than open space and a single family dwelling. The parcel is steep, mountainous terrain covered in chaparral habitat. Due to the topography and vegetation, it is not foreseeable that it would be developed for any uses other than open space uses. It is not identified as suitable for agriculture, including grazing (California Department of Conservation, Farmland Mapping and Monitoring Program, Monterey County Important Farmlands 2016, Other Land found at [ftp://ftp.consrv.ca.gov/pub/dlrp/FMMP/pdf/2016/mnt16\\_so.pdf](ftp://ftp.consrv.ca.gov/pub/dlrp/FMMP/pdf/2016/mnt16_so.pdf) and [http://gis.co.monterey.ca.us/Html5Viewer/Index.html?configBase=http://gis.co.monterey.ca.us/Geocortex/Essentials/external/REST/sites/PBI\\_Viewer\\_External2/viewers/BaseMapView/virtualdirectory/Resources/Config/Default](http://gis.co.monterey.ca.us/Html5Viewer/Index.html?configBase=http://gis.co.monterey.ca.us/Geocortex/Essentials/external/REST/sites/PBI_Viewer_External2/viewers/BaseMapView/virtualdirectory/Resources/Config/Default)). Slopes on the property are almost entirely over 25 percent, with a steep, narrow canyon bisecting the property. (County geographic information system layers including Special Treatment Areas (Planning), Slope > 25% (Potential Hazards), and aerial photos (2014 NAIP Imagery), found at [http://gis.co.monterey.ca.us/Html5Viewer/Index.html?configBase=http://gis.co.monterey.ca.us/Geocortex/Essentials/external/REST/sites/PBI\\_Viewer\\_External2/viewers/BaseMapView/virtualdirectory/Resources/Config/Default](http://gis.co.monterey.ca.us/Html5Viewer/Index.html?configBase=http://gis.co.monterey.ca.us/Geocortex/Essentials/external/REST/sites/PBI_Viewer_External2/viewers/BaseMapView/virtualdirectory/Resources/Config/Default)).

It is true that a project description must address planned future expansion or later phases of a project that would foreseeably result from project approval (Laurel Heights I, supra, 47 Cal.3d at p. 396). A project description need not address possible future expansion or other action related to a project that is not a reasonably foreseeable consequence of that project (see Paulek v. California Department of Water Resources (2014) 231 Cal.App.4th 35, 46). Here, development is neither presently proposed upon the adjacent parcel nor planned for the future. CEQA does not require an EIR to analyze an entirely speculative environmental impact (Mission Bay Alliance v. Office of Community Investment and Infrastructure (2016) 6 Cal.App.5th 160, 186). Moreover, even if development were reasonably foreseeable, CEQA review would not be triggered until meaningful analysis became possible (Friends of Sierra RR v. Tuolumne Park and Recreation Dist. (2007) 147 Cal.App.4th 643, 657). Commenter does not elucidate what project it believes the applicant would (or could) develop upon the adjacent parcel other than to state that it would be developed with "recreational and visitor serving uses;" an EIR need not analyze the potential environmental impacts of an unknown project (See Mission Bay Alliance, supra, 6 Cal.App.5th at p. 186).

29. This set of comments states a concern of converting timeshare units to residential uses.

See Master Response 1. The project will be limited to the uses proposed, and the assumptions included in the project description to analyze potential environmental impacts in the RDEIR, through conditions of approval. Residential uses would be precluded by the conditions of approval. Any proposed future conversion to residential use would require notice to the public, amendments to the permits, subsequent environmental review, and public hearings.

30. This set of comments asserts that mitigation for historic resource impacts is inadequate.

See Master Responses 1, 2, 3 and 4. Mitigation Measures 3.5-1a through 3.5-1d require certain steps to 1) create a digital catalog of historic archives and photographs (MM 3.5-1a), 2) design, create and provide informational displays both on site and for off-site museums, visitor centers, or other public areas (MM 3.5-1a and MM 3.5-1d), 3) funding for work by the Monterey County Historical Society (MM 3.5-1b), and 4) preparation of a brochure that can be used in museums and visitors' centers in the region (MM 3.5-1c). The commenter's reference to Mitigation Measure "3.5-1" seems to refer to Mitigation Measure 3.5-1a, which spells out the required steps and does not improperly defer mitigation. The mitigation measure does not intend to "recreate the lost resources." To the contrary, no reference to the design of the future resort is included in the mitigation measure. The project description states that the applicant is proposing a Mission Revival style (RDEIR page 2-20); however, this is not identified as a technique that reduces impacts to historical resources (RDEIR Chapter 3.5). Mitigation Measure 3.5-1a requires the collection of information to create a digital catalog, describes the content of the digital catalog, describes the catalog locations, and to which venues the catalog shall be offered. The mitigation measure further identifies the digital interpretive display, including the requirement that the display include multiple periods of significance for the site's history, and how the information shall be conveyed (photos, graphics, timelines, and narratives). The mitigation further describes that the format for the digital display shall be submitted to the County's Historic Resources Review Board for consideration, with final approval on the format by the County. The mitigation measure goes on to describe locations of the digital presentation and describes the timing for the different steps outlined in the mitigation measure.

The County Historic Resources Review Board has determined that the site is not considered a cultural landscape (Monterey County Historic Resources Review Board Memorandum dated March 25, 2016 for April 7, 2016 hearing). With the determination that the site is not a cultural landscape, construction in a former historic design, reconstruction and landscaping are not relevant for the site to avoid or substantially lessen potential physical environmental impacts (CEQA Guidelines Sections 15126.4(b)(1) and 15126.4(b)(2); RDEIR Chapter 3.5; Painter Preservation, 2018). See Master Responses cited earlier in this response for detail related to historic resource mitigation.

31. This comment requests that the County analyze an alternative of restoring the resort to the historic size of 61 units.

See Master Response 1. A project of the scale of the historic resort (approximately 1/3 of the proposed project size) would not meet primary objectives of the County for this site (2018 RDEIR pages ES-4 and 2-17). Also see discussion in 2019 RDEIR section 5.1.3, pages 73 and 74. See 2018 RDEIR section 5.1.2 for the screening process utilized for determining a range of reasonable alternatives. In addition to not meeting primary project objectives of the County, a proposal of that size would not avoid or substantially lessen the significant effects on the environment, in this case the loss of historic resources, one of the factors considered in eliminating alternatives from detailed consideration (CEQA Guidelines Section 15126.6; RDEIR page 5-2, last sentence).

## **Supplemental Expert Information**

The County provides two documents that provide expert testimony to assist in responding to comments:

- Todd Groundwater (August 2018) response to hydrogeological questions (in this section)
- Michael Baker International (February 13, 2019) response to lighting questions (2019 RDEIR Appendix 3)

### **Todd Groundwater**

The Applicant's hydrogeologic consultants (Todd Groundwater) have prepared responses to Bierman Hydrogeologic's comments (April 25, 2018) provided as part of the comment letter provided by Fenton and Keller dated April 26, 2018 (Letter 12). The Todd Groundwater responses are inserted here, with edits provided by County staff to Responses BHgl-31, -34, -35 and -36. The County's response to comments includes references to these responses provided by Todd Groundwater, as identified in each applicable response.

Although the following Bierman Hydrogeologic comment letter was submitted with Letter 12, it is provided here, with annotations from Todd Groundwater to correspond to the Todd Groundwater response numbering system.



Hydrogeologic Consulting & Water Resource Management  
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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;

- BHgl-1** 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>.
- BHgl-2** 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.
- BHgl-3** 3. Reassessment of the aquifer storage and groundwater balance in relation to project water demand based on revised transmissivity, storativity and precipitation values.
- BHgl-4** 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.
- BHgl-5** 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> Maanthis 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 Mannthis 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

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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.

BHgl-10

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:

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- 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.  
**BHgl-12**
  - 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.  
**BHgl-13**
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%).  
**BHgl-14**
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.  
**BHgl-15**
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  
**BHgl-16**

<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> Maggiori 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. **BHgl-17** 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. **BHgl-18** Reevaluation or each aquifer transmissivity and storativity coefficeints 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. **BHgl-19** 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. **BHgl-20** 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). BHgl-21
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. BHgl-22
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". BHgl-23

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:

BHgl-24

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.

BHgl-25

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.

BHgl-26

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.

BHgl-27

4. The location/size of the underground recycled wastewater storage reservoir could impede flow to the spring.

BHgl-28

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.

BHgl-29

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.

BHgl-30

#### 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.

- BHgl-31** 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.
- BHgl-32** 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.
- BHgl-33** 3. An increase in impervious area could reduce percolation to source aquifer and Pura Spring quantity/quality.
- BHgl-34** 4. Removal of existing culverts and re-routing of the drainage pattern may affect Pura Spring quantity/ quality.
- BHgl-35** 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.
- BHgl-36** 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.
- BHgl-37** 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.  
**BHgl-38**
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.  
**BHgl-39**

#### 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.

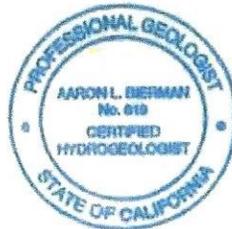
The conclusions included within this report are valid only as of the date and within the observational limitations of the reports and data reviewed. Our conclusions are intended for general comparison of the well and/or aquifer in its present condition against known water well standards and/or guidelines.

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,

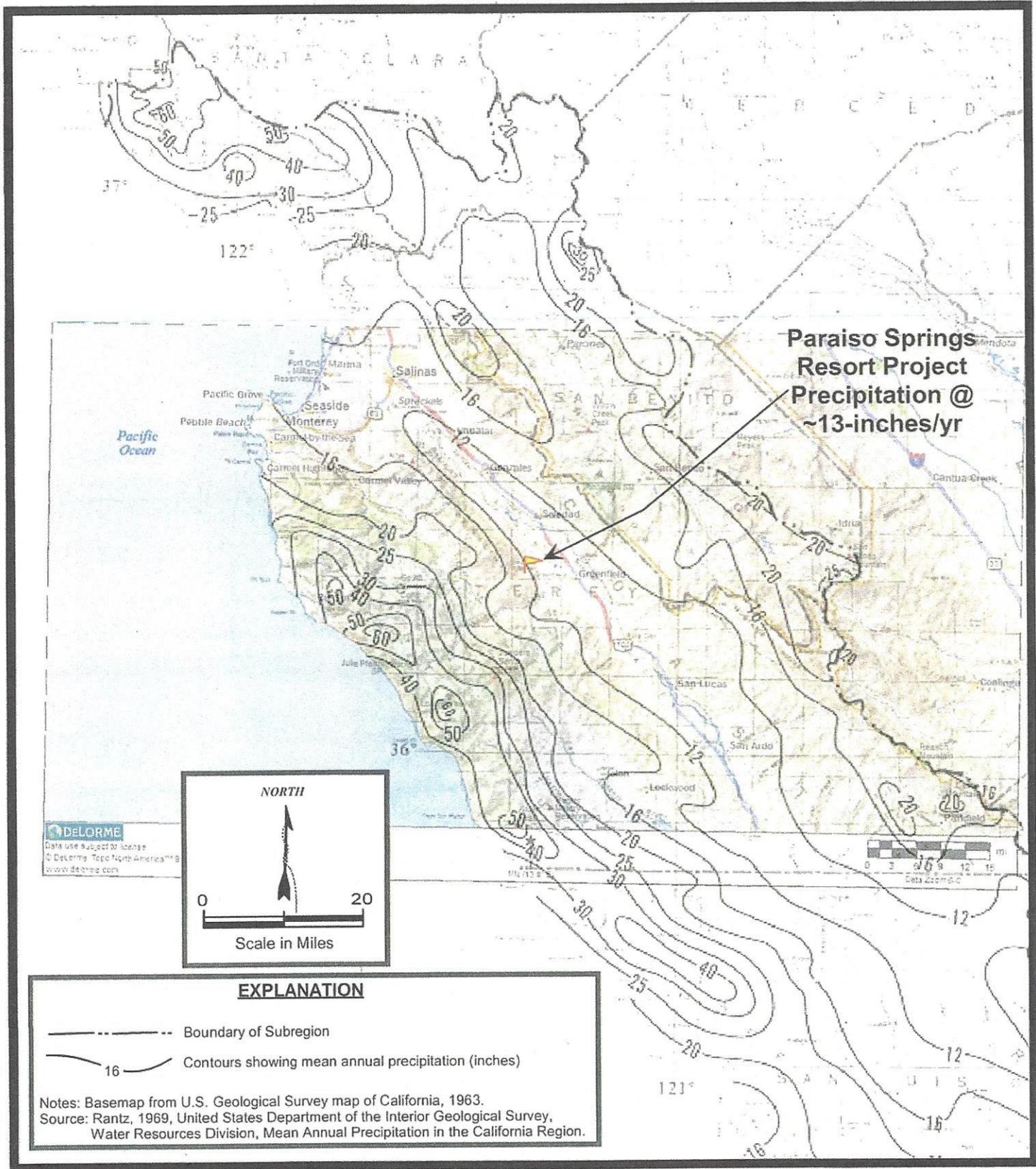


Aaron Bierman  
Consulting Hydrogeologist  
PG#7490, CHg#819



<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.



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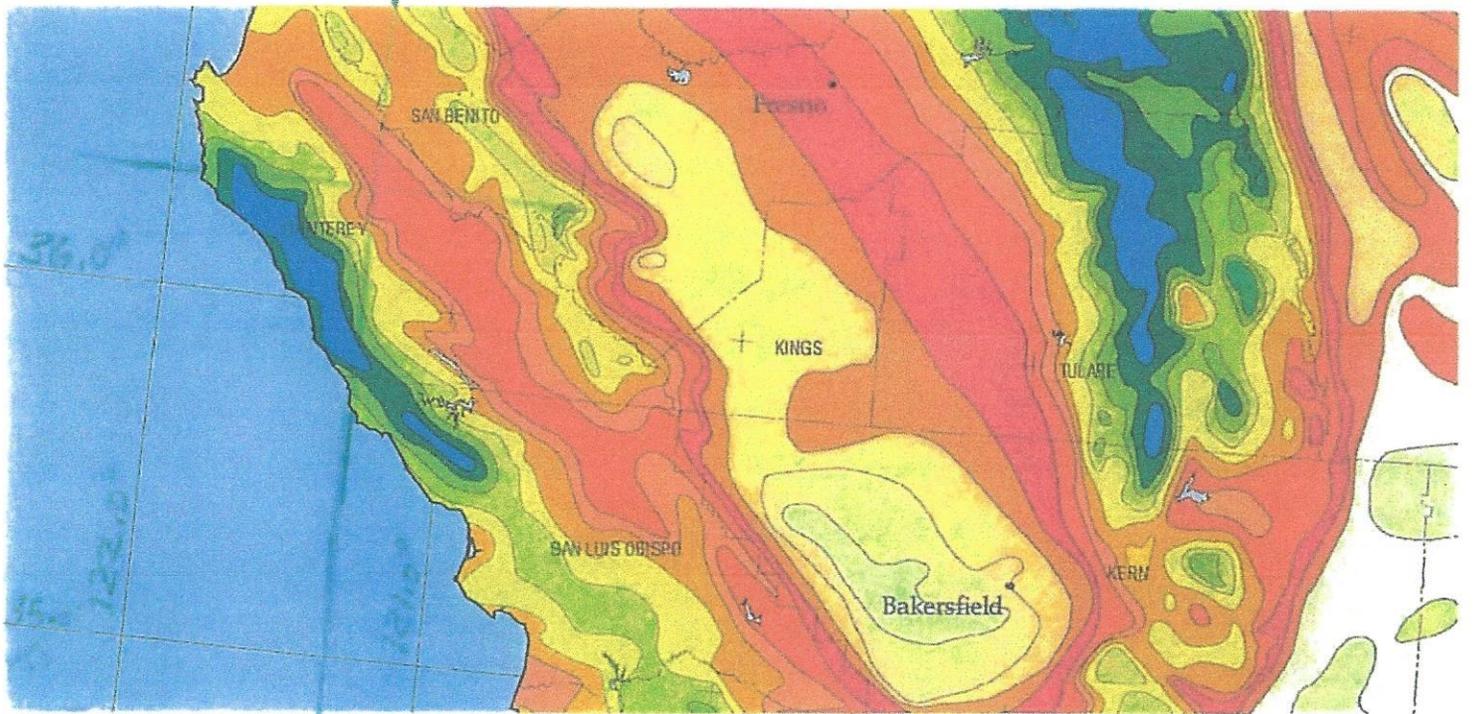


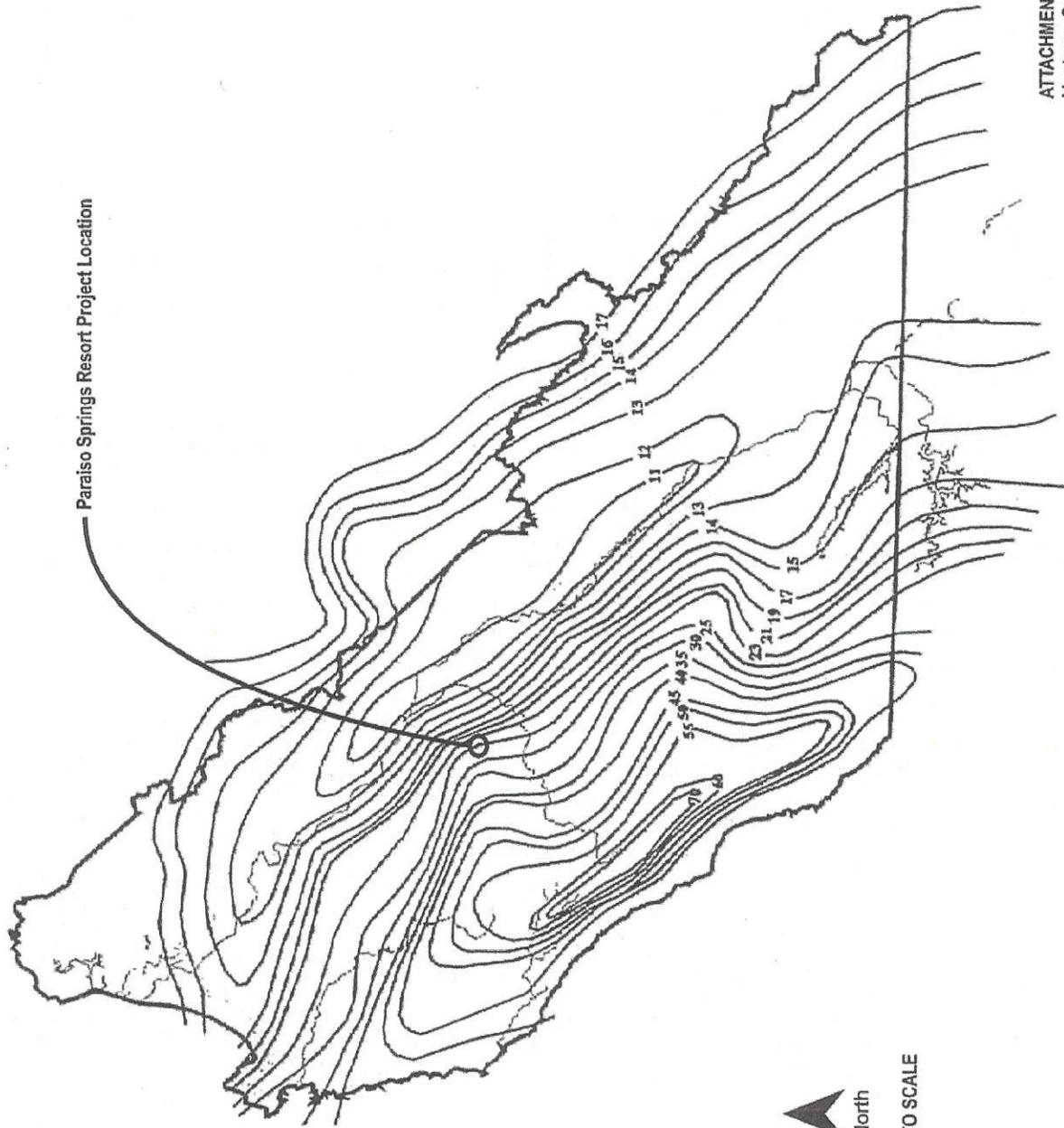
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**ISOHYETAL MAP  
PARAISO SPRINGS RESORT  
MONTEREY, CALIFORNIA**

**Figure  
XXX**





ATTACHMENT 5  
 Monterey County Mean Annual Precipitation  
 Paraiso Springs Resort Subbasin Delineation  
**CH2MHILL**

SOURCE: MCWRA Annual Report 1995 Water Year (MCWRA, 1997)  
 WB052008003B8AO Attachment\_4\_mean\_annual\_precip.ai 05-15-08 dash



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**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

**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/sect (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:

$$F = 0.2083 (100/c)^{1.852} q^{1.852} / d_n^{4.8655}$$

where

F = friction head loss in feet of water per 100 feet of pipe (ft<sub>h2o</sub>/100 ft pipe)

q = volume flow (gal/min)

d<sub>n</sub> = 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.

**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

150	77	139	224	478	859	1388	2958	6593
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.

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## Responses to Bierman Hydrogeological (BHgl) Comments and Land Watch Hydro Comment D

8/7/18

### A. Bierman Hydrogeologic Comment Responses

BHgl-1. The comment does not explain how “interaction between the alluvial and hardrock aquifer and associated springs” is material to the evaluation of project water supply and impacts. If the comment is referring to the fact that one of the supply wells is screened in the alluvium whereas the other is screened in the underlying Tierra Redonda Sandstone, then the interaction was implicit during the 2007 pumping test, when both wells were pumped concurrently. In other words, the test reflected the maximum possible impact of the wells on each other and of flow between the aquifers.

Potential impacts of the project on that spring were discussed extensively in the RDEIR and additionally in the responses to comments BHgl-4, -20, -22, -23, -25, -26 and -30. The possibility for impacts of pumping from the supply wells on the spring were evaluated by modeling and other methods and were found to be less than significant, as stated in the RDEIR on page 3-251:

This 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. Lowering of the water levels in the spring area could be approximately 0.5 feet (Todd Groundwater 2016a, Todd Groundwater, 2018). However, Todd Groundwater (2018) points out that “... even if drawdown occurred in the general vicinity of the spring, the spring discharge might not be affected” as spring discharge may not be affected by decreased water levels. In addition, spring discharge could change out of proportion to changes in groundwater levels through natural events such as drought (Todd Groundwater, 2018, section 10.1).”

The values of aquifer transmissivity and storativity have little bearing on the calculations to evaluate impacts and demonstrate water supply adequacy. See the responses to comments BHgl-12, BHgl-15 and BHgl-16 for details.

BHgl-2 regarding precipitation. See the response to comment BHgl-17.

BHgl-3 regarding transmissivity, storativity and precipitation. See the responses to comments BHgl-12, BHgl-15 and BHgl-16 regarding transmissivity and storativity, comment BHgl-17 regarding precipitation and comment BHgl-17, BHgl-19 and BHgl-20 regarding water balance.

BHgl-4 regarding impacts to the Paraiso spring used by the Pura Ranch. See responses to comments BHgl-20, -22, -23, -25, -26 and -30. In addition to the modeling analysis presented in the RDEIR, it should be noted that no interruption in the Pura Spring flow was reported during the 10-day pump test, during which pumping was at much higher rates than would occur during project operation. For example, the project is projected to pump 29 gallons per minute (gpm) of water per day at high occupancy rates. The pumping rates during the 10 day pump test were 58.5 gpm for well number 1 and 334.8 gpm for well number 2 for a total of 393.3 gpm or 566,352 gallons per day versus a projected need for the project of 34,400 gallons per day with average occupancy. The pump test pumped in 10 days approximately 164 days of the daily need or approximately 16.5 times the projected daily use. This test stressed the aquifer more than normal operations of the project would ever do. During the pump test, Pura did not notice a

reduction in spring flow. More recently, Pura representatives testified that the spring has consistently provided 1 gpm ever since they can remember.

Also, as stated on page 3-252 of the Draft Environmental Impact Report as it pertains to the Environmental Analysis and impact to the Pura Spring:

“In summary, the potential reduction of flow from the spring from additional groundwater pumping on the project site does not cause a potentially significant environmental effect. The easement to divert water from the spring allows the neighboring property owner 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. However, the terms of the easement between the properties control this issue and no potentially significant environmental impacts are identified. Any reduction in water flow to the spring that is caused by the project pumping may or may not result in additional pumping of a project well. Assuming a worst-case scenario where the spring has a reduction in flow or does not provide any water at times due to project pumping, and a successful legal claim was filed based on the terms of the easement, and the project owner was required to make up for the decreased flow up to the one gallon per minute, it would not change the environmental analysis. There would not be any change to overall groundwater use, as any water to replace or supplement the spring would have been accounted for in the baseline condition and would be extracted from the same water source. In other words, the same amount of water would be utilized from the same local groundwater basin whether it comes from the spring or from a replacement or supplemental source from the project site to provide that same quantity of water.”

BHgl-5 regarding response of Pura Spring to precipitation events. The response of Pura Spring to precipitation events is immaterial to the water supply and impact analysis. The critical period for water supply is the end of the dry season in dry years, when by definition there has been no recent rainfall. At that time, groundwater discharge to Pura Spring and groundwater available to the project depend on storage and flow of groundwater derived from previous winters in the alluvial basin and tributary watershed and from irrigation return flow. Rainfall and stream recharge are episodic, but it is the cumulative integration of those episodes that matters for dry season water supply, not the responses to individual episodes during the wet season.

Also, Ms. Pura’s ranch manager, Dennis Blomquist in his January 18<sup>th</sup>, 2018 deposition testified that the spring produces on average about 1 gallon per minute as has done so for some time and that the 1 gpm provided all the water the two Pura parcels needed.

BHgl-6 regarding the condition of Well #1. Monterey County Environmental Health Bureau outlined in its August 22, 2016 memorandum its conditions for the use of Well No. 1 and stated that they are comfortable with the sanitary seal. It is at the discretion of the applicant to decide whether he wishes to replace the well or comply with the recommendations of the MCEHB in order to use the existing well, which included disinfection and routine coliform monitoring. The well is already routinely monitored for any contamination, and that program is planned to continue.

BHgl-7 regarding the condition of Well #2. The discrepancy in reported well depth does not alter the measured pumping rate, the simulated impacts or reliability of the well. If MCEHB had been concerned

about the designation of this well as an irrigation well versus a potable supply well, it could have re-designated it, given that its construction meets the requirements for potable supply wells.

BHgl-8 regarding Well No. 3 the Soda Springs Well (shown on vesting tentative map sheet CT-4). The well is in use daily, 24 hours a day and used solely to provide hot water to the pools. The Spring discharges continuously at a low, constant rate and was unaffected by the test pumping. This well will only be used in its current capacity and is not critical to the long term water supply or the availability of potable water. If there were a flow interruption for any reason, the pools would simply receive less hot water or recirculate water like any other normal pool.

BHgl-9 regarding Well No. 4. (labeled "New Well" on Tentative Vesting Map sheet CT-2) This test well at the lower end of the property is not planned to be used in the project as it would require further development.

BHgl-10 regarding system losses, treatment losses and Maximum-Day and Peak Hourly Demands. System losses refer to leaks from the water distribution system. Leakage percolates down to the water table (up to a few tens of feet below the ground surface) and thus returns to the groundwater supply. There is no net loss of supply due to pipe leaks, so they were not included in the water balance calculations. Also, the resort infrastructure will be newly constructed, and pipe leakage is expected to be minimal.

Treatment losses can affect the groundwater balance and the required well pumping capacity. With respect to the groundwater balance, treatment losses were explicitly included in the water demand calculations. They are listed as a line item in Table 4 (1.9 AFY) and discussed on page 25 of the Comprehensive Hydrogeological Report (CHR). However, those calculations conservatively assumed that all backflush water would be hauled by truck for off-site disposal. The planned operation is to blend the backflush water into the recycled water storage reservoir, where it would become part of the irrigation supply. Note that from a water quality standpoint, this blending would simply return fluoride that was originally in the groundwater. With this mode of operation, net consumptive use of groundwater for the project would be smaller by 1.9 AFY than the amount estimated in the Comprehensive Hydrogeological Report and RDEIR.

With respect to well capacity, Well No. 2 would require more treatment and have a higher treatment loss than Well No. 1, as that well has lower fluoride concentrations. However, Well No. 2 also has a much higher pumping capacity and would have plenty of capacity to supply the higher loss rate. The pilot test of the fluoride treatment process found that the treatment loss could be as high as 14% for Well No. 2 but closer to 2% for Well No. 1. The water balance calculations for the RDEIR assumed a 50/50 blend of the two sources, for which the backflush requirement would be 5% of the pumped water. If Well No. 2 were the sole source of supply, it would need to produce 9% more water than assumed in the water balance calculations. The maximum demand for potable supply for the project is on the order of 30 gpm, and a 9% increase would bring that to about 33 gpm. Well No. 2 has a rated capacity of 167 gpm, which still far exceeds the required pumping rate. It is most likely that the project would use Well No. 1 for its potable water source, as the treatment loss would be closer to 2% and be the most economical to treat. This would make the 5 percent treatment loss assumption conservative.

The project water system will be classified as a non-transient non-community system. The comment incorrectly suggests that a typical Maximum Day Demand factor for single-source urban water systems

be applied to this project. Paraiso Springs Resort will be a dual-source system that uses groundwater for potable supply and recycled water for irrigation. In California, maximum monthly and daily demands typically stem from high irrigation demand in summer. Indoor water use is relatively constant throughout the year. Paraiso Springs Resort will also differ from typical urban development because it will not be continuously occupied. The maximum day potable demand will occur during periods of exceptionally high occupancy, regardless of the month or day of week. CHR Appendix Table A-4 shows monthly potable water demand at buildout assuming 85-100-100 occupancy (85 percent of hotel rooms occupied and all condominiums and other resort facilities in full use). This is considered a reasonable maximum occupancy assumption by the Monterey County Planning Department for the purpose of estimating well pumping and water treatment capacity. The Maximum Daily Demand at that occupancy level equals the maximum summer monthly demand for indoor uses, water treatment, and supplement water for wetlands and ornamental ponds, which is 4.6 AF. This is equivalent to 49,964 gallons per day, or a continuous pumping rate of 34.7 gpm. If 100 percent of the hotel rooms were occupied, the demand would increase to 36.0 gpm. The Monterey County Planning Department concurs that the credited yield for Well No. 1 should be 58.6 gpm which was the measured sustained pumping rate because this well is actually an alluvial well (Nicole Fowler, personal communication, August 2, 2018). In the original capacity study the credited yield was mistakenly reduced by 50% to 29.3 gpm as if it were a non-alluvial well. Adding well No. 2's credited pre-recovery yield of 167 gpm or post-recovery yield of 160 gpm (See BHgl 12 response below) into the equation, then the combined and individual well capacities exceed the maximum day demand requirements for the project.

Pursuant to the August 22, 2016 MCEHB letter, it is also important to note that non-community water systems may combine multiple sources to demonstrate maximum day demand.

Peak Hourly Demands will be met by storage fluctuations in the 500,000-gallon potable supply storage tank. This amount of storage equals approximately ten times the maximum day demand. Therefore, it would be capable of accommodating any degree of short-term fluctuation in water use during the maximum use day.

BHgl-11 regarding water system capacity. See response to comment BHgl-10. Also, the proposed water system for the project will not be considered a Community Water System and will be considered a non-transient non-community water system.

BHgl-12 regarding water-level recovery following well pumping test. The comment consists of three issues:

1. Were recovery data presented? Measurements of water-level recovery after pumping of the wells was completed were discussed on page 4 and plotted in Figure 3 of the aquifer test technical memorandum (CH2M HILL, February 26, 2008).
2. Did the water level recovery meet Monterey County Source Capacity Credit requirements established in the Monterey County Source Capacity Testing Procedures?

Well I#1 had only about 3 feet of drawdown at the end of the 10-day pumping period (after pumping was decreased to 58 gpm at the start of day 2). Water levels recovered completely within 1 day. Well # 1 is in the alluvial formation and is now credited with the 58 gpm pumping rate because it is an alluvial well and the recovery met the source capacity credit guidelines.

Well #2 had approximately 7 feet of residual drawdown 10 days after the cessation of pumping (9 percent of maximum drawdown at the end of the pumping period). Because Well No. 2 recovered to 91% of its initial static water level within ten days after the pump test ended, County test procedures require an additional 4% (95% - 91%) reduction in source yield, which results in a final post-recovery water source credit of 160 gpm for this well. This is lower than the originally credited pre-recovery source capacity credit of 167 gpm. MCEHB deemed these results acceptable.

3. Were transmissivity and storativity calculated from recovery data rather than drawdown data? The comment asserts that recovery data are preferable to drawdown data for calculating aquifer characteristics. Recovery data are sometimes slightly smoother than drawdown data, but the choice is basically a matter of preference. Drawdown data was used to estimate transmissivity from pumping early in the test period—which Todd did in response to the Balance Hydrologics peer review.

BHgl-13 regarding analysis of data during later stages of the pumping test. Bierman Hydrogeological and Balance Hydrologics both questioned the validity of drawdown data during later stages of the pumping test due to speculative influence of infiltrated discharge water on drawdown. It is unclear why this comment is requesting analysis of data the reviewer has already rejected as questionable. In the response to the Balance Hydrologics peer review, Todd recalculated transmissivity from early-stage drawdown data and demonstrated that the resulting value did not alter conclusions regarding impacts on neighboring wells or adequacy of the water supply.

As it relates to the pure speculation of recharge, the Monterey County Source Capacity Testing Procedures under Procedure 1C. requires “Discharge water shall be managed to prevent recharge of the well during testing/recovery period and shall not be allowed to pond percolate “within 200 feet of the well”. The original discharge hose started at 200 feet which means the water discharge was already being discharged beyond the 200 feet limit and not “within” the 200 feet. The test was also carried out under the supervision of MCEHB personnel to their satisfaction.

BHgl-14 regarding treatment and system losses and Maximum Day Demand. See response to comment BHgl-10. Briefly, system losses (pipe leaks) will likely be much less than the industry standard of 7% because all of the piping will be new construction. Furthermore, pipe leaks percolate to the water table and thus return to the water supply. Treatment losses will probably be negligible because backflush water will be sent to the recycled water reservoir and used for irrigation, offsetting groundwater demand. In addition, the high rate of treatment loss implied in the comment (14%) applies only to the backup well (Well No. 2), which has many-fold greater capacity than needed to meet the treatment loss. The Maximum Day Demand calculations in the response to comment BHgl-10 show that the credited pumping capacities of Well No. 1 (58 gpm) and Well No. 2 (160 gpm) each exceed the Maximum Day Demand.

BHgl-15 requesting additional aquifer tests. Given the sensitivity test Todd completed by recalculating transmissivity using early-stage drawdown data, the comment fails to demonstrate that additional testing would produce results materially different from the original test or outside the range encompassed by the Todd sensitivity test. As stated above the discharge line was within Source

Capacity Procedures and supervised by Monterey County personnel. Any notion of recharge due to the length of the discharge line is purely speculative and unsupported.

BHgl-16 regarding the 2016 well tests. The pumping tests in 2016 were requested by MCEHB simply to make sure that the wells were in good working order and to check the static water level in each well. The comment asserts that the tests did not conform to Monterey County standards. However, the tests were requested by Monterey County, performed under County direction and to the County's satisfaction. The County was free to request a longer test duration if had deemed it necessary.

The comment also asserts (again) that accurate transmissivity and storativity values are "essential components to the long-term water supply analysis for the RDEIR". In fact, those variables play only a minor role in the analysis, which is primarily a question of water balance. Transmissivity was used in one of the two estimates of average annual recharge and also in the groundwater flow model that estimated drawdown at off-site wells. In the response to the Balance Hydrologics peer review, Todd demonstrated that even an unrealistically low estimate of transmissivity would correspond to an adequate water supply. Substituting a smaller value into the groundwater model would decrease the estimated drawdown at neighboring wells. Storativity values from aquifer tests lasting a few days commonly underestimate the storage response of a groundwater system over periods of months to years. This is because of delayed drainage and slow vertical flow within layered alluvial basins. Accordingly, the evaluation of groundwater storage available during a drought was based on a specific yield of 0.15, which is typical of the types of geologic materials found in the basin.

BHgl-17 regarding average annual precipitation. The USGS isohyetal map (Rantz, 1972) shows Paraiso Hot Springs, and rainfall contours at that location indicate an average annual rainfall of 15 in/yr. Balance Hydrologics had also suggested that the original estimate of rainfall in the CHR (17-18 in/yr.) might be too high although we believe it was proper. Recharge is not a linear function of rainfall. The effect of decreasing annual rainfall from 17 in/yr. to 15 in/yr. was tested with the soil-moisture-balance simulator that was used to estimate recharge for the CHR. This spreadsheet program simulates one-dimensional rainfall, runoff, infiltration, soil moisture, evapotranspiration and deep percolation on a daily basis for 30 years of rainfall and reference evapotranspiration data (water years 1994-2013 were used in this study). For the three largest vegetation groups (annual grassland, oak trees, and upper watershed shrubs and trees), decreasing annual rainfall by 2 in/yr. decreased average annual simulated recharge by 1.1-1.4 in/yr. Applying the high end of this range over the entire 1.6-square-mile watershed would decrease the estimate of average annual recharge by 119 AFY, or from 797 to 678 AFY. This is still more than 16 times the annual groundwater pumping rate to supply the project at buildout with average occupancy. We think 15-18 is the right range, but even if it were 13 in/yr. then average groundwater recharge would still be many times greater than the project's groundwater demand. Thus, differences among sources of rainfall data do not lead to different conclusions regarding the adequacy of the groundwater supply to support the project.

BHgl-18 requesting additional aquifer tests. See response to comment BHgl-15.

BHgl-19 regarding system losses, treatment losses and Maximum Day Demand. See response to comment BHgl-10 and BHgl 14.

BHgl-20 regarding accounting for Pura Spring discharge in the water balance. Discharge from the Paraiso spring used by the Pura Ranch is included in the item labeled "groundwater outflow" in the water

balance presented in the CHR (Table 5). The amount of water as testified by Pura and her ranch manager being produced by the spring on average is 1 gpm and has been that for some time. They also testified that the 1 gpm provided all the water that the two Pura parcels needed. The statement in the comment that use of the diverted water is “limited” to normal residential use for the two parcels and watering of livestock is correct.

BHgl-21 regarding less-than-significant simulated drawdown at neighbors’ wells. The comment concurs with the CHR and RDEIR analysis.

BHgl-22 regarding impacts to Pura Spring. The comment makes several points. It notes that some springs are simply the intersection of a shallow water table with the ground surface, in which case a small amount of drawdown in the water table elevation could cause a substantial decrease in flow. This could be the case at the Paraiso Spring used by the Pura Ranch. However, all of the spring discharge is presently conveyed away from the spring in a pipe. Under that condition, changes in spring flow are no longer environmental impacts, but rather impacts to water users.

The comment incorrectly refers to Pura Ranch use of the spring discharge as “Pura Ranch diversion rights”. Pura Ranch has no water rights associated with the spring. Use of the 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. As stated above, there was no reported reduction in the spring discharge during the 10 day pump test by Pura or her ranch manager which stressed the aquifer far in excess of normal operations.

BHgl-23 regarding the Paraiso spring used by the Pura Ranch. This comment references documents from 2014 and 2016 that are not part of or referenced by the RDEIR or the final CHR. Comments on those documents do not pertain to CEQA review of the RDEIR. As stated above, the spring used by the Pura’s produces on average about 1 gpm. That has been confirmed by Pura and her ranch manager. There is no provision in the easement to pump the spring but even if the water was pumped into the 1 inch pipe the spring would dewater until it recovered. The limitations in the easement agreement are also clear as to the rights to take water from the spring for “normal residential usage and the watering of livestock”. Pura and her ranch manager testified that the 1 gpm flow met the needs of both Pura parcels. The existing pipe is sufficiently large to convey all of the spring discharge. Thus, its diameter is immaterial. A larger pipe would not increase flow from the spring or entitle the Pura parcels to more water.

BHgl-24 regarding the on-site wastewater treatment system (OWWTS). The preamble to this set of comments mentions “many faults and seismic hazards in the area”. None of the subsequent specific comments document local faults, estimate their credible earthquake magnitudes or demonstrate that the proposed underground recycled water reservoir design would fail in an earthquake. The proposed design was developed by registered engineers and meets applicable code standards.

BHgl-25 regarding impacts on flow and quality of the Paraiso spring used by the Pura Ranch. Regarding impacts on spring flow, see response to comment BHgl-22. The nearest point of the recycled water reservoir excavation would be 254 feet from the spring used by Pura. The nearest part of the wastewater treatment building would be about 58 feet from the spring. Based on a review of setback requirements listed in State Water Resource Control Board Order No. 2014-0153 DWQ, Table 3, Monterey County Planning Department staff concluded that the applicable setback from the wastewater

treatment plant building to the Pura spring would be 50 feet, which the present site plan meets (Nicole Fowler, personal communication, August 2, 2018).

Both facilities would require some site grading, which would be done by standard earthmoving equipment such as backhoes and bulldozers. Fine soil material potentially suspended in groundwater at the construction sites would be filtered out by passing through the aquifer materials before reaching the spring. It is very unlikely that fine particles would be suspended in groundwater at the spring itself because earth vibrations would attenuate over the intervening distance. If that did occur, the filtration system presently used by Pura (reverse osmosis) would easily remove any turbidity.

During normal operation, no liquids would be percolated into the ground at the wastewater treatment building or the recycled water storage reservoir. The comment suggests the possibility that the spring could be contaminated if liquid holding tanks at the treatment plant leaked. This possibility is negligibly small for several reasons. First, the tanks will be engineered structures designed not to leak. Any leakage would involve much smaller flows than occur from septic systems and many community wastewater treatment plants where large volumes of wastewater are intentionally percolated. The small leakage would furthermore be diluted by mixing with ambient groundwater flow before reaching the spring. Second, the tanks in the wastewater treatment plant will be above ground and rest on concrete slabs. Any leakage would be immediately visible and rapidly repaired. Finally, wastewater would be treated by a membrane bioreactor and disinfection, which would reduce nitrogen and pathogen concentrations to meet drinking water standards. This is in sharp contrast to septic system leachate at rural residences, which introduce untreated wastewater into the groundwater system. Any liquid leakage from a wastewater tank would not be great enough to noticeably increase salinity at the spring, given the small rate of leakage relative to the ambient flow of groundwater. As noted in the groundwater quality impact discussion in the RDEIR (p. 3-254), the spring water must already be treated to bring salinity down to below the drinking water standard, and a small increase in groundwater salinity would not require any alteration of the existing treatment equipment.

BHgl-26 regarding setbacks of wastewater facilities from the Paraiso spring used by the Pura Ranch. See response to BHgl-25.

BHgl-27 regarding water table in contact with recycled water storage reservoir. Whether the water table is below or above the bottom of the underground reservoir is immaterial. The issue is whether the reservoir might leak at all, because leaked water would enter the aquifer in either case. The reservoir will be constructed of non-corrodible material, so groundwater in contact with the external surface of the reservoir would not increase the likelihood of leaking. As stated in the response to comment BHgl-25, any leakage flow would be small relative to ambient groundwater flow, so dilution would be substantial. Furthermore, the treated wastewater would meet drinking water standards for nitrate and pathogens. The slightly higher salinity in wastewater relative to ambient groundwater would have a negligible effect because of dilution and because the salinity of water at the spring used by Pura already exceeds drinking water standards and the existing reverse osmosis treatment unit used by Pura would accommodate small increases in salinity without modification.

BHgl-28 regarding recycled water storage reservoir impeding groundwater flow. The underground reservoir will be constructed on a bed of gravel to ensure that groundwater is not impeded. In the event that the water table on the upgradient side of the reservoir rises above the bottom of the reservoir, the

high permeability of the gravel envelope will ensure that groundwater continues to flow to the downgradient side at least as fast as it would without the obstructing effect of the reservoir.

BHgl-29 regarding hypothetical failure of membrane bioreactor to remove nitrogen. The discharge permit will require routine monitoring of system operation and performance. Any “failure” would be rapidly repaired to restore the system to compliance because you cannot legally operate the plant if it does not meet the discharge standard. If for unforeseen reasons the membrane bioreactor temporarily failed to decrease nitrogen to the target concentration of 6 mg/L, the excess would be consumed by the vegetation irrigated with recycled water. For example, at 6 mg/L of nitrogen concentration, the 36.7 acre-feet per year of recycled water applied would deliver 25 pounds of nitrogen per acre per year to the 23.8 irrigated acres. This is much smaller than the nutrient uptake rates of the vegetation. For example, the recommended nitrogen application rate for cool and warm season grasses in California is 174-261 pounds per acre per year (University of California "Guide to Healthy Lawns" at <http://ipm.ucanr.edu/TOOLS/TURF/MAINTAIN/fertamt.html>). Thus, even if the recycled water crept substantially above 6 mg/L before being detected, it would not contribute to nitrate contamination of the groundwater system.

BHgl-30 regarding monitoring of spring flow and turbidity during construction. Ms. Pura has previously filed a complaint to have all monitoring equipment removed from the spring diversion pipe. The applicant has voluntarily complied with her wishes and removed the flow meter from the diversion pipe. We are assuming, based on the complaint filed, that she is not in agreement with the comment’s suggestion for monitoring the spring flow. Potential turbidity impacts were addressed in the response to comment BHgl-25 and would not require monitoring.

BHgl-31 regarding SWPPP and climate change. As stated in the RDEIR “Implementation of mitigation measure MM 3.6-5 (section 3.6, Geology and Soils) in the RDEIR would require that the project applicant prepare a Storm Water Pollution Prevention Plan (SWPPP), in accordance with the NPDES Construction Activities general permit, which would include an erosion control plan in accordance with Chapter 16.12 of Monterey County Code and construction-phase housekeeping measures for control of contaminants. The plan shall be prepared by a registered civil engineer or approved erosion control specialist, and submitted for approval prior to permit issuance for building, grading, or land clearing, or as part of submittal of Subdivision Improvement Plans, whichever occurs first. The erosion and sediment control plan shall demonstrate how the proposed project would effectively minimize soil erosion and sedimentation from the project site and must also provide for the control of runoff from the site. The SWPPP will also set forth the best management practices monitoring and maintenance schedule and responsible entities during the construction and post-construction phases. Implementation of mitigation measure MM 3.6-5 would reduce short-term erosion and impacts to surface water quality to a less than significant level. These types of best management measures are typical for projects involving construction and have a proven track record.

A key purpose of Stormwater Pollution Prevention Plans is in fact to avoid polluting surface waters with sediment, particularly during construction activities as well as to specifically prevent erosion and flooding. Thus, the comment’s assertion that the SWPPP might fail to prevent erosion and flooding is illogical. Runoff from impervious areas on the project site will drain to dispersed infiltration areas using Low-Impact Development (LID) designs. Stormwater erosion is most commonly associated with concentrated runoff from impervious areas that is funneled into channels at high rates—the opposite of

LID infiltration. Specific predictions regarding the effects of climate change on future rainfall intensity are not available. Even if rainfall intensity tends to increase, the LID infrastructure will be better able to avoid erosion than conventional infrastructure that concentrates runoff. Furthermore, the reduction in peak runoff rates (the existing 10-year runoff flow will become a 100-year event per County stormwater retention design requirements) will decrease erosion in the creek channel even if future storms tend to be slightly more intense than existing storms.

BHgl-32 regarding potential construction impacts on spring flow or quality. Impacts of construction activities upgradient of the spring used by the Pura Ranch are addressed in the response to comment BHgl-25. The quality of the water in the spring used by Pura is not potable and the treatment already required to reduce salinity would also remove turbidity. Impacts on water quality are addressed in the responses to comments BHgl-25, -26 and-27.

BHgl-33 regarding impacts of impervious surfaces on groundwater recharge and quality. The comment incorrectly suggests that impervious surfaces would decrease groundwater recharge. With LID stormwater management methods, recharge would increase because impervious runoff would be infiltrated with negligible losses to plant evapotranspiration. The areas that will be covered with buildings and pavement are presently vegetated, and the plants intercept and transpire most of the rainfall. Runoff from impervious areas is not typically a source of groundwater contamination. Metals such a zinc in galvanized roof flashing could be present in very low concentrations in rainfall runoff, but the dissolved metal ions adsorb to clays in the soil and are immobilized (Pitt and others, 1996). The only likely sources of organic compounds from impervious surfaces would be drops of motor oil or breakdown products of roofing tar and asphalt. These sources would be exposed to the air for long periods between rain events, during which time volatile organic constituents would mostly evaporate. Less volatile organic compounds with high molecular weight are typically relatively insoluble and immobile once they enter the soil (Pitt and others, 1996).

BHgl-34 regarding culvert removal and creek channel modification. The 229-foot-long culvert that will be removed from the creek channel is located about 1,500 ft upgradient of the Paraiso spring used by the Pura Ranch. Over that distance, the aquifer would filter out any fine particulates that might become suspended in groundwater near the culvert removal site. Removing the culvert and restoring vegetation along the channel would increase percolation opportunity (groundwater recharge) and provide greater opportunity to filter out natural or project-related suspended sediment in creek water. These changes would tend to improve groundwater flow and quality in downgradient areas. The spring used to divert water by Pura is down gradient and would likely benefit from the culvert removal. Overall, the drainage pattern closer to the spring used by Pura would is expected to remain unchanged.

BHgl-35 regarding stormwater retention basin setback. MC Code 16.16.050K establishes standards of construction for all Special Flood Hazard Areas. "Special Flood Hazard Areas" are defined under MC 16.16.020 – Definitions as an area subject to a one percent or greater chance of flooding in any given year (colloquially known as the 100-year floodplain). It is shown on the Federal Insurance Rate Map (FIRM) as Zone A, AO, AE, AR, A99, AH, VE, or V. This property is located in Zone X on the FIRM map. Zone X areas are outside of the 0.2 percent annual chance flood plain and therefore MC Code section 16.16.050K does not apply. However, using GIS we have measured the edge of the proposed basin to the center line of the creek at 94 feet, and approximately 56 feet to the top of bank which appears to

still meet the setback requirement for a Special Flood Hazard Area although that does not apply to this property. Also, this detention basin will only be implemented if detention objectives cannot be met through the use of low impact development features (LID) and best management practices (BMP).

BHgl-36 regarding depth to water table at stormwater retention basin. This detention basin will only be implemented if detention objectives cannot be met through the use of low impact development features (LID) and best management practices (BMP). Should there be a need for the storm water detention basin, the depth is designed to be above the anticipated ground water level and planned to be approximately 10 feet deep which is above the groundwater levels indicated by the referenced Landset Boring Log B-1. It is also not imperative that the bottom of the stormwater retention basin remain above the water table because stormwater retention basins can intentionally be designed as “wet retention ponds” to improve water quality. Final design could also include standard engineered methodologies or treatments to restrict or limit ground water incursion.

BHgl-37 regarding the Sustainable Groundwater Management Act (SGMA). SGMA is a relatively new California regulatory program that requires groundwater basins to be managed sustainably. Sustainability is defined as avoiding the six undesirable results listed in the comment. SGMA applies at the basin scale and is not intended to be applied at local site scales or individual projects. Nevertheless, the CHR and RDEIR demonstrate that the project will not cause undesirable results in the local groundwater system. With respect to long-term groundwater levels and storage, the water balance analysis represents average annual conditions for an indefinite future period (including 20 years or 50 years as the comment requested). It demonstrated that project water use is a small fraction of recharge, that net consumptive water use is a small fraction of basin outflow and would not impact nearby groundwater users, and that basin storage is sufficiently large to sustain the project through drought cycles. The CHR did consider impacts on groundwater quality and requires monitoring and mitigation for salinity impacts. Subsidence is extremely unlikely given the relatively coarse texture of basin sediments and relatively small amounts of water level fluctuation (a few tens of feet versus upwards of 100 feet in regions where subsidence has historically occurred in California). Potential impacts on groundwater dependent ecosystems are recognized in the CHR and addressed by monitoring and contingent mitigation.

BHgl-38 regarding monitoring programs. The CHR and RDEIR require monitoring of groundwater levels and salinity near wetland areas for a minimum of 10 years. It is not necessary to monitor short-term spring flow response to precipitation events because those have no bearing on groundwater availability during dry periods (see response to comment BHgl-5).

BHgl-39 regarding groundwater quality monitoring. The CHR and RDEIR require monitoring of groundwater salinity near wetland areas. Increased salinity is the most likely impact of the project on groundwater quality because of evaporative concentration of minerals in the irrigation water. Because the irrigation water derives from local groundwater, the effect of irrigation is to increase the concentrations of all solutes with little change in their relative proportions. Therefore, sampling for major ions and plotting Stiff diagrams is not necessary.

## References Cited

Pitt, R., S. Clark, K. Parmer and R. Field. 1996. Groundwater contamination from stormwater infiltration. Ann Arbor Press, Inc., Chelsea, MI.

### B. Response to Land Watch Hydro Comment D

Ms. Pura testified that the residences served by the spring use a reverse-osmosis unit to treat the water for potable uses. Because the easement agreement for the spring limits use of the water to “normal residential use” and watering livestock on parcel 1, it is assumed that any Pura irrigation is for residential landscaping. Regarding use of spring water for irrigation, an increase in irrigation water salinity from 1,090 mg/L of total dissolved solids (the current salinity of spring water) to perhaps 1,150 or 1,200 mg/L would not adversely impact the growth of Pura landscape vegetation. If irrigation is for turf, for example, there is no decrease in plant growth up to an irrigation water salinity of about 1,800 mg/L for fescue grasses and about 3,500 mg/L for bermuda grass (Ayers and Westcot, 1994).

## References Cited

Ayers, R.S. and D.W. Westcot. 1994. Water quality for agriculture. FAO Irrigation and Drainage Paper 29. United Nations Food and Agriculture Organization. Rome, Italy

***Note: County staff agrees with the majority of the responses provided by Todd Groundwater, but provides the following responses for BHgl-31, -34, -35, and -36.***

BHgl-31 regarding SWPPP and climate change. As stated in the RDEIR “Implementation of mitigation measure MM 3.6-5 (section 3.6, Geology and Soils) in the RDEIR would require that the project applicant prepare a Storm Water Pollution Prevention Plan (SWPPP), in accordance with the NPDES Construction Activities general permit, which would include an erosion control plan in accordance with Chapter 16.12 of Monterey County Code and construction-phase housekeeping measures for control of contaminants. The plan shall be prepared by a registered civil engineer or approved erosion control specialist, and submitted for approval prior to permit issuance for building, grading, or land clearing, or as part of submittal of Subdivision Improvement Plans, whichever occurs first. The erosion and sediment control plan shall demonstrate how the proposed project would effectively minimize soil erosion and sedimentation from the project site and must also provide for the control of runoff from the site. The SWPPP will also set forth the best management practices monitoring and maintenance schedule and responsible entities during the construction and post-construction phases. Implementation of mitigation measure MM 3.6-5 would reduce short-term erosion and impacts to surface water quality to a less than significant level. These types of best management measures are typical for projects involving construction and have a proven track record.

A key purpose of Stormwater Pollution Prevention Plans is in fact to avoid polluting surface waters with sediment, particularly during construction activities as well as to specifically prevent erosion and flooding. Thus, the comment’s assertion that the SWPPP might fail to prevent erosion and flooding is illogical. Runoff from impervious areas on the project site will drain to dispersed infiltration areas using Low-Impact Development (LID) designs. Stormwater erosion is most commonly associated with concentrated runoff from impervious areas that is funneled into channels at high rates—the opposite of LID infiltration. Specific predictions regarding the effects of climate change on future rainfall intensity are not available. Even if rainfall intensity tends to increase, the LID infrastructure will be better able to avoid erosion than conventional infrastructure that concentrates runoff. Furthermore, the reduction in peak runoff rates (stormwater detention facilities will limit the 100-year post-development runoff rate to the 10-year pre-development rate) will decrease erosion in the creek channel even if future storms tend to be slightly more intense than existing storms.

BHgl-34 regarding culvert removal and creek channel modification. The 229-foot-long culvert that will be removed from the creek channel is located about 1,500 ft upgradient of the Paraiso spring used by the Pura Ranch. Over that distance, the aquifer would filter out any fine particulates that might become suspended in groundwater near the culvert removal site. Removing the culvert and restoring vegetation along the channel would increase percolation opportunity (groundwater recharge) and provide greater opportunity to filter out natural or project-related suspended sediment in creek water. These changes would tend to improve groundwater flow and quality in downgradient areas. The spring used to divert water by Pura is down gradient and would likely benefit from the culvert removal. Overall, the drainage pattern closer to the spring used by Pura is expected to remain unchanged.

BHgl-35 Using GIS we have measured the edge of the proposed basin to the center line of the creek at 94 feet, and approximately 56 feet to the top of bank which appears to meet the top of bank setback requirement in MC Code 16.16.050K. Also, this detention basin will only be implemented if detention objectives cannot be met through the use of low impact development features (LID) and best management practices (BMP).

BHgl-36 regarding depth to water table at stormwater retention basin. This detention basin will only be implemented if detention objectives cannot be met through the use of low impact development features (LID) and best management practices (BMP). Should there be a need for the storm water detention basin, the depth is designed to be above the anticipated ground water level and planned to be approximately 10 feet deep, which is above the groundwater levels indicated by the referenced Landset Boring Log B-1. It is also not imperative that the bottom of the stormwater detention basin remain above the water table because stormwater retention basins can intentionally be designed as “wet retention ponds” to improve water quality. Final design could also include standard engineered methodologies or treatments to restrict or limit ground water incursion.

Michael Baker International

The County hired Michael Baker International to assist with comments related to potential lighting impacts related to Benya Burnett Consultancy’s comments (April 23, 2018) provided as part of the comment letter provided by M.R. Wolfe & Associates for LandWatch Monterey County dated April 25, 2018. The Michael Baker International information was attached to the 2019 RDEIR as Appendix 3.

**Letter #11 – Victor and Shayna Selby (April 26, 2018)**

1/1 page

**Novo, Mike x5176**

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**From:** Lois Panziera <lpanziera@hotmail.com>  
**Sent:** Wednesday, April 25, 2018 9:08 PM  
**To:** Novo, Mike x5176  
**Subject:** FW: Paraiso Resort, 34358 Paraiso Springs Rd., Soledad, CA 93960 APN 418-361-004-000, 418-316-009-000, 418-381-021-000, 418-318-022-000, PLN040183 Owned by Thompson Holdings

Hi Mike,

Here is an email statement from Victor and Shayna Selby, 206 19<sup>th</sup> St., Pacific Grove, CA 93950. Telephone: (831) 375-6141 and email [vselby@sbcglobal.net](mailto:vselby@sbcglobal.net). Re: Clarity on number of past traffic trips to and from resort.

Sent from [Mail](#) for Windows 10

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**From:** Lois Panziera <lpanziera@hotmail.com>  
**Sent:** Wednesday, April 25, 2018 5:50:36 PM  
**To:** Vic Selby<[vselby@sbcglobal.net](mailto:vselby@sbcglobal.net)>  
**Subject:** Re: Paraiso Resort



Hi, Thanks for your help. Great information. Lois

Sent from my iPhone

> On Apr 25, 2018, at 12:49 PM, Vic Selby<[vselby@sbcglobal.net](mailto:vselby@sbcglobal.net)> <[vselby@sbcglobal.net](mailto:vselby@sbcglobal.net)> wrote:

>

> Hi Lois,

> Attached are the files we have from the 2013 attempt to get approval for their project. The EIR is 130 pages and contains much information including the proposed "mitigation" for many problems. We wrote the letter with a few of our concerns. The account of how many daily trips were made is VERY inaccurate as during the 20 years we rented a cabin there were only a few days per year when even half of the rentals were in use. The permanent residents (approximately 20-25 maximum at any one time) would result in about 50 trips maximum per day, and the folks who rented cabins for a few nights (about 10-20 maximum at any one time) would add maybe 30 trips per day. This would add up to about 80 one-way trips (40 round trips) on very busy days. On a regular day in mid-week this total would be 25-30 round trips. The map on page 105 shows the total number of structures and even with all camping spaces full the number of trips they report (399 average) is not even close to reality. When we attended the meeting with the country Historical Society in 2013, the meeting ended with a proposal for the owners to re-construct the demolished cottages at a estimated cost of \$1.7 MILLION, rather than the \$10,000 donation to the Society, and a room with pictures of the past! These concerns along with the many environmental concerns are powerful arguments against the proposed development. Let us know how else we can contribute to the opposition of their plans. Best Regards, Vic and Shayna Selby

>

>

> On Tuesday, April 24, 2018 7:13 PM, Lois Panziera <lpanziera@hotmail.com> wrote:

>

>

> Hi,

> Hope you're enjoying your trip. I am trying to verify the number of average daily trips that were generated by the resort. The developers claim that the average trips to and from the resort is 399. They claim that there were 61 living units with cabins, trailers, and RV park/campsites. If you could clarify any of the use it would be helpful. I said I don't ever remember 399 cars on any daily let alone an average. Also, few if any RVs went to the resort. The resort was used

seasonally and was minimally occupied due to the high rent and high day use fee. The Thompson even claim that the average 5 guest day user made 5 trips to and from the resort on average. Day use to my recollection was not on an in and out basis.

>  
> Any clarity you can give would be of great help along with your contact information. Thanks, Lois I'm submitting 40 pages of comments.

>  
> Sent from  
Mail<<https://eur02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fgo.microsoft.com%2Ffwlink%2F%3FLinkId%3D550986&data=02%7C01%7C%7C085265688c8e4cb4478308d5aae58618%7C84df9e7fe9f640afb435aaaaaaaaaaaa%7C1%7C0%7C636602825767683951&sdata=cRxKyvQtJ9lk9oQmClnDBKiPXKEyiS90X6HJkjonKXg%3D&reserved=0>> for  
Windows 10

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>  
> <Pariso E.I.R..pages>  
> <Response to Pariso E.I.R..pages>  
> <3.1 - 3.5\_ Enviromental Setting, Impacts, & Mitigation Measures.pdf>



## **Response to Letter #11 – Victor and Shayna Selby (April 26, 2018)**

1. The commenter claims the daily trip estimates for previous resort use in the traffic analysis are inaccurate and overestimated. The commenter also references a proposal for the owners to reconstruct the demolished cottages rather than a donation to the Historical Society, and states these concerns along with many environmental concerns are powerful arguments against the development.

Regarding the daily trip estimates for historic use, refer to Master Response 5: Traffic (under *Existing Traffic Volumes* and *Significance of Increased Traffic Impact*).

The commenter's opposition to the proposed project is noted and will be conveyed to the decision-makers. See Master Response 1.

**Letter #12 – Alex J. Lorca, Fenton & Keller (April 26, 2018)**

1/176 pages

**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

**LETTER OF TRANSMITTAL**

TO: Carl Holm DATE: 04/26/18  
FROM: Alex J Lorca TELEPHONE: \_\_\_\_\_  
PROPERTY ADDRESS: 34358 Paraiso Springs Rd, Soledad  
A.P.N.: 418-381-021 PERMIT #: PLN040183  
NAME OF PROPERTY OWNER: Paraiso Springs Resort LLC

PURPOSE OF SUBMITTAL: Comments on RDEIR for Paraiso Springs Resort (Project)

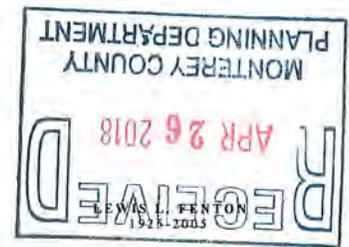
PLEASE LIST ALL ITEMS ATTACHED:

- (1) Exhibits A through ~~E~~, I,
  - (A) Wetland Evaluation
  - (B) CA office of Historic Preservation, CEQA.
  - (C) Assessment of Historic Resource Impacts & Mitigations
  - (D) Mitigation Assessment Memo, (E) Preservationist
  - (F) Hydrogeologic Eval. (G) Copy of legal Docs (H) Letter Central Coast transportation Review (I) memorandums.

COMMENTS / INSTRUCTIONS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

RECEIVED BY: \_\_\_\_\_ *P*





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TROY A. KINGSHAVEN  
JOHN E. KESECKER  
ELIZABETH R. LEITZINGER  
ANDREW B. KRBEFT  
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

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

12-1

(“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.)

12-1  
(cont.)

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.

12-2

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.

12-3

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.*

12-3  
(cont.)

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.

12-4

“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.)

12-4  
(cont.)

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

12-5

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.").)

12-6

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.)

12-7

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.)

- 12-8 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.)
- 12-9 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.)
- 12-10 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

- 12-11 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.
- 12-12 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.)
- 12-13 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.)
- 12-14 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.

- 12-15 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.
- 12-16 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.
- 12-17 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.
- 12-18 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.
- 12-19 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

- 12-20 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.
- 12-21 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.

12-21  
(cont.)

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.

12-22

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.

12-23

Water Runoff

- 12-24 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.)
- 12-25 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

- 12-26 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.
- 12-27 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

- 12-28 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.

12-28  
(cont.)

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.)

12-29

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

12-29 (cont.) 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.

12-30 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.

12-31

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

12-31  
(cont.)

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.

12-32

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**

12-33

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.)

12-34

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.)

12-35

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).

12-36

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

- 12-36 setbacks may also be necessary to protect jurisdictional wetlands. (See discussion of  
(cont.) wetlands under Biological Resources section, above.)
- 12-37 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.
- 12-38 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.
- 12-39 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.
- 12-40 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.)
- 12-41 41. The RDEIR fails to analyze the excavation and development of the wastewater storage tank up-gradient from the Pura Spring.
- 12-42 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**

- 12-43 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.
- 12-44 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.)
- 12-45 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**

- 12-46 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.

- 12-47 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

- 12-48 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.”)

- 12-49 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).

- 12-50 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.

- 12-51 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.
- 12-52 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).)
- 12-53 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.
- 12-54 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).

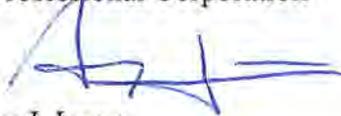
- 12-55 55. The RDEIR fails to provide adequate detail as to why the hotel only alternative was eliminated. (Reference page 5-3.) The RDEIR states in conclusory fashion that “[t]imeshare units have a higher average occupancy rate” and attributes this to the personal opinion of John Thompson, rather than 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.)
- 12-56 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**

12-57 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



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**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.**

A handwritten signature in blue ink, appearing to read "David Daitch", with a long horizontal flourish extending to the right.

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.



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

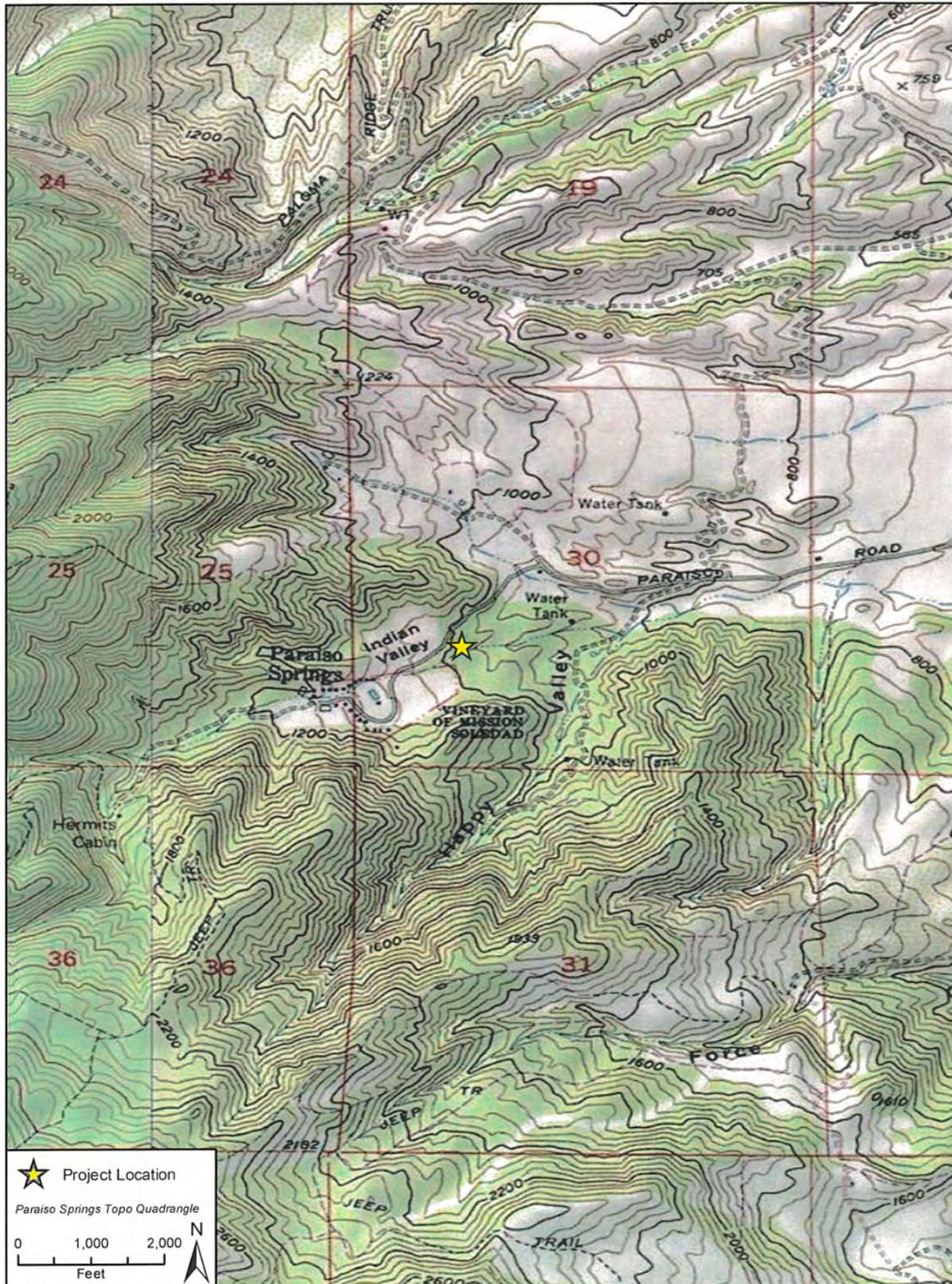
Sincerely,

**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*

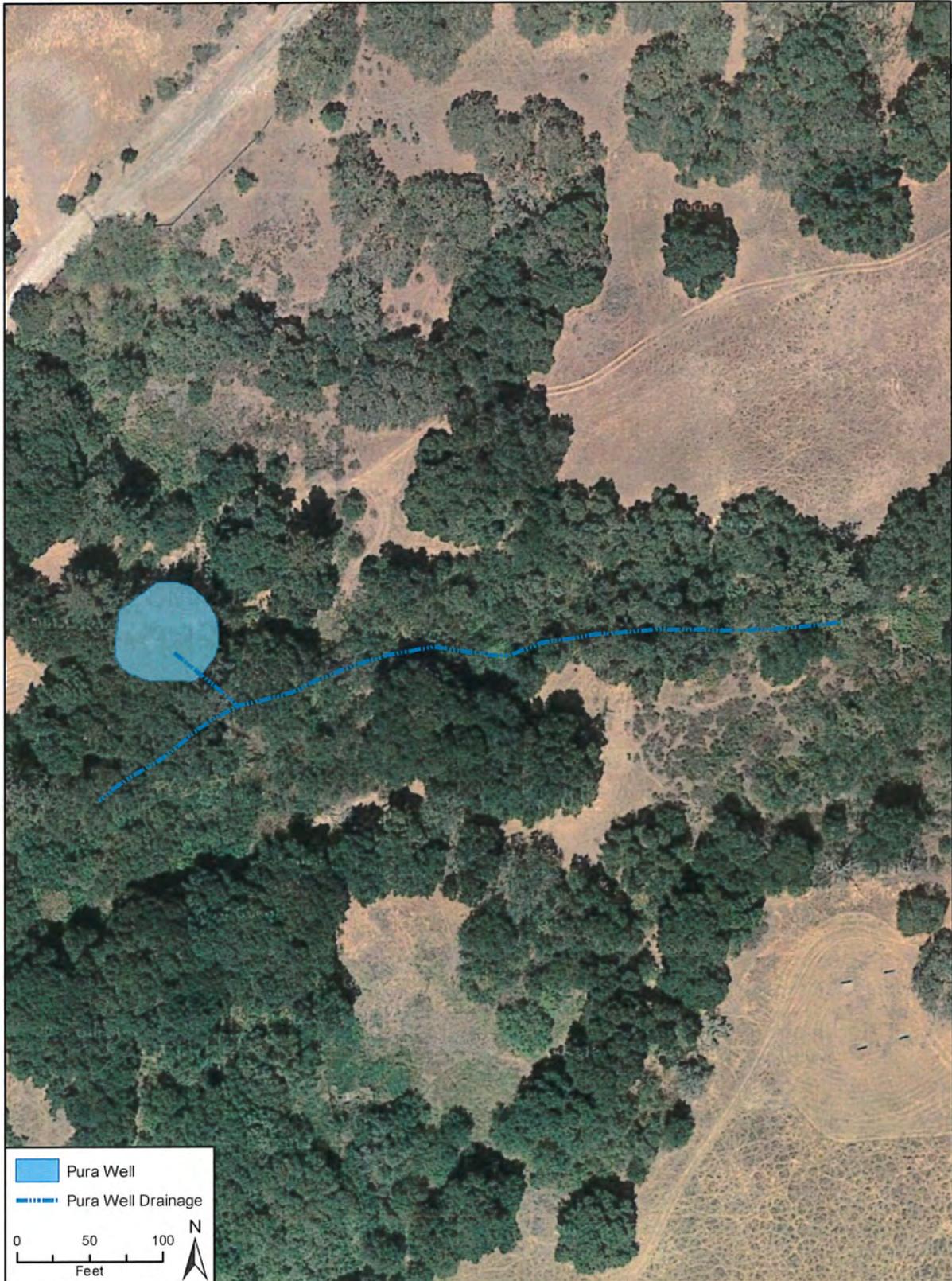


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Approximate Location of Pura Well  
and Associated Drainage (topo background)

Figure 1

Rincon Consultants, Inc.



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

Figure 2

Rincon Consultants, Inc.

**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	Dominance Test worksheet:
1. _____				Number of Dominant Species That Are OBL, FACW, or FAC: <input type="text" value="0"/> (A)
2. _____				Total Number of Dominant Species Across All Strata: <input type="text" value="0"/> (B)
3. _____				Percent of Dominant Species That Are OBL, FACW, or FAC: <input type="text" value="0"/> % (A/B)
4. _____				
50%= _____ 20%= _____ Total Cover: <input type="text" value="0"/> %				
Sapling/Shrub Stratum (Plot size: _____)				<b>Prevalence Index worksheet:</b>
1. _____				Total % Cover of: _____ Multiply by: _____
2. _____				OBL species <input type="text" value="0"/> x 1 = <input type="text" value="0"/>
3. _____				FACW species <input type="text" value="0"/> x 2 = <input type="text" value="0"/>
4. _____				FAC species <input type="text" value="0"/> x 3 = <input type="text" value="0"/>
5. _____				FACU species <input type="text" value="0"/> x 4 = <input type="text" value="0"/>
50%= _____ 20%= _____ Total Cover: <input type="text" value="0"/> %				UPL species <input type="text" value="0"/> x 5 = <input type="text" value="0"/>
Herb Stratum (Plot size: _____)				Column Totals: <input type="text" value="0"/> (A) <input type="text" value="0"/> (B)
1. _____				Prevalence Index = B/A = <input type="text" value="0"/>
2. _____				<b>Hydrophytic Vegetation Indicators:</b>
3. _____				<input checked="" type="radio"/> Dominance Test is >50%
4. _____				<input checked="" type="radio"/> Prevalence Index is ≤3.0 <sup>1</sup>
5. _____				<input type="checkbox"/> Morphological Adaptations <sup>1</sup> (Provide supporting data in Remarks or on a separate sheet)
6. _____				<input checked="" type="checkbox"/> Problematic Hydrophytic Vegetation <sup>1</sup> (Explain)
7. _____				<sup>1</sup> Indicators of hydric soil and wetland hydrology must be present.
8. _____				
50%= _____ 20%= _____ Total Cover: <input type="text" value="0"/> %				<b>Hydrophytic Vegetation Present?</b> Yes <input checked="" type="radio"/> No <input type="radio"/>
Woody Vine Stratum (Plot size: _____)				
1. _____				
2. _____				
50%= _____ 20%= _____ Total Cover: <input type="text" value="0"/> %				
% 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

**Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)**

Depth (inches)	Matrix		Redox Features				Texture	Remarks
	Color (moist)	%	Color (moist)	%	Type <sup>1</sup>	Loc <sup>2</sup>		
0-18	10 YR 3/2	80	5 YR 5/8	20	C	PL	clay loam	Some gravel present

<sup>1</sup>Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS<sup>2</sup>=Covered or Coated Sand Grains. Location: PL=Pore Lining, M=Matrix.

<p><b>Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)</b></p> <input type="checkbox"/> Histosol (A1) <input type="checkbox"/> Histic Epipedon (A2) <input type="checkbox"/> Black Histic (A3) <input type="checkbox"/> Hydrogen Sulfide (A4) <input type="checkbox"/> Stratified Layers (A5) (LRR C) <input type="checkbox"/> 1 cm Muck (A9) (LRR D) <input type="checkbox"/> Depleted Below Dark Surface (A11) <input type="checkbox"/> Thick Dark Surface (A12) <input type="checkbox"/> Sandy Mucky Mineral (S1) <input type="checkbox"/> Sandy Gleyed Matrix (S4)	<input type="checkbox"/> Sandy Redox (S5) <input type="checkbox"/> Stripped Matrix (S6) <input type="checkbox"/> Loamy Mucky Mineral (F1) <input type="checkbox"/> Loamy Gleyed Matrix (F2) <input type="checkbox"/> Depleted Matrix (F3) <input checked="" type="checkbox"/> Redox Dark Surface (F6) <input type="checkbox"/> Depleted Dark Surface (F7) <input type="checkbox"/> Redox Depressions (F8) <input type="checkbox"/> Vernal Pools (F9)	<p><b>Indicators for Problematic Hydric Soils:<sup>3</sup></b></p> <input type="checkbox"/> 1 cm Muck (A9) (LRR C) <input type="checkbox"/> 2 cm Muck (A10) (LRR B) <input type="checkbox"/> Reduced Vertic (F18) <input type="checkbox"/> Red Parent Material (TF2) <input type="checkbox"/> Other (Explain in Remarks)
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<sup>3</sup>Indicators of hydrophytic vegetation and wetland hydrology must be present unless disturbed or problematic.

**Restrictive Layer (if present):**  
 Type: N/A  
 Depth (inches): \_\_\_\_\_

**Hydric Soil Present? Yes  No**

Remarks: Indicators for hydric soil F6, Redox Dark Surface were observed with a Matrix value of 3 or less and chroma of 2 or less and 5 percent or more distinct or prominent redox concentrations.

**HYDROLOGY**

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

**Field Observations:**

Surface Water Present?	Yes <input checked="" type="radio"/> No <input type="radio"/>	Depth (inches): <u>6 inches</u>
Water Table Present?	Yes <input type="radio"/> No <input checked="" type="radio"/>	Depth (inches): _____
Saturation Present? (includes capillary fringe)	Yes <input type="radio"/> No <input checked="" type="radio"/>	Depth (inches): _____

**Wetland Hydrology Present? Yes  No**

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.**

<u>Tree Stratum</u> (Plot size: _____)	<u>Absolute % Cover</u>	<u>Dominant Species?</u>	<u>Indicator Status</u>	<b>Dominance Test worksheet:</b>		
1. <u>Quercus agrifolia</u>	10	Yes	Not Listed	Number of Dominant Species That Are OBL, FACW, or FAC: 0 (A)		
2. _____				Total Number of Dominant Species Across All Strata: 2 (B)		
3. _____				Percent of Dominant Species That Are OBL, FACW, or FAC: 0.0 % (A/B)		
4. _____						
50%=5 20%=2 Total Cover: 10 %						
<u>Sapling/Shrub Stratum</u> (Plot size: _____)				<b>Prevalence Index worksheet:</b>		
1. <u>Artemisia californica</u>	5	Yes	Not Listed	Total % Cover of: _____ Multiply by: _____		
2. _____				OBL species	x 1 =	0
3. _____				FACW species	x 2 =	0
4. _____				FAC species	x 3 =	0
5. _____				FACU species	x 4 =	0
50%=2.5 20%=1 Total Cover: 5 %				UPL species	x 5 =	75
				Column Totals:		15 (A) 75 (B)
				Prevalence Index = B/A = 5.00		
<u>Herb Stratum</u> (Plot size: _____)				<b>Hydrophytic Vegetation Indicators:</b>		
1. _____				<input checked="" type="checkbox"/> Dominance Test is >50%		
2. _____				<input checked="" type="checkbox"/> Prevalence Index is ≤3.0 <sup>1</sup>		
3. _____				<input type="checkbox"/> Morphological Adaptations <sup>1</sup> (Provide supporting data in Remarks or on a separate sheet)		
4. _____				<input type="checkbox"/> Problematic Hydrophytic Vegetation <sup>1</sup> (Explain)		
5. _____						
6. _____						
7. _____						
8. _____						
50%= _____ 20%= _____ Total Cover: _____ %						
<u>Woody Vine Stratum</u> (Plot size: _____)				<b>Hydrophytic Vegetation Present?</b>		
1. _____				Yes <input type="radio"/> No <input checked="" type="radio"/>		
2. _____						
50%= _____ 20%= _____ Total Cover: _____ %						
% Bare Ground in Herb Stratum _____ % % Cover of Biotic Crust _____ %						

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

**SOIL**

Sampling Point: 2

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)								
Depth (inches)	Matrix		Redox Features				Texture	Remarks
	Color (moist)	%	Color (moist)	%	Type <sup>1</sup>	Loc <sup>2</sup>		
0-18	10 YR 3/2	99	5 YR 5/8	1	C	PL	clay loam	

<sup>1</sup>Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS<sup>2</sup>Covered or Coated Sand Grains. Location: PL=Pore Lining, M=Matrix.

**Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)**

- |  |   |
|--|---|
| <input type="checkbox"/> Histosol (A1)                     | <input type="checkbox"/> Sandy Redox (S5)           |
| <input type="checkbox"/> Histic Epipedon (A2)              | <input type="checkbox"/> Stripped Matrix (S6)       |
| <input type="checkbox"/> Black Histic (A3)                 | <input type="checkbox"/> Loamy Mucky Mineral (F1)   |
| <input type="checkbox"/> Hydrogen Sulfide (A4)             | <input type="checkbox"/> Loamy Gleyed Matrix (F2)   |
| <input type="checkbox"/> Stratified Layers (A5) (LRR C)    | <input type="checkbox"/> Depleted Matrix (F3)       |
| <input type="checkbox"/> 1 cm Muck (A9) (LRR D)            | <input type="checkbox"/> Redox Dark Surface (F6)    |
| <input type="checkbox"/> Depleted Below Dark Surface (A11) | <input type="checkbox"/> Depleted Dark Surface (F7) |
| <input type="checkbox"/> Thick Dark Surface (A12)          | <input type="checkbox"/> Redox Depressions (F8)     |
| <input type="checkbox"/> Sandy Mucky Mineral (S1)          | <input type="checkbox"/> Vernal Pools (F9)          |
| <input type="checkbox"/> Sandy Gleyed Matrix (S4)          |   |

**Indicators for Problematic Hydric Soils<sup>3</sup>**

- 1 cm Muck (A9) (LRR C)
- 2 cm Muck (A10) (LRR B)
- Reduced Vertic (F18)
- Red Parent Material (TF2)
- Other (Explain in Remarks)

<sup>3</sup>Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

**Restrictive Layer (if present):**

Type: N/A

Depth (inches): \_\_\_\_\_

Hydric Soil Present? Yes  No

Remarks: Some redox concentrations were observed (1%) but not in high enough concentrations to meet hydric soil indicators. No hydric soil indicators observed.

**HYDROLOGY**

**Wetland Hydrology Indicators:**

Primary Indicators (minimum of one required; check all that apply)

- |  |  |
|--|--|
| <input type="checkbox"/> Surface Water (A1)                        | <input type="checkbox"/> Salt Crust (B11)                              |
| <input type="checkbox"/> High Water Table (A2)                     | <input type="checkbox"/> Biotic Crust (B12)                            |
| <input type="checkbox"/> Saturation (A3)                           | <input type="checkbox"/> Aquatic Invertebrates (B13)                   |
| <input type="checkbox"/> Water Marks (B1) (Nonriverine)            | <input type="checkbox"/> Hydrogen Sulfide Odor (C1)                    |
| <input type="checkbox"/> Sediment Deposits (B2) (Nonriverine)      | <input type="checkbox"/> Oxidized Rhizospheres along Living Roots (C3) |
| <input type="checkbox"/> Drift Deposits (B3) (Nonriverine)         | <input type="checkbox"/> Presence of Reduced Iron (C4)                 |
| <input type="checkbox"/> Surface Soil Cracks (B6)                  | <input type="checkbox"/> Recent Iron Reduction in Plowed Soils (C6)    |
| <input type="checkbox"/> Inundation Visible on Aerial Imagery (B7) | <input type="checkbox"/> Thin Muck Surface (C7)                        |
| <input type="checkbox"/> Water-Stained Leaves (B9)                 | <input type="checkbox"/> Other (Explain in Remarks)                    |

Secondary Indicators (2 or more required)

- Water Marks (B1) (Riverine)
- Sediment Deposits (B2) (Riverine)
- Drift Deposits (B3) (Riverine)
- Drainage Patterns (B10)
- Dry-Season Water Table (C2)
- Crayfish Burrows (C8)
- Saturation Visible on Aerial Imagery (C9)
- Shallow Aquitard (D3)
- FAC-Neutral Test (D5)

**Field Observations:**

Surface Water Present? Yes  No  Depth (inches): \_\_\_\_\_

Water Table Present? Yes  No  Depth (inches): \_\_\_\_\_

Saturation Present? (includes capillary fringe) Yes  No  Depth (inches): \_\_\_\_\_

Wetland Hydrology Present? Yes  No

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks: No surface water observed and no other hydrology indicators observed.

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

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**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**

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## **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

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## 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@csusbak.edu;  
<http://www.csusbak.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@ucrac1.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/>]*



## 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.

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<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>

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<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

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<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.

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<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>

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<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.

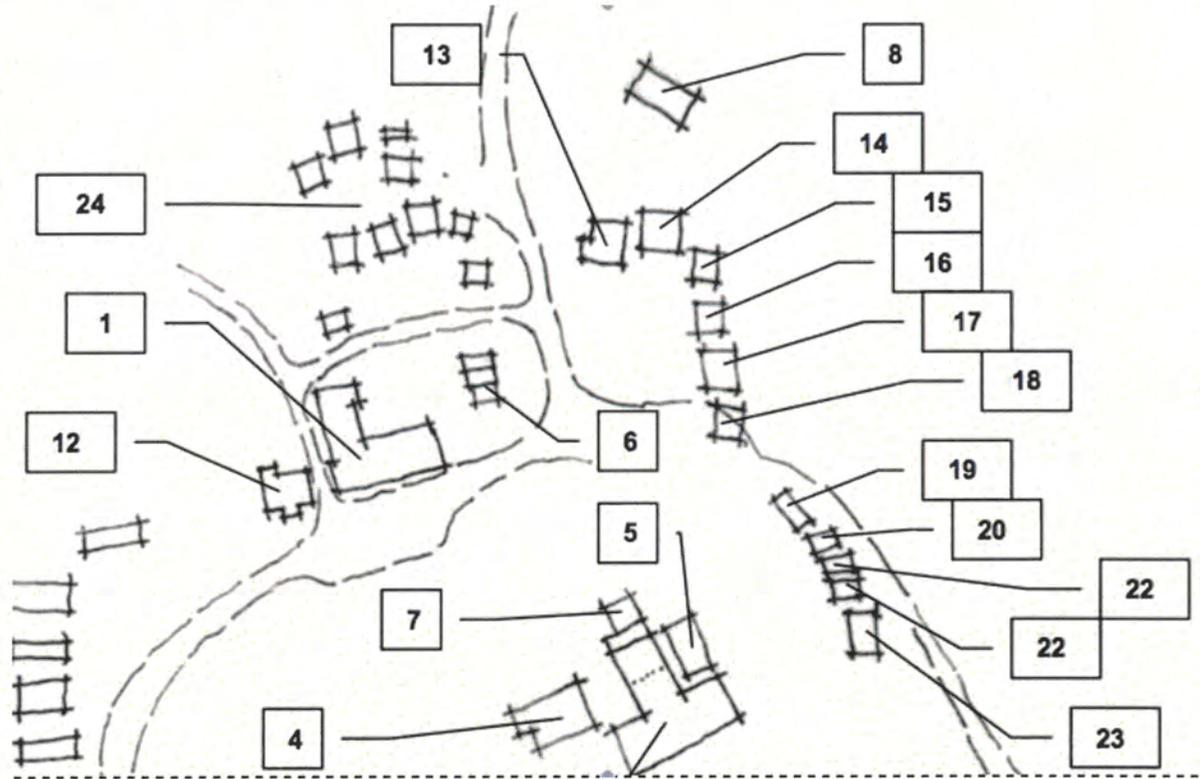


Figure identifies cluster of historic resources: #'s 12, 13, 14, 15, 16, 17, 18, 19 and 23<sup>13</sup>

## 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.

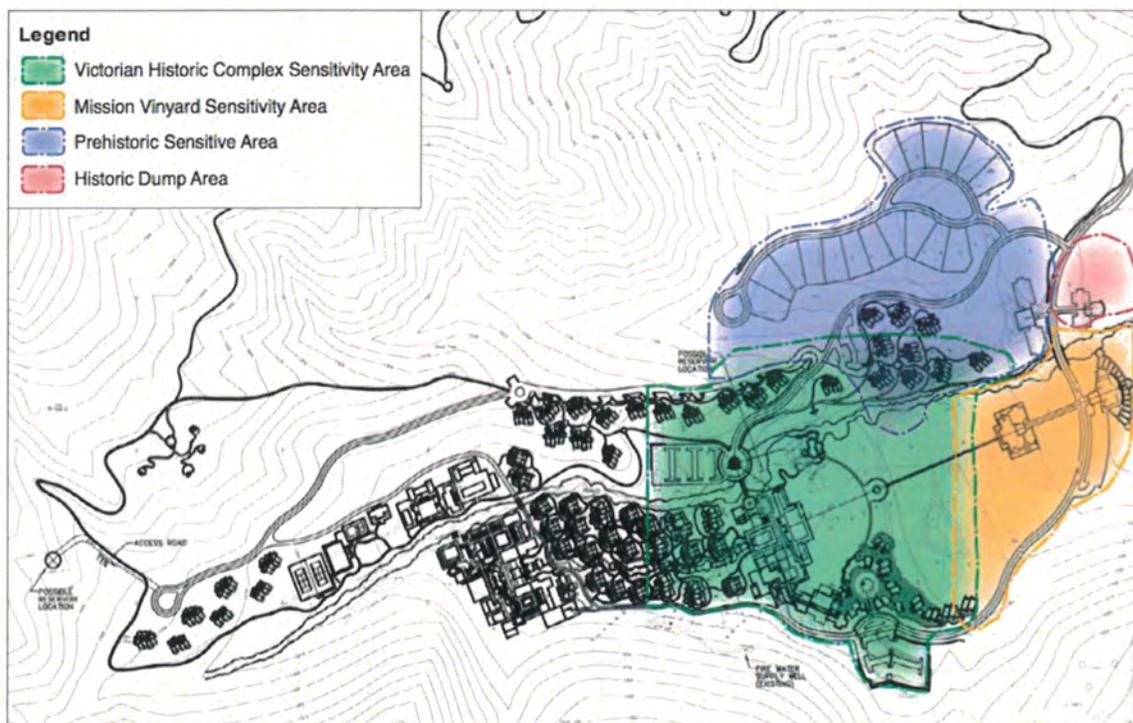
<sup>14</sup> NPS, Preservation Brief 36: Protecting Cultural Landscapes,

<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:

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<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...

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<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 demolition. 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.

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<sup>29</sup> Ibid.

<sup>30</sup> Secretary of the Interior Standards for Reconstruction

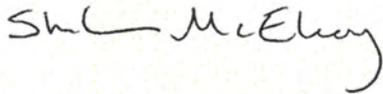
[http://www.nps.gov/history/hps/tps/standguide/reconstruct/reconstruct\\_approach.htm](http://www.nps.gov/history/hps/tps/standguide/reconstruct/reconstruct_approach.htm)

<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



Sheila McElroy  
Principal

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<sup>32</sup> Ibid.

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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/tnhome.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."



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

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<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:

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<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.

## **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.*



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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 Manthuis 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)<br>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 or each aquifer transmissivity and storativity coefficeints 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.

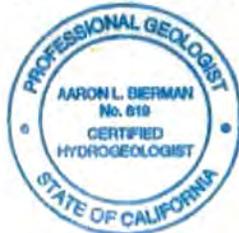
#### LIMITATIONS

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.

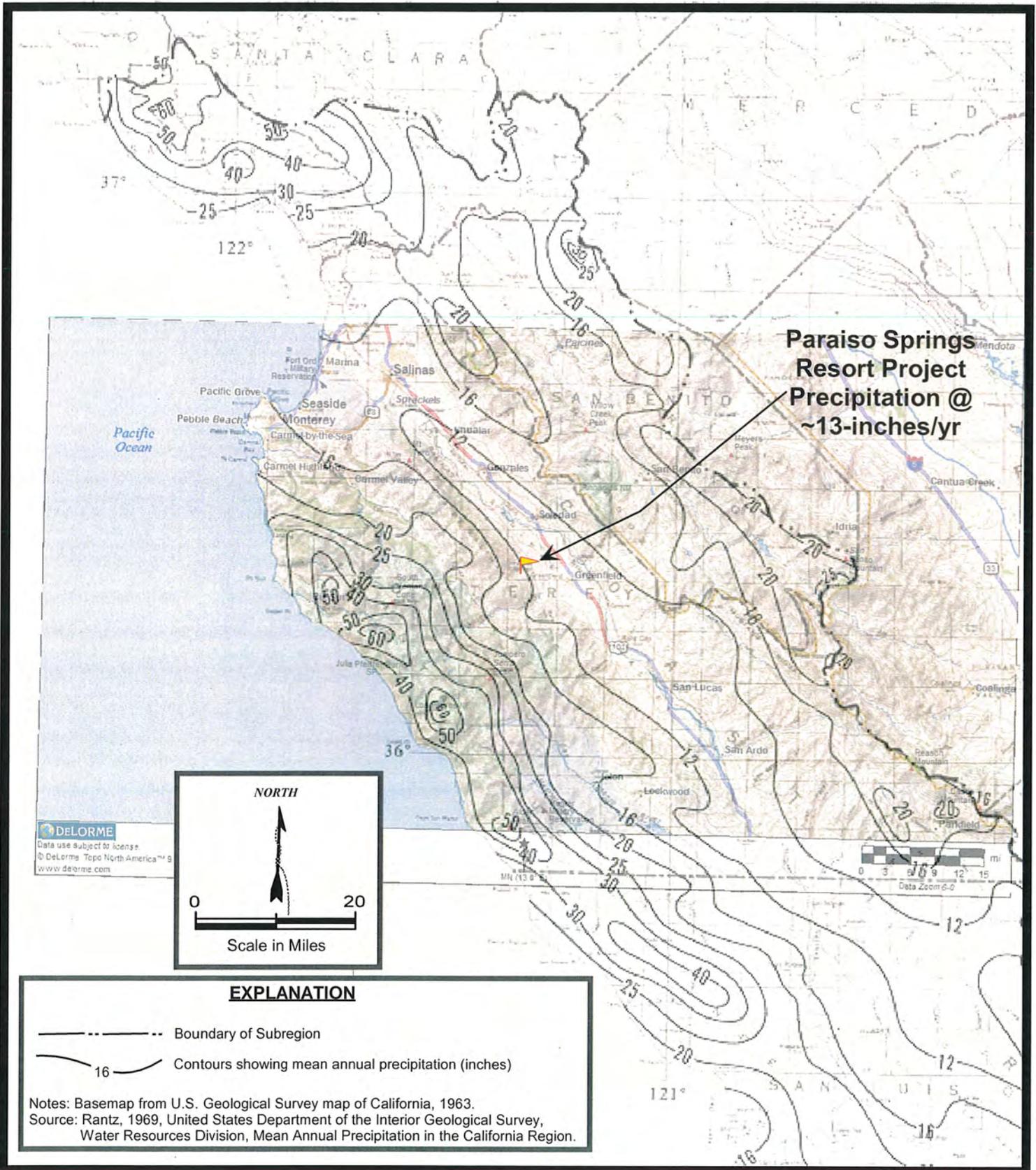
Respectfully submitted,



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.



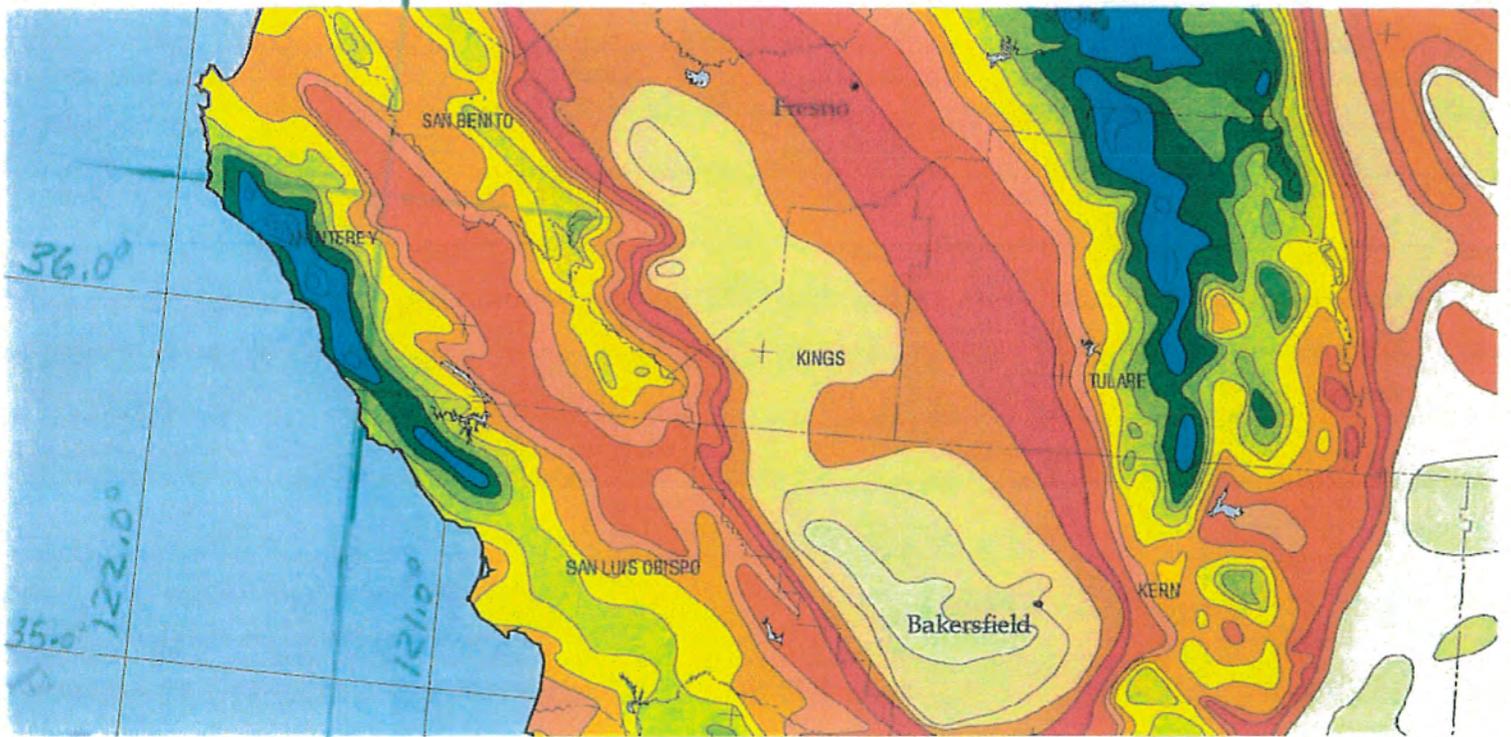
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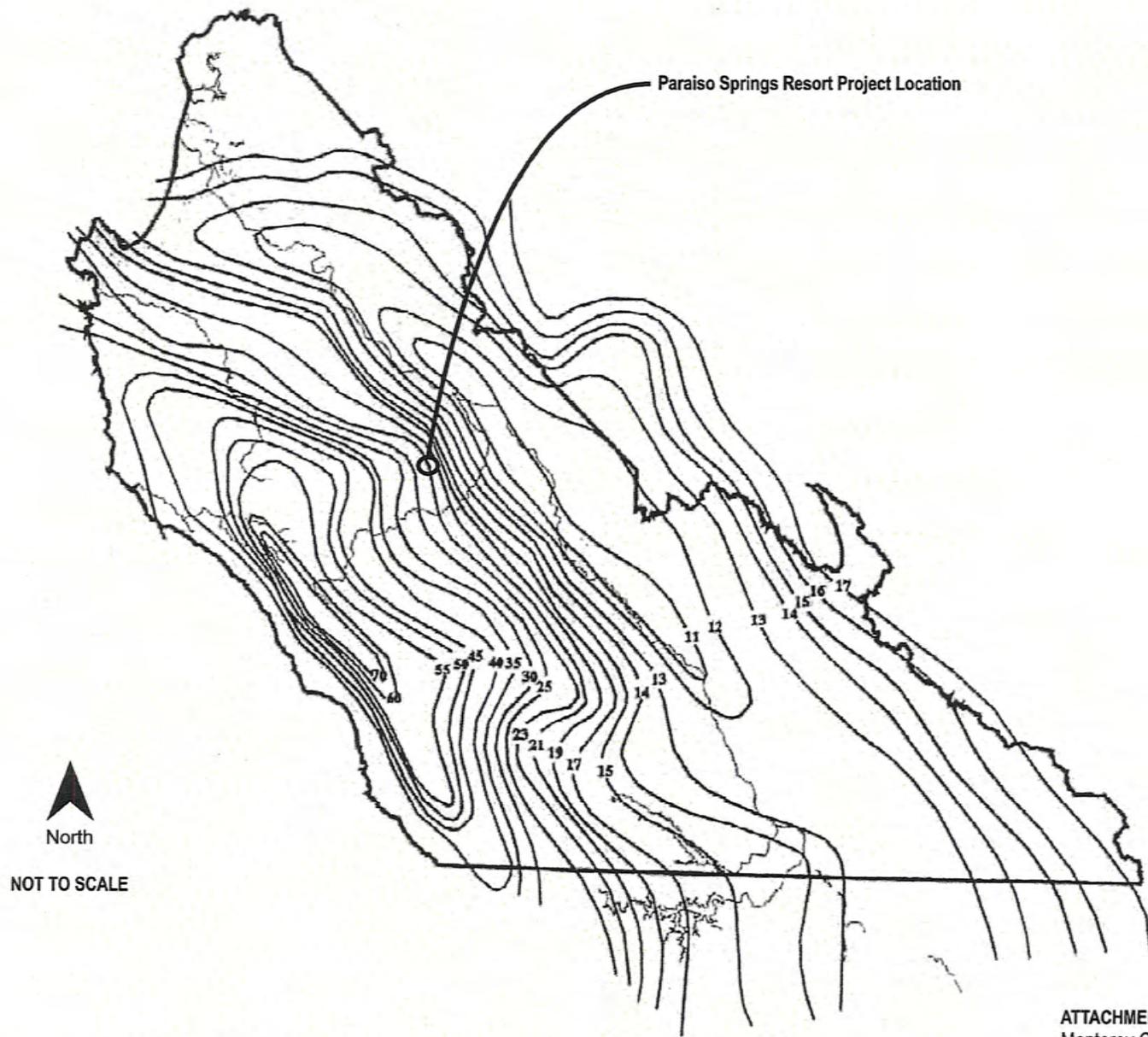


Hydrogeologic Consulting & Water Resource Management

**ISOHYETAL MAP  
 PARAISO SPRINGS RESORT  
 MONTEREY, CALIFORNIA**

**Figure  
 XXX**





**ATTACHMENT 5**  
 Monterey County Mean Annual Precipitation  
 Paraiso Springs Resort Subbasin Delineation

SOURCE: MCWRA Annual Report 1995 Water Year (MCWRA, 1997)  
 WB052008003BAO Attachment\_4\_mean\_aannual\_precip.ai 05-15-08 dash

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**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

### 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:

$$f = 0.2083 (100/c)^{1.852} q^{1.852} / d_n^{4.8655}$$

where

f = friction head loss in feet of water per 100 feet of pipe (ft<sub>h2o</sub>/100 ft pipe)

q = volume flow (gal/min)

d<sub>n</sub> = 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.

#### 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

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.

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8 Attorneys for Plaintiff  
CYNTHIA E. PURA, Trustee of the 2001 Cynthia  
9 E. Pura Revocable Trust UDT dated July 11, 2001

10  
11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 COUNTY OF MONTEREY

13  
14  
15 CYNTHIA E. PURA, Trustee of the 2001  
Cynthia E. Pura Revocable Trust UDT  
dated July 11, 2001,

16 Plaintiff,

17 v.

18 THOMPSON HOLDINGS, L.L.C., a  
19 California limited liability company; and  
DOES 1-50, Inclusive,

20 Defendants.  
21

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

22  
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:

25 **PARTIES**

26 1. Plaintiff Pura Trust is the owner of certain real property situated in the County of  
27 Monterey, California, and more particularly described as follows: (1) "Parcel I" in Exhibit "B" to  
28 that certain Agreement Re Easement recorded December 27, 1985 at Reel 1913, Page 151 of  
{DGO-00658185;3 }

1 Official Records of Monterey County (“1985 Agreement”), commonly known as 33211 Paraiso  
2 Springs Road, Soledad, 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-00658185;3 }

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}

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*  
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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 }

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.

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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  
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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,  
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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 }

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:   
15 Andrew B. Kreeft, Esq.  
16 John S. Bridges, Esq.  
17 Derric G. Oliver, Esq.  
18 Attorneys for Plaintiff  
19 CYNTHIA E. PURA, Trustee of the 2001  
20 Cynthia E. Pura Revocable Trust UDT  
21 dated July 11, 2001  
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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*  
\_\_\_\_\_  
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, )  
County of Monterey ) SS.

On this 28th. day of May 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 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.H.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

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 inch pipe from the said spring for the purpose of carrying the water from PHS

\$1.00  
Cash

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 herunto affixed their hands this 1 day of June, A.D. 1918.

SIGNED, SEALED AND DELIVERED

Frank Brandt

IN THE PRESENCE OF.....

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 name are subscribed to the within instrument, and they duly acknowledged to me that they executed the same. IN WITNESS WHEREOF, I have herunto 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

65781

R	7	RECORDED AT REQUEST OF
M	1	ATTORNEY
RF	5	DEC 27 10 02 AM '85
T	13	OFFICE OF RECORDER COUNTY OF MONTEREY SALINAS, CALIFORNIA

REEL 1913 PAGE 151

AGREEMENT RE EASEMENT

This instrument entered into by and between PARAIISO, 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

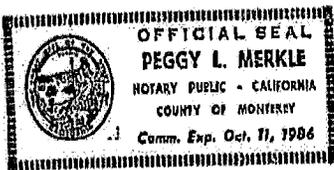
By: Marjorie C. Perrine  
Marjorie C. Perrine, Secretary

DATED: 12/11/1985

Jacob H. Pura  
JACOB H. PURA

Helen B. Pura  
HELEN B. PURA

STATE OF CALIFORNIA  
COUNTY OF MONTEREY



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.

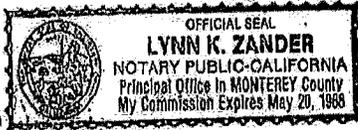
IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal in the City of Greenfield County of Monterey on the date set forth above in this certificate.

Peggy L. Merkle  
Notary Public, State of California  
My commission expires 10-11-86

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Cowdery's Form No. 32—Acknowledgement to Notary Public-Individuals (c.s. sec. 1188.)

STATE OF CALIFORNIA  
COUNTY OF MONTEREY



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 H 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

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Cowdery's Form No. 28—Acknowledgement to Notary Public—Corporation (C. C. Secs. 1180-1180.1)

REEL 1913 PAGE 153

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 30° 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@wilburells.com](mailto:YBlomquist@wilburells.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

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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

John Bridges, Esq.  
October 4, 2016  
Page 2

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

FENTON & KELLER

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

2801 MONTEREY-SALINAS HIGHWAY

POST OFFICE BOX 791

MONTEREY, CALIFORNIA 93942-0791

TELEPHONE (831) 373-1241

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LEWIS L. FENTON  
1925-2005

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DENNIS G. MCCARTHY  
CHRISTOPHER B. PANETTA  
DAVID C. SWBIGERT  
SARA B. BOYNS  
BRIAN D. CALL  
TROY A. KINGSHAVEN  
JOHN E. KESECKER  
ELIZABETH R. LBITZINGER  
SHARILYN R. PAYNE  
CAROL S. HILBURN  
CHRISTINA J. BAGGETT  
ELIAS E. SALAMEH  
KENNETH S. KLEINKOPF  
DERRIC G. OLIVER  
ROXANA B. KHAN  
LAURA L. FRANKLIN  
EVAN J. ALLEN  
ANDREW D. KRBBFT

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

{JSB-00601638}

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.

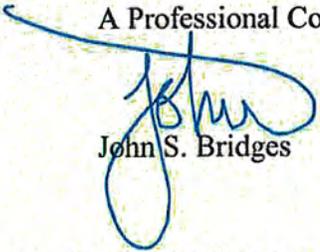
The meter is an unlawful encroachment on Pura's water pipeline and removal of it is within Pura's rights.

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)

{JSB-00601638}

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)

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Recording Requested By:  
Horan, Lloyd, Karachale  
& Dyer, Incorporated

65781

Dec 27 10 02 AM '85

OFFICE OF RECORDS  
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 PARAIISO, 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

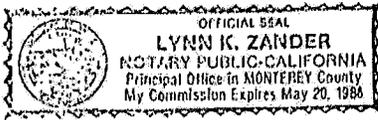
DATED: 12/11/1985

Jacob H. Pura  
JACOB H. PURA

HELEN B. PURA

STATE OF CALIFORNIA  
COUNTY OF MONTEREY

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 I. 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 corpora-  
tion therein named, and acknowledged to me that such corporation executed  
the same \_\_\_\_\_.



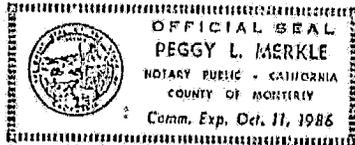
IN WITNESS WHEREOF I have hereunto set my hand and affixed  
my official seal in the City of Monterey County of Monterey  
\_\_\_\_\_ on the date set forth above in this certificate.

Lynn K. Zander  
Notary Public, State of California  
My commission expires May 20, 1986

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Cowdery's Form No. 28 — Acknowledgement to Notary Public — Corporation (C. C. Secs. 1190-1190.1)

STATE OF CALIFORNIA  
COUNTY OF MONTEREY

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 Geeseville 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

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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 30° 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 V

10. Terms and provisions as contained in an instrument

Entitled : Agreement Re Easement  
Executed by: Paraiso, Inc., a California Corporation and Jacob H. Fura and  
Helan B. Fura  
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 parties 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):

6 **VERIFIED FIRST AMENDED COMPLAINT FOR INJUNCTIVE RELIEF AND  
7 DAMAGES FOR:**

- 7 **1) QUIET TITLE: EXPRESS EASEMENT;**
- 8 **2) INTERFERENCE WITH EASEMENT;**
- 9 **3) PRIVATE NUISANCE;**
- 10 **4) TRESPASS TO CHATTELS;**
- 11 **5) DECLARATORY RELIEF.**

10  (BY FACSIMILE) by transmitting via facsimile the document(s) listed above  
11 to the fax number(s) set forth below on this date before 5:00 p.m.

12  (BY U.S. MAIL) by placing the document(s) listed above in a sealed envelope  
13 with postage thereon fully prepaid, the United States mail at Monterey,  
14 California addressed as set forth below.

14  (BY OVERNIGHT SERVICE) by placing the document(s) listed above in a  
15 sealed \_\_\_\_\_ envelope and affixing a pre-paid air bill, and causing the  
16 envelope to be delivered to a Delivery Service agent for delivery.

17  (BY PERSONAL SERVICE) by causing to personally deliver the document(s)  
18 listed above to the person(s) at the address(es) set forth below.

18  (BY EMAIL) by transmitting via e-mail or electronic transmission the  
19 document(s) listed above to the person(s) at the e-mail address(es) set forth  
20 below.

21  (BY ELECTRONIC FILING SERVICE) by transmitting a true copy thereof  
22 by electronic filing provider (EFSP) to the interested party(s) or their attorney of  
23 record to said action at the email address(es) of record and contained within the  
24 relevant EFSP database and listed below.

23 **Attorneys for Defendant THOMPSON HOLDINGS, LLC**

24 Rob Donlan , Esq.  
25 ELLISON, SCHNEIDER & HARRIS LLP  
26 2600 Capitol Avenue, Suite #400  
27 Sacramento, CA 95816  
28 Tel: (916) 447-2166  
Email: [red@eslawfirm.com](mailto:red@eslawfirm.com)

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I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on May 12, 2017, at Monterey, California.

\_\_\_\_\_  
/s/  
Tanya Sampaolo



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.

Land Use	Size	Daily Trips	Peak Hour 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

# 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

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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,

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<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

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<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.

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<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.

## **Response to Letter #12 – Alex J. Lorca, Fenton & Keller (April 26, 2018)**

1. This comment states that final jurisdictional wetland delineations must be made before identifying mitigation measures.

The County concurs that the wetland area associated with the spring used by Pura to divert water to their property is identified as freshwater marsh W8. In January 2009, WRA, Inc. (WRA) wetland biologists conducted a wetland delineation within the Paraiso Springs Resort Study Area. The purpose of the wetland delineation was to describe the location and extent of waters, including wetlands, which may be considered jurisdictional waters of the U.S. by the U.S. Army Corps of Engineers (Corps) under Section 404 of the Clean Water Act. The Corps verified the extent of jurisdictional waters during a site verification visit on April 7, 2009. The delineation report was updated in July of 2016 (WRA Environmental Consultants, 2016; RDEIR page 3-52) to reflect the jurisdictional determination made by the Corps. The updated report describes the extent of waters determined to be subject to federal jurisdiction by the Corps under Section 404 of the Clean Water Act and potentially subject to state jurisdiction by the State Water Quality Resources Board (SWQRB) and Regional Water Quality Control Board (RWQCB) under Section 401 of the Clean Water Act and the Porter-Cologne Water Quality Control Act. The report is clear as to the jurisdictional determination of all wetlands on the site. The report also identifies areas that are expected to be impacted by the project and that no construction impacts are expected in the area of the delineated W8 freshwater marsh associated with the spring used by Pura.

Jurisdictional Waters and Wetland delineations were included in the RDEIR (see Figure 3.3-2 and pages 3-59 through 3-63). The analysis of potential impacts is included in Impact 3.3-4, Loss of Potentially Jurisdictional Wetlands/Waters and Riparian Habitat (pages 3-94 through 3-99). Final jurisdictional permitting and development of a final mitigation program in consultation with permitting agencies is required in RDEIR Mitigation Measures 3.3-4a and 3.3-4b (pages 3-98 through 3-99).

Note: the terms “Pura Spring” or “spring used by Pura” as used throughout this document refers to a spring located on the Project property that diverts surface water through a one-inch pipe to two neighboring properties for limited domestic and livestock uses.

As stated above, such as in response to Letter 10, Number 19, the County does not identify any potential physical environmental impacts to the spring resulting from the potential change in water levels.

2. This comment states that the potential impact from groundwater use on wetlands needs to be included in the RDEIR.

The RDEIR analyzed the potential impact of groundwater use on wetlands in Impact 3.8-9, Wetland and Riparian Habitat Impact, and in Impact 3.3-4, Loss of Potentially Jurisdictional Wetlands/Waters and Riparian Habitat. Mitigation Measures 3.3-4a, 3.3-4b, and 3.8-9 provide measures to reduce the potentially significant environmental impacts to a less than significant level. Mitigation Measure 3.8-9, in particular, establishes a monitoring program and adaptive management to ensure that significant impacts to wetlands and riparian habitat are avoided.

The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant’s hydrogeologist and concur with the text found in

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responses BHgl-1 through -39, in the Todd Groundwater document found at the end of the responses to Letter 10.

3. This comment relates to setbacks of project components from wetlands and springs. Appropriate avoidance buffers and setback will be as required through the regulatory agency permitting processes, including consultation with the Regional Water Quality Control Board.

The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-25, -26, -27, -30, -31, -32, -33, -34, -35, and -36, in the Todd Groundwater document found at the end of the responses to Letter 10.

4. This comment relates to impacts on historic resources and suggests that reconstruction of historic cabins should be included in the mitigation measures. See Master Responses 1, 2, 3, and 4.

5. This comment asserts that treatment loss needs to be included in the analysis.

The Monterey County Water Resources Agency staff and staff from the Monterey County Environmental Health Bureau have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in response BHgl-10, in the Todd Groundwater document found at the end of the responses to Letter 10.

Peak Hourly Demands will be met by storage fluctuations in the 500,000-gallon potable supply storage tank. This amount of storage equals approximately ten times the maximum day demand (Todd Groundwater, August 7, 2018, *Responses to Bierman Hydrogeological (BHgl) Comments and LandWatch Hydro Comment D*, response BHgl-10). Therefore, it would be capable of accommodating any degree of short-term fluctuation in water use during the maximum use day.

The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-10, -14, -19, -25, and -27, in the Todd Groundwater document found at the end of the responses to Letter 10.

Also see Responses to Letter 7, Number 30 and to this Letter, Number 7, below.

6. This comment states that the analysis did not include Maximum Day Demand and Peak Hourly Demand.

Pursuant to CCR Title 22, Section §64554, New and Existing Source Capacity, paragraph b3 and b4, the specified peaking factors shall be applied when the average daily usage is used to estimate Maximum Day Demand and Peak Hourly Demand. Todd Groundwater, January 2018 (Section 7) estimates the average daily water demand is 34,400 gpd. Applying a peaking factor of 2.25, the per minute peak potable water demand is actually 53.75 gpm (noted as 33 gpm without the peaking factor on page 3-323 of the RDEIR). Each well, alone, is capable of producing sufficient water to meet the peaking factor. Only one well is required to provide water supply for the project, but the project may use multiple sources to meet water demand (see discussion in Todd Groundwater, August 7, 2018, *Responses to Bierman Hydrogeological (BHgl) Comments and LandWatch Hydro Comment D*, response BHgl-10).

The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-10, -14, -16, and -19, in the Todd Groundwater document found at the end of the responses to Letter 10.

Also see Responses to Letter 7, Number 30 and to this Letter, Number 7, below.

7. This set of comments suggests the pump tests were not conducted in accordance with county standards.

On day 4 of the 10-day source capacity test for Well 1, EHB staff directed an addition of piping to be installed to prevent any possibility of recharge. However, it is important to note that the EHB has since determined, in consultation with WRA, that Well No. 1 is constructed in alluvial materials and should only have been subject to an 8-hour source capacity test (Duration of Alluvial Source Capacity Testing – CA Code of Regulations, Section 64554). Therefore, the subsequent pumping from days 5-10 sufficiently demonstrates that adequate source capacity exists.

The Monterey County Water Resources Agency staff and staff from the Monterey County Environmental Health Bureau have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-13, BHgl-15, and BHgl-16 in the Todd Groundwater document found at the end of the responses to Letter 10.

8. This comment says an 8-hour test is required to determine impacts to groundwater levels. The Monterey County Water Resources Agency staff and staff from the Monterey County Environmental Health Bureau have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in response BHgl-16, in the Todd Groundwater document found at the end of the responses to Letter 10.

Also, see Responses to Letter 7, Number 30 and to this Letter, Number 7, above.

9. This comment seeks more study on the relationship of aquifers and springs. The RDEIR contains extensive discussion and analysis on these topics in Chapter 3.8, Hydrology and Water Quality, and in Chapter 4.5, Cumulative Impacts. The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-1 through -5, -12, -13, -15, -16 (paragraph 2), -

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17, -20, -22, -25, -28, -30, -33, -36, -38, and -39, in the Todd Groundwater document found at the end of the responses to Letter 10.

10. This comment suggests more analysis of precipitation at the site.

The Monterey County Water Resources Agency staff and staff from the Monterey County Environmental Health Bureau have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in response BHgl-17, in the Todd Groundwater document found at the end of the responses to Letter 10.

11. This comment states that pollutants introduced into groundwater must be studied.

The hot springs water has flowed into the creek for well over a hundred years, and continues to flow into the creek. No new pollutants are expected to be introduced into the creek at the cited pond. The County is uncertain as to what pollutants are being referenced in the comment. RDEIR Impact 3.8-3, Long-term Surface Water Quality, analyzed potential pollutants from runoff and determined that the impact is less than significant with mitigation that filters runoff contaminants through active and passive treatments (RDEIR pages 3-239 through 3-241).

The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-6, -10, -24, -25, -27, -29, -30, -31, -32, -33, -34, and -36, in the Todd Groundwater document found at the end of the responses to Letter 10.

12. This comment suggests that the EIR address changes in stream water temperature.

Higher temperature water has historically been flowing into the streambed (RDEIR pages 2-46, 3-220 and 3-244). Warm water flows from the spring into the pools and spas onsite and then exits into the streambed. This occurred during resort operations and also during the present time. When water is not fully pumped from the hot springs well to the pools and spas, the water flows out of the springs and directly into the creek and/or stays in the aquifer (RDEIR page 3-220; County staff site visit dated October 18, 2017; Todd Groundwater, 2018, pages 4 and 9). No change to that practice is proposed; the proposed in-stream pond will also function in a similar manner. Riparian vegetation, including the wetland areas, has adapted to the warmer water found flowing out of springs in this area (Todd Groundwater, 2018, pages 4 and 9; County staff site visit dated October 18, 2017).

The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-34, in the Todd Groundwater document found at the end of the responses to Letter 10.

13. This comment states the EIR did not analyze stream temperature changes from removing culverts and riparian vegetation.

The removal of culverts and replacement with bridges would not affect stream flows or water temperature flowing from the hot springs. The amount of cold water flow during heavy rain events would mix with warm water coming from the hot springs and reduce surface water temperature. Natural variability in stream temperature has occurred historically on this site: warm water flows in the creek when only hot springs water is released (non-rainy season), and cold water mixes with the hot water from the springs during the rainy season when rain events cause the stream to run. This has occurred on this site for as long as the hot springs have surfaced at this location. To summarize, no change from historic surface water temperatures would occur from replacing the culverts with bridges. The loss of riparian vegetation, three willow trees (RDEIR page 3-94) is analyzed in Impact 3.3-4 and identifies that permitting required by resource agencies would ensure protection of wetland and riparian habitats (US Army Corps of Engineers Clean Water Act Section 404 Nationwide Permit, California Regional Water Quality Control Board Section 401 Water Quality Certification, and a California Department of Fish and Wildlife Section 1602 Streambed Alteration Agreement – RDEIR page 3-99). Mitigation Measures 3.3-4a and 3.3-4b require measures that would ensure the impact to both wetland and riparian vegetation would be a less than significant

impact, including monitoring activities and adaptive management provisions in the final plan submitted for jurisdictional permitting requirements identified in these mitigation measures.

The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-34, in the Todd Groundwater document found at the end of the responses to Letter 10.

14. This comment asserts that preparation of a Storm Water Pollution Prevention Plan may not reduce impacts of erosion to a less than significant level and increased flooding from climate change.

See Response to Letter 8, Number 7 related to drainage control methods and requirements. The potential impacts related to climate change's effect on seasonal flooding at this site has not been determined. The commenter has presented no evidence that the area will have increased flooding. The project site is not located in a FEMA-designated special flood hazard area (RDEIR page 3-220 describes the project site as outside the 0.2 percent annual chance floodplain area; Monterey County Geographic Information System—see response to Number 16, below). Any potential increase or decrease in rainfall events from climate change is not certain; on a larger geographic scale, some areas will be wetter, some drier, but no definitive determination has been made whether central Monterey County will be wetter or drier as a result of climate change. The project will be required to meet the current state standards for erosion and runoff control.

15. This comment makes a statement that impervious surfaces will reduce water percolation to the aquifer. Runoff will be controlled on site, allowing percolation to occur. Contrary to the comment, percolation to the source aquifer is calculated to increase (Todd Groundwater, 2018, section 3.4, section 4.3, and particularly section 8.2.1-last paragraph on pages 24 and 25).

The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in response BHgl-33, in the Todd Groundwater document found at the end of the responses to Letter 10.

16. This comment alleges a setback violation is proposed.

The section cited in the comment, Monterey County Code section 16.16.050.K is only applicable in Special Flood Hazard areas (MCC section 16.16.050.K, first sentence). The property is not located within such an area. Monterey County Code section 16.16.020.BBB states that Special flood hazard area "means an area subject to a one-percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, AE, AR, A99, AH, VE, or V." The project site is located in FIRM (Flood Insurance Rate Map) Zone X (Monterey County Geographic Information System -

[http://gis.co.monterey.ca.us/Html5Viewer/Index.html?configBase=http://gis.co.monterey.ca.us/Gcocortex/Essentials/external/REST/sites/PBI\\_View External2/viewers/BaseMapView/virtual directory/Resources/Config/Default](http://gis.co.monterey.ca.us/Html5Viewer/Index.html?configBase=http://gis.co.monterey.ca.us/Gcocortex/Essentials/external/REST/sites/PBI_View External2/viewers/BaseMapView/virtual directory/Resources/Config/Default)). Even if the section were to be applicable, the section includes exceptions that can be met through proper design (Monterey County Code section 16.16.050.K.1 and 2). In addition, assuming that it does encroach on a setback, the location could be moved slightly in its final design, as it would need to meet all County Code requirements. The County will apply the applicable rainfall rate and intensity for the area at the time of project design to ensure any in-stream infrastructure will not block required flows.

The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-35, in the Todd Groundwater document found at the end of the responses to Letter 10.

17. This comment states that climate change will affect large storm frequency and that the State Department of Fish and Wildlife must be consulted.

As discussed further in the paragraph cited by the comment, on RDEIR page 3-108, "...the project site...is located near the top of the watershed and not within or near any identified floodplain, therefore no additional flood risk has been identified or expected." Monterey County Code requires that proposed stream crossings not impede flow requirements for the channel (Monterey County Code section 16.16.040H). The California Department of Fish and Wildlife will require a Streambed Alteration Agreement, as listed on RDEIR page 2-61 (Table 2.4) and explained on RDEIR page 3-99, as well as above in Response to Number 13 for this Letter.

The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-33, -34, and -35, in the Todd Groundwater document found at the end of the responses to Letter 10.

18. This comment states that storm water in a detention basin may be in direct contact with seasonal groundwater. The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in response BHgl-36, in the Todd Groundwater document found at the end of the responses to Letter 10.

19. This comment states that the RDEIR did not analyze water quality and quantity to a spring.

The RDEIR analyzed these impacts in Chapter 3.8, section 3.8.4 (see discussion in many sections, including Impact 3.8-2, Long Term Surface Water Runoff; Impact 3.8-3, Long-Term Surface Water Quality; Impact 3.8-4, Long-Term Water Supply; Impact 3.8-7, Potential Spring Impact; and Impact 3.8-8, Groundwater Water Quality).

The Monterey County Water Resources Agency staff and staff from the Monterey County Environmental Health Bureau have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-1, -4, -5, -20, -22, -23, -25, -26, -27, -28, -30, -32, -33, -34, -38 and -39, in the Todd Groundwater document found at the end of the responses to Letter 10.

20. The comment suggests that the RDEIR ignored implementation of the Sustainable Groundwater Management Act. The Monterey County Water Resources Agency staff and staff from the Monterey County Environmental Health Bureau have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in response BHgl-37, in the Todd Groundwater document found at the end of the responses to Letter 10. Also, see response to Number 22, below.

21. This comment states that the impact on groundwater is not fully mitigated. The conclusion in the RDEIR is that the amount of groundwater used causes a less than significant impact on the environment, both at the project level (RDEIR Chapter 3.8, pages 3-241 through 3-252, Impact 3.8-4: Long-term Water Supply, Impact 3.8-5, Effect on Salinas Valley Groundwater Levels, Impact 3.8-6, Well Interference, and Impact 3.8-7, Potential Spring Impact, all determined to be less than significant) and cumulatively (RDEIR Section 4.5, pages 4-11 through 4-14, determined to be less than significant).

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22. The comment is that the Sustainable Groundwater Management Act cannot be relied on to state that the aquifers will be sustainable, and that implementation of that Act will have environmental impacts.

The RDEIR analysis relating to groundwater and water supply does not assume the Sustainable Groundwater Management Act (SGMA) will solve any issues related to the project. The RDEIR relies on known (constructed or foreseeable) projects that assist in providing water to the Salinas Valley Groundwater Basin and analyzes the project's direct and cumulative impacts related to the current groundwater setting and programs (Chapter 3.8 and Section 4.5.2). The RDEIR merely points out that additional factors in the future will affect groundwater within the basin, with the expectation that implementation of SGMA will be a factor in the future that should help the County achieve a sustainable groundwater system. Sustainable Groundwater Plans (SGP) are being prepared and no reasonably foreseeable SGMA implementation measures have been adopted to date. The area is not in a Critically Overdrafted Basin; it is located within a Medium Priority Basin as described on RDEIR page 3-232 (basin 3-4.04, Forebay Aquifer-<https://water.ca.gov/sgma>), which means that the SGP is not due to be approved until 2022 (<https://svbgsa.org/about-us/sgma/>).

The Monterey County Water Resources Agency staff have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in response BHgl-37, in the Todd Groundwater document found at the end of the responses to Letter 10.

23. The comment states that a new groundwater study is coming out in late 2019 and that approving this project ahead of that study will contribute to increased use of groundwater.

The County prepared the RDEIR based on the latest information for the Salinas Valley Groundwater Basin, including a comprehensive report related to groundwater, the *State of the Salinas River Groundwater Basin Report* published in 2015 as well as technical reports published in 2016 through 2018 (see RDEIR page 3-217 and 3-218 for a list of the recent reports utilized in analyzing the potential impacts of this project). The Salinas Valley Groundwater Basin is the area of potential impact for cumulative groundwater use (RDEIR section 4.5.2, pages 4-11 and 4-12, third full paragraph). Contrary to the comment ("the full impact of saltwater intrusion in the Forebay Aquifer Subbasin has not yet been determined"), no effects of seawater intrusion are found within the Forebay Aquifer (Brown and Caldwell, 2015). The Monterey County Water Resources Agency analyzed and updated saltwater intrusion locations in reports to the Monterey County Board of Supervisors in 2017 that supports that finding (Monterey County Water Resources Agency, 2017a through 2017d, as listed on RDEIR page 3-218). According to this 2017 report, saltwater intrusion is located over 30 miles away from the project site (<http://www.co.monterey.ca.us/home/showdocument?id=57394>).

24. This comment claims that best management practices are not sufficient mitigation for lowering groundwater levels.

The low impact development measures proposed, also known as best management practices, are part of the water balance calculations for the site and do not, alone, determine the amount of impact the project will have on groundwater levels in the aquifer. RDEIR Chapter 3.8 thoroughly examines the potential effects of water use on the site in relation to effects on the physical environment. The County has determined that, with mitigation measures identified in Chapter 3.8, the project will result in a less than significant effect on groundwater and surface water environmental effects. RDEIR Chapter 4.0 similarly determined that the project's contribution to a cumulative impact on hydrology and water quality is less than cumulatively considerable and thus is not significant (RDEIR pages 4-11 through 4-14).

The Monterey County Water Resources Agency staff and staff from the Monterey County Environmental Health Bureau have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-31 and -33, in the Todd Groundwater document found at the end of the responses to Letter 10.

25. This comment asserts that the project cannot be approved until a final drainage plan is prepared.

Conceptual drainage plans and technical reports related to drainage have been submitted as part of the application materials (Landset Engineers, 2004, *Geologic and Soil Engineering Feasibility Report for Paraiso Hot Springs Spa Resort, Monterey County, California*; CH2MHill, October 28, 2008, *Paraiso Springs Resort – Response to Hydrology and Hydraulic Analysis and Erosion Control Measures Review Comments*; CH2MHill, May 2, 2012, *Paraiso Springs Resort – Drainage Analysis and Drainage Plan Comments*). Final drainage plans are a standard requirement based on final, detailed design plans prepared for project construction. The RDEIR analyzed potential impacts related to the technical plans and reports submitted with the application and is recommending mitigation measures, which will require modification of aspects of the proposed project. The final drainage plans will take all the modifications into consideration and will need to meet the standards applicable to all projects as imposed by the requirements of the Monterey County Code, state agencies, and the mitigation measures identified through the environmental review process. The potential environmental effects of the proposed project were analyzed and disclosed in the RDEIR; no impermissible deferral of mitigation measures has occurred. See Response to Letter 8, Number 7.

26. This comment conflates discussions on two different water sources. If the Soda Springs well (aka Paraiso Spring), the spring that provides water to resort tubs and pools, were to run dry or lack sufficient water, for whatever reason, a replacement well would be developed out of the same warm water source. Alternatively, the pools and tubs could be filled only as needed and not recirculated with additional water from the Soda Springs well. Water samples taken while drilling soil borings around the site included taking water temperature samples, so warmer water sources/locations are already known (Landset Engineers, 2004: Table 1 and Appendix A). Drilling a replacement well on site requires permits from the County Environmental Health Department, whose analysis would include ensuring compliance with permits issued for this project. A replacement well would utilize water from the same water aquifer/source and would not require any additional operational pumping than that analyzed in the RDEIR. If a proposed replacement well were to be proposed in a location outside the development area, an amendment to the permit and supplemental environmental analysis may be required, depending on a County determination based on the proposed location and characteristics of any proposed replacement well.

The discussion on RDEIR pages 3-251 and 3-252 referenced by the commenter is not related to the Soda Springs well, but the location where surface water is diverted by the Pura Ranch under an easement agreement, which is on the lower part of the Project's property. The Soda Springs well is higher in elevation and more central in the developed area (RDEIR Figure 2-6, page 2-21, Well Location C for Soda Springs Well, Location D for the spring used by Pura Ranch). The underground treated wastewater storage reservoir is several hundred feet below the Soda Springs well location (RDEIR Figure 2-6, page 2-21: Well Location C for Soda Springs Well; underground treated wastewater area near Number 8) and would not have flow inhibited by the underground reservoir.

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The “Pura Spring” provides very little water to off-site properties, as described in the RDEIR (page 3-245, third paragraph identified as the “fourth water source”; Todd Groundwater, 2018, section 10.1). The supplemental source described in the comment would be the project’s proposed potable water system.

The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant’s hydrogeologist and concur with the text found in responses BHgl-1 through -39, in the Todd Groundwater document found at the end of the responses to Letter 10.

27. The comment states that overflow from spring water may encourage non-native vegetation. There is no new introduction of overflow from spring water. The Soda Springs water used for the pools and tubs has always drained into the stream. Also, see Response to Letter 12, Number 12, above.

28. This comment states that the RDEIR needs to disclose pending litigation related to water rights for one of the springs on the site. No specific allegations of potential environmental impacts occurring from this litigation were presented in the comment. The litigation involves the use of the “Pura Spring,” which is discussed in responses to a few comments above. RDEIR Section 3.8.4, Impact 3.8-7, Potential Spring Impact, analyzed the project’s potential physical environmental impacts and determined that the impact would be less than significant. Litigation may result in a settlement, but no foreseeable impact on the environment can be determined. The RDEIR, on page 3-252, describes a scenario where the project applicant provided make up water to the off-site properties served by the spring’s diversion pipe. The conclusion is that there would be no change to overall groundwater use. No change in impact would occur. See Master Response 1.

29. This comment claims that the spring serving neighboring properties has superior rights. No specific evidence is provided to support the claim of superior rights. See response to Number 28, above. The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant’s hydrogeologist and concur with the text found in responses BHgl-22 and -23, in the Todd Groundwater document found at the end of the responses to Letter 10.

30. This comment asserts that the RDEIR does not adequately analyze environmental impacts to the spring serving neighboring properties. See Responses to Letter 7, Number 30 and to this Letter, Number 7, above. The Monterey County Water Resources Agency staff and staff from the Monterey County Environmental Health Bureau have reviewed the information provided by the applicant’s hydrogeologist and concur with the text found in responses BHgl-1, -4, -5, -20, -22, -23, -25, -26, -27, -28, -30, -32, -33, -34, -38 and -39, in the Todd Groundwater document found at the end of the responses to Letter 10.

31. This comment states that the RDEIR should have analyzed full development of the spring. See Response to Letter 12, Numbers 28, 29 and 30, above. The spring is fully developed and produces on average about 1 gallon per minute.

The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant’s hydrogeologist and concur with the text found in responses BHgl-4, -5, -20, -22, -23, -32, and -34, in the Todd Groundwater document found at the end of the responses to Letter 10.

32. This comment states that the RDEIR did not analyze the relationship between rainfall and spring output. See Response to Letter 12, Number 30, above.

The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-1, -2, -4, -5, and -17, in the Todd Groundwater document found at the end of the responses to Letter 10.

33. This comment states that the RDEIR did not analyze leakage from the wastewater treatment facility.

The wastewater treatment system is a closed system. The design, construction and operation are overseen by state and county agencies. Any leaks would be discovered and repaired, as with any mechanical system on the site. Any leaks occurring between the system and the storage, or from the storage tank itself, would contain treated water, which would meet water quality standards and would contain less pollutants than the water found in the aquifer, which has to be treated to meet water quality standards. The system will be designed based on a location-specific geotechnical investigation, which will take into account site characteristics, including soil, slope, liquefaction potential, fault location, seismic setting, etc. The proposed treatment system location (RDEIR Figure 2-6, page 2-21, Number 15) is not in an area where a fault is located (RDEIR pages 2-21, 3-175, 3-176, Figure 3.6-3, Regional Faults, and Figure 3.6-4, Relative Geologic Hazards) or near a landslide area (RDEIR page 3-179, Figure 3.6-4, Relative Geologic Hazards; located in area 3L). The treatment system would have to be designed to meet all County Code and state requirements.

The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-10, -14, -19, -24, -25, -27, and -29, in the Todd Groundwater document found at the end of the responses to Letter 10.

34. This comment states that the RDEIR did not address the potential failure of the wastewater treatment plant to meet standards. The wastewater facility will be required to submit quarterly nitrate monitoring reports to the Environmental Health Bureau, as required by Monterey County Code, Chapter 15.23. The facility will be required to make adjustments and/or modify the treatment system as needed to meet effluent discharge requirements (6 mg/L nitrate-nitrogen). See also responses to Number 33, above, and to Letter 7, Numbers 28, 37, and 46, and to Letter 9, Number 2.

35. This comment states that the RDEIR did not address effects to the spring serving neighboring properties, on the flow of groundwater, and the resulting effect on that spring. See responses to Letter 12, Number 33, to Letter 7, Numbers 43 and 45, and to Letter 12, Number 41. The wastewater treatment system will not intrude into an aquifer or block any water flow. The RDEIR discusses all the issues raised in the comment in Chapter 3.8, including specific discussion on potential impacts to the Pura Spring on pages 3-251 and 3-252 (Impact 3.8-7), with related discussions in Impacts 3.8-4, 3.8-6, and 3.8-8.

The Monterey County Water Resources Agency staff and staff from the Monterey County Environmental Health Bureau have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-1, -4, -5, -20, -22, -23, -25, -26, -27, -28, -30, -32, -33, -34, -38 and -39, in the Todd Groundwater document found at the end of the responses to Letter 10.

County of Monterey

36. This comment states that the wastewater treatment facility should be at least 100 feet from the spring serving neighboring properties. The minimum setback distance between the wastewater collection and recycled water conveyance lines will be specified in site-specific individual Waste Discharge Requirements (WDR) for the production of the recycled water issued by the Regional Water Quality Control Board in coordination with the State Water Resources Control Board – Division of Drinking Water. Because individual WDR will not be issued until after discretionary approval of the project, EHB recommends referring to the Table 3 of State Water Resource Control Board Order No. 2014-0153 DWQ, General Waste Discharge Requirements for Small Domestic Wastewater Treatment Systems.

Review of the tentative map indicates that the underground, treated water storage tank is situated about 200' from the spring serving the neighboring properties on the site plan and the wastewater treatment building is located approximately 50' from the spring serving the neighboring properties. A sewage spill in the water treatment building will be contained in the building and is therefore not a potentially significant impact. In the absence of an established setback between an indoor wastewater treatment facility (with impermeable floors) and a water source, if the County requires a relocation of the wastewater building to be set back 100' from the spring, the relocation would not cause any additional environmental impacts. The wastewater building would be relocated to a proposed parking area.

Also see responses to Letter 7, Number 46 and to Letter 12, Number 39.

The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-25, -26, -27, and -28, in the Todd Groundwater document found at the end of the responses to Letter 10.

37. This comment asserts that the RDEIR failed to address sewage spills on the spring. See responses to Letter 7, Numbers 28, 29, 37, and 46; Letter 9, Number 2; and Letter 12, Numbers 33, 34, 35, 36, 39, and 41. The information was included in the RDEIR and no recirculation is required (CEQA Guidelines Section 15088.5).

The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-14, -19, -25, -26, -27, and -29, in the Todd Groundwater document found at the end of the responses to Letter 10.

38. This comment states that the RDEIR did not address effluent storage and transfer. The RDEIR addresses this type of storage on page 3-320, within Impact 3.11-1, Wastewater Generation and Treatment. Waste will be stored in a separate bin kept on site and transported to the Marina landfill through the waste hauler for the site. This type of waste is not disposed of as hazardous waste and is used as landfill cover at the Marina facility (personal communication, Nicole Fowler and Roger Van Horn, Monterey County Environmental Health Bureau, December 27, 2018). Traffic trips would be limited to an average of 406 trips per day, including hauling of any materials used for project operations.

The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-24, -25, -26, -27, -28, and -29, in the Todd Groundwater document found at the end of the responses to Letter 10.

39. This comment suggests that the RDEIR should address increased setbacks between the wastewater storage tank and the spring serving neighboring properties. See response to Number 36,

above. The tank is proposed to store, tertiary disinfected recycled water and will be designed to be watertight. An established vertical setback distance between a treated water holding tank and seasonally high groundwater is not specified by State Water Resources Control Board, Order WQ 2014-0153-DWQ, Table 3, which includes a Summary of Wastewater System Setbacks that will be applied to the project. Per Table 3, the minimum horizontal setback between a well or flowing stream (springs are not listed) and a recycled water impoundment (i.e. underground storage tank) is 100 feet. The setback will be required to be 100 feet. The treatment tank will contain tertiary treated wastewater so any accidental leak would not have an adverse effect on the spring or any adverse environmental effects.

The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-25 and -26, in the Todd Groundwater document found at the end of the responses to Letter 10.

40. This comment states that borings should be done during high groundwater conditions and should be analyzed in the RDEIR. State Water Resource Control Board Order No. 2014-0153 DWQ does not specify a minimum vertical separation from a storage tank to seasonally high groundwater. The tank will be designed to be watertight. See Response to Number 39, above.

The Monterey County Water Resources Agency staff and County staff have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-24, -25, -26, -27, and -28, in the Todd Groundwater document found at the end of the responses to Letter 10.

41. This comment alleges that the RDEIR failed to analyze the construction and placement of the wastewater storage tank up gradient from the spring that serves neighboring properties.

The RDEIR discusses the development of the wastewater storage tank. The project description chapter, on page 2-18, describes the reservoir being "set on a gravel bed of the tank to allow aquifer pass through" (7<sup>th</sup> bullet). Specific discussion on potential impacts to the "Pura Spring" are found on pages 3-251 and 3-252 (Impact 3.8-7, Potential Spring Impact), and on pages 3-319 through 3-322 (Impact 3.11-1, Wastewater Generation and Treatment). Potential environmental impacts resulting from lower flows out of the "Pura Spring" are no different than baseline conditions, where the flow from the spring is already diverted into the water system for two neighboring properties (Todd Groundwater, 2018, section 10.1, page 31). See related Responses to Letter 5, Number 3, Letter 7, Number 45, Letter 8, Numbers 3 and 6, and to Letter 12, Numbers 4, 12, 26, 35, and 40.

42. This comment states that the RDEIR should have analyzed the Local Agency Management Program for Onsite Wastewater Treatment Systems. Monterey County Local Agency Management Program for Onsite Wastewater Treatment Systems (LAMP) was adopted by the Monterey County Supervisors on April 3, 2018 (Board of Supervisors Resolution No. 18-035) and subsequently adopted by the Regional Water Quality Control Board, Central Coast Region, on May 10, 2018 (Resolution No. R3-2018-0004). As specified in LAMP Section 1.5, the requirements and specifications of the LAMP became effective immediately the day following approval by the Central Coast Water Board on May 11, 2018. The Monterey County Local Agency Management Program applies only to domestic wastewater discharges of less than 10,000 gallons per day, so is not applicable to this project.

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43. The comment questions the assumption of no new growth.

The RDEIR discusses growth in several specific areas. In addition to the discussion cited in the comment (section 4.3.1, Growth-Inducing Impacts, Methodology), the discussion in RDEIR section 4.4, Population and Housing, provides more information related to population, housing and jobs in the Salinas Valley. Growth is included in the General Plans of jurisdictions in the Salinas Valley. The conclusion is found on RDEIR page 4-5. The RDEIR's Cumulative Impacts discussion, section 4.5, addresses the potential impacts of the project in conjunction with other projects in the area and found no additional potential environmental impacts. The number of agricultural jobs, the primary employer in the Salinas Valley and where 78.5% of Monterey County's agricultural employees are found, is variable, ranging from 73,429 to over 76,000 over the period of 2009 to 2015 (*Economic Contributions of Monterey County Agriculture*, 2011, found at <https://www.co.monterey.ca.us/Home/ShowDocument?id=1489> and Monterey County Farm Bureau website, accessed 9/4/18, <http://montereycfb.com/index.php?page=economic-contributions>).

The Association of Monterey Bay Area Governments (AMBAG) studies population and employment for the three counties that make up their association: Monterey, San Benito, and Santa Cruz Counties. Hospitality jobs in the AMBAG region are greater than the state average (11% v 10%) and growth is projected in this sector through 2040. The AMBAG region has a higher population to jobs ratio than the state or nation, causing commuting out of region to work. In the AMBAG region, 57,400 jobs are projected to be added between 2015 and 2040, 56% (32,300) within Monterey County; population growth projected to occur during this same period in Monterey County is 69,100 people, 57% of the AMBAG area population growth. (*2018 Regional Growth Forecast 2018*, Association of Monterey Bay Area Governments, June 13, 2018; [https://ambag.org/sites/default/files/documents/2018\\_Regional\\_Growth\\_Forecast.pdf](https://ambag.org/sites/default/files/documents/2018_Regional_Growth_Forecast.pdf))

Generally, the Salinas Valley cities see population growth projections greater than employment growth projections between 2015-2040. The Monterey Peninsula cities have an inverse relationship, with lower percentage population growth and higher percentage employment growth. Employment growth forecasted for years 2015-2040 is 16% for Soledad and 14% for Greenfield; population projections for these cities are 30% and 32%, respectively, over the same period. This demonstrates that job growth in this area of the Salinas Valley will continue at approximately half or less of the rate of population growth. This jobs/housing imbalance causes workers to commute from this area to find employment. (*2018 Regional Growth Forecast 2018*, Association of Monterey Bay Area Governments, June 13, 2018)

44. This comment states that this project is almost certain to exceed population projections compared to what the area would experience without this project, but offers no evidence for this statement.

See response to Letter 12, Number 43. Also, as the commenter notes, the RDEIR identifies a significant and unavoidable impact to "overdraft and seawater intrusion;" however, the project's contribution to a cumulative impact is less than cumulatively considerable and thus is not significant" (page 4-14; section 4.5.2, Cumulative Impacts Assumptions and Analysis, Hydrology and Groundwater, RDEIR pages 4-11 through 4-14). The first reference in the comment to page 2-246 in the comment should read page 3-246. The commenter's own expert, Bierman Hydrogeologic Technical Memorandum page 11, number 3, at the bottom of the page, concurs that there would be a less than significant impact to seawater intrusion.

45. This comment states that the 2010 General Plan is cited when convenient for the project applicant and that for cumulative purposes the 2010 General Plan must be considered.

The project is subject to the policies in the 1982 General Plan, as described on RDEIR page 2-1. The discussion on page 3-110 does not affect the project; it is merely a discussion describing the current environmental setting related to greenhouse gas emissions. The project proposes to fully offset GHG emissions (RDEIR pages 2-16 and 2-17, section 2.3, Project Objectives, 12<sup>th</sup> and 13<sup>th</sup> bullets; RDEIR Chapter 3.4, Climate Change) and RDEIR discussions analyze the project against that project description (RDEIR Chapter 3.4, Climate Change). The Cumulative Impacts analysis, found in section 4.5, includes growth and other development accommodated in the 2010 General Plan as applicable as substantial evidence related to development and buildout in the area and the County (see discussion on this general topic in section 4.5.2, RDEIR pages 4-5 and 4-6; specific discussions are found in topic discussions of section 4.5.2).

46. The commenter states that the RDEIR ignores day trips generated by the Hamlet. Refer to Master Response 5: Traffic and Response 10-22.

47. The commenter states that the RDEIR assumes 90% of employees will use the shuttle, most employees will commute in their private car, and a travel demand management program is needed to achieve the 90% shuttle participation rate.

As part of the proposed project and resort operation, 90% of the employees are proposed to use the shuttle, which is feasible and reasonable. A condition of approval for the project will limit road usage to the 406 annual average daily trips. However, the shuttle program may not be implemented for first phases. Resort operators would control and monitor total vehicle trips to the site and provide appropriate documentation to the County to ensure compliance. The County would monitor overall traffic volumes on Paraiso Springs Road. Refer to Master Response 5: Traffic and Responses to Letter 10, Numbers 23 and 24.

48. The commenter states that the RDEIR fails to identify potentially significant impacts to mass transit and the secondary impacts of project employees overburdening park and ride lots.

The significance threshold for potential impacts to transit is based on CEQA Guidelines Appendix G, as described in RDEIR Section 3.12.4. There would be no significant impact to transit or alternative transportation programs because the project would not conflict with relevant adopted policies (as discussed in RDEIR Section 3.12.5 under *Alternative Transportation*), and because the project would not result in the need to alter existing or build new transportation facilities (e.g., park and ride lots) which could result in secondary environmental impacts. As stated in RDEIR Section 3.12.5 under Project Trip Generation, satellite parking would likely occur at existing park and ride lots in the Salinas Valley, such as the one located on Front Street in downtown Soledad, although another parking area in the Salinas Valley may be used if that park and ride facility is unavailable.

49. The commenter states that the RDEIR fails to analyze the limited right of the public to travel on the portion of Paraiso Springs Road passing through property owned by Cynthia Pura and the Pura Trust, and alternative access must be found. Refer to Master Response 6: Road Ownership, Right to Intensify Road Use, and Compensation.

50. The commenter states that the RDEIR fails to analyze the dominant land use surrounding the project (ranching and agriculture) and impact of machinery (e.g., tractors) entering/exiting fields from Paraiso Springs Road.

The RDEIR analyzes land use in Section 3.9.5 in accordance with the State CEQA Guidelines, which focuses the analysis on whether the project would physically divide a community or conflict County of Monterey

with applicable land use plans and habitat conservation plans. Table 3.9-1, *Consistency Analysis with the Monterey County General Plan and Central Salinas Valley Area Plan*, includes policies associated with ranching and agriculture.

The RDEIR acknowledges traffic from agricultural land uses in Section 3.12.2 under *Traffic from Agricultural Land Use near Project Site*, and traffic changes during harvest season in Section 3.12.5 under Impact 3.12-1. As discussed under Impact 3.12-2, Paraiso Springs Road has an accident rate less than half the average rate for two lane highways across California. The applicant proposed roadway improvements (e.g., pavement widening, advance warning signs), which are not required to reduce impacts related to roadway hazards but nonetheless would be a condition of project approval to control timing of the proposed improvements, would further minimize the risk of motor vehicle accidents on Paraiso Springs Road. Therefore, the proposed project with the roadway improvements would not substantially increase hazards or incompatible uses, and the impact is less than significant.

The vineyards along Paraiso Springs Road have internal frontage roads for agricultural equipment. If equipment and implements are 20 feet wide, they would not be able to travel on any public road without special permits and would need escort vehicles. Traffic volumes along Paraiso Springs Road would remain relatively low with project traffic (e.g., average of one vehicle every 1.5 minutes during the peak hour and even lower outside peak hours, as described in page 14 of the traffic report). Therefore, the County and registered traffic engineers do not believe this constitutes a hazard or incompatible use and proposed traffic patterns can easily accommodate random agricultural vehicles.

51. This comment states an alternative reconstructing nine historic cabins should be included. See Master Response 3.

52. The commenter states the RDEIR fails to propose a project alternative that utilizes an alternative access road in light of the commenters claim that a portion of Paraiso Springs Road passes through the privately-owned Pura Ranch.

According to Section 15126.6 of the CEQA Guidelines, an EIR shall describe and evaluate a reasonable range of alternatives to the proposed project that would feasibly attain most of the project's basic objectives, but that would avoid or substantially lessen identified significant environmental impacts of the project. The project would not result in any potentially significant impacts with respect to use of Paraiso Springs Road that warrant identifying and evaluating an alternative access road. No alternative road location exists.

Also refer to Master Response 6: Road Ownership, Right to Intensify Road Use, and Compensation.

53. This comment states that the RDEIR fails to analyze an alternative that is farther from the spring that serves neighboring properties. As identified in RDEIR Impact 3.8-7 discussion (RDEIR pages 3-251 and 3-252), no potentially significant environmental impact will occur to the spring. As such, an alternative as requested in the comment would not provide a reduction in any "significant adverse effect," as stated in the quote at the top of commenter's page 15 introducing this comment.

Relating to the comment on the future development of the spring used by the Pura Ranch, to our knowledge the spring is already fully developed and collecting the amount of water pursuant to the terms of the agreement between the parties.

The Monterey County Water Resources Agency staff and staff from the Monterey County Environmental Health Bureau have reviewed the information provided by the applicant's hydrogeologist and concur with the text found in responses BHgl-1, -4, -5, -20, -22, -23, -25, -26, -27, -28, -30, -32, -33, -34, -38 and -39, in the Todd Groundwater document found at the end of the responses to this Letter.

54. This comment states that the RDEIR fails to analyze a project alternative that includes another parcel owned by the property owner.

It is not clear why the comment suggests that the identified parcel "must be included" as an alternative. The site of this other parcel is steep as opposed to the development site, where valley floors are primarily being proposed for the development. Development of this property in a mountainous area, versus on the alluvial slopes, does not appear on its face to reduce any significant environmental effects and may cause new impacts related to slope stability, temporary air quality impacts (from significant grading necessary to utilize the area for a resort), drainage, fire hazard, and aesthetics. No technical reports were provided for this area as no development is proposed for this property. Most of the property is over thirty percent slopes, which is typically placed into a scenic easement, to limit or avoid development, as required by General Plan policy 26.1.10 (RDEIR page 3-264). See Response to Letter 10, Number 28.

55. This comment states that more information should be included why the hotel only alternative was eliminated.

A hotel only project would not meet all the project objectives, but most importantly did not meet one of the basic County objectives for this project (RDEIR page 2-17):

Maximize development of this previously disturbed site to reduce pressure to convert agricultural land to visitor supporting uses related to the Agricultural and Wine Corridor, which is identified as an economic program in the 2010 Monterey County General Plan."

The CEQA Guidelines state that an Environmental Impact Report briefly explain the Lead Agency's reasoning (15126.6(c)). As described on RDEIR page 5-3, the reasons were briefly presented in the RDEIR as to why the hotel only alternative was eliminated. As CEQA Guidelines section 15126.6(c) further states, "[a]mong the factors that may be used to eliminate alternatives from detailed consideration in an EIR are: (i) failure to meet most of the basic project objective, (ii) infeasibility, or (iii) inability to avoid significant environmental impacts. As stated in this section, only one of the three factors have to be met to reject an alternative. In addition to not meeting most of the basic objectives, the hotel only alternative would not avoid the significant environmental impact related to historic resources, the only significant and unavoidable impact for this project. That Guidelines section also states that "[a]dditional information explaining the choice of alternatives may be included in the administrative record." We will provide more information in the project resolution related to explaining the choice of alternatives identified in the RDEIR.

56. The commenter states the RDEIR fails to propose a project alternative that includes a density concomitant (i.e., naturally associated with) with using the portion of Paraiso Springs Road that crosses Pura Ranch.

Also refer to Master Response 6: Road Ownership, Right to Intensify Road Use, and Compensation and to Response 52, above. See response to Letter 10, Number 31, which raised the same question.

County of Monterey

57. The comment is a summary statement of previous comments and claims the RDEIR must be substantially revised and recirculated.

The Sustainable Groundwater Management Act is discussed in RDEIR Section 3.8.3 under *Sustainable Groundwater Management Act of 2014* (pages 3-231 and 3-232), and the potential environmental impacts related to the “Pura Spring” were discussed in Section 3.8.5 under Impact 3.8-7. Also refer to Response to Number 41, above.

Regarding the authority to use Paraiso Springs Road, refer to Master Response 6: Road Ownership, Right to Intensify Road Use, and Compensation.

Regarding the County’s Local Agency Management Program for Onsite Wastewater Treatment, see response to number 42, above.

Regarding the day trips generated by the Hamlet, refer to Master Response 5: Traffic and Response to Letter 10, Number 22. All traffic trips were accommodated in the traffic study, RDEIR analysis, and will be limited through project conditions of approval, as described in Response to Letter 5, Number 6; Letter 8, Number 4; and Letter 10, Number 9.

Reconstruction of the demolished historic structures is addressed in RDEIR Section 3.5, Cultural Resources and Historic Resources. Refer to Master Responses 2, 3, and 4 and Response to Letter 10, Number 30 regarding allegations of impermissible deferral of mitigation measures.

Also refer to Master Response 7: CEQA Compliance and Adequacy of EIR.

**Letter #13 – Local Agency Formation Commission of Monterey County (April  
26, 2018)  
1/3 page**

**Novo, Mike x5176**

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**From:** McBain, Darren J. x5302  
**Sent:** Thursday, April 26, 2018 3:04 PM  
**To:** Novo, Mike x5176  
**Cc:** Blue, Brennan@CALFIRE; Owens, John@CALFIRE (John.Owens@fire.ca.gov); AICP Brent Slama (brent.slama@cityofsoledad.com); mmchatten@cityofsoledad.com  
**Subject:** RE: LAFCO comment letter - Paraiso Springs Resort Draft EIR  
**Attachments:** Signed Comment Letter - Paraiso.pdf

Mike, thank you for coming to our LAFCO meeting on Monday. Our signed comment letter is attached. The letter now includes a new/additional second sentence under "Other Matters" on page 2 (i.e. my best effort to address the comment that one of our commissioners voiced at the meeting). If you need anything else from me please let me know.

My thanks also to Chief Owens for being there.

Darren McBain  
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**From:** McBain, Darren J. x5302  
**Sent:** Thursday, April 19, 2018 4:20 PM  
**To:** Novo, Mike x5176 <NovoM@co.monterey.ca.us>; Blue, Brennan@CALFIRE <brennan.blue@fire.ca.gov>; Owens, John@CALFIRE (John.Owens@fire.ca.gov) <John.Owens@fire.ca.gov>; AICP Brent Slama (brent.slama@cityofsoledad.com) <brent.slama@cityofsoledad.com>; 'mmchatten@cityofsoledad.com' <mmchatten@cityofsoledad.com>  
**Subject:** LAFCO comment letter - Paraiso Springs Resort Draft EIR

Mike and all –  
LAFCO's draft comment letter is on the agenda for our meeting next Monday at 4:00; please see attached. Our full meeting agenda and packet will be posted to our web site shortly <http://monterey.lafco.ca.gov>, though it is not there yet. This will be item 8 on the agenda.  
If any questions or concerns, please let me know. Thanks -

Darren McBain  
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Local Agency Formation Commission (LAFCO) of Monterey County  
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LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY

2018

April 23, 2018

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Monterey County RMA – Planning  
1441 Schilling Place, 2<sup>nd</sup> Floor, Salinas, CA 93901

RE: Paraiso Springs Resort Recirculated Draft Environmental Impact Report

Dear Mr. Novo:

Thank you for continuing to coordinate with LAFCO on review of the Paraiso Springs Resort project. LAFCO provided comments on the original EIR in October 2013. The project proposes a variety of visitor-serving land uses on a 235-acre, unincorporated site that is partly within the Mission Soledad Rural Fire Protection District.

Background

Under the California Environmental Quality Act, LAFCO is a Responsible Agency for this proposal, and will have regulatory authority over a future application to bring an outlying portion of the site into the fire district prior to occupancy of the project, in conformance with County General Plan policies, and as the project description in the Draft EIR anticipates. It is in this role that LAFCO is commenting on the current, recirculated Draft EIR.

Potential Impacts to Fire Protection and Emergency Medical Services

Development of the project would result in a substantial “transient” (visitor) and employee population of approximately 500 persons in a remote and wildfire-prone location. The Draft EIR concludes that the project’s impacts on public services would be less than significant for CEQA purposes, requiring no mitigation. The Draft EIR describes the potential effects that would result from building a fire station on-site as part of the project, but concludes that no new on-site or off-site station is in fact warranted. (“[T]he increase in transient population would not be considered substantial enough to warrant construction of new or expanded facilities in order to maintain service ratios, response times, or other objectives for the Monterey County Sheriff’s Department... or the Mission Soledad Rural Fire Protection District,” per page 3-318 of the Draft EIR).

This 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. LAFCO encourages County staff and consultants to continue a dialogue with the fire district, the City of Soledad, and other nearby agencies to ensure that appropriate service levels and response times can be maintained if this project is approved.

Should the County ultimately determine that any project-specific, fire protection-related requirements are appropriate- such as payment of an impact fee, and/or dedication of land on- or off-site for development of a new fire station – LAFCO respectfully requests that any such requirements be specifically quantified and imposed by the County, either via the Final EIR’s mitigation measures or as binding conditions of project approval outside the CEQA process. Any impacts from the project on public services will occur in relation to permitting and build-out of the project. Therefore, any requirements to mitigate or offset such impacts should be identified and

13-1

linked to the County's development review and permitting processes. Those determinations should not be deferred to the time of a future LAFCO application for the relatively minor boundary change that would be needed to bring the outlying portion of the project site into the fire district.

13-1  
(cont.)

Other Matters

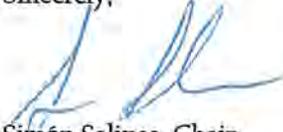
In reference to the groundwater-related comments in our 2013 letter, LAFCO acknowledges the use of on-site wastewater treatment and use of reclaimed water for landscape irrigation in order to reduce the project's overall net usage of groundwater. Should the County's development review process ultimately determine that construction of a new on-site or off-site fire station is warranted in relation to this project, LAFCO requests that the anticipated annual water usage for firefighting activities, training exercises, and related operations be evaluated and quantified.

13-2

Conclusion

Thank you again for the opportunity to comment on this revised Draft EIR. LAFCO looks forward to working with the County, the fire district, and other local stakeholders to resolve the concerns outlined above. Please continue to keep us informed throughout your process. County staff and consultants are welcome to contact LAFCO's Executive Officer Kate McKenna for further discussions.

Sincerely,



Simón Salinas, Chair

cc:

Chief Brennan Blue, Mission Soledad Rural Fire Protection District / CAL FIRE  
Asst. Chief John Owens, Mission Soledad Rural Fire Protection District / CAL FIRE  
Brent Slama, City of Soledad  
Michael McHatten, City of Soledad

## **Response to Letter #13 – Local Agency Formation Commission of Monterey County (April 26, 2018)**

1. This comment summarizes the project, states that the information appears to be inconsistent with statements by the Mission Soledad Rural Fire District, and suggests that the County include conditions of approval to address fire protection requirements.

The County concurs with the comment related to including conditions of approval to address fire protection, and has worked with the Fire District to develop those conditions, which have been submitted for inclusion in the County's resolution. The RDEIR provides sufficient analysis to accommodate the project's potential effects on Public Services, including related to the Fire District's desire to construct a fire station on the project site. See also Responses to Letter 7, Numbers 21 and 63, to Letter 8, Number 5, and to Letter 18.

Conditions of approval that provide for fire protection measures will be included in the project resolution, which would be adopted by the County prior to action being taken by the Local Agency Formation Commission. Mitigation Measure 3.7-6a requires that the applicant gain approval of a final Fire Protection Plan prior to clearance of vegetation or issuance of any construction permits for the project site. See response to Letter 5, Number 9, to Letter 20, Number 24, and to Letter 23, Number 5 for errata regarding mitigation measures related to wildfire impacts.

2. This comment suggests that the RDEIR include a discussion related to the potential for a fire station on the property.

Water and wastewater use for an on-site fire station, if ultimately approved, was analyzed in the RDEIR on page 3-308. Any wastewater would be included in the wastewater treatment system and reused for landscape irrigation. This would result in an additional water use of up to 0.9 acre-feet per year for the project site. If the final decision on this project includes an on-site fire station, the project findings will detail the potential environmental effects resulting from adding the additional water use and related to potential environmental effects relating to other topics identified in the RDEIR. The RDEIR concludes that no new significant environmental impacts would occur as a result of constructing an on-site fire station (pages 3-304 through 3-308); however, the RDEIR also found that no new fire station was warranted from an environmental impact perspective (pages 3-215 and 3-216; page 3-318).

**Letter #14 – James McCord, Alliance of Monterey Area Preservationists (April 26, 2018)**

1/2 pages

**Novo, Mike x5176**

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**From:** jim@historicarchitect.com  
**Sent:** Thursday, April 26, 2018 3:48 PM  
**To:** Novo, Mike x5176  
**Subject:** Paraiso Springs Resort RDEIR  
**Attachments:** AMAP.Paraiso.4.26.2018.dotx.pdf



Dear Mr. Novo,

Please see attached letter from AMAP regarding Paraiso Springs Resort RDEIR.

Thank you,

James D. McCord AIA  
AMAP Vice President



# Alliance of Monterey Area Preservationists

Mr. Mike Novo, AICP  
Monterey County RMA – Planning  
1441 Shilling Place 2<sup>nd</sup> Floor  
Salinas, CA 93901

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c/o [novom@ca.monterey.ca.gov](mailto:novom@ca.monterey.ca.gov)

April 26, 2018

Subject: Comments on Recirculated Draft Environmental Impact Report (RDEIR) for Paraiso Springs Resort (PLN040183; SCH#2005061016)

The Alliance of Monterey Area Preservationists (AMAP) has commented several times regarding Springs Resort. The basic facts remain the same. Nine Victorian-era cottages that were imported property were demolished in 2003, intentionally and without permits. The situation calls for *meaningful* mitigation, as required by the California Environmental Quality Act.

14-1

It is clear that the demolition would have a significant negative effect on the proposed project with regard to historic resources. The proposed mitigation is grossly inadequate, inappropriate and sets a very poor precedent for future projects in Monterey County. We request that the County require mitigation that is significant enough to deter future demolitions while benefiting a significant number of citizens. An appropriate mitigation would be a payment of \$2 million to the City of Soledad to be used for the restoration of the nearby Los Coches Adobe to act as an introduction point to the new project.

CEQA (Section 21002) clearly states that *"...public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects..."*. CEQA lists various types of avoidance and acceptable mitigation for these effects. Most of these cannot be done in this circumstance and replacing the buildings would not mitigate the loss of historic integrity. One of the listed mitigations, however, is appropriate: restoration of a nearby historic property.

14-2

In this case, the Los Coches Adobe presents a unique mitigation opportunity. While off-site preservation would not restore the historic integrity of the resort itself, it would make a significant contribution to preserving the history of the community. The Richardson Adobe on Rancho Los Coches is the oldest adobe in Monterey County. It is listed in the National Register of Historic Places and is California Landmark 494. Built in 1843, it was originally the main house on the rancho and later a stage stop. It is in dire need of further preservation and restoration. Restoration of this important building, located close to US 101, would be economically beneficial to both the Paraiso Springs community and the resort itself.

The mitigation proposed in the RDEIR, after-the-fact documentation and interpretation, essentially rewards the applicant for the unlawful demolition. The applicant would most likely gain favorable publicity and an added attraction, and the community would still suffer the loss of its historic resources.

14-3

The minimal mitigation requirement encourages developers to demolish historic properties. They know that they will not face any real consequences and can write off the mitigation as a small cost of doing business. The estimated cost of replacing the demolished buildings is \$1.7 million (2013). Given the substantial scale and construction costs of the proposed project, \$2M for the adobe restoration is a feasible and appropriate mitigation and will deliver positive project exposure.

AMAP does not oppose the Paraiso Springs Resort project. We would like for the resort to once again be a contributing feature of the Soledad community. To that end, we request that the County require significant mitigation measures that will substantially preserve the Los Coches Adobe and will signal to all applicants that the County greatly values its historic resources.

*James D. McCord AIA* AMAP Vice President

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.

Post Office Box 2752, Monterey CA 93942 831-649-8132 [info@amap1.org](mailto:info@amap1.org)

**Response to Letter #14 – James McCord, Alliance of Monterey Area Preservationists (April 26, 2018)**

1. This comment suggests that the mitigation measures for loss of historic structures is inadequate. See Master Responses 1, 2, 3, and 4.
2. This comment suggests providing mitigation at an off-site property owned by the City of Soledad (Los Coches Adobe). See Master Response 4.
3. This comment states that mitigation measures are inadequate and not sufficient deterrents, which encourages developers to demolish historic properties. See Master Responses 1 and 2.

**Letter #15 – Monterey Bay Air Resources District (April 26, 2018)**

1/2 pages

**Novo, Mike x5176**

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**From:** Hanna Muegge <HMuegge@mbard.org>  
**Sent:** Thursday, April 26, 2018 5:02 PM  
**To:** Novo, Mike x5176  
**Cc:** Mike Sheehan; David Frisbey; JoAnne Marcuzzo  
**Subject:** Comments on the Paraiso Springs Resort Recirculated Draft EIR (SCH#2005061016)  
**Attachments:** MBARD\_comments\_RDEIR\_Paraiso Springs Resort.pdf

Dear Mike,

Thank you for providing the Monterey Bay Air Resources District the opportunity to comment on the Paraiso Springs Resort Recirculated Draft EIR (SCH #2005061016). The Air District has reviewed the document and has the following comments (please see the attachment).

If you have any questions, please don't hesitate to email or call me at my office.  
Thanks,

*Hanna Muegge*

**Air Quality Planner**  
Monterey Bay Air Resources District  
24580 Silver Cloud Court  
Monterey, CA 93940  
831-718-8021 x208  
831-647-8501 (fax)  
[hmuegge@mbard.org](mailto:hmuegge@mbard.org)





April 26, 2018

Mike Novo, AICP  
Monterey County RMA -- Planning  
1441 Shilling Place, 2<sup>nd</sup> Floor  
Salinas, CA 93901

Email: [novom@co.monterey.ca.us](mailto:novom@co.monterey.ca.us)

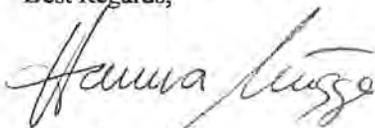
Subject: Comments on the Paraiso Springs Resort Recirculated Draft EIR (SCH#2005061016)

Dear Mr. Novo,

Thank you for providing the Monterey Bay Air Resources District (Air District) the opportunity to comment on the above-referenced document. The Air District has reviewed the document and has the following comments:

- Please update our agency name, Monterey Bay Air Resources District, and respective acronym (MBARD) throughout the document.
- 15-1 • Permits Required – Please note that Air District Permits to operate may be required for engine generator sets and boilers. Air District permits or registration with the California Air Resources Board may also be required for portable construction equipment. Please contact the Air District’s Engineering Division at (831) 647-9411 if you have questions about permitting.
- 15-2 • Construction Equipment - The Air District appreciates requiring the use of Tier 3 engines in the diesel construction equipments. We further recommend that, whenever feasible, construction equipment use alternative fuels such as compressed natural gas, propane, electricity or biodiesel.
- 15-3 • Building Demolition/Renovation and Trenching Activities – If any buildings remain to be renovated or demolished, Air District rules may apply. These include Rule 424, National Emissions Standards for Hazardous Air Pollutants and Rule 439, Building Removals. Rule 424 contains the investigation and reporting requirements for asbestos which includes surveys and advanced notification on structures being renovated or demolished. Notification to the Air District is required at least ten days prior to renovation or demolition activities. If old underground piping or other asbestos containing construction materials are encountered during trenching activities, Rule 424 could also apply. District Rule 439 prohibits the release of any visible emissions from building removals. Rules 424 and 439 can be found online at <https://www.arb.ca.gov/drdb/mbu/cur.htm>. Please contact Mike Sheehan, Compliance Program Coordinator, at (831) 718-8036 for more information regarding these rules.
- 15-4 • Transportation / Climate Change: The Air District appreciates mitigating for potentially significant project emissions by utilizing electric landscaping equipment and employing a Neighborhood Electric Vehicle (NEV) network on-site. As part of this network, and given the growing use of electric vehicles (EV) regionally, please consider making public EV charging stations available at the proposed buildings and parking spaces.

Please let me know if you have any questions. I can be reached at (831) 718-8021 or [hmuegge@mbard.org](mailto:hmuegge@mbard.org).  
Best Regards,



Hanna Muegge  
Air Quality Planner

cc: David Frisbey, Mike Sheehan

Richard A. Stedman, Air Pollution Control Officer

## **Response to Letter #15 – Monterey Bay Air Resources District (April 27, 2018)**

1. This comment reflects the District's name change and identifies potential permits required for the project. The comment is correct that the RDEIR may identify the Monterey Bay Air Resources District by its former name in some locations. To provide clarity for the District's name, and to add possible additional permits, see Errata, below.

### Errata

- a. Modify all occurrences of the name Monterey Bay Unified Air Pollution Control District to the current name of Monterey Bay Air Resources District. Modify all occurrences of the acronym MBUAPCD to the correct acronym of MBARD.
- b. Modify Table 2.4 (page 2-61) to include two additional bullets:
  - Air District Permits may be required for engine generator sets and boilers
  - Air District Permits or registration may be required for portable construction equipment

*Please refer to Section 4.0, Changes to the Recirculated Draft EIR.*

2. This comment makes comments on the proposed project components. See Master Response 1.

3. This comment relates to structure demolition requirements by the District. See Master Response 1. Conditions of approval will be included in the project resolution that describe these rules and will ensure that the applicant checks with the Air District for all applicable permits.

4. This comment makes comments on the proposed project components and suggests including electric vehicle charging stations. See Master Response 1. The potential impacts on climate change were described in RDEIR Chapter 3.4. The applicant has proposed fully offsetting all GHG emissions as described in the RDEIR (see specifically Impact 3.4-1 discussion). The applicant's proposals will be included in the project conditions of approval.

**Letter #16 – Monterey County Sheriff’s Office (April 30, 2018)**

1/3 pages

**Friedrich, Michele x5189**

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**From:** Galletti, Donna x7909  
**Sent:** Saturday, April 28, 2018 10:42 PM  
**To:** ceqacomments  
**Cc:** Novo, Mike x5176; Friedrich, Michele x5189  
**Subject:** RDEIR\_PLN040183\_022718--SHERIFF  
**Attachments:** PLN040183.docx



Please see attached.  
Deletions in red and additions in dark blue.

16-1

Thanks,  
Donna

**Donna L. Galletti**  
Crime Prevention Specialist  
[gallettid@co.monterey.ca.us](mailto:gallettid@co.monterey.ca.us)  
office (831) 647-7909



[www.montereysheriff.org](http://www.montereysheriff.org)



Coastal Station-Monterey  
1200 Aguajito Rd, Rm. 103  
Monterey, CA 93940  
Fax (831) 647-7888

**From:** Friedrich, Michele x5189  
**Sent:** Thursday, March 01, 2018 10:20 AM  
**Cc:** Novo, Mike x5176 <NovoM@co.monterey.ca.us>  
**Subject:** Notice of Availability for the Re-circulated Draft EIR for the Paraiso Springs Resort LLC project (PLN040183)

Attached to this email is a Notice of Availability for the Re-circulated Draft EIR (RDEIR) for Paraiso Springs Resort LLC project (PLN040183).

The Notice of Availability, RDEIR & Appendices are attached in the Accela database under PLN040183 which you can access by visiting <https://aca.accela.com/monterey/default.aspx>.

The documents are listed under the following naming convention:

RDEIR\_PLN040183\_022718

Or you can visit the Paraiso Springs Resort webpage at to view the RDEIR and Appendices:

<http://www.co.monterey.ca.us/government/departments-i-z/resource-management-agency-rma-planning/current-major-projects/paraiso-springs-resort>

If you have questions about the project, please contact Mike Novo at (831) 755-5176.

Thank you.

*Michele Friedrich  
Principal Office Assistant  
Monterey County RMA Planning  
(831) 755-5189*

To access our permit database, please go to: <https://aca.accela.com/monterey/Default.aspx>

**THE RESOURCE MANAGEMENT AGENCY HAS MOVED**

**COME VISIT US AT:**

**1441 SCHILLING PLACE SOUTH 2ND FLOOR  
SALINAS CA 93901**



**DEIR-3.11 PUBLIC SERVICES:**

The Monterey County Sheriff's Office provides law enforcement services to the unincorporated portions of Monterey County. These services include patrol, crime prevention and crime investigation provided out of stations in Monterey, Salinas, and King City.

The project site is served by the South County-King City Sheriff's station.

~~As of March 2013, the Sheriff's Office has approximately 391 full-time equivalent staff positions. This included 280 sworn safety officer positions and 111 non-sworn positions. As of March 2013, the Sheriff's Office had 36 vacant positions (Monterey County Sheriffs Office 2013).~~

The project site is located in Beat 10A of the County Sheriff's patrol, which covers a large area of the Central Salinas Valley that is sparsely populated. This patrol has a relatively long response times (e.g. greater than 10 minutes).

16-1  
(cont.)

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**PLEASE ADD THE FOLLOWING COMMENTS:**

There is a day shift (7 am to 5 pm) with deputies that work out of the South County Substation. There are 3-5 deputies working on a daily basis.

One deputy would cover Beat 10A area during the day shift.

During swing shift, which is from 3 pm to 1 am, there are two deputies assigned to work South County. These two deputies come out of the Central Station in Salinas Office. They are known as the 45 unit and cover all the beat areas of 10A/10B/11/12.

Their briefing starts at 3 pm and they will drive down to South County and be in the area well before the day shift goes off duty at 5 pm.

The midnight shift works 9 pm to 7 am. The weekend days are always covered with two deputies that also come out of the Central Station in Salinas and work South County as the 45 unit and cover beats 10A/10B/11/12.

During the week, there are normally two deputies who come over from the Salinas office to cover. However, due to vacations and training etc. staffing coverage may not always allow that. In those instances, where a call comes out and there is no 45 unit, the Salinas Beat 3 or Beat 4 unit would be dispatched.

In a life threatening situation (resident is home and someone is breaking in) the call would also be dispatched to the closest city department (Soledad or Greenfield) and/or the California Highway Patrol.



## **Response to Letter #16 – Monterey County Sheriff’s Office (April 30, 2018)**

1. The Sheriff’s Office has clarified information related to the staffing and shifts for deputies in this area of the County. See Master Response 1. The following errata is provided to clarify the information from the Sheriff’s Office:

### Errata

*For 2018 RDEIR page 3-309, third paragraph:*

Change the reference from “Beat #10” to “Beat 10A”

*Add the following text after the third paragraph on 2018 RDEIR page 3-309:*

There is a day shift (7 a.m. to 5 p.m.) with deputies that work out of the South County substation. There are 3-5 deputies working on a daily basis. One deputy would cover Beat 10A area during the day shift. During swing shift, which is from 3 p.m. to 1 a.m., there are two deputies assigned to work South County. These two deputies come out of the Central Station in Salinas Office. They are known as the 45 unit and cover all the beat areas of 10A/10B/11/12. Their briefing starts at 3 p.m. and they will drive down to South County and be in the area well before the day shift goes off duty at 5 p.m. The midnight shift works 9 p.m. to 7 a.m. The weekend days are always covered with two deputies that also come out of the Central Station in Salinas and work South County as the 45 unit and cover beats 10A/10B/11/12.

During the week, there are normally two deputies who come over from the Salinas office to cover. However, due to vacations and training, etc., staffing coverage may not always allow that. In those instances, where a call comes out and there is no 45 unit, the Salinas Beat 3 or Beat 4 unit would be dispatched. In a life threatening situation (e.g., resident is home and someone is breaking in) the call would also be dispatched to the closest city department (Soledad or Greenfield) and/or the California Highway Patrol.

*Please refer to Section 4.0, Changes to the Recirculated Draft EIR.*

**Letter #17 – City of Soledad (May 17, 2018)**

1/3 pages



Gateway  
to the  
Pinnacles

# SOLEDAD

CALIFORNIA

April 4, 2018

Mike Novo, AICP  
Project Planner  
Monterey County Resource Management Agency  
Planning Department  
1441 Schilling Place, 2<sup>nd</sup> Floor  
Salinas, CA 93901

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

**RE: City of Soledad Comment Letter on Paraiso Hot Springs Recirculated Draft Environmental Impact Report**

Dear Mr. Novo,

The City of Soledad has had the opportunity to review the documents and is pleased to provide comments on the Recirculated Draft EIR for the County's consideration. Most of the comments are copied from the previous letter issued by the City of Soledad in September of 2013 with a few minor changes.

As stated in 2013, we once again reaffirm that the City of Soledad fully supports the concept of the revitalization of the Paraiso Hot Springs. The City believes that the project is a significant resource for the whole of the Salinas Valley, which along with Pinnacles National Park, the River Road Wine Trail, Soledad Mission, a renovated Los Coches Adobe and the future Yanks Air Museum will provide yet another world-class tourism facility in our area. The City has submitted previous correspondence to this effect and will continue to promote the Salinas Valley for its wonderful tourism opportunities and projects like this that improve the region's tourism infrastructure.

However, this must be done in a responsible manner addressing the specific impacts such a project will have due to its unique location. The City of Soledad would like to take the opportunity to comment on the Recirculated Draft EIR and establish for the record that the City is anticipating a number of impacts to our jurisdiction related to this development that need to be mitigated in consideration of project approval. We believe that these impacts are not merely limited to one-time construction impacts and therefore cannot be fixed with one-time mitigations, but we respectfully request that mitigation

17-1

17-1 measures reflect and consider the impacts that this large resort will have to the local incorporated  
(cont.) jurisdictions in perpetuity.

### **Section 3.5 Cultural & Historic Resources**

The DEIR description discusses in great detail the historic value of the Victorian-era cottages that existed on the site and were demolished fifteen years ago without permits. The City concurs with the finding that due to the demolition of these structures, the impact is significant and unavoidable, even with proposed mitigation through the payment of fees or construction of interpretive exhibits to educate the public about the history of Paraiso Hot Springs.

17-2 The City of Soledad owns the existing Los Coches/Richardson Adobe and surrounding property, which is a historic building of the era in question and has a significant connection to the Paraiso Hot Springs as a connection point to the resort. It has always been a significant priority of the City Council to re-open the building in order to educate the public about its historical importance in the Salinas Valley. Due to inadequate funding sources, the City has not been able to renovate the facility to re-open it to the public as a park/historical site as planned. While the City takes no position as to the monetary value of the loss of the historic structures at the Hot Springs site, Soledad strongly supports any proposed mitigation that includes a payment to either the City or an acceptable third-party to directly aid in the effort to restore the Los Coches Adobe in order to adequately preserve a similar existing historical resource of the 19<sup>th</sup> century. The City has staff and dedicated community volunteers willing and ready to assist in this effort.

### **Section 3.11 Public Services**

The project proposes that fire services will be provided by the Mission Soledad Rural Fire Protection District with the City of Soledad Fire Department, through annexation of the remaining portion of the property not currently within the District. For the record, the Mission Soledad District contracts with the City of Soledad for Fire services, and the City of Soledad contracts with CAL FIRE for services, so it is important to note that at the present time, the District and the City share the same emergency personnel.

17-3 The City of Soledad is requesting that consideration be made to ensure that the County requires that the applicant pay all applicable Fire Impact fees as adopted to the Mission Fire District prior to the issuance of building permits.

In addition, the document evaluates the need for additional fire services to serve the development, and makes the assertion that the additional population does not meet the threshold to require a new station. It is also stated that the response time is within the 15 minute standard of the County General Plan. We recommend that this be reviewed to ensure that the response time under regular conditions is indeed under 15 minutes, as we (as well as popular commercial traffic apps available to the public) believe it is closer to 20 minutes. This will have significant impacts on the ability of the City to deliver services to its own residents given the significant distance away from the fire station. These impacts cannot simply be ignored.

17-3  
(cont.)

In addition, we note that while the Monterey County Sheriff's Office is responsible for law enforcement at the project site, the City of Soledad is the closest police station and would likely be the first law enforcement responder in any serious incident given the distribution of County deputies throughout the Salinas Valley and the distance to a station.

**Section 3.12 Traffic**

17-4

The City agrees with the conclusions that there are no LOS impacts as a result of the project due to the remote location and low existing traffic volumes. However, in order to appease rural residents along the corridor and to provide environmental benefits, the City of Soledad has supported the concept of employee parking within the City limits through a proposed shuttle service for non-management employees that would transport the employees to the resort from an existing park-and-ride lot located on Front Street in downtown Soledad. While we agree this is a good opportunity, the specific details of the project have yet to be worked out and we are uncertain of the total impact and popularity of this site in the future. We believe the assertion that such a large percentage of employees will either walk, be dropped off or carpool to the site is generous, and request that consideration be given to require that the applicant and City of Soledad come to a formal agreement regarding the use of City property to ensure that the City's needs are ultimately addressed in the long-term as usage needs evolve.

**General**

17-5

While we believe this project is a significant positive development for the Salinas Valley and the County with visitors to the Paraiso Hot Springs expected to come from many places around the world. However, it is important to note that the City will be providing a significant portion of the workforce housing for this project, a parking lot, fire protection, and likely police protection in the case of a significant emergency. These all are environmental impacts and under current policy, the City of Soledad is expected to provide these services for free. However, the County receives a significant portion of potential tax revenue (including lucrative TOT dollars) without any consideration going directly to the South County cities such as Soledad that will provide services directly to the resort and to their work force. We request that the County and City enter into discussions and execute a Tax Sharing Agreement or require an appropriate Assessment District for future Paraiso Hot Springs Resort revenues prior to the approval of the project that addresses these concerns to the City of Soledad.

We thank you for your consideration of our comments. If you would like to meet with us to discuss these matters further, please contact Brent Slama, AICP, Community & Economic Development Director at (831) 223-5043 or via email at [brent.slama@cityofsoledad.com](mailto:brent.slama@cityofsoledad.com).

Sincerely,

Fred Ledesma  
Mayor  
City of Soledad

## **Response to Letter #17 – City of Soledad (May 17, 2018)**

1. This comment is an introduction to the points raised in the letter.
2. This comment states that the City owns a historic property (Los Coches/Richardson Adobe) that could be used for mitigation of the loss of historic cabins at the Paraiso Springs site. See Master Responses 1 and 4. The City has more recently informed us that the Los Coches/Richardson Adobe site is now being considered for development with another party.
3. This comment reflects that the Mission-Soledad Rural Fire District and City Fire Department are both served by CAL FIRE and that applicable fees should be required prior to issuing building permits.

Fire fees required by the District will be required to be paid (Monterey County Code Chapters 10.80 and 18.56). The property is required to be fully annexed into the Mission-Soledad Rural Fire Protection District (RDEIR page 2-61, Table 2) and will be subject to all funding requirements of that district.

The Mission-Soledad Rural Fire District, during the original review of the project, provided a letter stating that the response time was 15 minutes (RDEIR pages 3-270, 3-278 and 3-279 (policy 17.3.3), and page 3-307. The discussion on RDEIR pages 3-307 and 3-308 describes the potential environmental effects of constructing a fire station on the site or in the area, as requested by the fire district. See responses to Letter 7, Numbers 21, 32, 63 and 64, and to Letter 13, Numbers 1 and 2.

This comment relates to law enforcement and mutual aid provided by the City. The comment is correct and is discussed in the RDEIR on pages 3-309, 3-318, and 3-319.

4. The commenter states that the project would be a significant positive development for the Salinas Valley and County; notes that the City of Soledad would be providing a significant portion of the workforce, parking (shuttle riders), and emergency services with the County receiving a significant portion of potential tax revenue; and requests the County and City enter into discussions and execute a Tax Sharing Agreement or require an appropriate assessment district. The use of the park and ride in Soledad, or elsewhere, does not require the permission of the jurisdiction in which it is located, as it is a publicly dedicated area open to anyone. The project may not use the City of Soledad Park and Ride as employees may come from other locations and, if that were the case, a shuttle pick up area would be identified.

The comments are noted and will be considered by decision makers. This comment does not concern the adequacy of the RDEIR. See Master Response 1.

5. This comment requests that the County renegotiate tax sharing from this project or establish an Assessment District. The physical environmental impacts related to fire, law enforcement, and other public services related to the project were discussed in the RDEIR, in particular in Chapter 3.11, Public Services and Utilities. No significant impacts were identified in relation to providing new facilities for fire, law enforcement, or other public services. See Master Response 1.

### **Additional Information Identified by County**

In reviewing the Draft EIR and in discussions with other agencies, the County determined that Figure 3.11-1 should be revised to include the fire station located at the Soledad Correctional Facility, just off Highway 101. This facility is a fire station operated by CAL FIRE.

#### Errata

*Replace Figure 3.11-1, Regional Fire Protection Facilities on 2018 RDEIR page 3-305 as shown in Section 4.0, Changes to the Recirculated Draft EIR.*

**Letter #18 – Jonathan Pangburn, California Department of Forestry  
and Fire Protection (February 6, 2019)**

1/8 pages

**DEPARTMENT OF FORESTRY AND FIRE PROTECTION****San Benito-Monterey Unit**

2221 Garden Road  
Monterey, CA 93940  
(831) 333-2600  
Brennan Blue, Unit Chief  
Website: [www.fire.ca.gov](http://www.fire.ca.gov)



County of Monterey – Planning and Building Inspection Department  
168 West Alisal Street, 2<sup>nd</sup> Floor  
Salinas, CA 93901

To whom it may concern,

The California Department of Forestry and Fire Protection (CAL FIRE) has reviewed the Recirculated Draft Environmental Impact Report for Paraiso Springs Resort, SCH # 2005061016. CAL FIRE has the following comments/concerns as noted below:

1. Fire Prevention:

- a. The DEIR does not address specific vegetation setbacks in the development. The classification of Very High Fire Hazard Severity is a concern, especially with the development in a box canyon.
- b. The project needs to address PRC 4290 in its form at the time of construction, not the time of project planning, to address any changes made to increase public safety.
- c. The greenspace areas need to have a vegetation management plan, including firewise and waterwise landscaping. Moreover, this plan needs to address long-term maintenance of vegetation setbacks from structures (regardless of property lines) and funding for wildland fire fuel management. This is mentioned on page 3-216, but is not expanded upon.
- d. PRC 4291 requirement of 100 feet from structures should be considered a minimum standard, regardless of property line. The analysis referenced on pages 3-81 to 3-85 should be considered a minimum for fuel management surrounding structures.
- e. Tree removal/replacement: Please clarify if the replacement according to the forest management plan is achieved by the newly planted trees, or if it will be in addition to the planting. Please specify the species, size, timing, and spacing of this as well as future plantings. This is to ensure that the project addresses forest health/disease with respect to limited water and site soil characteristics.
- f. Due to the limited access for fire equipment, in a box canyon, there is an increased need for temporary refuge areas (TRAs). These TRAs need to be sufficient in size and number to accommodate maximum seasonal occupancy, including employees, residents, and visitors.
- g. There are many hazards confronting fire protection agencies in most subdivisions on SRA lands. Steep terrain and heavy wildland fuels contribute to fire intensity and spread. The distance from fire stations creates an excessive response time for effective structure fire suppression purposes.

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- h. Subdividing increases fire risks from additional people and increase probable dollar losses in the event of fire due to added structures and improvements. These hazards and risks can be mitigated by awareness of the problems, and by conforming to Fire Safe recommendations and appropriate local ordinances.
  - i. The need for fire resources during peak fire season may limit response capability during moving of resources, further increasing the need for fire prevention work prior to development and maintenance thereafter. Vegetation management, especially for ingress/egress, is paramount. This needs to ensure that there is reduction of horizontal continuity of fuels as well as vertical separation.
2. Access:
- a. Will there be locked gates? If so, will fire suppression personnel be able to get in? Will there be a CAL FIRE lock on gates?
  - b. Will there be an alternate egress for civilians, especially those in the back, furthest from the one and only entrance/exit?

Jonathan Pangburn  
Unit Forester  
CAL FIRE San Benito-Monterey

## **Response to Letter #18 – California Department of Forestry and Fire Protection (received February 6, 2019)**

The comments include that the RDEIR does not address vegetation setbacks, that regulations should be applied at the time of construction (not at the time when the site was in the planning stage), landscaping should be firewise, that long-term maintenance of fuel modification zones should be included in a final plan, that a 100 foot vegetation management area should be considered as a minimum, that temporary refuge areas should be included on the project site, that tree replacement/landscaping should be provided in detail, that increased distance from fire stations increases response times, and that subdivision create more fire hazard from additional people. The commenter also had questions about site access, especially related to guests toward the back of the property.

Regarding vegetation setbacks and fuel modification and maintenance areas, see responses to Letter 8, Number 5 and to Letter 10, Numbers 1 and 21. Landscaping plans will be prepared that identify the species, location, and number of vegetation types that will be planted on the site, including replacement for trees proposed to be removed or relocated. The landscape plan will be reviewed by planning staff and fire personnel.

The fire code applicable at the time of construction will be applied to the project, consistent with the comment.

The Fire Protection Plan included in the 2019 RDEIR addresses the topics raised by the commenter. The plan has been approved by the Fire District. Mitigation Measure 3.7-6a requires a final approval of the plan prior to vegetation clearance or construction, whichever occurs first. Temporary Refuge Areas, vegetation maintenance programs, training of on-site personnel, circulation/access has been demonstrated in the plan, no parking areas will be identified, and evacuation procedures were included in this Plan. See response to Letter 23, Number 5.

The commenter suggests an increased fire risk from the introduction of a residential subdivision. The project does not include a residential subdivision. While no substantial evidence of a commercial resort exacerbating wildfire risk has been found, the County is assuming that wildfire risk could increase from the increase in the amount of visitors that would frequent the area under the proposed project; however, this project is distinguished from the introduction of residential uses that could increase fire hazard. For this project, on-site personnel or hired professionals will be used to maintain the vegetation clearance areas and on-site landscaping in a fire safe manner, as opposed to individual homeowners. The fact that the same personnel will handle these activities for this resort allow training and consistency of the personnel to ensure that they work in a fire-safe manner while dealing with vegetation maintenance programs for the site. This type of consistency is not possible with individual homeowners that may move into a Wildland-Urban Interface setting. See 2019 RDEIR modifications to Chapter 3.7, Hazards and Hazardous Materials as well as Appendix 2, 2019 Fire Protection Plan. See response to Letter 5, Number 9, to Letter 20, Number 22, and to Letter 23, Number 4 related to vegetation fuel management.

Site access will be controlled by a security station at the entrance, which will be open to first responders at all times. If some kind of locking gate is installed, it will allow access to fire, law enforcement, and other emergency personnel. Development at the rear of the site will have a service road and a two lane road for ingress and egress (see Vesting Tentative Map in project file, RDEIR Figure 2-8, Preliminary Vesting Tentative Map, and RDEIR Appendix B).

Also, see Master Response 1.

**Letter #19 – Alex Lorca, Fenton & Keller (received July 5, 2019)**

1/168 pages:

**Note - pages 1 through 4 only. Remaining text was provided as Letter 12, provided above.**

**From:** Holm, Carl P. x5103  
**To:** Dugan, John x6654; Swanson, Brandon xx5334; McDougal, Melissa x5146; Novo, Mike x5176  
**Cc:** Strimling, Wendy x5430  
**Subject:** Fwd: Comments on 2019 Paraiso Springs RDEIR (PLN040183)  
**Date:** Thursday, July 4, 2019 11:24:30 PM  
**Attachments:** [image001.png](#)  
[ATT00001.htm](#)  
[LTR to Monterey County RMA - Carl Holm \(7-3-19\) \(00885489\).pdf](#)  
[ATT00002.htm](#)

For you records/file

Sent from Carl Holm

Begin forwarded message:



**From:** "Kristie M. Campbell" <[kcampbell@fentonkeller.com](mailto:kcampbell@fentonkeller.com)>  
**Date:** July 4, 2019 at 00:12:21 GMT+2  
**To:** "Carl Holm (HolmCP@co.monterey.ca.us)" <[HolmCP@co.monterey.ca.us](mailto:HolmCP@co.monterey.ca.us)>  
**Cc:** "egonzalezsr56@gmail.com" <[egonzalezsr56@gmail.com](mailto:egonzalezsr56@gmail.com)>, "[ambrizana1@gmail.com](mailto:ambrizana1@gmail.com)" <[ambrizana1@gmail.com](mailto:ambrizana1@gmail.com)>, "[richcoffelt@msn.com](mailto:richcoffelt@msn.com)" <[richcoffelt@msn.com](mailto:richcoffelt@msn.com)>, "[mendozaf1@co.monterey.ca.us](mailto:mendozaf1@co.monterey.ca.us)" <[mendozaf1@co.monterey.ca.us](mailto:mendozaf1@co.monterey.ca.us)>, "[getzelmanpc@co.monterey.ca.us](mailto:getzelmanpc@co.monterey.ca.us)" <[getzelmanpc@co.monterey.ca.us](mailto:getzelmanpc@co.monterey.ca.us)>, "[mduflock@gmail.com](mailto:mduflock@gmail.com)" <[mduflock@gmail.com](mailto:mduflock@gmail.com)>, "[amydroberts@ymail.com](mailto:amydroberts@ymail.com)" <[amydroberts@ymail.com](mailto:amydroberts@ymail.com)>, "[monsalvee@co.monterey.ca.us](mailto:monsalvee@co.monterey.ca.us)" <[monsalvee@co.monterey.ca.us](mailto:monsalvee@co.monterey.ca.us)>, "[kvandevere@gmail.com](mailto:kvandevere@gmail.com)" <[kvandevere@gmail.com](mailto:kvandevere@gmail.com)>, "[mvdiehl@mindspring.com](mailto:mvdiehl@mindspring.com)" <[mvdiehl@mindspring.com](mailto:mvdiehl@mindspring.com)>, "Alex J. Lorca" <[alorca@fentonkeller.com](mailto:alorca@fentonkeller.com)>, "John S. Bridges" <[jbridges@fentonkeller.com](mailto:jbridges@fentonkeller.com)>  
**Subject:** Comments on 2019 Paraiso Springs RDEIR (PLN040183)

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Good afternoon, Mr. Holm. Please see the attached letter from Alex Lorca regarding the Paraiso Springs Resort recirculated Draft EIR.

Sincerely,  
Kristie

**Kristie M. Campbell**  
Administrative Assistant  
to John S. Bridges, David C. Sweigert,  
Derric G. Oliver and Alex J. Lorca

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ALEX J. LORCA

July 3, 2019

Alorca@fentonkeller.com  
ext. 258

VIA EMAIL (holmcp@co.monterey.ca.us)

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



**Re: Comments on 2019 Recirculated Draft Environmental Impact Report  
Paraiso Springs Resort Project - PLN040183  
Our File: 34080.32126**

Dear Mr. Holm:

On behalf of our client Cynthia Pura, we offer the following comments on the above referenced project and the 2019 Recirculated Draft Environmental Impact Report ("2019 RDEIR") 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.

19-1 Ms. Pura incorporates herein all comments of her April 26, 2018 letter ("Pura Comment Letter"), attached hereto, as the County has inadequately responded to, or ignored, the comments therein. The comments are objections to the Project. (Our March 26, 2019 letter (w/o attachments) is also enclosed for your reference.)

19-2 Without limiting the breadth of the above stated opposition, we offer the following with regard to Comment 4 of the Pura Comment Letter. At its August 2, 2018 meeting, the County's Historic Resources Review Board, by a unanimous vote, agreed to recommend to the Monterey County Planning Commission that any future Project approvals must be contingent on rebuilding

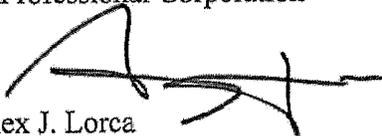
{AJL-00878361;1}

19-2  
(Cont.) three of the most historically significant cottages. This action by the County's own historical resources experts implicitly confirmed reconstruction of the historic cottages is a feasible mitigation. As such, all of the destroyed historic cottages must be reconstructed as a feasible mitigation as no legitimate basis exists to require the reconstruction of only three of the historic cottages.

19-3  
19-4 The 2019 RDEIR is the latest environmental document related to the Project to ignore the comments in the Pura Comment Letter. To date, the County's review of the Project has failed 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 2019 RDEIR must be substantially revised and recirculated. Likewise, the 2019 RDEIR's lack of response to the 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

AJL  
Enclosures

cc: (all via email)  
Commissioner Ernesto G. Gonzalez ([egonzalezsr56@gmail.com](mailto:egonzalezsr56@gmail.com))  
Commissioner Ana Ambriz ([ambrizanal@gmail.com](mailto:ambrizanal@gmail.com))  
Commissioner Rich Coffelt ([richcoffelt@msn.com](mailto:richcoffelt@msn.com))  
Commissioner Francisco Mendoza ([mendozaF1@co.monterey.ca.us](mailto:mendozaF1@co.monterey.ca.us))  
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Commissioner Melissa Duflock ([mduflock@gmail.com](mailto:mduflock@gmail.com))  
Commissioner Amy D. Roberts ([amydroberts@ymail.com](mailto:amydroberts@ymail.com))  
Commissioner Etna Monsalve ([monsalvee@co.monterey.ca.us](mailto:monsalvee@co.monterey.ca.us))  
Commissioner Keith Vandevere ([kvandevere@gmail.com](mailto:kvandevere@gmail.com))  
Commissioner Martha Diehl ([mvdiehl@mindspring.com](mailto:mvdiehl@mindspring.com))

## Response to Letter #19 – Alex Lorca, Fenton & Keller (received July 5, 2019)

1. This comment is an introduction to the points raised in the letter. No response is necessary.
2. This comment states that reconstruction of the historic cottages must be included as a feasible mitigation.

On page 2 of the Historic Resources Review Board (HRRB) resolution (Resolution No. PLN040183, dated August 2, 2019), the HRRB found “the structures cannot be rebuilt as historic resources.” The resolution, on the same page, requests that the project mitigation include “three representative Jacks Cabins” (emphasis added). The HRRB specifically did not require “reconstruction,” which is rarely applied. “Representation” is not a category that meets the U.S. Secretary of the Interior standards for treatment of historic resources, which are Preservation, Rehabilitation, Restoration, or Reconstruction; these are the only categories that would be in compliance with the Secretary of the Interior’s standards and could provide mitigation for project impacts (CEQA Guidelines section 15064.5(b)(3)). See Master Response 3 and responses to Letter 10, Number 30, and to Letter 12, Numbers 4 and 57, above.

3. This comment states that the County has ignored comments in the Pura Comment Letter (Letter #8 – Cynthia Pura (April 25, 2018), above). The County has responded to each of the comments and refers the reader to the responses found in the responses to Letter 8, above.

4. This comment states that the EIR must be revised and recirculated. It also cites impermissible deferral of mitigation measures. See Master Response 7 and responses to Letter 5, Number 10, to Letter 7, Numbers 21, 25, 41, and 42, to Letter 8, Number 7, to Letter 10, Number 26d, to Letter 12, Numbers 1, 2, 13, 25, and 57, and to the following responses, where additional information is added to the specified mitigation measures: responses to Letter 20, Numbers 24 and 28, and to Letter 23, Number 5. None of the information added meets any of the criteria for recirculation, as identified in CEQA Guidelines section 15088.5(a). No new potential environmental impact has been identified. The information added do not identify an increase in the severity of an environmental impact. The mitigation measures, as modified, are acceptable to the project applicant and are not considerably different than those described in the 2018 and 2019 RDEIRs. The information added merely amplifies and clarifies the requirements of the mitigation measures that were included in the RDEIRs.

**Letter #20 – Michael DeLapa, LandWatch Monterey County (received July 5, 2019)**

1/8 pages

**From:** [Michael DeLapa](#)  
**To:** [Novo, Mike x5176](#); [ceqacomment](#)  
**Subject:** LandWatch comments on Paraiso Springs Resort RDEIR SCH # 2005061016  
**Date:** Friday, July 5, 2019 8:48:33 AM  
**Attachments:** [LandWatchCommentsParaisoRDEIR\\_July\\_5\\_2019.pdf](#)

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Dear Mr. Novo:

LandWatch submits the following comments, attached, on the June 2019 Recirculated Draft EIR (Second RDEIR) for the Paraiso Springs Resort project. Please reply to confirm receipt. Thank you.

Regards,

Michael

---

**Michael D. DeLapa**  
Executive Director  
[LandWatch Monterey County](#)  
[execdir@landwatch.org](mailto:execdir@landwatch.org)  
650.291.4991 m

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July 3, 2019

Via e-mail and US Mail

County of Monterey Resource Management Agency - Planning  
Attn: Mike Novo  
1441 Schilling Place, 2nd Floor  
Salinas, CA 93901  
[cegacomments@co.monterey.ca.us](mailto:cegacomments@co.monterey.ca.us)



Re: Paraiso Springs Resort RDEIR  
SCH # 2005061016

Dear Mr. Novo:

LandWatch submits the following comments on the June 2019 Recirculated Draft EIR (Second RDEIR) for the Paraiso Springs Resort project (Project).

1. In Appendix 2, at page 133, the Fire Prevention Plan (FPP) states "The existing terrain on the site is generally characterized as flat to gently sloping."

20-1

Please reconcile this with Second RDEIR, Figure 3.1-4, Slope Analysis, which indicates that the site is steeply sloped and that some units will be located on areas of steep slope.

Note that the Second RDEIR states:

Approximately 66.7 percent of the project site is located on slopes greater than 30 percent as shown in Figure 3.1-4, Slope Analysis. Overall, approximately 25,400 S.F. (1.1%) of the 2,178,000 S.F. proposed for development is located on 30% or greater slopes. Some of the Hillside Village Condominium complex is located in the portion of the project (lots 20-23 with 60 units) along an east/west oriented ridge in the northern portion of the project site within some areas identified as 30 percent or greater slopes. (Second RDEIR, page 35.)

The Second RDEIR also states:

Slope gradients on site range from relatively flat in the central, developed portion of the site, up to approximately 70% along the slopes that extend upward from the developed central portion of the property. (Second RDEIR, p. 52.)

20-2

2. In Appendix 2, at page 133, the FPP states, "The Project site is partially within a State Responsibility Area (SRA) and the majority of the development area is in the Mission

Soledad Rural Fire Protection District (MSRFPD) and is planned to be annexed into MSRFPD jurisdiction, which would change the SRA to Local Responsibility Area (LRA).”

Please provide a site plan that identifies the portion of the site that is currently within a State Responsibility Area.

Please provide a site plan that identifies the portion of the site that is currently within a Very High Fire Hazard Severity Zone designated pursuant to Government Code sections 51178, 51178.5, and 51179.

Please provide a site plan that identifies the portion of the site that is currently in the Mission Soledad Rural Fire Protection District.

Please explain why the site is planned to be annexed into the MSRFPD jurisdiction.

When was the plan to annex the site into the MSRFPD jurisdiction initiated? By whom was it initiated? What steps have been taken toward the annexation?

If the site is annexed into the MSRFPD jurisdiction, would the Wildfire Protection Standards in State Responsibility Areas set out in Monterey County Code Chapter 18.56 still apply to the Project? If not, please identify the wildfire protection standards that would apply to the Project, citing the applicable statutes, regulations, and/or ordinances.

In particular, please identify the statute, regulations, or ordinances that provide any applicable limitations on dead-end road length and access roadway width requirements if the Project were not included in an SRA. In this regard, we note that the information added to the Regulatory Background discussion at Second RDEIR pages 55-59 does not mention any applicable limitations on dead-end road length and access roadway width requirements. This information should be supplied.

Monterey County Code section 18.56.050 provides that no exception can be made to applicable standards for dead-end road length and access road width in a State Responsibility Area unless an alternative approach has the Same Practical Effect. i.e., is equally efficacious. What effect, if any, would the annexation of the Project into the MSRFPD have on the identity of the decision-makers as to whether any proposed alternative approach to compliance with dead-end road and access road width standards would have the Same Practical Effect? Would the determination require approval by the Director of the Board of Forestry and Fire Protection after written application?

- 20-3
3. In Appendix 2, at page 135, the FPP states that the 9<sup>th</sup> task accomplished was to document “unique circumstances, features, characteristics related to the project and how they support code modification findings.”

Please identify the relevant code referenced by the phrase “code modification findings.” Please identify the proposed code modification findings.

Please identify and provide any written or oral guidance that was provided to Dudek in identifying unique circumstances, features, characteristics related to the project and how they support code modification findings. Please identify what individuals or organizations provided that guidance, if any.

20-4

- 4. Proposed Mitigation Measure 3.7-6a calls for review of the "Fire Prevention Plan" by the MSRFPD and approval by the RMA Director before vegetation clearance or permit issuance.

Is the "Fire Prevention Plan" to be reviewed by the MSRFPD and approved by the RMA Director the plan that is set out in Appendix 2? If so, that "Fire Prevention Plan" can and should be reviewed and approved by MSRFPD and RMA before the project is approved. If not, the "Fire Prevention Plan" that is actually to be reviewed and approved by the MSRFPD and the RMA Director should be provided in the Second RDEIR, and those agencies should approve it before the project is approved.

How is the Wildland Fire Evacuation Plan in Appendix 2 related to the "Fire Prevention Plan" identified in Mitigation Measure 3.7-6a? Is the Wildland Fire Evacuation Plan part of the Fire Prevention Plan? If not, what mitigation measure mandates its preparation? Is the Wildland Fire Evacuation Plan in Appendix 2 now complete? Will it be subject to review and approval? If the Wildland Fire Evacuation Plan in Appendix 2 is not complete, the completed plan should be provided in the Second RDEIR, and it should be reviewed and approved by relevant agencies.

Proposed Mitigation Measure 3.7-7d calls for review of the "Operations Fire Prevention Plan" by the MSRFPD and approval by the RMA Director. How does this plan differ from the "Fire Prevention Plan" set out in Appendix 2? If it does differ, then the Operations Fire Prevention Plan should be presented in the Second RDEIR. The plan should be approved by relevant agencies before the project is approved.

Proposed Mitigation Measure 3.7-7b calls for review of the "Construction Fire Prevention Plan" by the MSRFPD and approval by the RMA Director. How does this plan differ from the "Fire Prevention Plan" set out in Appendix 2? If it does differ, then Construction Fire Prevention Plan should be presented now as part of the environmental review. The plan should be approved by relevant agencies before the project is approved.

20-5

- 5. In Appendix 2, at page 135, the list of Key Project Fire Safety Features states that "Potential firefighting operations staging areas are available within the facility in developed areas and site green spaces." Please identify these areas on a site plan.

20-6

- 6. In Appendix 2, at pages 140-143, 154-175, the FPP discusses evacuation. The FPP provides as Attachment 1 a document called "Wildland Fire Evacuation Plan."

Please identify the author and date of the "Wildland Fire Evacuation Plan."

20-7

- 7. In Appendix 2, at page 140, the FPP states "it would be possible to position minimal law enforcement or other emergency responders at Clark Road/Paraiso Springs Road and then downstream to keep traffic moving and avoid backups."

No provision in the FPP requires that this occur. Please explain how this would be assured.

- 8. In Appendix 2, at page 140, the FPP states:

20-8

The project is proposing a daily population of approximately 500 people at full buildout with 100% occupancy, including staff and visitors. Dudek has utilized 2 persons per vehicle to estimate the additional number of vehicles that would be generated during an emergency, which is a common vehicle population used for evacuation calculations and is consistent with the planned parking spaces and shuttle capacity. Additionally, there

may be Project vehicles and a shuttle that would be used in an evacuation. This results in a total of up to approximately 275 vehicles that may be leaving the site during a declared evacuation.

Please explain how an “additional number of vehicles” could be “generated during an emergency.” How could the number of vehicles at the site available for evacuation be any different than the number of vehicles actually present at the time the evacuation was ordered?

Please explain how many shuttle vehicles and of what capacity the Project is committed or required to provide. If the Project has only one shuttle vehicle, then it is likely to be off-site picking up or dropping off persons a significant portion of the time and potentially not available for evacuation.

Please explain what “Project vehicles” are guaranteed to be on site at all times and available for evacuation. Please identify the passenger capacities of each Project vehicle guaranteed to be on site at all times. Please explain what would assure that these Project vehicles did in fact remain on site at all times.

Please explain how the FPP determined that the relevant number of persons to be evacuated would be 500 persons at full buildout with 100 percent occupancy. Please identify how many persons would be overnight guests, how many would be day use guests, how many would be employees, how many would be on site for other purposes (e.g., deliveries, contractors, etc.) Who provided the 500 person estimate to Dudek?

Please identify the number of local residents who might seek to evacuate using Paraiso Springs Road. Please identify the number of vehicles that local residents might add to the number of evacuating vehicles.

- 20-9 9. In Appendix 2, at page 142, the FPP assumes that existing residents would evacuate sooner because they are closer to Clark Road. Please explain how these residents, who may be dispersed on their own properties pursuing agricultural or other business, could be expected to receive notice of a fire on a fire that ignited on the Project site or that travelled from the west as soon as Project personnel and visitors would receive notice.
- 20-10 10. Please explain what provisions would be required to ensure that a stalled car or burning tree would not block the only evacuation route.
- 20-11 11. Please identify procedures to prevent accumulation of oak leaf litter and other dead vegetation that would generate smoke and affect evacuation.
- 20-12 12. Please explain why it is infeasible to widen all of the roadway to 20 feet. What engineering analysis has been undertaken to support this conclusion? Is the infeasibility determination based on cost? If so, what cost has been determined to be infeasible?
- 20-13 13. The FPP at Appendix 2, page 143, states that the project is not subject to the Public Resources Code Section 4290 dead end road limitation. Please explain why not.
- 20-14 14. The Ready Set Go materials in Appendix 2 repeatedly emphasize the need for multiple evacuation routes. The FPP at Appendix 2, page 143, states that the project achieves “the same practical effect” as compliance with the Public Resources Code Section 4290 dead

end road limitation. Please explain how the goal of multiple evacuation routes can be met without providing a second evacuation route.

- 20-15 15. The FPP at Appendix 2, page 145, references a "perimeter zone." Please explain what this means.
- 20-16 16. The FPP at Appendix 2, page 145, references the "Fire Authority Having Jurisdiction." What is that agency? Will the annexation of the project site into the MSRFPD change this?
- 20-17 17. Which agency, MSRFPD or CalFire, will be responsible to review and approve the Fire Prevention Plan, the Operations Fire Prevention Plan, and the Construction Fire Prevention Plan? Will the annexation of the project site into the MSRFPD affect this?
- 20-18 18. The proposed mitigation in the Second RDEIR does not include each recommendation made in the Fire Protection Plan. For example, the mitigation does not discuss a "primary" TRA and does not include required details of each recommendation.
- 20-19 19. Attachment 1 to the FPP is identified as "Wildland Fire Evacuation Plan" and as the "Emergency Evacuation Plan." It is not clear what audience this document is intended to address. Is this the final evacuation plan? If not, it should be finalized and presented to the public in the EIR before further consideration of project approval.
- 20-20 20. At page 65 the Second RDEIR references creation of defensible space and project landscaping. At page 6, the Second RDEIR references a Landscape Plan. In light of the multiple and changing analyses and the deferral of the landscaping plan in Mitigation Measure 3.7-6a and Mitigation Measure 3.1-1, it is not clear what landscaping is proposed and how it will be coordinated with defensible space requirements. Because the mitigation of wildfire impacts is potentially in conflict with the mitigation of visual impacts, it is critical that the EIR demonstrate that both are feasible.

Please provide a project landscaping plan that indicates graphically what plantings are planned, particularly on the steep slope areas. Please provide this plan in at least as much detail as would be required by Mitigation Measures 3.7-6a and 3.1-1, including identification of highly fire-resistant vegetation and where such vegetation will be used to replace existing vegetation.

Please provide a fuel modification plan that graphically indicates the fuel modification zones in the detail that would be required by Mitigation Measures 3.7-6a, 3.7-6b, 3.7-7a, 3.7-7c, and 3.7-7d. In particular, please indicate which existing trees and shrubs would be removed from lots 20, 21, and 22. Please provide this information for the proposed project and for the proposed alternatives.

The landscaping plan and the fuel modification plan must be provided to the public for review and comment prior to preparation of a final EIR.

As CAL FIRE explained, vegetation within 100 feet of a structures must have both vertical and horizontal separation. LandWatch has 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. Please demonstrate how this tree spacing requirement will be met on lots 20, 21, and 22 for the proposed project and for the proposed alternatives.

21. With regard to Mitigation Measure 3.7-6a in the Second RDEIR at pages 63-64:

20-21

- a. Please explain whether the referenced Fire Protection Plan is the plan provided in Appendix 2 of the Second RDEIR. If it is not, please provide the referenced Fire Protection Plan.
- b. Please specify the qualifications for the "facility Fire Safety Coordinator(s)." What knowledge, skills, and abilities would the Fire Safety Coordinator be required to have? What certifications and continuing education requirements would the Fire Safety Coordinator be required to meet?
- c. Please indicate how many Fire Safety Coordinators would be employed. Please specify how many Fire Safety Coordinators would be required to be on site at all times.
- d. Please specify the referenced training, including ongoing training, required for security staff expected to manage evacuations.
- e. Please specify the referenced training, including ongoing training, required for the referenced "first responder (EMT) level staff person." How many such persons would be required to be on-site at all times?
- f. Please specify the referenced training for staff members and site security staff required to provide initial fire suppression or response.
- g. Please identify and locate on the site plan all structures intended to function as Temporary Refuge Area (TRAs). Please demonstrate that the identified structures would accommodate the maximum population at the project site.
- h. Please identify the specific fire-related building standards the TRAs would be required to meet. Please explain whether and how these TRA-standards would exceed the standards for structures that are not designated as TRAs.
- i. An architect may not be able to secure liability insurance for design of a TRA structure at the site. Please explain how the applicant proposes to engage an architect willing to accept liability for designing TRAs. Please indicate whether the applicant's existing architect would propose to design the TRA structures, whether that architect has experience in TRA structure design, and, if so, whether it has insured the liability for previous TRA-structure designs.
- j. Please explain whether and how guests would participate in evacuation practice.
- k. Please describe in detail how the applicant would be required by any proposed mitigation to ensure "a strong outreach program that raises fire awareness among its staff and visitors," as described on page 67 of the Second RDEIR. Please also identify the proposed mitigation measure that would impose this requirement.
- l. Please provide the referenced Emergency Preparation Plan.
- m. Please identify the referenced potential "equivalent measures" that might be required instead of the measures in Mitigation Measure 3.7-6a. Please explain how that equivalence would be determined.

22. Proposed Mitigation Measure 3.7-6b at Second RDEIR page 64 calls for fuel treatment zones along the road, as follows:

20-22

Implement and maintain fuel treatment areas along project roads. Fuel treatment areas shall measure 20 feet in width (horizontal) as measured from the edge of the paved surface and shall occur on both sides of the road. Maintenance of roadside treatment areas shall be conducted according to the standards outlined in Monterey County Code Chapter 18.09 (Fire Code), Section O109.1

Please explain who would be responsible for this mitigation. If the applicant would be responsible, please explain whether the applicant owns or controls the land 20 feet from the

paved surface of both sides of the road. If someone else would be responsible, please explain the legal obligation that person would have to provide mitigation for the project's impacts.

Please identify the discussion in the EIR of the biological resource, visual resource, and landslide impacts from this proposed Mitigation Measure 3.7-6b.

Please identify the roadway segments in which the fuel modification would be undertaken by (1) handwork, (2) mechanical means such as masticators, and (3) use of herbicides. Please identify the frequency of maintenance of fuel modification zones along the roadway.

20-23

23. Please identify the minimum response time for an emergency call to the site in the event that the MSRFPD has been called to another emergency.

24. Proposed Mitigation Measure 3.7-7b calls for a Construction Fire Prevention Plan.

20-24

- a. The EIR should provide this plan for public review before the project is considered further for approval.
- b. Please set out the referenced procedures for minimizing potential ignition in the same level of detail as would be required in the Construction Fire Prevention Plan.
- c. Please identify work restrictions that would be required during Red Flag Warnings and High to Extreme Fire Danger Days.
- d. Please specify what would constitute adequate water supply to service construction activities.
- e. Please identify the fire coordinator role and responsibilities.
- f. Please identify the required knowledge, skills, ability, and training of the fire coordinator.
- g. Please identify the worker training that would be required and how that training would be provided.
- h. Please identify the emergency communication, response, and reporting procedures.
- i. Please describe the means and substance of the referenced coordination with local fire agencies to facilitate access.
- j. Please identify the "applicable plans and policies established by state and local agencies" with which compliance would have to be demonstrated. Please identify the referenced potential "equivalent measures" that might be required instead of the measures in Mitigation Measure 3.7-7b. Please explain how that equivalence would be determined.

25. Mitigation Measures 3.7-7d calls for an Operations Fire Prevention Plan.

20-25

- a. The EIR should provide this plan for public review before the project is considered further for approval.
- b. Please set out the referenced procedures for minimizing potential ignition in the same level of detail as would be required in the Operations Fire Prevention Plan.
- c. Please identify work restrictions that would be required during Red Flag Warnings and High to Extreme Fire Danger Days.
- d. Please set out the referenced fuel modification zones and landscape area maintenance procedures including timing of work to minimize ignition and/or fire spread in the same level of detail as would be required in the Operations Fire Prevention Plan.
- e. Please identify the fire safety coordinator role and responsibilities.

- f. Please identify the required knowledge, skills, ability, and training of the fire safety coordinator.
- g. Please identify any worker training that would be required and how that training would be provided.
- h. Please identify and describe the communication and reporting procedures with MSRFPD.

26. The EIR proposes a 500,000-gallon water supply tank to supply sprinklers for the Hotel/Spa Resort complex and to provide fire suppression. The Second RDEIR states at page 66 that sprinklers for time-share units would be connected to the potable water supply system.

20-26

Please identify the minimum fire suppression and sprinkler water needs for the project. Please show how the minimum fire flow rate was determined.

Please identify the source of the water for fire suppression and sprinklers. Please identify the replacement rate for this source.

Please explain what steps will be taken to maintain the minimum fire suppression and sprinkler water supply at all times.

Please explain why sprinklers for time share units would not be connected to the 500,000-gallon water supply tank. Please explain how adequate volumes of water and adequate water pressure would be ensured through the potable water supply system to support time share unit sprinklers.

Please explain what elevation and pressure would be required for the 500,000-gallon water supply. Please explain whether that pressure would be ensured by gravity flow or by pump.

27. The Second RDEIR states at page 71 that up to 5 debris basins are proposed at locations adjacent to proposed development sites. Please locate these debris basins on the VTM.

20-27

28. Mitigation Measure 3.7-9 should specify that the project applicant must complete the recommended geological work to mitigate post-fire flooding, landslide or erosion risks within six months of the fire, and must not operate any facilities at risk from post-fire flooding, landslide or erosion until the work has been completed.

20-28

29. The project should provide an on-site fire station as requested by MSRFPD. No sufficient justification has been provided for declining this request.

20-29

30. The map labeled 3.7-1 Fire Severity Zones at page 50 of the Second RDEIR does not identify a source. Please identify the source.

20-30

The labeled 3.7-1 Fire Severity Zones at page 50 of the Second RDEIR is not consistent with the information provided in the reference at page 48 for the Monterey County, 2019, GIS Webapps: *Fire Protection Areas (WUI and FHSZ in SRA) map*. Accessed at: <http://www.co.monterey.ca.us/government/departmentsi-z/resource-management-agency/gis>. That referenced link is to a page containing another link labeled **Fire Protection Areas (WUI & FHSZ in SRA) map** (<https://montereyco.maps.arcgis.com/apps/webappviewer/index.html?id=842c1561fe8e461fa97c1f94eeb86c25>). The **Fire Protection Areas (WUI & FHSZ in SRA) map** does not provide the level of detail suggested by the map labeled 3.7-1 Fire Severity Zones at page 50 of the Second RDEIR.

Please explain where the Second RDEIR obtained data for the map labeled 3.7-1 Fire Severity Zones at page 50 of the Second RDEIR. Please explain where parcel-level classification data are available. Please provide parcel-level classification of Fire Severity Zones.

20-31

31. Please explain why the fire behavior modeling analysis at pages 136-139 of the FPP used different weather assumptions for scenarios 3 and 4, in which it evaluates fire behavior on steep slopes.

Please explain why the 97<sup>th</sup> percentile weather modeling inputs at page 137 of the FPP assumed that the natural slope is from 5% to 25% whereas the 50<sup>th</sup> percentile weather modeling inputs assumed that natural slope is from 20% to 60%.

20-32

32. The Second RDEIR discussion of visual impacts at pages 7 and 39 denies the need to screen structures on steep slopes using landscaping. This is inconsistent with the rest of the EIR, which finds that landscaping is necessary mitigation.

20-33

33. The Second RDEIR fails to identify or quote General Plan Policy 26.1.9 or to acknowledge that this policy applies to both common public viewing areas and private viewing areas.

20-34

34. Since the County's Policy 26.1.9 limiting ridgeline development is intended to avoid or mitigate visual impacts, the EIR must provide an analysis of consistency with this policy and not simply defer it to a later decision-making body. The Second DEIR fails to provide adequate analysis to support a determination of whether the project would constitute ridgeline development.

20-35

35. Since the County's Policy 26.1.10 banning steep-slope development is intended to avoid or mitigate visual impacts, the EIR must provide an analysis of consistency with this policy and not simply defer it to a later decision-making body. The Second RDEIR fails to provide adequate analysis to support a determination of whether the project qualifies for an exception to the ban on steep slope development in General Plan Policy 26.1.10.

20-36

36. LandWatch reiterates and incorporates by reference its comment 10-1 on the First RDEIR with respect to the requirement to flag and stake the project site. The County's Staking and/or Flagging Criteria adopted by Board Resolution 09-360 states that flagging and staking "shall be required" if the area is designated as Visually Sensitive on an adopted visual sensitivity map. The site is within the area identified as "highly sensitive" in Figure 5, Scenic Highway and Visual Sensitivity, in the 1982 Central Salinas Valley Area Plan. Figure 5 of the 1982 Central Salinas Valley Area Plan is an adopted visual sensitivity map.<sup>1</sup>

The March 2019 FEIR argues that the Staking and/or Flagging Criteria do not apply to the site because the Central Salinas Valley Area Plan's adopted visual sensitivity map is not listed in the parenthetical examples of adopted visual sensitivity maps in the Staking and/or Flagging Criteria. Nothing in the Staking and/or Flagging Criteria characterizes that parenthetical list of examples as an exhaustive list of adopted visual sensitivity maps. It is absurd to ignore the fact that the Central Salinas Valley Area Plan contains an adopted visual sensitivity map in applying the Staking and/or Flagging Criteria. The Central Salinas Valley Area Plan identifies the "highly sensitive areas in Figure 5" as unique resources "with

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<sup>1</sup> The site is also within the area identified as "highly sensitive" in Figure 13, Scenic Highway and Visual Sensitivity, in the current 2010 Central Salinas Valley Area Plan.

regional or countywide significance” that are important to maintaining the “rural character” of the area:

Visually sensitive areas of the Central Salinas Valley include the foothills of the Gabilan and Sierra de Salinas Mountains, Pine Canyon, Chualar Canyon, Arroyo Seco watershed, and the Salinas Valley floor. Areas identified as highly sensitive are those possessing scenic resources which are most unique and which have regional or countywide significance. The highly sensitive areas in Figure 5 are so designated because the prominence of the ridgelines and frontal slopes with their unique vegetation are important in giving the Planning Area its rural character. Other highly sensitive areas are found along the Arroyo Seco River.

(Monterey County 1982 General Plan, Central Salinas Valley Area Plan, p. 20, emphasis added.)

- 20-37
37. Flagging and staking is also independently mandated under the County’s Staking and Flagging Criteria, “[w]hen the project/site has potential to create ridgeline development, as determined by the project planner.” (Staking and/or Flagging Criteria, Monterey County Board of Supervisors Resolution No. 09-360, Attachment 1, p. 1.) Ridgeline development is defined as “development on the crest of a hill which has the potential to create a silhouette or other substantially adverse impact when viewed from a common public viewing area.” (1982 General Plan, p. 115 [Policy 26.1.9], emphasis added; see also Monterey County Code, § 21.06.950.) Note that potential ridgeline development does not require potential silhouetting above a ridgeline; it merely requires a potential substantially adverse impact.

The purpose of flagging and staking is to determine whether the “potential” ridgeline impact would in fact be realized by the project under review:

The purpose of staking and/or flagging is to provide visualization and analysis of projects in relation to County policies and regulations. Staking and/or flagging is intended to help planners and the public visualize the mass and form of a proposed project, or to assist in visualizing road cuts in areas of visual sensitivity.

(Staking and/or Flagging Criteria, Monterey County Board of Supervisors Resolution No. 09-360, Attachment 1, p. 1.) If the actual realization of this potential impact could be determined without flagging and staking the County would not have bothered to require flagging and staking.

Flagging and staking are critical here because the condominium units proposed for lots 20, 21, and 22 are located on steep slopes. The First RDEIR acknowledges that the Project will include 60 condominium units “along an east/west oriented ridge in the northern portion of the project site within the area identified as 30 percent or greater slope.” (First RDEIR, p. 3-19.) And another essential component of the Project, the vegetation removal required to mitigate fire hazards, will result in clearing oak woodlands and other vegetation from these ridges.<sup>2</sup> Landowners would be required to annually clear a 100-foot wide perimeter. Some condominium units that are not themselves on the very crest of the ridge will require

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<sup>2</sup> Note that these fuel modification requirements are inconsistent with the Project Site Plan (First RDEIR, Figure 2-6), which shows the hillside condominium units surrounded with vegetation. The fuel modification requirements are also inconsistent with the visual mitigation requirements, which call for partial screening of these units with trees and shrubs. Thus, flagging and staking are particularly critical to disclose the actual mass and visual impacts of the project.

vegetation clearance that extends to the ridgetop. (See First RDEIR, p. 3-83, Figure 3.3-3.) Without flagging and staking to indicate the location and mass of proposed structures it is particularly difficult to visualize the prominence and visual effect of structures on hillsides on which vegetation may be partially or entirely removed.

20-38

38. Flagging and staking is intended to permit the public and the Land Use Advisory Committee to visualize the actual dimensions of a project because it must remain in place for the duration of the review period. The visual analysis in the EIR cannot substitute for flagging and staking. The EIR does not even provide dimensions for the condominium units, which the zoning would permit to be 35 feet tall. (Elevations of "casitas" are provided, but those units are on the valley floor.) Placement of a single 5 foot by five-foot traffic sign "on the ridge at a location among where the 2- and 3-bedroom time share villas are proposed" (First RDEIR, Appendix C, pp. 2-3) was not a substitute for flagging and staking. This single traffic sign did not mark the locations of each of the proposed condominium units, which would be spread along hundreds of feet of ridgeline. Nor is there any evidence that the traffic sign was placed at the 35-foot height that the condominium units would reach. A single sign cannot give any indication of the mass and visual intrusion of the thirteen multi-unit condominium buildings spread along 1,000 feet of the ridge comprising lots 21 and 22. Nor was there any opportunity for the LUAC or the public to view this purported evaluation of visual impacts, because it was not set up for the duration of the review period.

20-39

39. The photo-simulation in the visual analysis is not an adequate substitute for flagging and staking. The County's Staking and Flagging Criteria expressly prohibit the substitution of photo-simulation for flagging and staking in areas that are designated as "highly sensitive on an adopted visual sensitivity map." (Staking and/or Flagging Criteria, Monterey County Board of Supervisors Resolution No. 09-360, Attachment 1, p. 7.)

20-40

40. LandWatch reiterates and incorporates by reference its comment 10-2 on the First RDEIR with respect to the impacts of fuel modification on visual resources. For the reasons set out in comment 10-2, vegetation consistent with fuel modification requirements would not provide any meaningful screening of the hillside development. The visual impacts from the loss of 20 acres of on-site vegetation together with 185 oak trees has not been adequately assessed. As noted above, the feasibility of achieving mitigation of both the visual resource impacts and the wildfire hazard impacts cannot be determined without presentation of the actual landscaping plan and fuel modification plan. Those plans must be provided in the RDEIR for public review and comment.

20-41

41. LandWatch reiterates and incorporates by reference its comment 10-3 on the First RDEIR with respect to the applicant-supplied photo-simulations.

The applicant-supplied photo simulations do not include simulations with and without proposed mitigation in order to permit the public to understand how effective the mitigation would be.

The applicant-supplied photo simulations do not reflect the mandated fuel modification.

The County has improperly delegated its analytic duty to the applicant.

20-42

42. LandWatch reiterates and incorporates by reference its comment 10-4 on the First RDEIR with respect to the impacts to Arroyo Seco Road, which qualifies as a Scenic Road and for which the County was required by Policy 40.1.2 of the Central Salinas Valley Plan to pursue that official designation.

Although the March 2019 FEIR argues that Policy 40.1.2 is not recited in the 2010 General Plan, the visual impact to this scenic route remains. Furthermore, the 2010 General Plan Policy LU-9.3 mandates that pre-2007 project applications “shall be governed by the plans, policies, ordinances and standards in effect at the time the application was deemed complete.” An applicant is not entitled to pick and choose to comply with the lowest common denominator of General Plan policies.

20-43 43. LandWatch reiterates and incorporates by reference its comment 10-4 on the First RDEIR with respect to light pollution. The RDEIR still fails to provide an adequate description of the Project’s proposed lighting. Interior lighting must not be permitted to be visible off-site. This requires that the units not be located on steep slopes.

20-44 44. The proposed 180-unit Project would triple the number of visitor-serving units previously permitted on the site and would add a number of additional visitor-serving amenities that would increase use and concomitant environmental impacts. It would locate condominium units on hillsides where they would cause visual impacts, including nighttime impacts that could not be mitigated. The Project is simply too large for this location.

The RDEIR evaluates alternatives that would reduce the number of units by 7%, 10%, and 30%. It is helpful that these alternatives would relocate the proposed condominium units so that they would not be on steep slopes and would be less visible. However, the EIR should also evaluate an alternative that would provide visitor-serving amenities at the scale of the previous use, i.e., a 61-unit proposal with appropriately scaled amenities.

The newly proposed Alternative 5 does not adequately address the inappropriate enlargement of the visitor-serving uses because it only eliminates 4 of the 180 units. Furthermore, Alternative 5 does not adequately reduce the visual impacts from locating development on steep slopes visible from the Valley because it still locates structures on hillsides and because it would still require extensive fuel modification to protect those structures.

Sincerely,



Michael D. DeLapa  
Executive Director

## **Response to Letter #20 – Michael DeLapa, LandWatch Monterey County (received July 5, 2019)**

1. This comment states that the Fire Prevention Plan in 2019 RDEIR Appendix 2 does not characterize slope in the same manner as the RDEIR.

For clarification purposes, the document included in the 2019 RDEIR is a Fire Protection Plan (FPP) and related analysis, not a fire prevention plan. As described in the Recirculated Draft EIR, the majority of the proposed development area is at the bottom of a valley and is flat to gently rolling, although slopes adjacent to the proposed development areas are steep and slope up and away from the project. The description cited by the commenter pertains to the majority of the development portion, mostly located on the valley floors, of the proposed Project.

The reference to 66.7 percent of the site being located on slopes greater than 30 percent pertains to the whole property, which is approximately 235 acres (2018 RDEIR Section 2.2, Environmental Setting). The statement that the site is generally on flat to gently sloping land is correct, with the vast majority of proposed development on valley floors with a small portion on hills. The proposed development area is 47 acres, about half of which has previously been developed and includes proposed landscaped grounds (2018 RDEIR Table 2.2, page 2-28); only 1.1% of the proposed development area is located on 30% or greater slopes (2019 RDEIR Figure 3.1-4, Slope Analysis).

2. This comment requests information related to fire hazards, annexation, and regulations.

Based on the best available evidence, the entire proposed project site appears to be located within a State Responsibility Area (SRA). Consequently, a site plan is unnecessary (See <https://bof.fire.ca.gov/projects-and-programs/state-responsibility-area-viewer/>). Although within SRA lands, the Mission-Soledad Rural Fire Protection District (MSRFPD) has assumed fire protection responsibility for a majority of the development area for decades and is considered to be the reviewing and inspection authority. Figure 3.7-1 of the 2019 RDEIR shows the fire hazard zones established by the State of California for the SRA. All the shaded areas of the map depict the SRA, and the project site is overlain on that figure by County staff (2019 RDEIR page 50). The State does not have financial responsibility for preventing and suppressing fires on the majority of the developed portion of the site, as those areas lie within the boundaries of the Mission-Soledad Rural Fire Protection District. As described in the EIR, the entire site is proposed to be annexed into the Fire District boundaries.

A map was provided in the 2019 RDEIR as Figure 3.7-1 (page 50). This map shows the fire hazard severity zone information provided by the State of California (state website <https://osfm.fire.ca.gov/divisions/wildfire-prevention-planning-engineering/wildland-hazards-building-codes/fire-hazard-severity-zones-maps/>). The map has different fire hazard zone boundary locations from those found in earlier documents as the map reflects the current Geographic Information System files provided by the State of California. The

County of Monterey downloads updated state information approximately annually from State of California digital files to ensure the County's Geographic Information System data is current. A depiction of the property boundary was overlaid on the state fire hazard severity zone information and provided as Figure 3.7-1. The provided information demonstrates that the main valley areas, where the majority of development is proposed, is located in the high fire hazard severity zone and the steeper hillsides are in the very high fire hazard severity zone. The updated information was obtained from the County Geographic Information System in May 2019, which was downloaded from the state website described above, and is found at the following website location:

[https://maps.co.monterey.ca.us/Html5Viewer/index.html?viewer=PBI\\_Map.PBI\\_Map\\_Viewer](https://maps.co.monterey.ca.us/Html5Viewer/index.html?viewer=PBI_Map.PBI_Map_Viewer)

While it is not clear that this comment asking for the fire district map relates to potential environmental effects of the project, the County is providing the map:

#### Errata

*Add Figure 3.11-2, Fire District Boundaries, to follow Figure 3.11-1 on 2018 RDEIR page 3-305, as shown in Section 4.0, Changes to the Recirculated Draft EIR.*

The Local Agency Formation Commission of Monterey County (LAFCO) recommended that the entire site be annexed into the Mission-Soledad Rural Fire Protection District (Fire District). By whom, and when, the plan to annex the site into the District was contemplated does not involve a comment on the potential environmental effects of the project and, therefore, no additional response is required.

The County concurs that annexation is the proper course of action for the reasons discussed here. As LAFCO stated in their letter "state responsibility areas are limited to very low density rural areas, watershed protection areas and other similar undeveloped areas. Development of this size is not appropriate for a state responsibility area and that the entire site should be brought into the district." By annexing the site fully into the Mission-Soledad Rural Fire Protection District, property taxes will be provided to the District. The District is charged with structural protection, so providing a share of the property taxes to the District will provide funding to support service to the project site. The site may remain in the State Responsibility Area after annexation to the Mission-Soledad Rural Fire Protection District; however, the Fire District will provide fire prevention, suppression, and emergency response services. The County and the Fire District have assumed fire protection responsibility on the lands at issue, including by the County's certified local ordinance. As such, the Fire District will remain the Reviewing and Inspection Authority over the Project site. (See California Code of Regulations, title 14, §§ 1270.05, 1270.03.)

The State Board of Forestry certified the adoption of Ordinance 3600 (Monterey County Code, Chapter 18.56) "as submitted in lieu of the State's Fire Safe Regulations" (Letter from Board of Forestry to Karin Strasser Kaufmann, Chair, Monterey County Board of Supervisors,

May 18, 1992, incorporated herein by reference into the record). Therefore, the applicable wildfire protection standards are those of the County Code, except as explained below. Development will be required to meet County Code requirements, including applicable sections of Chapter 18.56, Wildfire Protection Standards in State Responsibility Areas. The local fire authority contracts to Soledad, who contracts with CAL FIRE. Local fire codes are based on the current California Fire Code. Any state codes that were adopted subsequent and that preempt local authority would also be applicable to the project. See Master Responses 1 and 8.

Whether the County Code is currently in effect or not (see Master Response 8), the state law has essentially the same regulations as Monterey County Chapter 18.56 applicable to this project. The environmental document has reviewed the potential environmental impacts related to the proposed project and how it proposes to comply with state (and local) regulation.

If an exception were determined necessary for the project to proceed, the fire authority having jurisdiction would make the decision, with appeal authority through existing county building or planning procedures, with appealability to the County Board of Supervisors (California Code of Regulation sections 1270.07 through 1270.09). Whether the proposed offsite road improvements for Paraiso Springs Road are subject to the County Code, or to the State requirements, the RDEIR has analyzed the potential impacts of the project on the physical environment and identified mitigation measures, where needed, for the off-site road improvements. See also response to number 3 of this letter, below, and the response to Letter 22, Number 4 for more detail on this topic.

The Project's Fire Protection Plan offers recommendations. Mission-Soledad Rural Fire Protection District has approved the current Fire Protection Plan (approved August 2019), which was an attachment to the 2019 RDEIR. From the recommendations contained in the Fire Protection Plan, the County has developed mitigation measures, which will be incorporated into the MMRP and included as conditions of approval (CEQA Guidelines sections 15091(d) and 15097). Annexation would not impact the mitigation measures being proposed, nor would it change the fact that the MSRFPD is already the local review and inspection authority.

The remainder of the comments and questions in this comment do not relate to the environmental analysis contained within the EIR. See Master Response 1. Also, see response to Letter 22, Number 4 regarding the comments on regulatory background. Also see response to Letter 20, Numbers 24 and 28, and to Letter 23, Number 5 regarding modifications to mitigation measures to provide additional performance standards.

3. This comment requests information related to phrases used within the draft Fire Protection Plan (FPP) submitted by the applicant.

Code modification findings are per the California Fire Code and Monterey County Fire Code, Section 104.8, which states:

*"Where there are practical difficulties involved in carrying out the provisions of this code, the fire code official shall have the authority to grant modifications for individual cases, provided*

*the fire code official shall first find that special individual reasons makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. "*

The FPP refers to the “individual reasons” as justifications and the “code modification findings” are referenced in the code providing the ability of the fire code official to grant modifications for individual cases, provided that the fire code official first find reasons that the strict letter of the code is impractical and the modification is in compliance with the Code’s letter and purpose. The fire code official also must find that the modification “does not lessen health, life and fire safety requirements.”

Some of these comments are not related to the environmental document. See Master Response 1.

4. This comment poses questions and requests information about how final fire plans would be processed and the timing for those reviews.

The proposed Wildland Fire Evacuation Plan was provided for public review and comment as an attachment to the proposed Fire Protection Plan (2019 RDEIR Appendix 2, Attachment 1) and was prepared as part of the Project’s fire safety approach. One reason that the applicant provided the plan was at the request of commenters. The information can be shared with relevant agencies, and input received from those agencies for inclusion in pre-fire plans, but is not required and fire and law enforcement agencies may choose whether to utilize the plan.

The Evacuation Plan has three intentions: 1) it is a quick reference guide for staff and visitors so they are aware and prepared, and during an emergency, have a source of information/assistance, 2) it provides general background on how evacuations are commonly conducted, and 3) it offers estimates of the number of vehicles that may be generated by the Project and an approximate timeframe for the vehicles to be moved off site, given roadway vehicle capacity (Michael Huff, Dudek, July 16, 2019, attached to email from John Thompson to Mike Novo, Monterey County, July 18, 2019). The Evacuation Plan is a supplemental planning document provided as a project-specific awareness and preparedness plan that is intended to provide information to the employees of the resort and for emergency managers regarding estimated number of vehicles that could be involved in a mass evacuation and calculated timeframes for moving the vehicles to areas of safety. The plan directs that internal procedures be adopted that can be used to inform guests of evacuation procedures.

The Operations Fire Prevention Plan (OFPP), attached to the Final EIR in section 6, Appendices, focuses on how various operations and maintenance practices will be completed in a fire-safe manner and does not raise environmental issues as the practices are contained within the RDEIR-studied development footprint and fuel modification zones. The Operations Fire Prevention Plan will serve as a Project-internal document that would guide efforts implemented by resort staff on a daily basis to maintain a high level of fire safety, fire prevention, and readiness for and by resort staff.

The Construction Fire Prevention Plan (CFPP), attached to the Final EIR in section 6, Appendices, is a Project-construction document that would guide contractor fire safety during

construction activities. The CFPP focuses on fire safety equipment necessary on-site and within vehicles, designated smoking areas, requirements for site safety officers, and related restricted activities during construction, including during red flag warnings. The CFPP does not cause new environmental impacts as the practices are contained within the RDEIR-studied development footprint and fuel modification zones.

While not required to ensure that the potential effects of the Project on the environment remain less-than-significant for wildfire/hazards, the County has nevertheless required preparation and implementation of the CFPP and OFPP plans to clarify procedures to be used during construction and operation of the Project (Final EIR, Appendices). (See *Clews Land and Livestock, LLC v. City of San Diego* (2017) 19 Cal.App.5th 161, 194-195 [site in severe fire hazard zone, but record did not contain evidence that project would interfere with evacuation plans].) In this case, the County has received and attached the Fire Protection Plan to the 2019 RDEIR (Appendix 2). The Mission-Soledad Rural Fire Protection District has approved the plan (approved August 2019), with approval required by the County pursuant to Mitigation Measure 3.7-6a. The proposed evacuation information does not identify any potential physical environmental impacts as it involves driving along an existing road that has sufficient capacity to handle evacuation in a timely manner. If a fire is close to or across the road, the applicant is proposing providing Temporary Refuge Areas that could be utilized until the Incident Commander decides to implement evacuation of the resort. The Temporary Refuge Areas would be accommodated within proposed buildings, so no additional environmental effects have been identified from providing enhanced construction methods on these structures and the use of these structures for temporary shelter. In addition, see Master Response 8 and response to Letter 23, Number 5.

5. This comment requests information on where fire staging areas will be located.

Potential staging areas would include virtually anywhere within the development area away from the steeper slopes that would not receive ongoing irrigation or fuel modification. Fire personnel, under the direction of an Incident Commander, would determine the appropriate location for staging depending on a fire's circumstances.

6. This comment requests information on the author and date of one of the documents.

The Wildland Fire Evacuation Plan was developed by Dudek (a California environmental and engineering consulting firm) under contract to the applicant and is part of the Dudek comprehensive report on fire protection and evacuation and is dated May 16, 2019 (2019 RDEIR Appendix 2, Attachment 1, pages 154 through 176).

7. This comment states that statements in the Fire Protection Plan are not included as requirements for emergency responders. This comment does not include a statement or question related to the RDEIR's analysis of potential physical environmental impacts. See Master Response 1. The following is provided as information.

Evacuations are commonly managed by positioning personnel at key intersections downstream of the evacuating population, typically by law enforcement personnel. The Fire Protection Plan states that positioning resort personnel would be possible and would depend on the type of incident, the need for controlling intersections, and the overall evacuation

approach by law enforcement and Incident Command emergency responders. Given the Project's location and relatively short distance to areas with maintained and managed landscapes (e.g., vineyards and row crop farmland), the period of time that intersections would need to be managed would vary from no time (evacuation occurs prior to intersection control) to approximately 30 minutes until all Project traffic has cleared the area (Project's Fire Protection Plan, 2019 RDEIR, Appendix 2; buffer time is provided as above and beyond the calculated evacuation travel time identified in the Project's Fire Protection Plan, 2019 RDEIR, Appendix 2, page 140).

8. This comment requests clarification on the number of vehicles on the site and their use during an evacuation.

As explained in the 2019 RDEIR, evacuation would occur by use of the public road when it is safe to do so. If it is not safe at a given time to evacuate, anyone remaining on site would be directed to use the Temporary Refuge Areas until it is safe to evacuate, as directed by the Incident Commander. See Master Response 1. The following response is provided as general information.

The Evacuation Plan assumes a conservative (worst-case) condition where 275 vehicles were at the site and needing to evacuate. The "additional number of vehicles" refers to the 275 vehicles evacuating "in addition to" the existing vehicles that would use Paraiso Springs Road (i.e., other single family residence occupants), which is estimated at 10 vehicles (2019 RDEIR Appendix 2, pages 140 through 142).

The project applicant has proposed to have a minimum of two shuttle vehicles and one will be required to be on site at all times. When one shuttle returns to the site the other may leave the site (2019 RDEIR, Appendix 2, Attachment 1, Wildland Fire Evacuation Plan, section 1.4.2, pages 165 through 167). This requirement will be assured through project conditions of approval.

The comment related to guaranteeing project vehicles to remain on site, the breakdown of the types of people on site, and which off-site residents will evacuate is not related to the project's potential environmental impacts. See Master Response 1. The following response is provided as general information.

The project operations will also have vehicles on site at all times, including work vehicles that would hold generally up to four people consisting of mostly pick up trucks or four seat all-terrain vehicles. Those resort vehicles could also be used to assist in evacuating guests and employees. Other than requiring that a shuttle be maintained on site in case evacuation is necessary, the number of vehicles on site would be related to the number of people on the resort site. Vehicles on site available for evacuation purposes would be personal passenger vehicles from guests and management, the operation's pickup trucks and other vehicles, and at least one of the shuttles, which are alternating on site shuttling guests or employees to offsite locations.

9. This comment questions how neighbors would receive notice of a fire. This is not a comment on the EIR or the potential effects of the Project, and does not involve

environmental impacts of the project on the environment. See Master Response 1. The following response is provided as information.

Notice will be provided as it would be provided in any emergency (e.g., law enforcement, fire personnel, media notification, and phone calls and texts to the public (e.g., Alert Monterey County - <https://www.co.monterey.ca.us/government/departments-and-administrative-office/office-of-emergency-services/situational-awareness/public-alert-warning>)). The Fire Protection Plan (FPP) assumes that the evacuation notice is provided to the existing residents and Paraiso Springs Resort simultaneously through automatic alerts or notification by public agencies (2019 RDEIR, Appendix 2, page 161). Residents may have delays as they move back to their homes and gather items to evacuate. The FPP contemplates that these residents, with their driveways closer to the Clark Road intersection, would be downstream of the resort and could be on the road before the vehicles from Paraiso Springs Resort. However, the evacuation of the residents and the Paraiso Springs Resort would not rely on the residents exiting before the Resort vehicles. Breaks in evacuating resort traffic would occur that would enable residents to merge into outgoing traffic and proceed to Clark Road or via the route directed by law enforcement personnel, as applicable (2019 RDEIR, Appendix 2, Fire Protection Plan, 2019 RDEIR pages 140 through 142).

10. This comment questions how the project will ensure that the road is not blocked during an evacuation. The comment is not related to the project's potential environmental impacts. See Master Response 1. The following response is provided as information.

There are no guarantees for this Project or for any existing community that an evacuation route would be available at all times due to rare, but potential, events like a stalled vehicle, an accident, or debris. However, Paraiso Springs Resort, which would have various equipment available for maintaining the resort and staff resources that could assist in addressing these types of circumstances and maintain vehicle travel ways in operational condition. Paraiso Springs Road includes natural turnouts at driveway intersections and other road segments where a stalled vehicle could be moved off the paved road surface ([https://maps.co.monterey.ca.us/Html5Viewer/index.html?viewer=PBI\\_Map.PBI\\_Map\\_Viewer](https://maps.co.monterey.ca.us/Html5Viewer/index.html?viewer=PBI_Map.PBI_Map_Viewer)). Paraiso Resort staff and emergency responders would be equipped to help move vehicles from the travel way and would be able to utilize equipped vehicles to extinguish and/or push or pull tree debris off a roadway if necessary. In addition, if the road is blocked for everyone in the area, the site will provide temporary refuge areas (2019 RDEIR page 142) that could be used if determined necessary by the Incident Commander. Also see response to Numbers 14 and 21, below, response to Letter 21, Number 8, and response to Letter 23, Numbers 5 and 6.

11. This comment asks how flammable litter will be kept from accumulating.

The Project is required to provide and maintain defensible space throughout the Project and on its perimeter, including along its roadways (California Fire Code as amended by Monterey County Code Chapter 18.09 in 2017; Monterey County Code Section 18.56.090, Fuel Modification; California Code of Regulations section 1272.00). The Project would also place a high priority on landscape aesthetics, which would include highly maintained landscaped areas free of leaf litter and dead vegetation. Maintenance would occur year-round to minimize the availability of highly flammable materials that could ignite and cause

smoldering and smoke generation. However, oak tree health is also a high priority and maintaining an oak leaf litter is an important component. Leaf litter will be reduced, as necessary for all trees, without total removal of the litter layer. Litter near roadways will be removed and areas beneath these oak canopies will be provided an alternative mulch that has a higher resistance to ignition (larger sized chippings) See response to Letter 10, Numbers 1 and 21. See Errata to Mitigation Measures 3.7-6a and 3.7-7d included in response to Letter 23, Number 5.

12. This comment asks for information as to why widening the road would be infeasible.

Feasibility will be determined when the decision-making body acts, based on facts in the record. The traffic engineer and a contractor have walked and measured the road multiple times. The applicant proposes to widen all areas of the road to 20 feet width, except for one 150 foot section that is constrained by a utility pole, which is proposed to be widened to 18 feet (2019 RDEIR, Appendix 2, pages 135 and 141). The utility pole and the terrain around that section of the road, as well as county right-of-way limitations may make widening potentially infeasible for that section.

The section of the road that would be widened to 18 feet was analyzed in the traffic report and would not present a safety issue for normal everyday use. The 20 foot proposed project widening would meet Public Resources Code Section 4290 (SRA fire safe standards), if applicable, for evacuation purposes. It is not uncommon for modifications to road width requirements to be granted for short stretches to avoid sensitive habitat, native trees, or for similar constraints, particularly where significant improvements are planned for the remainder of the roadway (Michael Huff, Dudek, July 16, 2019, attached to email from John Thompson to Mike Novo, Monterey County, July 18, 2019). The analysis of potential effects related to the road widening is included within the Project's RDEIR and FPP. Regarding the ability of an incoming fire engine to navigate through the short stretch of 18 foot wide roadway while passenger vehicles are evacuating: a typical fire engine is just short of 10 feet wide, mirror to mirror. A passenger vehicle is approximately 6.5 feet wide, mirror to mirror. Allowing for larger passenger vehicles, mirror to mirror measurement may be 7 feet wide. This would still enable vehicles to pass with one foot between vehicles, which would only occur in the described 150 foot stretch of Paraiso Springs Road. During a mass evacuation, the total time calculated to evacuate the maximum 275 vehicles from the Paraiso Springs Resort is approximately 17 minutes of travel time. Using this calculation, the widened Paraiso Springs Road is discounted from 1,900 vehicles per hour emergency capacity to 950 vehicles per hour emergency capacity to account for potential slowing (such as for incoming fire and law enforcement vehicles). The 950 vehicles per hour travel speed is 5 mph, a conservative estimate that would enable incoming emergency vehicles to safely travel toward the Project through the 150 foot section that is 18 feet wide rather than 20 feet wide, without increased potential hazard. After any evacuation period, emergency vehicles would have exclusive use of the entire road.

Whether the road is determined feasible to widen to 20 feet for its entire length, the EIR analyzed the off-site road improvement area for potential environmental impacts (2018 RDEIR Chapters 2 and 3.12, Section 3.5.3 and Section 3.5.4, Impact Analysis, specifically

Impact 3.5-3; see response in Master Response 5, to Letter 1, Number 1, and to Letter 5, Numbers 8a and 16b).

13. This comment questions how the project is not subject to the dead-end road limitations found in Public Resources Code section 4290. As stated in the EIR (2018 RDEIR Section 3.7.5, as amended by 2019 RDEIR Section 3.7.5; and Appendix 2, 2019 RDEIR, page 143), the project will comply with the County's ordinance and all applicable code requirements. See responses to Letter 22, Number 4 and to Letter 24 for more detail on this topic.

14. This comment questions how the onsite fire protection proposed meets the "same practical effect" requirements as having a second evacuation route. The comment is not related to the project's potential environmental impacts. A determination of "same practical effect" is done through an exception process and is not the function of an EIR. See Master Response 1. The following response is provided as information.

Ready, Set, Go is a model that is being implemented at the Project site primarily because it raises awareness and preparedness levels. A prepared and aware populace will react quicker and follow direction. Multiple evacuation routes are not a requirement of the Ready, Set, Go model. Multiple evacuation routes, remote from each other would be considered a preferable condition, but is not always an option nor is it always feasible. In this case, a remote secondary access would provide a second ingress/egress to the west, north or south since there is already a route to the east. A route to the west, north or south would be highly unlikely to be viable based on the terrain and fuels it would traverse. Essentially a route in those directions would lead evacuees into steep slopes containing fuels that could expose them to very dangerous conditions on steep and winding roadways that do not currently exist. Land in those directions is located in the Very High Fire Hazard zone, while the development of the resort is primarily proposed for the High Fire Hazard zone area. A preferred option than this approach is to design, plan, and construct a Project that offers a contingency plan of temporarily refuging people on the site if evacuation is considered less safe, as discussed in FPP Section 4 and throughout the proposed Wildland Fire Evacuation Plan (Michael Huff, Dudek, July 16, 2019, attached to email from John Thompson to Mike Novo, Monterey County, July 18, 2019).

15. This comment asks for a definition of "perimeter zone." The comment is not related to the project's potential environmental impacts. See Master Response 1. The following response by the applicant's fire consultant (Michael Huff, Dudek, July 16, 2019, attached to email from John Thompson to Mike Novo, Monterey County, July 18, 2019) is provided as information.

The Project site will include a highly maintained landscape that functions as a site-wide fuel modification area. In addition, at the Project's perimeter, a 100 feet wide fuel modification zone will be maintained where the existing fuels are removed and replaced (inner zone) and thinned (outer zone) such that an approaching wildfire would be gradually starved of available fuels. This changes fire behavior and spread rates, resulting in fires that are more easily attacked by firefighters. The perimeter zone referenced is the perimeter of the project's development area. See response to Letter 10, Numbers 1 and 21.

16. This comment asks who is the “Fire Authority Having Jurisdiction.” The comment is not related to the project’s potential environmental impacts. See Master Response 1. The following response is provided as information.

The remaining portion of the site that is not already in the Mission-Soledad Rural Fire Protection District will be annexed into the District, which will have jurisdiction over the site.

17. This comment questions which fire agency will be responsible to review the fire plans. The comment is not related to the project’s potential environmental impacts. See Master Response 1. The following response is provided as information.

The Mission-Soledad Rural Fire Protection District has jurisdiction over structural fire protection for this site. Prior to issuance of construction permits, the applicant will be required to apply to the Local Agency Formation Commission to annex the remaining portions of the property into the fire district. The inspection authority for the review of fire plans is the Mission-Soledad Rural Fire Protection District with final approval by the County.

18. This comment states that the proposed mitigation measure does not include the details found in the proposed Fire Protection Plan.

The Fire Protection Plan (FPP) was included in the 2019 RDEIR (Appendix 2). All fire protection and safety measures recommended in the FPP were included in Mitigation Measure 3.7-6a, as modified by the Final EIR. The mitigation measure makes clear that the FPP measures will become conditions of approval. The FPP recommendations, through adoption as conditions of approval, modify the project to include those components.

19. This comment questions whether the proposed Evacuation Plan found in the proposed Fire Protection Plan is the final evacuation plan. The comment is not related to the project’s potential environmental impacts. See Master Response 1. The response to this letter, number 4, above, provides information on this topic.

20. This comment questions the feasibility of a landscaping plan meeting mitigation measure requirements to reduce visibility and to also achieve defensible space requirements. The comment requests the final landscaping plan required by the mitigation measures be presented before preparation of the Final EIR.

A large number of plant species are consistent with defensible space/fuel modification zone requirements for ignition resistant plants and can be used in project landscaping (Fire Safe Council for Monterey County; <http://www.firesafemonterey.org/plant-lists.html>). A detailed landscaping plan will be required to be reviewed for visual impacts and fire protection as each project phase moves forward. Sufficient direction is provided in Mitigation Measures 3.7-6a and 3.1-1 to ensure that the proposed final landscaping plan meets the intent of both mitigation measures. Since the role of mitigation measures is to modify the proposed project to protect the environment where potential impacts are identified (CEQA Guidelines section 15126.4(a)), the proposed mitigation measures requiring a final plan is in conformance with the CEQA regulations so long as the

procedures identified in the Guidelines are followed. (See also *Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200, 2244 [analysis of visual impacts properly assumed incorporation of landscaping and design standards].)

See Errata to Mitigation Measures 3.7-6a and 3.7-7d included in response to Letter 23, Number 5.

Except where soil disturbance occurs, steep slope areas will not have new plantings. As stated earlier (response to comment 1, above), only 1.1 percent of the site will involve development on greater than 30 percent slopes (2019 RDEIR Figure 3.1-4, Slope Analysis). For those areas within the development footprint, appropriate landscaping as approved by the County and fire district will be planted. Those areas within the fuel modification areas would have vegetation trimmed and thinned, but are not anticipated to have landscaping installed. Potential environmental impacts have been analyzed and mitigation measures have been identified for any potential environmental impacts (see 2018 RDEIR section 2.4, including Table 2.4 and Figure 2.12; section 3.1.4, Impact Analysis, Impact 3.1-1 (2019 RDEIR); Chapter 3.3, Biological Resources, including discussion on pages 3-58, 3-75 through 3-77, sections 3.3.4 and 3.3.5, including Figure 3.3-3, Defensible Space Vegetation Loss; section 3.6.5, Geology and Soils, Impact Analysis, Impacts 3.6-4 and 3.6-5; and 2019 RDEIR sections 3.7.2 through 3.7.5, Impact Analysis).

The tree removal plan (2018 RDEIR page 2-46 references the Forest Management Plan - Forest City Consulting, 2005) indicates protected trees to be removed. Fuel modification zones would require limbing, not necessarily removal, of trees to prevent fuel ladders (<https://www.nfpa.org/Public-Education/Fire-causes-and-risks/Wildfire/Preparing-homes-for-wildfire>).

Very little development will be occurring on steeper slopes (2019 RDEIR Figure 3.1-4, Slope Analysis). If needed, oak trees are ignition resistant and can be retained in certain locations (Fire Safe Council for Monterey County at <http://www.firesafemonterey.org/plant-lists.html>). They would be treated by maintaining the understory plants so they would not create “ladders” where surface fire could climb into the trees’ canopies. Further, as necessary, the oak trees’ lower limbs would be removed to “raise” the tree crowns above the ground, further minimizing transition of ground fire into a tree crown.

The planting of oak trees required by the mitigation measures can be accomplished in a manner that provides adequate separation, as determined by the fire agency, while providing the outcome desired to break up visual massing of the project as seen from distant common public viewing areas. The fact that the views of the future development are distant allows the landscaping to be spaced out toward the common public viewing areas but with adequate spacing to prevent “fuel ladders.”

See response to Letter 10, Numbers 1 and 21.

See Errata to Mitigation Measure 3.7-6a included in response to Letter 23, Number 5.

21. This comment provides a series of questions related to proposed Mitigation Measure 3.7-6a. Many of the questions in this comment do not relate to potential environmental impacts of the project on the environment:

- Comments regarding the fire safety coordinator (b, c)
- Comments regarding evacuation (d, j)
- Comments regarding “first responder (EMT) level staff person” (e)
- Comments regarding an architect willing to design the Temporary Refuge Area(s) (i)

For those comments, see Master Response 1.

A response related to the proposed Temporary Refuge Areas (g, h) is described in response to Letter 21, Number 8, and to Letter 22, Number 4. The code requirements are listed below in this response.

Responses to the bulleted topics follow this list:

- Fire Protection Plan (a)
- Training (f)
- Outreach program (k)
- Emergency Preparation Plan (l)
- Equivalency Measures (m)

The Fire Protection Plan is provided as Appendix 2 of the 2019 RDEIR.

Many of the comments related to personnel training are not directly related to the project’s potential environmental impacts, which relate to 1) substantially impairing an emergency plan (Impact 3.7-6), 2) increased risk of ignition from additional people using the area (Impact 3.7-7) or from infrastructure construction or use (Impact 3.7-8), and 3) increased risk from runoff, post-fire slope instability, or drainage changes (Impact 3.7-9). Again, these are all studied in the context of the project’s potential impact on the physical environment, not vice versa. See Master Response 1. The following response is provided as information (Michael Huff, Dudek, July 16, 2019, attached to email from John Thompson to Mike Novo, Monterey County, July 18, 2019).

The Fire Safety Coordinator position is proposed by the applicant to include adequate numbers of people such that full-time coverage is provided. One fire safety coordinator would be on-site at all times, and filled by up to 5 separate people. The position would be required to have firefighter training.

The applicant proposes that security personnel would be involved in managing evacuations, but training would be provided to a larger group of management staff. Training would include meeting with the County and Soledad law enforcement and fire personnel at least once annually to discuss the evacuation process and what they can do to help prepare guests to leave early. The Project’s Wildland Fire Evacuation Plan would be reviewed at least twice per year by these resort employees such that they are familiar with the evacuation process and are prepared to perform their roles, as needed (2019 RDEIR Appendix 2, pages 131 through 189).

Training would include EMT level training at least meeting EMT-Basic (EMT-B) level:

- Also known as EMT-Bs, EMT-Basics are entry-level EMTs. According to the National Highway Traffic Safety Administration, EMT-Bs have less training than other EMTs (about 110 hours), and they have fewer job responsibilities. An EMT-B can carry out basic life support functions, but he or she is limited to performing non-invasive procedures. An EMT-Basic can help patients take medicines that have been prescribed by a doctor, but he or she is not qualified to administer any new medications. EMTs-B commonly perform important functions like these:
  - Cardiopulmonary resuscitation (CPR)
  - Automated external defibrillation (AED)
  - Bone splinting
  - Suctioning fluids to assist more advanced EMTs

The intent of staff members and security staff providing initial suppression activities is not intended for replacement of the responding fire personnel from MSRFPD, but to augment them where and when possible. Individuals who will provide initial fire suppression/size up would be trained to basic levels and would not be expected to provide specialized actions beyond use of the appropriate fire extinguishers for small fires. Security personnel would be trained to operate the Project's Type VI fire engine to apply water to fires where a fire extinguisher would not be appropriate. Training would include a combination of classroom learning and hands on use of fire suppression equipment. These training classes are offered by private vendors and can include coordination with the local fire authority.

Per the proposed Fire Protection Plan, a number of designated structures are available as determined by the fire district (e.g., Hotel, Meeting and Conference Center) or a combination of structures that would house the on-site population. Fifteen (15) square feet per person is commonly used for temporary refuge purposes (Michael Huff, Dudek, July 16, 2019, attached to email from John Thompson to Mike Novo, Monterey County, July 18, 2019), resulting in occupiable building space of 7,500 square feet out of the 400,000 plus square feet available at full buildout for a population of 500 persons (2018 RDEIR Table 2.2, Project Components; Michael Huff, Dudek, July 16, 2019, attached to email from John Thompson to Mike Novo, Monterey County, July 18, 2019). The Hotel Meeting and Conference center is 14,000 square feet and could hold 900 plus people alone (Michael Huff, Dudek, July 16, 2019, attached to email from John Thompson to Mike Novo, Monterey County, July 18, 2019).

The Temporary Refuge Areas (TRAs) would be constructed with strict adherence to California Building Code Chapter 7A- Materials and Construction Methods for Exterior Wildfire Exposure (2019 RDEIR, section 3.7.3, State, page 57). Interior sprinklers will be provided per the occupancy category (likely NFPA 13 or 13R – structure protection sprinklers), and upgraded vents would be installed throughout that are ember resistant. These buildings would include air handling equipment that would be designed to help reduce smoke, would have back-up generator power, and amenities to keep those being sheltered aware of what's happening and able to

communicate with first responders. The temporary refuge period would be expected to be no more than 1 to 2 hours because the fire would move through the area within that time (Michael Huff, Dudek, August 7, 2019—attached to email from John Thompson to Novo et al., August 8, 2019). Additional hardening to be designated a temporary refuge area (TRA) would include exterior glazing to be dual pane with both panes tempered glass, exceeding the code requirement. Primary TRAs are proposed to include:

- Large-panel television monitors located so those that are interested may track newscasts during a wildfire event
- Wireless internet accessibility
- Second protected utility source or U.L.-rated diesel generator for the designated TRA
- System to maintain communications with Ranch administration
- A copy of the Emergency Preparation Plan
- Food and water provisions for up to 24 hours
- Educational materials on emergency procedures and temporary sheltering during wildfire
- Telephones (hard line)

Architects routinely design buildings including residences, club houses, schools, and other structures within areas designated high and very high fire hazard severity zones where people may be directed to seek shelter during a wildfire. Architects also design shelters for other hazards, such as hurricanes and tornados.

The applicant proposes that guests would be provided a fire and evacuation notice at check in along with a user-friendly one page “what to do” if you are directed to evacuate. Evacuation drills are important training opportunities for staff; guests would not likely be part of the evacuation training and practice.

Related to the comment on which mitigation measure requires the strong outreach program, the Wildland Fire Evacuation Plan, as an attachment to the Project’s Fire Protection Plan, would be implemented through conditions of the Project upon approval. In addition, Mitigation Measure 3.7-6a (2019 RDEIR pages 63 and 64, and as modified as shown in response to Letter 23, Number 5) requires that the final plan be reviewed by the fire district and approved by the County. The Mission-Soledad Rural Fire Protection District has approved the Fire Protection Plan dated May 16, 2019, and attached to the 2019 RDEIR as Appendix 2. The final version will be reviewed and approved by the County after consideration of all comments and recommendations by fire personnel. The Project’s owner/operator would be required to provide the outreach program and would have a vested interest in doing so related to keeping guests and staff aware and ready. See Master Response 8. See errata to Mitigation Measure 3.7-7d in response to Letter 23, Number 5.

The comment asks what is meant by “equivalent measures.” This language was included in the original Mitigation Measure 3.7-6a; however, the term has been removed as part of the Final EIR.

See Errata to Mitigation Measure 3.7-6a included in response to Letter 23, Number 5. See also response to Letter 18.

22. This comment asks a series of questions related to Mitigation Measure 3.7-6b, which calls for fuel treatment zones along roads; the comment also asks who would be responsible for implementation.

This fuel treatment area is located along roads within the project site. The resort operator will be responsible to implement the measure. The Mitigation Measure is not intended to apply to offsite roadways, which are maintained by the County. Monterey County has a long-standing program of controlling roadside vegetation in a fire-safe manner. This is done primarily by annual, or more frequent, mowing of vegetation within the county road right-of-way.

The impacts related to fuel modification were studied in the 2018 RDEIR. Ground disturbance for road construction will affect several feet outside of the area of the final roadbed, with varying distances based on topography, cut and fill slopes needed to meet gradients and engineering requirements, utility locations, location of sidewalks, and road gradients. The Vesting Tentative Map sheets, 2018 RDEIR page 2-45 and Appendix B, and specifically 2019 RDEIR pages 108 through 110 describe or show conceptual grading disturbance areas. On-site areas disturbed during road construction will be replanted with species identified as being fire safe to have along roadways and will be maintained by the project operator. 2018 RDEIR Chapter 3.3 analyzed the biological impacts of removal of vegetation, including defensible space areas. The only visible roadway from common public viewing areas would be the road from Lot 22 to Lot 23. As identified in 2018 RDEIR Chapter 3.3, vegetation removal or trimming for fuel management purposes was identified in Table 3.3-5, Additional Project Impacts to Vegetation Types due to Wildland Fuel Management Requirement, and in Figure 3.3-3, Defensible Space Vegetation Loss.

The 2018 RDEIR impact analysis concluded that potential impacts to biological resources would be less than significant with the required mitigation. Impacts associated with fuel management activities identified included potential impacts to special status animal species during vegetation disturbance (Impacts 3.3-1 and 3.3-2), potential disturbance of nesting birds (Impact 3.3-3), impede wildlife movement (Impact 3.3-5), and loss of oak habitat and trees (Impact 3.3-6).

It is not clear from the comment why fuel treatment areas would cause a concern for landslides. Vegetation will not be cleared, but managed, within fuel modification areas. 2018 RDEIR Chapter 3.6, Geology and Soils, under Impact 3.6-4 addresses potential for slope failures. The 2018 RDEIR includes Mitigation Measures 3.6-4a and 3.6-4b, which requires the project geologist and engineers to prepare a Final Geologic and Soil Engineering Feasibility Report prior to the issuance of grading permits as well as to observe all excavation activities. The intent of the report and observations is to identify unstable areas of the site and remediate those areas during project construction. This would include vegetation clearance as well as vegetation management within the fuel modification zones. Other potential soil and geologic issues are also discussed in 2018 RDEIR Chapter 3.6 and mitigation measures provided to ensure a stable project from a geologic and soil erosion standpoint.

The type of fuel modification techniques will be based on the final design of the project and a number of other factors (e.g., slope, slope aspect, vegetation type, proximity to structures). The techniques described in the comment may all be used on the site depending on topography, accessibility, vegetation growth as a result of dry versus wet years, etc. The project applicant has stated that fuel management within the project will be by hand equipment (Michael Huff, Dudek, July 16, 2019 –included in an attachment to an email from John Thompson to Monterey County Planning (Novo) et al., July 18, 2019). See response to Letter 10, Numbers 1 and 21.

The MMRP will identify whether the applicant or responsible or trustee agency is responsible for implementation of the various mitigation measures, and the timing for completion of the measures. The County is also responsible for ensuring implementation of the mitigation measures (see CEQA Guidelines sections 15041, 15091(d)). CEQA Guidelines section 15097(a) also allows the Lead Agency to delegate reporting or monitoring responsibilities to a private entity. The property owner owns the 20 feet from the paved surface of the project roads as they are entirely located on the project site. They are proposed to serve only the resort project, which would require that the resort operator implement the mitigation measure. Monitoring will be done by the local fire district as determined in the final approved Fire Protection Plan.

Roadways within the Project site will be treated via handwork (small hand tools, string trimmers, and mowers). The roads are adjacent to landscaped areas and areas that are considered part of the site wide “firesafe” landscapes, resulting in a dual role for the landscape as roadside fuel modification zones. Roadways would be treated on an ongoing basis, consistent with the site wide landscape and perimeter fuel modification zones. Paraiso Springs Road offsite is not under the Project’s control and therefore would not be provided roadside fuel modification by the resort operator, but by the County (see response to number 21, above).

23. This comment requests the response time if Mission-Soledad Rural Fire Protection District is on another call. This comment does not relate to the project’s potential impact on the environment. See Master Response 1.

If the call relates to a fire or medical emergency, many other fire stations are found in the area, as shown on Figure 3.11-1, Regional Fire Protection Facilities, as modified by this Final EIR. Fire staff are aware when another station is out on a call, which causes a process of ensuring coverage for other calls. The response time will depend on many factors (e.g., number of proximate stations out on calls, availability of fire personnel, traffic constraints, location of the incident), so the answer would depend on those factors. The other nearest fire stations are found at CAL FIRE’s Gabilan station, 13.9 miles from the project site, and in Greenfield, 10.4 miles from the project site ([www.google.com/maps/dir](http://www.google.com/maps/dir)). The project is proposing to provide trained personnel that can implement basic operational techniques that would provide early response activities (2019 RDEIR Appendix 2, Fire Protection Plan).

24. This comment provides a series of questions and comments related to the Construction Fire Prevention Plan.

The Construction Fire Prevention Plan (CFPP), included in section 6 of this Final EIR, is an internal document that would guide site construction fire prevention measures. This was prepared by the operator/owner and is addressed in Mitigation Measures 3.7-7a and 3.7-7b. The CFPP provides techniques to avoid, or describe response to, a potential fire. It will not cause an environmental impact and is included as part of the mitigation for potential impacts identified in 2019 RDEIR Impact 3.7-7.

Red Flag Warnings are issued by the National Weather Service and indicate that conditions are such (low humidity, high winds) that wildfire ignitions and spread may be facilitated. To ensure compliance with Red Flag Warnings restrictions, a National Weather Service website could be monitored (<http://www.srh.noaa.gov/ridge2/fire/briefing.php>). During Red Flag Warnings, construction-related activities could be limited and precautions taken on site. Upon announcement of a Red Flag Warning, the applicant has proposed that red flags be prominently displayed at the entrance gate and main office, indicating to employees and contractors that restrictions are in place. Any hot work (work that could result in ignition sources or increase fire risk), grading, or any other work that could result in heat, flame, sparks, or may cause an ignition to vegetation would be prohibited during Red Flag Warning conditions. Defined project areas may be off limits to maintenance activities. If vehicles are required to be used during Red Flag Warning conditions, vehicles shall remain only on designated areas on the site. Mitigation Measures are being modified to ensure that plans required by the mitigation measures address Red Flag Warning conditions.

Mitigation Measure 3.7-7b requires that the Construction Fire Prevention Plan describe required components and standards, as modified below:

#### Errata

*Replace Mitigation Measure 3.7-7b on 2019 RDEIR page 68 to read as follows:*

**MM 3.7-7b** The draft 2019 Construction Fire Prevention Plan, included as an appendix to the Final EIR, shall be reviewed by the Mission-Soledad Rural Fire Protection District, and approved by the RMA Director prior to clearance of any vegetation or issuance of permits for construction, whichever occurs first. This plan addresses training of construction personnel and provides details of fire suppression procedures and equipment to be used during construction. Information contained in the plan shall be included as part of project-related environmental awareness training. The applicant shall implement procedures in the Construction Fire Prevention Plan, including the following:

- Procedures for minimizing potential ignition, including, but not limited to, vegetation clearing, parking requirements/restrictions, idling restrictions, smoking restrictions, proper use of gas-powered equipment, use of spark arrestors, and hot work restrictions;
- Work restrictions during Red Flag Warnings and High to Extreme Fire Danger days;
- Adequate water supply to service construction activities;
- Fire Safety Coordinator (aka Site Safety Officer) role and responsibility;
- Worker training for fire prevention, initial attack firefighting, and fire reporting;

## 2.0 Comments on the Recirculated Draft EIR

- Emergency communication, response, and reporting procedures;
- Coordination with local fire agencies to facilitate agency access through the project site;
- Emergency contact information;
- Demonstrate compliance with applicable plans and policies established by state and local agencies.
- Initial clearance of native vegetation, or clearance of vegetation within 100 feet of native vegetation, shall require that a staffed water vehicle (water truck or Fire Engine) be located within 200 feet of all operating mechanized equipment. This requirement shall also apply to grading activities within 100 feet of native or flammable vegetation;
- The County, a third-party fire protection consultant, or MSRFPD shall inspect the project site, prior to any site construction activities, to ensure that all required measures are in place.

*Please refer to Section 4.0, Changes to the Recirculated Draft EIR.*

In addition, see changes to Mitigation Measure 3.7-7d in response to Letter 23, Number 5.

25. This comment provides a series of questions and comments related to the Operations Fire Prevention Plan. This comment does not relate to the physical environmental impacts of the project on the environment. See Master Response 1 and response to this letter, number 4, above. Nevertheless, the following response is provided.

The Operations Fire Prevention Plan is an internal document that would guide site operations' fire prevention measures. This document has been prepared by the operator/owner and was not intended to be a public document but is included in Final EIR section 6, Appendices.

Typically, activities that could result in sparks or heat sources near vegetative fuels would be restricted. Small gas-powered engine equipment would only be used in areas internal to the project and away from vegetation. Hot works (welding, grinding, etc.) would be restricted during Red Flag Warning weather.

Fuel modification zone maintenance would be an ongoing activity throughout the Project site. All landscapes in and at the perimeter of the Project's footprint would be maintained in a "firesafe" condition. This entails:

- removing dead and dying plant material
- removing accumulated litter (leaf and twigs)
- removing opportunist plants that establish to maintain lower plant densities
- thinning plants, as needed, to minimize accumulated fuels and plant density
- raising tree canopies for separation from lower shrubs
- Mowing/string trimming as needed for vegetation maintenance
- Irrigating landscapes and inner fuel modification zone to maintain high plant moisture
- Additional plant and landscape maintenance as deemed necessary to provide

defensible space.

The fire Site Safety Officer would be a position staffed by designated management personnel so that coverage is provided at all times. The fire Site Safety Officer would be responsible for the site's overall fire safety, conformance with fire protection plan and code requirements, and educational outreach for staff and visitors. Fire Safety Coordinators would also be on-site managers of evacuation incidents, responsible for communicating with law enforcement, monitoring conditions, assigning security or other staff to assist as necessary.

See Errata to Mitigation Measure 3.7-7b included in response to this Letter, Number 24, above.

See response to Letter 10, Numbers 1 and 21.

26. This comment questions the fire suppression and sprinkler system. This comment does not relate to the physical environmental impacts of the project on the environment. See Master Response 1. Nevertheless, the following response is provided.

Water for fire suppression needs will be supplied by the project wells described in 2018 RDEIR, Chapter 2, Project Description (RDEIR pages 2-18, 2-21, 2-46, 2-55 through 2-57). Water for fire suppression will be stored in the proposed water storage tank described in the 2018 RDEIR (Figure 2-13, Fire Protection Plan, page 2-57). The water system will provide water from the tank for potable water needs and for fire suppression for all structures that will have sprinkler systems throughout the project. The project is designed to allow water pressure to be supplied by either gravity flow or pump. If water were needed for fire suppression, the project wells would replace water lost in the tank to the capacity of the wells being pumped.

2018 RDEIR Chapter 2, Project Description, pages 2-55 through 2-57 describes the fire protection systems, including connecting the sprinkler system to the storage tank, the minimum pressure needs for such a system, and the preliminary recommendation on the tank's elevation needed to achieve the pressure needs. This RDEIR section also cites the technical document that provided the detailed information related to the system. As stated in the 2018 RDEIR, the preliminary fire protection plan was developed in coordination with representatives for CAL FIRE and for Mission-Soledad Rural Fire Protection District, which will be providing structural fire protection for the site (2018 RDEIR, page 2-55).

Sprinklers for timeshare units would be connected to either the potable water system or the larger fire system water supply. This will be decided during detailed design. The potable water supply, including the storage tank and the on-site wells, has the potential to provide fire protection for the timeshare units. Adequate water pressure would be determined and engineered during detailed design of the fire suppression system, including final tank location and pipe sizes. By code, fire sprinkler system design would have to accommodate the pressure needed to activate the fire sprinklers (National Fire Protection Association, likely standard number 13 or 13R).

27. This comment requests that the location of proposed debris basins be included on the tentative map.

Debris basins were identified in the technical report titled “Paraiso Springs Resort-Response to Hydrology and Hydraulic Analysis and Erosion Control Measures Review,” CH2MHill, 2008, Attachments 4a and 4b (<https://www.co.monterey.ca.us/home/showdocument?id=22427>; 2019 RDEIR pages 113 and 118). As stated in CH2MHill 2010a, “Paraiso Springs Resort-Geology Report and Potential Project Impact Mitigation”, the debris basins proposed for the project are expected to be “small basins, earthen berms and dikes, and diversion walls” (page 1-<https://www.co.monterey.ca.us/home/showdocument?id=22429>). Geologic hazards related to landsliding and slope stability were discussed in 2018 RDEIR Chapter 3.6, Geology and Soils, pages 3-181 through 3-186. 2018 RDEIR Figure 3.6-7, Potential Debris Basin Locations, identifies the potential locations of these basins. A discussion on the debris basins, including their design and location parameters, is specifically included in the analysis for Impact 3.6-4 (2018 RDEIR page 3-196). Landsliding and Soil Erosion were analyzed in Impact 3.6-4 (2018 RDEIR pages 3-196 through 3-200) and Impact 3.6-5 (2018 RDEIR pages 3-200 and 3-201), respectively. Mitigation measures were recommended for each potential impact (MM 3.6.4a, MM 3.6.4b and MM 3.6-5). Also see response to Letter 7, Number 27.

28. This comment requests modification to Mitigation Measure 3.7-9 to establish a post-fire timeline for implementation.

County staff does not agree that a six month requirement is necessary as other factors are more critical, such as the season that the fire occurred and the potential severity of post-fire impacts. The mitigation measure contains a requirement that an engineering geologist conduct the assessment within 60 days of the fire. The text will be modified in the Final EIR to reflect post-fire requirements; however, the conclusion related to the potential impact being less than significant does not change. Mitigation Measure 3.7-9 is revised to include the following measure:

#### Errata

*Add the following text as the third sentence of Mitigation Measure 3.7-9 to read as follows:*

The engineering geologist shall determine areas that should not be utilized until remediation has been completed. The completion of remediation and ability to reuse these areas shall be determined by the engineering geologist and reported to the County Building Official prior to commencing uses in those areas.

*Please refer to Section 4.0, Changes to the Recirculated Draft EIR.*

29. This comment requests construction of an onsite fire station. The RDEIR analyzed the potential impacts related to construction of an onsite fire station. The discussion on 2018 RDEIR pages 3-307 and 3-308 describes the potential environmental effects of constructing a fire station on the site or in the area, as requested by the fire district. The EIR’s role is not to make a recommendation on whether to build a fire station because a fire station has not

been determined needed to reduce a significant adverse impact of the Project to a less-than-significant level. The EIR nevertheless considers the potential environmental impacts from constructing a station if one is required by the County's decision-making body. The 2018 RDEIR assessed the potential impacts of constructing a fire station on site or within the area. If the decision-making body decides to require an on-site fire station, the potential environmental impacts have been analyzed. Also see responses to Letter 7, Numbers 21 and 75, to Letter 8, Number 5, to Letter 10, Number 17, to Letter 13, Numbers 1 and 2, and to Letter 17, Number 3. Also, as stated above, the Mission-Soledad Rural Fire Protection District has approved the fire plan, which does not include an onsite fire station.

30. This comment requests a source for the Fire Severity Zone map (Figure 3.7-1). See response to Number 2, above. Figure 3.7-1 is modified to include the source of information found in the figure:

#### Errata

*Modify 2019 RDEIR Figure 3.7-1 to add the following text below the figure:*

Source: <https://osfm.fire.ca.gov/divisions/wildfire-prevention-planning-engineering/wildland-hazards-building-codes/fire-hazard-severity-zones-maps/>;  
Monterey County RMA 2019,  
[https://maps.co.monterey.ca.us/Html5Viewer/index.html?viewer=PBI\\_Map\\_Internal.PBI\\_Map\\_Viewer](https://maps.co.monterey.ca.us/Html5Viewer/index.html?viewer=PBI_Map_Internal.PBI_Map_Viewer)

*Please refer to Section 4.0, Changes to the Recirculated Draft EIR.*

See response to this letter, number 2 for source of State of California data.

31. This comment questions the use of different weather assumptions for the fire behavior modeling analysis.

According to the fire consultant for the applicant, Scenarios 1 and 2 model fire behavior conditions with an offshore wind/lower fuel moistures and 3 and 4 model an onshore wind pattern with slightly higher fuel moistures. Thus the reason for 50th and 97th percentile weather classifications. (Michael Huff, Dudek, July 16, 2019, attached to email from John Thompson to Mike Novo, Monterey County, July 18, 2019).

According to the fire consultant for the applicant, per standard fire behavior modeling techniques, each fire behavior modeling scenario point occurs at a different location and on different terrain. The slope gradients are based on the measurements at each location. (Michael Huff, Dudek, July 16, 2019, attached to email from John Thompson to Mike Novo, Monterey County, July 18, 2019).

32. This comment states that the EIR denies the need to screen structures. Our review of these cited pages does not find any such denial of the need to screen structures. Mitigation Measure 3.1-1, which appears to be the subject of the comment, requires screening to break up the massing of structures but not to make them invisible from common public viewing areas. Perhaps that is the intent of this comment that the County denies the need to screen structures. If so, the County only requires that structures not be visible from common public

viewing areas in the Big Sur Coast Land Use Plan Critical Viewshed areas (Big Sur Coast Land Use Plan, Key Policy 3.2.1). Nowhere else in the County are structures required to not be visible from common public viewing areas. This project is not in the Big Sur Land Use Plan area.

33. This comment states that the 2019 RDEIR does not address General Plan policy 26.1.9.

The analysis related to the cited policy is found in 2018 RDEIR Chapter 3.9, Land Use and Planning (2018 RDEIR page 3-263), which section was not recirculated and remains part of the Draft EIR. The 2018 RDEIR found the project consistent with the policy. The policy discussion refers the reader to 2018 RDEIR sections 3.1.3, 3.1.4, and Impact 3.1-1 discussions, which was replaced by 2019 RDEIR Chapter 3.1 but does not change the conclusion found in 2018 RDEIR Chapter 3.9. In addition, discussion related to potential ridgeline development is found in the 2019 RDEIR in section 3.1.2 (page 16), section 3.1.3 (page 27), and section 3.1.5 (pages 39 and 40). Ridgeline development is related to the Monterey County Code, not a CEQA issue; however, the analysis of potential visual impacts from the project was analyzed in this recirculated chapter (2019 RDEIR Chapter 3.1 recirculated in its entirety) and potential impacts were determined to be less than significant with mitigation and standard conditions of approval (see discussion in 2019 RDEIR Impacts 3.1-1 and 3.1-2). Also see responses to Letter 5, Number 14b and to Letter 10, Number 1.

34. This comment states that policy 26.1.9 needs to be analyzed in the EIR. See response to Number 33, above. In addition, this policy was briefly referenced in the 2019 RDEIR, Chapter 3.1, Aesthetics and Visual Resources, section 3.1.5, Impact Analysis, on page 40.

35. This comment states that policy 26.1.10 needs to be analyzed in the EIR. The analysis related to the cited policy is found in 2018 RDEIR Chapter 3.9, Land Use and Planning (2018 RDEIR page 3-264), which section was not recirculated and remains part of the Draft EIR. The 2018 RDEIR found the project consistent with the policy with the application of a County Standard Condition of Approval. The policy discussion refers the reader to 2018 RDEIR Chapter 3.1, Aesthetics and Visual Resources. The 2019 RDEIR includes a revised Chapter 3.1; however, the conclusion that the project is consistent with the policy was not modified by the 2019 revised chapter.

In addition, the comment mischaracterizes the policy by stating that the policy bans steep-slope development. It does not. The policy allows an exception through a permit process if certain findings can be made, as discussed on 2018 RDEIR page 3-264. The permit process is provided in Monterey County Code section 21.64.230, Regulations for Development on Slopes in Excess of Thirty Percent.

36. This comment reiterates their earlier comment related to ridgeline development. See responses 33 through 35 for this letter, and response to Letter 10, Number 1.

37. This comment relates to the commenter's request for staking and flagging to be done for the project. See responses to Letter 10, Number 1 and to this Letter, Numbers 33 through 35, above.

38. This comment also requests staking and flagging rather than visual simulations. See response to Letter 10, Number 1.

39. This comment states that photo simulations cannot be substituted for flagging and staking. See response to Letter 10, Number 1.

40. This comment is a restatement of their 2018 comment, found in Letter 10, Number 2. The comment states that fuel modification areas would not allow for visual screening. See response to Letter 10, Numbers 1, 2 and 21.

41. This comment is a restatement of their 2018 comment, found in Letter 10, Number 3. See response to Letter 10, Number 3.

42. This comment is a restatement of their 2018 comment, found in Letter 10, Number 4. See response to Letter 10, Number 4. In addition, see response to Letter 10, Number 1 related to allowed visibility of the site and discussions related to scenic roads.

43. This comment is a restatement of their 2018 comment, found in Letter 10, Number 4 related to light pollution. See response to Letter 10, Number 4.

44. This comment addresses the size of the project and requests an alternative at the scale of the historic resort's size. The no project alternative would leave the historic resort as it exists today (2018 RDEIR section 5.2.1, Alternative #1, No Project Alternative). The new Alternative 5 is provided as being within a range of reasonable alternatives for consideration by County decision-makers, as required by CEQA Guidelines section 15126.6. Alternative 5 allows a reduction of the most visible units proposed for the site from "common public viewing areas," as defined in the County Code and described in the RDEIR. See description of the Environmental Setting related to the public viewshed in 2019 RDEIR Section 3.1.2, pages 16 through 24).

As stated in the response to Letter 10, Number 1, pursuant to County policies and regulations, the project is allowed to be visible from common public viewing areas. The response in Letter 10, Number 1 discusses the threshold of significance used to analyze the project's potential aesthetic impacts and discusses the policy and code requirement applicable to such an analysis. Code requirements and thresholds of significance are found in 2019 RDEIR sections 3.1.3 and 3.1.4, respectively. The conclusion is that the project would not cause a significant environmental impact with mitigation measures and conditions of approval as described in 2019 RDEIR Chapter 3.1.

See responses to Numbers 4, 11, 15, 20, 21, 22, 25 and 40, above, to Letter 10, Numbers 1, 2 and 21, and to Letter 18 related to potential aesthetic environmental impacts related to fuel modification.

**Letter #21 – Lois Panziera (received July 8, 2019)**

1/11 pages

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**Project Title: PARAISO SPIRNGS RESORT**

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**PLNO40183**

**State Clearinghouse #2005061016**

**June 2019**

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**July 9, 2019**

**11 Pages including this page**

**Paraiso Springs Resort Development: The Next Paradise Disaster**

21-1

In the FDEIR, the 100% occupancy rate for the Paraiso Springs Resort Development used to analyze the hazards of increased traffic, increased potential for wildfire, increased water usage, and the recently added evacuation plan is reported to be 500 people including 98 employees.

Even though I have asked for this information in response to all the EIR's for this project for the last 15 years, it was only at the March 27, 2019 hearing that the 500 people total was provided by the current Sr. Planner, Mike Novo. This contradicts the statement in the FDEIR p. 3-307 noting that only "several hundred" people would be at the site on peak days. "Several" generally would mean about 200 people not 500 or more. "The project is proposing a daily population of approximately 500 people at full build out with 100% occupancy, including staff and visitors." ( FDEIR, Pg. 141, Appendix 2, Dudek, 2019.)

This estimate seems quite low given the number of bedrooms proposed at the site and doesn't appear to take into account all the day use guests to the many amenities, the guests of the villa and condo timeshare holders, the visitors to the visitor center, delivery and outside contractors, the guests attending timeshare holder events such as weddings.

This high-density hotel/condo/villa complex will consist of 310 bedrooms which could easily house 2 or more overnight guests totaling 620+ people not including the 98 employees or the day use guests and delivery/maintenance personnel to the spa, wine pavilion, 3 restaurants with 205 seats, spa restaurant with 33 seats, and 20 student culinary school... (Attached Table 3.12-5 Transportation and Traffic, Page 3-343). In the table below taken from "Table 1" "Paraiso Resort Water Calculations", Page 5 of 5 (Attached), it's obvious that the 500 people total for 100% occupancy of the site is only a fraction of the people who could be at the resort at one time.

**100%Hotel Occupancy**

103 Hotel Units-2 2-bedroom units	105 x 2= 210
or with 2 Queen Beds	105x4= 420
or with roll-a-ways/sleeper couches/cribs	105x5==525

**Hotel Total: 105 Bedrooms 210, 420 or 525 Overnight Guests**

**100% Occupancy for 60 Condos and 17 Villas**

34 2 Bedroom Condos-68 Bedrooms	68x2= 136
26 3 Bedroom Condos-78 Bedrooms	78x2=156
9 3 Bedroom Villas-27 Bedrooms	27x2= 54
8 4 Bedroom Villas-32 Bedrooms	32x2= 64

**Condo/Villa Total: 205 Bedrooms 410 Overnight Guests with only 2 per room**

21-1  
(Cont.)

**TOTAL RESORT BEDROOMS: 310**

(Totals do not include sleeper sofas in  
Condo/villa living areas or roll-a-ways or  
cribs in hotel)

**610 Overnight Guests with only 2 per room**

930 Overnight Guests with only 3 per room

1240 Overnight Guests with 4 per room

With the hotel consisting of 105 bedrooms and the condo and villas having 205 bedrooms, it is apparent that these 310 bedrooms alone could be occupied by 610 people with only 2 persons per room or more at 100% overnight guest occupancy and that doesn't include the 98 employees which could be increased during the shift change and all the day guests to the spa, wine pavilion etc. and special events. Obviously, the 500 person number for maximum occupancy of the site is grossly inaccurate.

How many day users will be allowed on-site at one time? How many events will be held for how many people? Will there be multiple events held on the same day? Will there be a notice by Clark Road when the resort is at maximum occupancy or capacity so vehicles don't make the unnecessary trip up to the resort?

How many employees and outside contracted workers will there be on-site at one time? How many during the largest shift change?

**Parking Also Indicates a Much Larger Resort Population**

The actual 100% occupancy rate as well as the amount of parking available at the site are also indicators of more significant increases in traffic, congestion, reduced level of service, increased accident rate, and increased emergency response time than has been reported in the FDEIR.

Monterey County's Zoning Ordinance for Parking would have mandated 485 parking spaces at the resort, but this was reduced to 310 provided by the hotel and an unclear number for the villas. What is the actual number of parking spaces for average size and that for oversized vehicles at the site including the timeshare villas? How many large and small vehicles would the Parking Meadow hold in total? Even if the Parking Meadow is not expected to be used, it is included on one map so its potential use needs to be analyzed. (#13 Parking Meadow-Overflow Parking, Fig. 2, Pg. 150, Dudek)

Why are the villa parking spaces not included in the FDEIR to clarify the significance of the traffic increase? Why is there a need for the 19 additional guest parking spaces at the timeshare villas? Will more than one guest event be held at one time so that many more people could be at the site than expected? Seventy-three spaces are designated for employees, so why are these spaces necessary if 90% of the employees are mandated to use the shuttles?

How many parking spaces are going to be available to the public going to the visitor's center and using the hiking trails?

21-1  
(Cont.)

Even with 90% of the employees mandated to use a shuttle, in Fred Ledesma's letter, he states that park and ride spots in Soledad may not be available. The developer responded that workers from Soledad may not be employed from Soledad anyway. Will workers be expected to travel outside the area to get on the shuttles in order to go to work? How will this impact greenhouse gases and add to traffic on roadways further from the resort? Will the mandatory shuttle use be monitored by the county daily, weekly, monthly, or yearly? What kind of penalty will be imposed if the shuttles for employees are not used?

If the FDEIR data is correct for 100% occupancy with 500 people including the 98 employees, the 310 bedrooms would have 1.2 people per bedroom and there would be no day use guests. Why build so many bedrooms if they will only house 1.2 people each? It doesn't make sense.

The average daily traffic on Paraiso Springs Road to the resort will be monitored yearly by the county to adjust resort operations if an average of more than 406 trips daily is recorded (which is a 400% increase in current traffic and much more than any past traffic counts). Taking an average of daily traffic counts for a year means that during the peak seasons there could be many more than 406 trips generated by the resort. The average daily traffic needs to be limited to the level where the accident rate and level of service does not change on any given day of the year. The last mile of Paraiso Springs Road is the most dangerous due to it being windy with limited shoulders or passing ability even if it is widened. Why isn't the traffic count being monitored daily due to Paraiso Springs Road being the only access neighbors have to their homes? How often will the PSR be shut down for building and/or during operation of the resort and for how long? Will residents be compensated for when they are blocked out of their homes? Why hasn't the congestion factor been adequately addressed that will obviously affect the flow of traffic for all who use the roadway?

#### **Significant Increase in Wildfire Hazards Due to Population Increase**

Even in Paraiso Resort's hay day, there weren't over 500 people living there year around. According to It Happened in Soledad, by Mary Beth Orser, pg. 76, in the 1880's "Four to five-hundred people flocked to the health spa each summer..." not year around and came in buggies or "wagons, loaded with tents and beds" not in buses, shuttles, and motor vehicles and not staying in a hotel, condos, or villas. Paraiso Resort was a self-sufficient settlement where the guests stayed long enough to attend school and did not go in and out daily.

It is easy to estimate that the 500 100% maximum occupancy of the site is grossly underestimated so that the evacuation plan as well as all the hazards of inserting a large population of people at the end of a dead end road in a very high fire sensitivity area with no other road for ingress or egress is approved without an accurate assessment of the significant increase in these hazards.

"**Human beings** are the number one cause of wildfires in the United States." "90% of the wildfires in the U.S. are caused by people." (<https://www.conserve-energy-future.com/causes-effects-and-solutions-of-wildfire.php>) Every person added to this very high fire sensitivity area will increase the possibility of a wildfire. Even with the use of sprinklers, fire retardant building materials, and clearing around buildings, the limited access of one road to the site for emergency personnel and evacuating guests, neighbors, and vineyard workers as well as the amount of smoke generated by the dense brush on adjacent

properties to the west, north, and south of the resort will continue to be a significant fire and smoke hazard.

Both Monterey County Code and California Laws obviously were made to prevent a large development at the end of a dead-end road especially in a very high fire sensitivity zone. Even if the resort has adequate access within the resort to evacuate to the entrance, would that be adequate to prevent smoke inhalation deaths? How can the intent of the "Dead End Road" Law be assumed to not apply to this new development?

21-3 Why has the 100% occupancy of the site been under-estimated and doesn't that invalidate the data presented concerning the increase in hazards?

21-4 According to Dudek, June 2019, (Appendix 2 of the FDEIR, pg. 133), "The site will remain a Very High Fire Hazard Severity Zone (VHFHSZ), as designated by CAL FIRE." Why designate wildfire zones if high density building is going to be allowed anyway?

21-5 When the timeshares turn into permanent housing and the amenities close down as they do in many timeshare developments (even in Hawaii which is a true tourist destination), how will all the mitigations measures for significant impacts be enforced? (ie. Oceanfront, Kanaloa Village, Kona, HI used to offer 3 restaurants, all shut down over time with timeshares turning into full time residences). Are timeshare communities sustainable over time?

#### **Evacuation Plan**

21-6 The evacuation plan for the resort is called the "Ready, Set, Go! Your Personal Wildfire Evacuation Plan" (CAL FIRE, June 2019, pg. 178 RDEIR, Paraiso Springs Resort, State Clearinghouse #2005061016, June 2019).

Is there any other commercial development in California's very high fire sensitivity area utilizing a "personal wildfire evacuation plan" for a large commercial development with only one road for ingress and egress?

21-7 Two fire coordinators are to be trained to assist with evacuation or sheltering in place.

How can two fire coordinators rather than the recommended 2 firefighters have the authority needed in an emergency to order guests to shelter in place? How can these two non-fireman employees be depended on during a time of emergency to help neighbors get out of their driveways when they too will be fleeing for their lives and will be expected to help the 1200 to 1500 people at the resort to find a vehicle to get into in order to head down the hill because with the proposed shuttle program 90% of the employees and some guests will not have vehicles on-site?

"IT IS KNOWN THAT WILDFIRES BEHAVE UNPREDICTABLY-THIS IS FUNDAMENTAL-BUT IT IS MY EXPERIENCE THAT HUMANS IN THE PRESENCE OF WILDFIRE ARE ALSO LIKELY TO BEHAVE IN ABERRANT AND UNPREDICTABLE WAYS." -Michael Leunig (<https://www.conserve-energy-future.com/causes-effects-and-solutions-of-wildfire.php>). After seeing what happened at the Camp Fire, won't an emergency situation at the resort be more likely chaos with every man for himself?

A fire drill will be held once a year. How will this be adequate when guests will be coming in for 4 to 7 day stays or just for the day? The majority of the guests will not be able to participate in the yearly fire drill so the resort population will most likely be unprepared to evacuate safely increasing the fire hazards to themselves as well as the vineyard workers, neighbors, and firefighters.

21-8 What are the capacities of the buildings on-site that will be used for sheltering in place?

21-9 How can this large new population not be considered a "vulnerable community" given its location in a very high fire severity zone with no alternate escape route other than Paraiso Springs Road? (FDEIR, Pg. 175) Where are the vulnerable communities within the region if not at the resort site? (FDEIR, Pg. 169)

"Some 50-80% of fire deaths result from smoke inhalation injuries including burns to the respiratory system." (Wikipedia: Smoke Inhalation)

If the resort population is able to reach an agricultural landscape, how would smoke inhalation still not be a significant hazard? In Mati, Greece, last year, beach resort guests died from smoke inhalation even when they were able to evacuate to the sea. One hundred people died.

Why hasn't the hazard of smoke been analyzed for the reduction of visibility along Paraiso Springs Road to evacuate and the effects on those left to shelter in place or burn up in their vehicles or die of smoke inhalation trying to evacuate on foot when traffic flow can't be maintained along Paraiso Springs Road?

We were told only mid-sized vehicles would be traveling to the site. One evacuation vehicle is said to hold 35 to 45 people, how is that midsized? How will these large size vehicles affect the roadway hazard of being run off a road that does not have guard rails?

21-10 During an evacuation," it could take as long as 17 minutes to reach Clark Road", 1.3 miles from the resort. FDEIR, Pg. 170. This means the log jam of traffic from the resort will be travelling at about 3 mph to travel the mile necessary to access another escape route other than Paraiso Springs Road. At 3 mph, won't the physically fit evacuees abandon their vehicles and run once they realize they're in a traffic jam? Or, will the road be blocked because evacuees will try to pass the vehicles ahead of them to get to safety faster. These abandoned vehicles will also add to the hazards of evacuation and for the fire fighters trying to get to the resort.

21-11 In the traffic analysis the words "assumes" and "anticipates" are used frequently to downplay the actual impacts of this development. Why hasn't a more exact traffic analysis been done?

Central Coast Transportation Consulting "estimated day use trips to be 1,556". (Fenton and Keller Letter, March 26, 2018, Exhibit H). This is just the day use estimate. In the same letter, the resort's traffic "...impact on the surrounding properties will be a staggering 1845% increase which represents a significant impact under CEQA." (Pg. 4)

The traffic will be monitored so that when a yearly average of more than 406 vehicles daily are generated by the resort "resort operations will be modified." Once these timeshares are sold, will the resort buy them back to reduce occupancy, will more shuttles be made mandatory, or will it be tough luck for the neighbors who would like to have reasonable access to their homes?

In order for the neighboring property owners to maintain reasonable and acceptable access to their homes, the resort needs to find an additional route or be significantly downsized.

### **Road Capacity**

21-12

According to Dudek, (FDEIR, Pg. 140), Paraiso Springs Road has an adequate capacity to evacuate the 500 people at the resort in 275 vehicles with the widening of the road. But 150 feet of the roadway won't be widened to the state standard of 20 feet. Also, the people count of 500 is grossly under the more likely 1200 to 1500 people who could need to be evacuated given there will be numerous amenities and 310 bedrooms on site.

FDIER Pg. 140 "Assuming traffic flow is maintained", it is estimated that 275 vehicles will be able to evacuate the resort safely. This estimate does not include the "Parking Meadow" vehicles needing to leave the resort and the more likely 100% occupancy being 1200 to 1500 people. "...history indicated that most human fatalities from wildfires are due to late evacuations when they are over taken on roads." (FDEIR, Pg. 163, Dudek). That is why it is necessary to account for all the parking spaces and vehicles that could be at the site to determine if a safe and timely evacuation could be made if traffic flow is maintained. Is it realistic to have that many people at the end of a dead end road who will most likely drive dangerously when confronted with a large scale wildfire that also may be spread by high winds? Soledad is known for being a very windy area.

### **PG@E Public Safety Power Shutoffs**

21-13

Just recently, neighbors of the resort were informed by PG@E in order to prevent wildfires they need to "prepare for public safety power shutoffs" "given the growing threat of extreme weather". Power shut offs could range from 2 to 5 days during times of hot weather, high wind, and low humidity.

How will this effect the pumping of water and sprinkler systems that are supposed to reduce the added fire hazards of the resort? How will this increase traffic hazards due to most if not all the guests vacating the site during these periods?

When it is convenient, Paraiso Springs Road is referred to as a "public" road with no limits on the increase in traffic and then "a county maintained road" not subject to the dead end road requirements, (FDEIR, PRC 4290 Pg. 62.)

In the past, two fires were by downed power lines below the resort. One blocked the roadway downhill from the resort preventing evacuation of the neighbors and resort caretakers.

The resort will have food and water provisions for up to 24 hours in case of emergency. Is this adequate given the resort is also sitting on 4 earthquake fault lines? This reserve food and water supply will be for how many people? Shouldn't there be food and water for the entire resort population for at least a week or two if for instance a major earthquake shuts down the road and perhaps local stores?

**Aesthetics**

21-14

An accurate drawing of the entire resort including the villas is needed without the trees overhanging rooftops and with the clearings for the required 100 feet of defensible space around structures to analyze the impact the resort will have on the aesthetics of the area from roads below the resort as well as the impact to the night sky. Why hasn't a complete accurate rendering showing the extensive hardscape and rooftops as well as the defensible space clearings been made available to the public and the commissioners/supervisors?

**Tourism**

21-15

What will happen to South Monterey County's tourism industry, when multiple accidents due to the significant increase in traffic to the resort and/or deaths from a wildfire occur and the public finds out that state laws and county codes weren't followed, and inaccurate data was used to assess the significant hazards of allowing such a large population of people at the end of a dead end road?

**Given the Significant Number of EIR and FDEIR Errors, The Public Should Have a Right to Ask**

21-16

Who are the 50 "John Doe" resort investors? Will any of these individuals be voting to approve this project?

Thank you for your consideration of these concerns,



Lois Panziera

**TABLE 1**  
Paraiso Resort Water Calculations

	Facility Description <sup>a</sup>	Type	Water Use Factor <sup>b</sup>	Number of Units	Sq Ft	Total Acre-feet/Year	Conversion Acre-feet to gpm	Total gpm	
<b>Full Project Buildout Summary</b>									
Hotel	Hotel Rooms <sup>c</sup>	room	0.13	105		13.65	0.62	8.46	
	Time Share Condos <sup>d</sup>			60					
	2 Bedroom	room	0.23	34		7.82	0.62	4.85	
	3 Bedroom	room	0.33	26		8.58	0.62	5.32	
	Time Share Villas <sup>e</sup>			17					
	3 bedroom	room	0.33	9		2.97	0.62	1.84	
	4 bedroom	room	0.43	8		3.44	0.62	2.13	
	<b>Subtotal</b>						<b>36.46</b>		<b>22.61</b>
					<b># Of Seats</b>				
	Main Hotel Restaurant	restaurant	0.02	205		4.1	0.62	2.54	
	Coffee and Tea Cafe	coffee house	0.0002		2,000	0.4	0.62	0.25	
	Spa Restaurant	restaurant	0.02	33		0.66	0.62	0.41	
	Meetings/ Conference <sup>f</sup>								
	Banquet/Kitchen	meeting hall	0.00053		3,500	1.855	0.62	1.15	
Conference Room	conference room	0.00007		9,016	0.63112	0.62	0.39		
Culinary School <sup>g</sup>	restaurant	0.02	20		0.4	0.62	0.25		
Administration Support	support								
Back of House <sup>h</sup>	support								
<b>Subtotal</b>						<b>8.04612</b>		<b>4.99</b>	
Hamlet	Day Spa	spa	0.05			0.05	0.62	0.03	
	General Retail Stores	retail	0.00007		3,500	0.245	0.62	0.15	
	Artist Studio & Stores	retail	0.00007		6,300	0.441	0.62	0.27	
	Real Estate Office	retail	0.00007		450	0.0315	0.62	0.02	
	Vineyard Facilities	retail	0.00007		3,200	0.224	0.62	0.14	
	Garden Center	nursery	0.00009		3,000	0.27	0.62	0.17	
	<b>Subtotal</b>						<b>1.2615</b>		<b>0.76</b>
Spa	Spa Facilities <sup>h</sup>	spa	0.05			0.05	0.62	0.03	
	Teahouse	spa							
	Hammans and Kniepp	spa							
	Aqua Course & Massage	spa							
	Villas and Pavilions	spa							
Creative Center	spa								
<b>Subtotal</b>						<b>0.05</b>		<b>0.03</b>	
Fitness	Fitness Facilities								
	Golf School	gym	0.00007		2,000	0.14	0.62	0.09	
	Basketball and Racquetball	gym	0.00007		9,400	0.658	0.62	0.41	
	Lap Pool	pool	0.02		24.6	0.492	0.62	0.31	
<b>Subtotal</b>						<b>1.29</b>		<b>0.80</b>	
Miscellaneous	Support Facilities <sup>i</sup>								
	Institute	educational	0.00007		4,000	0.28	0.62	0.17	
	Visitor Center	retail	0.00007		750	0.0525	0.62	0.03	
	Pet Spa	veterinary	0.00007		400	0.028	0.62	0.02	
<b>Subtotal</b>						<b>0.3605</b>		<b>0.22</b>	
Potable Water Use	<b>Subtotal</b>					<b>47.47</b>	<b>0.62</b>	<b>29.43</b>	
Supplemental Irrigation <sup>j</sup>						15.96	0.62	9.89	
<b>Totals</b>						<b>63.43</b>		<b>39.32</b>	

<sup>a</sup>All facilities are as outlined on the Tentative Map.

<sup>b</sup>Water use factors from Table 2: Non-residential water use factors from MPWMD.

<sup>c</sup>There are 103 hotel units, with a total of 105 bedrooms. The water use factor of 0.13 was used because the rooms would include large tubs. Included in the 0.13 acre-feet number is administration, support, back of house, laundry and irrigation within 10 feet of the hotel units.

<sup>d</sup>Each Time Share Condo will have one large tub.

<sup>e</sup>Each Time Share Villa will have one large tub.

<sup>f</sup>Banquet/Kitchen space is separated from the conference room space and different water use factors are applied to each use. Conference rooms are assumed to corporate meeting-type facilities with low-moderate water use.

<sup>g</sup>The square footage for the culinary school has been subtracted out of the meetings and conference space because it is a specialty use and has been treated as restaurant for the purposes of water calculations.

<sup>h</sup>All facilities included in the main hotel spa. The different names like Kniepp or Japanese are just marketing names for the types of treatments you can expect in t part of the spa. The Hammams are the men's and women's locker rooms. The Tea House is included in the coffee house calculation above.

<sup>j</sup>Represents an annual average irrigation rate, not a peak rate.

**Table 3.12-5 Project Parking Requirements and Adjustments**

Use	Measurement	Zoning Ord Parking Standard	Zoning Ord Parking Spaces Required	Adjusted Parking Space Requirement
Guest Rooms	103 rooms	1/room	103	82
Employees (during largest shift)	109 employees	2/3 employees	73	10
Restaurants	7,570 sq ft	1/50 sq ft	151	30
Retail	3,550 sq ft	1/250	14	3
Timeshare Condos (two bedroom)	34 units	2/unit	68	68
Timeshare Condos (three bedroom)	26 units	2.2/unit	57	57
Guest Parking			19	19
<b>Total Required</b>			<b>485</b>	<b>269</b>
<p><b>Notes:</b> Detached Villa Timeshare parking will be provided at each individual property and is not included as part of the Paraiso Hot Springs Resort parking.</p> <p>Parking demand for the Garden Center, Day Spa, Wine Pavilion, Institute and other ancillary uses are accounted for in the Resort Hotel and Restaurant parking demand, as those uses would serve (almost exclusively) the hotel guests and staff at the restaurant.</p> <p><b>Source:</b> County of Monterey Zoning Ordinance parking requirements (Section 21)</p>				

No reductions in parking are provided for the garden center, day spa, wine pavilion, Paraiso Institute and other ancillary facilities. Parking at the detached Villa timeshare lots would be provided at two spaces per unit, and an additional nineteen guest parking spaces.

Initially it was determined that 485 parking spaces would be required for the proposed project by the Monterey County Zoning Ordinance. However, 216 parking spaces will not be necessary given that 6.25 percent of all guests and 90 percent of the employees will shuttle to the resort hotel from off-site locations, and 80 percent of the restaurant and retail patrons will be guests of the hotel. The adjusted parking space requirement results in a net total of 269 parking spaces, which is below the 310 parking spaces that will be provided by the resort hotel. Therefore, adequate parking would be provided for the proposed project and there would be no impact associated with inadequate parking capacity at the project site.



**Important Message: Prepare for power outages and make sure we can reach you. Please visit [pge.com/mywildfirealerts](http://pge.com/mywildfirealerts) to update your contact information today.**

**Re: Important Message: Prepare for Public Safety Power Outages**

Dear Primary Account Holder:

**Given the growing threat of extreme weather, we want all of our customers to be prepared for power outages.** If extreme fire danger conditions threaten a portion of the electric system serving your community, it will be necessary for us to turn off electricity in the interest of public safety. This is called a Public Safety Power Shutoff.

Currently, we are unable to collect contact information for residents who don't have an account with PG&E. **This means that as the primary account holder you will need to alert your tenants if you receive a notification of a possible Public Safety Power Shutoff event.** If we need to turn off power, we will attempt to contact you in advance by phone, text and email, and provide updates through social media, local news, radio and our [pge.com](http://pge.com) website.

Here's what you can do now to prepare:

- **Make Sure Your Contact Information Is Current:** To help us reach you in the event we need to turn off power for safety, please visit [pge.com/mywildfirealerts](http://pge.com/mywildfirealerts) or call **1-866-743-6589** during normal business hours to update your contact information.
- **Create a Contact Roster of Your Tenants:** If you have not already done so, we recommend creating a list of your tenants' contact information, and updating it regularly, so you can alert them in case of a Public Safety Power Shutoff event.
- **Prepare and Practice an Emergency Plan:** A Public Safety Power Shutoff event could last longer than 48 hours, so it is important that you have an emergency plan in place and that you practice that plan with your tenants. Ask them to take steps to prepare as well – particularly if anyone has specific medical needs.
- **Read and Share the Enclosed Set of Flyers:** These flyers can be posted in common areas and can aid your tenants with emergency planning; additional flyers are available for download in English, Spanish, Chinese, Vietnamese, and Korean at [pge.com/psps](http://pge.com/psps).

Regular updates about a possible Public Safety Power Shutoff event will be provided through social media, local news, radio and at [pge.com](http://pge.com). Please follow PG&E on Twitter (@PGE4Me), Facebook (@pacificgasandelectric) and Instagram (@pacificgasandelectric). You can also email us at [wildfiresafety@pge.com](mailto:wildfiresafety@pge.com) with any follow-up questions about Public Safety Power Shutoffs.

Thank you for your attention to this important safety matter.

Sincerely,

PG&E Community Wildfire Safety Team

# MONTEREY COUNTY RESOURCE MANAGEMENT AGENCY

Carl P. Holm, AICP, Director



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

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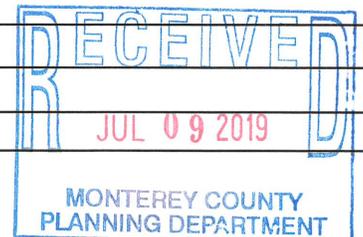
## LETTER OF TRANSMITTAL

TO: Mike Novo DATE: 7/9/2019  
FROM: Lois Panziera TELEPHONE: (831)648-2815  
PROPERTY ADDRESS: 34358 Paraiso Spr. Rd, Soledad, CA 93960  
A.P.N.: \_\_\_\_\_ PERMIT #: \_\_\_\_\_  
NAME OF PROPERTY OWNER: Bill and John Thompson  
Thompson Holdings  
PURPOSE OF SUBMITTAL: Comments on PLN040183,  
State Clearing House # 2005061016

PLEASE LIST ALL ITEMS ATTACHED: Cover page, 7 comment pages,  
2 table pages, PG+E letter Total 11 pages

COMMENTS / INSTRUCTIONS: \_\_\_\_\_

RECEIVED BY: \_\_\_\_\_



## Response to Letter #21 – Lois Panziera (received July 8, 2019)

1. This comment states that the number of guests to the site is understated and would cause additional environmental impacts related to an increase in wildfire hazards and evacuation traffic.

The resort will be marketing to adults that are interested in wellness and wellness education (2018 RDEIR, Section 2.3, Project Objectives; personal communication, John Thompson to Monterey County, July 18, 2019). The profile of this type of customer is often women traveling singularly or with other women in a group preferring to stay in a room by themselves. The project does not anticipate any more than two adults in a single room at any one time. As pointed out by the commenter, the project at buildout would have a total of 310 bedrooms.

The calculation of the approximate 500 people was arrived at by taking half of 310 projected rooms (at buildout) and assuming two adults would be occupying 155 rooms and one adult would be occupying the other 155 rooms for a total overnight hotel guest count of about 465 guests or about 1.5 guests per room. As indicated in the traffic analysis report on pages 9 and 10, paragraph 13 (2018 RDEIR Appendix K-Hatch Mott MacDonald, 2017), one quarter of the guest parties are anticipated to make an offsite trip per day and would not be onsite which would total about 116 people being off-site during the period when the resort had the highest employee shift count of about 98 employees. Subtracting out 116 people from the 465 overnight guests and adding in the employee count would equal 447 overnight guests and employees onsite at one time during the day. The estimate of 500 was given to account for day guests (John Thompson, personal communication, July 18, 2019).

Should an evacuation need to occur at night when all 465 overnight guests were on-site at 100% occupancy, the employee shift count would be reduced to an estimated 27 employees working the overnight shift thus totaling about 492 guest and employees onsite overnight. During that time there would be no day guests visiting the property.

The RDEIR utilized this occupancy information and professional traffic study information for resorts to determine the environmental impacts of the project related to traffic (see RDEIR section 3.12.4, Methodology and Thresholds of Significance, pages 3-332 and 3-333). Other environmental impacts were also analyzed based on the development footprint of the project for potential physical disturbance of the environment, which would not be affected by the number of persons on site. The RDEIR analysis also used industry-standard calculations, prepared by technical consultants precisely for this project, for potential water and wastewater impacts.

See Master Response 8.

2. This comment states that the project will cause a significant increase in wildfires and cites concerns with Paraiso Springs Road. See Master Responses 6 and 8 as well as responses to Letter 20, Number 13, to Letter 22, Numbers 2, 3, 4 and 8, to Letter 23, Numbers 1 and 2, and to Letter 24.

3. This again states that the number of guests is underestimated. See response to number 1, above.
4. This comment questions why hazardous fire areas are designated if development is allowed anyway. This comment does not relate to an environmental impact of the project. See Master Response 1.
5. This comment assumes that the timeshare units will be converted to residential use. See Master Response 1 and Response to Letter 10, Number 29.
6. This comment provides comments and asks a question about evacuation plans but does not contain a question or comment related to the EIR. See Master Response 1.

To clarify for the commenter, the evacuation plan is not the Ready, Set Go attachment. A project specific evacuation plan is included in 2019 RDEIR Appendix 2, Attachment 1. The potential environmental impacts of all fire protection measures that could have physical environmental impacts, directly or indirectly, have been analyzed in the RDEIR, as explained in many of the responses to comments, in particular see responses to Letter 22, Number 4, and to Letter 23, Numbers 2, 3 and 5.

7. This comment asks questions about how daily operations would address fire issues, including evacuation. The comment does not provide a question related to the EIR. See Master Response 1. However, see response to Letter 20, Numbers 7, 8, 11, 13, 18 through 22, and 24 through 26 related to operations that would reduce potential fire risk from the project.

8. This comment asks for the capacity of buildings proposed for sheltering in place.

Specific buildings have not yet been designated for temporary refuge areas (TRAs). That will be worked out in consultation with the fire district and/or CAL FIRE as part of the final fire protection plan required by Mitigation Measures 3.7-6a and 3.7-7c. The site plan demonstrates that many of the larger, common area buildings, which would be appropriate for TRAs, are located within the interior of the development away from the project edges where higher fire hazards will exist. These interior areas provide significant defensible space opportunities around these structures. Potential TRA structures that are substantial distance from wildland areas and have significant capacity include buildings numbered 8, 11, 20, 28, 36 and the hamlet structures, and possibly structures 15, 42, 46 and 47 (2018 RDEIR Figure 2-6, page 2-21). Additional hotel structures could also be used if necessary, as all hotel structures would be sufficiently setback from wildfire hazards (2019 RDEIR, Appendix 2, 2019 Fire Protection Plan, Tables 3 and 4; 2018 RDEIR Figure 2-8, Preliminary Vesting Tentative Map, and Figure 3.3-3, Defensible Space Vegetation Loss). None of these structures would be seen from common public viewing areas, as they would be located on valley floor locations (2018 RDEIR Chapter 2, including but not limited to Figure 2-6, Project Site Plan and Figure 2-8, Preliminary Vesting Tentative Map; 2019 RDEIR Chapter 3.1, Aesthetics and Visual Resources).

See Errata to Mitigation Measure 3.7-6a included in response to Letter 23, Number 5.

See response to Letter 22, Number 5 and to Letter 23, Numbers 2 and 6 for details on TRA construction.

9. This comment questions whether the project would be considered a “vulnerable community” and is concerned with smoke inhalation for the guests if a fire occurs.

According to the project’s fire consultant, a “vulnerable community” is made up of a majority of a population being elderly, disabled or poor or some combination thereof. With respect to fire hazards, a population made up of these characteristics could have a difficult time evacuating a fire hazard area or surviving structural fires that have not been hardened for fire resistance due to economic disadvantages. As described by those factors, the transient population of this resort project would not be considered a “vulnerable community.”

Any vulnerable communities within the region, if any existed, would have no effect on this project or its ability to evacuate its transient population. The project is located within a high fire hazard severity zone and a very high fire hazard severity zone. Many fire protection measures were specifically developed for building within very high fire hazard severity zones; those building code requirements will be utilized at Paraiso Springs Resort even though most or all development will occur in the high fire hazard severity zone. The enhanced construction requirements result in a significantly reduced risk of life and structure loss. Structures built to the latest ignition resistant codes, with the proposed managed and maintained fuel modification areas, are typically at lower risk of structure loss than older homes that have vulnerable construction materials and methods located in a lower fire hazard severity zone (Michael Huff, Dudek, July 16, 2019, attached to email from John Thompson to Mike Novo, Monterey County, July 18, 2019).

Although the Project is located in a High and Very High Fire Hazard Severity Zone, it will have a significantly lower potential of actual loss than other older communities that are also located in the high and very high hazard areas. This is based upon the distinction between hazard (which the State categorizes) and risk (which the state does not quantify). Hazard is the potential fire behavior (i.e., flame length, crown fire occurrence, capacity to generate embers) in the predicted mature vegetation of the area. Risk, however, is the potential for structural loss from said fire. Thus, even if there is a potential low fire hazard in a given area (expected low flame lengths), a building or facility might still be at high risk of ignition if the physical characteristics of the property would facilitate structural ignition (e.g., flammable vegetation next to a building with wood siding) (Michael Huff, Dudek, July 16, 2019, attached to email from John Thompson to Mike Novo, Monterey County, July 18, 2019).

Conversely (and more applicable to the project), a building or facility might be in a high hazard area (potential exposure to high flame lengths and ember generation), but may actually be at low risk of ignition if the buildings and facility are built with ignition-resistant construction materials and adequate defensible space is provided and maintained at all times. This is especially true in planned communities, resort sites, and similar projects where fuel modification is provided over large areas and

includes a perimeter fuel modification zone. Therefore, the project is not considered particularly vulnerable to wildfire and offers a relatively short evacuation to safe or urbanized areas or the contingency option that would enable emergency managers to direct a temporary on-site refuge in designated buildings. Late evacuations (evacuating when the fire is close to the project or its evacuation route) would not be necessary due to the ability to provide temporary shelter for guests and staff, as well as firefighters, within protected buildings. Also, as stated above the project population would not be considered a “vulnerable community” (Michael Huff, Dudek, July 16, 2019, attached to email from John Thompson to Mike Novo, Monterey County, July 18, 2019).

The statistic about 50-80% of smoke deaths related to smoke inhalation refers to deaths from building fires, where people are trapped within a burning building and cannot exit, usually in older, non-sprinklered buildings. Sprinklers systems are designed to provide protected pathways for escape. Building fires result in particularly concentrated smoke and toxic chemicals from burning man-made products. Wildfires can also produce dense smoke that can result in human deaths. However, in the case of the Project, the preferred, planned and practiced approach will be early evacuation. This means that when a fire occurs anywhere within the vicinity of the Project (within 50 miles), management and the site safety officers will be monitoring the situation and calling for early evacuations, long before fire threatens the site, if a fire is moving toward the area. Further, in instances where a wildfire ignites closer to the property and where an early evacuation is not possible, site staff will work with responding law enforcement and fire professionals to determine if evacuation or sheltering in place is more appropriate to the situation. The Project may be evacuated if conditions are favorable, or the temporary sheltering within protected structures may be enacted. The refuge buildings will include air handling systems that will minimize the intake of smoke through filtration systems and controlled usage. Therefore, the exposure to smoke at the site would be limited and evacuations would occur well before smoke became thick and dangerous or the contingency option would be implemented (Michael Huff, Dudek, July 16, 2019, attached to email from John Thompson to Mike Novo, Monterey County, July 18, 2019).

Further, comparing the Greece wildfire raised by the commenter, which burned through tree crowns and fire vulnerable buildings, to a fire in the native shrubs of the project site and a fire hardened facility is not a valid comparison. In fact, the vast majority of victims of the Greece wildfire died in the fire itself, while many were saved because they were able to flee to the nearby coastline, though a number drowned in the sea while fleeing the flames. Further, after-fire reports indicated that 1) there was no warning provided to citizens before the fire arrived, 2) law enforcement inadvertently created a traffic jam by not having pre-planned traffic control, and 3) evacuation routes were blocked due to illegal (unpermitted) building. None of these primary reasons for the tragedy in Greece would occur at the Project or along its evacuation route (Michael Huff, Dudek, July 16, 2019, attached to email from John Thompson to Mike Novo, Monterey County, July 18,

2019).

County staff reviewed these comments and they reflect the independent judgment and analysis of the County, as Lead Agency. In addition, see Master Response 8.

10. This comment states the evacuation traffic would travel at three miles per hour causing people to abandon vehicles, which would then block the road. This misstates how the evacuation vehicles would be traveling and how the time is measured. The 17 minutes travel time includes all vehicles leaving the site, with the 17 minute period finishing when the final vehicle travels to the area at Clark Road. It does not state that any given vehicle would take 15 minutes, which is approximately three miles per hour. As stated in the Dudek information, speed for the vehicles would be over 12 miles per hour to move 1900 vehicles per hour within a single lane (2019 RDEIR, Appendix 2, pages 140 and 141).

11. This comment questions why a more exact traffic analysis wasn't done. It is not clear what part of the traffic analysis the commenter feels is inadequate. Without a specific comment, no response is possible. See Master Responses 1 and 5.

The comment also questions how resort operations would be modified if traffic levels exceed the limit of 406 averages daily trips. The project will be constructed in phases and the County will be monitoring the average daily traffic and can discuss options to adjust operations prior to issuance of permits for later phases. Also see Master Response 5 and responses to Letter 7, Number 70, to Letter 10, Numbers 9, 22c, 22f, 23, 23b, 23d, and 24b, and to Letter 12, Number 47.

12. This comment questions the capacity of Paraiso Springs Road due to underestimating of resort occupants and safety during evacuation.

See response to this letter, numbers 1, 3, and 7, above. In addition, the capacity of Paraiso Springs Road, even upon full buildout of the resort and under cumulative conditions, will remain at Level of Service A (2018 RDEIR Table 3.12-3, Roadway Segment Level of Service, page 3-338).

13. This comment questions how the resort would operate, or evacuate if necessary, if PG&E turns off the power during anticipated weather-related power shut offs or if a major earthquake occurs. This comment does not present a question or comment on the EIR. See Master Response 1.

14. This comment requests that an accurate visual representation be presented regarding the project visibility including vegetation clearance. See responses to Letter 8, Comment 5, and to Letter 10, Numbers 1, 2, and 12.

15. This comment questions how the tourism industry would be viewed if the tourists knew that laws weren't followed for this project.

This comment does not present a question or comment regarding the EIR. See Master Response 1. All agencies will ensure compliance with applicable laws as part of issuance of their permits or approvals for their area of responsibility.

2.0 Comments on the Recirculated Draft EIR

16. This comment asks the identity of project investors. This comment does not present a question or comment regarding the EIR. See Master Response 1.

**Letter #22 – California Department of Forestry and Fire Protection  
(received July 8, 2019)**

1/7 pages

**From:** [Fulcher, David@CALFIRE](mailto:Fulcher_David@CALFIRE)  
**To:** [ceqacomment](#)  
**Cc:** [Fulcher, David@CALFIRE](mailto:Fulcher_David@CALFIRE); [Novo, Mike x5176](#)  
**Subject:** Paraiso Hot Springs (PLN040183; SCG#2005061016) Notice of Availability of Draft EIR CAL FIRE Comments  
**Date:** Monday, July 8, 2019 5:42:53 PM  
**Attachments:** [CAL FIRE San Benito-Monterey Unit Comments for the Paraiso Springs Resort \(PLN040183; SCH#2005061016\) 2019 RECIRCULATED DRAFT ENVIRONMENTAL IMPACT REPORT July 8, 2019 Final.pdf](#)

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To whom it may concern,

Please accept the attached CAL FIRE San Benito-Monterey Unit comments on the Paraiso Hot Springs (PLN040183; SCG#2005061016) Notice of Availability of Draft EIR 2019 Recirculated Draft Environmental Impact Report.

The document is 6 pages total.

Thank you,

**David Fulcher**

**CAL FIRE**

*Unit & Fire Chief*

*San Benito-Monterey*

*Proudly Serving Pebble Beach, Cypress, Aromas Tri-County, Carmel Highlands*

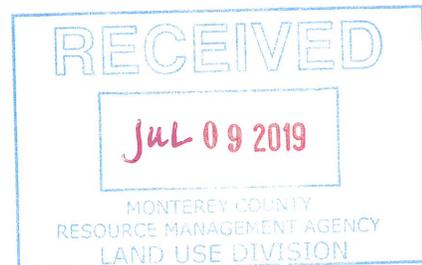
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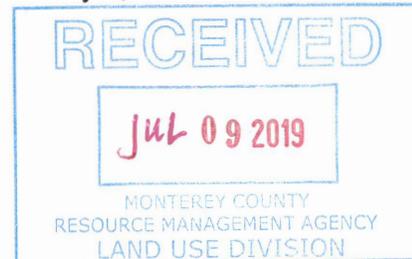
## DEPARTMENT OF FORESTRY AND FIRE PROTECTION

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July 8, 2019



Via email to: [CEQAcomments@co.monterey.ca.us](mailto:CEQAcomments@co.monterey.ca.us)

**RE: COMMENTS FOR THE PARAISO SPRINGS RESORT (PLN040183;  
 SCH#2005061016) 2019 RECIRCULATED DRAFT ENVIRONMENTAL IMPACT  
 REPORT**

**PROJECT REVIEW INPUT  
 AS REQUIRED BY THE  
 CALIFORNIA ENVIRONMENTAL QUALITY ACT  
 AND  
 FIRE SAFE REGULATION**

**Authority Cited**

The above-referenced environmental document was submitted to CAL FIRE for review under the California Environmental Quality Act (CEQA) because the proposed project resides wholly, or in part, within State Responsibility Area (SRA), as defined in the Public Resources Code (PRC) § 4126-4127; and the California Code of Regulations (CCR) Title 14, Division 1.5, Article 1, § 1220-1220. 5. In addition to Defensible Space, CAL FIRE has responsibility for enforcement of basic fire safety regulations on all proposed construction and development within SRA as defined under PRC § 4290 (Ref: PRC § 4290-4291 and CCR Title 14 Natural Resources Division, 1.5 Department of Forestry, Chapter 7 – Fire Protection, Subchapter 2 - SRA Fire Safe Regulations). These regulations, known as “SRA Fire Safe Regulations,” constitute the basic wildland fire protection standards for all proposed construction and development within SRA.

**General**

CAL FIRE is not the lead agency in planning and development and project permitting. Each County’s Board of Supervisors retains lead agency status and usually delegates this function to their planning departments. CAL FIRE cannot provide individual project map reviews and redesign orders as done by County Planning Department staff professionals. Under state law, only the county planning departments may provide professional planning services and charge fees for this function. CAL FIRE provides input as a contributing agency, generally limited to plan review, and is not the approving agency for these projects.

22-1

California Government code section (GC) 66474.02 within the Subdivision Map Act states, in part, that before approving a tentative map, or a parcel map for which a tentative map was not required, for an area located in a State Responsibility Area (SRA) or a very high fire hazard severity zone, as defined in Section 51177, a legislative body of a city/county shall, with certain exceptions, make the following specific findings:

1. A finding supported by substantial evidence in the record that the subdivision is consistent with:
  - a. regulations adopted by the State Board of Forestry and Fire Protection pursuant to Sections 4290 and 4291 of the Public Resources Code, or
  - b. consistent with local ordinances certified by the State Board of Forestry and Fire Protection as meeting or exceeding the state regulations.
  
2. A finding supported by substantial evidence in the record that structural fire protection and suppression services will be available for the subdivision through any of the following entities:
  - a. A county, city, special district, political subdivision of the state, or another entity organized solely to provide fire protection services that is monitored and funded by a county or other public entity.
  - b. The Department of Forestry and Fire Protection by contract entered into pursuant to Section 4133, 4142, or 4144 of the Public Resources Code.

### **Local Responsibility Areas**

CAL FIRE has no fire safe input on projects wholly contained within Local Responsibility Area (LRA). However, CAL FIRE is concerned with LRA land adjacent to (SRA) land where an uncontrolled fire may threaten SRA lands. In those areas, CAL FIRE recommends that local standards are enforced that are equal to, or more restrictive than, those CAL FIRE requires for SRA lands.

### **State Responsibility Areas**

The State Board of Forestry & Fire Protection (Board) recognizes CAL FIRE's primary fire protection responsibilities are on lands declared by the Board to be SRA. The SRA Fire Safe Regulations were prepared and adopted for the purposes of establishing minimum wildfire protection standards in conjunction with building, construction, and development in SRA. These regulations apply to the perimeters and access to all residential, commercial, and industrial building construction approved after January 1, 1991. The regulations include minimum standards for the following:

- 1) Road standards for fire equipment access.
- 2) Standards for signs identifying streets, roads, and buildings.
- 3) Minimum private water supply reserves for emergency fire use.
- 4) Fuel breaks and greenbelts

These regulations do not supersede local regulations which equal or exceed minimum regulations adopted by the State. Additionally, exceptions to these standards may be allowed by the inspection entity listed in 14 CCR § 1270.05, where the exceptions provide the same overall practical effect as these regulations. Exceptions granted by the inspection entity listed in 14 CCR § 1270.05 shall be made on a case-by-case basis only.

Based on the aforementioned regulations and the authorities granted by the State, CAL FIRE requests that you address the following comment(s) in the PARAISO SPRINGS RESORT (PLN040183; SCH#2005061016) 2019 RECIRCULATED DRAFT ENVIRONMENTAL IMPACT REPORT:

- 22-2
1. Please demonstrate, in the form of written evidence, compliance with established minimum wildfire protection standards as described under CCR Title 14 Natural Resources Division, 1.5 Department of Forestry, Chapter 7 – Fire Protection, Subchapter 2 - SRA Fire Safe Regulations.
- 22-3
2. Please demonstrate, in the form of written evidence and with specific distances and practices, how the project proposal will mitigate wildfire risk, including the maintenance of defensible space. PRC 4291 requires a minimum of 100 feet of defensible space; this distance may increase due to site specific factors. In this instance, the project proposal is in a box canyon with many areas containing decadent chaparral. Furthermore, there is no discussion of maintaining the area free of invasive species, many of which exacerbate the fire risk of an area.
- 22-4
3. The RECIRCULATED DRAFT ENVIRONMENTAL IMPACT REPORT Appendix 2 2019 Fire Protection Plan Dudek, 2019 discusses having a plan for Safety Zones (Section 1.6.2.1) and Temporary Firefighter Refuge Areas ( Section 1.6.2.2), which in the report are clearly intended to be utilized by Firefighting Personnel and are not intended for civilians usage, are suggested as potentially viable shelter zones for the resort occupants and workers in lieu of evacuating them via adequate offsite roads does not establish the Same Practical Effect of ensuring the projects offsite roadways comply with CCR Title 14 Natural Resources Division, 1.5 Department of Forestry, Chapter 7 – Fire Protection, Subchapter 2 - SRA Fire Safe Regulations - Article 2. Emergency Access - Section 1273.00 Intent: Road and street networks, whether public or private, unless exempted under section 1270.02(e), shall provide for safe access for emergency wildland fire equipment and civilian evacuation concurrently, and shall provide unobstructed traffic circulation during a wildfire emergency consistent with sections 1273.00 through 1273.11.

Therefore, please demonstrate, in the form of written evidence, compliance with established minimum wildfire protection standards as described under CCR Title 14 Natural Resources Division, 1.5 Department of Forestry, Chapter 7 – Fire Protection, Subchapter 2 - SRA Fire Safe Regulations Sections 1273.00 through 1273.11:

➤ **Specifically - § 1273.01. Road Width –**

All roads shall be constructed to provide a minimum of two ten (10) foot traffic lanes, not including shoulder and striping. These traffic lanes shall provide for two-way traffic flow to support emergency vehicle and civilian egress, unless other standards are provided in this article, or additional requirements are mandated by local jurisdictions or local subdivision requirements.

➤ **Specifically - § 1273.09. Dead-End Roads -**

(a) The maximum length of a dead-end road, including all dead-end roads accessed from that dead-end road, shall not exceed the following cumulative lengths, regardless of the number of parcels served:

- parcels zoned for less than one acre - 800 feet
- parcels zoned for 1 acre to 4.99 acres - 1320 feet
- parcels zoned for 5 acres to 19.99 acres - 2640 feet
- parcels zoned for 20 acres or larger - 5280 feet

All lengths shall be measured from the edge of the roadway surface at the intersection that begins the road to the end of the road surface at its farthest point. Where a dead-end road crosses areas of differing zoned parcel sizes, requiring different length limits, the shortest allowable length shall apply.

(b) Where parcels are zoned 5 acres or larger, turnarounds shall be provided at a maximum of 1320 foot intervals.

(c) Each dead-end road shall have a turnaround constructed at its terminus.

22-5 4. The RECIRCULATED DRAFT ENVIRONMENTAL IMPACT REPORT discusses having a plan for Temporary Refuge Areas, yet there are no specific plans identified in the report that addresses the size, shape, location, or any other specific information by which CAL FIRE may analyze the validity or appropriateness of the plan. Please demonstrate, in the form of written evidence, the specific locations, whether open space areas or structures, their sizes, defensible space dimensions, and the number of individuals that the site (s) will accommodate as the current plan lacks of specificity.

22-6 5. Pursuant to section 3.7.4 of the Recirculated DEIR, the County has chosen to analyze the project's potential environmental impacts if the project is located in or near state responsibility areas or lands classified as very high fire hazard severity zones, a significant impact related to wildfire would occur if the project would: "Substantially impair an adopted emergency response plan or emergency evacuation plan...due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire.....Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment...expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, and drainage changes." The lack of fire history in this location means not only that the fuel loading is significantly increased; it also means that an increase in use of the area may lead to a new ignition source, with numerous visitors and workers caught in a box canyon with only one means of egress.

22-7

6. The lack of alternate egress in the project continues to be an item of concern. This project has potential to do these things as identified throughout the Recirculated DEIR, yet it does not address these environmental impacts.

22-8

7. Pursuant to section 3.7.6 Wildfire Hazards at the Project Site:  
The plan does not adequately address the Offsite Road Improvement requirements identified in CCR Title 14 Natural Resources Division, 1.5 Department of Forestry, Chapter 7 – Fire Protection, Subchapter 2 - SRA Fire Safe Regulations Sections 1273.01 and 1273.09. Failing to provide for the safe access of emergency wildland fire equipment and civilian evacuation concurrently, and the unobstructed traffic circulation during a wildfire emergency based on how fast the developer believes the facility can be evacuated, the numerous onsite fire protection measures, or the vegetation along the road's shoulder are not factors used to established the Same Practical Effect for these regulations. Paraiso Springs Road is the only evacuation route from the project site. It is approximately 1.5 miles from the Resort entrance to the intersection at Clark Road, which is more than the maximum limit for a dead-end road. The maximum distance for a dead-end road is 5280 feet.

22-9

8. The Paraiso Springs Resort Project application (PLN040183; SCH#2005061016) was completed on August 28, 2005 and as a result CCR Title 14 Natural Resources Division, 1.5 Department of Forestry, Chapter 7 – Fire Protection, Subchapter 2 - SRA Fire Safe Regulations Sections 1270.02 (a)(1) is applicable as nether Sections 1270.02 (b) nor (c) apply, and because Paraiso Springs Road is not a road used solely for agricultural or mining use and roads used solely for the management and harvesting of wood products Section 1270.02 (d) does not apply either. Therefore, Paraiso Springs Road is subject to Public Resource Code (PRC) 4290 dead end Road Requirements and the suggested Same Practical Effects listed in impact 3.7.6a are not appropriate.

22-10

9. **§ 1270.01 Purpose** – “These regulations have been prepared and adopted for the purpose of establishing minimum wildfire protection standards in conjunction with building, construction and development in SRA. A local jurisdiction may petition the Board for certification pursuant to section 1270.03. Where Board certification has not been granted, these regulations shall become effective September 1, 1991. The future design and construction of structures, subdivisions and developments in State Responsibility Area (SRA) shall provide for basic emergency access and perimeter wildfire protection measures as specified in the following articles. These measures shall provide for emergency access; signing and building numbering; private water supply reserves for emergency fire use; and vegetation modification. The fire protection standards which follow shall specify the minimums for such measures.”  
and

**“§ 1270.02. Scope - (a) These regulations shall apply to: (1) the perimeters and access to all residential, commercial, and industrial building construction within SRA approved after January 1, 1991 except as set forth below in subsection b.); (2) all tentative and parcel maps or other developments approved after January 1, 1991; and (3) applications for building permits on a parcel approved in a pre-1991 parcel or tentative map to the extent that conditions relating to the perimeters and access to the buildings were not imposed as part of the approval of the parcel or tentative map.**

(b) These regulations do not apply where an application for a building permit is filed after January 1, 1991 for building construction on a parcel that was formed from a parcel map or tentative map (if the final map for the tentative map is approved within the time prescribed by the local ordinance) approved prior to January 1, 1991, to the extent that conditions relating to the perimeters and access to the buildings were imposed by the parcel map or final tentative map approved prior to January 1, 1991.

(c) Affected activities include, but are not limited to: (1) permitting or approval of new parcels, excluding lot line adjustments as specified in Government Code (GC) section 66412(d), (2) application for a building permit for new construction, not relating to an existing structure, (3) application for a use permit, (4) the siting of manufactured homes (manufactured homes are as defined by the National Fire Protection Association, National Fire Code, section 501A, Standard for Fire Safety Criteria for Manufactured Home Installations, Sites and Communities, chapter 1, section 1-2, Definitions, page 4, 1987 edition and Health and Safety Code sections 18007, 18008, and 19971). (5) road construction, including construction of a road that does not currently exist, or extension of an existing road.

(d) EXEMPTION: Roads used solely for agricultural or mining use and roads used solely for the management and harvesting of wood products.”

22-11 10. Table ES 1, relating to impacts 3.7-6 through 3.7-9, calls for staff to have access to a skid-mount pump with 150 gallons, rather than have an on-site fire station. This does not mitigate the risk of vegetation fire or structure fire, as opposed to a full-time staffed onsite fire station or at least one located within 5 miles of the project site. While this is a concern to the Mission Soledad Rural Fire Protection District, it is of great concern to CAL FIRE, with a source of potential new ignitions in HFHSZ and VHFHSZ in the SRA. The project developer should reconsider their thoughts on complying with the County of Monterey 1982 General Plan Policy 17.3.3 “The County shall encourage all new development to be located within the response time of 15 minutes from the fire station responsible for serving the parcel. If this is not possible, on-site fire protection systems (such as fire breaks, fire-retardant building materials, and/or water storage tanks) approved by the fire jurisdiction must be installed or development may only take place at the lowest density allowed for the parcel by the General Plan.”

22-12 11. Maintaining a 1- to 3-foot landscape-free area surrounding buildings may not suffice, especially with the shrub fuels surrounding the project area in the Sierra de Salinas range.

22-13 12. MM 3.7-6b, requiring 20 feet of fuel treatment from the edge of roads, will not act as a fuel break under a vegetation fire burning in the shrub fuels.

22-14 13. MM 3.7-7b, requiring the development of a Construction Fire Prevention Plan, does not allow sufficient analysis, as it has not been written. Without seeing the plan, it is impossible to know if this addresses the concerns related to fire. This also applies to MM 3.7-7d, the Operations Fire Prevention Plan, and MM 3.7-6a, the Fire Protection Plan.

- 22-15 14. The project will be required to meet all current California Fire Codes that are in place at time of building permit issuance including all adopted local amendments.
- 22-16 15. Any changes, additions, deletions, modifications or omissions from the current Recirculation Draft Environmental Draft dated June 2019 will require a new fire review.
- 22-17 16. All fire requirements must be noted on all sets of approved building plans.

Thank you for your consideration of these comment(s). CAL FIRE appreciates your efforts to address these critical issues.

Sincerely,



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## **Response to Letter #22 – California Department of Forestry and Fire Protection (received July 8, 2019)**

1. This comment contains a general description of, and introduction to, the role and responsibilities of the California Department of Forestry and Fire Protection (CAL FIRE). It describes CAL FIRE's role in project review, findings required of public agencies for certain projects in certain areas under the Subdivision Map Act, and describes CAL FIRE's general concerns and roles related to Local and State Responsibility Areas. The commenter should be aware, if not already, that the County has adopted regulations that are equal to or more restrictive than state regulations (Monterey County Code Chapter 18.56; certified by the State of California, Board of Forestry in 1992; see also California Code of Regulations, Title 14, Section 1270.3, Local Ordinances). Where a project may not be able to meet all the specified standards, the code (MCC Section 18.56.050; California Code of Regulations, Title 14, Division 1.5, Chapter 7, Subchapter 2, Section 1270.07) allows an exception process to be pursued. Exceptions may be issued on a case by case basis by the inspection entity if found to provide the same overall practical effect as the regulations towards providing defensible space (see Monterey County Code section 18.56.050.A.3 and section 18.56.050.D.2.b, and as defined in section 18.56.030.Z; California Code of Regulations, Title 14, Division 1.5, Chapter 7, Subchapter 2, Section 1270.07). See Master Response 8 regarding Monterey County Code Chapter 18.56 and its state certification status.

2. This comment requests written evidence that the project complies with wildfire protection standards as described by Title 14 of the California Code of Regulations for SRA Fire Safe Regulations. The commenter requests information that exceeds the scope of a Final EIR's responses to comments required by CEQA. A lead agency, for example, must evaluate comments on environmental issues and respond, specifically, to comments raising significant environmental issues received during the comment period (see CEQA Guidelines, § 15088(a)). The request for a written explanation of the project's compliance with minimum wildfire protection standards will nevertheless be provided in the findings proposed for consideration by the Planning Commission and, if approved and appealed, to the Board of Supervisors. See also Master Response 8.

The commenter is also referred to the EIR's Hazards and Hazardous Materials chapter and the Public Services and Utilities chapter include regulatory setting sections (2018 RDEIR section 3.7.3, Regulatory Background, as modified by the 2019 RDEIR and 2018 RDEIR section 3.11.3, Regulatory Background) that describe the applicable regulations at a general level. The EIR analyzes the project's impacts on the physical environment relating to wildfire in section 3.7.5, as modified by the 2019 RDEIR, and in 2018 RDEIR section 3.11.5 (pages 3-318 and 3-319). The EIR concludes that Mitigation Measures 3.7-6a and b, 3.7-7a through d, and 3.7-9 reduce potentially significant impacts relating to fire hazards to a less than significant level. Cumulative impacts were analyzed relating to public services in 2018 RDEIR section 4.5.2, Cumulative Impacts Assumptions and Analysis, specifically related to fire on page 4-11 and on pages 4-15 and 4-16. Cumulative impacts related to hazards (including fire) are also discussed in 2019 RDEIR, section 3.7.5, page 72. See modification to Mitigation Measures 3.7-6a and 3.7-7d in response to Letter 23, Number 5.

The 2019 RDEIR includes Appendices that provide the proposed Fire Protection Plan, contained within Appendix 2. The Fire Protection Plan was provided to disclose the physical environmental effects of the project, but also may serve as written evidence that the Project will meet the standards in the regulations that are applicable to the project, and provide fire protection measures that are equally protective. See also Master Response 1.

3. This comment requests written evidence how the project would mitigate wildfire risk.

The RDEIR and its Appendices include the proposed Fire Protection Plan, which is found within 2019 RDEIR Appendix 2. The proposed Fire Protection Plan includes the following recommendations, which have been added to applicable mitigation measures.

- a. The applicant and all successors in interest shall maintain fuel modification zones (minimum 100 feet wide) around designated temporary refuge area buildings, restricting vegetation to species that are highly ignition resistant and planted at low densities and maintained free of all accumulated debris/litter. This includes removal of invasive species within a minimum 100 feet of structures.
- b. If the vineyard is planted, a professional Vintner should be under contract at all times to manage the vineyard in an irrigated, maintained condition to act as a modified fuel buffer. The grape plants should be grown on trellises made of non-combustible material. The plants should be irrigated via drip irrigation, or by another low-water use method, to maintain a high moisture content, and dead and dying plants or plant materials and debris shall be removed from the area on an on-going basis. Should the vineyard operation ever be vacated or otherwise cease to operate, the area should be converted to irrigated turf or equivalent fuel modification zone consistent with the remaining irrigated FMZ throughout the resort. Such a conversion shall require approval by the County as part of a modified landscaping plan.
- c. An annual inspection of the site shall be completed by MSRFPD or its designee at the Project's expense to ensure that project landscaping is maintained in a wildfire-safe condition. The inspections would document out-of-compliance issues for abatement and follow up to confirm the abatement is completed.

See Master Response 8 and Errata to Mitigation Measure 3.7-6a included in response to Letter 23, Number 5.

To summarize, the project's site-wide landscaping will be an aesthetic amenity that will include fire resistant vegetation, be reviewed by the fire district for appropriate fire safe components (RDEIR Mitigation Measures 3.1-1, 3.7-7c and 3.7-7d), and be regularly maintained. Any native or non-native plant species that establish where they are not allowed and are in conflict with the Project's landscape plan would be removed along with maintenance of all plants within the Project's footprint to remove accumulated leaf litter, dead and dying plants, and other directed maintenance (Mitigation Measures 3.7-7c and 3.7-7d). The fuel modification zones at the perimeter of the Project proposes 100 feet of

modified fuels, which compare favorably with the modeled flame lengths for the unmaintained fuels adjacent to the site (2019 RDEIR, Appendix 2, Tables 3 and 4).

See Errata to Mitigation Measure 3.7-6a included in response to Letter 23, Number 5.

4. The commenter's opinion that the Temporary Refuge Areas identified in 2019 RDEIR Appendix 2 do "not establish the Same Practical Effect of ensuring the projects (sic) offsite roadways comply with CCR...Section 1273...unless exempted under section 1270.02(e)" is noted. However, Section 1270.02, subdivision (e) no longer exists in the current regulatory section.

This comment and other comments in this letter indicate that the ability to achieve the "same practical effect" is not adequately addressed by the provisions in the proposed Fire Protection Plan. The comment, however, provides no additional information or evidence supporting that determination.

The comment suggests that the Fire Safety Zones and Temporary Refuge Areas are not intended for civilians and therefore does not provide the "same practical effect" for the dead end Paraiso Springs Road. The comment is correct that those listed areas are not intended for temporarily sheltering staff and guests but are intended for firefighters. However, the proposed Fire Protection Plan provides designated structures for temporarily sheltering guests and staff in place as a contingency to an evacuation if the evacuation is considered less safe. This proposal is intended to be in direct relationship to a lack of secondary access and when combined with the system of on-site safety requirements and the relatively short distance from the Project to areas that are not at high exposure to wildland fire, is proposed by the applicant to provide the same practical effect as secondary access. The proposed measures do not cause any new environmental impacts nor increase the severity of an environmental impact, as described in the EIR. The Project applicant is proposing to increase the width of Paraiso Springs Road to 20 feet except for a limited area where it may be infeasible to do so because of an existing utility pole. Widening the road as proposed would enable evacuation of guests and employees while also allowing the fire district efficient and unobstructed access into the Project site (see 2019 RDEIR, Appendix 2, pages 135 and 141 for road width; response to Letter 23, Number 3 for evacuation safety while fire equipment is coming toward the project site during an evacuation).

Paraiso Springs Road is a public road, so it is not considered the project's offsite roadway (or driveway). However, it is the county road that will continue to provide access to the site. The applicant has studied the ability to improve and widen Paraiso Springs Road leading up to the project site and has agreed to do so except for an approximately 150 foot area where the road is 18 feet wide and it may be infeasible to widen to 20 feet due to the location of a utility power pole. Paraiso Springs Road, which has been an existing public road for many years and predates adoption of the State Fire regulations, is therefore proposed to be 20 feet wide for all but 150 feet, where it would be widened to at least 18 feet (see also Master Response 8 and response to Letter 20, Number 12. See also response to Letter 20, Number 2, above, regarding the County ordinance certification discussion). In the view of the County, the 20 foot standard does not apply to existing roads as demonstrated by the language in section 1273.01 "All roads shall be constructed[.]". The project will,

nevertheless, comply with applicable California Public Resources Code sections as well as County Code requirements.

California Code of Regulations section 1273.01 provides regulations for road width. All on-site roads will be a minimum of 20 feet wide, in compliance with regulations.

The site will be evacuated, as explained in the RDEIR (2019 RDEIR, Section 3.7.5, Impact 3.7-6), if the fire is at a distance to safely allow that to occur; if the fire is nearby and makes evacuation dangerous, all on-site people could shelter in the TRAs until the Incident Commander informs them to evacuate. See response to Letter 20, Number 21 and to this letter, number 5, below.

Improvements to Paraiso Springs Road have been analyzed for potential environmental impacts in the 2018 RDEIR. An analysis of potential environmental effects relating to these offsite improvements are addressed in RDEIR Section 3.12.5 under *Roadway Hazards*, Impact 3.12-2 (also see response to Letter 5, Number 2). Therefore, the EIR adequately analyzes the potential environmental impacts of widening the road. See Master Response 8.

The comment focuses, on page 4 of the comment letter, specifically on road width and dead-end road requirements. See Master Response 8. Also see responses to this Letter, numbers 2, 3 and 8. See Master Response 8 regarding Monterey County Code Chapter 18.56 and its state certification status.

The applicant has proposed a set of measures, identified in their consultant's report (2019 RDEIR, Appendix 2), that will be utilized to determine if they can be granted an exception, if needed. As required by CEQA, the RDEIR adequately describes the potential increase in environmental risks posed by the project (2018 RDEIR, section 3.7.5, Potential for Wildfire Hazards at the Project Site, as amended by 2019 RDEIR) and proposes mitigation measures to reduce potentially significant environmental impacts related to wildfire to a less than significant level (2019 RDEIR, Impacts 3.7-6 through 3.7-9). The development footprint of the site is 47 acres (2018 RDEIR Table 2.2, Project Components), so any onsite measures are covered by the analysis included in the Final EIR for this project. See Master Response 8.

5. This comment states that the details of the Temporary Refuge Areas are not provided to the level that CAL FIRE can review them for validity or appropriateness. This does not appear to be a comment on the adequacy of the environmental analysis in the RDEIR, but a response is nevertheless provided.

Per the proposed Fire Protection Plan, a designated structure such as the approximately 14,000 square feet Hotel Meeting and Conference Center (2018 RDEIR Figure 2-6, Project Site Plan, building number 28), or a combination of structures, could temporarily house the on-site population (see response to Letter 20, Number 21). Planning for a temporary sheltering situation includes the use of 15 square feet per person, resulting in occupiable building space of 7,500 square feet of the over 400,000 square feet of building space available at full buildout for a population of 500 persons (2018 RDEIR Table 2.2, Project Components; Michael Huff, Dudek, July 16, 2019, attached to email from John Thompson to Mike Novo, Monterey County, July 18, 2019). The Meeting and Conference center alone

could shelter over 900 people. The TRAs would be constructed with strict adherence to California Building Code Chapter 7A - Materials and Construction Methods for Exterior Wildfire Exposure (2019 RDEIR, section 3.7.3, State, page 57); interior fire sprinklers will be installed for every structure per the occupancy code requirements (likely NFPA 13 or 13R – structure protection sprinklers) and installation of upgraded vents throughout that are ember resistant (Michael Huff, Dudek, July 16, 2019, attached to email from John Thompson to Mike Novo, Monterey County, July 18, 2019). These buildings are proposed to include air handling equipment that can help reduce smoke, would have back-up generator power, and amenities to keep those being sheltered aware and able to communicate. The temporary refuge period would be expected to be no more than 1 to 2 hours because the fire would move through the area within that time (Michael Huff, Dudek, August 7, 2019—attached to email from John Thompson to Novo et al., August 8, 2019). Additional hardening to a designated temporary refuge area (TRA) would be exterior glazing to be dual pane with both panes tempered glass, exceeding the code requirement. Primary TRAs are proposed to include the following:

- Large-panel television monitors so those that are interested may track newscasts during a wildfire event
- Wireless internet accessibility
- Second utility source or U.L.-rated diesel generator for the designated TRA
- Intercom system to maintain communications with Ranch administration
- A copy of the Emergency Preparation Plan
- Food and water provisions for up to 24 hours
- Educational materials on emergency procedures and temporary sheltering during wildfire
- Telephones (hard line)
- Backup generator
- Air handling system

(Michael Huff, Dudek, July 16, 2019, attached to email from John Thompson to Mike Novo, Monterey County, July 18, 2019)

See Errata to Mitigation Measure 3.7-6a included in response to Letter 23, Number 5.

6. This comment summarizes the County’s RDEIR analysis of the project related to wildfire risk. The comment assumes that “the lack of fire history in the location means not only that the fuel loading has significantly increased; it also means that an increase in use of the area may lead to a new ignition source.” The County lacks evidence of the commenter’s assumed increase in fuel loading and directs the commenter to the discussion in the 2019 RDEIR, Appendix 2, pages 134 through 139, discussing the fire history of the area and the beneficial effects on the existing wildfire risk from the Project’s proposed post-fuel modification zones. The County also lacks evidence supporting the commenter’s opinion that an increase in guests visiting the site will increase the risk of fire starts; particularly when, as here, the only fires onsite in over 100 years of resort use have been structural fires. The RDEIR recognizes that the Project site is located in a box canyon with only one means of egress. The comment does not pose a question or comment on the adequacy of the

environmental analysis in the RDEIR, so an additional response is not required. See Master Responses 1 and 8.

7. This comment states a concern for lack of a secondary means of egress. The meaning of the second sentence is not clear, but it states that the EIR does not address the environmental impacts. See Master Response 8 and responses to Letter 20, Number 13, to this Letter, Numbers 2, 3, 4 and 8, and to Letter 24; these responses describe how the project will comply with applicable state law and the Monterey County Code requirements and that potential impacts to the physical environment were included in the RDEIR analysis.

8. This comment restates CAL FIRE's concern with the offsite road constraints. See responses to numbers 2, 3, and 4, above, and Master Response 8.

9. This comment states that the project application was deemed complete on August 28, 2005 and cites applicable state regulations. The comment also restates CAL FIRE's concern with the offsite road constraints. The County agrees with the information related to the date the project application was deemed complete by the County, the Fire District, and Cal Fire. See Master Response 8 and responses to numbers 2, 3, 4, and 8, above. It is not stated why the improvements listed in Impact 3.7-6a "are not appropriate." The applicant has not gone through the exception process, if one is late determined necessary, as discussed in responses above. See Master Response 8 regarding Monterey County Code Chapter 18.56 and its state certification status.

It is not clear why the comment states that Section 1270.02(c) does not apply. The code section is also provided in Comment 10 of this comment letter (below) and states "affected activities include, but are not limited to...(3) application for a use permit..." The Paraiso Springs Resort project includes application for a use permit. The County is assuming that the cited section is the regulation that applies this code section to the project, so assumes this comment is in error. The code section also lists the types of affected activities, including "(5) road construction..."; notably; it does not reference alleged required improvements or standards for existing roads. The commenter's opinion is nevertheless noted.

10. This comment includes language from Subchapter 2 [SRA Fire Safe Regulations] of the State of California regulations (California Code of Regulations, title 14, § 1270.01 et seq.). The comment does not present a question or comment regarding the adequacy of the EIR's analysis so no additional response is required. See Master Responses 1 and 8.

11. This comment states the commenter's opinion that the project's inclusion of a skid-mount pump and onsite water supply for fire suppression does not mitigate the risk of fire, and advocates for the inclusion of an onsite fire station or at least one located within 5 miles of the project site. The comment also requests that the developer "should reconsider their thoughts on complying with the County of Monterey 1982 General Plan Policy 17.3.3."

The project is consistent with the policy (see 2018 RDEIR section 3.7.3, Local, page 3-209 and section 3.9, pages 3-270, 3-278, and 3-279), which states in part that if a project is not within a 15 minute response time from the fire station, "on-site fire protection systems (such as fire breaks, fire-retardant building materials, and/or water storage tanks) approved by the

fire jurisdiction must be installed...” The response time from the Mission-Soledad Rural Fire Protection District station is less than 16 minutes. The applicant is proposing to provide on-site fire protection systems, which is consistent with the policy language as the fire district has approved the Fire Protection Plan. In addition, see responses to Letter 7, Numbers 21 and 75, to Letter 8, Number 5, to Letter 13, Numbers 1 and 2, to Letter 17, Number 3, and to Letter 18.

Per the proposed Fire Protection Plan (FPP), the proposed skid-mount pump and trained security personnel is a measure proposed to be above and beyond requirements. The FPP proposes a comprehensive approach for on-site fire protection measures, including fire breaks, fire retardant construction materials, Temporary Refuge Areas, fire resistant construction, fire suppression systems and hydrants, and water storage. The Project provides these and many more features that work together as a fire protection system (refer to Fire Protection Plan (2019 RDEIR Appendix 2) and the responses throughout this document). See 2019 RDEIR Appendix 2, Fire Protection Plan, Observations, page 135 for the comprehensive list. The Project provides on-site fire hardening of buildings and landscapes, augments the landscape with perimeter fuel modification zones, designates buildings for additional enhancements so they can provide a temporary refuge option to an evacuation, provides 500,000 gallons of stored water, and other features described in the FPP. The Project also provides off-site improvements to Paraiso Springs Road that results in unobstructed two-way travel for fire engines and evacuating vehicles. Paraiso Springs Road is proposed to be 20 feet wide or wider for all but 150 feet from the project site to Clark Road where two public roads are available for ingress and egress. Considering all the evidence in the record, a 150 foot segment of Paraiso Road widened to 18 feet will not result in a significant increase in wildfire risk to guests and employees seeking to evacuate the site, or to firefighters responding to a call.

See Master Response 7 and response to this letter, number 4, above regarding the EIR’s disclosure of potential impacts.

12. This comment states that a one to three foot landscape free area adjacent to buildings may not suffice. This comment offers no explanation as to why and does not appear to be related to the adequacy of the environmental analysis in the RDEIR. See Master Response 1. The following is provided as additional clarification related to the comment.

The plant free zone directly next to buildings is a focused restriction in addition to the site wide and perimeter fuel modification zones. The 3 foot plant-free space is to minimize the likelihood that a burning plant or mulch compromises the weep screed on stucco buildings (Michael Huff, Dudek, July 16, 2019, attached to email from John Thompson to Mike Novo, Monterey County, July 18, 2019).

13. This comment states that requiring 20 feet of fuel treatment from the edge of roads will not act as a fuel break. The comment does not describe an impact from the project on the environment, but an impact of a wildfire on the project or on fire behavior in the area. However, see the response below as to how it is intended to reduce risk of ignition from the project operations. This comment does not present a question or comment regarding the

EIR. See Master Response 1. The following is provided as information related to the comment.

The 20 feet of roadside fuel modification is not meant to act as a fuel break. Instead, it provides an area that has a lower likelihood of ignitions from vehicle-emitted sparks or other potential ignition sources along a road. This proposal is consistent with providing measures reducing the potential environmental impact of the project on the environment, not the potential impact of the environment on the project. The roadside zone also provides reduced fuels adjacent to a road, minimizing the potential exposure of vehicles on the roads to heat and flame.

14. This comment states that Mitigation Measures 3.7-6a, 3.7-7b and 3.7-7d cannot be sufficiently analyzed without drafting of the final plans, specifically the Construction Fire Prevention Plan and the Operations Fire Prevention Plan. The Wildland Fire Evacuation Plan is included in the RDEIR as Attachment 1 to Appendix 2 (Dudek). The Operations Fire Prevention Plan and Construction Fire Prevention Plan have been included as appendices to this Final EIR.

The RDEIR's 2019 Fire Protection Plan (Dudek) lays out the general principles of the approach for fire safety for the project. An environmental document needs to look at the reasonably foreseeable and potentially significant adverse effects of a project on the physical environment. The County has analyzed the physical aspects of the application, including the proposed approach to fire operations. The proposed infrastructure, fuel management areas, and the potential for an on-site fire station have all been considered and the conclusions supported by substantial evidence. The off-site improvements to Paraiso Springs Road were also analyzed for potential environmental impacts. Mitigation measures have been crafted and identify that all potential environmental impacts will be less than significant after mitigation.

Mitigation Measures 3.7-7a–b and 3.7-7d, included in the 2019 RDEIR and as described in the Final EIR, contain specific measures for fire suppression and wildfire minimization that have been included in the Construction Fire Prevention Plan and Operations Fire Prevention Plan. The County has provided these draft plans as appendices in the Final EIR to disclose their contents and demonstrate that the measures listed in MMs 3.7-7a–b and 3.7-7d are included. The requirements of these mitigation measures become a condition of the Project's approval.

These plans would cause no physical environmental impact and are discussed in the Fire Protection Plan so that they become a condition of the Project's approval. As a condition, the plans could then be subject to fire authority review and input and be completed prior to the onset of construction. (See *Endangered Habitats League v. County of Orange* (2005) 131 Cal. App. 4th 777, 793–794 [Fuel modification plan did not constitute impermissible deferral of mitigation under CEQA because measure required that, prior to the issuance of a grading permit, a fuel modification plan must be prepared which had to comply with the Fire Authority guidelines for such plans and be approved by the Authority].)

2.0 Comments on the Recirculated Draft EIR

15. This comment states that the project will be required to meet current California Fire Codes. This comment does not present a question or comment regarding the EIR. See Master Responses 1 and 8.

16. This comment states that any revisions to the EIR will require a new fire review. The Final EIR will be provided to CAL FIRE and to Mission-Soledad Rural Fire Protection District prior to any public hearings on the project.

17. This comment requests that fire requirements be noted on sets of approved building plans. The Fire Districts' plan checkers will review all building permits. This comment does not present a question or comment regarding the EIR. See Master Response 1.

**Letter #23 – California Department of Justice (received July 9, 2019)**

1/4 pages

**From:** [Heather Leslie](#)  
**To:** [ceqacomment](#)  
**Cc:** [Novo, Mike x5176](#)  
**Subject:** Paraiso Springs Resort, Project No. PLN040183  
**Date:** Tuesday, July 9, 2019 3:34:51 PM  
**Attachments:** [July 9, 2019 CA AGO Comment Letter on Paraiso Springs Resort RDEIR.pdf](#)

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Attached please find a comment letter on the 2019 Recirculated Draft Environmental Impact Report for the Paraiso Springs Resort, Project No. PLN040183.

Thank you,  
Heather

**Heather Leslie**

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July 9, 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,

23-1 We appreciate your preparation of a Recirculated Draft EIR [June 2019] (“RDEIR”) responding to public comments on the previous Recirculated DEIR [February 3, 2018] and Final EIR [March 14, 2019] (“FEIR”), including the comments we submitted on March 20, 2019, regarding wildfire risks associated with the proposed Paraiso Springs Resort Development (the “Project”). We have reviewed the additional information presented and acknowledge and appreciate that you have provided more information regarding wildfire risks associated with the proposed Project than was included in the previous analyses. While we thank you for including that additional information, we remain concerned that the risks of wildfire have not been adequately addressed.<sup>1</sup> Specifically, the Project still does not comply with state requirements for development in State Responsibility Areas. Additionally, the RDEIR does not comply with CEQA’s requirement to analyze and mitigate the Project’s wildfire impacts.

***The Project does not comply with the requirements for State Responsibility Areas.***

23-2 The Project does not comply with the state’s dead end road limitations and road width limitations applicable to State Responsibility Areas (SRA). (Cal. Code. Regs., tit. 14, § 1273.09 and 1273.01; adopted pursuant to Pub. Res. Code. § 4290.) In the RDEIR, the County expresses its view that the dead end road limitation does not apply to the Project because the road, having been built in the 19<sup>th</sup> century and maintained by the County, is not subject to the SRA regulations. (RDEIR, p. 62.) Neither the regulations nor the statute setting forth the SRA

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

23-2  
(Cont.)

requirements, however, include an exemption for historic roads or roads maintained by the County. In general, the SRA requirements apply to any application for new construction with only limited exceptions for certain parcel or tentative maps approved before 1991 and roads used solely for agriculture, mining, or timber related purposes. (See Cal. Code. Regs., tit. 14, § 1270.02.)

The RDEIR further states that the Project meets the intent of the dead end road limitation, but does not provide any support for its understanding of that intent, nor a justification for why compliance with the intent would excuse non-compliance with the clear regulatory requirement. (RDEIR, p. 62.) The RDEIR suggests that mitigation measure 3.7-6a (regarding the Fire Protection Plan to be developed) is being applied to the Proposed Project as if the SRA requirements did apply to the Project. (RDEIR, p. 62.) However, the Fire Protection Plan does not propose to modify the dead end nature of the road. CEQA requires mitigation that is triggered by the need to avoid significant environmental impacts; CEQA mitigation may not be used to excuse non-compliance with independent state regulatory requirements.

23-3

Likewise the RDEIR suggest that the Project complies with state law requiring two 10-foot travel lands because 98% of the road would comply—only a “small area of 150 feet” due to topographical constraints would be limited to an 18-foot wide road. (RDEIR, p.61.) However, substantial compliance is not the state standard. A small section of inadequate road width could create a bottleneck that would hamper evacuation, particularly where emergency response vehicles are trying access the site at the very same time others are seeking to exit the site. While the SRA regulations provide a process for requesting exceptions to the standards (Cal. Code. Regs., tit. 14, §§ 1270.07 and 1270.08), the RDEIR does not suggest that an exception through this process has been requested or approved.

***The RDEIR does not comply with CEQA’s requirement to analyze and mitigate the Project’s wildfire impacts.***

23-4

The RDEIR considered the questions identified in section XX of the Updated CEQA Guidelines regarding wildfire risk (RDEIR, pp. 59-72), which we appreciate. The RDEIR did not, however, address the related but separate question in Section IX(g) of Appendix G regarding whether the Project would “expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires.” This issue should also be addressed. (See CEQA Guidelines § 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]; *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].)

23-5

In addition, for the wildfire associated risks that the RDEIR did analyze—those in Section XX of Appendix G—the RDEIR concludes that there are potentially significant effects, but that these effects are less than significant after mitigation. The RDEIR proposes additional mitigation measures, but these measures largely rely on development of future fire prevention plans. With respect to this project and the proposed future plans, CEQA prohibits the deferral of mitigation. (See CEQA Guidelines § 15126.4(a)(1)(B).) While the development of mitigation measures may sometimes be appropriate, there is no reason here for this failure to prepare the evacuation plan 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 post-FEIR management plan was found to be improperly deferred mitigation where no basis was provided for why 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 EIR].)

In our previous comments, we also requested that the FEIR address evacuation in the event of fire. Specifically, we highlighted the need to consider: (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 point will face in the event of an evacuation due to the added users on the road, and (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. (March 20, 2019 letter, pp. 4-5). Again, we appreciate that you have now included an evacuation plan in the RDEIR, but find that it and the supporting analysis it relies upon falls short of addressing the full scope of issues we believe are required for analysis under CEQA in order to provide full information to decision makers and the public about the wildfire risks associated with the Project.

23-6

In addition, the RDEIR does not seem to disclose or address the possibility of a fire starting down canyon and potentially blocking Paraiso Springs Road altogether. While the RDEIR describes that the site will be designed to serve as a temporary refuge area during fire, which could conceivably help to mitigate the risk of a down canyon fire occurring that blocks evacuation via Paraiso springs Road, this is not fleshed out in any detail. The RDEIR also does not address the ability of emergency vehicles to efficiently access the site while the sole ingress and egress road is also being utilized for evacuation.<sup>2</sup>

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<sup>2</sup> The letter from Keith Higgins, which is indirectly referenced in the RDEIR, includes just a conclusory comment on this issue—“The one lane on the road going toward the project site would remain open almost exclusively to inbound emergency access. In summary, the road is capable of handling incoming and outgoing traffic in a mass evacuation with no significant conflicts with the surrounding neighbor or incoming emergency vehicles.” (March 8, 2019 Letter from Keith Higgins, Traffic Engineer, referenced in Appendix 2 of the RDEIR, p. 140.)

Planning Commission of Monterey County  
July 9, 2019  
Page 4

We appreciate your consideration of our comments and respectfully request that you revise the RFEIR accordingly. If you have any questions or would like to discuss our comments, please feel free to contact us.

Sincerely,



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

For XAVIER BECERRA  
Attorney General

## **Response to Letter #23 – California Department of Justice (received July 9, 2019)**

1. This comment is an introduction to the points raised in the letter. See Master Response 1.
2. This comment states that the project does not comply with the requirements for dead end roads and minimum roadway widths in State Responsibility Areas, which the commenter believes applies to the project. See Master Response 8 and responses to Letter 20, Number 13, to Letter 22, Numbers 2, 3, 4 and 8, and to Letter 24; these responses describe how the project will comply with applicable state law and the Monterey County Code requirements. The commenter does not address why the County’s longstanding exemption from SRA standards for existing roads no longer applies as provided in the County’s ordinance previously certified by the Department of Forestry (See Ordinance No. 3600, p. 3 (MCC § 18.56.020(B)(2)(a)); or, for example, why the County should disregard the plain meaning of the language in section 1273.01 (Road Width) which states that “All roads *shall be constructed* to provide...” (emphasis added). Improving an existing road, as proposed by the Project applicant, does not equate to the construction of a new road as the regulatory standard implies.

All of the proposed physical improvements and their potential environmental impacts have been considered in the RDEIR. They were included as part of the Project Description (2018 RDEIR Chapter 2) and potential environmental impacts were analyzed as amended by the 2019 RDEIR. All impacts were determined less than significant with mitigation other than impacts to historic resources. None of the proposed fire-safety related improvements have potential impacts on historic resources.

The Project applicant and County staff have also considered the site specific dead end road and the surrounding environmental circumstances and, in response, the applicant proposes the inclusion of a number of on-site fire protection measures as identified in the 2019 RDEIR to be included in the proposed project approval to ensure realization of the “same practical effect” of the dead-end road limitations. This includes, for example, the efficient evacuation of guests and employees at buildout and assuming maximum occupancy under various fire scenarios. (See 2019 RDEIR, Appendix 2, including attachments.) However, see discussion above regarding whether the same practical effect requirements will apply through the exception process, including Master Response 8.

Unlike wildland fires that have occurred in other areas of California, Paraiso Springs Road has limited potential for obstacles on the roadway (i.e., there are very few existing residents and a low occurrence of large trees and power lines). Prevailing wind direction for much of the year, and in particular during the dry season (April through October) is from the northwest to the southeast in the Salinas Valley just below the project site. If a fire were to start below the property during windy conditions, fire would be pushed to the southeast and away from Paraiso Springs Road in a short time. For more detail, see discussion in response to Letter 23, Number 6. Paraiso Springs Road also does not traverse through dangerous fuel areas or steep terrain. In fact, the roadside fuels transition to managed agriculture

(vineyards), which reduces potential fire exposure within a relatively short distance (less than a mile) from the Project site in addition to the fuel management and vegetation clearing proposed as part of the RDEIR (Michael Huff, Dudek, July 16, 2019, attached to email from John Thompson to Mike Novo, Monterey County, July 18, 2019). Consequently, the possibility of entrapment in cars while attempting to evacuate or in Project structures has been considered and deemed less than significant. The Project also has committed to establishing a designated temporary refuge so firefighters and, if necessary, guests and staff can temporarily shelter on site until evacuation is determined appropriate by the Incident Commander. The fire or law enforcement agency will decide whether evacuation time is likely to exceed that needed for occupants to be evacuated safely and may require that people shelter in place until evacuation is safe. The provided contingency for on-site temporary refuge and related fire hardening throughout the site further support the determination that the dead end road length has been adequately considered (Michael Huff, Dudek, July 16, 2019, attached to email from John Thompson to Mike Novo, Monterey County, July 18, 2019).

The commenter is correct that the Fire Protection Plan cannot modify the dead-end nature of the road, particularly since the Project seeks to build over the existing developed area and cannot feasibly move the building footprint to a location where the maximum SRA dead-end road standards can be achieved. The commenter's view that the Project does not comply with the allegedly applicable dead-end road standards is noted. Whether the Project complies, or not, with the regulatory standards is not a reasonably foreseeable significant adverse effect on the physical environment requiring additional analysis under CEQA. The Mission-Soledad Rural Fire Protection District, which will provide plan check and inspection for development of the site, has reviewed and approved the 2019 Fire Protection Plan.

See also responses related to evacuation details below in number 3 and to Letter 20, Number 8. Also, a discussion of applicability of wildfire regulations is found in Master Response 8, response to number 3, below, response to Letter 20, Numbers 2, 12, and 17, and to Letter 22, Number 4.

3. This comment states that the project does not comply with requirements for off-site road width. See Master Response 8 and response to this letter, Number 2 above, in that it is the view of the County that the cited regulatory standard does not apply to roads existing prior to the adoption of the regulation in 1991. The RDEIR nevertheless describes the proposed physical road improvements and their potential environmental impacts.

The existing off-site County Paraiso Springs Road is planned for widening to the required 20 feet width for approximately 98 percent of the section between the Project entrance and the Clark Road intersection. A total of approximately 150 linear feet would be 18 feet wide, representing a relatively short section that is wider than it is today, but not meeting the 20 feet width. The potential environmental impacts of widening the road have been analyzed within the RDEIR, as described above in response to Letter 20, Number 13, and to Letter 22, Numbers 2, 3, 4 and 8.

Regarding the commenter's concern with the ability of an incoming fire engine to navigate through the short stretch (150 feet) of 18 foot wide roadway while passenger vehicles are

evacuating: a typical fire engine is just short of 10 feet wide, mirror to mirror. A passenger vehicle is approximately 6.5 feet wide, mirror to mirror. Allowing for larger passenger vehicles, mirror to mirror measurement may be 7 feet wide. This would still enable vehicles to pass with one foot between vehicles (Michael Huff, Dudek, July 16, 2019, attached to email from John Thompson to Mike Novo, Monterey County, July 18, 2019). See also Master Response 8.

During a mass evacuation, the total time calculated to evacuate the 275 vehicles from the Paraiso Springs Resort is approximately 17 minutes of travel time. Using this calculation, the widened Paraiso Springs Road was discounted from 1,900 vehicles per hour emergency capacity to 950 vehicles per hour emergency capacity to account for potential slowing (such as for incoming fire and law enforcement vehicles). The 950 vehicles per hour travel speed is 5 mph, a conservative estimate that would enable incoming emergency vehicles to safely travel toward the Project through the short section that is 18 feet wide, without increased potential hazard (2019 RDEIR Appendix 2, Fire Protection Plan). Considering the proposed roadway widening, the existing turnouts available on the road and the requirement to provide at least two Fire Safety Coordinators as recommended in the RDEIR, substantial evidence supports a conclusion that the 150 foot segment of Paraiso Springs Road that would remain 18 feet in width would not result in a bottleneck that would hamper ingress or egress during a wildland fire.

4. The comment states that the RDEIR did not address whether the Project “would expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires” referring to the CEQA Appendix G checklist question (Section IX, subsection g) under Hazards and Hazardous Materials.

As explained in the RDEIR, the project incorporates fire safety and fire resistant building materials and features as required by current Building Code Standards and the County Fire Code (such as sprinklers, only fire- and drought-tolerant landscaping within 30 feet of buildings), which would further reduce the risk of loss, injury or death involving wildland fires. As discussed in the RDEIR, the Project would also include on-site staff and water supply for immediate fire suppression needs, as well as improve Paraiso Springs Road emergency vehicles. The Project also includes fire hydrants with approved water pressure availability. As the Project site has not been historically susceptible to a significant risk of wildland fires, and would provide on-site fire protection services and infrastructure, the potential for the project to result in a significant risk of loss, injury, or death is therefore less-than-significant.

The analysis of wildfire impacts is more fully addressed utilizing the new CEQA Appendix G questions under Wildfire. The Project’s Fire Protection Plan (2019 RDEIR Appendix B) and the RDEIR analyzed the Hazards and Hazardous Materials CEQA question under RDEIR Impact 3.7-7 where wildfire risk from construction and operations, including exposure of people on site, is addressed. The analysis of wildfire hazards and evacuation scenarios resulted in recommended measures (2019 RDEIR Appendix 2), which were analyzed for potential environmental impacts and incorporated into the RDEIR’s Mitigation Measures 3.7-6a and 3.7-7 (2019 RDEIR pages 60 through 69, as amended by the Final EIR). These measures address the potential increased risk for wildfire associated with building at the proposed location, the fire environment (existing setting) that occurs in the

area, and reduces the risk to the environment, persons or property to levels below significance (2019 RDEIR section 3.7.5, Impact 3.7-6 through Impact 3.7-9). See Master Response 8.

5. This comment states that the County is improperly relying on the development of future fire prevention plans, specifically requesting that an adequate evacuation plan be included in the DEIR or FEIR. The comment further states that neither “performance standards or potential mitigation measures [have] been identified.” See response to Letter 22, Number 14.

The wildfire hazard section of the RDEIR does not rely on deferred mitigation. A proposed evacuation plan was included in RDEIR Appendix 2, Attachment 1, Wildland Fire Evacuation Plan, pages 154 through 189. The fire prevention plans referenced in mitigation measures are the 2019 Fire Protection Plan (FPP), a Construction Fire Prevention Plan (CFPP), and an Operations Fire Prevention Plan (OFPP). These plans have been attached to the 2019 RDEIR (Appendix 2) or Final EIR (Section 6, Appendices) and will be utilized as internal documents that will be approved by the County in a final version with input from the fire authority. These plans are intended as educational and training components to guide on-site practices during construction and operation phases. Mitigation Measures 3.7-6a, 3.7-7b and 3.7-7d direct the approval and implementation of these plans. To reflect the attachment of these plans to the Final EIR, Mitigation Measures 3.7-6a, and 3.7-7d are replaced to read as follows:

*Please refer to errata, below and Section 4.0, Changes to the Recirculated Draft EIR.*

#### Errata

*Replace Mitigation Measure 3.7-6a on 2019 RDEIR pages 63 and 64 to read as follows:*

**MM 3.7-6a** The 2019 Fire Protection Plan has been reviewed and approved by the Mission-Soledad Rural Fire Protection District, and shall be approved by the RMA Director prior to clearance of any vegetation or issuance of permits for construction, whichever occurs first. The applicant shall implement the fire protection and safety measures recommended in the approved Fire Protection Plan along with additional measures listed below, including the following:

- Provide a facility Fire Safety Coordinator(s) to oversee implementation of fire protection and safety and overall fire coordination with MSRFPD/CAL FIRE.
- Coordinate an annual fire evacuation drill/fire exercise to ensure proper safety measures have been implemented, facility awareness and preparation of facility-wide “Ready, Set, Go!” plan, consistent with the Monterey County Community Wildfire Protection Plan.
- Provide trained security staff 24 hours per day and 7 days per week at the guard gate to manage an evacuation of the facility by opening the gates and directing traffic out of the area.

- Provide a first-responder (EMT) level staff person and equipment to be on-site at all times.
- Provide a customized one-ton, 4x4 pickup with a skid mounted pump and up to 150 gallon water tank and train multiple staff members and site security staff to utilize this apparatus for the purposes of providing initial suppression for any vegetation ignitions, and initial response to other fires.
- Prior to project operation, designate one or more structures as temporary refuge areas (TRAs) to house the projected population on the project site in the event of a fire emergency. TRA structures shall include specifications listed in the 2019 Fire Protection Plan.
  - The capacity for TRA structures shall be equivalent to shelter the total maximum site population within protected buildings based on 15 square feet per person of habitable space.
  - The Fire Safety Coordinator (aka Site Safety Officer), management staff, and security personnel will quarterly participate in a meeting to review and discuss the evacuation protocols and contingency option for temporarily refuging on site.
- Provide ember-resistant vents and screening for all ventilation for project structures, as specified in the 2019 Fire Protection Plan.
- Provide a site-wide Public Address (PA)/Intercom system for emergency notifications.
- Prepare and practice site-wide evacuations following the “Ready, Set, Go!” program guidelines. A drill will be conducted at least once per year involving staff.
- Prepare an Emergency Preparation Plan that includes specifications listed in the 2019 Fire Protection Plan, such as pre-fire planning, post-fire recovery, reporting, training, prevention, and communications procedures.
- Enhance traffic flow by not constructing speed bumps/humps and provide an automatic opening device for fire and law enforcement at the entrance gate.
- Restrict vegetation around TRA structures to highly ignition-resistant vegetation planted at low densities and maintained free of all accumulated debris/litter.
- Design and implement a landscaping plan consistent with accepted wildland urban interface fire safe/fire adapted practices.
  - The landscaping plan shall be reviewed and approved by the County, MSRFPD, and/or an experienced fire protection planner, as determined by the County, to ensure that proposed plantings and maintenance meet the required fire safety and screening requirements.
- If planted, manage the vineyard using a professional vintner in an irrigated, maintained condition to act as a modified fuel buffer, utilizing irrigation and operation measures included in the 2019 Fire Protection Plan.
- Conduct an annual inspection of the site by MSRFPD or its designee to ensure that project landscaping is maintained in a wildfire-safe condition.

- Maintain a 1- to 3-foot landscape-free area adjacent to all building structures' foundations to prevent available fuels for embers at the building base.

*Replace Mitigation Measure 3.7-7d on 2019 RDEIR page 69 to read as follows:*

**MM 3.7-7d** The 2019 Operations Fire Prevention Plan, included as an appendix to the Final EIR, shall be reviewed by the Mission-Soledad Rural Fire Protection District and approved by the RMA Director prior to issuance of occupancy permits or final inspection, whichever occurs first, for any habitable structures. This plan addresses policies and procedures for minimizing wildfire potential. The applicant shall implement procedures in the Operation Fire Prevention Plan, including the following:

- Procedures for minimizing potential ignition during maintenance activities;
- Work restrictions during Red Flag Warnings and High to Extreme Fire Danger days;
- Fuel modification zone and landscape area maintenance procedures, including timing of work to reduce the likelihood of ignition and/or fire spread;
- Communication and reporting procedures with MSRFPD;
- Fire Safety Coordinator (aka Site Safety Officer) role and contact information;
- Applicable recommendations included in the project's Fire Protection Plan (MM 3.7-6a).
- The Project Operator shall fund a third-party fuel modification inspector or MSRFPD, as chosen by the Fire District, to conduct an annual inspection prior to June to certify that fuel modification maintenance has occurred;

*Please refer to Section 4.0, Changes to the Recirculated Draft EIR.*

The CFPP is a project construction document that would guide contractor fire safety during construction activities. The CFPP (Final EIR section 6, Appendices) is focused on fire safety equipment necessary on-site and within vehicles, designated smoking areas, site safety officers, and related restricted activities during construction. The CFPP does not involve a new significant adverse construction impact as the practices will be conducted within the RDEIR-studied project footprint and affected buildings and landscapes within the studied disturbance limits. The OFPP (Final EIR section 6, Appendices) is an internal document that would guide site operations' fire prevention measures. It is provided in the FPP so that it becomes a condition of the Project's approval. Similarly, the EPP is an internal document that is prepared for certain occupancies like those found on the Project site. This plan is intended to be a resort staff resource that guides emergency procedures and does not raise new environmental issues or require additional analysis.

Other on-site fire protection measures have been proposed in the mitigation measures to address code requirements and to ensure public safety. Those mitigation measures include physical improvements within the development footprint, which has been analyzed for environmental impacts in the 2018 RDEIR and the 2019 RDEIR.

The comment does not identify any specific issues about the evacuation plan, other than a general statement that it “falls short.” The referenced comments regarding employees and guests, existing residents and fire response resources have been addressed in the Fire Protection Plan and the Wildland Fire Evacuation Plan. The various measures within Mitigation Measure 3.7-6a as modified in this response were developed based on consideration of the evacuation scenarios for guests, existing residents and responding firefighters. In particular, the off-site Paraiso Springs Road is planned for widening to the required 20 feet width for approximately 98 percent of the section between the Project entrance and the Clark Road intersection. There would be a total of approximately 150 linear feet that would be 18 feet wide, representing a relatively short section that is wider than it is today. The potential environmental impacts of widening the off site road were analyzed in the RDEIR. The County therefore disagrees with the implication in the comment that it must speculate about the potential for additional “increased challenges” that firefighters and emergency responders could face under various scenarios that are not reasonably foreseeable and which exceed those already considered in the RDEIR. The conclusions reached in the EIR are, in the County’s view, supported by substantial evidence (See CEQA Guidelines, §§ 15384, 15145).

6. This comment states that the EIR does not address the location of where a fire may start and, specifically, the possibility of a fire starting down canyon and potentially blocking Paraiso Springs Road. The comment also states that the EIR does not address the ability of emergency vehicles to efficiently access the site while the road is being used for evacuation.

The Fire Protection Plan (FPP) specifically addresses the possibility of a fire starting to the east of the Project site (down canyon) temporarily blocking Paraiso Springs Road. This scenario is unlikely due to the prevailing onshore winds which travel from the ocean to the southeast, which would ordinarily blow a fire along the Salinas Valley and away from the Project site. The time of year when winds flow offshore, generally in the fall, would have the same effect with winds blowing the fire along the Salinas Valley. While these are the predominant weather patterns, the 2019 Fire Protection Plan states that “model results should be used as a basis for planning only, as actual fire behavior for a given location would be affected by many factors, including unique weather patterns, small-scale topographic variations, or changing vegetation patterns.” See discussion in 2019 RDEIR, Appendix 2, 2019 Fire Protection Plan, page 139 related to weather and wind patterns. The unlikely potential scenario of a fire blocking evacuation from the site for an extended period is nevertheless addressed through the FPP’s descriptions of designated temporary refuge buildings (including the Conference Center) that would be designed to be fire resistant and to accommodate a temporary sheltering (2019 RDEIR, Appendix 2, 2019 Fire Protection Plan, pages 143 and page 163). In a scenario like the one referenced in the comment, a wildfire starting to the east of the site would be very brief due to the lack of consistent fuel beds and proximity to safe areas (Michael Huff, Dudek, July 16, 2019, attached to email from John Thompson to Mike Novo, Monterey County, July 18, 2019; 2019 RDEIR, Appendix 2, 2019 Fire Protection Plan, pages 142 and 143; 2019 RDEIR, Appendix 2, Attachment 1, Wildland Fire Evacuation Plan, pages 156, 165 through 167 and pages 169 through 174). This is because agricultural lands dominate the Paraiso Springs Road corridor except for the upper 0.5 to 0.75 miles to the project site.

Fire burning in this area would burn through the fuels and past the Project site within a very short timeframe, likely less than 30 minutes. Temporarily sheltering persons within ignition resistive buildings that are positioned within an ignition resistant landscape would be feasible and may be preferred to evacuating downstream or even to the north, west or south through steeper slopes and wildland fuels, were a secondary route available in those directions. The FPP provides a framework for the temporary refuge buildings. The project's architect, working closely with the fire authority and building department would provide additional detail for the buildings' construction materials and features, and would include strict adherence to California Building Code Chapter 7A - Materials and Construction Methods for Exterior Wildfire Exposure (2019 RDEIR, section 3.7.3, State, page 57). Interior sprinklers will be provided per the occupancy category (likely NFPA 13 or 13R – structure protection sprinklers) and upgraded vents would be installed throughout that are ember resistant. These buildings would also include air handling equipment that can help reduce smoke, back-up generator power, and amenities to keep those being sheltered aware of what's happening and able to communicate. See response to Letter 22, Number 5.

Per the Project's Fire Protection Plan, a designated structure (e.g., Hotel Meeting and Conference Center) or a combination of structures would be capable of temporarily providing refuge for the on-site population. See response to Letter 20, Number 21, to Letter 21, Number 8, to Letter 22, Number 5, and to number 2, above.

**Letter #24 – California Board of Forestry and Fire Protection (received July 9, 2019)**

1/1 page

**From:** [Hannigan, Edith@BOF](mailto:Hannigan,Edith@BOF)  
**To:** [Novo, Mike x5176](mailto:Novo, Mike x5176)  
**Subject:** RE: Paraiso Hot Springs (PLN040183; SCG#2005061016) Notice of Availability of Draft EIR CAL FIRE Comments  
**Date:** Tuesday, July 9, 2019 8:40:10 AM  
**Attachments:** [Board of Forestry and Fire Protection - Monterey Paraiso Springs DEIR.pdf](#)

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[CAUTION: This email originated from outside of the County. Do not click links or open attachments unless you recognize the sender and know the content is safe. ]

Hi Mike,

I sent the attached letter to the CEQA email address provided in the Notice of Availability.

The final decisionmaker on local land use planning is CAL FIRE.

The Board's definitive statement can be found in the attached letter.

Edith



**From:** Novo, Mike x5176 [mailto:NovoM@co.monterey.ca.us]  
**Sent:** Monday, July 8, 2019 10:08 PM  
**To:** Hannigan, Edith@BOF <edith.hannigan@bof.ca.gov>  
**Subject:** Fw: Paraiso Hot Springs (PLN040183; SCG#2005061016) Notice of Availability of Draft EIR CAL FIRE Comments

**Warning:** this message is from an external user and should be treated with caution.

Edith--I again received comments from Calfire (attached) that the dead end road standard applies to this project, even with your confirmation several times that it does not. How do I proceed to get a definitive statement from the Board of Forestry so I can move forward with this project?

Please feel free to call or email me so that we can discuss this.

Thanks,  
Mike

---

**From:** Fulcher, David@CALFIRE <[David.Fulcher@fire.ca.gov](mailto:David.Fulcher@fire.ca.gov)>  
**Sent:** Monday, July 8, 2019 5:42 PM  
**To:** ceqacomments  
**Cc:** Fulcher, David@CALFIRE; Novo, Mike x5176  
**Subject:** Paraiso Hot Springs (PLN040183; SCG#2005061016) Notice of Availability of Draft EIR CAL FIRE Comments

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To whom it may concern,

Please accept the attached CAL FIRE San Benito-Monterey Unit comments on the Paraiso Hot Springs (PLN040183; SCG#2005061016) Notice of Availability of Draft EIR 2019 Recirculated Draft Environmental Impact Report.

The document is 6 pages total.

Thank you,

**David Fulcher**

**CAL FIRE**

*Unit & Fire Chief*

*San Benito-Monterey*

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[David.Fulcher@fire.ca.gov](mailto:David.Fulcher@fire.ca.gov)

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Project Planner Mike Novo, AICP  
Monterey County RMA – Planning  
1441 Shilling Place, 2nd Floor  
Salinas, CA 93901



Via email: [CEQAcomments@co.monterey.ca.us](mailto:CEQAcomments@co.monterey.ca.us).

Re: Paraiso Springs Resort 2019 Recirculated Draft Environmental Impact Report  
(PLN040183; SCH#2005061016)

Dear Mr. Novo,

My email to you of May 3, 2019, was in response to a request for clarity from you regarding an interpretation of the SRA Fire Safe Regulations (14 CCR § 1270 et seq.) by “the Mission-Soledad Fire District Plan Check person.” In our communications, it was understood that CAL FIRE, not the Board of Forestry and Fire Protection, would make the final determination as to the applicability of these requirements.

The purpose for which the County solicited my interpretations of the SRA Fire Safe Regulations is completely different than how they are being utilized in the Paraiso Springs Resort Draft EIR. Neither the Board of Forestry and Fire Protection, nor its staff, formally comments on, approves, or otherwise directs the outcome of local land use planning decisions, nor does the Board have the authority to interpret or enforce those requirements. Although I provided an interpretation of the Fire Safe Regulations in our email conversations, the final arbiter of the application of the regulations is the local fire authority, in this case, the San Benito-Monterey Unit.

Given the views expressed by CAL FIRE as to the applicability of these regulations, I rescind my interpretation of the application of the regulations and defer to CAL FIRE’s interpretations and decisions. I request that all references to my email of May 3, 2019 and conversations with County planning staff be deleted from the Draft EIR. My comments were not solicited for purposes of informing the Draft EIR and were offered with the understanding that CAL FIRE would make the final determination as to the applicability of the requirements. I, thus, refer you instead to the comments of Chief Fulcher.

Thank you.

Edith Hannigan  
Land Use Planning Program Manager

24-1

## **Response to Letter #24 – California Board of Forestry and Fire Protection (received July 9, 2019)**

1. This comment rescinds an earlier interpretation and requests that “references to my email of May 3, 2019 and conversations with County planning staff be deleted from the Draft EIR.” The County will honor this request and provides the following revisions to the RDEIR.

*Please refer to errata, below and Section 4.0, Changes to the Recirculated Draft EIR.*

### Errata

*Modify the paragraph in Section 1.5 on 2019 RDEIR page 5 to read as follows:*

This 2019 RDEIR was prepared in consultation with CAL FIRE and Mission-Soledad Rural Fire Protection District: Chief David Fulcher and John Owens, as well as the California Board of Forestry and Fire Protection: ~~Edith Hannigan, Land Use Program Manager, and~~ Matt Dias, Executive Officer.

*Delete the first bullet in the third paragraph of section 3.7.1, Introduction, on 2019 RDEIR page 47 to read as follows, with the remaining bullets retained:*

Previous reports and information used to prepare this section include the following documents:

~~California Board of Forestry and Fire Protection. Personal Communication between Edith Hannigan, Land Use Program Manager and Mike Novo, Monterey County Planning; May 3, 2019.~~

*Replace the fifth sentence of the Dead End Road Length paragraph in Impact 3.7-6 on 2019 RDEIR page 62 to read as follows:*

As identified in Monterey County Code section 18.56.020.B.2.a, Paraiso Springs Road is a county maintained road built in the 19th century and is not subject to PRC 4290 dead end road requirements (Monterey County Ordinance 3600 as amended) and as identified in state SRA regulations when the application was deemed complete in 2005. If it is determined that the off site road is subject to the dead end road requirements, the applicant would need to apply for an exception pursuant to Monterey County Code section 18.56.050 or state law, as applicable.

*Please refer to Section 4.0, Changes to the Recirculated Draft EIR.*

**Letter #25 – Monterey County Sheriff’s Office (received July 11, 2019)**

1/1 page

**Friedrich, Michele x5189**

---

**From:** Galletti, Donna x7909  
**Sent:** Wednesday, July 10, 2019 5:52 PM  
**To:** ceqacommments  
**Subject:** RDEIR\_PLN040183\_060519  
**Attachments:** PLN040183 2.doc; PLN040183REV2019.docx

Hard copies sent to Mike Novo via inter office mail.

*Donna L. Galletti*

Crime Prevention Specialist

[gallettid@co.monterey.ca.us](mailto:gallettid@co.monterey.ca.us)

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Salinas, CA 93906



**DEIR-PLN040183  
Paraiso Springs Resort**

**PUBLIC SERVICES 3.11.2 Public Services/Law Enforcement**

25-1

**The below statistics and information are current as of July 9, 2019.**

The project site is located in the Western Terminus of Paraiso Springs Road. Seven miles west of Greenfield, California

This project is in **Beat 10** which is covered by personnel from the South County Station during day watch. Personnel from the Central Station in Salinas cover this area during the Swing Shift and Midnight Shift.

There is **one** South County Station Deputy assigned as the Beat 10 Deputy for dayshift. This includes patrolling both the Beat 10A and Beat 10B areas.

There is a total of **1** Station Commander, **2** Sergeants and **7** deputies assigned to the South County Station during day watch

Lincoln Watch	Day Shift	7 a.m.-5 p.m.	7 Deputies	2 sergeants
---------------	-----------	---------------	------------	-------------

During Swing Shift and the Midnight Shift, two Central Station Deputies are assigned as the Beat 45 unit. They cover Beat 10 A & B, as well as Beat 11 and Beat 12.

For Swing Shift and Midnight Shift

X-Ray Watch	Swing Shift	3 p.m.-1 a.m.	19 Deputies*	3 Sergeants
Zebra Watch	Midnight Shift	9 p.m.-7a.m.	17 Deputies*	3 Sergeants

\*There are additional deputies assigned to the swing and midnights shifts at the Central Station in Salinas. However, these additional deputies do not all cover the South County Station jurisdiction. These additional deputies cover the Coastal Station and South County Station Beat Areas.

There is a total of 442 Sheriff's Office Employees.

Sworn Personnel/Deputies	320
Non-Sworn/Professional Staff	122



**Response to Letter #25 – Monterey County Sheriff’s Office (received July 11, 2019)**

This letter provides up to date statistics on the law enforcement staffing for Beat 10, which covers the project area, and for the entire Sheriff’s Office. This comment does not present a question or comment regarding the EIR. See Master Response 1.

**SECTION 3.0**  
**REVISED SUMMARY**

### **3.0 Revised Summary**

3.1 CEQA Requirements

3.2 Text of Revised Summary

### **Tables**

Table ES-1 Executive Summary of Significant Project Impacts

## 3.0

### REVISED SUMMARY

*Following is a revised version of the summary from the 2018 Recirculated Draft EIR, as amended by the 2019 RDEIR. Additions to the text are shown with underlined text (underline) and deletions are shown with strikethrough text (~~strikethrough~~), including in this section and in Table ES.1. Mitigation Measures 3.7-7b and 3.7-7d are replaced from the version shown in the 2019 RDEIR. Also refer to Section 4.0 Changes to the Draft EIR for other changes to the Revised Draft EIR.*

#### 3.1 CEQA REQUIREMENTS

CEQA Guidelines section 15123 requires that an EIR contain a brief summary of the proposed project and its consequences. The summary must identify each significant effect with proposed mitigation measures and alternatives that would reduce or avoid that effect; areas of controversy known to the lead agency; and issues to be resolved, including the choice among alternatives, and whether or how to mitigate the significant effects.

#### 3.2 TEXT OF REVISED SUMMARY

##### EXECUTIVE SUMMARY

###### INTRODUCTION

This summary provides a brief description of the proposed project, areas of controversy known to the lead agency (County of Monterey) including issues raised by agencies and the public, project alternatives, and all potentially significant impacts identified during the course of this environmental analysis. This summary is intended as an overview and should be used in conjunction with a thorough reading of this environmental impact report. The environmental impact report consists of the 2018 RDEIR, as amended by the 2019 RDEIR, and this final environmental impact report. The text of this report, including figures, tables and appendices, serves as the basis for this summary.

###### PROJECT LOCATION

Paraiso Hot Springs (hereinafter “project site”) is located approximately 130 miles south of San Francisco in unincorporated southern Monterey County in the western foothills of the Central Salinas Valley, approximately seven miles west of the City of Greenfield at the western terminus of Paraiso Springs Road. The project site is located at 34358 Paraiso

Springs Road and is comprised of Assessor's Parcel Numbers 418-381-021-000, 418-361-004-000, and 418-381-022-000.

The project site consists of about 235 acres nestled in the mouths of the Paraiso Springs Valley and Indian Valley and extending westward into the foothills between the crest of the Sierra de Salinas Foothills and the Salinas Valley. The site is bordered to the east by grazing and farmland, and to the north, south and west by the Santa Lucia Mountains. Happy Valley is located on the other side of the ridge to the south of the site.

## BACKGROUND

This ~~recirculated draft~~ environmental impact report provides a description of existing land use and planning policies that apply to the project site, and an analysis of potential impacts regarding land use compatibility and environmental effects associated with the proposed project.

The current Monterey County General Plan for the non-coastal, unincorporated area of the County was adopted in October 2010. However, the proposed project application was accepted as complete in August 28, 2005; therefore, the proposed project is subject to the policies contained in the 1982 General Plan (2018 RDEIR, section 2.2, page 2-1). As such, land use policy descriptions and analysis within this environmental impact report are based primarily on the *Monterey County General Plan* (1982 with Amendments through November 5, 1996) and the *Central Salinas Valley Area Plan* (1987), a component of the 1982 General Plan.

This environmental impact report evaluates changes in the existing physical conditions resulting from the proposed resort in the affected area as they existed at the time the notice of preparation was published (California Environmental Quality Act Guidelines section 15125). The notice of preparation for this project was filed with the State Clearinghouse in May 2008. As part of the whole of the action this EIR also evaluates impacts associated with the un-permitted removal of nine historic Victorian cottages, in November 2003. In order to accurately evaluate the impacts of the loss of these structures the analysis must assume their presence. Therefore the historic analysis looks at the site as it existed prior to 2003 when the structures were present.

## PROJECT DESCRIPTION

The proposed project involves the demolition of the existing structures within the project site and construction of a new hotel, day-use area (Hamlet), a spa and fitness center, 60 timeshare condominiums, and 17 timeshare villas centered on the European theme of wellness treatment and education associated with the existing mineral hot springs.

The proposed project includes the following three components.

- A. An "After The Fact" Demolition Permit to authorize demolition of the nine historic cottages at the Paraiso Hot Springs Resort, November 2003 (to clear Code Violation Case CE030404/PLN040488);
- B. A Combined Development Permit consisting of:

1. A Use Permit and General Development Plan to allow the phased redevelopment of the Paraiso Springs Spa Resort with the following amenities (see Table 2.2 for square footage summaries):

Hotel consisting of 103 one- and two-story clustered visitor-serving hotel units, three restaurants, nine meeting and conference rooms, activity terrace with croquet and bocce ball courts and associated support facilities;

Ornamental streams;

Amphitheater stage and pavilion, amphitheater lawn;

34 two-bedroom and 26-three bedroom attached timeshare units;

17 detached timeshare villas;

Hamlet consisting of a day spa, a general retail store, artist studios, wine tasting, and real estate office;

Spa and Fitness Center consisting of courtyard gardens, teahouse, spa water gardens, labyrinth, activity center, lap pool, vitality pavilions, indoor golf school, putting greens, basketball pavilion, racquetball pavilion, tennis courts and ornamental therapy stream and pool;

Wine pavilion and associated vineyard;

Visitor center;

Paraiso Institute for classes, training and seminars for resort guests;

Wastewater treatment plant with approximately 4 million gallon underground wet-season storage reservoir set on a gravel bed to allow aquifer pass through;

Garden Center;

Hiking trails, trailside outlooks, and natural solarium area (an area with a view of the Salinas Valley that will contain seating and a few tubs fed by the hot springs, with water discharged to the discharge system for the pools and spas);

Pedestrian and vehicular bridges;

Laundry and maintenance facilities;

Landscaping of the grounds;

On site security, including a staffed gated entrance;

Grading of 162,073 cubic yards cut and fill of 123,489 cubic yards; and 500,000 gallon (approximate) above ground potable water storage tank.

2. A Use Permit for the creation of 77 Timeshare units (60 condominiums and 17 villas);
3. A Vesting Tentative Map (Condominium Map) for the creation of 60 airspace condominium units (included in the 77 Timeshare units);

4. Standard Subdivision (Vesting Tentative Map) to allow the merger and resubdivision of the site's parcels of 157.88 acres (Assessor's Parcel Number 418-361-004), 77.27 acres (Assessor's Parcel Number 418-381-021) and 0.49 of an acre (Assessor's Parcel Number 418-381-022) into 23 lots, recorded in phases;
  5. Use Permit for removal of 185 protected oak trees; and
  6. Use Permit for development on slopes in excess of 30 percent.
- C. Off-site road improvements on Paraiso Springs Road.

## PROJECT OBJECTIVES

In accordance with the California Environmental Quality Act, a statement of objectives sought by the proposed project should be clearly stated to aid the lead agency in developing a reasonable range of alternatives to evaluate in the environmental impact report. These objectives are also utilized to aid decision makers in preparation of findings or statement of overriding considerations (Title 14 CCR § 15124 (b)). The following objectives outline the underlying purpose of the proposed project:

- Redevelop the existing vacant Paraiso Springs Resort into a world-class destination spa/resort hotel;
- Build a project that is consistent with the objectives and policies of the *Central Salinas Valley Area Plan* and the 1982 *Monterey County General Plan*;
- Develop a mission style resort that provides visitor-serving support for the Monterey County wine corridor honoring the historic connection to the Soledad Mission's use of the property as a vineyard and retreat;
- Proactively engage the services of local businesses in the construction and on-going operation of the resort;
- Work with Monterey County, local wineries, and other related businesses to promote the Monterey wine corridor as a destination for tourism;
- Provide a therapeutic environment for wellness treatment and education;
- Utilize the existing mineral hot springs and sweeping views of the Central Salinas Valley as key amenity features;
- Provide services and amenities for both overnight and day guests;
- Provide an economically sustainable combination of hotel units and timeshare units of varying sizes;
- Create long-term employment and economic (tax revenue) opportunities for Monterey County;
- Provide an onsite interpretive display of the history and events associated with the Paraiso Springs Resort;
- Develop and provide opportunities to reduce green house gas emissions through the provision of a shuttle service for employees and guests, and on-site programs such as the use of electric service vehicles, energy efficient building design, use of Energy Star appliances and fixtures, etc. to the extent feasible; and

- Retain a minimum of 150 acres of the project site as natural open space that would accommodate hiking trails and landscaping, and preserve the existing habitat and natural landforms.

While Monterey County shares many of the same objectives as the applicant, the County has identified two additional objectives:

- Provide visitor serving amenities identified in the Agricultural and Wine Corridor program from the 2010 *Monterey County General Plan*; and
- Maximize development of this previously disturbed site to reduce pressure to convert agricultural land to visitor supporting uses related to the Agricultural and Wine Corridor, which is identified as an economic program in the 2010 *Monterey County General Plan*.

### **PROJECT ALTERNATIVES**

The California Environmental Quality Act requires that an environmental impact report describe and evaluate alternatives to the project that would avoid or substantially lessen any of the significant effects of the proposed project. The following alternatives are evaluated in this EIR in Chapter 5 - Alternatives.

Alternative #1 - No Project Alternative

Alternative #2 - Valley Floor Alternative One (Units Reduced by 10 Percent)

Alternative #3 – Valley Floor Alternative Two (Units Reduced by 6.7 Percent)

Alternative #4 – Reduced Project Alternative (Units Reduced by 35.5 Percent)

Alternative #5 – Timeshare Relocation Alternative (Units Reduced by 2 Percent)

### **SUMMARY OF PROJECT ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES**

All impacts identified in the environmental analysis are summarized in [Table ES.1, Executive Summary of Significant Project Impacts](#) included in this section. The summary table includes all potentially significant, significant, and significant and unavoidable impacts analyzed in this environmental impact report. This summary table groups impacts according to subject matter (e.g. aesthetics, air quality, etc.).

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**Table ES.1 Executive Summary of Significant Project Impacts**

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
<b>Section 3.1: Aesthetics and Visual Resources</b>			
<p><b>Impact 3.1-1:</b> Implementation of the proposed project would have an adverse effect on the existing visual character or quality of the site and its surroundings.</p>	Significant	<p><b>MM 3.1-1</b> Prior to issuance of any construction permits, the project applicant shall modify the project landscape design and colors for the exterior roof and plaster walls as follows:</p> <ul style="list-style-type: none"> <li>▪ The roof color shall include a blend of darker shades, which colors would serve to blend the building’s rooftops into the natural environment and reduce the appearance of large masses from greater distances. Final design shall be subject to review and approval of the RMA Director.</li> <li>▪ The color of the plaster shall utilize a variety of earth tone colors, such as the color supplied in the palette on page 2 in Exhibit 1 of the RMA Analysis, and as otherwise approved by the RMA Director.</li> <li>▪ The Landscape Plan shall include the use of five-gallon size or transplanted native oak trees, or other tree or tall shrub species as approved by RMA-Planning, planted, when mature, to break up the building rooflines and the front of the resort when viewed from common public viewing areas in the Salinas Valley, while allowing well-designed openings in the canopy to allow views from the resort of the valley. Oak trees shall be provided in appropriate areas, such as where oak trees were originally present prior to grading in that area, or on the north side of buildings where no oak woodland was present prior to grading. Where oak trees were not part of the original landscape for that area of the site, other tree species shall be used.</li> <li>▪ Where buildings are placed in areas that previously consisted of dense oak woodlands, the design of the landscaping shall integrate the buildings into the oak woodland setting such that the buildings, if visible, are viewed in the context of the oak woodland. Native oak trees shall be strategically placed at building corners and extending between buildings and natural landforms or remaining native oak trees to integrate the buildings into the natural landscape. Landscape Plans shall be submitted for review and approval by the RMA Director of Planning for each phase of development and shall be approved prior to issuance of construction permits for buildings within the area covered by the Landscape Plan. Review by</li> </ul>	Less than Significant

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
		<p>the County of the landscape plans will be conducted in consultation with the fire district to ensure that landscaping is installed in a fire-safe manner.</p> <p>The intent of this mitigation measure is to occasionally break up the mass, not screen the site from the valley or from public views, and to use color and vegetation to break up the visual massing from common public viewing areas. This can be achieved by using existing topography, landscape plantings, and a variety of colors to create variety in the mass. The landscape plantings, while further reducing visibility, will not be fully grown at the time of planting. The mitigation measure’s other techniques, as well as existing topography and vegetation that will not be disturbed, will reduce the impact to a less than significant level even while the newly planted vegetation grows to maturity, due to the distance to common public viewing areas. Oak trees can be a planted a distance away from structures and each other, to comply with safe fire-planting principles, and still provide screening from public viewing areas.</p> <p><b>Standard Condition:</b> A conservation and scenic easement shall be conveyed to the County over those portions of the property where the slope exceeds 30 percent. The easement shall be developed in consultation with a certified professional. A conservation and scenic easement deed shall be submitted to, and approved by, the Director of RMA - Planning and accepted by the Board of Supervisors prior to or concurrent with recording the final map or prior to the issuance of grading or building permits, whichever occurs first. The Final Subdivision Map shall identify the areas within a “scenic easement” and note that no development shall occur within the areas designated as “scenic easement.”</p>	
<p><b>Impact 3.1-2:</b> The proposed project would introduce new sources of lighting that could adversely affect the existing visual resources in the area.</p>	<p>Potentially Significant (Less than significant with application of standard condition of approval PD014</p>	<p><b>Standard Condition.</b> All exterior lighting shall be unobtrusive, down-lit, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. Exterior lights shall have recessed lighting elements. Exterior light sources that would be directly visible when viewed from a common public viewing area, as defined in Monterey County Code Section 21.06.195, are prohibited. The applicant shall submit three (3) copies of an exterior lighting plan which shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The lighting shall comply with the requirements of the California Energy Code set forth in</p>	<p>Less than Significant</p>

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
	(B)	California Code of Regulations, Title 24, Part 6. The exterior lighting plan shall be subject to approval by the Director of the RMA - Planning Department, prior to the issuance of building permits.	
<b>Section 3.2: Air Quality</b>			
<p><b>Impact 3.2-1:</b> The proposed project would emit criteria air pollutants from construction activities in excess of air district standards.</p>	Significant	<p><b>MM 3.2-1</b> The applicant shall include dust control measures in grading plans, subject to review and approval by the County of Monterey Resource Management Agency – Planning Department. Grading plans shall require that active disturbed areas be watered at least twice daily and shall limit areas of active disturbance to no more than 2.2 acres per day for initial site preparation activities that involve extensive earth moving activities (grubbing, excavation, rough grading), and 8.1 acres per day for activities that involve minimal earth moving (e.g. finish grading) during all phases of construction activities, absent dust control measures. In the event ground disturbance exceeds these limits, grading plans shall require the project applicant to implement the following fugitive dust measures:</p> <ul style="list-style-type: none"> <li>▪ Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard;</li> <li>▪ Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites;</li> <li>▪ Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites;</li> <li>▪ Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets;</li> <li>▪ Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more);</li> <li>▪ Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.);</li> <li>▪ Limit traffic speeds on unpaved roads to 15 mph;</li> <li>▪ Install appropriate best management practices or other erosion control measures to prevent silt runoff to public roadways;</li> <li>▪ Replant vegetation in disturbed areas as quickly as possible;</li> <li>▪ Install wheel washers for all exiting trucks, or wash off the tires or tracks of all trucks</li> </ul>	Less than Significant

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
		<p>and equipment leaving the site;</p> <ul style="list-style-type: none"> <li>▪ Limit the area subject to excavation, grading and other construction activity at any one time;</li> <li>▪ Post a publicly visible sign which specifies the telephone number and person to contact regarding dust complaints (the person shall respond to complaints and take corrective action within 48 hours);</li> <li>▪ Ensure that the phone number of MBUAPCD is visible to the public for compliance with Rule 402 (Nuisance); and</li> <li>▪ For any diesel equipment used that is greater than 120 horsepower, utilize equipment that is 1996 or newer.</li> </ul>	
<p><b>Impact 3.2-2:</b> The proposed project would result in the demolition of structures within the project site that may contain asbestos and/or lead and result in the release of hazardous airborne contaminants.</p>	Potentially Significant	<p>Mitigation measures MM 3.7-3a and MM 3.7-3b in Section 3.7, Hazards and Hazardous Materials would require that each structure is inspected by a qualified environmental specialist for the presence of asbestos containing materials (ACMs) and lead based paints (LBPs).</p>	Less than Significant
<b>Section 3.3: Biological Resources</b>			
<p><b>Impact 3.3-2:</b> Project activities may result in direct impact (injury or mortality) to special status animals during vegetation removal, grading, building demolition, and equipment movement.</p>	Potentially Significant	<p><b>MM 3.3-2a:</b> For each construction area, including for each project phase, prior to initiation of construction activities at the site, the project applicant shall have a Monterey County-approved consulting biologist conduct an environmental awareness training session for all construction personnel. At a minimum, the training will include a description of special status animals with potential to occur and their habitats, general measures that are being implemented to protect wildlife as they relate to the project, and the boundaries within which the project occurs. Informational handouts with photographs clearly illustrating the species appearances will be used in the training session for species expected to occur on the site. If new construction personnel start work at the site after the initial training session, the training session shall be repeated as often as necessary so that all new personnel receive this mandatory training when they start work at the project site.</p> <p>The biologist shall be present on the site to conduct biological construction monitoring during initial site clearing and grading activities, ensuring construction monitoring for every new disturbance area. The biologist will assist the workers in observing and avoiding</p>	Less than Significant

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
		<p>direct impacts to wildlife that are observed within each work area.</p> <p><b>MM 3.3-2b:</b> For each construction area, including for each project phase, prior to initiation of project activities including, but not limited to, vegetation, snag, or tree removal and demolition of structures within the project site, or loud construction-related noise within the work area, the project applicant shall implement the following measures:</p> <ul style="list-style-type: none"> <li>▪ Conduct pre-construction surveys for bats over a minimum of four visits at least 15 days prior to the beginning of tree/vegetation removal, building demolition, and other project activities, to determine if the area is being actively utilized by special-status bats or for spring/summer maternity colonies (bats usually have young from April to September, but roost year-round). All structures within the project site shall be surveyed with the exception of the house trailers, fire equipment room, and the main pump house. These surveys shall also include determining if any trees or buildings marked for removal have characteristics that make them suitable bat roosting habitat (e.g., hollows, broken limbs, crevices, etc.). For any trees/snags that could provide roosting space for bats, the biologist shall thoroughly evaluate the trees/snags to determine if a colony is present prior to trimming or cutting. Visual inspection and acoustic surveys may be utilized as initial techniques. Removal of any native riparian tree shall be preceded by a thorough visual inspection of foliage to reduce the risk of displacing or harming roosting bats. If no roosting bats are observed, no further mitigation would be required.</li> <li>▪ If a tree or structure is determined not to be an active roost site, it may be immediately trimmed or removed. If the tree or structure is not trimmed or removed within four days of the survey, the biologist shall repeat night survey efforts.</li> <li>▪ Removal of occupied trees/snags or structures shall be mitigated for by the installation of a snag or other artificial roost structure (bat house) within suitable habitat located outside of, but near the impact area within the project site. Construction activities that may cause roost abandonment may not commence until artificial roost structures have been installed. With the input from a qualified biologist who is a bat specialist and coordination with the CDFW, alternative roost structure(s) shall be designed and installed to provide suitable habitat for evicted or displaced bats. Placement and height will be determined by the qualified wildlife biologist, but the height of the bat house</li> </ul>	

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
		<p>will be at least 15 feet. Bat houses will be multi-chambered, and be purchased or constructed in accordance with CDFW standards. The number of bat houses/snags required will be dependent upon the size and number of colonies found, but at least one bat house will be installed for each pair of bats (if occurring individually), or of sufficient number to accommodate each colony of bats to be relocated. If necessary, coordinate with the CDFW for acceptable mitigation alternatives.</p> <ul style="list-style-type: none"> <li>▪ Protect maternity colonies that have pre-volant young (not yet able to fly). If active bat roosts are observed during the maternity roosting season, the roost shall not be disturbed until after all juvenile bats are able to fly from the roost. The project biologist must confirm there are no pre-volant young present before a colony is displaced. It is assumed that after September 1, colonies have no pre-volant young.</li> <li>▪ The project proponent shall coordinate with the CDFW and a biologist that is permitted to handle special status bats to develop appropriate exclusion methods if necessary. The California Fish and Game Code stipulates that bats may be excluded from occupied roosts during two time periods; between September 1 and October 15, and between February 15 and April 15. If bats are found roosting within these time frames, it may be necessary to passively exclude them from trees or structures scheduled for removal. If necessary, prior to initiating project activities, passive exclusion methods shall be installed for a minimum of two weeks and monitored by a qualified biologist within the appropriate time frames above. At a minimum, monitoring efforts shall include conducting acoustic and evening emergence surveys during this two week period.</li> </ul> <p><b>MM 3.3-2c:</b> For each construction area, including for each project phase, the project applicant shall have a Monterey County approved qualified biologist examine the impact area, including a 30 foot buffer around the impact area, for Monterey dusky-footed woodrat nests before and during any initial vegetation, woody debris, and/or tree removal, or other initial ground disturbing activities. All woodrat nests will be flagged by the biologist for avoidance of direct construction impacts where feasible. If impacts cannot be avoided, woodrat nests shall be dismantled by the biologist no more than three days prior to construction. All vegetation and duff materials shall be removed within three feet around the nest prior to dismantling so that the occupants do not attempt to rebuild. Nests are to be</p>	

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
		<p>slowly dismantled by hand in order to allow the occupants to disperse. Nests shall not be dismantled during inclement weather at the discretion of the biologist (e.g., during or within 48 hours of predicted precipitation event, low nighttime temperatures, etc.). In addition, should dependent young be found during the nest dismantling process, the nest will be reassembled in place, and the occupied nest and any nests within 30 feet of the occupied nest shall be left undisturbed for at least three weeks to allow the young to wean.</p> <p><b>MM3.3-2d:</b> For each construction area, including for each project phase, the project applicant shall have a qualified biologist conduct a two-visit (i.e. morning and evening) burrowing owl presence/absence pre-construction survey at areas of suitable habitat on and within 500 feet of the proposed impact area no less than 14 days prior to the start of construction. Surveys shall be conducted according to methods described in the Staff Report on Burrowing Owl Mitigation (CDFW 2012). If pre-construction “take avoidance” surveys performed during the breeding season (February through August) or the non-breeding season (September through January) for the species locate occupied burrows near the construction area, then consultation with the CDFW would be required to interpret survey results and develop project-specific avoidance and minimization approaches as found in the Staff Report on Burrowing Owl Mitigation (CDFW 2012).</p> <p><b>MM 3.3-2e:</b> For each construction area, including for each project phase, the project proponent shall retain a Monterey County-approved consulting biologist to conduct a preconstruction survey for coast horned lizard unless the project biologist demonstrates that no suitable habitat is present in that construction area. Preconstruction surveys will be conducted within approximately 72 hours prior to disturbance of any suitable habitat for this species. Surveys will utilize hand search methods in proposed impact areas where this species is expected to be found (i.e., under shrubs, within other vegetation types, or debris on sandy soils). Any individuals located during the survey shall be safely relocated by the biologist to suitable habitat outside of the proposed impact areas or project activities shall avoid disturbing the habitat and the individuals until the individual has left the area, as determined by the biologist.</p> <p>Prior to recording of the final map or before any ground disturbance activities, whichever occurs first, a relocation program shall be prepared by a qualified biologist and reviewed</p>	

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
		<p>and approved by the County. The relocation program shall include a detailed methodology for locating, capturing, and translocating individuals prior to construction. The project shall identify a suitable location for relocation of the lizard prior to capture. A qualified biologist with a current scientific collection permit shall be required for handling coast horned lizards.</p> <p>During initial ground disturbance and vegetation removal activities for each project impact area, a project biologist will be on the site to recover any coast horned lizards that may be excavated/unearthed. If the animals are in good health, they will be immediately relocated to a designated release site outside of the work area. If they are injured, the animals will be released to a CDFW-approved rehabilitation specialist until they are in a condition to be released into the designated release site.</p>	
<p><b>Impact 3.3-3:</b> Project implementation may result in temporary direct or indirect disturbance to nesting raptors and migratory birds, should they be present on or adjacent to the site during construction activities.</p>	<p>Potentially Significant</p>	<p><b>MM 3.3-3:</b> For each construction area, including for each project phase, if noise generation, ground disturbance, vegetation removal, or other construction activities begin during the nesting bird season (February 1 to September 15), or if construction activities are suspended for at least two weeks and recommence during the nesting bird season, then the project proponent shall retain a Monterey County-approved consulting biologist to conduct a pre-construction survey for nesting birds. The survey shall be performed within suitable nesting habitat areas on, and adjacent areas visible from, the site to ensure that no active nests for protected species would be disturbed during project implementation. This survey shall be conducted no more than two weeks prior to the initiation of disturbance/construction activities for each construction area. A report documenting survey results and plan for active bird nest avoidance (if needed) shall be completed by the project biologist and submitted to the Monterey County – Resource Management Agency for review and approval prior to disturbance and/or construction activities.</p> <p>If no active bird nests are detected during the survey, then project activities can proceed as scheduled. However, if an active bird nest of a protected species is detected during the survey, then a plan for bird nest avoidance shall be prepared to determine and clearly delineate an appropriately-sized, temporary protective buffer area around each active nest, depending on the nesting bird species, existing site conditions, and type of proposed disturbance and/or construction activities. The protective buffer area around an active protected bird nest shall be determined at the discretion of the project biologist and in</p>	<p>Less than Significant</p>

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
		<p>compliance with applicable project permits.</p> <p>To ensure that no inadvertent impacts to an active bird nest will occur, no disturbance and/or construction activities shall occur within the protective buffer area(s) until the juvenile birds have fledged (left the nest), and there is no evidence of a second attempt at nesting, as determined by the project biologist. No action will be necessary if the construction activity occurs outside the nesting season as detailed in this mitigation measure.</p> <p>Construction area, for the purposes of these mitigation measures (MM 3.3-2 through MM 3.3-3), is defined as follows:</p> <ul style="list-style-type: none"> <li>• Each project phase</li> <li>• Structure removal activities</li> <li>• Tree removal activities</li> <li>• Paving activities</li> </ul> <p>If construction, demolition, or tree removal activities cease for a period of time exceeding the pre-construction survey period itemized in the mitigation measure, the pre-construction survey shall be redone, if potential habitat remains in that area.</p>	
<p><b>Impact 3.3-4:</b> The project site contains 0.71-acre of wetlands, 0.40-acre (8,771 linear feet) of non-wetland waters, and a small amount of associated riparian habitat that are potentially under the jurisdiction of the USACE, RWQCB, and/or CDFW. The proposed project has been designed to avoid impacts to the majority of these resources. However, project implementation would result in the loss of a 0.04-</p>	Significant	<p><b>MM 3.3-4a:</b> Prior to issuance of any County project permits, a Monterey County-approved consulting biologist shall be retained by the project proponent to develop a detailed wetland mitigation plan, which will guide compensatory mitigation efforts for all anticipated project impacts to potentially jurisdictional wetland features. The plan shall be submitted to the Monterey County – Resource Management Agency for review and approval prior to issuance of any County project permits that could affect wetlands, jurisdictional waters or riparian areas. The wetland mitigation plan shall achieve no net loss of habitat values, including a minimum replacement of 1:1, but must meet the ratio required by the permitting agencies. The wetland shall function at the same habitat value as wetlands proposed for removal; these values shall be analyzed by, and established in, the mitigation plan. The plan shall include an agreement to continue to monitor and refine the mitigation effort (adaptive management) until the success criteria as stated within the plan,</p>	Less than Significant

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
<p>acre potentially jurisdictional seasonal wetland, and two in-stream culverts totaling approximately 0.02-acre (229 linear feet) of potentially jurisdictional non-wetland waters, which will be removed. The culvert removals would allow the on-site stream to be rerouted and restored in its natural channel, with creation of an in-stream 0.30-acre mitigation pond. Rock slope protection of stream banks to prevent erosion and scour above and below two of the three proposed bridge locations would impact an additional 0.02-acre (160 linear feet) of potentially jurisdictional non-wetland waters. With regard to riparian habitat, three willow trees would be removed for construction of one of the three proposed bridges. The project proposes development within the County's 50-foot stream channel setback zone.</p>		<p>and as agreed to by the permitting agencies, are achieved. Success criteria shall include a prohibition on non-native vegetation, fish or amphibian species and shall include monitoring to ensure that non-native species have not been introduced into the habitat. Vegetation species variety and density, similar or greater than the value of the existing wetland to be lost, shall be included in the plan and monitoring to ensure a minimum of the former variety and density shall be conducted by the property owner's Monterey County-approved biologist. Monitoring shall continue until the vegetation and aquatic species levels have reached the success criteria for a minimum of three consecutive years.</p> <p>Per the required wetland mitigation plan, a new in-stream pond, or a portion of the pond, and daylighted stream segments, or an alternative location and design acceptable to the permitting agencies, will serve as wetland feature mitigation sites, planted and maintained to support native and locally appropriate wetland/riparian vegetation. The plan will stipulate that a native plant specialist will install the native vegetation, and perform regular site maintenance for a minimum of five years, during which time a Monterey County-approved consulting biologist will monitor the site at least annually to ensure that the wetland creation is successful. The wetland mitigation plan shall establish specific success criteria, and shall include provisions for long-term site monitoring and maintenance to prevent the establishment of non-native plant species and aquatic nuisance animals (such as non-native fish, crayfish species, and bullfrog) that may preclude native wildlife species from utilizing the created and restored wetland/riparian habitats.</p> <p><b>MM 3.3-4b:</b> All necessary permits and agreements shall be obtained from the USACE, CDFW, and RWQCB prior to issuance of any County project permits that involve project impacts to jurisdictional wetland features, including streams and wetland areas. This also includes obtaining these prior to mass site grading operations. For all project impacts to wetland features potentially under the jurisdiction of the USACE, CDFW, and RWQCB, regulatory agency permitting will be required along with compensatory habitat replacement identified through the wetland mitigation plan required by mitigation measure 3.3-4a, above. The project proponent shall prepare and submit a USACE Clean Water Act Section 404 Nationwide Permit application, a RWQCB Section 401 Water Quality Certification application, and a CDFW Section 1602 Streambed Alteration Agreement application. After all regulatory agency permits are obtained, the proposed mitigation efforts shall be implemented according to stipulated permit conditions and the wetland mitigation plan.</p>	

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
		The project proponent shall comply with all wetland/waters/riparian habitat replacement requirements and/or impact minimization measures stipulated in the approved regulatory agency permits.	
<p><b>Impact 3.3-6:</b> Implementation of the proposed project would result in the permanent alteration of site conditions that would result in the removal of approximately 8.8 acres of coast live oak woodland habitat and up to 191 trees, including 185 protected oak trees.</p>	Significant	<p><b>MM 3.3-6a</b> Prior to the issuance of grading permits, the project applicant shall submit a Final Forest Management Plan for review and approval by the County that minimizes the removal of coast live oak (<i>Quercus agrifolia</i>) trees in accordance with the recommendations in the Forest Management Plan that was prepared for the proposed project by Forest City Consulting in July 2005. The Final Forest Management Plan shall be prepared by a County-approved arborist or forester, and shall include an oak tree restoration (mitigation and monitoring) plan that identifies the final number and acreage of protected oak trees to be removed during construction, and the replacement of these oak trees as a means of promoting long-term tree replacement in compliance with Section 21.64.260 of the Monterey County Zoning Ordinance and the Oak Woodlands Conservation Act/PRC Section 21083.4.</p> <p>The Final Forest Management Plan shall include specific recommendations on the following topics, as necessary. Tree replacement within the project site shall occur as appropriate in open space areas, and may be included in appropriate landscaping areas, and shall not exceed more than 1 tree per 10 foot by 10 foot block of available space. If a specific area does not allow for replanting of trees, then the project applicant shall have a qualified forester identify an alternate location for replanting on the project site. All trees shall be replaced with coast live oak trees obtained from on-site sources or shall be grown or obtained from local (“local” to be defined by Final Forest Management Plan) native seed stock in sizes not greater than five gallons, with one gallon or smaller being preferred to increase chances of successful adaptation to the project site conditions (except for individuals planted to provide viewshed mitigation as addressed in Mitigation Measure 3.1-1). Replacement trees shall be monitored and maintained for a minimum of seven years after planting. The oak tree restoration plan shall be subject to review and approval by the County. The restoration shall be implemented with the following success criteria: 100% survival of the number identified in the approved Final Forest Management Plan, so overplanting could be conducted to allow that to occur in a shorter time frame. Monitoring by an arborist shall take place to measure survival rates for three years past the period</p>	Less than Significant

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
		<p>where the oak trees will be irrigated. Irrigation should cease after four years, or a different period as recommended by the project arborist. If after this monitoring period, 100% survival is not achieved, replacement plantings will be required until a 100% survival rate is achieved for three consecutive years without irrigation.</p> <p><b>MM 3.3-6b</b> The project applicant shall implement the following tree protection best management practices during construction activities within the project site and include these measures on construction contracts for the proposed project, subject to review and approval by the County of Monterey Resource Management Agency-Planning:</p> <ul style="list-style-type: none"> <li>▪ Prior to issuance of any permits, the Resource Management Agency – Planning shall review the project plans for impacts to protected oak trees that were not anticipated as part of the analysis included in this environmental impact report. The review of these plans shall focus on adjusting the plans to minimize tree removal and to minimize impacts to trees proposed for retention.</li> <li>▪ A temporary physical barrier (temporary fencing) shall be used to protect the forested area outside of the development area. All areas protected by the tree protection fence shall be considered off-limits during all stages of construction and shall not be used to park cars, store materials, pile debris, or place equipment.</li> <li>▪ Specific trees to be retained located within the development area shall be surrounded by a fence at the outermost edge of the dripline, or at the limit of improvements where development is approved within the dripline.</li> <li>▪ A qualified arborist or forester shall inspect the placement of the temporary protection fencing to ensure maximum protection of the retained trees before any heavy equipment is moved onto the site or any construction activities begin.</li> <li>▪ Any construction activities or trenching within the areas protected by the tree protection fencing shall be done either by hand using hand equipment or under the on-site supervision of a qualified arborist or forester. In such cases, roots over one inch in diameter shall not be cut or severed unless approved by the on-site forester or arborist, including their determination that it would not harm the long-term viability of the tree.</li> <li>▪ When possible, utilities shall be placed in the same trench to minimize rootzone</li> </ul>	

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
		<p>disturbance. Not more than one trench is permitted within the dripline of any tree unless approved by the on-site forester or arborist, including their determination that it would not harm the long-term viability of the tree.</p> <ul style="list-style-type: none"> <li>▪ Roots encountered during trenching, grading, and excavation that are not to be retained will be cleanly cut to promote re-growth and to prevent increased damage from breaking the root closer to the tree than is necessary.</li> <li>▪ When pruning trees for construction, branches subject to breakage shall be pruned when such pruning will not cause significant damage to the health and vitality of the tree. All recommended pruning shall be supervised by a certified arborist or registered forester and occur prior to commencement of grading.</li> <li>▪ All construction contracts for the proposed project shall include a provision for requiring that all contractors and subcontractors performing work on the proposed project be given a copy of the approved Final Forest Management Plan and conditions of approval, and that they agree to implement the provisions of the Plan.</li> </ul> <p><b>MM 3.3-6c</b> To comply with the Oak Woodlands Conservation Act and PRC Section 21083.4, the tree replacement mitigation described above shall apply to 50 percent of the proposed impact to oak woodlands. For the remaining requirement to mitigate the impact, the project applicant shall either dedicate a conservation easement over a suitable oak woodland area on site or contribute funds to a local fund, or to the Oak Woodlands Conservation Fund if no local fund is established, as established under subdivision (a) of Section 1363 of the Fish and Wildlife Code. The primary purpose of such funds is to purchase oak woodlands conservation easements, as specified under paragraph (1) of subdivision (d) of Section 1363 and the guidelines and criteria of the Wildlife Conservation Board for the California Oak Woodlands Conservation Program. If contributions are made to a local fund, that fund must have the same purposes as the state program. This measure shall mitigate the remaining 50 percent of oak woodland impacts, equivalent to approximately half the acreage of oak woodland removal. Dedication of an on-site conservation easement, in lieu of paying a fee, would require that the easement area contain at least as many trees and an equal or greater area as that impacted by the tree removal.</p>	
<b>Section 3.4 Climate Change</b>			

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
<p><b>Impact 3.4-1:</b> The proposed project emissions would not exceed net zero. This is considered as no impact as the project is proposed.</p>	<p>Potentially Significant</p>	<p><b>Applicant Proposed Mitigation Measures</b></p> <p><b>MM 3.4-1a</b> The applicant shall implement the following applicant-proposed mitigation measures:</p> <ul style="list-style-type: none"> <li>▪ Utilize energy star appliances (Title 24 plug-in appliances) in 77 timeshare units;</li> <li>▪ Use solar photovoltaic system to generate 20 percent of on-site energy needs;</li> <li>▪ Use light-emitting diode (LED) lighting will be used outdoors (Note: assume 20 percent LED use);</li> <li>▪ Employ Neighborhood Electric Vehicle (NEV) network on-site;</li> <li>▪ Provide employee shuttle;</li> <li>▪ Use reclaimed water for 100 percent of outdoor uses;</li> <li>▪ Install low-flow indoor water fixtures in all buildings;</li> <li>▪ Use electric landscaping equipment;</li> <li>▪ Install water efficient landscapes; and</li> <li>▪ Implement on-site recycling program and divert 50 percent (assumed) wastes from landfill disposal.</li> </ul> <p><b>MM 3.4-1b</b> To achieve a total of 2,239.63 MT of CO<sub>2</sub>e of additional GHG emissions reductions needed to reduce project emissions to net zero, the applicant shall secure additional emissions reductions through off-site GHG reduction programs and/or through purchase of carbon off-sets. Options for off-site emissions reductions programs could include but are not limited to the following:</p> <ul style="list-style-type: none"> <li>▪ Paying for energy-efficiency upgrades of existing homes and business;</li> <li>▪ Installing off-site renewable energy;</li> </ul>	<p>No Impact with Applicant-Proposed Mitigation</p>

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
		<ul style="list-style-type: none"> <li>▪ Paying for off-site water efficiency; and</li> <li>▪ Paying for off-site waste reduction.</li> </ul> <p>Off-site mitigation must be maintained in perpetuity to match the length of project operations to provide ongoing annual emission reductions.</p> <p>The applicant may purchase offsets from a validated source to offset annual GHG emissions. Validated sources are carbon-offset sources that follow approved protocols and use third-party verification such as those of the Climate Action Registry or Climate Action Reserve. The applicant shall present proof of offsite mitigation and/or validated carbon offset purchase that offset project GHG emissions to net zero to Monterey County for review and approval prior to issuance of a grading permit for each project phase.</p>	
<b>Section 3.5: Cultural Resources</b>			
<p><b>Impact 3.5-1:</b> Nine Victorian-era cottages present in 2003 were determined to be historic resources. Demolition of these structures without a permit in 2003 was a significant impact</p>	<p>Significant and Unavoidable</p>	<p><b>MM 3.5-1a</b> Project applicant (“Applicant”) shall hire a qualified historical consultant (“Consultant”) prior to filing the Final Map’s first phase. The Consultant shall define a consistent design and cohesive themes (Native American, Spanish, Mexican, and American) for the site.</p> <p>Before lodge unit building permits are issued, the Consultant shall identify and create a digital catalog of historic archives and photographs focusing on Paraiso Springs’ historic character and setting during the late nineteenth century when the hotel/resort was first commissioned. The catalog is intended to consist of a consolidated list of the archives and photographs found, a brief description of the archive or photograph, and the location of the resource. Potential available resource repositories include, but are not limited to, those located in the California State Library, California State Archives, Monterey County Free Libraries, Bancroft Library, National Archives, Monterey Public Library (i.e., the “California Room”), Oakland Museum, National Steinbeck Center, Pat Hathaway Collection, California Historical Society and all other similar organizations deemed appropriate by the Consultant, as agreed to by the RMA-Director of Planning. All previous reports submitted with the project application on the property’s history will also be</p>	<p>Significant and Unavoidable</p>

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
		<p>included. This catalog shall be compiled in a final format as a digital catalog of the archives and include information as to where to find resources that provide pertinent information on the four periods of significance and shall be available for printing by others. The digital catalog shall be included at all locations the digital presentation, described below, resides, including on the Paraiso Resort website, the Monterey County Historical Society website and offered (in a digital format) to the Soledad Mission and to regional visitor centers that provide information in Monterey County.</p> <p>A digital interpretive display that would serve to educate people about the history of the site including all four periods of significance shall be developed and implemented. This display shall use a combination of historical photos, graphics, timelines and narratives to help the public understand the significance of the site with particular emphasis on the Victorian Resort period.</p> <p>Prior to preparation of the on-site interpretive display, Applicant and Consultant shall present, for review, a list of the available materials and the Consultant's proposed suggestions, layout and scope of the digitally created history to the HRRB and the Monterey County Historical Society in an effort to quantify and finalize the digital presentation scope. This submittal for review by the HRRB and historical society shall occur prior to issuance of construction permits for visitor serving units. Such review by the HRRB, and approval by the RMA-Director of Planning, shall be completed prior to issuance of occupancy permits for visitor serving units. If there are any disagreements as to the final scope of the historical digital representation of Paraiso Springs to be created, or the HRRB is unable to complete its review, the RMA-Director of Planning will have final decision-making authority.</p> <p>The final historical digital presentation, detailing Paraiso Springs' history, shall be placed in the lobby or in a setting at the resort visible to the majority of guests as approved by the RMA-Director of Planning. The presentation shall also be on the facility's website, linked to the Monterey County Historical Society website at their discretion, and offered (in a digital format or through a website link) to the Soledad Mission and to regional visitor centers and museums that provide information in Monterey County, such as the museum in</p>	

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
		<p>Soledad and the Monterey County Agricultural and Rural Life Museum in San Lorenzo Park.</p> <p>The digital presentation shall be on a dedicated monitor and approved by the County prior to the Phase 1 lodge units' final inspection and shall be installed and operational prior to opening the facility to customers. The presentation shall be played on a constant loop, show the history of Paraiso, and posted on the resort website.</p> <p><b>MM 3.5-1b:</b> 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 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.</p> <p><b>MM3.5-1c</b> Prior to occupancy of first phase buildings, the applicant shall prepare a printable digital historic interpretive brochure, which may consist of the interpretive exhibit described in MM 3.5-1a or a summary of that exhibit. The printable document shall describe the historic periods (including the Native American, Spanish Mission, Mexican influences, and Victorian-era spa resort), features, locations, and former names of Paraiso Springs.</p> <p><b>MM3.5-1d</b> The project applicant shall provide a second digital display in a prominent public location, such as the hamlet, as recommended by the HRRB, with final approval by the RMA-Director of Planning. The display shall be constructed concurrent with the phase within which it will be located. The digital display shall include a shelter or be in a location that is determined sufficiently weather resistant by the HRRB, with final approval by the</p>	

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
		<p>RMA-Director of Planning.</p> <p>If such a weather resistant design cannot be demonstrated, the following shall occur:</p> <ol style="list-style-type: none"> <li>1. The applicant shall hire a qualified exhibit planning firm to design and prepare an interpretive exhibit that would maintain a consistent design and cohesive themes (Native American, Spanish, Mexican, and American).</li> <li>2. The interpretive exhibit shall consist of a minimum of six panels, which design shall be reviewed by the Monterey County Historic Resources Review Board with final approval by the RMA-Director of Planning. The interpretive exhibit shall be placed in an appropriate prominent location on site that is open to the public. The exhibit shall maintain a consistent design and cohesive themes and document the historic periods (including Native American, Spanish, Mexican and American periods) at Paraiso Hot Springs.</li> <li>3. Construction of the interpretive exhibit, if deemed necessary by the RMA-Director of Planning, shall be completed at the Applicant's expense, prior to occupancy of any phase of the project site within which the exhibit is located. Outdoor signs shall be in full color and fabricated with material suitable for a 10-20-year life span.</li> </ol>	
<p><b>Impact 3.5-2:</b> The proposed project has the potential to disturb, destroy, or adversely affect the integrity of recorded sites CA-MNT-302 and CA-MNT-303, both of which are significant archaeological resources.</p>	<p>Potentially Significant</p>	<p><b>MM 3.5-2a</b> To ensure that no inadvertent damage occurs to CA-MNT-302 and CA-MNT-303 during development of the proposed project, prior to any earthmoving or construction activities in the area of these sites where resources from these locations may be disturbed, if determined necessary by the RMA-Director of Planning in consultation with the project archaeologist, the two sites shall be subjected to an extended Phase I (subsurface) survey to determine whether subsurface cultural materials are present. The RMA-Director of Planning shall be provided a confidential plan showing the location of grading, infrastructure, and structural improvements in relation to the archaeological sites. If the RMA-Director of Planning determines that a Phase I survey is necessary, the dimensions of the resource shall be determined, and the areas identified as containing cultural resources shall be evaluated for historic significance. Whether a Phase I survey is required or not, the area shall be placed within an open space easement. The resources shall be either excavated and removed or left untouched and buried, as recommended by the project archaeologist, in consultation with a tribal representative, and as determined by the RMA-Director of Planning. Exclusionary fencing shall be placed around these easement areas prior to the</p>	<p>Less than Significant</p>

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
		<p>beginning of the project construction so that the potential for accidental impacts will be minimized. The location of the fencing shall be shown on the improvement plans but shall not be identified as to the type of resources protected.</p> <p>A report with the findings of any extended Phase I subsurface survey shall be submitted to, and reviewed and approved by, the Director of RMA-Planning prior to issuance of a grading permit or other ground disturbing activities. If the subsurface survey reveals that implementation of the project or project features would adversely affect one or both of the resources, the project design shall be modified to avoid the resources and the resources shall be protected in place. All design changes are subject to approval by the Director of RMA-Planning.</p> <p><b>MM 3.5-2b</b> After completion of the Phase I subsurface survey and report in compliance with MM 3.5-2a above, or prior to issuance of construction permits if no Phase I survey is deemed necessary, and to ensure that no inadvertent damage occurs to CA-MNT-302 and CA-MNT-303 or other yet undiscovered cultural resources, the project developer shall contract with a qualified archaeologist, acceptable to the Monterey County Director of RMA-Planning, to prepare a mitigation monitoring plan consistent with the provisions of this mitigation measure and with the professional ethics of the archaeology profession. The plan shall be approved by the Director of RMA-Planning prior to issuance of a grading permit or other ground disturbing activities.</p> <p>The project developer shall also contract with a tribal monitor to observe ground disturbing activities at an hourly rate and scope deemed acceptable by the Director of RMA-Planning.</p> <p>The qualified archeologist shall implement the monitoring plan during grading and/or construction-related activities within the following four areas: the Prehistoric Sensitivity Area, the Mission Vineyard Sensitivity Area, the Victorian Historic Complex Sensitivity Area, and the Historic Dump Area.</p> <p>The archaeological monitoring plan shall include the following provisions:</p> <ul style="list-style-type: none"> <li>▪ The timing and frequency of this monitoring shall be at the discretion of the qualified</li> </ul>	

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
		<p>archaeologist with the intent that they be present during ground disturbing activities that could affect known or undiscovered resources. Monitoring in any area may be discontinued by the project archaeologist when it becomes evident that no additional monitoring is necessary.</p> <ul style="list-style-type: none"> <li>▪ Monitoring by a tribal monitor shall be included for ground disturbing activities (i.e., infrastructure trenching, grading, foundation excavation) at an hourly rate and scope deemed acceptable by the Director of RMA-Planning and may be discontinued by the tribal monitor when it becomes evident that no additional monitoring is necessary.</li> <li>▪ Any artifacts or other cultural materials noted by the monitor will be collected and stored for subsequent analysis or provided to the tribe for appropriate relocation pursuant to an agreement between the property owner and the tribe. It may be necessary to temporarily halt earth moving activities while such materials are collected.</li> <li>▪ If a significant cultural feature or deposit is discovered, earth moving activities may be halted for the purpose of identifying the deposit. If deemed necessary, the feature or deposit shall be sampled or salvaged according to a mitigation and data recovery plan developed with the concurrence of RMA-Planning. A mitigation and data recovery plan shall be developed as part of this archaeological monitoring plan.</li> <li>▪ Any collected materials will be subjected to appropriate analyses, and either be relocated pursuant to an agreement with the OCEN tribe or be curated on the property or in the public domain at an appropriate archaeological curation facility.</li> <li>▪ The Director of RMA-Planning shall resolve any disagreements between the project archaeologist and the tribal monitor.</li> <li>• At the end of the project a final report shall be produced documenting and synthesizing all data collected. This report will include recording and analysis of materials recovered, conclusions and interpretations, identification of the curation facility where the materials are stored, and additional recommendations as necessary.</li> </ul> <p>The archaeological monitor shall submit a weekly report of the monitoring activities to the Director of RMA-Planning.</p> <p>The archaeological monitor shall have the authority to stop all work if potentially</p>	

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
		<p>significant cultural features or materials are uncovered. The RMA-Director of Planning shall be notified immediately of any discovery. There shall be no further excavation or disturbance of the project site or any nearby area reasonably suspected to overlie adjacent resources until the find can be evaluated by a qualified archaeologist and, if determined significant or unique (as defined in CEQA section 21083.2), until appropriate mitigation measures are formulated, with the approval of the lead agency, and implemented. If the archaeological site is determined to contain nonunique archaeological resources, the resource shall be documented, as appropriate and as approved by the RMA-Director of Planning in consultation with the monitoring archaeologist.</p> <p>If any discovered archaeological site is determined unique, project construction shall be modified in at least one of the following manners as determined through consultation with the applicant, archaeologist, tribal monitor, and RMA-Director of Planning, as approved by the RMA-Director of Planning:</p> <ol style="list-style-type: none"> <li>1. Move the construction to avoid the site.</li> <li>2. Deed the archaeological site into a permanent conservation easement.</li> <li>3. Cap or cover the archaeological site with a layer of soil before building on the site.</li> <li>4. Plan for open space components of the project to incorporate and protect the archaeological site.</li> </ol> <p>If a unique archaeological site is discovered, the implementation of the above measures may mean the elimination of some of the approved uses or structures. If the use or structure can be accommodated within the project footprint in a different location, the RMA-Director of Planning will determine whether the proposed relocation is in substantial conformance with the approved project and issue any applicable permits. If the relocation/redesign is determined to not be in substantial conformance with the project approvals, the construction activity and use shall be eliminated in that area, or an amendment to the project permits shall be obtained through a public process.</p> <p><b>MM 3.5-2c</b> The following language shall be included within any plans for grading and building permits that involve ground disturbance, contracts with construction firms, permits</p>	

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
		<p>or authorizations pertaining to the project site:</p> <p>“If, at any time, potentially significant cultural features or materials are discovered, work shall be halted within 50 meters until the find can be evaluated by the project archaeologist and tribal monitor and, if determined significant by the RMA-Director of Planning, until appropriate mitigation measures are formulated, with the approval of the RMA-Director of Planning, and implemented.”</p>	

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
<p><b>Impact 3.5-3:</b> The planned road improvements along Paraiso Springs Road would disturb, destroy, or adversely affect the integrity of a significant archaeological resource.</p>	<p>Potentially Significant</p>	<p><b>MM 3.5-3a</b> To ensure that no damage occurs to the identified cultural resource during planned road improvement activity along Paraiso Springs Road, the project applicant shall do the following:</p> <ul style="list-style-type: none"> <li>a. Contract with a qualified archaeologist to determine if the resource is unique, identify the exact dimensions of the site and formally record the resource;</li> <li>b. The project developer shall also contract with a tribal monitor to observe ground disturbing activities at an hourly rate and scope deemed acceptable by the Director of RMA-Planning;</li> <li>c. Place exclusionary fencing around the limits of the resource as identified by the archaeologist prior to earthmoving activities so that the potential for accidental impacts is eliminated; and</li> <li>d. The applicant shall provide evidence that the site has been recorded with the Northwest Information Center of the California Historical Resources Information System, if it meets the criteria for recording, prior to approval of the final improvement plans for the off-site road improvements to Paraiso Springs Road, subject to review and approval by the County RMA Planning Department.</li> </ul> <p><b>MM 3.5-3b</b> To ensure that no inadvertent damage occurs to the identified cultural resource or to other yet undiscovered cultural resources associated with off-site road improvements, the project developer shall contract with a qualified archeologist, acceptable to the Monterey County RMA Director of Planning, to prepare a mitigation monitoring plan consistent with the provisions of this mitigation measure. The plan shall be approved by the RMA Director of Planning prior to issuance of a grading permit.</p> <p>The qualified archeologist shall implement the monitoring plan during grading and/or construction-related activities within the road improvement area. The archaeological monitoring plan shall include the following provisions:</p> <ul style="list-style-type: none"> <li>a. The timing and frequency of this monitoring shall be at the discretion of the qualified archaeologist and identified in the plan. Monitoring in any area may be discontinued by the project archaeologist when it becomes evident that no additional monitoring is necessary.</li> <li>b. Monitoring by a tribal monitor shall be included for ground disturbing activities (i.e.,</li> </ul>	<p>Less than Significant</p>

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
		<p>infrastructure trenching, grading, foundation excavation) at an hourly rate and scope deemed acceptable by the Director of RMA-Planning and may be discontinued by the tribal monitor when it becomes evident that no additional monitoring is necessary.</p> <ul style="list-style-type: none"> <li>c. Any artifacts or other cultural materials noted by the monitor will be collected and stored for subsequent analysis or provided to the tribe for appropriate relocation pursuant to an agreement between the county or other property owner and the tribe. It may be necessary to temporarily halt earth moving activities while such materials are collected.</li> <li>d. If a significant cultural feature or deposit is discovered, earth moving activities may be halted for the purpose of identifying the deposit, at the discretion of the monitor. If deemed necessary, the feature or deposit shall be sampled or salvaged according to a mitigation and data recovery plan developed with the concurrence of the RMA Director of Planning.</li> <li>e. Any collected materials will be subjected to appropriate analyses, and either be relocated pursuant to an agreement with the OCEN tribe or be curated in the public domain at an appropriate archaeological curation facility.</li> <li>f. The Director of RMA-Planning shall resolve any disagreements between the project archaeologist and the tribal monitor.</li> <li>g. At the end of the project a final report shall be produced documenting and synthesizing all data collected. This report will include recording and analysis of materials recovered, conclusions and interpretations, identification of the curation facility where the materials are stored, and additional recommendations as necessary.</li> </ul> <p>The archaeological monitor shall have the authority to stop all work if potentially significant cultural features or materials are uncovered. The RMA-Director of Planning shall be notified immediately of any discovery. There shall be no further excavation or disturbance of the road site or any nearby area reasonably suspected to overlie adjacent resources until the find can be evaluated by a qualified archaeologist and tribal monitor and, if determined significant or unique (as defined in CEQA section 21083.2), until appropriate mitigation measures are formulated, with the approval of the lead agency, and implemented. If the archaeological site is determined to contain nonunique archaeological</p>	

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
		<p>resources, the resource shall be documented, as appropriate and as approved by the RMA-Director of Planning in consultation with the monitoring archaeologist and tribal monitor. If any discovered archaeological site is determined unique, project construction shall be modified in at least one of the following manners as determined through consultation with the applicant, archaeologist, tribal monitor and RMA-Director of Planning, as approved by the RMA-Director of Planning:</p> <ol style="list-style-type: none"> <li>1. Move the construction to avoid the site.</li> <li>2. Cap or cover the archaeological site with a layer of soil before building on the site.</li> </ol> <p>If a unique archaeological site is discovered, the implementation of the above measures may mean the redesign or elimination of some of the planned improvements. If the design can be accommodated within the project footprint in a different location, the RMA-Director of Planning will determine whether the proposed relocation is in substantial conformance with the approved project and issue any applicable permits. If the relocation/redesign is determined to not be in substantial conformance with the project approvals, the construction activity shall be eliminated in that area, or an amendment to the project permits shall be obtained through a public process.</p> <p><b>MM 3.5-3c</b> The following language shall be included within all approved grading or building plans that involve ground disturbance, contracts with construction firms, and permits or authorizations pertaining to the Paraiso Springs Road Improvement area:</p> <p>“If, at any time, potentially significant cultural features or materials are discovered, work shall be halted in the immediate vicinity until the find can be evaluated by the project archaeologist and tribal monitor and, if determined significant, until appropriate mitigation measures are formulated, with the approval of the lead agency, and implemented.”</p>	
<p><b>Impact 3.5-4:</b> While only two known recorded sites are within the project site, the possibility cannot be precluded that as of yet undiscovered archaeological resources or human remains are</p>	Potentially Significant	<p><b>MM 3.5-4a</b> If human remains are discovered during grading or construction, the following steps shall be taken immediately upon discovery:</p> <ol style="list-style-type: none"> <li>a. There shall be no further excavation or disturbance of the project site or any nearby area reasonably suspected to overlie adjacent human remains, initially 50 meters, until the following occurs:</li> </ol>	Less than Significant

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
present and could be damaged during land alteration activities.		<p>b. The Coroner of County of Monterey must be contacted to determine that no investigation of the cause of death is required, and</p> <p>c. If the Coroner determines the remains to be Native American:</p> <ul style="list-style-type: none"> <li>▪ The Coroner shall contact the Native American Heritage Commission and the Monterey County Resource Management Agency – Planning Department within 24 hours.</li> <li>▪ The Native American Heritage Commission shall identify the person or persons from a recognized local tribe of the Esselen, Salinan, Costanoan/Ohlone and Chumash tribal groups, as appropriate, to be the most likely descendent.</li> <li>▪ 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 5097.9 and 5097.993, or where the following conditions occur, the landowner or his authorized representatives 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: <ul style="list-style-type: none"> <li>○ The Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation with 24 hours after being notified by the commission.</li> <li>○ The descendent identified fails to make a recommendation; or</li> <li>○ The landowner or his authorized representative rejects the recommendation of the descendent, and the mediation by the Native American Heritage Commission fails to provide measure acceptable to the landowner.</li> </ul> </li> </ul> <p>If the find is determined to be significant, the project design shall be modified to avoid the resources and the resources shall be protected in place as described in mitigation measure 3.5-4b.</p> <p><b>MM 3.5-4b:</b> The archaeological monitor shall have the authority to stop all work if potentially significant cultural features or materials are uncovered. The RMA- Director of</p>	

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
		<p>Planning shall be notified immediately of any discovery. There shall be no further excavation or disturbance of the project site or any nearby area reasonably suspected to overlie adjacent resources until the find can be evaluated by a qualified archaeologist and, if determined significant or unique (as defined in CEQA section 21083.2), until appropriate mitigation measures are formulated, with the approval of the lead agency, and implemented. If the archaeological site is determined to contain nonunique archaeological resources, the resource shall be documented, as appropriate and as approved by the RMA-Director of Planning in consultation with the monitoring archaeologist and tribal monitor.</p> <p>If any discovered archaeological site is determined unique, project construction shall be modified in at least one of the following manners as determined through consultation with the applicant, archaeologist, tribal monitor and RMA-Director of Planning, as approved by the RMA-Director of Planning:</p> <ol style="list-style-type: none"> <li>1. Move the construction to avoid the site.</li> <li>2. Deed the archaeological site into a permanent conservation easement.</li> <li>3. Cap or cover the archaeological site with a layer of soil before building on the site.</li> <li>4. Plan for open space components of the project to incorporate and protect the archaeological site.</li> </ol> <p>If a unique archaeological site is discovered, the implementation of the above measures may mean the elimination of some of the approved uses or structures. If the use or structure can be accommodated within the project footprint in a different location, the RMA-Director of Planning will determine whether the proposed relocation is in substantial conformance with the approved project and issue any applicable permits. If the relocation/redesign is determined to not be in substantial conformance with the project approvals, the construction activity and use shall be eliminated in that area, or an amendment to the project permits shall be obtained through a public process.</p>	

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
<b>Section 3.6: Geology and Soils</b>			
<p><b>Impact 3.6-1:</b> Seismic ground shaking at the site may occur during the next major earthquake on a regional fault system. Such shaking can cause severe damage to or collapse of buildings or other project facilities and may expose people to injury or death.</p>	Potentially Significant	<p><b>MM 3.6-1a</b> Prior to building permit approval, the project structural engineer shall provide a seismic design report for the project consistent with the most current version of the California Building Code, at a minimum. If other, more conservative design guidelines are determined to be applicable to the project, those design guidelines shall be followed. Recommendations contained within the Geologic and Soil Engineering Feasibility Report, prepared by Landset Engineers (2004), shall also be referenced and incorporated as they provide specific recommendations regarding site preparation and construction of foundations, retaining walls, utilities, sidewalks, roadways, subsurface drainage, and landscaping features based on the lot characteristics and proximity to faults near the project site. The seismic design report shall be submitted for plan check with any improvement plans including earthwork or foundation construction.</p> <p>During the course of construction, the project applicant shall contract with a qualified engineering geologist to be on site during all grading operations to make onsite remediation and recommendations as needed, and perform required tests, observations, and consultation as specified in the seismic design. Prior to final inspection, the project applicant shall provide certification from the project structural engineer that all development has been constructed in accordance with all applicable geologic and geotechnical reports.</p> <p><b>MM 3.6-1b</b> Prior to occupancy of the proposed project, large appliances (i.e. refrigerators, freezers, pianos, wall units, water heaters, etc.), book shelves, storage shelves, and other large free-standing objects incorporated as part of the building design shall be firmly attached to the floor or to structural members of walls.</p>	Less than Significant
<p><b>Impact 3.6-2:</b> Implementation of the proposed project may result in potential permanent structural damage and associated human safety hazards resulting from dynamic compaction.</p>	Potentially Significant	Implementation of MM 3.6-1a above.	Less than Significant

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
<p><b>Impact 3.6-3:</b> Implementation of the proposed project may result in potential permanent structural damage and associated human safety hazards resulting from direct and indirect slope-failure related to hazards such as liquefaction and/or lateral spreading.</p>	Potentially Significant	<p><b>MM3.6-3a</b> Prior to issuance of a grading permit, the project applicant shall contract with a certified engineer to prepare a site-specific Supplemental Liquefaction Investigation prepared in accordance with the California Department of Mines &amp; Geology Special Publication 117. The Supplemental Liquefaction Investigation shall include in its analysis the approved drainage plan. Engineering measures to protect development in this area could include structural strengthening of buildings to resist predicted ground settlement, utilization of post tension or mat slab foundations or a combination of such measures as recommended in the Geologic and Soil Engineering Feasibility Report prepared by Landset Engineering (2004). These improvements shall be included in the final improvement plans for the proposed project and installed concurrent with site preparation and grading activities associated with future development.</p> <p><b>MM 3.6-3b</b> Prior to issuance of a grading permit, the project applicant shall contract with a certified engineer to ensure that final grading plans include a slope stability analysis, particularly for the parking area near the hamlet and the adjacent roadway, to verify that the proposed cut and fill slopes are considered stable under both static and pseudo-static conditions.</p> <p><b>MM 3.6-3c</b> The Final Geologic and Soil Engineering Feasibility Report shall use the most-recent Building Code, which addresses new seismic design requirements for structures and the site soil profile as SE should be reviewed again to confirm this designation is still appropriate for the project site.</p>	Less than Significant
<p><b>Impact 3.6-4:</b> Implementation of the proposed project may result in potential permanent structural damage and associated human safety hazards resulting from slope-failure hazards such as landslides.</p>	Potentially Significant	<p><b>MM 3.6.4a</b> Prior to issuance of a grading permit, the Project Geologist of Record (PGOR) shall work with the Geotechnical Engineer of Record and the Civil Engineer of Record to prepare a Final Geologic and Soil Engineering Feasibility Report. As part of this report, the PGOR shall:</p> <ol style="list-style-type: none"> <li>1. Further characterize the debris flow and debris torrent hazards and attendant risks to the proposed developments. The PGOR shall perform a detailed mapping and subsurface program that will characterize the mode of past transport for angular boulders and cobbles of schist bedrock within the sandy alluvial matrix on the valley floors. Further geological mapping shall include detailed mapping of individual debris flow scars, as well as run-out areas for the debris flow deposits. Subsurface work shall</li> </ol>	Less than Significant

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
		<p>adequately characterize the depth and extent of individual debris flow/torrent events. Mode of transport characterization shall include volumes and velocities per debris flow/torrent event, substantiated by a detailed geological recordation of past events in and adjacent to the proposed development areas;</p> <ol style="list-style-type: none"> <li>2. Prepare debris flow/torrent design volumes, velocities and runup heights where warranted, based upon the above-listed field work and analysis;</li> <li>3. Plot their geological information upon the most current sub-division and grading maps and analyze the potential impacts to the proposed developments; and</li> <li>4. Work with PGOR and Civil Engineer Of Record to jointly assess the impact that debris flows and debris torrents may have upon the performance of the proposed drainage improvements. The proposed drainage improvements should be protected from design debris flow and torrent events dictated by the PGOR, or the drainage improvements shall be designed to handle said debris flow or debris torrent events without triggering flooding of the proposed developments.</li> </ol> <p>The Final Geologic and Soil Engineering Feasibility Report shall fully characterize the new design debris flow events to include site design-specific recommendations to ensure that the structures at risk would not collapse if said design debris flow occurs.</p> <p><b>MM 3.6.4b</b> At the time of construction of the project, all excavations shall be observed by the PGOR prior to backfilling of the excavation. A post-construction geologic map portraying the distribution of rock and soil should be constructed by the PGOR and submitted to the County of Monterey with a Final Geological Report. If previously unidentified debris flow deposits are mapped in the excavations during construction, additional mitigation measures shall be recommended at the time of construction by the PGOR.</p>	
<p><b>Impact 3.6-5:</b> Implementation of the proposed project would result in temporary and long-term disturbance of soils with high erosion potential, which could increase the risk of accelerated erosion and adversely affect water</p>	<p>Significant</p>	<p><b>MM 3.6-5</b> Prior to grading permit issuance, the project applicant shall contract with a qualified consultant to prepare an erosion control plan and a Storm Water Pollution Prevention Plan (SWPPP) that documents best management practices (filters, traps, bio-filtration swales, etc.) to ensure that urban runoff contaminants and sediment are minimized during site preparation, construction, and post-construction periods. The erosion control plan and SWPPP shall incorporate best management practices consistent with the requirements of the National Pollutant Discharge Elimination System and Monterey</p>	<p>Less than Significant</p>

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
quality.		County Ordinance 16.12.80, Land Clearing. The erosion and sediment control plan and the SWPPP shall be consistent with the standards set forth in the Construction General Permit.	
<b>Impact 3.6-6:</b> The project site has a low shrink swell/ expansion potential.	Potentially Significant	Implementation of MM <del>3.5-1a</del> <u>3.6-1a</u> above.	Less than Significant
<b>Section 3.7: Hazards and Hazardous Materials</b>			
<b>Impact 3.7-3:</b> The proposed project would result in the demolition and removal of all structures within the project site, which may contain asbestos, lead, and/or PCBs from the fluorescent lighting ballasts within the existing structures	Potentially Significant	<p><b>MM 3.7-3a</b> Pursuant to Cal OSHA regulations, the project applicant shall have each structure proposed for demolition within the project site inspected by a qualified environmental specialist for the presence of asbestos containing material and lead based paints prior to obtaining a demolition permit from the County. If asbestos containing material and/or lead based paints are found during the investigations, the project applicant shall develop a remediation program to ensure that these materials are removed and disposed of by a licensed contractor in accordance with all federal, state and local laws and regulations, subject to approval by the Monterey Bay Unified Air Pollution Control District and the County of Monterey Environmental Health Bureau, as applicable. Any hazardous materials that are removed from the structures shall be disposed of at an approved landfill facility in accordance with federal, state and local laws and regulations.</p> <p><b>MM 3.7-3b</b> The project applicant shall ensure that the removal of all fluorescent lighting ballasts within each structure are removed under the purview of the Monterey County Environmental Health Bureau in order to identify proper handling procedures prior to demolition of the structures within the project site. All removed fluorescent lighting ballasts shall be removed prior to demolition and disposed of at an approved landfill facility in accordance with federal, state and local laws and regulations.</p>	Less than Significant
<b>Impact 3.7-4:</b> Implementation of the proposed project may expose people or the property to hazardous materials associated with the abandonment of septic systems at the project site.	Potentially Significant	<b>MM 3.7-4</b> Subject to review by the County of Monterey Environmental Health Department, the project applicant shall map the specific location of all septic tanks located within the project site. Once located, the septic tanks shall be removed and properly disposed of at an approved landfill facility or properly abandoned onsite under permit with Monterey County Environmental Health. The applicant shall provide to Monterey County Environmental Health a schedule of all septic tanks on the property and identify those tanks to be physically removed from the property and those tanks to be abandoned onsite under permit with Monterey County Environmental Health.	Less than Significant

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
<p><b>Impact 3.7-5:</b> The project site contains an existing propane tank, above ground fuel storage tank, boiler, and evidence of a debris pile at the project site.</p>	Potentially Significant	<p><b>MM 3.7-5</b> Once the above ground fuel storage tank(s) are removed, a visual inspection of the areas beneath and around the removed tanks shall be performed. Any stained soils observed underneath the storage tanks shall be sampled. Results of the sampling (if necessary) shall indicate the level or remediation efforts that may be required. In the event that subsequent testing indicates the presence of any hazardous materials beyond acceptable thresholds, a work plan shall be prepared subject to review and approval by the County of Monterey Environmental Health Bureau in order to remediate the soil in accordance with all applicable federal, state, and local regulations prior to issuance of a grading permit.</p>	Less than Significant
<p><b>Impact 3.7-6:</b> Implementation of the proposed project will not affect an emergency response plan or emergency evacuation plan. However, project implementation may impact emergency response and evacuation efforts.</p>	Potentially Significant	<p><b>MM 3.7-6a</b> The <u>2019 Fire Protection Plan shall be subject to review has been reviewed and approved by the Mission-Soledad Rural Fire Protection District, and approval shall be approved by the RMA Director prior to clearance of any vegetation or issuance of permits for construction, whichever occurs first. The applicant shall implement the fire protection and safety measures recommended in the approved Fire Protection Plan. The Fire Protection Plan shall include the following or equivalent measures, as determined through the approval process along with additional measures listed below, including the following:</u></p> <ul style="list-style-type: none"> <li>• Provide a facility Fire Safety Coordinator(s) to oversee implementation of fire protection and safety and overall fire coordination with MSRFPD/CAL FIRE.</li> <li>• Coordinate an annual fire evacuation drill/fire exercise to ensure proper safety measures have been implemented, facility awareness and preparation of facility-wide “Ready, Set, Go!” plan, consistent with the Monterey County Community Wildfire Protection Plan.</li> <li>• Provide trained security staff <u>24/ hours per day and 7 days per week, 365 days per year</u> at the guard gate <del>who are trained</del> to manage an evacuation of the facility by opening the gates and directing traffic out of the area.</li> <li>• Provide a first-responder (EMT) level staff person and equipment to be on-site at all times.</li> </ul>	Less than Significant

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
		<ul style="list-style-type: none"> <li>• Provide a customized one-ton, 4x4 pickup with a skid mounted pump and up to 150 gallon water tank. <del>Multiple</del> <u>and train multiple</u> staff members and site security staff <del>should be trained</del> to utilize this apparatus for the purposes of providing initial suppression for any vegetation ignitions, and initial response to other fires.</li> <li>• <u>Prior to project operation, d-Designate one or more structures as temporary refuge areas (TRAs)-to house the projected population on the project site in the event of a fire emergency-and to include additional hardening to be designated a temporary refuge area.</u> TRA structures shall include specifications listed in the 2019 Fire Protection Plan. <ul style="list-style-type: none"> <li>○ <u>The capacity for TRA structures shall be equivalent to shelter the total maximum site population within protected buildings based on 15 square feet per person of habitable space.</u></li> <li>○ <u>The Fire Safety Coordinator (aka Site Safety Officer), management staff, and security personnel will quarterly participate in a meeting to review and discuss the evacuation protocols and contingency option for temporarily refuting on site.</u></li> </ul> </li> <li>• Provide ember-resistant vents <u>and screening</u> for all ventilation for project structures, <u>as specified in the 2019 Fire Protection Plan.</u></li> <li>• Provide a site-wide Public Address (PA)/Intercom system for emergency notifications.</li> <li>• Prepare and practice site-wide evacuations following the “Ready, Set, Go!” program guidelines. <u>A drill will be conducted at least once per year involving staff.</u></li> <li>• Prepare an Emergency Preparation Plan that <del>considers</del> <u>includes specifications listed in the 2019 Fire Protection Plan, such as</u> pre-fire planning, post-fire</li> </ul>	

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
		<p>recovery, reporting, training, prevention, and communications procedures.</p> <ul style="list-style-type: none"> <li>• Enhance traffic flow by not constructing speed bumps/humps and provide an automatic opening device for fire and law enforcement at the entrance gate.</li> <li>• Restrict vegetation around TRA buildings structures to highly ignition-resistant vegetation planted at low densities and maintained free of all accumulated debris/litter.</li> <li>• Design and implement a landscaping plan consistent with accepted wildland urban interface fire safe/fire adapted practices. <ul style="list-style-type: none"> <li>○ <u>The landscaping plan shall be reviewed and approved by the County, MSRFPD, and/or an experienced fire protection planner, as determined by the County, to ensure that proposed plantings and maintenance meet the required fire safety and screening requirements.</u></li> </ul> </li> <li>• If planted, manage the vineyard <u>using a professional vintner</u> in an irrigated, maintained condition to act as a modified fuel buffer, <u>utilizing irrigation and operation measures included in the 2019 Fire Protection Plan.</u></li> <li>• Conduct an annual inspection of the site by MSRFPD or its designee to ensure that project landscaping is maintained in a wildfire-safe condition.</li> <li>• Maintain a 1- to 3-foot landscape-free area adjacent to all building structures' foundations to prevent available fuels for embers at the building base.</li> </ul> <p><b>MM 3.7-6b</b> Implement and maintain fuel treatment areas along project roads. Fuel treatment areas shall measure 20 feet in width (horizontal) as measured from the edge of the paved surface and shall occur on both sides of the road. Maintenance of roadside treatment areas shall be conducted according to the standards outlined in Monterey County Code Chapter 18.09 (Fire Code), Section O109.1.</p>	
<b>Impact 3.7-7:</b> Implementation of	Potentially	<b>MM 3.7-7a</b> Implement all construction-phase fuel modification components from the	Less than

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
the proposed project may exacerbate wildfire risk.	Significant	<p>approved Construction Fire Prevention Plan (see MM 3.7-7b) prior to removal of vegetation or combustible building materials being delivered to the site, as applicable.</p> <p><b>MM 3.7-7b (Replaces 2019 RDEIR Version)</b> The draft 2019 Construction Fire Prevention Plan, included as an appendix to the Final EIR, shall be reviewed by the Mission-Soledad Rural Fire Protection District, and approved by the RMA Director prior to clearance of any vegetation or issuance of permits for construction, whichever occurs first. This plan addresses training of construction personnel and provides details of fire suppression procedures and equipment to be used during construction. Information contained in the plan shall be included as part of project-related environmental awareness training. The applicant shall implement procedures in the Construction Fire Prevention Plan, including the following:</p> <ul style="list-style-type: none"> <li>• Procedures for minimizing potential ignition, including, but not limited to, vegetation clearing, parking requirements/restrictions, idling restrictions, smoking restrictions, proper use of gas-powered equipment, use of spark arrestors, and hot work restrictions;</li> <li>• Work restrictions during Red Flag Warnings and High to Extreme Fire Danger days;</li> <li>• Adequate water supply to service construction activities;</li> <li>• Fire Safety Coordinator (aka Site Safety Officer) role and responsibility;</li> <li>• Worker training for fire prevention, initial attack firefighting, and fire reporting;</li> <li>• Emergency communication, response, and reporting procedures;</li> <li>• Coordination with local fire agencies to facilitate agency access through the project site;</li> <li>• Emergency contact information;</li> </ul>	Significant

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
		<ul style="list-style-type: none"> <li>• Demonstrate compliance with applicable plans and policies established by state and local agencies.</li> <li>• Initial clearance of native vegetation, or clearance of vegetation within 100 feet of native vegetation, shall require that a staffed water vehicle (water truck or Fire Engine) be located within 200 feet of all operating mechanized equipment. This requirement shall also apply to grading activities within 100 feet of native or flammable vegetation;</li> <li>• The County, a third-party fire protection consultant, or MSRFPD shall inspect the project site, prior to any site construction activities, to ensure that all required measures are in place.</li> </ul> <p><b>MM 3.7-7c</b> Maintenance of project buildings, grounds, and infrastructure, including defensible space areas, shall be conducted using firesafe practices to minimize the potential for wildfire ignitions resulting from equipment use. Firesafe practices shall be consistent with California Public Resources Code Sections 4427, 4428, 4431, and 4442. Infrastructure maintenance activities shall be ceased during periods of high fire hazard (e.g., red flag warnings), except where necessary to maintain water supply for fire suppression purposes. This requirement shall be included in the project’s operational manual (MM 3.7-7d).</p> <p><b>MM 3.7-7d (Replaces 2019 RDEIR Version)</b> The 2019 Operations Fire Prevention Plan, included as an appendix to the Final EIR, shall be reviewed by the Mission-Soledad Rural Fire Protection District and approved by the RMA Director prior to issuance of occupancy permits or final inspection, whichever occurs first, for any habitable structures. This plan addresses policies and procedures for minimizing wildfire potential. The applicant shall implement procedures in the Operation Fire Prevention Plan, including the following:</p> <ul style="list-style-type: none"> <li>• Procedures for minimizing potential ignition during maintenance activities;</li> <li>• Work restrictions during Red Flag Warnings and High to Extreme Fire Danger days;</li> </ul>	

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
		<ul style="list-style-type: none"> <li>• Fuel modification zone and landscape area maintenance procedures, including timing of work to reduce the likelihood of ignition and/or fire spread;</li> <li>• Communication and reporting procedures with MSRFPD;</li> <li>• Fire Safety Coordinator (aka Site Safety Officer) role and contact information;</li> <li>• Applicable recommendations included in the project’s Fire Protection Plan (MM 3.7-6a);</li> <li>• The Project Operator shall fund a third-party fuel modification inspector or MSRFPD, as chosen by the Fire District, to conduct an annual inspection prior to June to certify that fuel modification maintenance has occurred.</li> </ul>	
<p><b>Impact 3.7-8:</b> Implementation of the proposed project may exacerbate fire risk associated with installation and maintenance of project-related infrastructure.</p>	Potentially Significant	<p>With implementation of Mitigation Measures 3.7-6b and 3.7-7c, wildfire impacts resulting from installation and maintenance of project-related infrastructure would be less than significant.</p>	Less than Significant
<p><b>Impact 3.7-9:</b> Implementation of the proposed project may increase risk associated with post-fire runoff, slope instability, or drainage changes.</p>	Potentially Significant	<p><b>MM 3.7-9</b> Following any wildfire that burns onto the project site, a post-fire field assessment shall be conducted by an engineering geologist within 60 days of fire personnel allowing access to the site, to identify any areas that may be subject to increased risk of post-fire flooding, landslide or erosion. Any recommendations identified by the geologist to mitigate such risk shall be reviewed and approved by Monterey County RMA and implemented by the project applicant. <u>The engineering geologist shall determine areas that should not be utilized until remediation has been completed. The completion of remediation and ability to reuse these areas shall be determined by the engineering geologist and reported to the County Building Official prior to commencing uses in those areas.</u> This requirement shall be included in the project’s operational manual.</p>	Less than Significant

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
<b>Section 3.8: Hydrology and Water Hydrology</b>			
<b>Impact 3.8-1:</b> During grading and construction activities, erosion of exposed soils may occur and pollutants generated by site development activities may result in water quality impacts if erosion control measures are not implemented	Potentially Significant	<b>MM 3.6-5</b> (see above)	Less than Significant
<b>Impact 3.8-2:</b> Implementation of the proposed project would alter the existing drainage pattern and increase the amount of impervious surfaces on the project site due to construction of the hotel, residences, roadways, driveways, and other amenities	Significant	<b>MM 3.8-2</b> Prior to recording the Final Subdivision Map or approval of any construction permit that would affect drainage, whichever occurs first, the project applicant shall contract with a registered Civil Engineer to prepare a final drainage plan. The drainage control plan shall design storm water detention facilities to limit the 100-year post-development runoff rate to the 10-year pre-development rate in accordance with Section 16.16.040.B.5 of the Monterey County Code and Monterey County Water Resource Agency (MCWRA) standards. This shall be accomplished through the use of low impact development (LID) features and best management practices (BMP). In the event that the detention objectives cannot be accomplished through LID methodologies alone, a detention basin may be used. In addition, the drainage plan shall incorporate relevant storm water recommendations as described in the Geologic and Soil Engineering Feasibility Report (Landset Engineers 2004). The final drainage plan shall be submitted for review and approval to RMA and Monterey County Water Resources Agency prior to recording the Final Subdivision Map or approval of any construction plans that would affect drainage, whichever occurs first.	Less than Significant
<b>Impact 3.8-3:</b> The proposed project would result in an increase in long-term surface runoff that may contain urban contaminants that would have an adverse impact on surface water quality.	Potentially Significant	<b>MM 3.8-3</b> To prevent the potential contamination of downstream waters from urban pollutants, the Resource Management Agency and Water Resources Agency shall require that the storm drainage system design, required under mitigation measure MM 3.8-2, includes, but is not limited to the following components: grease/oil separators; sediment separation; vegetative filtering to open drainage conveyances and detention basins; and on-site percolation of as much run-off as feasible, including diversion of roof gutters to French drains or dispersion trenches, dispersion of road and driveway runoff to vegetative margins,	Less than Significant

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
		or other similar methods. Storm water shall not be collected and conveyed directly to a natural drainage without passing through some type of active or passive treatment. Said provisions shall be incorporated into the storm drain system plans submitted to the County for plan check, within the time frames outlined in mitigation measure MM 3.8-2.	
<b>Impact 3.8-8:</b> The use of certain types of water softening equipment could increase calcium carbonate levels in groundwater to a level that could exceed drinking water standards.	Potentially Significant	<b>MM 3.8-8</b> The property owner and the resort operator shall ensure that any water softening equipment shall consist of a cartridge-type softener or a type that does not increase salt load to the wastewater. Any cartridges shall be hauled to off-site facilities for regeneration.	Less than Significant
<b>Impact 3.8-9:</b> <u>Implementation of the proposed project could lower the water table to a level that could adversely impact wetland or riparian vegetation.</u>	<u>Potentially Significant</u>	<p><b>MM 3.8-9</b> <u>The applicant shall hire a biologist specializing in wetland and riparian habitats prior to filing of the first phase final map. Prior to any land disturbance, the biologist shall work with the project hydrologist to establish pre-project conditions for these habitat areas, including vegetation areal extent and habitat quality, groundwater levels, groundwater quality, and any surface water flow quantity and quality for wetlands and riparian areas that will remain. The biologist shall prepare a monitoring program, subject to approval by the County, that should include shallow piezometers installed at the upgradient edges of the wetlands, or some other mechanism that would monitor water quantity and quality. A “control” set of piezometers (or other approved mechanism) shall also be installed and monitored at the same time to distinguish from effects related to pumping and irrigation return flow. The monitoring program shall be approved prior to issuance of grading permits.</u></p> <p><u>The monitoring program shall describe the methods used to monitor the extent and health of wetland and riparian vegetation, including triggers for applying supplemental water due to loss of areal extent or stress of vegetation from salt loading as detected by measurements of electrical conductivity and visual observation of plant stress. Water quantity (depth to groundwater) and quality monitoring shall occur at least quarterly for the first ten years of resort operation and semiannually thereafter if groundwater conditions are determined to be well defined and stable; vegetation monitoring shall occur by the biologist every two months between April 15 and November 1 of each year (4 visits). Both monitoring activities shall be conducted until five years after buildout, or ten years after</u></p>	<u>Less than Significant</u>

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
		<p><u>commencement of construction, whichever is later, and shall be allowed to be discontinued only if annual reports demonstrate a stable habitat area and quality, compared to the pre-project condition, for at least the final three years of this monitoring program. If the area or quality has been affected by the project, monitoring shall continue past this time period until three successive years of stable habitat area and quality have been demonstrated in the preserved wetland and riparian areas.</u></p> <p><u>The property owner and resort operator shall have electrical conductivity monitored on the same schedule as the water level measurements. Any changes in vegetation stress identified through the monitoring shall be identified as to whether it is caused by water quality effects, groundwater levels, or both.</u></p> <p><u>Annual reports shall be prepared by the biologist, and provided to Monterey County RMA-Planning, that determine the extent and quality of the habitat, water levels, water quality, and expected effect on the protected habitat. If any of those reports demonstrate there is a reduction in the area or biological health of the habitat attributable to the project, the resort operator shall provide supplemental water to the impacted habitat areas or shall obtain necessary permits to provide replacement habitat on site. In such a circumstance, an adaptive management program shall be submitted to Monterey County for review and approval that achieves no net loss of wetland and riparian habitat on the site. If supplemental water is needed for this activity, an additional up to 2.3 acre-feet of water may be required, increasing net water consumption to the aquifer up to 17.8 acre-feet per year.</u></p>	
<b>Section 3.10: Noise</b>			
<p><b>Impact 3.10-3:</b> Operation of the proposed project would result in an increase in noise levels at the project site. However, most of the residences are located greater than 1,500 feet from the closest proposed project facility, with the exception of the nearest residence (adjacent to</p>	Significant	<p><b>MM 3.10-3:</b> During operation of the project, the operator shall adhere to the following requirements for nighttime noise:</p> <ul style="list-style-type: none"> <li>▪ Within the time period of 10:00 p.m. to 7:00 a.m. the following morning, no loud and unreasonable sounds shall be made.</li> <li>▪ Loud and unreasonable sounds are those that exceed 45 dBA Leq (hourly) or a maximum of 65 dBA at or outside the property boundaries of the project site.</li> <li>▪ Construction subsequent to initial resort construction shall also be limited to the requirements found in MM 3.10-4.</li> </ul>	Less than Significant

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
<p>sound level measurement LT-2) located approximately 1,300 feet from the easternmost proposed project facility, identified on the project drawings as the Enhanced On-Site Treatment Center. Adherence to 2014 County noise standards for low density residential and transient lodging uses would ensure that potential increase in noise levels at the project site would be less than significant; however, those standards are not applicable to the project.</p>		<ul style="list-style-type: none"> <li>▪ Resort Staff shall be informed of, and trained in, these limitations and Resort Management shall be responsible to address any noise complaints. Resort Staff shall ensure that all activities and bookings follow the limitations and that those booking at the resort for activities that could create noise are provided information regarding these limitations. Timeshare owners shall be informed of these restrictions prior to purchasing their units as part of the real estate transaction paperwork.</li> </ul>	
<p><b>Impact 3.10-4</b> Construction activities associated with the proposed project will result in elevated ambient noise levels in the vicinity of construction activities. Activities involved in construction will typically generate maximum noise levels ranging from 75 to 90 dB at a distance of 50 feet. Construction activities are expected to occur for more than one building season (typically eight to ten months out of the year and is contingent upon local weather conditions) and will likely occur during normal daytime working hours.</p>	Potentially Significant	<p><b>MM 3.10-4:</b> During the course of construction, the project developer/applicant shall adhere to Monterey County’s requirements for construction activities with respect to hours of operation, muffling of internal combustion engines, and other factors which affect construction noise generation and its effects on noise sensitive land uses. This would include implementing the following measures:</p> <ul style="list-style-type: none"> <li>▪ Limit noise-generating construction operations to between the least noise-sensitive periods of the day (e.g., 7:00 A.M. to 7:00 P.M.) Monday through Saturday; no construction operations on Sundays or holidays;</li> <li>▪ Locate stationary noise generating on-site construction equipment and equipment staging areas at the furthest distance possible from nearby noise-sensitive land uses and in no case closer than 1,400 feet to the eastern property boundary;</li> <li>▪ Ensure that construction equipment is properly maintained and equipped with noise reduction intake and exhaust mufflers and engine shrouds, in accordance with manufacturers’ recommendations. Equipment engine shrouds shall be closed during equipment operation, and</li> <li>▪ When not in use, motorized construction equipment shall not be left idling; and</li> <li>▪ The project developer/applicant shall designate a “disturbance coordinator” to be</li> </ul>	Less than Significant

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
		responsible for responding to any concerns or complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and will require that reasonable measures be implemented to correct the problem.	
<b>Section 3.11: Public Services and Utilities</b>			
<p><b>Impact 3.11-2</b> The proposed project would have sufficient water supplies available to serve the proposed project from existing resources, and new or expanded entitlements are not needed. However, the water supply for the proposed project currently exceeds the public health standard of 2.0 mg/L for fluoride.</p>	Significant	<p><b>MM 3.11-2</b> The project applicant shall contract with a qualified engineer to finalize an activated alumina water treatment plant consistent with recommendations outlined in the AdEdge Technologies Pilot Test Report (2012) identifying water system improvements to meet the standards as found in Chapters 15.04 and 15.08 of the Monterey County Code, and Titles 17 and 22 of the California Code of Regulations. Final water system improvement plans shall identify any necessary rehabilitation of Well No. 1 and Well No. 2 to increase longevity and efficiency, the specific water treatment facilities, and how the water treatment facilities will remove all constituents that exceed California Primary and Secondary maximum contaminant levels (e.g. fluoride, coliform, TDS, iron, etc.) from drinking water.</p> <p>The project applicant shall contract with a qualified engineer to design and install wastewater system improvements and procedures that will adequately treat the neutralized waste from the proposed activated alumina filtration process. Final wastewater improvement plans shall identify the specific wastewater treatment improvements, operating parameters, wastewater volumes, waste constituents of the proposed full-scale system, and how the wastewater treatment process will produce effluent fluoride concentrations that are equal or less than the concentrations in the existing source water.</p> <p>Prior to recording the final map or issuance of any construction permits, the applicant shall submit the final water treatment plant design for review and approval by the Monterey County Health Department, Environmental Health Bureau.</p>	Less than Significant

Project Impacts	Level of Significance Without Mitigation	Mitigation Measure(s)	Resulting Level of Significance
<p><b>Impact 3.11-3:</b> The proposed project would be required to detain the difference between the 100-year post-development runoff rate and the 10-year pre-development runoff rate. This may require the construction of new or expanded storm water detention facilities.</p>	<p>Potentially Significant</p>	<p>Implementation of mitigation measure 3.8-2 (Section 3.8 Hydrology and Water Quality).</p>	<p>Less than Significant</p>

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**SECTION 4.0**  
**CHANGES TO THE RECIRCULATED DRAFT EIR**

## **4.0 Changes to the Recirculated Draft EIR**

4.1 CEQA Requirements

4.2 Changes Made

### **Figures (Changes Made)**

3-11.1 *Regional Fire Protection Facilities*

3-11.2 *Fire District Boundaries*

## CHANGES TO THE RECIRCULATED DRAFT EIR

### 4.1 CEQA REQUIREMENTS

CEQA Guidelines section 15132 requires that a Final EIR contain either the draft EIR or a revision of the Draft EIR. This Final EIR incorporates the 2018 RDEIR, as amended by the 2019 RDEIR (together, the RDEIR), by reference and includes the revisions to the RDEIR, as presented on the following pages. The following changes reflect changes made in responses to public comments on both the 2018 RDEIR and 2019 RDEIR.

### 4.2 CHANGES MADE

This section contains text, tables, and/or graphics from the RDEIR with changes indicated. Additions to the text are shown with underlined text (underline) and deletions are shown with strikethrough text (~~strikethrough~~). Explanatory notes in italic text (*italic*) precede each revision. A revised Figure 3.11-1 replaces the corresponding figure in the 2018 RDEIR. A new Figure 3.11-2 is added showing fire district boundaries in response to a comment. Also refer to Section 3.0, Revised Summary, for a summary of the RDEIR that reflects changes made as a result of the public review process.

*Modify the paragraph in Section 1.5 on 2019 RDEIR page 5 to read as follows:*

This 2019 RDEIR was prepared in consultation with CAL FIRE and Mission-Soledad Rural Fire Protection District: Chief David Fulcher and John Owens, as well as the California Board of Forestry and Fire Protection: Edith Hannigan, Land Use Program Manager, and Matt Dias, Executive Officer.

*The County makes the following changes throughout the document in response to comments by the Monterey Bay Air Resources District:*

Modify all occurrences of the name “Monterey Bay Unified Air Pollution Control District” to the current name of “Monterey Bay Air Resources District.” Modify all occurrences of the acronym “MBUAPCD” to the current acronym of “MBARD.”

#### 4.0 CHANGES TO THE DRAFT EIR

*The County modifies Table 2.4 on page 2-61 of the 2018 RDEIR, in response to comments by the Monterey Bay Air Resources District, to include two additional bullets as follows:*

- Air District Permits may be required for engine generator sets and boilers
- Air District Permits or registration may be required for portable construction equipment

*The County adds the following text on page 3-47 of the 2018 RDEIR, at the end of Impact 3.2.3, in response to comments by John Farrow, LandWatch Monterey County.*

To ensure that wood-burning stoves/fireplaces/barbecues are prohibited, a condition of approval will be required that prohibits wood-burning stoves/fireplaces/barbecues. A condition of approval is being used as the enforcement tool, as long-term stationary and vehicular emissions impacts are less than significant and do not require mitigation. The condition of approval is as follows:

Solid fuel heating appliances (i.e., wood-burning fireplaces; wood stoves; barbecues, etc.) shall be prohibited.

This prohibition shall be included as a condition of approval of the Combined Development Permit and reflected on the Use Permit for creation of 77 timeshare units, the Vesting Tentative Subdivision Map, all Final Maps, and on all building permits.

*Delete the first bullet in the third paragraph of section 3.7.1, Introduction, on 2019 RDEIR page 47 to read as follows, with the remaining bullets retained:*

Previous reports and information used to prepare this section include the following documents:

~~California Board of Forestry and Fire Protection. Personal Communication between Edith Hannigan, Land Use Program Manager and Mike Novo, Monterey County Planning; May 3, 2019.~~

*Modify 2019 RDEIR Figure 3.7-1 to add the following text below the figure:*

Source: <https://osfm.fire.ca.gov/divisions/wildfire-prevention-planning-engineering/wildland-hazards-building-codes/fire-hazard-severity-zones-maps/>; Monterey County RMA 2019, [https://maps.co.monterey.ca.us/Html5Viewer/index.html?viewer=PBI\\_Map\\_Internal.PBI\\_Map\\_Viewer](https://maps.co.monterey.ca.us/Html5Viewer/index.html?viewer=PBI_Map_Internal.PBI_Map_Viewer)

*Replace the fifth sentence of the Dead End Road Length paragraph in Impact 3.7-6 on 2019 RDEIR page 62 to read as follows:*

As identified in Monterey County Code section 18.56.020.B.2.a, Paraiso Springs Road is a county maintained road built in the 19th century and is not subject to PRC 4290 dead end road requirements (Monterey County Ordinance 3600 as amended). If it is determined that the off site road is subject to the dead end road requirements, the applicant would need to apply for an exception pursuant to Monterey County Code section 18.56.050 or state law, as applicable.

*Replace Mitigation Measure 3.7-6a on 2019 RDEIR pages 63 and 64 to read as follows:*

The 2019 Fire Protection Plan has been reviewed and approved by the Mission-Soledad Rural Fire Protection District, and shall be approved by the RMA Director prior to clearance of any vegetation or issuance of permits for construction, whichever occurs first. The applicant shall implement the fire protection and safety measures recommended in the approved Fire Protection Plan along with additional measures listed below, including the following:

- Provide a facility Fire Safety Coordinator(s) to oversee implementation of fire protection and safety and overall fire coordination with MSRFPD/CAL FIRE.
- Coordinate an annual fire evacuation drill/fire exercise to ensure proper safety measures have been implemented, facility awareness and preparation of facility-wide “Ready, Set, Go!” plan, consistent with the Monterey County Community Wildfire Protection Plan.
- Provide trained security staff 24 hours per day and 7 days per week at the guard gate to manage an evacuation of the facility by opening the gates and directing traffic out of the area.
- Provide a first-responder (EMT) level staff person and equipment to be on-site at all times.
- Provide a customized one-ton, 4x4 pickup with a skid mounted pump and up to 150 gallon water tank and train multiple staff members and site security staff to utilize this apparatus for the purposes of providing initial suppression for any vegetation ignitions, and initial response to other fires.
- Prior to project operation, designate one or more structures as temporary refuge areas (TRAs) to house the projected population on the project site in the event of a fire emergency. TRA structures shall include specifications listed in the 2019 Fire Protection Plan.
  - The capacity for TRA structures shall be equivalent to shelter the total maximum site population within protected buildings based on 15 square feet per person of habitable space.
  - The Fire Safety Coordinator (aka Site Safety Officer), management staff, and security personnel will quarterly participate in a meeting to review and discuss the evacuation protocols and contingency option for temporarily refuging on site.
- Provide ember-resistant vents and screening for all ventilation for project structures, as specified in the 2019 Fire Protection Plan.

- Provide a site-wide Public Address (PA)/Intercom system for emergency notifications.
- Prepare and practice site-wide evacuations following the “Ready, Set, Go!” program guidelines. A drill will be conducted at least once per year involving staff.
- Prepare an Emergency Preparation Plan that includes specifications listed in the 2019 Fire Protection Plan, such as pre-fire planning, post-fire recovery, reporting, training, prevention, and communications procedures.
- Enhance traffic flow by not constructing speed bumps/humps and provide an automatic opening device for fire and law enforcement at the entrance gate.
- Restrict vegetation around TRA structures to highly ignition-resistant vegetation planted at low densities and maintained free of all accumulated debris/litter.
- Design and implement a landscaping plan consistent with accepted wildland urban interface fire safe/fire adapted practices.
  - The landscaping plan shall be reviewed and approved by the County, MSRFPD, and/or an experienced fire protection planner, as determined by the County, to ensure that proposed plantings and maintenance meet the required fire safety and screening requirements.
- If planted, manage the vineyard using a professional vintner in an irrigated, maintained condition to act as a modified fuel buffer, utilizing irrigation and operation measures included in the 2019 Fire Protection Plan.
- Conduct an annual inspection of the site by MSRFPD or its designee to ensure that project landscaping is maintained in a wildfire-safe condition.
- Maintain a 1- to 3-foot landscape-free area adjacent to all building structures’ foundations to prevent available fuels for embers at the building base.

*Replace Mitigation Measure 3.7-7b on 2019 RDEIR page 68 to read as follows:*

**MM 3.7-7b** The draft 2019 Construction Fire Prevention Plan, included as an appendix to the Final EIR, shall be reviewed by the Mission-Soledad Rural Fire Protection District, and approved by the RMA Director prior to clearance of any vegetation or issuance of permits for construction, whichever occurs first. This plan addresses training of construction personnel and provides details of fire suppression procedures and equipment to be used during construction. Information contained in the plan shall be included as part of project-related environmental awareness training. The applicant shall implement procedures in the Construction Fire Prevention Plan, including the following:

- Procedures for minimizing potential ignition, including, but not limited to, vegetation clearing, parking requirements/restrictions, idling restrictions, smoking restrictions, proper use of gas-powered equipment, use of spark arrestors, and hot work restrictions;
- Work restrictions during Red Flag Warnings and High to Extreme Fire Danger days;
- Adequate water supply to service construction activities;
- Fire Safety Coordinator (aka Site Safety Officer) role and responsibility;
- Worker training for fire prevention, initial attack firefighting, and fire reporting;

- Emergency communication, response, and reporting procedures;
- Coordination with local fire agencies to facilitate agency access through the project site;
- Emergency contact information;
- Demonstrate compliance with applicable plans and policies established by state and local agencies.
- Initial clearance of native vegetation, or clearance of vegetation within 100 feet of native vegetation, shall require that a staffed water vehicle (water truck or Fire Engine) be located within 200 feet of all operating mechanized equipment. This requirement shall also apply to grading activities within 100 feet of native or flammable vegetation;
- The County, a third-party fire protection consultant, or MSRFPD shall inspect the project site, prior to any site construction activities, to ensure that all required measures are in place.

*Replace Mitigation Measure 3.7-7d on 2019 RDEIR page 69 to read as follows:*

**MM 3.7-7d** The 2019 Operations Fire Prevention Plan, included as an appendix to the Final EIR, shall be reviewed by the Mission-Soledad Rural Fire Protection District and approved by the RMA Director prior to issuance of occupancy permits or final inspection, whichever occurs first, for any habitable structures. This plan addresses policies and procedures for minimizing wildfire potential. The applicant shall implement procedures in the Operation Fire Prevention Plan, including the following:

- Procedures for minimizing potential ignition during maintenance activities;
- Work restrictions during Red Flag Warnings and High to Extreme Fire Danger days;
- Fuel modification zone and landscape area maintenance procedures, including timing of work to reduce the likelihood of ignition and/or fire spread;
- Communication and reporting procedures with MSRFPD;
- Fire Safety Coordinator (aka Site Safety Officer) role and contact information;
- Applicable recommendations included in the project’s Fire Protection Plan (MM 3.7-6a).
- The Project Operator shall fund a third-party fuel modification inspector or MSRFPD, as chosen by the Fire District, to conduct an annual inspection prior to June to certify that fuel modification maintenance has occurred;

*Add the following text to the 2019 RDEIR, on page 72, as the third sentence of Mitigation Measure 3.7-9 to read as follows:*

The engineering geologist shall determine areas that should not be utilized until remediation has been completed. The completion of remediation and ability to reuse these areas shall be determined by the engineering geologist and reported to the County Building Official prior to commencing uses in those areas.

#### 4.0 CHANGES TO THE DRAFT EIR

*The County makes the following changes in the first sentence of the first full paragraph on 2018 RDEIR page 3-297, in response to comments by Joe and Misty Panziera, to read as follows:*

Homes on Paraiso Springs Road are situated as close as ~~30~~ 26 feet from the edge of the roadway.

*The County adds the following after the second sentence of the first full paragraph on 2018 RDEIR page 3-297, in response to comments by Joe and Misty Panziera:*

The groundborne vibration identified for the heaviest vehicles at 25 miles per hour is 0.014 in/sec PPV at five feet from the edge of the travelled roadway (RDEIR Appendix I, Illingworth and Rodkin, 2016, page 17).

*Figure 3.11-1, Regional Fire Protection Facilities presented on page 3-305 of the 2018 RDEIR, has been revised to include the fire facility at the Soledad Correctional Facility. The figure is presented on the last page of this section.*

*Add Figure 3.11-2, Fire District Boundaries, to follow Figure 3.11-1 on 2018 RDEIR page 3-305. The figure is presented following revised Figure 3.11-1 at the end of this section.*

*The County makes the following change on 2018 RDEIR page 3-309, third paragraph, in response to comments from the Monterey County Sheriff's Office:*

Change the reference from "Beat #10" to "Beat 10A"

*The County adds the following text after the third paragraph on 2018 RDEIR page 3-309, in response to comments from the Monterey County Sheriff's Office:*

There is a day shift (7 a.m. to 5 p.m.) with deputies that work out of the South County substation. There are 3-5 deputies working on a daily basis. One deputy would cover Beat 10A area during the day shift. During swing shift, which is from 3 p.m. to 1 a.m., there are two deputies assigned to work South County. These two deputies come out of the Central Station in Salinas Office. They are known as the 45 unit and cover all the beat areas of 10A/10B/11/12. Their briefing starts at 3 p.m. and they will drive down to South County and be in the area well before the day shift goes off duty at 5 p.m. The midnight shift works 9 p.m. to 7 a.m. The weekend days are always covered with two deputies that also come out of the Central Station in Salinas and work South County as the 45 unit and cover beats 10A/10B/11/12.

During the week, there are normally two deputies who come over from the Salinas office to cover. However, due to vacations and training, etc., staffing coverage may not always allow that. In those instances, where a call comes out and there is no 45 unit, the Salinas Beat 3 or

Beat 4 unit would be dispatched. In a life threatening situation (resident is home and someone is breaking in) the call would also be dispatched to the closest city department (Soledad or Greenfield) and/or the California Highway Patrol.

*The 2018 RDEIR has been revised to correct the title name of a reference. The County modifies section 3.12.5, Page 3-339, third paragraph, first sentence under Roadways Hazards to read as follows:*

*“The American Association of State Highway and Transportation Officials Guidelines for Geometric Design ~~Guidelines for~~ Very Low-Volume Local Roads states...”*

*Table ES.1, Executive Summary of Significant Project Impacts, presented on pages ES-5 through ES-39 has been revised to include Impact 3.8-9 and Mitigation Measure 3.8-9, inadvertently excluded from the RDEIR table. Impact and Mitigation Measure 3.8-9 were included in the RDEIR on pages 3-254 through 3-256. The revised table is found in Final EIR section 3, Table ES.1.*

*RDEIR Appendix H inadvertently included an earlier version of the comprehensive hydrogeologic report. The County issued an Errata/Addition to Appendix H on March 16, 2018 incorporating the Comprehensive Hydrogeologic Report, Todd Groundwater, dated January 16, 2018, into the RDEIR. Appendix H has been revised to include the 2018 hydrogeologic report.*

*Replace Figure 3.11-1, Regional Fire Protection Facilities on page 3-305 as shown on the next page:*



Source: RBF Consulting 2010, Monterey County 2006

Figure 3.11-1  
 Regional Fire Protection Facilities

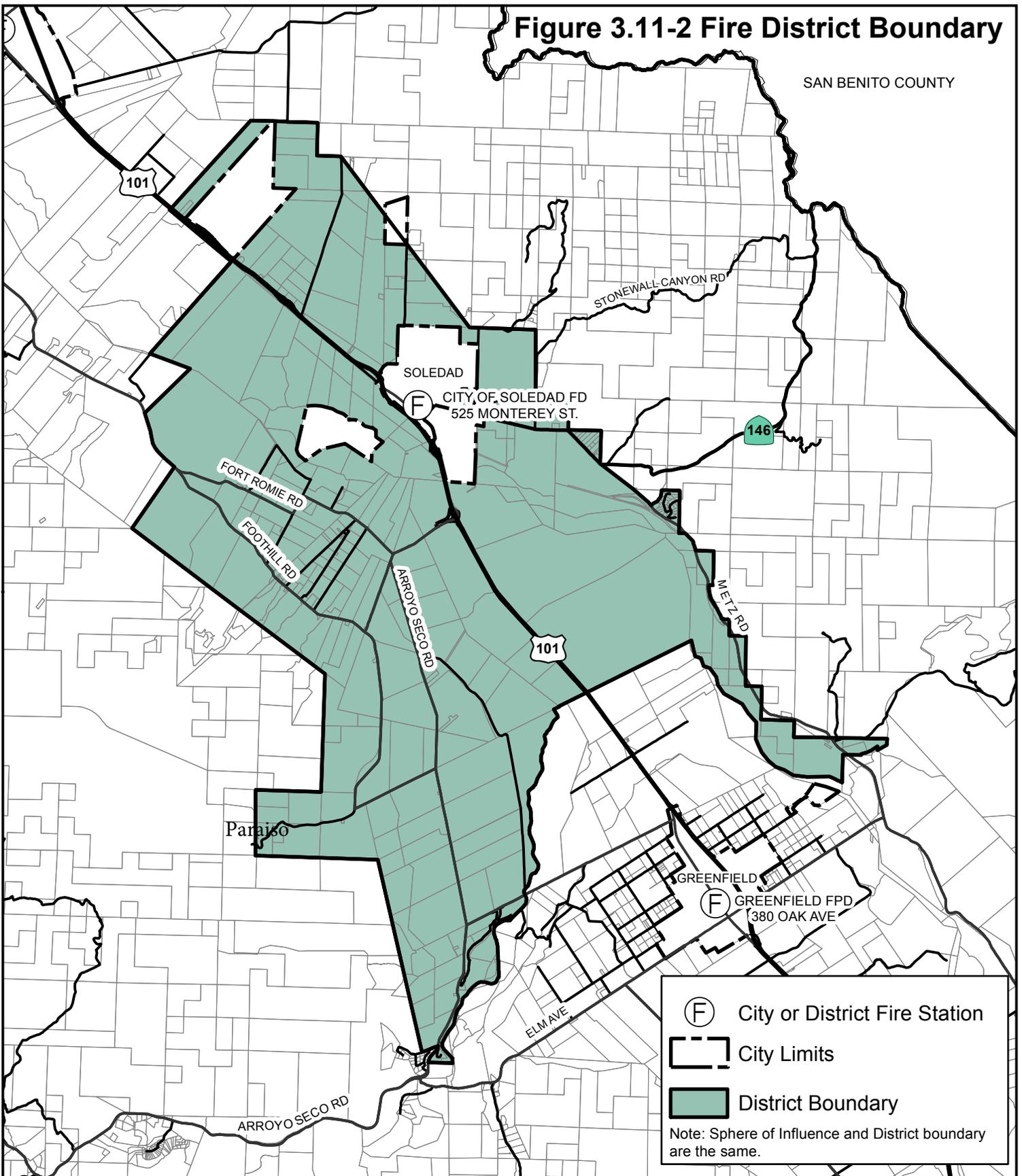
Paraiso Springs Resort EIR



*Add Figure 3.11-2, Fire District Boundaries, as shown on the next page:*

**Figure 3.11-2 Fire District Boundary**

SAN BENITO COUNTY



**LAFCO of Monterey County**

LOCAL AGENCY FORMATION COMMISSION

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Salinas, CA 93902  
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**FIRE PROTECTION DISTRICTS**

**MISSION SOLEDAD RURAL  
FIRE PROTECTION DISTRICT**

Sphere of Influence Affirmed: 3/26/2012  
Map Produced: 4/12/2012

**SECTION 5.0**  
**MITIGATION MONITORING AND REPORTING PROGRAM**

## **5.0 MITIGATION MONITORING AND REPORTING PROGRAM**

### **5.1 CEQA REQUIREMENTS**

California Environmental Quality Act Section 15097 requires that agencies adopt a program for monitoring or reporting on the revisions it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects. The program must be adopted as part of the actions by the Lead Agency and any other agencies that will be responsible for monitoring or reporting on any of the mitigation measures. The Lead Agency may delegate reporting or monitoring responsibilities to another agency or to a private entity that accepts the delegation. Until mitigation measures have been completed, the Lead Agency remains responsible for ensuring the implementation of the mitigation measures in accordance with the adopted program.

The following table serves as the Mitigation Monitoring and Reporting Program, once adopted.

**Table - Mitigation Monitoring and Reporting Program**

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
<b>Section 3.1: Aesthetics and Visual Resources</b>				
<p><b>MM 3.1-1:</b> Prior to issuance of any construction permits, the project applicant shall modify the project landscape design and colors for the exterior roof and plaster walls as follows:</p> <ul style="list-style-type: none"> <li>▪ The roof color shall include a blend of darker shades, which colors would serve to blend the building’s rooftops into the natural environment and reduce the appearance of large masses from greater distances. Final design shall be subject to review and approval of the RMA Director.</li> <li>▪ The color of the plaster shall utilize a variety of earth tone colors, such as the color supplied in the palette on page 2 in Exhibit 1 of the RMA Analysis, and as otherwise approved by the RMA Director.</li> <li>▪ The Landscape Plan shall include the use of five-gallon size or transplanted native oak trees, or other tree or tall shrub species as approved by RMA-Planning, planted, when mature, to break up the building rooflines and the front of the resort when viewed from common public viewing areas in the Salinas Valley, while allowing well-designed openings in the canopy to allow views from the resort of the valley. Oak trees shall be provided in appropriate areas, such as where oak trees were originally present prior to grading in that area, or on the north side of buildings where no oak woodland was present prior to grading. Where oak trees were not part of the original landscape for that area of the site, other tree species shall be used.</li> <li>▪ Where buildings are placed in areas that previously consisted of dense oak woodlands, the design of the landscaping shall integrate the buildings into the oak woodland setting such that the buildings, if visible, are viewed in the context of the oak</li> </ul>	<p>Prepare revised landscaping plan and structure colors</p> <p>Review roof color</p> <p>Review wall color</p> <p>Review Landscaping Plan</p>	<p>Applicant</p> <p>RMA Director</p> <p>Project Planner, in consultation with the fire district</p>	<p>Prior to issuance of construction permits</p> <p>Prior to issuance of construction permits</p> <p>Prior to issuance of construction permits</p>	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
<p>woodland. Native oak trees shall be strategically placed at building corners and extending between buildings and natural landforms or remaining native oak trees to integrate the buildings into the natural landscape. Landscape Plans shall be submitted for review and approval by the RMA Director of Planning for each phase of development and shall be approved prior to issuance of construction permits for buildings within the area covered by the Landscape Plan. Review by the County of the landscape plans will be conducted in consultation with the fire district to ensure that landscaping is installed in a fire-safe manner.</p> <p>The intent of this mitigation measure is to occasionally break up the mass, not screen the site from the valley or from public views, and to use color and vegetation to break up the visual massing from common public viewing areas. This can be achieved by using existing topography, landscape plantings, and a variety of colors to create variety in the mass. The landscape plantings, while further reducing visibility, will not be fully grown at the time of planting. The mitigation measure's other techniques, as well as existing topography and vegetation that will not be disturbed, will reduce the impact to a less than significant level even while the newly planted vegetation grows to maturity, due to the distance to common public viewing areas. Oak trees can be a planted a distance away from structures and each other, to comply with safe fire-planting principles, and still provide screening from public viewing areas.</p>				
<p><b>Standard Condition:</b> A conservation and scenic easement shall be conveyed to the County over those portions of the property where the slope exceeds 30 percent. The easement shall be developed in consultation with a certified professional. A conservation and scenic easement deed shall be submitted to, and approved by, the Director of RMA - Planning and accepted by the Board of Supervisors prior to or concurrent with recording the final map or prior to the issuance of grading or building permits, whichever occurs first. The Final Subdivision Map</p>	<p>Prepare easement deed</p> <p>Approve/Accept easement deed</p>	<p>Applicant</p> <p>Board of Supervisors</p> <p>Applicant's</p>	<p>Prior to or concurrent with first phase final map, or issuance of construction permits,</p>	



Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
<p>areas at construction sites;</p> <ul style="list-style-type: none"> <li>▪ Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites;</li> <li>▪ Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets;</li> <li>▪ Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more);</li> <li>▪ Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.);</li> <li>▪ Limit traffic speeds on unpaved roads to 15 mph;</li> <li>▪ Install appropriate best management practices or other erosion control measures to prevent silt runoff to public roadways;</li> <li>▪ Replant vegetation in disturbed areas as quickly as possible;</li> <li>▪ Install wheel washers for all exiting trucks, or wash off the tires or tracks of all trucks and equipment leaving the site;</li> <li>▪ Limit the area subject to excavation, grading and other construction activity at any one time;</li> <li>▪ Post a publicly visible sign which specifies the telephone number and person to contact regarding dust complaints (the person shall respond to complaints and take corrective action within 48 hours);</li> <li>▪ Ensure that the phone number of MBUAPCD is visible to the public for compliance with Rule 402 (Nuisance); and</li> <li>▪ For any diesel equipment used that is greater than 120 horsepower, utilize equipment that is 1996 or newer.</li> </ul>	<p>Ensure replanting in place</p>	<p>Project Planner or grading inspector</p>	<p>Prior to final inspection on grading permits</p>	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
Mitigation measures MM 3.7-3a and MM 3.7-3b in Section 3.7, Hazards and Hazardous Materials would require that each structure is inspected by a qualified environmental specialist for the presence of asbestos containing materials (ACMs) and lead based paints (LBPs).	Hire qualified inspector; include requirements on demolition plans	Applicant	Prior to demolition permit issuance	
	Submit report to County Environmental Health	Applicant	Prior to final inspect	
<b>Section 3.3: Biological Resources</b>				
<p><b>MM 3.3-2a:</b> For each construction area, including for each project phase, prior to initiation of construction activities at the site, the project applicant shall have a Monterey County-approved consulting biologist conduct an environmental awareness training session for all construction personnel. At a minimum, the training will include a description of special status animals with potential to occur and their habitats, general measures that are being implemented to protect wildlife as they relate to the project, and the boundaries within which the project occurs. Informational handouts with photographs clearly illustrating the species appearances will be used in the training session for species expected to occur on the site. If new construction personnel start work at the site after the initial training session, the training session shall be repeated as often as necessary so that all new personnel receive this mandatory training when they start work at the project site.</p> <p>The biologist shall be present on the site to conduct biological construction monitoring during initial site clearing and grading activities, ensuring construction monitoring for every new disturbance area. The biologist will assist the workers in observing and avoiding direct impacts to wildlife that are observed within each work area.</p>	Hire qualified biologist	Applicant	Prior to issuance of construction permits	
	Train Construction Personnel	Biologist	Prior to construction activities	
	Train New Construction Personnel	Biologist	Ongoing; prior to starting work	
	Monitor Construction Activities and Avoid Species as identified in the permits	Biologist	Each newly disturbed area (veg removal and grading)	
<b>MM 3.3-2b:</b> For each construction area, including for each project phase, prior to initiation of project activities including, but not limited to, vegetation, snag, or tree removal and demolition of structures within the project site, or loud construction-related noise within the work area, the	Hire qualified biologist	Applicant	<u>For each area and phase:</u>	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
<p>project applicant shall implement the following measures:</p> <ul style="list-style-type: none"> <li>▪ Conduct pre-construction surveys for bats over a minimum of four visits at least 15 days prior to the beginning of tree/vegetation removal, building demolition, and other project activities, to determine if the area is being actively utilized by special-status bats or for spring/summer maternity colonies (bats usually have young from April to September, but roost year-round). All structures within the project site shall be surveyed with the exception of the house trailers, fire equipment room, and the main pump house. These surveys shall also include determining if any trees or buildings marked for removal have characteristics that make them suitable bat roosting habitat (e.g., hollows, broken limbs, crevices, etc.). For any trees/snags that could provide roosting space for bats, the biologist shall thoroughly evaluate the trees/snags to determine if a colony is present prior to trimming or cutting. Visual inspection and acoustic surveys may be utilized as initial techniques. Removal of any native riparian tree shall be preceded by a thorough visual inspection of foliage to reduce the risk of displacing or harming roosting bats. If no roosting bats are observed, no further mitigation would be required.</li> <li>▪ If a tree or structure is determined not to be an active roost site, it may be immediately trimmed or removed. If the tree or structure is not trimmed or removed within four days of the survey, the biologist shall repeat night survey efforts.</li> <li>▪ Removal of occupied trees/snags or structures shall be mitigated for by the installation of a snag or other artificial roost structure (bat house) within suitable habitat located outside of, but near the impact area within the project site. Construction activities that may cause roost abandonment may not commence until artificial roost structures have been installed. With the input from a qualified biologist who is a bat specialist and coordination with the CDFW, alternative roost structure(s) shall be designed and installed to provide suitable habitat for evicted or displaced bats. Placement and height will be determined</li> </ul>	<p>Conduct pre-construction surveys</p> <p>Determine suitable habitat areas</p> <p>Identify replacement habitat</p> <p>Install replacement habitat</p> <p>Coordinate with CDFW</p>	<p>Biologist</p> <p>Biologist</p> <p>Biologist</p> <p>Biologist</p> <p>Biologist</p>	<p>Prior to veg removal, demolition of structures, or construction noise</p> <p>Ongoing, as needed, but prior to activities that may cause roost abandonment</p>	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
<p>by the qualified wildlife biologist, but the height of the bat house will be at least 15 feet. Bat houses will be multi-chambered, and be purchased or constructed in accordance with CDFW standards. The number of bat houses/snags required will be dependent upon the size and number of colonies found, but at least one bat house will be installed for each pair of bats (if occurring individually), or of sufficient number to accommodate each colony of bats to be relocated. If necessary, coordinate with the CDFW for acceptable mitigation alternatives.</p> <ul style="list-style-type: none"> <li>▪ Protect maternity colonies that have pre-volant young (not yet able to fly). If active bat roosts are observed during the maternity roosting season, the roost shall not be disturbed until after all juvenile bats are able to fly from the roost. The project biologist must confirm there are no pre-volant young present before a colony is displaced. It is assumed that after September 1, colonies have no pre-volant young.</li> <li>▪ The project proponent shall coordinate with the CDFW and a biologist that is permitted to handle special status bats to develop appropriate exclusion methods if necessary. The California Fish and Game Code stipulates that bats may be excluded from occupied roosts during two time periods; between September 1 and October 15, and between February 15 and April 15. If bats are found roosting within these time frames, it may be necessary to passively exclude them from trees or structures scheduled for removal. If necessary, prior to initiating project activities, passive exclusion methods shall be installed for a minimum of two weeks and monitored by a qualified biologist within the appropriate time frames above. At a minimum, monitoring efforts shall include conducting acoustic and evening emergence surveys during this two week period.</li> </ul>	<p>Protect maternity colonies as described</p> <p>Determine no presence</p> <p>Coordinate with CDFW</p> <p>Install passive exclusion methods and monitor for two week minimum</p>	<p>Biologist</p> <p>Biologist</p> <p>Biologist/ Applicant</p> <p>Biologist</p>	<p>Ongoing, as needed</p> <p>Prior to disturbance of roosts</p> <p>Prior to handling or excluding bats</p> <p>Prior to initiating activities</p>	
<p><b>MM 3.3-2c:</b> For each construction area, including for each project phase, the project applicant shall have a Monterey County approved qualified biologist examine the impact area, including a 30 foot buffer around the impact area, for Monterey dusky-footed woodrat nests before and during</p>	<p>Hire qualified biologist</p>	<p>Applicant</p>	<p><u>For each area and phase:</u></p> <p>Prior to veg or</p>	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
<p>any initial vegetation, woody debris, and/or tree removal, or other initial ground disturbing activities. All woodrat nests will be flagged by the biologist for avoidance of direct construction impacts where feasible. If impacts cannot be avoided, woodrat nests shall be dismantled by the biologist no more than three days prior to construction. All vegetation and duff materials shall be removed within three feet around the nest prior to dismantling so that the occupants do not attempt to rebuild. Nests are to be slowly dismantled by hand in order to allow the occupants to disperse. Nests shall not be dismantled during inclement weather at the discretion of the biologist (e.g., during or within 48 hours of predicted precipitation event, low nighttime temperatures, etc.). In addition, should dependent young be found during the nest dismantling process, the nest will be reassembled in place, and the occupied nest and any nests within 30 feet of the occupied nest shall be left undisturbed for at least three weeks to allow the young to wean.</p>	<p>Examine impact and buffer area; identify exclusion areas</p> <p>Relocate nests if no dependent young are found</p>	<p>Biologist</p> <p>Biologist</p>	<p>debris removal, or ground disturbance; ongoing</p> <p>At least 3 days prior to construction</p>	
<p><b>MM3.3-2d:</b> For each construction area, including for each project phase, the project applicant shall have a qualified biologist conduct a two-visit (i.e. morning and evening) burrowing owl presence/absence pre-construction survey at areas of suitable habitat on and within 500 feet of the proposed impact area no less than 14 days prior to the start of construction. Surveys shall be conducted according to methods described in the Staff Report on Burrowing Owl Mitigation (CDFW 2012). If pre-construction “take avoidance” surveys performed during the breeding season (February through August) or the non-breeding season (September through January) for the species locate occupied burrows near the construction area, then consultation with the CDFW would be required to interpret survey results and develop project-specific avoidance and minimization approaches as found in the Staff Report on Burrowing Owl Mitigation (CDFW 2012).</p>	<p>Hire qualified biologist</p> <p>Conduct surveys</p> <p>If occupied burrows are located, consult with CDFW to develop avoidance and minimization approaches</p>	<p>Applicant</p> <p>Biologist</p> <p>Biologist</p>	<p><u>For each area and phase:</u></p> <p>No less than 14 days prior to construction</p> <p>Ongoing</p>	
<p><b>MM 3.3-2e:</b> For each construction area, including for each project phase, the project proponent shall retain a Monterey County-approved consulting biologist to conduct a preconstruction survey for coast horned lizard</p>	<p>Hire qualified biologist</p>	<p>Applicant</p>	<p><u>For each area and phase:</u></p>	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
<p>unless the project biologist demonstrates that no suitable habitat is present in that construction area. Preconstruction surveys will be conducted within approximately 72 hours prior to disturbance of any suitable habitat for this species. Surveys will utilize hand search methods in proposed impact areas where this species is expected to be found (i.e., under shrubs, within other vegetation types, or debris on sandy soils). Any individuals located during the survey shall be safely relocated by the biologist to suitable habitat outside of the proposed impact areas or project activities shall avoid disturbing the habitat and the individuals until the individual has left the area, as determined by the biologist.</p> <p>Prior to recording of the final map or before any ground disturbance activities, whichever occurs first, a relocation program shall be prepared by a qualified biologist and reviewed and approved by the County. The relocation program shall include a detailed methodology for locating, capturing, and translocating individuals prior to construction. The project shall identify a suitable location for relocation of the lizard prior to capture. A qualified biologist with a current scientific collection permit shall be required for handling coast horned lizards.</p> <p>During initial ground disturbance and vegetation removal activities for each project impact area, a project biologist will be on the site to recover any coast horned lizards that may be excavated/unearthed. If the animals are in good health, they will be immediately relocated to a designated release site outside of the work area. If they are injured, the animals will be released to a CDFW-approved rehabilitation specialist until they are in a condition to be released into the designated release site.</p>	<p>Conduct surveys</p> <p>Relocate individuals or ensure they have left the area</p> <p>Prepare a relocation program</p> <p>Approve relocation program</p> <p>Relocate individuals, ensure they have left the area, or release to a rehabilitation specialist, as applicable</p>	<p>Biologist</p> <p>Biologist</p> <p>Biologist</p> <p>Project Planner</p> <p>Biologist</p>	<p>Within 72 hours of disturbance</p> <p>Prior to construction; ongoing</p> <p>Prior to recording map or before ground disturbance</p> <p>Ongoing during ground disturbance and vegetation removal</p>	
<p><b>MM 3.3-3:</b> For each construction area, including for each project phase, if noise generation, ground disturbance, vegetation removal, or other construction activities begin during the nesting bird season (February 1 to September 15), or if construction activities are suspended for at least two weeks and recommence during the nesting bird season, then the project</p>	<p>Hire qualified biologist</p> <p>Conduct Surveys</p>	<p>Applicant</p> <p>Biologist</p>	<p><u>For each area and phase:</u></p> <p>Within 2 weeks of</p>	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
<p>proponent shall retain a Monterey County-approved consulting biologist to conduct a pre-construction survey for nesting birds. The survey shall be performed within suitable nesting habitat areas on, and adjacent areas visible from, the site to ensure that no active nests for protected species would be disturbed during project implementation. This survey shall be conducted no more than two weeks prior to the initiation of disturbance/construction activities for each construction area. A report documenting survey results and plan for active bird nest avoidance (if needed) shall be completed by the project biologist and submitted to the Monterey County – Resource Management Agency for review and approval prior to disturbance and/or construction activities.</p> <p>If no active bird nests are detected during the survey, then project activities can proceed as scheduled. However, if an active bird nest of a protected species is detected during the survey, then a plan for bird nest avoidance shall be prepared to determine and clearly delineate an appropriately-sized, temporary protective buffer area around each active nest, depending on the nesting bird species, existing site conditions, and type of proposed disturbance and/or construction activities. The protective buffer area around an active protected bird nest shall be determined at the discretion of the project biologist and in compliance with applicable project permits.</p> <p>To ensure that no inadvertent impacts to an active bird nest will occur, no disturbance and/or construction activities shall occur within the protective buffer area(s) until the juvenile birds have fledged (left the nest), and there is no evidence of a second attempt at nesting, as determined by the project biologist. No action will be necessary if the construction activity occurs outside the nesting season as detailed in this mitigation measure.</p> <p>Construction area, for the purposes of these mitigation measures (MM 3.3-2 through MM 3.3-3), is defined as follows:</p> <ul style="list-style-type: none"> <li>• Each project phase</li> </ul>	<p>Submit Report</p> <p>Prepare plan for avoidance</p> <p>Clear buffer area for construction activities</p>	<p>Biologist</p> <p>Biologist</p> <p>Biologist</p>	<p>noise, construction, ground disturbance, or vegetation removal; ongoing</p> <p>Prior to actions noted above</p> <p>Prior to actions noted above</p> <p>Prior to actions in buffer area</p>	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
<ul style="list-style-type: none"> <li>• Structure removal activities</li> <li>• Tree removal activities</li> <li>• Paving activities</li> </ul> <p>If construction, demolition, or tree removal activities cease for a period of time exceeding the pre-construction survey period itemized in the mitigation measure, the pre-construction survey shall be redone, if potential habitat remains in that area.</p>				
<p><b>MM 3.3-4a:</b> Prior to issuance of any County project permits, a Monterey County-approved consulting biologist shall be retained by the project proponent to develop a detailed wetland mitigation plan, which will guide compensatory mitigation efforts for all anticipated project impacts to potentially jurisdictional wetland features. The plan shall be submitted to the Monterey County – Resource Management Agency for review and approval prior to issuance of any County project permits that could affect wetlands, jurisdictional waters or riparian areas. The wetland mitigation plan shall achieve no net loss of habitat values, including a minimum replacement of 1:1, but must meet the ratio required by the permitting agencies. The wetland shall function at the same habitat value as wetlands proposed for removal; these values shall be analyzed by, and established in, the mitigation plan. The plan shall include an agreement to continue to monitor and refine the mitigation effort (adaptive management) until the success criteria as stated within the plan, and as agreed to by the permitting agencies, are achieved. Success criteria shall include a prohibition on non-native vegetation, fish or amphibian species and shall include monitoring to ensure that non-native species have not been introduced into the habitat. Vegetation species variety and density, similar or greater than the value of the existing wetland to be lost, shall be included in the plan and monitoring to ensure a minimum of the former variety and density shall be conducted by the property owner’s Monterey County-approved biologist. Monitoring shall continue until the vegetation and aquatic species levels have reached the success criteria for a minimum</p>	<p>Hire qualified biologist</p> <p>Develop wetland plan</p> <p>Monitor success of wetland preservation</p>	<p>Applicant</p> <p>Biologist</p> <p>Biologist</p>	<p>Prior to issuance of Co. permits</p> <p>Prior to issuance of Co. permits</p> <p>Ongoing until success criteria met for a minimum of three consecutive years</p>	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
<p>of three consecutive years.</p> <p>Per the required wetland mitigation plan, a new in-stream pond, or a portion of the pond, and daylighted stream segments, or an alternative location and design acceptable to the permitting agencies, will serve as wetland feature mitigation sites, planted and maintained to support native and locally appropriate wetland/riparian vegetation. The plan will stipulate that a native plant specialist will install the native vegetation, and perform regular site maintenance for a minimum of five years, during which time a Monterey County-approved consulting biologist will monitor the site at least annually to ensure that the wetland creation is successful. The wetland mitigation plan shall establish specific success criteria, and shall include provisions for long-term site monitoring and maintenance to prevent the establishment of non-native plant species and aquatic nuisance animals (such as non-native fish, crayfish species, and bullfrog) that may preclude native wildlife species from utilizing the created and restored wetland/riparian habitats.</p>	<p>Install native vegetation</p> <p>Monitor success of wetland preservation and maintenance; adaptive management implemented if necessary</p>	<p>Native Plant Specialist</p> <p>Biologist</p>	<p>Per wetland plan</p> <p>Ongoing until success criteria met</p>	
<p><b>MM 3.3-4b:</b> All necessary permits and agreements shall be obtained from the USACE, CDFW, and RWQCB prior to issuance of any County project permits that involve project impacts to jurisdictional wetland features, including streams and wetland areas. This also includes obtaining these prior to mass site grading operations. For all project impacts to wetland features potentially under the jurisdiction of the USACE, CDFW, and RWQCB, regulatory agency permitting will be required along with compensatory habitat replacement identified through the wetland mitigation plan required by mitigation measure 3.3-4a, above. The project proponent shall prepare and submit a USACE Clean Water Act Section 404 Nationwide Permit application, a RWQCB Section 401 Water Quality Certification application, and a CDFW Section 1602 Streambed Alteration Agreement application. After all regulatory agency permits are obtained, the proposed mitigation efforts shall be implemented according to stipulated permit conditions and the wetland mitigation plan. The project</p>	<p>Obtain agency permits</p> <p>Implement permit requirements</p>	<p>Applicant</p> <p>Applicant</p>	<p>Prior to issuance of permits as applicable</p> <p>Ongoing, as</p>	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
proponent shall comply with all wetland/waters/riparian habitat replacement requirements and/or impact minimization measures stipulated in the approved regulatory agency permits.	Ensure compliance with permit	Permitting Agency	defined by the permit	
<p><b>MM 3.3-6a:</b> Prior to the issuance of grading permits, the project applicant shall submit a Final Forest Management Plan for review and approval by the County that minimizes the removal of coast live oak (<i>Quercus agrifolia</i>) trees in accordance with the recommendations in the Forest Management Plan that was prepared for the proposed project by Forest City Consulting in July 2005. The Final Forest Management Plan shall be prepared by a County-approved arborist or forester, and shall include an oak tree restoration (mitigation and monitoring) plan that identifies the final number and acreage of protected oak trees to be removed during construction, and the replacement of these oak trees as a means of promoting long-term tree replacement in compliance with Section 21.64.260 of the Monterey County Zoning Ordinance and the Oak Woodlands Conservation Act/PRC Section 21083.4.</p> <p>The Final Forest Management Plan shall include specific recommendations on the following topics, as necessary. Tree replacement within the project site shall occur as appropriate in open space areas, and may be included in appropriate landscaping areas, and shall not exceed more than 1 tree per 10 foot by 10 foot block of available space. If a specific area does not allow for replanting of trees, then the project applicant shall have a qualified forester identify an alternate location for replanting on the project site. All trees shall be replaced with coast live oak trees obtained from on-site sources or shall be grown or obtained from local ("local" to be defined by Final Forest Management Plan) native seed stock in sizes not greater than five gallons, with one gallon or smaller being preferred to increase chances of successful adaptation to the project site conditions (except for individuals planted to provide viewshed mitigation as addressed in Mitigation Measure 3.1-1). Replacement trees shall be monitored and maintained for a minimum of seven years after</p>	<p>Hire qualified arborist or forester</p> <p>Prepare final Forest Management Plan and oak tree restoration plan</p> <p>Approve final Forest Management Plan and oak tree restoration plan</p> <p>Replace trees</p>	<p>Applicant</p> <p>Consultant</p> <p>County</p> <p>Applicant</p>	<p>Prior to issuance of grading permits</p> <p>In conformance with approved plan</p> <p>Per approved plan;</p>	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
<p>planting. The oak tree restoration plan shall be subject to review and approval by the County. The restoration shall be implemented with the following success criteria: 100% survival of the number identified in the approved Final Forest Management Plan, so overplanting could be conducted to allow that to occur in a shorter time frame. Monitoring by an arborist shall take place to measure survival rates for three years past the period where the oak trees will be irrigated. Irrigation should cease after four years, or a different period as recommended by the project arborist. If after this monitoring period, 100% survival is not achieved, replacement plantings will be required until a 100% survival rate is achieved for three consecutive years without irrigation.</p>	<p>Monitor success of replacement trees</p>	<p>Consultant</p>	<p>minimum 7 years; minimum 3 years beyond irrigation; until 100% success criteria met</p>	
<p><b>MM 3.3-6b:</b> The project applicant shall implement the following tree protection best management practices during construction activities within the project site and include these measures on construction contracts for the proposed project, subject to review and approval by the County of Monterey Resource Management Agency-Planning:</p> <ul style="list-style-type: none"> <li>▪ Prior to issuance of any permits, the Resource Management Agency – Planning shall review the project plans for impacts to protected oak trees that were not anticipated as part of the analysis included in this environmental impact report. The review of these plans shall focus on adjusting the plans to minimize tree removal and to minimize impacts to trees proposed for retention.</li> <li>▪ A temporary physical barrier (temporary fencing) shall be used to protect the forested area outside of the development area. All areas protected by the tree protection fence shall be considered off-limits during all stages of construction and shall not be used to park cars, store materials, pile debris, or place equipment.</li> <li>▪ Specific trees to be retained located within the development area shall be surrounded by a fence at the outermost edge of the dripline, or at the limit of improvements where development is approved within the dripline.</li> </ul>	<p>Include tree protection measures in contracts</p> <p>Review contract language</p> <p>Review project plans</p> <p>Implement tree protection measures</p>	<p>Applicant</p> <p>Project Planner</p> <p>Project Planner</p> <p>Contractors</p>	<p>Prior to construction activities</p> <p>Prior to issuance of permits</p> <p>During construction; ongoing</p>	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
<ul style="list-style-type: none"> <li>▪ A qualified arborist or forester shall inspect the placement of the temporary protection fencing to ensure maximum protection of the retained trees before any heavy equipment is moved onto the site or any construction activities begin.</li> <li>▪ Any construction activities or trenching within the areas protected by the tree protection fencing shall be done either by hand using hand equipment or under the on-site supervision of a qualified arborist or forester. In such cases, roots over one inch in diameter shall not be cut or severed unless approved by the on-site forester or arborist, including their determination that it would not harm the long-term viability of the tree.</li> <li>▪ When possible, utilities shall be placed in the same trench to minimize rootzone disturbance. Not more than one trench is permitted within the dripline of any tree unless approved by the on-site forester or arborist, including their determination that it would not harm the long-term viability of the tree.</li> <li>▪ Roots encountered during trenching, grading, and excavation that are not to be retained will be cleanly cut to promote re-growth and to prevent increased damage from breaking the root closer to the tree than is necessary.</li> <li>▪ When pruning trees for construction, branches subject to breakage shall be pruned when such pruning will not cause significant damage to the health and vitality of the tree. All recommended pruning shall be supervised by a certified arborist or registered forester and occur prior to commencement of grading.</li> <li>▪ All construction contracts for the proposed project shall include a provision for requiring that all contractors and subcontractors performing work on the proposed project be given a copy of the approved Final Forest Management Plan and conditions of approval, and that they agree to implement the provisions of the Plan.</li> </ul>	Approve location of protective fencing	Arborist of Forester	Prior to construction	
<b>MM 3.3-6c:</b> To comply with the Oak Woodlands Conservation Act and	Dedicate conservation easement or	Applicant	Prior to tree	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
<p>PRC Section 21083.4, the tree replacement mitigation described above shall apply to 50 percent of the proposed impact to oak woodlands. For the remaining requirement to mitigate the impact, the project applicant shall either dedicate a conservation easement over a suitable oak woodland area on site or contribute funds to a local fund, or to the Oak Woodlands Conservation Fund if no local fund is established, as established under subdivision (a) of Section 1363 of the Fish and Wildlife Code. The primary purpose of such funds is to purchase oak woodlands conservation easements, as specified under paragraph (1) of subdivision (d) of Section 1363 and the guidelines and criteria of the Wildlife Conservation Board for the California Oak Woodlands Conservation Program. If contributions are made to a local fund, that fund must have the same purposes as the state program. This measure shall mitigate the remaining 50 percent of oak woodland impacts, equivalent to approximately half the acreage of oak woodland removal. Dedication of an on-site conservation easement, in lieu of paying a fee, would require that the easement area contain at least as many trees and an equal or greater area as that impacted by the tree removal.</p>	<p>contribute funds</p> <p>If conservation easement is proposed, accept the easement</p>	<p>County</p>	<p>removal activities</p> <p>Prior to or concurrent with filing map or record easement prior to tree removal activities</p>	
<b>Section 3.4 Climate Change</b>				
<p><b>MM 3.4-1a:</b> The applicant shall implement the following applicant-proposed mitigation measures:</p> <ul style="list-style-type: none"> <li>▪ Utilize energy star appliances (Title 24 plug-in appliances) in 77 timeshare units;</li> <li>▪ Use solar photovoltaic system to generate 20 percent of on-site energy needs;</li> <li>▪ Use light-emitting diode (LED) lighting will be used outdoors (Note: assume 20 percent LED use);</li> <li>▪ Employ Neighborhood Electric Vehicle (NEV) network on-site;</li> <li>▪ Provide employee shuttle:</li> </ul>	<p>Implement the actions</p>	<p>Applicant</p>	<p>Ongoing during construction of project</p>	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
<ul style="list-style-type: none"> <li>▪ Use reclaimed water for 100 percent of outdoor uses;</li> <li>▪ Install low-flow indoor water fixtures in all buildings;</li> <li>▪ Use electric landscaping equipment;</li> <li>▪ Install water efficient landscapes; and</li> <li>▪ Implement on-site recycling program and divert 50 percent (assumed) wastes from landfill disposal.</li> </ul>	Implement ongoing measures	Operator	Ongoing	
<p><b>MM 3.4-1b:</b> To achieve a total of 2,239.63 MT of CO<sub>2</sub>e of additional GHG emissions reductions needed to reduce project emissions to net zero, the applicant shall secure additional emissions reductions through off-site GHG reduction programs and/or through purchase of carbon off-sets. Options for off-site emissions reductions programs could include but are not limited to the following:</p> <ul style="list-style-type: none"> <li>▪ Paying for energy-efficiency upgrades of existing homes and business;</li> <li>▪ Installing off-site renewable energy;</li> <li>▪ Paying for off-site water efficiency; and</li> <li>▪ Paying for off-site waste reduction.</li> </ul> <p>Off-site mitigation must be maintained in perpetuity to match the length of project operations to provide ongoing annual emission reductions.</p> <p>The applicant may purchase offsets from a validated source to offset annual GHG emissions. Validated sources are carbon-offset sources that follow approved protocols and use third-party verification such as those of the Climate Action Registry or Climate Action Reserve. The applicant shall present proof of offsite mitigation and/or validated carbon offset purchase that offset project GHG emissions to net zero to Monterey County for review and approval prior to issuance of a grading permit for each project phase.</p>	<p>Calculate emission reduction credits needed</p> <p>Purchase emission reduction credits</p> <p>Approve compliance with emissions reduction credits</p>	<p>Consultant</p> <p>Applicant</p> <p>Project Planner</p>	<p>Prior to operation of each project phase</p> <p>Prior to issuance of construction permits for each project phase</p> <p>Prior to issuance of grading permit for project</p>	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
			phase	
<b>Section 3.5: Cultural Resources</b>				
<p><b>MM 3.5-1a:</b> Project applicant (“Applicant”) shall hire a qualified historical consultant (“Consultant”) prior to filing the Final Map’s first phase. The Consultant shall define a consistent design and cohesive themes (Native American, Spanish, Mexican, and American) for the site. Before lodge unit building permits are issued, the Consultant shall identify and create a digital catalog of historic archives and photographs focusing on Paraiso Springs’ historic character and setting during the late nineteenth century when the hotel/resort was first commissioned. The catalog is intended to consist of a consolidated list of the archives and photographs found, a brief description of the archive or photograph, and the location of the resource. Potential available resource repositories include, but are not limited to, those located in the California State Library, California State Archives, Monterey County Free Libraries, Bancroft Library, National Archives, Monterey Public Library (i.e., the “California Room”), Oakland Museum, National Steinbeck Center, Pat Hathaway Collection, California Historical Society and all other similar organizations deemed appropriate by the Consultant, as agreed to by the RMA-Director of Planning. All previous reports submitted with the project application on the property’s history will also be included. This catalog shall be compiled in a final format as a digital catalog of the archives and include information as to where to find resources that provide pertinent information on the four periods of significance and shall be available for printing by others. The digital catalog shall be included at all locations the digital presentation, described below, resides, including on the Paraiso Resort website, the Monterey County Historical Society website and offered (in a digital format) to the Soledad Mission and to regional visitor centers that provide information in Monterey County.</p>	<p>Hire qualified historian</p> <p>Define design and themes for use on project site</p> <p>Create digital catalog</p>	<p>Applicant</p> <p>Historian</p> <p>Historian</p>	<p>Prior to filing map</p> <p>Prior to filing map</p> <p>Prior to issuance of lodge unit permits</p>	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
<p>A digital interpretive display that would serve to educate people about the history of the site including all four periods of significance shall be developed and implemented. This display shall use a combination of historical photos, graphics, timelines and narratives to help the public understand the significance of the site with particular emphasis on the Victorian Resort period.</p> <p>Prior to preparation of the on-site interpretive display, Applicant and Consultant shall present, for review, a list of the available materials and the Consultant's proposed suggestions, layout and scope of the digitally created history to the HRRB and the Monterey County Historical Society in an effort to quantify and finalize the digital presentation scope. This submittal for review by the HRRB and historical society shall occur prior to issuance of construction permits for visitor serving units. Such review by the HRRB, and approval by the RMA-Director of Planning, shall be completed prior to issuance of occupancy permits for visitor serving units. If there are any disagreements as to the final scope of the historical digital representation of Paraiso Springs to be created, or the HRRB is unable to complete its review, the RMA-Director of Planning will have final decision-making authority.</p> <p>The final historical digital presentation, detailing Paraiso Springs' history, shall be placed in the lobby or in a setting at the resort visible to the majority of guests as approved by the RMA-Director of Planning. The presentation shall also be on the facility's website, linked to the Monterey County Historical Society website at their discretion, and offered (in a digital format or through a website link) to the Soledad Mission and to regional visitor centers and museums that provide information in Monterey County, such as the museum in Soledad and the Monterey County Agricultural and Rural Life Museum in San Lorenzo Park.</p> <p>The digital presentation shall be on a dedicated monitor and approved by</p>	<p>Present list of materials and scope of digital displays to County and the Monterey County Historical Society</p> <p>Approve design</p> <p>Prepare and install interpretive displays</p> <p>Approve displays</p>	<p>Historian</p> <p>County</p> <p>Applicant</p> <p>County</p>	<p>Prior to issuance of construction permits for visitor serving units</p> <p>Prior to issuance of occupancy for visitor serving units</p> <p>Prior to phase 1 lodge units final inspection</p>	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
the County prior to the Phase 1 lodge units' final inspection and shall be installed and operational prior to opening the facility to customers. The presentation shall be played on a constant loop, show the history of Paraiso, and posted on the resort website.				
<b>MM 3.5-1b:</b> 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 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.	Provide grant to Monterey County Historical Society	Applicant	Prior to recordation of map	
<b>MM3.5-1c:</b> Prior to occupancy of first phase buildings, the applicant shall prepare a printable digital historic interpretive brochure, which may consist of the interpretive exhibit described in MM 3.5-1a or a summary of that exhibit. The printable document shall describe the historic periods (including the Native American, Spanish Mission, Mexican influences, and Victorian-era spa resort), features, locations, and former names of Paraiso Springs.	Create digital historic interpretive brochure	Applicant's Historian	Prior to occupancy of first phase buildings	
<p><b>MM3.5-1d:</b> The project applicant shall provide a second digital display in a prominent public location, such as the hamlet, as recommended by the HRRB, with final approval by the RMA-Director of Planning. The display shall be constructed concurrent with the phase within which it will be located. The digital display shall include a shelter or be in a location that is determined sufficiently weather resistant by the HRRB, with final approval by the RMA-Director of Planning.</p> <p>If such a weather resistant design cannot be demonstrated, the following shall occur:</p>	<p>Propose location for second digital display</p> <p>Approve location and design</p> <p>Provide second digital display</p>	<p>Applicant</p> <p>County</p> <p>Applicant</p>	<p>Prior to first phase occupancy</p> <p>Prior to</p>	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
<ol style="list-style-type: none"> <li>1. The applicant shall hire a qualified exhibit planning firm to design and prepare an interpretive exhibit that would maintain a consistent design and cohesive themes (Native American, Spanish, Mexican, and American).</li> <li>2. The interpretive exhibit shall consist of a minimum of six panels, which design shall be reviewed by the Monterey County Historic Resources Review Board with final approval by the RMA-Director of Planning. The interpretive exhibit shall be placed in an appropriate prominent location on site that is open to the public. The exhibit shall maintain a consistent design and cohesive themes and document the historic periods (including Native American, Spanish, Mexican and American periods) at Paraiso Hot Springs.</li> <li>3. Construction of the interpretive exhibit, if deemed necessary by the RMA-Director of Planning, shall be completed at the Applicant's expense, prior to occupancy of any phase of the project site within which the exhibit is located. Outdoor signs shall be in full color and fabricated with material suitable for a 10-20-year life span.</li> </ol>	<p>If digital design not approved, implement steps identified in mitigation measure</p>	<p>Applicant</p>	<p>occupancy of phase where located Prior to occupancy of applicable phase</p>	
<p><b>MM 3.5-2a:</b> To ensure that no inadvertent damage occurs to CA-MNT-302 and CA-MNT-303 during development of the proposed project, prior to any earthmoving or construction activities in the area of these sites where resources from these locations may be disturbed, if determined necessary by the RMA-Director of Planning in consultation with the project archaeologist, the two sites shall be subjected to an extended Phase I (subsurface) survey to determine whether subsurface cultural materials are present. The RMA-Director of Planning shall be provided a confidential plan showing the location of grading, infrastructure, and structural improvements in relation to the archaeological sites. If the RMA-Director of Planning determines that a Phase I survey is necessary, the dimensions of the resource shall be determined, and the areas identified as containing cultural resources shall be evaluated for historic significance. Whether a Phase I survey is required or not, the area shall be placed within an open space easement. The resources shall be either</p>	<p>Hire an archaeologist</p> <p>Prepare and submit confidential grading plan</p> <p>Review and approve plan</p> <p>Conduct Phase I survey, if required by the mitigation measure</p> <p>Place areas within conservation easement</p>	<p>Applicant</p> <p>Project Engineer</p> <p>County</p> <p>Archaeologist</p> <p>Applicant</p>	<p>Prior to activities in the area</p> <p>Concurrent with recording map or prior to</p>	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
<p>excavated and removed or left untouched and buried, as recommended by the project archaeologist, in consultation with a tribal representative, and as determined by the RMA-Director of Planning. Exclusionary fencing shall be placed around these easement areas prior to the beginning of the project construction so that the potential for accidental impacts will be minimized. The location of the fencing shall be shown on the improvement plans but shall not be identified as to the type of resources protected.</p> <p>A report with the findings of any extended Phase I subsurface survey shall be submitted to, and reviewed and approved by, the Director of RMA-Planning prior to issuance of a grading permit or other ground disturbing activities. If the subsurface survey reveals that implementation of the project or project features would adversely affect one or both of the resources, the project design shall be modified to avoid the resources and the resources shall be protected in place. All design changes are subject to approval by the Director of RMA-Planning.</p>	<p>Protect or relocate resource</p> <p>Submit report for any Phase I work</p>	<p>Archaeologist</p> <p>Archaeologist</p>	<p>construction, whichever occurs first</p> <p>Prior to issuance of grading permit or ground disturbance in the area</p>	
<p><b>MM 3.5-2b:</b> After completion of the Phase I subsurface survey and report in compliance with MM 3.5-2a above, or prior to issuance of construction permits if no Phase I survey is deemed necessary, and to ensure that no inadvertent damage occurs to CA-MNT-302 and CA-MNT-303 or other yet undiscovered cultural resources, the project developer shall contract with a qualified archaeologist, acceptable to the Monterey County Director of RMA-Planning, to prepare a mitigation monitoring plan consistent with the provisions of this mitigation measure and with the professional ethics of the archaeology profession. The plan shall be approved by the Director of RMA-Planning prior to issuance of a grading permit or other ground disturbing activities.</p> <p>The project developer shall also contract with a tribal monitor to observe ground disturbing activities at an hourly rate and scope deemed acceptable by the Director of RMA-Planning.</p>	<p>Contract with qualified archaeologist</p> <p>Prepare monitoring program</p> <p>Approve program</p> <p>Contract with tribal monitor</p>	<p>Applicant</p> <p>Archaeologist</p> <p>County</p> <p>Applicant</p>	<p>After completion of Phase I, or prior to issuance of permits</p> <p>Prior to issuance of grading permit or other ground disturbance</p>	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
<p>The qualified archeologist shall implement the monitoring plan during grading and/or construction-related activities within the following four areas: the Prehistoric Sensitivity Area, the Mission Vineyard Sensitivity Area, the Victorian Historic Complex Sensitivity Area, and the Historic Dump Area.</p> <p>The archaeological monitoring plan shall include the following provisions:</p> <ul style="list-style-type: none"> <li>▪ The timing and frequency of this monitoring shall be at the discretion of the qualified archaeologist with the intent that they be present during ground disturbing activities that could affect known or undiscovered resources. Monitoring in any area may be discontinued by the project archaeologist when it becomes evident that no additional monitoring is necessary.</li> <li>▪ Monitoring by a tribal monitor shall be included for ground disturbing activities (i.e., infrastructure trenching, grading, foundation excavation) at an hourly rate and scope deemed acceptable by the Director of RMA-Planning and may be discontinued by the tribal monitor when it becomes evident that no additional monitoring is necessary.</li> <li>▪ Any artifacts or other cultural materials noted by the monitor will be collected and stored for subsequent analysis or provided to the tribe for appropriate relocation pursuant to an agreement between the property owner and the tribe. It may be necessary to temporarily halt earth moving activities while such materials are collected.</li> <li>▪ If a significant cultural feature or deposit is discovered, earth moving activities may be halted for the purpose of identifying the deposit. If deemed necessary, the feature or deposit shall be sampled or salvaged according to a mitigation and data recovery plan developed with the concurrence of RMA-Planning. A mitigation and data recovery plan shall be developed as part of this archaeological monitoring plan.</li> </ul>	Implement monitoring plan	Archaeologist	Ongoing as described in mitigation measure	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
<ul style="list-style-type: none"> <li>▪ Any collected materials will be subjected to appropriate analyses, and either be relocated pursuant to an agreement with the OCEN tribe or be curated on the property or in the public domain at an appropriate archaeological curation facility.</li> <li>▪ The Director of RMA-Planning shall resolve any disagreements between the project archaeologist and the tribal monitor.</li> <li>• At the end of the project a final report shall be produced documenting and synthesizing all data collected. This report will include recording and analysis of materials recovered, conclusions and interpretations, identification of the curation facility where the materials are stored, and additional recommendations as necessary.</li> </ul> <p>The archaeological monitor shall submit a weekly report of the monitoring activities to the Director of RMA-Planning.</p> <p>The archaeological monitor shall have the authority to stop all work if potentially significant cultural features or materials are uncovered. The RMA-Director of Planning shall be notified immediately of any discovery. There shall be no further excavation or disturbance of the project site or any nearby area reasonably suspected to overlie adjacent resources until the find can be evaluated by a qualified archaeologist and, if determined significant or unique (as defined in CEQA section 21083.2), until appropriate mitigation measures are formulated, with the approval of the lead agency, and implemented. If the archaeological site is determined to contain nonunique archaeological resources, the resource shall be documented, as appropriate and as approved by the RMA-Director of Planning in consultation with the monitoring archaeologist.</p> <p>If any discovered archaeological site is determined unique, project construction shall be modified in at least one of the following manners as determined through consultation with the applicant, archaeologist, tribal monitor, and RMA-Director of Planning, as approved by the RMA-Director of Planning:</p>	<p>Submit final report</p> <p>Submit weekly report</p> <p>Authority to stop work; formulate solutions</p> <p>Determine approach</p> <p>Approve approach</p>	<p>Archaeologist</p> <p>Archaeologist</p> <p>Archaeologist</p> <p>Archaeologist, Monitor, Applicant, and County</p> <p>County</p>	<p>At end of ground disturbance activities</p> <p>Weekly during ground disturbance activities</p> <p>Ongoing</p> <p>Ongoing</p> <p>Ongoing</p>	



Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
<p><b>MM 3.5-3a:</b> To ensure that no damage occurs to the identified cultural resource during planned road improvement activity along Paraiso Springs Road, the project applicant shall do the following:</p> <p>a. Contract with a qualified archaeologist to determine if the resource is unique, identify the exact dimensions of the site and formally record the resource;</p> <p>b. The project developer shall also contract with a tribal monitor to observe ground disturbing activities at an hourly rate and scope deemed acceptable by the Director of RMA-Planning;</p> <p>c. Place exclusionary fencing around the limits of the resource as identified by the archaeologist prior to earthmoving activities so that the potential for accidental impacts is eliminated; and</p> <p>d. The applicant shall provide evidence that the site has been recorded with the Northwest Information Center of the California Historical Resources Information System, if it meets the criteria for recording, prior to approval of the final improvement plans for the off-site road improvements to Paraiso Springs Road, subject to review and approval by the County RMA Planning Department.</p>	<p>Hire an archaeologist and tribal monitor</p> <p>Review construction area and observe ground disturbing activities</p> <p>Review and approve plan</p> <p>Install fencing</p> <p>Record site with state</p>	<p>Applicant</p> <p>Archaeologist and Monitor</p> <p>County Staff</p> <p>Applicant</p> <p>Archaeologist</p>	<p>Prior to issuance of permit</p> <p>Prior to construction</p> <p>Prior to approval of improvement plans</p>	
<p><b>MM 3.5-3b:</b> To ensure that no inadvertent damage occurs to the identified cultural resource or to other yet undiscovered cultural resources associated with off-site road improvements, the project developer shall contract with a qualified archeologist, acceptable to the Monterey County RMA Director of Planning, to prepare a mitigation monitoring plan consistent with the provisions of this mitigation measure. The plan shall be approved by the RMA Director of Planning prior to issuance of a grading permit. The qualified archeologist shall implement the monitoring plan during grading and/or construction-related activities within the road improvement area. The archaeological monitoring plan shall include the following provisions:</p> <p>a. The timing and frequency of this monitoring shall be at the discretion</p>	<p>Hire an archaeologist</p> <p>Prepare plan</p> <p>Approve plan</p>	<p>Applicant</p> <p>Archaeologist</p> <p>County staff</p>	<p>Prior to issuance of permit</p>	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
<p>of the qualified archaeologist and identified in the plan. Monitoring in any area may be discontinued by the project archaeologist when it becomes evident that no additional monitoring is necessary.</p> <p>b. Monitoring by a tribal monitor shall be included for ground disturbing activities (i.e., infrastructure trenching, grading, foundation excavation) at an hourly rate and scope deemed acceptable by the Director of RMA-Planning and may be discontinued by the tribal monitor when it becomes evident that no additional monitoring is necessary.</p> <p>c. Any artifacts or other cultural materials noted by the monitor will be collected and stored for subsequent analysis or provided to the tribe for appropriate relocation pursuant to an agreement between the county or other property owner and the tribe. It may be necessary to temporarily halt earth moving activities while such materials are collected.</p> <p>d. If a significant cultural feature or deposit is discovered, earth moving activities may be halted for the purpose of identifying the deposit, at the discretion of the monitor. If deemed necessary, the feature or deposit shall be sampled or salvaged according to a mitigation and data recovery plan developed with the concurrence of the RMA Director of Planning.</p> <p>e. Any collected materials will be subjected to appropriate analyses, and either be relocated pursuant to an agreement with the OCEN tribe or be curated in the public domain at an appropriate archaeological curation facility.</p> <p>f. The Director of RMA-Planning shall resolve any disagreements between the project archaeologist and the tribal monitor.</p> <p>g. At the end of the project a final report shall be produced documenting and synthesizing all data collected. This report will include recording and analysis of materials recovered, conclusions and interpretations, identification of the curation facility where the materials are stored,</p>	<p>Prepare and submit Final Report</p>	<p>Archaeologist</p>	<p>Prior to final inspection</p>	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
<p>and additional recommendations as necessary.</p> <p>The archaeological monitor shall have the authority to stop all work if potentially significant cultural features or materials are uncovered. The RMA-Director of Planning shall be notified immediately of any discovery. There shall be no further excavation or disturbance of the road site or any nearby area reasonably suspected to overlie adjacent resources until the find can be evaluated by a qualified archaeologist and tribal monitor and, if determined significant or unique (as defined in CEQA section 21083.2), until appropriate mitigation measures are formulated, with the approval of the lead agency, and implemented. If the archaeological site is determined to contain nonunique archaeological resources, the resource shall be documented, as appropriate and as approved by the RMA-Director of Planning in consultation with the monitoring archaeologist and tribal monitor.</p> <p>If any discovered archaeological site is determined unique, project construction shall be modified in at least one of the following manners as determined through consultation with the applicant, archaeologist, tribal monitor and RMA-Director of Planning, as approved by the RMA-Director of Planning:</p> <ol style="list-style-type: none"> <li>1. Move the construction to avoid the site.</li> <li>2. Cap or cover the archaeological site with a layer of soil before building on the site.</li> </ol> <p>If a unique archaeological site is discovered, the implementation of the above measures may mean the redesign or elimination of some of the planned improvements. If the design can be accommodated within the project footprint in a different location, the RMA-Director of Planning will determine whether the proposed relocation is in substantial conformance with the approved project and issue any applicable permits. If the relocation/redesign is determined to not be in substantial conformance with the project approvals, the construction activity shall be eliminated in that area, or an amendment to the project permits shall be</p>	<p>Authority to stop work; formulate solutions</p> <p>Determine approach</p> <p>Approve approach</p>	<p>Archaeologist</p> <p>Archaeologist</p> <p>County staff</p>	<p>Ongoing</p> <p>Ongoing</p> <p>Ongoing</p>	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
obtained through a public process.				
<p><b>MM 3.5-3c:</b> The following language shall be included within all approved grading or building plans that involve ground disturbance, contracts with construction firms, and permits or authorizations pertaining to the Paraiso Springs Road Improvement area:</p> <p>“If, at any time, potentially significant cultural features or materials are discovered, work shall be halted in the immediate vicinity until the find can be evaluated by the project archaeologist and tribal monitor and, if determined significant, until appropriate mitigation measures are formulated, with the approval of the lead agency, and implemented.”</p>	<p>Show note on plans and contracts</p> <p>Verify note on plans and contracts</p>	<p>Applicant</p> <p>County</p>	<p>Prior to issuance of permits</p>	
<p><b>MM 3.5-4a:</b> If human remains are discovered during grading or construction, the following steps shall be taken immediately upon discovery:</p> <ol style="list-style-type: none"> <li>a. There shall be no further excavation or disturbance of the project site or any nearby area reasonably suspected to overlie adjacent human remains, initially 50 meters, until the following occurs:</li> <li>b. The Coroner of County of Monterey must be contacted to determine that no investigation of the cause of death is required, and</li> <li>c. If the Coroner determines the remains to be Native American: <ul style="list-style-type: none"> <li>▪ The Coroner shall contact the Native American Heritage Commission and the Monterey County Resource Management Agency – Planning Department within 24 hours.</li> <li>▪ The Native American Heritage Commission shall identify the person or persons from a recognized local tribe of the Esselen, Salinan, Costanoan/Ohlone and Chumash tribal groups, as appropriate, to be the most likely descendent.</li> <li>▪ 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</li> </ul> </li> </ol>	<p>Authority to stop work; contact Coroner</p> <p>Contact county and tribe</p> <p>Make recommendations to property owner</p>	<p>Archaeologist</p> <p>Coroner</p> <p>Tribal Representative</p>	<p>Ongoing if remains are discovered</p> <p>If remains are discovered</p> <p>If remains are verified</p>	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
<p>human remains and any associated grave goods as provided in Public Resources Code Section 5097.9 and 5097.993, or where the following conditions occur, the landowner or his authorized representatives 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:</p> <ul style="list-style-type: none"> <li>○ The Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation with 24 hours after being notified by the commission.</li> <li>○ The descendent identified fails to make a recommendation; or</li> <li>○ The landowner or his authorized representative rejects the recommendation of the descendent, and the mediation by the Native American Heritage Commission fails to provide measure acceptable to the landowner.</li> </ul> <p>If the find is determined to be significant, the project design shall be modified to avoid the resources and the resources shall be protected in place as described in mitigation measure 3.5-4b.</p>	<p>Avoid significant resources</p>	<p>Property Owner</p>	<p>If County determines resources are significant</p>	
<p><b>MM 3.5-4b:</b> The archaeological monitor shall have the authority to stop all work if potentially significant cultural features or materials are uncovered. The RMA- Director of Planning shall be notified immediately of any discovery. There shall be no further excavation or disturbance of the project site or any nearby area reasonably suspected to overlie adjacent resources until the find can be evaluated by a qualified archaeologist and, if determined significant or unique (as defined in CEQA section 21083.2), until appropriate mitigation measures are formulated, with the approval of the lead agency, and implemented. If the archaeological site is determined to contain nonunique archaeological resources, the resource shall be</p>	<p>Authority to stop work; notify County staff</p> <p>Determine approach</p> <p>Approve approach</p>	<p>Archaeologist</p> <p>Archaeologist</p> <p>County staff</p>	<p>If resources found</p> <p>Prior to recommencing work</p>	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
<p>documented, as appropriate and as approved by the RMA-Director of Planning in consultation with the monitoring archaeologist and tribal monitor.</p> <p>If any discovered archaeological site is determined unique, project construction shall be modified in at least one of the following manners as determined through consultation with the applicant, archaeologist, tribal monitor and RMA-Director of Planning, as approved by the RMA-Director of Planning:</p> <ol style="list-style-type: none"> <li>1. Move the construction to avoid the site.</li> <li>2. Deed the archaeological site into a permanent conservation easement.</li> <li>3. Cap or cover the archaeological site with a layer of soil before building on the site.</li> <li>4. Plan for open space components of the project to incorporate and protect the archaeological site.</li> </ol> <p>If a unique archaeological site is discovered, the implementation of the above measures may mean the elimination of some of the approved uses or structures. If the use or structure can be accommodated within the project footprint in a different location, the RMA-Director of Planning will determine whether the proposed relocation is in substantial conformance with the approved project and issue any applicable permits. If the relocation/redesign is determined to not be in substantial conformance with the project approvals, the construction activity and use shall be eliminated in that area, or an amendment to the project permits shall be obtained through a public process.</p>	<p>Avoid significant resources</p>	<p>Property Owner</p>	<p>If the County determines resources are significant</p>	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
<b>Section 3.6: Geology and Soils</b>				
<p><b>MM 3.6-1a:</b> Prior to building permit approval, the project structural engineer shall provide a seismic design report for the project consistent with the most current version of the California Building Code, at a minimum. If other, more conservative design guidelines are determined to be applicable to the project, those design guidelines shall be followed. Recommendations contained within the Geologic and Soil Engineering Feasibility Report, prepared by Landset Engineers (2004), shall also be referenced and incorporated as they provide specific recommendations regarding site preparation and construction of foundations, retaining walls, utilities, sidewalks, roadways, subsurface drainage, and landscaping features based on the lot characteristics and proximity to faults near the project site. The seismic design report shall be submitted for plan check with any improvement plans including earthwork or foundation construction.</p> <p>During the course of construction, the project applicant shall contract with a qualified engineering geologist to be on site during all grading operations to make onsite remediation and recommendations as needed, and perform required tests, observations, and consultation as specified in the seismic design. Prior to final inspection, the project applicant shall provide certification from the project structural engineer that all development has been constructed in accordance with all applicable geologic and geotechnical reports.</p>	<p>Submit seismic design report</p> <p>Approve report and project plans</p> <p>Contract with engineering geologist</p> <p>Make on-site recommendations and perform required tests, observations and consultation</p> <p>Provide certification</p>	<p>Structural Engineer</p> <p>County staff</p> <p>Applicant</p> <p>Engineering Geologist</p> <p>Structural Engineer</p>	<p>Prior to issuance of building permits</p> <p>Prior to commencing grading operations</p> <p>During grading operations</p> <p>Prior to final</p>	
<p><b>MM 3.6-1b:</b> Prior to occupancy of the proposed project, large appliances (i.e. refrigerators, freezers, pianos, wall units, water heaters, etc.), book shelves, storage shelves, and other large free-standing objects incorporated as part of the building design shall be firmly attached to the floor or to structural members of walls.</p>	<p>Attach large items as outlined</p>	<p>Contractors</p>	<p>Prior to occupancy; ongoing</p>	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
<p><b>MM3.6-3a:</b> Prior to issuance of a grading permit, the project applicant shall contract with a certified engineer to prepare a site-specific Supplemental Liquefaction Investigation prepared in accordance with the California Department of Mines &amp; Geology Special Publication 117. The Supplemental Liquefaction Investigation shall include in its analysis the approved drainage plan. Engineering measures to protect development in this area could include structural strengthening of buildings to resist predicted ground settlement, utilization of post tension or mat slab foundations or a combination of such measures as recommended in the Geologic and Soil Engineering Feasibility Report prepared by Landset Engineering (2004). These improvements shall be included in the final improvement plans for the proposed project and installed concurrent with site preparation and grading activities associated with future development.</p>	<p>Hire an engineer</p> <p>Prepare supplemental liquefaction investigation</p> <p>Include recommendations in final plans</p> <p>Ensure plans are implemented</p>	<p>Applicant</p> <p>Engineer</p> <p>Engineer</p> <p>County</p>	<p>Prior to issuance of grading permit; ongoing</p> <p>As part of final inspection</p>	
<p><b>MM 3.6-3b:</b> Prior to issuance of a grading permit, the project applicant shall contract with a certified engineer to ensure that final grading plans include a slope stability analysis, particularly for the parking area near the hamlet and the adjacent roadway, to verify that the proposed cut and fill slopes are considered stable under both static and pseudo-static conditions.</p>	<p>Hire an engineer</p> <p>Incorporate slope stability analysis in plans</p> <p>Ensure plans are implemented</p>	<p>Applicant</p> <p>Engineer</p> <p>County</p>	<p>Prior to issuance of grading permit; ongoing</p> <p>As part of final inspection</p>	
<p><b>MM 3.6-3c:</b> The Final Geologic and Soil Engineering Feasibility Report shall use the most-recent Building Code, which addresses new seismic design requirements for structures and the site soil profile as SE should be reviewed again to confirm this designation is still appropriate for the project site.</p>	<p>Prepare final geologic and soil engineering report</p> <p>Incorporate into design</p>	<p>Applicant's geologists and/or engineers</p>	<p>Prior to issuance of permits; ongoing</p>	
<p><b>MM 3.6.4a:</b> Prior to issuance of a grading permit, the Project Geologist of Record (PGOR) shall work with the Geotechnical Engineer of Record and the Civil Engineer of Record to prepare a Final Geologic and Soil Engineering Feasibility Report. As part of this report, the PGOR shall:</p> <ol style="list-style-type: none"> <li>1. Further characterize the debris flow and debris torrent hazards and</li> </ol>	<p>Hire Geologist</p> <p>Prepare final report; incorporate into design</p>	<p>Applicant</p> <p>Applicant's geologist</p>	<p>Prior to issuance of grading permit</p>	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
<p>attendant risks to the proposed developments. The PGOR shall perform a detailed mapping and subsurface program that will characterize the mode of past transport for angular boulders and cobbles of schist bedrock within the sandy alluvial matrix on the valley floors. Further geological mapping shall include detailed mapping of individual debris flow scars, as well as run-out areas for the debris flow deposits. Subsurface work shall adequately characterize the depth and extent of individual debris flow/torrent events. Mode of transport characterization shall include volumes and velocities per debris flow/torrent event, substantiated by a detailed geological recordation of past events in and adjacent to the proposed development areas;</p> <ol style="list-style-type: none"> <li>2. Prepare debris flow/torrent design volumes, velocities and runup heights where warranted, based upon the above-listed field work and analysis;</li> <li>3. Plot their geological information upon the most current sub-division and grading maps and analyze the potential impacts to the proposed developments; and</li> <li>4. Work with PGOR and Civil Engineer Of Record to jointly assess the impact that debris flows and debris torrents may have upon the performance of the proposed drainage improvements. The proposed drainage improvements should be protected from design debris flow and torrent events dictated by the PGOR, or the drainage improvements shall be designed to handle said debris flow or debris torrent events without triggering flooding of the proposed developments.</li> </ol> <p>The Final Geologic and Soil Engineering Feasibility Report shall fully characterize the new design debris flow events to include site design-specific recommendations to ensure that the structures at risk would not collapse if said design debris flow occurs.</p>				
<p><b>MM 3.6.4b:</b> At the time of construction of the project, all excavations shall be observed by the PGOR prior to backfilling of the excavation. A</p>	<p>Observe excavations and make recommendations if previously</p>	<p>Geologist</p>	<p>During construction;</p>	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
<p>post-construction geologic map portraying the distribution of rock and soil should be constructed by the PGOR and submitted to the County of Monterey with a Final Geological Report. If previously unidentified debris flow deposits are mapped in the excavations during construction, additional mitigation measures shall be recommended at the time of construction by the PGOR.</p>	<p>unidentified debris flow deposits are found.  Prepare final report</p>	<p>Geologist</p>	<p>prior to backfill  After construction</p>	
<p><b>MM 3.6-5:</b> Prior to grading permit issuance, the project applicant shall contract with a qualified consultant to prepare an erosion control plan and a Storm Water Pollution Prevention Plan (SWPPP) that documents best management practices (filters, traps, bio-filtration swales, etc.) to ensure that urban runoff contaminants and sediment are minimized during site preparation, construction, and post-construction periods. The erosion control plan and SWPPP shall incorporate best management practices consistent with the requirements of the National Pollutant Discharge Elimination System and Monterey County Ordinance 16.12.80, Land Clearing. The erosion and sediment control plan and the SWPPP shall be consistent with the standards set forth in the Construction General Permit.</p>	<p>Hire qualified consultant  Prepare erosion control documents</p>	<p>Applicant  Consultant</p>	<p>Prior to issuance of grading permits</p>	
<b>Section 3.7: Hazards and Hazardous Materials</b>				
<p><b>MM 3.7-3a:</b> Pursuant to Cal OSHA regulations, the project applicant shall have each structure proposed for demolition within the project site inspected by a qualified environmental specialist for the presence of asbestos containing material and lead based paints prior to obtaining a demolition permit from the County. If asbestos containing material and/or lead based paints are found during the investigations, the project applicant shall develop a remediation program to ensure that these materials are removed and disposed of by a licensed contractor in accordance with all federal, state and local laws and regulations, subject to approval by the Monterey Bay Unified Air Pollution Control District and the County of Monterey Environmental Health Bureau, as applicable. Any hazardous materials that are removed from the structures shall be disposed of at an approved landfill facility in accordance with federal, state and local laws</p>	<p>Hire qualified specialist  Inspect structures to be demolished  Develop remediation program, if necessary  Approve program  Remove materials</p>	<p>Applicant  Specialist  Specialist  County and Air District  Licensed qualified contractor</p>	<p>Prior to issuance of demolition permits      Concurrent with demolition activities</p>	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
and regulations.				
<b>MM 3.7-3b:</b> The project applicant shall ensure that the removal of all fluorescent lighting ballasts within each structure are removed under the purview of the Monterey County Environmental Health Bureau in order to identify proper handling procedures prior to demolition of the structures within the project site. All removed fluorescent lighting ballasts shall be removed prior to demolition and disposed of at an approved landfill facility in accordance with federal, state and local laws and regulations.	Remove fluorescent ballasts  Oversight of removal	Applicant  County staff  Applicant provides to Co.	Prior to demolition   After demolition	
<b>MM 3.7-4:</b> Subject to review by the County of Monterey Environmental Health Department, the project applicant shall map the specific location of all septic tanks located within the project site. Once located, the septic tanks shall be removed and properly disposed of at an approved landfill facility or properly abandoned onsite under permit with Monterey County Environmental Health. The applicant shall provide to Monterey County Environmental Health a schedule of all septic tanks on the property and identify those tanks to be physically removed from the property and those tanks to be abandoned onsite under permit with Monterey County Environmental Health.	Map location of septic tanks and provide schedule and disposition of all tanks  Oversight of removal  Proper disposal documentation provided to County	Applicant  County staff  Applicant provides to Co.	Prior to removal  During removal  After removal	
<b>MM 3.7-5:</b> Once the above ground fuel storage tank(s) are removed, a visual inspection of the areas beneath and around the removed tanks shall be performed. Any stained soils observed underneath the storage tanks shall be sampled. Results of the sampling (if necessary) shall indicate the level or remediation efforts that may be required. In the event that subsequent testing indicates the presence of any hazardous materials beyond acceptable thresholds, a work plan shall be prepared subject to review and approval by the County of Monterey Environmental Health Bureau in order to remediate the soil in accordance with all applicable federal, state, and local regulations prior to issuance of a grading permit.	Visually inspect areas beneath above ground fuel tanks  Sample stained soils, if found  Prepare work plan if contamination found  Approve work plan	County  Applicant-hired consultant  Applicant-hired consultant  County staff	After removal of tanks   Prior to issuance of grading permits	
<b>MM 3.7-6a:</b> The 2019 Fire Protection Plan has been reviewed and approved by the Mission-Soledad Rural Fire Protection District, and shall	Hire qualified consultant	Applicant	Prior to clearance of	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
<p>be approved by the RMA Director prior to clearance of any vegetation or issuance of permits for construction, whichever occurs first. The applicant shall implement the fire protection and safety measures recommended in the approved Fire Protection Plan along with additional measures listed below, including the following:</p> <ul style="list-style-type: none"> <li>• Provide a facility Fire Safety Coordinator(s) to oversee implementation of fire protection and safety and overall fire coordination with MSRFPD/CAL FIRE.</li> <li>• Coordinate an annual fire evacuation drill/fire exercise to ensure proper safety measures have been implemented, facility awareness and preparation of facility-wide “Ready, Set, Go!” plan, consistent with the Monterey County Community Wildfire Protection Plan.</li> <li>• Provide trained security staff 24 hours per day and 7 days per week at the guard gate to manage an evacuation of the facility by opening the gates and directing traffic out of the area.</li> <li>• Provide a first-responder (EMT) level staff person and equipment to be on-site at all times.</li> <li>• Provide a customized one-ton, 4x4 pickup with a skid mounted pump and up to 150 gallon water tank and train multiple staff members and site security staff to utilize this apparatus for the purposes of providing initial suppression for any vegetation ignitions, and initial response to other fires.</li> <li>• Prior to project operation, designate one or more structures as temporary refuge areas (TRAs) to house the projected population on the project site in the event of a fire emergency. TRA</li> </ul>	<p>Prepare final plan</p> <p>Approve final plan</p> <p>Implement measures identified during applicable time periods</p>	<p>Consultant</p> <p>County RMA and fire staff</p> <p>Applicant/ Operator</p>	<p>vegetation or issuance of construction permits, whichever occurs first.</p> <p>Ongoing, as applicable.</p>	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
<p>structures shall include specifications listed in the 2019 Fire Protection Plan.</p> <ul style="list-style-type: none"> <li>○ The capacity for TRA structures shall be equivalent to shelter the total maximum site population within protected buildings based on 15 square feet per person of habitable space.</li> <li>○ The Fire Safety Coordinator (aka Site Safety Officer), management staff, and security personnel will quarterly participate in a meeting to review and discuss the evacuation protocols and contingency option for temporarily refuging on site.</li> </ul> <ul style="list-style-type: none"> <li>● Provide ember-resistant vents and screening for all ventilation for project structures, as specified in the 2019 Fire Protection Plan.</li> <li>● Provide a site-wide Public Address (PA)/Intercom system for emergency notifications.</li> <li>● Prepare and practice site-wide evacuations following the “Ready, Set, Go!” program guidelines. A drill will be conducted at least once per year involving staff.</li> <li>● Prepare an Emergency Preparation Plan that includes specifications listed in the 2019 Fire Protection Plan, such as pre-fire planning, post-fire recovery, reporting, training, prevention, and communications procedures.</li> <li>● Enhance traffic flow by not constructing speed bumps/humps and provide an automatic opening device for fire and law enforcement at the entrance gate.</li> </ul>				

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
<ul style="list-style-type: none"> <li>• Restrict vegetation around TRA structures to highly ignition-resistant vegetation planted at low densities and maintained free of all accumulated debris/litter.</li> <li>• Design and implement a landscaping plan consistent with accepted wildland urban interface fire safe/fire adapted practices. <ul style="list-style-type: none"> <li>○ The landscaping plan shall be reviewed and approved by the County, MSRFPD, and/or an experienced fire protection planner, as determined by the County, to ensure that proposed plantings and maintenance meet the required fire safety and screening requirements.</li> </ul> </li> <li>• If planted, manage the vineyard using a professional vintner in an irrigated, maintained condition to act as a modified fuel buffer, utilizing irrigation and operation measures included in the 2019 Fire Protection Plan.</li> <li>• Conduct an annual inspection of the site by MSRFPD or its designee to ensure that project landscaping is maintained in a wildfire-safe condition.</li> <li>• Maintain a 1- to 3-foot landscape-free area adjacent to all building structures' foundations to prevent available fuels for embers at the building base.</li> </ul>				
<p><b>MM 3.7-6b:</b> Implement and maintain fuel treatment areas along project roads. Fuel treatment areas shall measure 20 feet in width (horizontal) as measured from the edge of the paved surface and shall occur on both sides of the road. Maintenance of roadside treatment areas shall be conducted according to the standards outlined in Monterey County Code Chapter 18.09 (Fire Code), Section O109.1.</p>	<p>Maintain roadway edges in a fire safe manner.</p> <p>Annual inspection, as described in MM 3.7-6a.</p>	<p>Operator</p> <p>Fire District or designee</p>	<p>Ongoing</p> <p>Ongoing, annually</p>	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
<p><b>MM 3.7-7a:</b> Implement all construction-phase fuel modification components from the approved Construction Fire Prevention Plan (see MM 3.7-7b) prior to removal of vegetation or combustible building materials being delivered to the site, as applicable.</p>	<p>Implement fire safe fuel modification measures.</p>	<p>Operator</p>	<p>Prior to removal of vegetation or delivery of combustible materials to site; ongoing</p>	
<p><b>MM 3.7-7b:</b> The draft 2019 Construction Fire Prevention Plan, included as an appendix to the Final EIR, shall be reviewed by the Mission-Soledad Rural Fire Protection District, and approved by the RMA Director prior to clearance of any vegetation or issuance of permits for construction, whichever occurs first. This plan addresses training of construction personnel and provides details of fire suppression procedures and equipment to be used during construction. Information contained in the plan shall be included as part of project-related environmental awareness training. The applicant shall implement procedures in the Construction Fire Prevention Plan, including the following:</p> <ul style="list-style-type: none"> <li>• Procedures for minimizing potential ignition, including, but not limited to, vegetation clearing, parking requirements/restrictions, idling restrictions, smoking restrictions, proper use of gas-powered equipment, use of spark arrestors, and hot work restrictions;</li> <li>• Work restrictions during Red Flag Warnings and High to Extreme Fire Danger days;</li> <li>• Adequate water supply to service construction activities;</li> <li>• Fire Safety Coordinator (aka Site Safety Officer) role and responsibility;</li> </ul>	<p>Develop Construction Fire Prevention Plan that includes measures listed in mitigation measures, at a minimum.</p> <p>Conduct training</p> <p>Implement measures identified during operations</p>	<p>Applicant</p> <p>Applicant/ Operator</p> <p>Applicant/ Operator</p>	<p>Prior to clearance of vegetation or issuance of permits for construction, whichever occurs first.</p> <p>Prior to clearance of vegetation or construction, whichever occurs first.</p> <p>Ongoing</p>	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
<ul style="list-style-type: none"> <li>• Worker training for fire prevention, initial attack firefighting, and fire reporting;</li> <li>• Emergency communication, response, and reporting procedures;</li> <li>• Coordination with local fire agencies to facilitate agency access through the project site;</li> <li>• Emergency contact information;</li> <li>• Demonstrate compliance with applicable plans and policies established by state and local agencies.</li> <li>• Initial clearance of native vegetation, or clearance of vegetation within 100 feet of native vegetation, shall require that a staffed water vehicle (water truck or Fire Engine) be located within 200 feet of all operating mechanized equipment. This requirement shall also apply to grading activities within 100 feet of native or flammable vegetation;</li> <li>• The County, a third-party fire protection consultant, or MSRFPD shall inspect the project site, prior to any site construction activities, to ensure that all required measures are in place.</li> </ul>				
<p><b>MM 3.7-7c:</b> Maintenance of project buildings, grounds, and infrastructure, including defensible space areas, shall be conducted using firesafe practices to minimize the potential for wildfire ignitions resulting from equipment use. Firesafe practices shall be consistent with California Public Resources Code Sections 4427, 4428, 4431, and 4442. Infrastructure maintenance activities shall be ceased during periods of high fire hazard (e.g., red flag warnings), except where necessary to maintain water supply for fire suppression purposes. This requirement shall be included in the project’s operational manual (MM 3.7-7d).</p>	<p>Include measures in Operations Fire Prevention Plan.</p> <p>Implement measures identified during operations</p>	<p>Applicant</p> <p>Applicant/ Operator</p>	<p>Prior to approval of Fire Protection Plan</p> <p>Ongoing</p>	
<p><b>MM 3.7-7d:</b> The 2019 Operations Fire Prevention Plan, included as an appendix to the Final EIR, shall be reviewed by the Mission-Soledad</p>	<p>Develop Operations Fire Prevention Plan that includes measures listed in</p>	<p>Applicant</p>	<p>Prior to approval of</p>	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
<p>Rural Fire Protection District and approved by the RMA Director prior to issuance of occupancy permits or final inspection, whichever occurs first, for any habitable structures. This plan addresses policies and procedures for minimizing wildfire potential. The applicant shall implement procedures in the Operation Fire Prevention Plan, including the following:</p> <ul style="list-style-type: none"> <li>• Procedures for minimizing potential ignition during maintenance activities;</li> <li>• Work restrictions during Red Flag Warnings and High to Extreme Fire Danger days;</li> <li>• Fuel modification zone and landscape area maintenance procedures, including timing of work to reduce the likelihood of ignition and/or fire spread;</li> <li>• Communication and reporting procedures with MSRFPD;</li> <li>• Fire Safety Coordinator (aka Site Safety Officer) role and contact information;</li> <li>• Applicable recommendations included in the project’s Fire Protection Plan (MM 3.7-6a).</li> <li>• The Project Operator shall fund a third-party fuel modification inspector or MSRFPD, as chosen by the Fire District, to conduct an annual inspection prior to June to certify that fuel modification maintenance has occurred;</li> </ul>	<p>mitigation measures, at a minimum.</p> <p>Implement measures identified during operations</p>	<p>Applicant/ Operator</p>	<p>Fire Protection Plan</p> <p>Ongoing</p>	
<p><b>MM 3.7-9:</b> Following any wildfire that burns onto the project site, a post-fire field assessment shall be conducted by an engineering geologist within 60 days of fire personnel allowing access to the site, to identify any areas that may be subject to increased risk of post-fire</p>	<p>Hire engineering geologist</p>	<p>Applicant</p>	<p>Immediately following wildfire</p>	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
<p>flooding, landslide or erosion. Any recommendations identified by the geologist to mitigate such risk shall be reviewed and approved by Monterey County RMA and implemented by the project applicant. The engineering geologist shall determine areas that should not be utilized until remediation has been completed. The completion of remediation and ability to reuse these areas shall be determined by the engineering geologist and reported to the County Building Official prior to commencing uses in those areas. This requirement shall be included in the project's operational manual.</p>	<p>Prepare field assessment and provide to County</p> <p>Ensure requirement in operations manual</p>	<p>Geologist</p> <p>Applicant</p>	<p>Within 60 days of wildfire</p> <p>Concurrent with approval of Fire Protection Plan</p>	
<b>Section 3.8: Hydrology and Water Hydrology</b>				
<p><b>MM 3.8-2:</b> Prior to recording the Final Subdivision Map or approval of any construction permit that would affect drainage, whichever occurs first, the project applicant shall contract with a registered Civil Engineer to prepare a final drainage plan. The drainage control plan shall design storm water detention facilities to limit the 100-year post-development runoff rate to the 10-year pre-development rate in accordance with Section 16.16.040.B.5 of the Monterey County Code and Monterey County Water Resource Agency (MCWRA) standards. This shall be accomplished through the use of low impact development (LID) features and best management practices (BMP). In the event that the detention objectives cannot be accomplished through LID methodologies alone, a detention basin may be used. In addition, the drainage plan shall incorporate relevant storm water recommendations as described in the Geologic and Soil Engineering Feasibility Report (Landset Engineers 2004). The final drainage plan shall be submitted for review and approval to RMA and Monterey County Water Resources Agency prior to recording the Final Subdivision Map or approval of any construction plans that would affect drainage, whichever occurs first.</p>	<p>Hire civil engineer.</p> <p>Prepare final drainage plan</p> <p>Submit plan to County</p> <p>Approve plan</p>	<p>Applicant</p> <p>Civil Engineer</p> <p>Civil Engineer</p> <p>County staff</p>	<p>Prior to recording map or issuance of permits that would affect drainage, whichever occurs first</p>	
<p><b>MM 3.8-3:</b> To prevent the potential contamination of downstream waters from urban pollutants, the Resource Management Agency and Water</p>	<p>See Mitigation Measure 3.8-2</p>	<p>See Mitigation Measure 3.8-2</p>	<p>See Mitigation Measure 3.8-2</p>	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
<p>Resources Agency shall require that the storm drainage system design, required under mitigation measure MM 3.8-2, includes, but is not limited to the following components: grease/oil separators; sediment separation; vegetative filtering to open drainage conveyances and detention basins; and on-site percolation of as much run-off as feasible, including diversion of roof gutters to French drains or dispersion trenches, dispersion of road and driveway runoff to vegetative margins, or other similar methods. Storm water shall not be collected and conveyed directly to a natural drainage without passing through some type of active or passive treatment. Said provisions shall be incorporated into the storm drain system plans submitted to the County for plan check, within the time frames outlined in mitigation measure MM 3.8-2.</p>				
<p><b>MM 3.8-8:</b> The property owner and the resort operator shall ensure that any water softening equipment shall consist of a cartridge-type softener or a type that does not increase salt load to the wastewater. Any cartridges shall be hauled to off-site facilities for regeneration.</p>	<p>Control type of water softening equipment. Ensure proper disposal.</p>	<p>Applicant  Resort Operator</p>	<p>At time of construction  Ongoing</p>	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
<p><b>MM 3.8-9:</b> The applicant shall hire a biologist specializing in wetland and riparian habitats prior to filing of the first phase final map. Prior to any land disturbance, the biologist shall work with the project hydrologist to establish pre-project conditions for these habitat areas, including vegetation areal extent and habitat quality, groundwater levels, groundwater quality, and any surface water flow quantity and quality for wetlands and riparian areas that will remain. The biologist shall prepare a monitoring program, subject to approval by the County, that should include shallow piezometers installed at the upgradient edges of the wetlands, or some other mechanism that would monitor water quantity and quality. A “control” set of piezometers (or other approved mechanism) shall also be installed and monitored at the same time to distinguish from effects related to pumping and irrigation return flow. The monitoring program shall be approved prior to issuance of grading permits.</p> <p>The monitoring program shall describe the methods used to monitor the extent and health of wetland and riparian vegetation, including triggers for applying supplemental water due to loss of areal extent or stress of vegetation from salt loading as detected by measurements of electrical conductivity and visual observation of plant stress. Water quantity (depth to groundwater) and quality monitoring shall occur at least quarterly for the first ten years of resort operation and semiannually thereafter if groundwater conditions are determined to be well defined and stable; vegetation monitoring shall occur by the biologist every two months between April 15 and November 1 of each year (4 visits). Both monitoring activities shall be conducted until five years after buildout, or ten years after commencement of construction, whichever is later, and shall be allowed to be discontinued only if annual reports demonstrate a stable habitat area and quality, compared to the pre-project condition, for at least the final three years of this monitoring program. If the area or quality has been affected by the project, monitoring shall continue past this time period until three successive years of stable habitat area and quality have</p>	<p>Hire a biologist and hydrologist</p> <p>Establish pre-project condition of wetland and riparian habitat areas</p> <p>Prepare a monitoring program</p> <p>Approve monitoring program</p> <p>Monitor site as outlined in mitigation measure and program</p>	<p>Applicant</p> <p>Biologist and Hydrologist</p> <p>Biologist</p> <p>Project Planner</p> <p>Biologist</p>	<p>Prior to filing map</p> <p>Prior to land disturbance</p> <p>Prior to issuance of grading permits</p> <p>At least quarterly for ten years, or five years after buildout; until three successive years of stable habitat</p>	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
<p>been demonstrated in the preserved wetland and riparian areas.</p> <p>The property owner and resort operator shall have electrical conductivity monitored on the same schedule as the water level measurements. Any changes in vegetation stress identified through the monitoring shall be identified as to whether it is caused by water quality effects, groundwater levels, or both.</p> <p>Annual reports shall be prepared by the biologist, and provided to Monterey County RMA-Planning, that determine the extent and quality of the habitat, water levels, water quality, and expected effect on the protected habitat. If any of those reports demonstrate there is a reduction in the area or biological health of the habitat attributable to the project, the resort operator shall provide supplemental water to the impacted habitat areas or shall obtain necessary permits to provide replacement habitat on site. In such a circumstance, an adaptive management program shall be submitted to Monterey County for review and approval that achieves no net loss of wetland and riparian habitat on the site. If supplemental water is needed for this activity, an additional up to 2.3 acre-feet of water may be required, increasing net water consumption to the aquifer up to 17.8 acre-feet per year.</p>	<p>Monitor electrical conductivity</p> <p>Prepare and submit reports to county</p> <p>Review report</p> <p>Prepare adaptive management program, if needed</p> <p>Approve adaptive mgmt. program</p>	<p>Resort Operator's consultant</p> <p>Biologist</p> <p>County staff</p> <p>Biologist</p> <p>County</p>	<p>Same schedule as water level measurements</p> <p>Annual</p> <p>Annual</p> <p>Ongoing</p> <p>Ongoing</p>	
<b>Section 3.10: Noise</b>				
<p><b>MM 3.10-3:</b> During operation of the project, the operator shall adhere to the following requirements for nighttime noise:</p> <ul style="list-style-type: none"> <li>▪ Within the time period of 10:00 p.m. to 7:00 a.m. the following morning, no loud and unreasonable sounds shall be made.</li> <li>▪ Loud and unreasonable sounds are those that exceed 45 dBA Leq (hourly) or a maximum of 65 dBA at or outside the property boundaries of the project site.</li> <li>▪ Construction subsequent to initial resort construction shall also be limited to the requirements found in MM 3.10-4.</li> </ul>	<p>Adhere to noise limitations outlined in the mitigation measure</p>	<p>Applicant</p> <p>Resort Operator</p>	<p>During construction</p> <p>Ongoing</p>	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
<ul style="list-style-type: none"> <li>▪ Resort Staff shall be informed of, and trained in, these limitations and Resort Management shall be responsible to address any noise complaints. Resort Staff shall ensure that all activities and bookings follow the limitations and that those booking at the resort for activities that could create noise are provided information regarding these limitations. Timeshare owners shall be informed of these restrictions prior to purchasing their units as part of the real estate transaction paperwork.</li> </ul>				
<p><b>MM 3.10-4:</b> During the course of construction, the project developer/applicant shall adhere to Monterey County’s requirements for construction activities with respect to hours of operation, muffling of internal combustion engines, and other factors which affect construction noise generation and its effects on noise sensitive land uses. This would include implementing the following measures:</p> <ul style="list-style-type: none"> <li>▪ Limit noise-generating construction operations to between the least noise-sensitive periods of the day (e.g., 7:00 A.M. to 7:00 P.M.) Monday through Saturday; no construction operations on Sundays or holidays;</li> <li>▪ Locate stationary noise generating on-site construction equipment and equipment staging areas at the furthest distance possible from nearby noise-sensitive land uses and in no case closer than 1,400 feet to the eastern property boundary;</li> <li>▪ Ensure that construction equipment is properly maintained and equipped with noise reduction intake and exhaust mufflers and engine shrouds, in accordance with manufacturers’ recommendations. Equipment engine shrouds shall be closed during equipment operation, and</li> <li>▪ When not in use, motorized construction equipment shall not be left idling; and</li> <li>▪ The project developer/applicant shall designate a “disturbance coordinator” to be responsible for responding to any concerns or complaints about construction noise. The disturbance coordinator will</li> </ul>	Control noise during construction as outlined in the mitigation measure	Applicant  Resort Operator	During construction  Ongoing	

Mitigation Measure(s)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Verification
determine the cause of the noise complaint (e.g., bad muffler, etc.) and will require that reasonable measures be implemented to correct the problem.				
<b>Section 3.11: Public Services and Utilities</b>				
<p><b>MM 3.11-2:</b> The project applicant shall contract with a qualified engineer to finalize an activated alumina water treatment plant consistent with recommendations outlined in the AdEdge Technologies Pilot Test Report (2012) identifying water system improvements to meet the standards as found in Chapters 15.04 and 15.08 of the Monterey County Code, and Titles 17 and 22 of the California Code of Regulations. Final water system improvement plans shall identify any necessary rehabilitation of Well No. 1 and Well No. 2 to increase longevity and efficiency, the specific water treatment facilities, and how the water treatment facilities will remove all constituents that exceed California Primary and Secondary maximum contaminant levels (e.g. fluoride, coliform, TDS, iron, etc.) from drinking water.</p> <p>The project applicant shall contract with a qualified engineer to design and install wastewater system improvements and procedures that will adequately treat the neutralized waste from the proposed activated alumina filtration process. Final wastewater improvement plans shall identify the specific wastewater treatment improvements, operating parameters, wastewater volumes, waste constituents of the proposed full-scale system, and how the wastewater treatment process will produce effluent fluoride concentrations that are equal or less than the concentrations in the existing source water.</p> <p>Prior to recording the final map or issuance of any construction permits, the applicant shall submit the final water treatment plant design for review and approval by the Monterey County Health Department, Environmental Health Bureau.</p>	<p>Hire a qualified engineer</p> <p>Finalize design for water treatment plant</p> <p>Design and install wastewater system improvements</p> <p>Submit final plans to county for review</p> <p>Approve plans</p>	<p>Applicant</p> <p>Engineer</p> <p>Engineer</p> <p>Applicant</p> <p>County staff</p>	<p>Prior to construction of water system</p> <p>Prior to construction of wastewater system</p> <p>Prior to final map or issuance of construction permits</p>	

<b>Mitigation Measure(s)</b>	<b>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted</b>	<b>Responsible Party for Compliance</b>	<b>Timing</b>	<b>Verification</b>
Implementation of mitigation measure 3.8-2 (Section 3.8 Hydrology and Water Quality).				

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**SECTION 6.0**  
**APPENDICES**

## **6.0 Appendices**

- 6.1 Construction Fire Prevention Plan
- 6.2 Operations Fire Prevention Plan
- 6.3 County Wildfire Ordinances

**APPENDIX 6.1**  
**CONSTRUCTION FIRE PREVENTION PLAN**

**PARAISO SPRINGS RESORT  
CONSTRUCTION FIRE PREVENTION PLAN**

*Prepared for:*

**County of Monterey**

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**SEPTEMBER 2019**

**Paraiso Springs Resort  
Construction Fire Prevention Plan**

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**Paraiso Springs Resort  
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# Paraiso Springs Resort Construction Fire Prevention Plan

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## LIST OF ACRONYMS AND ABBREVIATIONS

AMSL	Above Mean Sea Level
CAL FIRE	California Department of Forestry and Fire Protection
CFC	California Fire Code (2016)
CFD	Community Facilities District
CFPP	Construction Fire Prevention Plan
CFR	Code of Federal Regulations
FAHJ	Fire Authority Having Jurisdiction
IC	Incident Command or Incident Commander
MSRFPD	Mission Soledad Rural Fire Protection District
NFPA	National Fire Protection Association
O&M	Operations and Maintenance
OSHA	Occupational Safety and Health Administration
Proposed Project	Paraiso Springs Resort Specific Plan
RFW	Red Flag Warning
SSO	Site Safety Officer/Fire Safety Coordinator
TBD	To be determined
USGS	U.S. Geological Survey

# Paraiso Springs Resort Construction Fire Prevention Plan

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## DEFINITIONS

1. **Activity Risk:** Activity risks include those actions that present a risk of igniting a wildfire.
2. **Fire Patrol:** A Paraiso Springs Resort selected individual will be assigned as “Fire Patrol” specifically to monitor work activities when an Activity Risk exists for fire compliance. The Fire Patrol personnel shall regularly patrol the area on foot and monitor the area for any signs of fire or unsafe practices. They shall have no other duties and shall not be sitting in a vehicle or using a cell phone or computer except for emergency-related calls or for checking for Red Flag Warning or other fire hazard or weather conditions.
3. **Fire Season:** Fire season is no longer officially designated by the wildland fire agencies. California is considered to be in fire season on a yearlong basis. CALFIRE adjusts their staffing patterns as fire conditions moderate or escalate and this can be used as an indicator of potential fire activity.
4. **Fire Tools:** Essential firefighting tools to be staged near work activities are a 46-inch round point shovel, Pulaski, McLeod, 5-gallon “Indian” Backpack hand pump or water fire extinguisher, and a minimum 10 pound 4A:80BC Dry Chemical Fire extinguisher.
5. **Incident Commander (IC):** The Site Safety Officer will be the single point of contact for all utility resources (people and equipment) on an emergency incident. This person will interface with the Incident Command, as necessary.
6. **Incident Command System (ICS):** The Incident Command System is "a systematic tool used for the command, control, and coordination of emergency response"
7. **Plan:** The Construction Fire Prevention Plan (CFPP).
8. **Red Flag Warning (RFW):** A Red Flag Warning is issued for a stated period of time by the National Weather Service using pre-determined criteria to identify particularly critical wildfire danger in a particular geographic area. All construction and maintenance activities shall temporarily cease during RFWs.
9. **Site Safety Officer/Fire Coordinator (SSO):** The Site Safety Officer/Fire Coordinator and their designees serves as the fire safety coordinator and is the liaison to the emergency service agencies and all contractors or inspectors on the jobsite for emergency incidents and construction-related activities. The SSO has the authority to stop any project work that appears to pose a particular fire risk or hazard.

# Paraiso Springs Resort Construction Fire Prevention Plan

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## 1 SUMMARY

This Construction Fire Prevention Plan (CFPP) provides basic direction for fire safety awareness on the Paraiso Springs Resort Project site during construction. This CFPP provides standard protocols and approaches for reducing the potential of ignitions for typical construction site activities. When employed, the concepts discussed herein will help minimize and avoid ignitions as well as extinguish any ignitions while they are small and controllable.

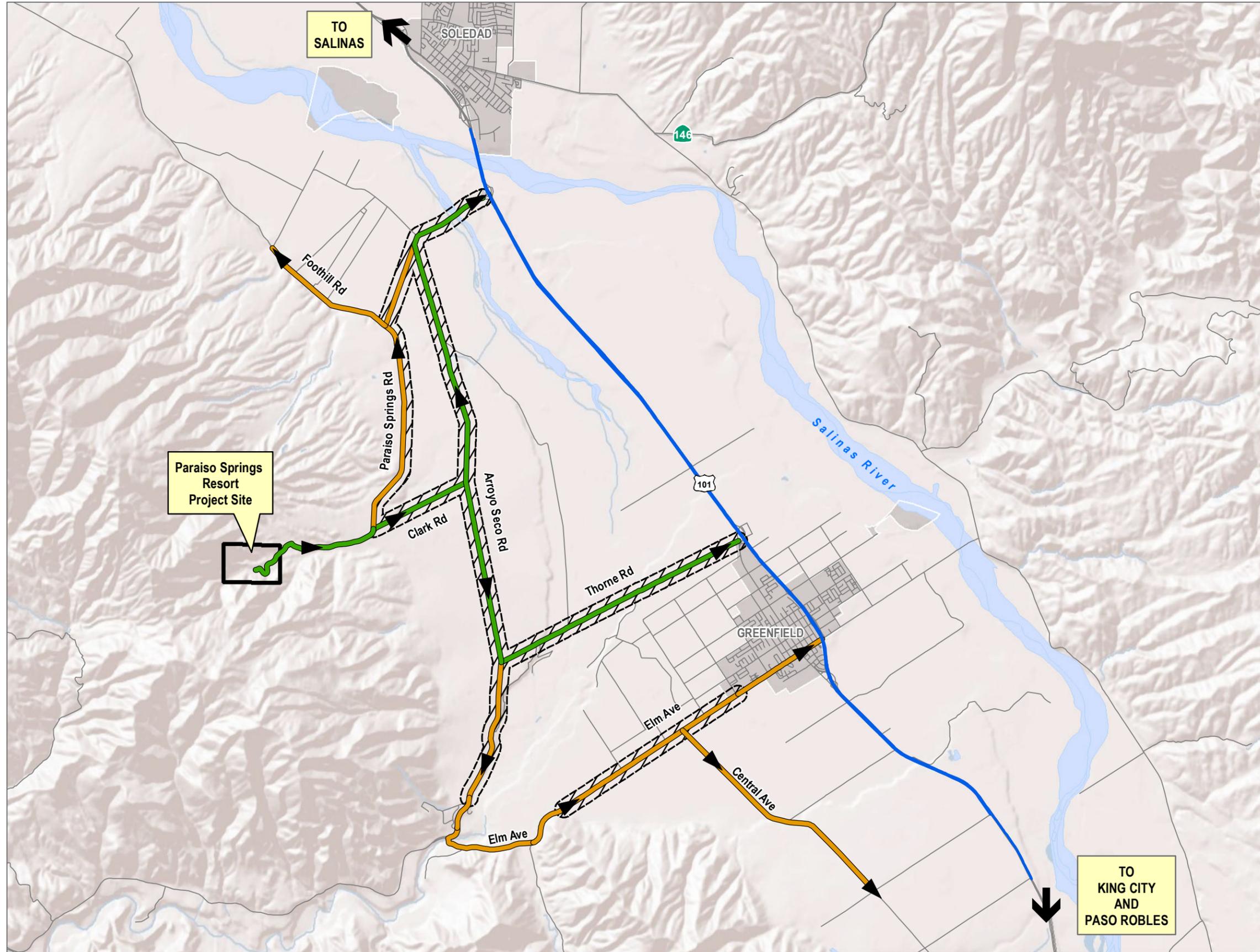
# Paraiso Springs Resort Construction Fire Prevention Plan

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## 2 INTRODUCTION

The Paraiso Springs Resort Project (Project) is located approximately 130 miles south of San Francisco in unincorporated southern Monterey County in the western foothills of the Central Salinas Valley, approximately seven miles west of the City of Greenfield at the western terminus of Paraiso Springs Road. The project site is located at 34358 Paraiso Springs Road and is comprised of Assessor's Parcel Numbers 418-381-021-000, 418-361-004-000, and 418-381-022-000.

The following Construction Fire Prevention Plan (CFPP) has been prepared for the construction phase of the Paraiso Springs Resort project site. The Project area is about 235 acres nestled in the mouths of the Paraiso Springs Valley and Indian Valley, extending westward into the foothills between the crest of the Sierra de Salinas Foothills and the Salinas Valley. The site is bordered to the east by grazing and farmland, and to the north, south and west by the Santa Lucia Mountains. The proposed Project involves the demolition of the existing structures within the Project site and construction of a new hotel, day-use area (Hamlet), a spa and fitness center, 60 timeshare condominiums, and 17 timeshare villas centered on the European theme of wellness treatment and education.



- Evacuation Direction
- Major Transportation Corridor
- Primary Evacuation Route
- Secondary Evacuation Route
- Potential Temporary Roadside Refuge
- Project Site
- County Roads

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**FIGURE 1**  
 Paraiso Springs Resorts Community Fire Evacuation Map  
 Wildland Fire Evacuation Plan for the Paraiso Springs Resort

# Paraiso Springs Resort Construction Fire Prevention Plan

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## 3 EMERGENCY NOTIFICATION AND EVACUATION PROCEDURES

Any fire event at or near the site will trigger the emergency notification procedures identified in this section.

### 3.1 First Call = 9-1-1

Reporting fires and other emergencies: Anyone witnessing an emergency or fire should first call 9-1-1 so that emergency responders and appropriate apparatus can be dispatched as early as possible.

After calling 9-1-1, personnel in Table 1, as the primary site contacts, should be notified during a fire emergency.

**Table 1**  
**Emergency Notification Primary Contacts**

Name*	Position	Contact Number*
TBD	Site Safety Officer	TBD
TBD	Site Manager	TBD
TBD	Project Manager	TBD
TBD	Project Engineer	TBD
TBD	Construction Supervisor	TBD

**Note:**

\* Upon designation of each of the positions listed, the Names and contact numbers and emails shall be provided to site personnel and updated in this plan at least annually.

**Technical Staff Contact:** Project contact information will be provided to local fire agencies/stations to assist responding firefighters during an emergency. A copy of this CFPP will be submitted to the responding fire agencies.

**Emergency related contacts near the site include:**

- Fire/Emergency Medical (Soledad Fire Protection District)
- Monterey County Sheriff (Salinas Office) – 831.755.5111
- California Highway Patrol (Monterey Office) – 831.770.8000
- Hospital – Salinas Valley Memorial Healthcare System – 831.757.3627

To facilitate the arrival of fire services during construction, an emergency response meeting point will be established at the main entrance of the property with the Mission Soledad Rural

# Paraiso Springs Resort Construction Fire Prevention Plan

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Fire Protection District prior to Project construction. The Site Safety Officer/Fire Coordinator (SSO) or designee will meet the emergency response team at the meeting point during a significant emergency situation to lead them into the site.

## **3.2 Evacuation Procedures**

The SSO is primarily responsible for evacuations. They will gather information from available information sources including emergency alerts, local radio and television, and law enforcement and fire personnel, as possible to determine the nature of the emergency, and declare the emergency status.

During significant emergency situations at or near the Project site, the site manager and/or SSO, in consultation with law or fire authorities, may issue an evacuation notice. When an evacuation has been called, all site employees will gather at a designated assembly area and the SSO will account for all personnel in time as safety allows. Employees will then be safely convoyed in vehicles from the Project site to safe zones, which are generally areas offsite away from the threat. If it is suspected any employees remain onsite, the SSO and foreman-level supervisors will perform a sweep of the Project site as safety allows to locate any remaining persons and reconvene at the assembly area for safe conveyance away from the threat. Should a structure or wildland fire (or other emergency) occur that threatens the primary assembly area; other locations may be designated as secondary assembly areas by the SSO, as dictated by the situation. The SSO may modify these procedures during significant emergency situations as safety requires. The SSO should be prepared to be available to the Incident Commander (IC) throughout the Incident to facilitate information exchange.

### **3.2.1 Evacuation Routes**

Depending on the type and severity of the emergency, along with weather and/or localized site conditions, roadways designated on Figure 1 will be used for evacuating the area. The primary site access and evacuation route to the east is Paraiso Springs Road which interconnects with Clark Road, providing travel to the east to Arroyo Seco Road and then 101.

# Paraiso Springs Resort Construction Fire Prevention Plan

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## 4 ROLES AND RESPONSIBILITIES

All employees should know how to prevent and respond to fires and are responsible for adhering to policies regarding fire emergencies. In particular, the following sections detail general responsibilities, by position.

### 4.1 Project Owner/Management

A Final Environmental Impact Report, including a site-specific Fire Protection Plan (FPP) to determine overall fire risk was prepared and approved for the Project. The Project is required to implement necessary measures to reduce the risk and comply with federal, state, and local fire safety/protection policies. Additionally, Owners/Management will conduct necessary training and make equipment available to provide a safe working environment for employees and contractors.

### 4.2 Site Safety Officer/Fire Coordinator or Designees

The SSO will manage and implement the Project's FPP and this CFPP and shall maintain all records pertaining to the plan. Among the other responsibilities of the SSO are:

- Understanding the CFPP and its mandates for training, fire prevention, fire suppression, and evacuation.
- Understanding the fire risk associated with the site and with activities that will occur onsite.
- Developing and administering the fire prevention and safety training program.
- Ensuring that fire control equipment and systems are properly maintained and in good working condition.
- Monitoring combustibles on the site and managing where they are stored.
- Conducting fire safety surveys and making recommendations.
- Posting fire rules on the project bulletin board at the contractor's field office and areas visible to employees.
- Stopping project work activities that pose a fire hazard or are not in compliance with this CFPP.
- Reporting all fires ignited on the site, whether structural, vegetation, electrical, or other to the Mission Soledad Rural Fire Protection District (MSRFPD).

## **Paraiso Springs Resort Construction Fire Prevention Plan**

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- Ensuring that employees receive appropriate fire safety training.
- Notifying the SSO when changes in operation increase the risk of fire.
- Enforcing fire prevention and protection policies.
- Accounting for employees/contractors in the case of an evacuation
- Performing site sweeps to round up staff.
- Facilitating fire agency access to the site.
- Cooperating with the fire agencies/Incident Command during and following fires.
- Identifying unsafe work practices that may lead to fire ignitions.

### **4.3 Employees/Contractors**

All employees and contractors shall:

- Complete all required training discussed below before working onsite without supervision.
- Conduct operations safely to limit the risk of fire.
- Report potential fire hazards to their supervisors.
- Follow fire emergency procedures.
- Understand the emergency evacuation protocols.

# Paraiso Springs Resort Construction Fire Prevention Plan

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## 5 FIRE SAFETY PLAN GOALS

The primary goals of this CFPP are to address the identified ignition sources and risks so that the personnel involved with constructing and final decommissioning of the Project have clearly defined protocols and procedures for reducing fire risk and maintaining a fire safe worksite. Among the goals developed for the Paraiso Springs Resort Project site are:

- Prevent/minimize fires during construction, operation, and decommissioning.
- Provide a safe worksite for all employees, contractors, visitors and emergency personnel.
- Prevent or minimize dollar loss to the property.
- Prevent or minimize potential for a fire starting onsite to spread offsite.
- Provide water, appropriate fire extinguishers, and access for firefighters.
- Provide water trucks equipped with fire extinguishers, hoses, shovels, and Pulaski's when work involves the use of chainsaws, chippers, vegetation masticators, grinders, drill rigs, tractors, torches, and/or explosives.
- Provide the ability to report a fire or other emergency to 9-1-1 without delay and to contact personnel.
- Report all fire ignitions, regardless of size, to the MSRFPD.

# Paraiso Springs Resort Construction Fire Prevention Plan

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## **6 SITE AND PROJECT DESCRIPTION**

### **6.1 Location**

The Project is located approximately 130 miles south of San Francisco and 7 miles west of the City of Greenfield. The Project Area is approximately 235 acres of land.

### **6.2 Vegetation**

Vegetative fuels on site are primarily non-native grassland, chaparral, and coastal sage scrub, although smaller pockets of oak riparian forest, wetland, and ornamental vegetation types are present. Onsite vegetation is important relative to wildfire as some vegetation, such as grassland habitats, are highly flammable while other vegetation, such as chaparral and oak riparian forest, may be less flammable, but would burn under certain, more intense fire conditions.

The proposed Project footprint would be converted to roads, structures, and maintained landscape vegetation. Native vegetative fuels allowed to remain within the outer thinning fuel modification zones and riparian areas would be modified as a result of development. The vegetation outside the proposed Project's perimeter fuel modification zones are the primary wildfire concern for Paraiso Springs Resort. These areas would be preserved as open space and would continue to be dominated by mixed chaparral and non-native grassland fuel beds. The Project's fire protection features, including the fuel modification zones, were designed to be fire-hardened for the type of wildfire these areas could produce and provide a system of fire protection.

### **6.3 Project Description**

The Project proposes a 235-acre master-planned resort and hotel, day-use area, spa and fitness center, 60 timeshare condominiums, and 17 timeshare villas.

# Paraiso Springs Resort Construction Fire Prevention Plan

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## 7 CONSTRUCTION RISKS AND FIRE PREVENTION MEASURES

### 7.1 Construction-Phase Risks and Measures

- **Earth-moving equipment** – create sparks, heat sources, fuel or hydraulic leaks, etc.
- **Chainsaws** – may result in vegetation ignition from overheating, spark, fuel leak, etc.
- **Vehicles** – heated exhausts/catalytic converters in contact with vegetation may result in ignition
- **Welders** – open heat source may result in metallic spark coming into contact with vegetation
- **Woodchippers** – include flammable fuels and hydraulic fluid that may leak and spray onto vegetation with a hose failure
- **Compost piles** – large piles that are allowed to dry and are left onsite for extended periods may result in combustion and potential for embers landing in adjacent vegetation
- **Grinders** – sparks from grinding metal components may land on a receptive fuel bed
- **Torches** – heat source, open flame, and resulting heated metal shards may come in contact with vegetation

**Fire Prevention Measures for all Construction Activities including Construction Phase Fuel Modification:** SSO shall ensure implementation of the following measures prior to removal of vegetation or combustible building material as well as during, construction activities.

- Minimize combustible and flammable materials storage onsite.
- Store any combustible or flammable materials that need to be onsite away from ignition sources.
- Initial clearance of native vegetation, or clearance of vegetation within 100 feet of native vegetation, shall require that a staffed water vehicle (water truck or Fire Engine) be located within 200 feet of all operating mechanized equipment. This requirement shall also apply to grading activities within 100 feet of native or flammable vegetation
- Clear parking and construction areas of all dry vegetation—grass and brush—by a distance of at least 10 feet.
- Park vehicles and equipment a minimum of 10 feet from any vegetation.
- Keep vehicle and equipment idling to a minimum of not more than five minutes when not in use.

## **Paraiso Springs Resort Construction Fire Prevention Plan**

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- Gas-powered equipment shall not be used in proximity to flammable materials.
- Keep evacuation routes free of obstructions.
- Label all containers of potentially hazardous materials with their contents and stored in the same location as flammable or combustible liquids.
- Perform “hot work” according to fire safe practices in a controlled environment and with fire suppression equipment at the job site. A fire watch person (Fire Patrol), with extinguishing capability (e.g., fire extinguishers), should be in place for all ‘Hot Work’ activities during construction. Ensure hot work adheres to the guidelines provided in this plan.
- Dispose of combustible waste promptly and according to applicable laws and regulations.
- Report and repair all fuel leaks without delay.
- Do not overload circuits or rely on extension cords where other options would be safer.
- Turn off and unplug electrical equipment when not in use.
- Direct contractors onsite to restrict use of chainsaws, chippers, vegetation masticators, grinders, drill rigs, tractors, and torches during RFW. When the above tools and equipment are used, water trucks (4,000-gallon capacity) equipped with hoses, shovels, Pulaski’s, and McLeod’s shall easily be accessible to personnel.
- Equip all construction-related vehicles with a 10-pound 4A:80 BC Dry Chemical Fire Extinguisher, a 5-gallon backpack pump or water fire extinguisher, a 46-inch round point shovel, and a first-aid kit.
- No Smoking will be allowed on site except in designated safe smoking areas which include cleared area with no combustible vegetation or materials and approved butt receptacles (noncombustible containment of cigarette butts). Smoking inside closed vehicles at the site may be allowed in designated areas away from vegetation, at the discretion of the SSO.

### **7.1.1 Consultants and Contractor Onsite Risks**

Consultants and contractors should know how to prevent and respond to fires and are responsible for adhering to the Project’s policies regarding fire emergencies. These general fire prevention measures should help in the efforts to prevent a fire from occurring while on-site.

# Paraiso Springs Resort Construction Fire Prevention Plan

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**Fire Prevention Measures for Consultants/Contractors:** SSO shall ensure consultants/contractors implement of the following measures during construction activities

- Vehicles equipped with fire prevention equipment:
  - 10-pound, 4A:80BC dry chemical fire extinguisher
  - 46-inch round point shovel
  - 5-gallons of water or a 5-gallon water backpack
  - First-aid kit
- No driving (cars, trucks, ATVs or similar) over unmaintained or dry vegetation.
- Park vehicles and equipment a minimum of 10 feet from any vegetation.
- Site activities limited during Red Flag Warning Weather periods; stay alert to fire and weather conditions and evacuate employees, if safe to do so.
- Consultants/Contractors will conduct operations safely to limit the risk of fire.
- Hot Work shall adhere to the guidelines provided below in Section 7.5.

## 7.2 Risk-Reduction Measures

The following measures will be employed, as appropriate, during each phase of the project (construction, operation and maintenance, and decommissioning) to reduce the risk of ignitions. These measures will be enforced by the SSO and supported by ongoing worker safety training.

- Fire rules shall be posted on the project bulletin board at the contractor's field office and areas visible to employees. This shall include all consultants, contractors and subcontractors if more than one.
- Fires ignited on site shall be immediately reported to MSRFPD.
- The engineering, procurement, and construction contracts for the project shall clearly state the fire safety requirements that are the responsibility of any person who enters the site, as described in this CFPP.
- All internal combustion engines used at the Project site shall be equipped with spark arrestors that are in good working order.
- Once initial two-track roads have been cut, light trucks and cars shall be used only on roads where the roadway is cleared of vegetation. Mufflers on all cars and light trucks shall be maintained in good working order.

## **Paraiso Springs Resort Construction Fire Prevention Plan**

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- During construction, the Project will be equipped with at least one water truck with 4,000-gallon capacity. Each truck will be equipped with 50 feet of 0.25-inch fast response hose w/fog nozzles. Any hose size greater than 1 ½” shall use National Hose (NH) couplings.
- A cache of shovels, McLeod’s, and Pulaski’s shall be available at staging sites. The amount of equipment will be determined by consultation between SSO and MSRFPD. Additionally, onsite pickup trucks will be equipped with first-aid kits, fire extinguishers and shovels. Contractor vehicles will be required to include the same basic equipment.
- Equipment parking areas and small stationary engine sites shall be cleared of all extraneous flammable materials.
- The onsite contractor shall make an effort to restrict use of chainsaws, chippers, vegetation masticators, grinders, drill rigs, tractors, and torches, during RFW conditions. When the above tools and equipment are used, water trucks equipped with hoses, shovels, McLeod’s and Pulaski’s shall be easily accessible to personnel.
- A fire watch (person responsible for monitoring for ignitions) will be provided during hot works and shall monitor for a minimum of 30 minutes following completion of the hot work activities.
- Smoking shall not be allowed in wildland areas and within 50 feet of combustible materials storage and shall be limited to paved areas or areas cleared of all vegetation. Cigarette butts must be properly disposed in a fire safe receptacle.
- Each project construction site (if construction occurs simultaneously at various locations) shall be equipped with fire extinguishers and firefighting equipment sufficient to extinguish small fires.
- The onsite contractor or Project staff shall coordinate with the MSRFPD to create a training component for emergency first responders to prepare for specialized emergency incidents that may occur at the Project site.
- Construction workers at the site shall receive basic training on the proper use of fire extinguishers and procedures to be followed in the event of a fire. Training records shall be maintained and be available for review by the MSRFPD.7.3 Daily Fire Prevention Measures
- To limit the risk of fires, all site staff, employees, and contractors shall take the following precautions:
- Fire safety shall be a component of daily tailgate meetings. Foremen will remind employees of fire safety, prevention, and emergency protocols on a daily basis.

## **Paraiso Springs Resort Construction Fire Prevention Plan**

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- No Smoking will be allowed on site except in designated safe smoking areas which include cleared area with no combustible vegetation or materials and approved butt receptacles (noncombustible containment of cigarette butts). Smoking inside closed vehicles at the site may be allowed in designated areas away from vegetation, at the discretion of the SSO.
- Combustible materials will be stored in areas away from native vegetation. Whenever combustibles are being stored in the open air, the SSO shall be informed of the situation.
- Disposal of combustible waste in accordance with all applicable laws and regulations.
- Use and store flammable materials in areas away from ignition sources.
- Proper storage of chemicals, such that incompatible (i.e., chemically reactive) substances would be separated appropriately, shall be required.
- Performance of hot work (i.e., welding or working with an open flame or other ignition sources) in controlled areas under the supervision of a fire watch shall be required.
- Equipment shall be kept in good working order by inspecting electrical wiring and appliances regularly and maintaining motors and tools free of excessive dust and grease.
- Immediate reporting of fuel or petroleum leaks shall be required. The SSO shall ensure that all leaks are repaired immediately upon notification.
- Immediate repair and cleanup of flammable liquid leaks shall be required.
- Extension cords shall not be relied on if wiring improvements are needed and overloading of circuits with multiple pieces of equipment shall be prohibited.
- Electrical equipment shall be turned off and unplugged when not in use.

### **7.3.1 Fire Prevention/Protection System Maintenance**

The SSO (or qualified designee) will ensure that fire suppression and related equipment is maintained according to manufacturers' specifications. National Fire Protection Association (NFPA) guidelines shall be implemented for specific equipment.

The following equipment is subject to ongoing maintenance, inspection, and testing procedures:

- Portable fire extinguishers;
- Fire alarm and suppression systems;
- Water trucks and associated equipment; and
- Emergency backup generators/systems and the equipment they support.

# Paraiso Springs Resort

## Construction Fire Prevention Plan

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### 7.4 Hot Work Measures

These requirements are primarily from California Fire Code (CFC) Chapter 26, Welding and other Hot Work, and NFPA 51B, Fire Prevention During Welding, Cutting and other Hot Work. Hot work is defined in the CFC as operations involving cutting, welding, thermit welding, brazing, soldering, grinding, thermal spraying, thawing pipe, or other similar operations. Hot work areas are defined as the areas exposed to sparks, hot slag, radiant heat, or convective heat because of the hot work.

The SSO will require hot work to be done per requirements in NFPA 51B and the CFC Chapter 26.

Hot work shall only be done in fire safe areas designated by the SSO and shall comply with the following:

- All personnel involved in Hot Work shall be trained in safe operation of the equipment by the SSO. This will include providing training at “tailgate safety meetings”. They shall also be made aware of the risks involved and emergency procedures, such as how to transmit an alarm and who is responsible to call 9-1-1.
- Signage required in areas where workers may enter indicating “Caution; Hot Work in progress; Stay Clear” would be posted on site.
- Hot work would not be done on any containers which contain or have contained flammable liquids, gases, or solids until containers have been thoroughly cleaned, purged, or inerted.
- A dry chemical fire extinguisher with a minimum rating of 4A:80BC, a 5-gallon backpack pump or water fire extinguisher, and a 46-inch round point shovel, shall be readily accessible within 25 feet of hot work area.
- The SSO shall inspect the hot work area before start and shall then make daily inspections.
- Welding and cutting would comply with 2016 CFC) Chapter 35- welding and Hot Work.
- Electric arc hot work would comply with CFC Chapter 35.
- Piping manifolds and Hose Systems for Fuel Gases and Oxygen would comply with CFC Section 3509.
- Cylinder use and storage shall comply with 2016 CFC Chapter 53, “Compressed Gases.”
- Equipment would be approved by MSRFPD, including torches, manifolds, regulators, or pressure reducing valves, and any acetylene generators.
- Personal Protective Clothing would be selected to minimize the potential for ignition, burning, trapping hot sparks, and electric shock.

## **Paraiso Springs Resort Construction Fire Prevention Plan**

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- A fire watch will be in place for a minimum of 30 minutes, or longer as considered necessary by the SSO, following any hot work.
- Any ignitions would be immediately extinguished (as possible) by site personnel and the fire department would be notified of the incident.

The SSO shall have the responsibility to ensure safe Hot Work operations and shall have the authority to modify hot work activities associated with construction and maintenance activities, and to exceed the requirements in NFPA 51B and 2016 CFC, to the degree necessary to prevent fire ignition. Workers performing hot work must be trained on the hot work information and criteria in this CFPP.

## Paraiso Springs Resort Construction Fire Prevention Plan

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### 8 RED FLAG WARNING AND HIGH-TO-EXTREME FIRE DANGER PROTOCOL

Red Flag Warnings are issued by the National Weather Service and indicate that conditions are such (low humidity, high winds) that wildfire ignitions and spread may be facilitated. To ensure compliance with Red Flag Warnings restrictions, the SSO will monitor National Weather Service website at the site (<http://www.srh.noaa.gov/ridge2/fire/briefing.php>) and implement the following protocol during Red Flag Warnings:

- Construction related activities will be limited and precautions may be taken onsite during periods of a Red Flag Warning, when conditions such as low humidity and high winds are present.
- Red flags will be prominently displayed at the entrance gate and main office, indicating to employees and contractors that restrictions are in place.
- Any hot work (work that could result in ignition sources or increase fire risk), grading, or any other work that could result in heat, flame, sparks, or may cause an ignition to vegetation will be prohibited.
- Project areas may be evacuated where personnel may be exposed to higher risks.
- If vehicles are required to be used during Red Flag Warning conditions, vehicles shall remain only on designated access roads on the site.

High-to-extreme Fire Danger days are determined by U.S. Forest Service through their National Fire Danger Rating System. Warnings are issued to CALFIRE and local and regional fire managers to help them estimate fire danger for a given area. In the event of high-to-extreme fire danger days, the SSO will assess the dangers and ensure implementation of any applicable red flag warning protocol or other risk reduction and fire prevention measures listed within the CFPP, as appropriate.

# Paraiso Springs Resort Construction Fire Prevention Plan

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## 9 FIRE SAFETY BRIEFINGS, INSPECTIONS, AND TRAINING

### 9.1 Briefings and Inspections

The SSO will conduct routine, unannounced inspections a minimum of once, weekly. The SSO will develop an inspection check list to document these inspections. The SSO also will ensure the following measures are taken:

- Prior to Project construction, Project personnel will receive training on the contents of this CFPP, along with additional fire safety and fire prevention information provided by an informed SSO (or designee). As possible, firefighters from MSRFPD may attend these meetings and provide input, which has a dual benefit of informing site personnel and providing Project familiarity for the firefighters.
- Site supervisors/foremen will be responsible for sharing CFPP content with consultants and construction personnel throughout the duration of the Project. A review of the content of this CFPP would take place at a formal safety briefing at a minimum of once per month.
- Daily safety tailgate sessions will be held and include an assessment of the day's fire-related risks or hazards and the mitigation for each.

Compliance, including monitoring compliance, with this CFPP is mandatory. All levels of project management have the authority to shut down any operation that presents an inappropriate amount of fire risk or hazard until it can be properly addressed.

Violations of any of the requirements of this CFPP will be addressed by the SSO or other supervisory personnel, immediately. All Project-related vegetation fires, regardless of size, shall be promptly reported to the SSO and MSRFPD to determine if appropriate fire prevention measures are being taken.

### 9.2 Training Requirements

#### 9.2.1 Basic Fire Safety Training

The SSO and or site supervisors/foremen will present basic fire prevention training to employees upon employment, and shall maintain documentation of the training, which includes the following:

- The Project-specific FPP
- Review of the Occupational Safety and Health Administration (OSHA) Fire Protection and Prevention (29 CFR 1926.24)

## **Paraiso Springs Resort Construction Fire Prevention Plan**

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- Proper response and notification in the event of a fire;
- Instruction on the use of portable fire extinguishers, and hand tools, such as shovels, and recognition of potential fire hazards.

The SSO will train persons entering the site on the fire hazards associated with the specific materials and processes to which they are exposed and will maintain documentation of the training. Employees and contractors would receive this training at the following times:

- Upon first entering the facility
- When changes in work processes necessitate additional training

Upon returning to the site after having been gone longer than 90 days

### **9.2.2 Site Supervisor Fire Safety Training**

Prior to Project construction, site supervisors will receive a minimum of 1 hour training on wildland fire prevention and safety. This training would be provided by the SSO or qualified designee. This training will then be shared with all construction personnel by the site supervisor or the SSO.

Each site supervisor will be trained on the following:

- Fire reporting
- Extinguishing small fires in order to prevent them from growing into more serious threats.
- Fire prevention
- Identifying work activities that may result in a fire hazard

### **9.2.3 Communication**

The ability to communicate with personnel working on the Project site is mandatory, and the SSO will ensure the following communication protocol are enforced.

- Construction crews will be required to have a cell phone or satellite phone, and/or radios that are operational within the area of work to report an emergency.
- Contact information for lead construction personnel will be provided to respective agencies.
- Communication pathways and equipment will be tested and confirmed operational each day prior to initiating construction activities.

## **Paraiso Springs Resort Construction Fire Prevention Plan**

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- Fires and medical emergencies will be immediately reported to MSRFPD via 9-1-1.
- Each on-site worker will carry at all times a laminated, CFPP card listing 24-hour contact information, including telephone numbers for reporting an emergency, and immediate steps to take if an incident occurs. Information on the CFPP card will be updated as needed and redistributed to all workers before the initiation of any construction activities. The Project's compliance monitor will provide the CFPP cards to the site's SSO prior to construction kick-off so that all site staff can be provided training and receive their cards.

# Paraiso Springs Resort Construction Fire Prevention Plan

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## 10 PROJECT PERSONNEL FIRE FIGHTING LIMITATIONS

Responding to fires at the Project site, whether structural, wildland, or other, is the responsibility of MSRFPD. Because their response to the site may require several minutes or more, Project employees and contractors should provide only initial firefighting efforts, and only if they have had appropriate training. No employee or contractor shall fight a fire beyond the incipient stage and the arrival of professional fire suppression personnel. Involvement in firefighting is voluntary and should only be attempted by trained, qualified individuals.

# Paraiso Springs Resort Construction Fire Prevention Plan

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## **11 COMPLIANCE WITH APPLICABLE PLANS AND POLICIES**

The CFPP complies with the applicable components of the following state and local fire prevention and safety plans and policies: 2016 California Fire Code, as adopted by Monterey County and Mission Soledad Fire Protection District.

# Paraiso Springs Resort Construction Fire Prevention Plan

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## 12 REVIEW AND APPROVAL

The signatory reviewing officials are acknowledging that Paraiso Springs Resort, LLC has established a CFPP, which, when properly implemented, maintained, and enforced will result in fire hazard and risk reduction for the Project's construction phase. Reviewing agencies do not accept any responsibility for the applicant's interpretation or implementation of this CFPP prior to, during, or following the construction of the Project or for any resulting actions associated with these activities.

### Reviewed by:

\_\_\_\_\_  
Paraiso Springs Resort, LLC  
Site Safety Officer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Mission Soledad Rural Fire Protection District

\_\_\_\_\_  
Date

### Approved by:

\_\_\_\_\_  
Paraiso Springs Resort, LLC  
Project Manager

\_\_\_\_\_  
Date

**APPENDIX 6.2**  
**OPERATIONAL FIRE PREVENTION PLAN**

# **PARAISO SPRINGS RESORT OPERATIONAL FIRE PREVENTION PLAN**

*Prepared for:*

## **County of Monterey**

Resource Management Agency  
1441 Schilling Pl, Second Floor  
Salinas, California 93901  
*Contact: Michael Novo*

*On behalf of Applicant:*

## **Paraiso Springs Resort, LLC**

34358 Paraiso Springs Road  
Soledad, California 93960  
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*Prepared by:*

605 Third Street  
Encinitas, California 92024

# **SEPTEMBER 2019**

**Paraiso Springs Resort  
Operational Fire Prevention Plan**

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**ATTACHMENTS**

- A Fire Risk Survey
- B General Fire Prevention Checklist
- C Paraiso Springs Resort Exits Checklist
- D Flammable and Combustible Materials Checklist

# Paraiso Springs Resort Operational Fire Prevention Plan

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## List of acronyms and abbreviations

CFR	Code of Federal Regulations
FM	Factory Mutual
MSRFPD	Mission Soledad Rural Fire Protection District
NFPA	National Fire Protection Association
O&M	Operations and Maintenance
OFPP	Operational Fire Prevention Plan
OSHA	Occupational Safety and Health Administration
Proposed Project	Paraiso Springs Resort Specific Plan
RFW	Red Flag Warning
SSO	Site Safety Officer/Fire Safety Coordinator
TBD	To be determined
UL	Underwriters Laboratory

# Paraiso Springs Resort

## Operational Fire Prevention Plan

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### Definitions

**Fire Watch:** A Paraiso Springs Resort selected individual will be assigned as “Fire Patrol” specifically to monitor work activities when an activity area includes hot work or work that could result in ignitions. The Fire Patrol personnel shall regularly patrol the area on foot and monitor the area for any signs of fire or unsafe practices. They shall have no other duties and shall not be sitting in a vehicle or using a cell phone or computer except for emergency-related calls or for checking for Red Flag Warning or other fire hazard or weather conditions.

**Fire Extinguisher:** Essential firefighting tools to be staged near work activities including water fire extinguisher, and a minimum 10 pound 4A:80BC Dry Chemical Fire extinguisher.

**Hot Work:** Hot work is any activity or process that involves open flames or that generates sparks or heat and includes: Welding and allied processes; heat treating; grinding; thawing pipes; powder-driven fasteners; hot riveting; torch-applied roofing; and any similar applications producing or using sparks, flame or heat

**Plan:** The Operational Fire Prevention Plan (OFPP).

**Red Flag Warning (RFW):** A Red Flag Warning is issued for a stated period of time by the National Weather Service using pre-determined criteria to identify particularly critical wildfire danger in a particular geographic area. All construction and maintenance activities shall temporarily cease during RFWs.

**Site Safety Officer/Fire Coordinator (SSO):** The Site Safety Officer/Fire Coordinator and their designees serves as the fire safety coordinator and is the liaison to the emergency service agencies and all contractors or inspectors on the jobsite for emergency incidents and construction-related activities. The SSO has the authority to stop any project work that appears to pose a particular fire risk or hazard.

# Paraiso Springs Resort Operational Fire Prevention Plan

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## 1. SUMMARY

This Operational Fire Prevention Plan (OFPP) provides basic direction for fire safety awareness on the Paraiso Springs Resort Project site during ongoing facility operations. This OFPP provides standard protocols and approaches for reducing the potential of ignitions for typical operational and maintenance site activities. When employed, the concepts discussed herein will help minimize and avoid ignitions as well as extinguish any ignitions while they are small and controllable.

# Paraiso Springs Resort Operational Fire Prevention Plan

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## 2 INTRODUCTION

The Paraiso Springs Resort (Project) site rests upon Paraiso Hot Springs, located approximately 130 miles south of San Francisco in unincorporated southern Monterey County in the western foothills of the Central Salinas Valley, approximately seven miles west of the City of Greenfield at the western terminus of Paraiso Springs Road. The Project site is located at 34358 Paraiso Springs Road and is comprised of Assessor's Parcel Numbers 418-381-021-000, 418-361-004-000, and 418-381-022-000.

The Project area is about 235 acres nestled in the mouths of the Paraiso Springs Valley and Indian Valley, extending westward into the foothills between the crest of the Sierra de Salinas Foothills and the Salinas Valley. The site is bordered to the east by grazing and farmland, and to the north, south and west by the Santa Lucia Mountains. The Project's structures include a hotel, day-use area (Hamlet), a spa and fitness center, 60 timeshare condominiums, and 17 timeshare villas centered on the European theme of wellness treatment and education associated with the existing mineral hot springs. The following Operational Fire Prevention Plan (OFPP) has been prepared for the Project site once construction has been completed.

# Paraiso Springs Resort Operational Fire Prevention Plan

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## 3 PURPOSE

The purpose of this OFPP is to eliminate the causes of fire, prevent loss of life and property by fire, and to comply with the Occupational Safety and Health Administration's (OSHA) standard on fire prevention, 29 CFR 1910.39. It provides employees with information and guidelines that will assist them in recognizing, reporting, and controlling fire hazards. The Project's Fire Protection Plan provides additional fire prevention and safety requirements including for landscape and fuel modification maintenance.

Paraiso Springs Resort is committed to minimizing the threat of fire to employees, visitors, and property. The Project complies with all applicable laws, regulations, codes, and good practices pertaining to fire prevention. This OFPP serves to reduce the risk of fires at the Project site in the following ways:

- a. identifies materials that are potential fire hazards and their proper handling and storage procedures;
- b. distinguishes potential ignition sources and the proper control procedures of those materials;
- c. describes fire protection equipment and/or systems used to control fire hazards;
- d. identifies persons responsible for maintaining the equipment and systems installed to prevent or control ignition of fires;
- e. identifies persons responsible for the control and accumulation of flammable or combustible material;
- f. describes good housekeeping procedures necessary to ensure the control of accumulated flammable and combustible waste material and residues to avoid a fire emergency; and
- g. provides training to employees with regard to fire hazards to which they may be exposed.

# Paraiso Springs Resort Operational Fire Prevention Plan

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## 4 ASSIGNMENT OF RESPONSIBILITY

Fire safety is everyone's responsibility. All employees should know how to prevent and respond to fires and are responsible for adhering to company policy regarding fire emergencies.

### 4.1 Management

Management determines the Paraiso Springs Resort fire prevention and protection policies. Management will provide adequate controls to provide a safe workplace and will provide adequate resources and training to its employees to encourage fire prevention and the safest possible response in the event of a fire emergency.

### 4.2 Plan Administrator (Site Safety Officer/Fire Safety Coordinator)

A Site Safety Officer/ Fire Safety Coordinator (SSO) shall administer the OFPP for Paraiso Springs Resort and shall maintain all records pertaining to the plan. The Plan Administrator shall also:

- Develop and administer the Paraiso Springs Resort fire prevention training program.
- Ensure that fire control equipment and systems are properly maintained.
- Control fuel source hazards.
- Conduct fire risk surveys (see Appendix A) and make recommendations.
- Oversee employee implementation of measurements listed in the OFPP.
- Communicate with Mission Soledad Rural Fire Protection District:
  - a. Meet with MSRFPD representatives annually on-site during inspections to discuss ongoing fire prevention measures
  - b. Contact the MSRFPD Fire Chief or his/her designee whenever there is a fire on site, even if the fire is extinguished by site staff
  - c. Contact the MSRFPD during annual employee training and invite representatives to provide fire prevention, response, and protocol training

SSO contact information:

Name*	Position	Contact Number
TBD	Site Safety Officer	TBD

# Paraiso Springs Resort Operational Fire Prevention Plan

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## 4.3 Supervisors

Supervisors are responsible for ensuring that employees receive appropriate fire safety training, and for notifying the SSO when changes in operation increase the risk of fire. Supervisors are also responsible for enforcing the Paraiso Springs Resort fire prevention and protection policies.

## 4.4 Employees

All employees shall:

- Complete all required training outlined in Section 6 of the OFPP before working without supervision.
- Conduct operations safely to limit the risk of fire.
- Report potential fire hazards to their supervisors.
- Follow fire emergency procedures.
- Incorporate basic ongoing monitoring utilizing checklists like those provided in Attachments A through D.

# Paraiso Springs Resort Operational Fire Prevention Plan

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## 5 PLAN IMPLEMENTATION

### 5.1 Good Housekeeping Procedures for Minimizing the Potential for Ignitions during Operation and Maintenance

To limit the risk of fires, employees shall take the following precautions:

- Minimize the storage of combustible materials.
- Make sure that doors, hallways, stairs, and other exit routes are kept free of obstructions.
- Dispose of combustible waste in covered, airtight, metal containers.
- Use and store flammable materials in well-ventilated areas away from ignition sources.
- Use only nonflammable cleaning products.
- Keep incompatible (i.e., chemically reactive) substances away from each other.
- Perform “hot work” (i.e., welding or working with an open flame or other ignition sources) in controlled and well-ventilated areas.
- Keep equipment in good working order (i.e., inspect electrical wiring and appliances regularly and keep motors and machine tools free of dust and grease.
- Ensure that heating units are safeguarded.
- Report all gas leaks immediately. Responsible Person shall ensure that all gas leaks are repaired immediately upon notification.
- Repair and clean up flammable liquid leaks immediately.
- Keep work areas free of dust, lint, sawdust, scraps, and similar material.
- Do not rely on extension cords if wiring improvements are needed and take care not to overload circuits with multiple pieces of equipment.
- Ensure that required hot work approvals are obtained.
- Turn off electrical equipment when not in use.

### 5.2 Equipment and System Maintenance

The SSO will ensure that equipment is maintained according to manufacturers' specifications. Paraiso Springs Resort will also comply with requirements of the National Fire Protection Association (NFPA) codes for specific equipment. Only properly trained individuals shall perform maintenance work.

## **Paraiso Springs Resort Operational Fire Prevention Plan**

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The following equipment is subject to the maintenance, inspection, and testing procedures:

- equipment installed to detect fuel leaks, control heating, and control pressurized systems;
- portable fire extinguishers, automatic sprinkler systems, and fixed extinguishing systems;
- detection systems for smoke, heat, or flame;
- fire alarm systems; and
- emergency backup systems and the equipment they support.

### **5.2.1 Fuel Modification Zone/Landscape Maintenance**

All site landscaping and designated fuel modification zones will be maintained on an ongoing basis by the site's landscape contractor or staff. Maintenance shall include, at a minimum:

- Removal of all dead and dying plant material, litter, and accumulated debris
- Thinning of plant material to avoid excessive growth
- Raising tree canopies to provide separation between the lowest branch and ground fuels such that a minimum of 6 feet separation is achieved
- Remove large shrubs and other plants that cannot be maintained to allow 6 feet of separation between ground fuels and the lowest tree branches
- Landscaping and the first fuel modification zone adjacent the built area will be irrigated and maintained in a hydrated condition
- Thinning zones; the outer fuel modification zone will be thinned to result in 50% ground cover by native plants and will include creating spacing between shrubs and shrub groupings to result in an interruption of fire spread
- Work will be performed as needed, on an ongoing basis.
- Work will be annually inspected in June by MSRFPD or an agreed upon 3<sup>rd</sup> party inspector who will provide a compliance letter confirming the site meets the fire adapted landscape guidelines.

## Paraiso Springs Resort Operational Fire Prevention Plan

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### 5.2.2 Red Flag Warning and High-to-Extreme Fire Danger Protocol

Red Flag Warnings are issued by the National Weather Service and indicate that conditions are such (low humidity, high winds) that wildfire ignitions and spread may be facilitated. To ensure compliance with Red Flag Warnings restrictions, the SSO will monitor the National Weather Service website at the site (<http://www.srh.noaa.gov/ridge2/fire/briefing.php>) and implement the following protocol during Red Flag Warnings:

- Maintenance-related activities will be limited, and precautions may be taken onsite during periods of a Red Flag Warning, when conditions such as low humidity and high winds are present.
- Red flags will be prominently displayed at the entrance gate and main office, indicating to employees and guests that restrictions are in place.
- Any hot work (work that could result in ignition sources or increase fire risk), grading, or any other work that could result in heat, flame, sparks, or may cause an ignition to vegetation will be prohibited.
- If vehicles are required to be used during Red Flag Warning conditions, vehicles shall remain only on designated access roads on the site.

High-to-extreme Fire Danger days are determined by U.S. Forest Service through their National Fire Danger Rating System. Warnings are issued to CALFIRE and local and regional fire managers to help them estimate fire danger for a given area. In the event of high-to-extreme fire danger days, the SSO will assess the dangers and ensure implementation of any applicable red flag warning protocol or other risk reduction and fire prevention measures listed within the OFPP, as appropriate.

# Paraiso Springs Resort Operational Fire Prevention Plan

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## 6 TYPES OF HAZARDS

The following sections address the major workplace fire hazards at Paraiso Springs Resort's facilities and the procedures for controlling the hazards.

### 6.1 Electrical Hazards

Electrical system failures and the misuse of electrical equipment are leading causes of workplace fires. Fires can result from loose ground connections, wiring with frayed insulation, or overloaded fuses, circuits, motors, or outlets.

To prevent electrical fires, employees shall:

- Make sure that worn wires are replaced.
- Use only appropriately rated fuses.
- Never use extension cords as substitutes for wiring improvements.
- Use only approved extension cords [i.e., those with the Underwriters Laboratory (UL) or Factory Mutual (FM) label].
- Check wiring in hazardous locations where the risk of fire is especially high.
- Check electrical equipment to ensure that it is either properly grounded or double insulated.
- Ensure adequate spacing while performing maintenance.

### 6.2 Portable Heaters

All portable heaters shall be approved by the SSO. Portable electric heaters shall have tip-over protection that automatically shuts off the unit when it is tipped over. There shall be adequate clearance between the heater and combustible furnishings or other materials at all times.

### 6.3 Office Fire Hazards

Fire risks are not limited to Paraiso Springs Resort's resort facilities. Fires in offices have become more likely because of the increased use of electrical equipment, such as computers and fax machines. To prevent office fires, employees shall:

- Avoid overloading circuits with office equipment.
- Turn off nonessential electrical equipment at the end of each workday.
- Keep storage areas clear of rubbish.

## **Paraiso Springs Resort Operational Fire Prevention Plan**

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- Ensure that extension cords are not placed under carpets.
- Ensure that trash and paper set aside for recycling is not allowed to accumulate.

### **6.4 Cutting, Welding, and Open Flame Work**

The SSO will ensure the following:

- All necessary hot work approvals have been obtained prior to work beginning.
- Cutting and welding are done by authorized personnel in designated cutting and welding areas whenever possible.
- Adequate ventilation is provided.
- Torches, regulators, pressure-reducing valves, and manifolds are UL listed or FM approved.
- Oxygen-fuel gas systems are equipped with listed and/or approved backflow valves and pressure-relief devices.
- Cutters, welders, and helpers are wearing eye protection and protective clothing as appropriate.
- Cutting or welding is prohibited in sprinklered areas while sprinkler protection is out of service.
- Cutting or welding is prohibited in areas where explosive atmospheres of gases, vapors, or dusts could develop from residues or accumulations in confined spaces.
- Cutting or welding is prohibited on metal walls, ceilings, or roofs built of combustible sandwich-type panel construction or having combustible covering.
- Confined spaces such as tanks are tested to ensure that the atmosphere is not over ten percent of the lower flammable limit before cutting or welding in or on the tank.
- Small tanks, piping, or containers that cannot be entered are cleaned, purged, and tested before cutting or welding on them begins.
- Fire watch (designated employee(s) who are assigned to monitor sites where hot work is occurring) has been established.

### **6.5 Flammable and Combustible Materials**

The SSO shall regularly evaluate the presence of combustible materials at Paraiso Springs Resort.

Certain types of substances can ignite at relatively low temperatures or pose a risk of catastrophic explosion if ignited. Such substances require special care and handling.

# Paraiso Springs Resort

## Operational Fire Prevention Plan

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### 1. Class A combustibles

These include common combustible materials (wood, paper, cloth, rubber, and plastics) that can act as fuel and are found in non-specialized areas such as offices.

To handle Class A combustibles safely

- Dispose of waste daily.
- Keep trash in metal-lined receptacles with tight-fitting covers (metal wastebaskets that are emptied every day do not need to be covered).
- Keep work areas clean and free of fuel paths that could allow a fire to spread.
- Keep combustibles away from accidental ignition sources, such as hot plates, soldering irons, or other heat- or spark-producing devices.
- Store paper stock in metal cabinets.
- Store rags in metal bins with self-closing lids.
- Do not order excessive amounts of combustibles.
- Make frequent inspections to anticipate fires before they start.

Water, multi-purpose dry chemical (ABC), and halon 1211 are approved fire extinguishing agents for Class A combustibles.

### 2. Class B combustibles

These include flammable and combustible liquids (oils, greases, tars, oil-based paints, and lacquers), flammable gases, and flammable aerosols.

To handle Class B combustibles safely:

- Use only approved pumps, taking suction from the top, to dispense liquids from tanks, drums, barrels, or similar containers (or use approved self-closing valves or faucets).
- Do not dispense Class B flammable liquids into containers unless the nozzle and container are electrically interconnected by contact or by a bonding wire. Either the tank or container must be grounded.
- Store, handle, and use Class B combustibles only in approved locations where vapors are prevented from reaching ignition sources such as heating or electric equipment, open flames, or mechanical or electric sparks.
- Do not use a flammable liquid as a cleaning agent inside a building (the only exception is in a closed machine approved for cleaning with flammable liquids).

## **Paraiso Springs Resort Operational Fire Prevention Plan**

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- Do not use, handle, or store Class B combustibles near exits, stairs, or any other areas normally used as exits.
- Do not weld, cut, grind, or use unsafe electrical appliances or equipment near Class B combustibles.
- Know the location of and how to use the nearest portable fire extinguisher rated for Class B fire.

Employees will be trained on proper extinguisher selection for various fire types. For example, water should not be used to extinguish Class B fires caused by flammable liquids. Water can cause the burning liquid to spread, making the fire worse. To extinguish a fire caused by flammable liquids, exclude the air around the burning liquid. The following fire-extinguishing agents are approved for Class B combustibles: carbon dioxide and multi-purpose dry chemical (ABC).

### **6.6 Smoking**

Smoking is prohibited in all Paraiso Springs Resort buildings. Certain outdoor areas may also be designated as no smoking areas and designated smoking areas will be designed with a fire retardant surface and fireproof smoking receptacles for discarded waste. These areas will be setback from unmaintained vegetation. The areas in which smoking is prohibited outdoors are identified by NO SMOKING signs.

# Paraiso Springs Resort Operational Fire Prevention Plan

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## 7 TRAINING

THE SSO shall present basic fire prevention training to all employees upon employment prior to working without supervision, and shall maintain documentation of the training, which includes:

- review of 29 CFR 1910.38, including how it can be accessed;
- this Fire Prevention Plan, including how it can be accessed;
- use of fire safety checklists (Attachments A through D)
- good housekeeping practices;
- proper response and notification in the event of a fire;
- instruction on the use of portable fire extinguishers
- recognition of potential fire hazards and fire types and
- proper extinguishment methods based on the fire type.

Supervisors shall train employees about the fire hazards associated with the specific materials and processes to which they are exposed and will maintain documentation of the training. Employees will receive this training:

- at their initial assignment;
- annually; and
- when changes in work processes necessitate additional training.

# Paraiso Springs Resort Operational Fire Prevention Plan

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## 8 PLAN REVIEW AND APPROVAL

The SSO shall review this Fire Prevention Plan at least annually for necessary changes.

The signatory reviewing officials are acknowledging that Paraiso Springs Resort, LLC (applicant) has established an OFPP, which when properly implemented, maintained, and enforced will result in fire hazard and risk reduction for the Project's construction phase.

### Reviewed by:

\_\_\_\_\_  
Paraiso Springs Resort, LLC  
Site Safety Officer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Mission Soledad Rural Fire District

\_\_\_\_\_  
Date

### Approved by:

\_\_\_\_\_  
Paraiso Springs Resort, LLC  
General Manager

\_\_\_\_\_  
Date

**ATTACHMENT A**  
*Fire Risk Survey*



**ATTACHMENT B**  
*General Fire Prevention Checklist*

# Paraiso Springs Resort

## General Fire Prevention Checklist

Use this checklist to ensure fire prevention measures conform with the general fire prevention requirements found in OSHA standards.

- Yes  No Is the local fire department acquainted with your facility, its location, and specific hazards?
- Yes  No If you have a fire alarm system, is it tested at least annually?
- Yes  No If you have interior stand pipes and valves, are they inspected regularly?
- Yes  No If you have outside private fire hydrants, are they on a routine preventive maintenance schedule and flushed at least once a year?
- Yes  No Are fire doors and shutters in good operating condition?
- Yes  No Are fire doors and shutters unobstructed and protected against obstructions, including their counterweights?
- Yes  No Are automatic sprinkler system water control valves, air pressure, and water pressure checked weekly or periodically?
- Yes  No Has responsibility for the maintenance of automatic sprinkler systems been assigned to an employee or contractor?
- Yes  No Are sprinkler heads protected by metal guards?
- Yes  No Is proper clearance maintained below sprinkler heads?
- Yes  No Are portable fire extinguishers provided in adequate number and type?\*
- Yes  No Are fire extinguishers mounted in readily accessible locations?\*
- Yes  No Are fire extinguishers recharged regularly with the recharge date noted on an inspection tag?\*
- Yes  No Are employees periodically instructed in the use of extinguishers and fire protection procedures?\*

Completed by: \_\_\_\_\_

Date: \_\_\_\_\_

# **ATTACHMENT C**

## *Paraiso Springs Resort Exits Checklist*

# Paraiso Springs Resort Exits Checklist

Use this checklist to evaluate *Company Name's* compliance with OSHA's standard on emergency exit routes.

- Yes  No Is each exit marked with an exit sign and illuminated by a reliable light source?
- Yes  No Are the directions to exits, when not immediately apparent, marked with visible signs?
- Yes  No Are doors, passageways, or stairways that are neither exits nor access to exits, and which could be mistaken for exits, marked "NOT AN EXIT" or other appropriate marking?
- Yes  No Are exit signs provided with the word "EXIT" in letters at least five inches high and with lettering at least one inch wide?
- Yes  No Are exit doors side-hinged?
- Yes  No Are all exits kept free of obstructions?
- Yes  No Are there at least two exit routes provided from elevated platforms, pits, or rooms where the absence of a second exit would increase the risk of injury from hot, poisonous, corrosive, suffocating, flammable, or explosive substances?
- Yes  No Is the number of exits from each floor of a building and from the building itself appropriate for the building occupancy? (NOTE: Do not count revolving, sliding, or overhead doors when evaluating whether there are sufficient exits.)
- Yes  No Are exit stairways that are required to be separated from other parts of a building enclosed by at least one-hour fire-resistant walls (or at least two-hour fire-resistant walls in buildings over four stories high)?
- Yes  No Are the slopes of ramps used as part of emergency building exits limited to one foot vertical and 12 feet horizontal?
- Yes  No Are glass doors or storm doors fully tempered, and do they meet the safety requirements for human impact?
- Yes  No Can exit doors be opened from the direction of exit travel without the use of a key or any special knowledge or effort?
- Yes  No Are doors on cold storage rooms provided with an inside release mechanism

# **ATTACHMENT D**

## *Flammable and Combustible Materials Checklist*

## Paraiso Springs Resort

### Flammable and Combustible Materials Checklist

Use this checklist to evaluate Company Name's compliance with OSHA's standards on flammable and combustible materials:

- Yes No      Are combustible scrap, debris, and waste materials such as oily rags stored in covered metal receptacles and removed from the worksite promptly?
- Yes No      Are approved containers and tanks used for the storage and handling of flammable and combustible liquids?
- Yes No      Are all connections on drums and combustible liquid piping vapor and liquid tight?
- Yes No      Are all flammable liquids kept in closed containers when not in use?
- Yes No      Are metal drums of flammable liquids electrically grounded during dispensing?
- Yes No      Do storage rooms for flammable and combustible liquids have appropriate ventilation systems?
- Yes No      Are NO SMOKING signs posted on liquefied petroleum gas tanks?
- Yes No      Are all solvent wastes and flammable liquids kept in fire-resistant covered containers until they are removed from the worksite?
- Yes No      Is vacuuming used whenever possible rather than blowing or sweeping combustible dust?
- Yes No      Are fuel gas cylinders and oxygen cylinders separated by distances or fire-resistant barriers while in storage?
- Yes No      Are fire extinguishers appropriate for the materials in the areas where they are mounted?\*
- Yes No      Are appropriate fire extinguishers mounted within 75 feet of outside areas containing flammable liquids and within 10 feet of any inside storage area for such materials?\*
- Yes No      Are extinguishers free from obstruction or blockage?\*
- Yes No      Are all extinguishers serviced, maintained, and tagged at least once a year?\*

# Paraiso Springs Resort

## Flammable and Combustible Materials Checklist, continued

- Yes  No      Are all extinguishers fully charged and in their designated places?\*
  
- Yes  No      Where sprinkler systems are permanently installed, are the nozzle heads directed or arranged so that water will not be sprayed into operating electrical switchboards and equipment?
  
- Yes  No      Are NO SMOKING signs posted in areas where flammable or combustible materials are used or stored?
  
- Yes  No      Are safety cans utilized for dispensing flammable or combustible liquids at the point of use?
  
- Yes  No      Are all spills of flammable or combustible liquids cleaned up promptly?
  
- Yes  No      Are storage tanks adequately vented to prevent the development of an excessive vacuum or pressure that could result from filling, emptying, or temperature changes?

\*(NOTE: Use of fire extinguishers is based on company policy regarding employee fire fighting in your Emergency Action Plan and local fire code.)

Completed by: \_\_\_\_\_

Date: \_\_\_\_\_

**APPENDIX 6.3**  
**COUNTY WILDFIRE ORDINANCES**

ORDINANCE NO. 3600

AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, ENACTED PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 4117 AND 4290 AND REGULATIONS PROMULGATED THEREUNDER, ESTABLISHING WILDFIRE PROTECTION STANDARDS IN CONJUNCTION WITH BUILDING, CONSTRUCTION, AND DEVELOPMENT IN STATE RESPONSIBILITY AREAS

The Board of Supervisors of the County of Monterey ordains as follows:

SECTION 1.

Chapter 18.56, entitled Wildfire Protection Standards in State Responsibility Areas, is hereby added to Title 18 of the Monterey County Code to read as follows:

Chapter 18.56

WILDFIRE PROTECTION STANDARDS IN  
STATE RESPONSIBILITY AREAS

Sections:

- 18.56.010 Purpose.
- 18.56.020 Applicability.
- 18.56.030 Definitions.
- 18.56.040 Review and Inspection Authority.
- 18.56.050 Exceptions to Regulations.
- 18.56.060 Regulations.
- 18.56.070 Signing and Building Numbering.
- 18.56.080 Emergency Water Standards.
- 18.56.090 Fuel Modification Standards.
- 18.56.100 Enforcement.
- 18.56.110 Severability.

18.56.010 PURPOSE.

A. This chapter implements Section 4290 of the Public Resources Code requiring the establishment of wildfire protection standards in conjunction with building, construction, and development in state responsibility areas as defined herein, located within the boundaries of Monterey County and under the direct fire protection authority of the California Department of Forestry. These standards, as defined herein, shall provide that future design and construction of structures, subdivisions and developments in State Responsibility Areas shall provide for basic emergency access and perimeter wildfire protection measures.

B. Section 4117 of the Public Resources Code and the regulations promulgated by the California Department of Forestry and Fire Protection provide that local agencies such as the County of Monterey may adopt ordinances, rules or regulations to provide fire prevention restrictions or regulations that are necessary to meet local conditions of weather, vegetation, or other fire hazards. Such ordinances, rules, or regulations may then be applicable to state responsibility areas in lieu of State regulations provided such ordinances, rules, or regulations are equal to or more stringent than the State's minimum standards and are certified by the State of California as equaling or exceeding State regulations.

C. This chapter is intended to meet the requirements of the aforesaid statutes and regulations as well as provide wild-fire protection standards that take into account local fire hazard conditions.

#### 18.56.020 APPLICABILITY.

A. Location. The regulations contained in this chapter apply to state responsibility areas as defined herein and as more particularly described in Exhibit "A" entitled "SRA Designated Map for Monterey County" attached hereto and made a part hereof.

#### B. Scope.

1. The regulations contained in this chapter shall apply as appropriate to all building, construction, and development activities requiring ministerial or discretionary permits approved after the effective date within state responsibility areas. Affected activities include but are not limited to the following:

- a. Permitting or approval of new parcels, excluding lot line adjustments as specified in Government Code Section 66412(d);
- b. Application for a building permit for new construction, not relating to an existing structure;
- c. Application for a use permit;
- d. The siting of manufactured homes (as such homes are defined by the National Fire Protection Association, National Fire Code, Section 501A, Standard for Fire Safety Criteria for Manufactured Home Installations, Sites and Communities, Chapter 1, Section 1-2, Definitions, Page 4, 1987 Edition, and Health and Safety Code Sections 18007, 18008, and 19971).

e. Road construction, including construction of a road that does not currently exist, or extension of an existing road, provided the following roads are exempted;

1. Roads required as a condition of tentative parcel maps prior to the effective date of this chapter.

2. Roads for agricultural or mining use solely on one ownership.

3. Roads used solely for the management and harvesting of wood products.

2. Regulations contained in this chapter do not apply to the following building, construction or development activities requiring ministerial or discretionary permits;

a. Existing structures, roads, streets and private lanes or facilities.

#### 18.56.030 DEFINITIONS.

A. Accessory building: Any building used as an accessory to residential, commercial, recreation, industrial, or educational purposes as defined in the California Building Code, 1989 Amendments, Chapter 11, Group M, Division 1, Occupancy that requires a building permit.

B. Agriculture: Land used for agricultural purposes as defined in the Monterey County General Plan, the Monterey County Coastal Implementation Plan, and the Monterey County Zoning Ordinance.

C. Building: Any structure used or intended for supporting or sheltering any use or occupancy that is defined in the California Building Code, 1989 Amendments, Chapter 11, except Group M, Division 1, Occupancy. For the purposes of this chapter, building includes mobile homes and manufactured homes, churches, and day care facilities. The word "building" includes "structure."

D. CDF: California Department of Forestry and Fire Protection.

E. Dead-end road: A road that has only one point of vehicular ingress/egress, including cul-de-sacs and looped roads.

F. Defensible space: The area within the perimeter of a parcel, development, neighborhood or community where basic wildland fire protection practices and measures are implemented, providing the key point of defense from an approaching wildfire or defense against encroaching wildfires or escaping structure fires. The perimeter as used in this regulation is the area

encompassing the parcel or parcels proposed for construction and/or development, excluding the physical structure itself. The area is characterized by the establishment and maintenance of emergency vehicle access, emergency water reserves, street names and building identification, and fuel modification measures.

G. Development: The placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision of real property pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; increase in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than harvesting of commercial crops for agricultural purposes, and timber harvesting operations in accordance with the Zberg-Nejedly Forest Practice Act of 1973.

H. Development Permit: A discretionary or ministerial permit authorizing the holder to undertake development.

I. Director: Director of the Department of Forestry and Fire Protection or his/her designee.

J. Driveway: A vehicular access that serves no more than two buildings, with no more than three dwelling units on a single parcel, and any number of accessory buildings.

K. Dwelling unit: Any building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking and/or sanitation for not more than one family.

L. Exception: One or more alternative standard(s) or measure(s) applied to a development application in place of the standards established in this chapter, approved by the Reviewing Authority pursuant to Section 18.56.050 of this chapter. An application for an exception may be necessary due to health, safety, environmental conditions, physical site limitations or other limiting conditions as deemed appropriate by the Reviewing Authority.

M. Fire valve: See definition for hydrant.

N. Fuel modification area: An area where the volume of flammable vegetation has been reduced, providing reduced fire

intensity and duration.

O. Greenbelts: A facility or land use, designed for a use other than fire protection, which will slow or resist the spread of a wildfire. Greenbelts include parking lots, irrigated or landscaped areas, golf courses, parks, playgrounds, maintained vineyards, orchards or annual crops that do not cure in the field.

P. Hammerhead/T: A roadway that provides a "T" shaped, three-point turnaround space for emergency equipment, being no narrower than the road that serves it.

Q. Hydrant: A valved connection on a water supply/storage system, having at least one 2 1/2 inch outlet, with male American National Fire Hose Screw Threads (NH) used to supply fire apparatus and hoses with water.

R. Inspection Authority: The Director of the Department of Forestry and Fire Protection, his or her designee, including local fire districts sharing jurisdiction in a state responsibility area, responsible for inspecting projects with County development permits.

S. Local Jurisdiction: The County of Monterey.

T. Occupancy: The purpose for which a building, or part thereof, is used or intended to be used.

U. One-way road: A minimum of one traffic lane width designed for traffic flow in one direction only.

V. Reviewing Authority: The Director of the Board of Forestry and Fire Protection, his or her designee, including local fire districts, sharing jurisdiction in State Responsibility Areas.

W. Roads, streets, private lanes: Vehicular access to more than one parcel; access to any industrial or commercial occupancy; or vehicular access to a single parcel with more than two buildings or four or more dwelling units.

X. Roadway: Any surface designed, improved, or ordinarily used for vehicle travel.

Y. Roadway structures: Bridges, culverts, and other appurtenant structures which supplement the roadway bed or shoulders.

Z. Same Practical Effect: Means the effect achieved by the application of an exception or alternative with the capability of applying wildland fire suppression strategies and tactics, to include accepted measures and standards, that provide for fire

fighter safety including:

- 1) access for emergency wildland fire equipment,
- 2) safe civilian evacuation,
- 3) signing that avoids delays in emergency equipment response,
- 4) available and accessible water to effectively attack wildfire or defend a structure from wildfire, and
- 5) fuel modification sufficient for civilian and fire fighter safety.

AA. Shoulder: Roadbed or surface adjacent to the traffic lane.

BB. State Responsibility Area (SRA): As defined in Public Resources Code Section 4126-4127; and the California Code of Regulations, Title 14, Division 1.5, Chapter 7, Article 1, Sections 1220-1220.5.

CC. Structure: That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed or parts joined together in some definite manner.

DD. Subdivision: As defined in Section 66242 of the Government Code.

EE. Traffic Lane: The portion of a roadway that provides a single line of vehicle travel.

FF. Turnaround: A roadway, unobstructed by parking, which allows for a safe opposite change of direction for emergency equipment. Design of such area may be a hammerhead/T or terminus bulb.

GG. Turnouts: A widening in a roadway to allow a vehicle to pass another vehicle.

HH. Vertical clearance: The minimum specified height of a bridge or overhead projection above the roadway.

II. Wildfire: As defined in Public Resources Code Sections 4103 and 4104.

18.56.040 REVIEW AND INSPECTION AUTHORITY

1. Within ten (10) days of receipt of an application for a development permit, the Planning and Building Inspection Department shall forward the Reviewing Authority a review request with a project description of all preliminary or completed applications for building permits, tentative parcel maps, tentative maps, and use permits for construction or development.

2. The Reviewing Authority shall review and make fire protection recommendations for project applications in compliance with these regulations. The Reviewing Authority shall forward a standard report of those recommendations to the Planning and Building Inspection Department within seven (7) to thirty (30) days after initially receiving the original review request. The Reviewing Authority shall notify the Monterey County Planning and Building Inspection Department if the review period will extend beyond ten (10) days.

3. If after review of an application, the Reviewing Authority determines that the application needs corrections, amendments or redesign, either because of non-compliance with regulations contained in this chapter, or because an exception to regulations contained in this chapter is required, the applicant shall make the required corrections, amendments or redesign in consultation with the Reviewing Authority. The Reviewing Authority shall ensure that any and all corrections, or alternative requirements are satisfactorily completed before an application is resubmitted. In order for a resubmittal of an application to be deemed complete by the Monterey County Planning and Building Inspection Department, the resubmitted application must contain a standard letter from the Reviewing Authority stating that the project as submitted can meet regulations of this chapter subsequent to any included and implemented SRA Fire Conditions.

B. Conditions of Approval. The Planning and Building Inspection Department shall incorporate any recommendations by the Reviewing Authority, and all applicable regulations of this chapter, as conditions of approval for any reviewed development permit, and to be identified in related reports and permits as SRA Fire Conditions.

C. Required Findings. 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.

D. Approved Project Inspection.

1. Upon approval of the development application, the Monterey County Planning and Building Inspection Department shall forward a copy of any Monterey County adopted or approved SRA Fire Conditions to the Reviewing Authority to ensure project compliance during inspections.

2. The Inspection Authority shall inspect projects for compliance with regulations pursuant to this chapter, including compliance with SRA Fire Conditions.

3. Inspections shall be conducted, and defects remedied, prior to:

- a. issuance of a certificate of occupancy;
- b. recordation of a parcel map or final map;
- c. filing of a notice of completion; or
- d. final inspection of any project or building permit,

4. Upon completion of inspection, the Inspection Authority shall forward a standard form to the Planning and Building Inspection Department signifying either an approved inspection, or a disapproved inspection, with an explanation of the requirements, if any, that have not been met.

5. A project shall not be deemed to have satisfied all conditions of approval by the Planning and Building Inspection Department or Public Works Department until receipt of the standard fire inspection notice from the Inspection Authority.

18.56.050 EXCEPTIONS TO REGULATIONS.

A. Exceptions: Criteria and Consideration.

1. All regulations and standards established in this chapter shall constitute standard criteria for the minimum allowable fire protection level for SRAs required for development and the grant of development permits.

2. An exception will be considered only in no other reasonable site or building design can be accomplished applying the standards established in this chapter. Any approved alternative standards or measures must have the "same practical effect" as the standards in this chapter. The Reviewing Authority has sole discretion regarding applicability of an exception and approval of final design and adequacy and application of alternative measures and standards.

3. Where the strict application of these regulations will render the development project infeasible, the Reviewing Authority shall consider alternative standards or measures proposed by the applicant, provided the alternative standards or measures have the same practical effect as these regulations overall toward providing defensible space. This process shall be defined as applying for an exception, and consideration of the application shall occur in the following priority order:

a. Those standards that are presented as "alternative standards or measures" by the Reviewing Authority and are related to the categories listed below, and may include other unlisted categories. Any adopted alternative measures must have the "same practical effect" as the State minimum standards as determined by the Reviewing Authority.

b. Those standards that are alternative standards presented to, and reviewed as "new standards or measures." They may be presented by the Reviewing Authority, applicant, or applicant's agent. Any accepted new standards or measures must have the "same practical effect" as the State minimum standards as determined by the Reviewing Authority.

B. Categorical Alternative Standards or Measures. Alternative standards or measures may be included in, but are not limited to, the following categories:

1. Automatic sprinkler systems.
2. Non-combustible construction.
3. Extraordinary fuel modification measures.
4. Creation of evacuation areas.
5. Alternative access routes.
6. Alternative roadway modifications.

C. Specific Alternative Standards or Measures. At the discretion of the Reviewing Authority, specific alternative measures or standards may be imposed on development, following the minimum requirements. The Reviewing Authority may require one measure or standards, or a combination of measures or standards, to have the "same practical effect" as the regulations established in this chapter.

D. Requests for Exceptions.

1. A request for an exception shall be made in writing. If a request for an exception is made during the pre-application or informational stage of the development permit application process, the request shall be presented to the Reviewing Authority with information sufficient to support the request. The written request shall include substantial evidence that:

a. grounds exist for an exception as provided in Section 18.56.030.L of this chapter; and

b. the proposed alternative standards or measures will have the same practical effect as provided in Section 18.56.030.Z of this chapter.

2. If a request for an exception is made when the development application is submitted to the county as complete for processing, the written request shall be made to the Reviewing Authority. The writtent request shall include substantial evidence that:

a. grounds exist for an exception as provided in Section 18.56.030.L of this chapter; and

b. the proposed alternative standards or measures will have the same practical effect as provided in Section 18.56.030.Z of this chapter.

3. If after review of an application, the Reviewing Authority determines that substantial evidence exists for the granting of an exception pursuant to this chapter, the Reveiwing Authority shall approve the application and grant the exception; otherwise the application shall be denied. In either case, the Reviewing Authority shall make written findings supporting the decision.

#### E. Appeal Procedure - Exceptions.

1. Where an exception containing proposed alternative standards or measures is not granted by the Reviewing Authority, the applicant may appeal such denial to the Monterey County Department of Planning and Building Inspection. The appeal shall be filed with and heard by the Chief Building Inspector within ten (10) days of the decision of the Reviewing Authority.

2. The appeal shall contain plans, application for exception, identification of standards or measures to be replaced, and a clear, complete, but brief statement of the reasons why, in the opinion of the applicant, the decision of the Reviewing Authority is inappropriate or unjustified because

a. there was a lack of fair and impartial determination by the Reviewing Authority;

b. the findings of the Reviewing Authority are not supported by the evidence; or

c. the decision of the Reviewing Authority is contrary to the provisions of this chapter.

3. A copy of the appeal shall be forwarded to the Reviewing Authority for a recommendation. The recommendation shall contain documentation outlining the effects of the requested exception on wildland fire protection.

4. If the appeal is not granted, the applicant may request a public hearing on the appeal before the Board of Supervisors. The request shall include plans, application for the exception, identification of standards or measures to be replaced, and substantial evidence that the alternative standards or measures will have the same practical effect. Any new evidence in support of the appeal may be presented at the hearing. The hearing before the Board of Supervisors shall be de novo.

5. Notice of the public hearing on the appeal before the Board of Supervisors shall be given pursuant to provisions in the zoning ordinance regarding appeals from the grant or denial of use permits.

F. Appeal Approval - Findings. In order to grant an appeal, the Board of Supervisors shall make findings that the decision meets the intent of providing defensible space consistent with this chapter. A statement of reasons shall accompany the decision. The findings and decision shall be forwarded to the California Department of Forestry-Ranger Unit having jurisdiction over the area in which applicant's property is located.

#### 18.56.060 EMERGENCY ACCESS

1. Intent. Road and street networks, whether public or private, unless exempted under this chapter, shall provide for safe access for emergency wildland fire equipment and civilian evacuation concurrently, and shall provide unobstructed traffic circulation during wildfire emergencies.

2. Road Access. Conditions for Requirement. Access roads shall be required for every building when any portion of the exterior wall of the first story is located more than 150 feet from fire department access.

3. Road Width. All roads shall be constructed to provide a minimum of two nine-foot traffic lanes providing two-way traffic flow, unless other standards are provided in this article, or additional requirements are mandated by local jurisdictions or local subdivision requirements.

4. Roadway Surface. The surface shall provide unobstructed access to conventional drive vehicles, including sedans and fire engines. Surfaces should be established in conformance with local ordinances, and be capable of supporting the imposed load of fire apparatus.

5. Roadway Grades. The grade for all roads, streets, private lanes and driveways shall not exceed 15 percent.

6. Roadway Radius.

a. Driveways. For residential driveways with turns 90 degrees and less, the minimum horizontal inside radius of curvature shall be 25 feet. For driveways with turns greater than 90 degrees, the minimum horizontal inside radius of curvature shall be 28 feet. For all driveway turns, an additional surface of 4 feet shall be added.

b. Roadways. No roadway turn shall have a horizontal inside radius of less than 50 feet. A roadway turn radius of 50 to 100 feet is required to have an additional 4 feet of roadway surface. A roadway turn radius of 100 to 200 feet is required to have an additional 2 feet of roadway surface.

c. Vertical Curves. The length of vertical curves in roadways, exclusive of gutters, ditches, and drainage structures designed to hold or divert water, shall not be less than 100 feet.

d. Vertical Curves - Exceptions. For driveways less than 150 feet in length, or at the location where the driveway encroaches upon the roadway, the length of vertical curves may be reduced.

7. Roadway Turnarounds. Turnarounds shall be required on driveways and dead-end roads in excess of 150 feet of surface length. Required turnarounds on access roadways shall be located within 50 feet of the primary building. The minimum turning radius for a turnaround shall be 40 feet from the center line of the road. If a hammerhead/T is used, the top of the "T" shall be a minimum of 60 feet in length.

8. Roadway Turnouts. Turnouts shall be a minimum of 12 feet wide and 30 feet long with a minimum 25 foot taper on each end.

9. Roadway Structures.

a. All new and reconstructed bridges shall be at least the width of the existing road bed and berms but in no case less than 12 feet wide. Bridge width on all roads exceeding tertiary standards shall not be less than the width of the two lanes with berms. All bridges shall be designed for HS 15-44 loading (standard specification for highway bridges) and have guard rails.

b. Appropriate signing, including but not limited to, weight or vertical clearance limitations, and one-way road or

single lane road conditions, shall be provided at both entrances to any bridges.

c. One lane bridges may be allowed if there is unobstructed visibility across the entire bridge, and turnouts are provided at both bridge ends.

10. One-Way Roads. All one-way roads shall be constructed to provide a minimum of one 12-foot traffic lane. The local jurisdiction may approve one-way roads. All one-way roads shall connect to a two-lane roadway at both ends, and shall provide access to an area currently zoned for no more than 10 dwelling units. In no case shall it exceed 2640 feet in length. A turnout shall be placed and constructed at approximately the midpoint of each one-way road.

11. Dead-End Roads.

a. The maximum length of a dead-end road, including all dead-end roads accessed from that dead-end road, shall not exceed the following cumulative lengths, regardless of the number of parcels served:

1. Parcels designated in the Area or Implementation Plan for 0 to .99 acres: 800 feet.

2. Parcels designated in the Area or Implementation Plan for 1 to 4.99 acres: 1320 feet.

3. Parcels designated in the Area or Implementation Plan for 5 to 19.99 acres: 2640 feet.

4. Parcels designated in the Area or Implementation Plan zoned for 20 acres or larger: 5280 feet.

b. All lengths shall be measured from the edge of the roadway surface at the intersection that begins the road to the end of the road surface at its farthest point. Where a dead-end road crosses areas of differing zoned parcel sizes, requiring different length limits, the shortest allowable length shall apply.

c. Where parcels are zoned 5 acres or larger, turnarounds shall be provided at a maximum of 1320 foot intervals.

d. Each dead-end shall have a turnaround constructed at its terminus.

12. Driveways. Driveways shall not be less than 12 feet wide unobstructed. All driveways exceeding 150 feet in length, but less than 800 feet in length, shall provide a turnout near the midpoint of the driveway. Where the driveway exceeds 800 feet, turnouts shall be provided at no greater than 400 foot intervals.

13. Gate Entrances.

a. Gate entrances shall be at least the width of the traffic lane but in no case less than 12 feet wide.

b. All gates providing access from a road to a driveway shall be located at least 30 feet from the roadway and shall open to allow a vehicle to stop without obstructing traffic on that road.

c. Where a one-way road with a single traffic lane provides access to a gated entrance, a 40 foot turning radius shall be used.

d. Where gates are to be locked, the Reviewing Authority having jurisdiction may require installation of a key box or other acceptable means of immediate access for emergency equipment.

14. Vertical Clearance. Unobstructed clearance shall not be less than 15 feet for all access roads.

18.56.070 SIGNING AND BUILDING NUMBERING.

1. Intent. To facilitate locating a fire and to avoid delays in response time, all newly constructed or approved roads, streets, and buildings shall be designated by names or numbers, posted on signs clearly visible and legible from the roadway. This section shall not restrict the size of letters or numbers appearing on street signs for other purposes.

2. Size of Letters, Numbers and Symbols for Street and Road Signs. Size of letters, numbers and symbols for street and road signs shall be a minimum 4 inch letter height, 1/2 inch stroke, and shall be a color that clearly contrasts with the background color of the sign. All numerals shall be Arabic.

3. Visibility and Legibility of Street and Road Signs. Street and road signs shall be visible and legible from both directions of vehicle travel for a distance of at least 100 feet.

4. Height of Street and Road Signs. Height of street and road signs shall be uniform county wide, and meet the visibility and legibility standards of this chapter.

5. Names and Numbers on Street and Road Signs. Newly constructed or approved public and private roads and streets shall be identified in accordance with provisions of Monterey County Ordinance No. 1241. All signs shall be mounted and oriented in a uniform manner. This section does not require any

entity to rename or renumber existing roads or streets, nor shall a roadway providing access only to a single commercial or industrial occupancy require naming or numbering.

6. Intersecting Roads, Streets and Private Lanes. Signs required under this section identifying intersecting roads, streets and private lanes shall be placed at the intersection of those roads, streets, and/or private lanes.

7. Signs Identifying Traffic Access Limitations. A sign identifying traffic access or flow limitations, including but not limited to weight or vertical clearance limitations, dead-end road, one-way road or single lane conditions, shall be placed:

- a. at the intersection preceding the traffic access limitation, and
- b. no more than 100 feet before such traffic access limitation.

8. Timing of Sign Installation. Road, street and private lane signs required by this article shall be installed prior to final acceptance of road improvements by the County of Monterey.

9. Addresses for Buildings. All buildings shall be issued an address in accordance with Monterey County Ordinance No. 1241. Each occupancy, except accessory buildings, shall have its own address. When multiple occupancies exist within a single building, each individual occupancy shall be separately identified by its own address.

10. Size of Letters, Numbers and Symbols for Addresses. Size of letters, numbers and symbols for addresses shall be a minimum of 3 inch letter height, 3/8 inch stroke, contrasting with the background color of the sign.

11. Installation, Location and Visibility of Addresses.

a. All buildings shall have a permanently posted address, which shall be placed at each driveway entrance and visible from both directions of travel along the road. In all cases, the address shall be posted at the beginning of construction and shall be maintained thereafter, and the address shall be visible and legible from the road on which the address is located.

b. Address signs along one-way roads shall be visible from both directions of travel.

c. Where multiple addresses are required at a single driveway, they shall be mounted on a single post, or in any fashion approved by the Reviewing Authority that provides for the same practical effect.

d. Where a roadway provides access solely to a single commercial or industrial business, the address sign shall be

placed at the nearest road intersection providing access to that site.

18.56.080 EMERGENCY WATER STANDARDS.

1. Intent. Emergency water for wildfire protection shall be available and accessible in quantities and locations specified in these regulations, in order to attack a wildfire or defend property from a wildfire. The quantity of water required pursuant to this chapter shall be in addition to the domestic demand and shall be permanently and immediately available.

2. Application. The provisions of this section shall apply when new parcels are approved by a local jurisdiction. The emergency water system shall be available on-site prior to the completion of road construction, where a community water system is approved, or prior to the completion of building construction, where an individual system is approved.

3. Timing of Installation. Approved fire protection water supply systems must be installed and made serviceable prior to the time of construction.

4. General Standards. Water systems constructed, extended or modified to serve a new development, a change in use, or an intensification of use, shall be designed to meet, in addition to average daily demand, the standards shown in table 2 of the 1985 Monterey County General Plan.

5. Alternative Standards to General Standards.

a. A minimum fire protection water supply of 3,000 gallons shall be provided regardless of parcel size. Minimum storage requirements for single family dwelling may be reduced to 2,000 gallons if an approved automatic sprinkler system is required.

b. For development of only one single family dwelling on a single parcel with no further land division possible, the minimum on-site fire protection water supply shall be based on specifications contained in the following table:

Cumulative Square Footage of all buildings to be Protected	On-site Storage
0 - 999	3,000 gallons
1,000 - 1,999	5,000 gallons
2,000 - 2,999	7,500 gallons
3,000 - above	10,000 gallons

c. Other water supply alternatives may be imposed to provide for the same practical effect.

d. Mobile water systems that meet the Insurance Services Office (ISO) Rural Class 8 are acceptable as alternatives.

6. Hydrant/Fire Valve.

a. The hydrant or fire valve shall be 18 inches above grade, 8 feet from flammable vegetation, no closer than 4 feet nor farther than 12 feet from a roadway, and in a location where fire apparatus using it will not block the roadway.

b. The hydrant serving any building shall be not less than 50 feet nor more than 1000 feet by road from the building it is to serve.

c. Minimum hydrant standards shall include a brass head and valve with at least one 2 1/2 inch National Hose outlet supplied by a minimum 4 inch main and riser. More restrictive hydrant requirements may be applied by the Reviewing Authority.

7. Signing of Water Sources. Each hydrant/fire valve or access to water shall be identified as follows:

a. if located along a driveway, a reflectorized blue marker, with a minimum dimension of 3 inches, shall be located on the driveway address sign and mounted on a fire retardant post, or

b. if located along a street or road, a reflectorized blue marker, with a minimum dimension of 3 inches, shall be mounted on a fire retardant post. The sign post shall be within 3 feet of said hydrant/fire valve, with a sign no less than 3 feet nor greater than 5 feet above ground, in a horizontal position and visible from the driveway.

8. Signing of Water Sources - Alternative Standards. Hydrant or fire valve identification may be allowed as specified in the State Fire Marshal's Guidelines for Fire Hydrant Markings Along State Highways and Freeways, May 1988.

18.56.090 FUEL MODIFICATION STANDARDS.

1. Intent. To reduce the intensity of a wildfire by reducing the volume and density of flammable vegetation, the strategic siting of fuel modification and greenbelts shall provide (1) increased safety for emergency fire equipment and evacuating civilians; and (2) a point of attack or defense from a wildfire.

2. Setback for Structure Defensible Space.

a. All parcels 1 acre and larger shall provide a minimum 30 foot setback for buildings and accessory buildings from all property lines and/or the center of the road.

b. For parcels less than 1 acre, local jurisdiction shall provide for the same practical effect.

3. Disposal of Flammable Vegetation and Fuels. Disposal, including chipping, burying, burning or removal to a landfill site approved by the local jurisdiction, of flammable vegetation and fuels caused by site development and construction, road and driveway construction, and fuel modification shall be completed prior to completion of road construction or final inspection of a building permit.

4. Greenbelts. Subdivisions and other developments, which propose greenbelts as a part of the development plan, shall locate said greenbelts strategically as a separation between wildland fuels and structures. The locations shall be approved by the Reviewing Authority.

18.56.100 ENFORCEMENT.

The Director, or his or her designee, to include local fire districts, shall, via State mandated enforcement powers, be responsible for monitoring and enforcing any and all regulations contained in this chapter up to and after final County approval or inspection of a project application.

18.56.110 SEVERABILITY.

If any section, subsection, article, sentence, clause, or phrase of this chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this chapter. The Board of Supervisors hereby declares that it would have passed this Ordinance and each section, subsection, article, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, articles, sentences, clauses, or phrases be declared invalid.

PASSED AND ADOPTED by the Monterey County Board of Supervisors this 10th day of MARCH, 1992, by the following vote:

AYES: Supervisors Shipnuck, Perkins, Karas & Strasser Kauffman

NOES: None

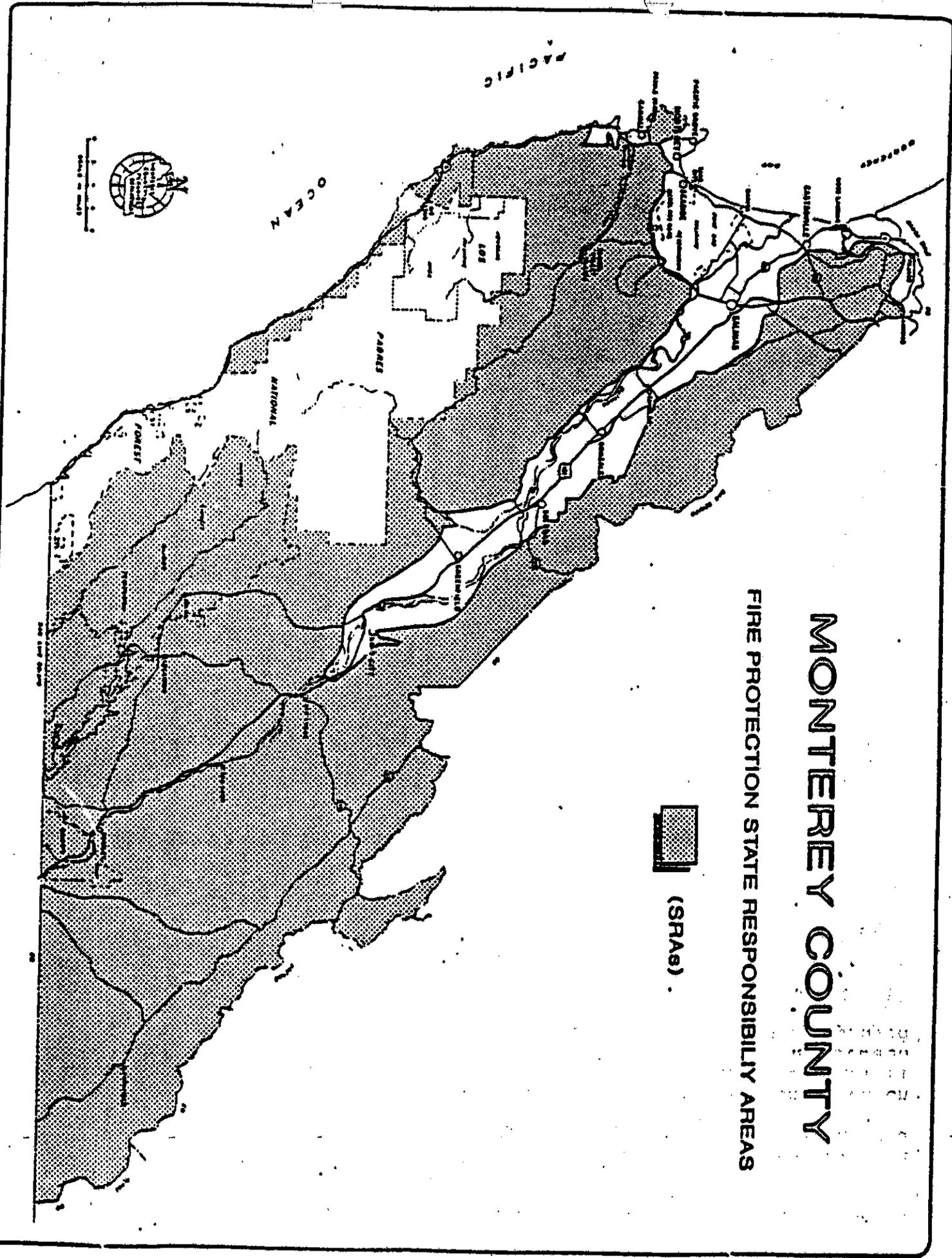
ABSENT: None

  
KARIN STRASSER KAUFFMAN, Chairman  
Board of Supervisors

ATTEST:

ERNEST K. MORISHITA  
Clerk of said Board

By   
Deputy



# MONTEREY COUNTY

FIRE PROTECTION STATE RESPONSIBILITY AREAS

 (SRAs)

ORDINANCE NO. 3659

AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, AMENDING CHAPTER 1.20 AND SECTIONS 5.16.010, 10.48.060, 10.72.100, 12.04.060, 15.22.100, 16.30.160, 16.60.070, AND 18.50.150 OF, AND ADDING CHAPTERS 1.30 AND 1.40 AND SECTIONS 2.04.080, 5.16.020 AND 5.16.030 TO, AND REPEALING SEVERAL PROVISIONS OF, THE MONTEREY COUNTY CODE RELATING TO THE ESTABLISHMENT OF VARIOUS GENERAL PROVISIONS APPLICABLE TO THE MONTEREY COUNTY CODE, INCLUDING ENFORCEMENT, PENALTIES, JUDICIAL REVIEW, AND RULES OF CONSTRUCTION, PROCESSING AND SETTLEMENT OF CLAIMS, AND ESTABLISHMENT OF A MONTEREY COUNTY FEE RESOLUTION.

**County Counsel Summary**

*The Monterey County Code currently provides certain regulations regarding enforcement of violations of the Code. This Ordinance will amend these provisions and establish enforcement authority and responsibilities, distinguish between misdemeanors and infractions, establish authority of designated employees to enforce provisions as infractions, and establish authority for the County to recover costs in the initiation of enforcement actions. This Ordinance also establishes uniform rules of construction for the interpretation of the Monterey County Code and establishes Board policies encouraging the use of gender-neutral, "plain English" terms in the preparation of legal documents. This Ordinance also establishes the authority of the Board of Supervisors to set fees and charges by resolution rather than by ordinance, and authorizes the Clerk to the Board to publish ordinance summaries as prepared by County Counsel.*

*The Monterey County Code currently provides that the District Attorney or the County Counsel may initiate civil proceedings to enforce the Monterey County Code only with the approval of the Board of Supervisors. This Ordinance will authorize the District Attorney or the County Counsel to initiate civil enforcement proceedings without prior approval of the Board of Supervisors.*

*This Ordinance also codifies existing practices and procedures relating to the defense, settlement, and compromise of claims against the County and the prosecution,*

*settlement, and compromise of claims the County may have against others.*

The Board of Supervisors of the County of Monterey, State of California, ordains as follows:

SECTION 1. Chapter 1.20 of the Monterey County Code is amended to read:

Chapter 1.20

ENFORCEMENT OF CODE

Sections:

- 1.20.010 Definitions.
- 1.20.020 Primary Responsibility for Enforcement.
- 1.20.030 Interference with Enforcing Officers.
- 1.20.040 Violations of the Code.
- 1.20.050 Offenses.
- 1.20.060 Same Offense Punishable by Different Section of Code.
- 1.20.070 Public Nuisances; Continuing Offenses.
- 1.20.080 Abatement and Enjoinment of Public Nuisance.
- 1.20.090 Reimbursement of Costs and Civil Penalties.
- 1.20.100 Immunity of Enforcing Official.
- 1.20.110 Remedies Cumulative.

1.20.010 DEFINITIONS.

For the purpose of this Chapter, the following terms shall have the meanings as defined in this section:

"Enforcement" shall mean the making of investigations as may be required, demanding and signing criminal complaints or civil declarations, appearing as a witness in any prosecution or proceeding when so required, and generally doing all things necessary and proper to enforce and obtain compliance with the provisions of the Monterey County Code.

"Official" shall mean any officer, employee, or agent of the County, or any deputy or designee of such officer, employee, or agent.

1.20.020 RESPONSIBILITIES FOR ENFORCEMENT.

A. Primary Responsibilities.

Whenever the enforcement of any provision of this Code or any codified Ordinance of the County is imposed upon or delegated to a specific official, such official shall be primarily responsible for the enforcement of such provision. In the absence of any specific imposition or delegation or enforcement responsibility, the Sheriff shall be primarily

responsible for enforcing the provisions of this Code and any uncodified Ordinance. Nothing in this section, or any other provision of this Chapter, shall be construed as precluding any official or citizen of the County from enforcing the provisions of this Code or uncodified ordinance in any manner required or permitted by law.

B. Enforcing Officers Generally.

The Sheriff and all peace officers employed by the Sheriff's Department are hereby empowered to enforce, and are charged with the duty of enforcing, any and all provisions of this Code or any other ordinance of the County, including the power to arrest for such violations in accordance with the laws of the State of California, together with such other powers as are conferred upon them by the County.

C. Enforcement of Permit Regulations.

Compliance with the permit requirements of this Code shall be the responsibility of the Official authorized to grant the permit to which such requirements apply except that:

(1) When the permit is granted by the Board of Supervisors, the County Administrative Officer shall be the responsible officer;

(2) When the permit is granted by a department, the head of such department shall be the responsible officer or employee;

(3) When the permit is granted by the County Planning Commission, the responsible officer or employee shall be the Director of Planning and Building Inspection.

D. Responsibility of County Administrative Officer in Case Enforcement is Neglected.

Whenever an Official primarily responsible for enforcing any provision of this Code fails, neglects, or refuses to perform such duty and such failure, neglect, or refusal is brought to the attention of the County Administrative Officer, the County Administrative Officer shall enforce such provision of law and initiate such penal and disciplinary action against the Official as may be warranted under the circumstances.

E. Administrative Processes.

Every Official may use administrative processes such as notices of violation, stop work orders, or warning letters in lieu of or prior to seeking judicial enforcement of any provision of this Code if the Official determines that the process may result in compliance with this Code at less cost to the County.

F. Appearance as Witnesses.

Every Official is authorized to appear as a complaining witness in any criminal, civil, or administrative proceeding brought for an alleged violation of the Code or to abate any violation of this Code or enjoin any present or future violation of this Code.

1.20.030 INTERFERENCE WITH ENFORCING OFFICERS.

A. Interference or Obstruction.

It is unlawful for any person to interfere or obstruct, or to attempt to interfere or obstruct, any Official in the performance of such Official's duties as specified in this Code or as may otherwise be received pursuant to the rules, regulations, or policies of the County or the Board of Supervisors.

B. False Information.

No person shall give, either orally or in writing, information to an Official which the person knows or has reason to know is false.

1.20.040 VIOLATIONS OF THE CODE.

A. Misdemeanors; infractions.

It shall be unlawful for any person to violate any provision, or to fail to comply with any of the requirements, of this Code. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this Code shall be guilty of a misdemeanor unless:

1. The violation is classified as an infraction by the State Vehicle Code or this Code, in which case the person shall be guilty of an infraction; or

2. The District Attorney files a complaint charging the offense as an infraction; or

3. A public officer designated in subsection (c) of this section issues a citation charging the offense as an infraction.

B. Punishment.

1. Misdemeanor.

Any person convicted of a misdemeanor under the provisions of this Code, unless provision is otherwise made in

this Code, shall be punishable by a fine of not more than One Thousand Dollars (\$1,000) or by imprisonment in the Monterey County Jail for a period of not more than six months or by both such fine and imprisonment.

## 2. Infraction.

Any person convicted of an infraction under the provisions of this Code, unless provision is otherwise made in this Code, shall be punishable upon a first conviction of a fine of not more than Two Hundred and Fifty Dollars (\$250), and for a second conviction within a period of one year by a fine of not more than Five Hundred Dollars (\$500), and for a third or any subsequent conviction within a period of one year by a fine of not more than One Thousand Dollars (\$1,000).

### C. Public Officers Authorized to Issue Citations.

The County Administrative Officer, the General Manager of the Monterey County Water Resources Agency, the Chief Executive Officer of Natividad Medical Center, and the Director of the County Agricultural Extension Service, or any of their designated officers, deputies, or employees, shall have the authority to cite violations for infractions in the enforcement of the provisions of this Code within their regulatory responsibilities.

#### 1.20.050 OFFENSES.

Every person convicted of a misdemeanor or infraction under the provisions of this Code shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Code is committed, continued, or permitted by such person and shall be punished accordingly.

#### 1.20.060 SAME OFFENSE PUNISHABLE BY DIFFERENT SECTIONS OF CODE.

In all cases where the same offense is made punishable or is created by different clauses or sections of this Code, the District Attorney may elect under which to proceed; but not more than one recovery shall be had against the same person for the same offense.

#### 1.20.070 PUBLIC NUISANCES; CONTINUING OFFENSES.

Any condition caused or permitted to exist in violation of any of the provisions of this Code shall be deemed a public nuisance and may be summarily abated as such by an official and each day that such condition continues shall be regarded as a new and separate offense.

#### 1.20.080 ABATEMENT AND ENJOINMENT OF PUBLIC NUISANCES.

Any violation of any provision of this Code is unlawful and a

public nuisance. The District Attorney or the County Counsel, or their respective designees, may commence such actions or proceedings for the abatement, removal, and enjoinder in the manner provided by law and may take such other steps and initiate such judicial proceedings as the District Attorney or County Counsel deems necessary or appropriate to abate and restrain such violation. The remedies provided in this section shall be cumulative and not exclusive.

#### 1.20.090 REIMBURSEMENT OF COSTS AND CIVIL PENALTIES.

##### A. Costs of Abatement.

Any person, firm, or corporation, who creates or maintains a public nuisance in violation of this Code shall be liable for the cost of abatement which shall include, but not be limited to:

1. Cost of Investigation;
2. Court costs;
3. Attorneys' fees; and
4. Costs of monitoring compliance.

##### B. Civil Penalties.

Upon continuation of a public nuisance after notice from the County to cease the nuisance, any person, firm, or corporation shall be liable for the costs of abatement set forth in subsection A of this section plus a civil penalty of fifty percent (50%) of those costs payable to the County in addition to any other costs of enforcement imposed by the court.

#### 1.20.100 IMMUNITY OF ENFORCING OFFICIALS.

Nothing in this Code is intended or shall be deemed or construed to impose liability upon the County of Monterey or any Official for any injury to persons or damage to property alleged to result from any act or omission by the County or any Official beyond the liability expressly imposed by the laws of the State of California or the United States. Nothing in this Code or any other County enactment is intended or shall be deemed or construed to impose a mandatory duty upon the County or any Official for the purpose of determining entitlement to equitable relief or liability for any injury to persons or damage to property alleged to result from the failure of the County or any Official to discharge a mandatory duty imposed by an County enactment.

1.20.110 REMEDIES CUMULATIVE.

Unless otherwise expressly provided, the remedies provided in this Chapter or any other provision of this Code are cumulative and not exclusive. Nothing in this Code bars any legal, equitable, administrative, or summary remedy to which any aggrieved person, the County, or any Official may otherwise be entitled. Paying a fine or serving a jail sentence shall not relieve any person from the responsibility for correcting any condition which violates any provision of this Code.

SECTION 2. Chapter 1.30 is added to the Monterey County Code to read:

Chapter 1.30

RULES OF CONSTRUCTION

Sections:

- 1.30.010 Designation and Citation of Code.
- 1.30.020 Provisions Considered as Continuations of Existing Ordinances.
- 1.30.030 Effective Repeal of Ordinances.
- 1.30.040 Severability of Parts of Code
- 1.30.050 Headings.
- 1.30.060 Construction.
- 1.30.070 Reference includes Amendments and Penalties.
- 1.30.080 Acts by Deputy.
- 1.30.090 Prohibited Acts.
- 1.30.100 Grammatical Interpretation.

1.30.010 DESIGNATION AND CITATION OF CODE.

The ordinances embraced in this and all following Chapters and Sections shall constitute and be designated "the Code of the County of Monterey," and may be so cited. Such Code may also be cited as the "Monterey County Code."

1.30.020 PROVISIONS CONSIDERED AS CONTINUATIONS OF EXISTING ORDINANCES.

The provisions appearing in this Code, and any amendments thereto, so far as they are the same as those of ordinances existing at the time of the effective date of this Code or any such amendment, shall be considered as continuations thereof and not as new enactments.

1.30.030 EFFECTIVE REPEAL OF ORDINANCES.

The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repeal took effect. The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit,

prosecution, or proceeding pending at the time of the repeal, for any offense committed under the ordinance repealed.

1.30.040 SEVERABILITY OF PARTS OF CODE.

It is hereby declared to be the intention of the Board of Supervisors that the sections, paragraphs, sentences, clauses, and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph, or section of this Code or any amendment to this Code shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Code or any amendment.

1.30.050 HEADINGS.

The headings of chapters, articles, divisions, and sections contained in this Code shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any chapter, article, division, or section of this Code.

1.30.060 CONSTRUCTION.

The provisions of this Code and all proceedings under it are to be construed so as to give effect to the objectives of this Code and to promote justice.

1.30.070 REFERENCE INCLUDES AMENDMENTS AND PENALTIES.

Any reference in this Code to an ordinance or provision of this Code shall mean such ordinance or provision as now or hereafter amended. Reference to any section of this Code shall be understood to refer to and include the penalty section relating thereto as specified in this Title, unless otherwise expressly provided. In case of the amendment of any section of this Code, containing provisions for which a penalty is provided in another section, the penalty so provided in such other section shall be held to relate to the section so amended, whether reenacted in the amendatory ordinance or not, unless such penalty is specifically repealed therein.

1.30.080. ACTS BY DEPUTY.

Whenever a power is granted to or duty is imposed upon an Official, the power may be exercised or the duty may be performed by a deputy or designee of such Official, or other employee or person duly authorized pursuant to law or ordinance, unless this Code expressly provides otherwise.

1.30.090. PROHIBITED ACTS.

Whenever in this Code any act or omission is made unlawful,

it shall include causing, allowing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission.

1.30.100. GRAMMATICAL INTERPRETATION.

A. General Rules.

(1) Any gender includes the other genders.

(2) The singular number includes the plural, and the plural includes the singular.

(3) Words used in the present tense include the past and the future tenses and vice versa.

(4) Words and phrases used in this Code and not specifically defined shall be construed according to the context and approved usage of the language. The provisions of Section 13 and 1645 of the Civil Code of the State of California are hereby adopted in the interpretation of words and phrases, unless otherwise provided in this Code.

B. Specific Rules.

(1) It is the policy of the Board of Supervisors that the legal documents of this County, including all ordinances, resolutions, and contracts, should be gender neutral.

(2) It is the policy of the Board of Supervisors that the legal documents of this County, including all ordinances, resolutions, and contracts, should be written in "plain English."

SECTION 3. Chapter 1.40 is added to the Monterey County Code to read:

Chapter 1.40

MONTEREY COUNTY FEE RESOLUTION

Sections:

1.40.010 Establishment of Fee Resolution.

1.40.010 ESTABLISHMENT OF FEE RESOLUTION.

Except as otherwise provided in this Code, all fees, penalties, refunds, reimbursements, and charges of any kind collected by the County may be adopted by resolution or may be designated in the Monterey County Fee Resolution, as amended by the Board of Supervisors from time to time. Whenever applicable throughout the Code, reference may be made to the Monterey County

Fee Resolution in lieu of any reference to specific fee amounts.

SECTION 4. Section 2.04.080 is added to the Monterey County Code to read:

2.04.080 PUBLICATION OF ORDINANCE SUMMARIES.

County Counsel shall prepare a summary of each ordinance prior to submission of such ordinance to the Board of Supervisors. The Clerk to the Board is authorized to publish such summary in the manner provided by law in lieu of publishing the verbatim text of such ordinance.

SECTION 5. Section 5.16.010 of the Monterey County Code is amended to read:

5.16.010 FILING REQUIREMENT.

All claims against the County shall be filed with the Clerk of the Board of Supervisors. The Clerk to the Board of Supervisors shall transmit copies of all such claims to the Risk Manager. For the purpose of this Chapter, the term "Risk Manager" shall mean a person designated by the County Administrative Officer and such person may include a contractor of the County who performs risk management or claims adjustment duties for the County.

SECTION 6. Section 5.16.020 is added to the Monterey County Code to read:

5.16.020 PROCESSING OF CLAIMS AGAINST THE COUNTY.

A. Risk Manager Review.

The Risk Manager shall evaluate the sufficiency and form of all claims against the County and give notices relative to any deficiency of such claims to the claimant. The Risk Manager shall have all such claims investigated and shall prepare an investigative report and a recommendation relating to each such claim. The Risk Manager may deny any claim amounting to \$25,000.00 or less, or may approve for payment any claim amounting to \$1,000.00 or less, or compromise for any claim in the amount of \$1,000.00 or less.

B. County Administrative Officer Review.

The Risk Manager shall forward any claim not disposed of pursuant to subsection A of this section to the County Administrative Officer and shall include with such claim the investigative report and recommendation of the Risk Manager. The County Administrative Officer may, with the concurrence of the County Counsel, approve for payment any claim amounting to \$15,000.00 or less, deny any claim amounting to \$250,000.00 or

less, or compromise any claim in an amount of \$15,000.00 or less. The County Administrative Officer shall return any claim which has been approved, compromised, or denied by the County Administrative Officer, together with the County Counsel and County Administrative Officer's decisions relative thereto, to the Risk Manager who shall be responsible for immediately notifying the claimant of such decision and expediting the payment of any claim which has been approved or compromised.

C. Board of Supervisors Review.

For all claims not disposed of pursuant to subsections A or B of this section, the County Counsel shall prepare and submit, as soon as practicable, a report to the Board of Supervisors either in open session or in closed session, at the County Counsel's election, together with a recommendation that such claim be approved, compromised, or denied. The County Counsel shall advise the Risk Manager of the Board's decision in the matter. The Risk Manager shall thereupon notify the claimant, in writing, of the decision and expedite payment of any claim which has been approved or compromised.

D. Notification of Insurance Carriers.

Notwithstanding the above provisions, the Risk Manager shall notify and send copies of all claims which are determined by the Risk Manager to be covered by insurance to the insurance carrier which provides coverage to the County, and shall be the County's liaison with such carriers for the purpose of any claim involvement.

E. Administrative Procedures and Confidentiality.

In order to protect the best interest of the County and the officers, employees, and agents of the County, with regard to the investigation, defense, or adjustment of applicable claims incurred against the County or its officers, employees, and agents, the County Administrative Officer and the County Counsel are directed to establish and maintain necessary administrative procedures and incident report forms to ensure the confidential coordination of case facts and related information. The procedures and forms will ensure reasonable use of the principle of privileged client-attorney communication for confidentiality in the defense or adjustment of all claims as provided by law.

F. Legal Defense of Claims.

The legal defense of claims filed against the County which are not covered by insurance shall be the responsibility of the County Counsel or a legal firm or firms designated by the County Counsel and concurred with by the Board of Supervisors. Authorized legal defense costs in conjunction with the defense of such claims shall be paid from County funds from an appropriate

liability reserve account as established by the Board of Supervisors.

SECTION 7. Section 5.16.030 is added to the Monterey County Code to read:

5.16.030 PROCEDURE FOR COLLECTION, COMPROMISE, AND WRITE-OFF OF CLAIMS OF THE COUNTY AGAINST OTHERS.

Claims of the County against other persons or entities shall be handled according to the procedures designated in this section.

A. Procedures by the County Administrative Officer.

The County Administrative Officer is authorized to pursue collection of any claims of the County against others. The County Administrative Officer may, in furtherance of such claims collection, accept a promissory note to repay the claim over a period of time, file a small claims court action to secure a judgment, when the amount of the claim does not exceed the small claims court jurisdictional limit, or assign the claim, promissory note, or judgment to a collection agency. When the County Administrative Officer determines it is in the best interest of the County to do so, considering the cost of collection and the merits of the claim, the County Administrative Officer may:

1. Accept a compromise settlement and write off the balance of the claim as uncollectable, where the amount of the write off does not exceed the small claims court jurisdictional limit;
2. File an action in small claims court and write off any amount in excess of such court's jurisdiction, where the amount of the write off does not exceed the small claims court jurisdictional limit, or
3. Write off the claim in full where the amount of the write off does not exceed the small claims court jurisdictional limit.

Any claim which cannot be collected in full or disposed of in accordance with this subsection shall be sent to the County Counsel's Office for collection.

B. Procedure by County Counsel.

The County Counsel shall pursue collection and may, in furtherance of such collection, accept a promissory note to repay the claim over a period of time, file an action in the appropriate court to secure a judgment, or assign the claim, promissory note, or judgment to a collection agency. When the County Counsel determines it is in the best interest of the

County to do so, considering the cost of collection and the merits of the claim, the County Counsel may:

1. Authorize the County Administrative Officer to accept a compromise settlement and write off the balance of the claim as uncollectable where the amount of the write off does not exceed the municipal court jurisdictional limit; or

2. Authorize the County Administrative Officer to file an action in small claims court and write off any amount in excess of such court's jurisdiction, where the amount of the write off does not exceed the municipal court jurisdictional limit; or

3. Authorize the Controller to write off the claim in full where the amount of the write off does not exceed the municipal court jurisdictional limit.

When the County Counsel determines it is in the best interest of the County to accept a compromise settlement of the claim and write off the balances uncontrollable, or to write off the claim in full as uncollectable, the County Counsel shall submit the matter to the Board of Supervisors for approval where the amount of the write off exceeds the municipal court jurisdictional limit.

SECTION 8. The following sections, subsections, and provisions of the Monterey County Code are repealed:

7.04.180	12.24.040	16.08.606
7.08.160	12.28.100	16.12.190
7.08.180	12.40.080	16.12.200-D
7.20.140	12.44.100	16.24.050
7.24.140	12.44.240	16.24.060
7.28.160	12.44.300	16.55.040
7.30.140	12.48.040	16.60.080
7.32.390	12.50.080	18.04.130
7.50.100	12.56.020	18.32.130
7.70.120	12.60.020	18.36.130
10.04.080	12.64.100	18.40.070
10.08.070-B	14.04.170	18.44.110
10.12.020	14.08.130	18.44.140
10.16.060	14.12.170	18.44.150
10.24.140	14.18.040	18.44.160
10.32.080	14.20.050	18.46.050 B,D,E,
10.32.090	14.20.090	F, & G
10.40.090	14.24.030	18.46.070
10.41.240	14.30.050	18.48.050 B,D,E,
10.41.250	14.30.060	F, & G
10.60.040	15.04.190	18.48.080
10.64.030	15.08.200	18.50.090
10.65.090-B	15.08.210	18.50.110 B,C
10.65.120	15.12.070	18.50.120

10.68.040	15.20.150	18.50.130
10.70.140	15.21.050	18.50.140
10.72.110	15.21.090	18.52.040-D
11.08.160	15.22.080	18.52.060
11.08.170	15.22.090	18.52.070
11.10.020	15.22.120	18.52.080
11.24.160	15.23.050 B,D,E,	18.52.090 A,B,C,
11.24.170	F, & G	D, & F
11.25.210	15.23.060	18.54.100
	15.40.060	
11.25.220	15.40.090	18.56.110
11.26.020	16.04.210	19.14.015-B
11.30.020	16.04.220	19.14.020
11.33.020	16.04.025	19.14.025
11.36.020	16.04.260	19.14.030
11.48.030	16.04.270	19.14.065
11.52.060	16.04.280	21.02.070
11.64.020	16.08.530	21.84.040-E
11.88.100	16.08.600	21.84.060
12.08.050	16.08.603	21.84.070
12.12.020	16.08.604	
12.16.030	16.08.605	

SECTION 9. Section 10.48.060 of the Monterey County Code is amended to read:

10.48.060 CIVIL LIABILITIES.

In addition to any penalties or punishment required pursuant to Chapter 1.20 of this Code, any person who violates any provision of this Chapter is liable in a civil action for all damages that may be occasioned or caused by a violation of this Chapter.

SECTION 10. Section 10.72.100 of the Monterey County Code is amended to read:

10.72.100 CIVIL PENALTIES.

In addition to such penalties, punishments, or remedies provided in Chapter 1.20 of this Code, any person who violates any of the provisions of this Chapter shall be liable to the County for civil penalties in the amount of five thousand dollars (\$5,000.00) per day the violation occurs or is allowed to exist, or in such other amount as the Board of Supervisors may establish by resolution.

SECTION 11. Section 12.04.060 is added to the Monterey County Code to read:

12.04.060 PENALTY FOR VIOLATION.

Every person who violates any provision of this Title is guilty of an infraction, and upon conviction thereof, shall be

punished in the manner specified in Section 42001 of the California Vehicle Code, as amended from time to time.

SECTION 12. Section 14.22.080 of the Monterey County Code is amended to read:

14.22.080 CIVIL PENALTIES.

A. A violation of any of the provisions of this Chapter shall be grounds for revocation of denial of a houseboat permit.

B. Any person who rents a houseboat to another without a permit is in violation of this Chapter and shall be liable to the County for civil penalties in the amount of five hundred dollars (\$500.00) per day the violation occurs or is allowed to exist, or in such other amount as the Board of Supervisors may establish by resolution.

SECTION 13. Section 15.22.100 of the Monterey County Code is amended to read:

15.22.100 CIVIL PENALTIES

In addition to such penalties, punishments, or remedies provided in Chapter 1.20 of this Code, any person who violates any of the provisions of this Chapter shall be liable to the County for civil penalties in the amount of five thousand dollars (\$5,000.00) per day the violation occurs or is allowed to exist, or in such other amount as the Board of Supervisors may establish by resolution.

SECTION 14. Section 16.30.160 of the Monterey County Code is amended to read:

16.30.160 VIOLATIONS.

It shall be unlawful for any person to refuse to allow any officer, employee, agent, or contractor of the County to enter upon any premises for the purpose of abating the public nuisance or to interfere in any manner whatever with such officer, employee, agent, or contractor.

SECTION 15. Section 16.60.070 of the Monterey County Code is amended to read:

16.60.070 ENFORCEMENT.

The provisions of this Chapter shall be enforced pursuant to Chapter 21.84 of the Monterey County Code, relating to enforcement of the Zoning Code of the County.

SECTION 16. Section 18.50.150 of the Monterey County Code is amended to read:

18.50.150 REVIEW.

This Chapter may be reviewed by the Board of Supervisors one year after its effective date, or earlier upon staff recommendation, and annually thereafter.

SECTION 17. This ordinance shall become effective on the thirty-first day following its adoption.

PASSED AND ADOPTED this 19th day of January 1993, by the following vote:

AYES: Supervisors Pennycook, Perkins & Strasser Kauffman

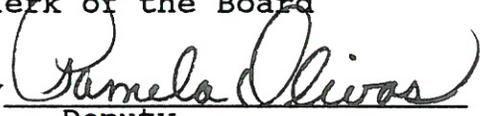
NOES: None

ABSENT: Supervisors Shipnuck and Karas

  
JUDY L.E. PENNYCOOK, Chair

ATTEST:

ERNEST K. MORISHITA  
Clerk of the Board

By   
Deputy

ORDINANCE NO. 5135

**AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, ADDING CHAPTERS 2.29, 2.30, AND 2.31 AND MODIFYING MULTIPLE SECTIONS OF THE MONTEREY COUNTY CODE TO ASSIGN PLANNING AGENCY FUNCTIONS, ESTABLISH A SEPARATE PLANNING DEPARTMENT AND BUILDING SERVICES DEPARTMENT AND SEPARATE DIRECTORS, AND UPDATE REFERENCES TO THESE DEPARTMENTS AND THEIR DIRECTORS.**

**County Counsel Summary**

*This ordinance updates the County Code to reflect changes that have occurred in the organizational structure of the County. The County department formerly known as the Department of Planning and Building Inspection has been separated into two departments, the Planning Department and the Building Services Department. The Director of Planning and Building Inspection has been replaced by a Director of Planning and a Director of Building Services. This ordinance codifies these changes and defines the duties and functions of each. Pursuant to Government Code section 65100, this ordinance also defines the County planning agency. Numerous references throughout the County Code to the Director of Planning and Building Inspection are changed to refer to the Director of Planning or the Director of Building Services as applicable.*

The Board of Supervisors of the County of Monterey ordains as follows:

SECTION 1. Chapter 2.29 is added to the Monterey County Code to read:

**CHAPTER 2.29**

**PLANNING AGENCY**

**2.29.010 Assignment of Functions of Planning Agency**

Pursuant to section 65100 of the Government Code as may be periodically amended, the planning agency of the County of Monterey shall consist of the Board of Supervisors, the Planning Commission, the Planning Department, the Building Services Department, and such other hearing officers and bodies as are designated in County's zoning and subdivision ordinances as Appropriate Authorities. Each of such entities shall have all of the powers, duties, and functions established for them by state law and the plans, ordinances, rules, and regulations of the County.

SECTION 2. Chapter 2.30 is added to the Monterey County Code to read:

**CHAPTER 2.30**

**PLANNING DEPARTMENT**

**Sections:**

- 2.30.010      Planning Department created**
- 2.30.020      Director of Planning**
- 2.30.030      Duties of Director**

**2.30.010      Planning Department created**

The Planning Department is a department of the Resource Management Agency. The functions of the Planning Department are as set forth in California Planning and Zoning Law (Government Code section 65000 et seq.) and other applicable law and the general plan, local coastal program, zoning ordinances, subdivision ordinances, and other applicable plans, ordinances, rules, and regulations of the County.

**2.30.020      Director of Planning**

The Director of Planning shall be appointed by and serve at the pleasure of the Director of the Resource Management Agency. The Director of Planning shall direct and oversee the operations of the Planning Department and shall have all of the powers, duties, and functions established for the Director by the general plan, local coastal program, zoning ordinances, subdivision ordinances, and other applicable plans, ordinances, rules and regulations of the County. The Director of Planning may also be known as the Planning Director.

**2.30.030      Duties of Director**

The Director of Planning shall:

- A.    Execute the general duties as provided for department heads in section 2.18.010 of this code;
- B.    Plan, organize, direct, and coordinate the programs, activities, and operation of the Planning Department;
- C.    Establish and maintain goals, objectives, and plans for carrying out the functions of the Planning Department;
- D.    Implement improvements or major changes in methods or levels of service delivery;
- E.    Analyze and evaluate program results as related to objectives and policy guidelines;
- F.    Review program funding needs, control program activities within budgetary limits and policies, and direct the preparation of the Planning Department program budgets;
- G.    Direct the training and professional development of the members of the Planning Department;
- H.    Coordinate the Planning Department's programs and services with those of other agencies and departments, both inside and outside the Resource Management Agency;

I. Advise the Board of Supervisors, County Administrative Officer, Director of the Resource Management Agency, and appointive boards and commissions on long-range land use planning;

J. Direct the evaluation of legislation affecting the operations of the Planning Department;

K. Perform such other duties as may be assigned by the Director of the Resource Management Agency or County Administrative Officer or as may be required by applicable law or the ordinances or resolutions of the Board of Supervisors.

L. Designate other individuals within the Planning Department to perform the duties of the Director.

SECTION 3. Chapter 2.31 is added to the Monterey County Code to read:

### **CHAPTER 2.31**

#### **BUILDING SERVICES DEPARTMENT**

##### **Sections:**

- 2.31.010 Building Services Department created**
- 2.31.020 Director of Building Services**
- 2.31.030 Duties of Building Services Director**

##### **2.31.010 Building Services Department created**

The Building Services Department of the County of Monterey is created. The functions of the Building Services Department are to administer and enforce the California Building Standards Code with such modifications as are set forth in the County Code, to conduct inspections, and to perform such other functions as may be set forth in applicable law and the general plan, local coastal program, zoning ordinances, subdivision ordinances, and other applicable plans, ordinances, rules, and regulations of the County.

##### **2.31.020 Director of Building Services**

The Director of Building Services shall be appointed by and serve at the pleasure of the Director of the Resource Management Agency. The Director of Building Services shall direct and oversee the operations of the Building Services Department and shall have all of the powers, duties, and functions established for the Director by the California Building Standards Code with such modifications as are set forth in the County Code and by the other applicable plans, ordinances, rules, and regulations of the County.

##### **2.31.030 Duties of Building Services Director**

The Director of Building Services shall:

- A. Execute the general duties as provided for department heads in section 2.18.010 of this code;
- B. Plan, organize, direct, and coordinate the programs, activities, and operations of the Building Services Department;
- C. Establish and maintain goals, objectives, and plans for carrying out the functions of the Building Services Department;
- D. Implement improvements or major changes in methods or levels of service delivery;
- E. Analyze and evaluate program results as related to objectives and policy guidelines;
- F. Review program funding needs, control program activities within budgetary limits and policies, and direct the preparation of the Building Services Department program budgets;
- G. Direct the training and professional development of the members of the Building Services Department;
- H. Coordinate the Building Services Department's programs and services with those of other agencies and departments, both inside and outside the Resource Management Agency;
- I. Advise the Board of Supervisors, County Administrative Officer, Director of the Resource Management Agency, and appointive boards and commissions on issues related to building codes;
- J. Establish and maintain a one-stop permit-processing program;
- K. Direct the evaluation of legislation affecting the operations of the Building Services Department;
- L. Perform such other duties as may be assigned by the Director of the Resource Management Agency or County Administrative Officer or as may be required by applicable law or the ordinances or resolutions of the Board of Supervisors.
- M. Designate other individuals within the Building Services Department to perform the duties of the Director.

SECTION 4. Section 2.27.010 of Chapter 2.27 of the Monterey County Code is amended to read as follows:

**2.27.010 Resource Management Agency created.**

A. The Resource Management Agency of the County of Monterey is created as a comprehensive local agency to administer, coordinate, and oversee the development and implementation of policies and regulations concerning land use planning, and building inspection, code compliance, public works, housing, redevelopment, and capital projects and construction general services. The powers and duties of the constituent departments and divisions of the Resource Management Agency are as set forth in state law and the Monterey County Code. The constituent departments and divisions of the Resource Management Agency are the Planning and Building Inspection Department Planning Department, Building Services Department, Public Works Department, Housing and Redevelopment Office, and Capital Projects Division administrative and fiscal support divisions.

B. ~~The Agency shall provide the following services in connection with its programs and activities:~~

~~1. Regional and local planning in coordination with the state, cities, and local and special districts;~~

~~2. Economic development and redevelopment consistent with the goal of sustaining agriculture, tourism, housing needs, and in support of emerging industries in the County;~~

~~3. Stewardship of the County's natural resources to protect the health, welfare, and safety of the public;~~

~~4. Streamlined delivery of land use services that provide a predictable permitting process that balances the public interest with private property rights;~~

~~5. Delivery of infrastructure and services that provide for the public health and safety in transportation, public works, and utility services consistent with available funding;~~

~~6. Engineering and capital planning services in support of County owned and leased facilities. (Ord. 4269 § 2 (part), 2005)~~

SECTION 5. Section 10.80.040 of Chapter 10.80 of the Monterey County Code is amended as follows:

#### **10.80.040 Definitions.**

Whenever the following words are used in this Chapter, they shall have the meaning ascribed to them in this Section:

A. "Board" means the Monterey County Board of Supervisors.

B. "Building" means any structure and shall include addition of floor space to existing improvements.

C. "Clerk" means the Clerk of the Board of Supervisors of the County of Monterey.

D. "Development" means all construction for which a building permit is required.

E. "Director" means the Director of the Department of ~~Planning and Building Inspection~~ Building Services of the County of Monterey.

F. "Fire District" and "District" means any special district providing fire protection services within the unincorporated area of the County. "Fire District" also includes the County when providing fire protection services through a County Service Area.

G. "Facilities and equipment" means any long-term capital facilities and equipment used by a Fire District for fire protection or emergency medical services including station construction, station expansion, fire or emergency medical apparatus, and water facilities for providing fire protection.

H. "Fire Capital Facilities and Equipment Plan" means a plan adopted by the District at a noticed public hearing.

I. "Greenhouse, standard type", means a building of mainly glass or similar non-combustible materials, in which the temperature and humidity can be regulated for the cultivation of plants.

J. "Greenhouse, cold-frame type", means a Quonset-hut style, non-code structure that is covered with poly or shade cloth, is less than fifteen (15) feet in height and is used only for the cultivation of plants. A greenhouse not meeting this standard shall be treated as a standard type greenhouse.

K. "New development" means the construction of residential, commercial, and industrial projects within the definition of "building" in the Uniform Building Code as adopted and amended by the Board of Supervisors. "New development" as used in this Chapter shall include mobile homes and manufactured homes installed on-site, either with or without a permanent foundation. "New development" includes the building of every residential, commercial or industrial structure because every new structure contributes to the cumulative impact upon the burden of providing fire protection. (Ord. 3931, 1997)

SECTION 6. Section 10.80.080 of Chapter 10.80 of the Monterey County Code is amended as follows:

**10.80.080 Need for fees and their use.**

A. Each District which requests a fire mitigation fee shall establish that there is a need in the District for fire capital facilities based on new development and its cumulative effect, which have not been constructed or purchased and to which new development has not contributed its fair share. Furthermore, said facilities must have been called for in, or are consistent with, the District's Capital Facilities and Equipment Plan. The need shall be established by a study.

B. The cost estimates set forth in a study by each District shall show that they are reasonable cost estimates for constructing or replacing these facilities, and the fee expected to be generated by new development will not exceed the total of these costs.

C. The fire mitigation fees collected pursuant to this Chapter shall be used to finance only the public facilities described or identified in a Fire Capital Facilities and Equipment plan prepared in any District which wishes to have the County impose a fire mitigation fee on new development within its District boundaries.

D. The fee required pursuant to this Chapter may be waived by the Director of ~~Planning and Building Inspection~~ Building Services upon certification by the local fire chief that the fire capital facilities and equipment needs required by the new development are met through alternative financial arrangements. (Ord. 3602, 1992)

SECTION 7. Section 16.04.030 of Chapter 16.04 of the Monterey County Code Shall be amended as follows:

**16.04.030 Scope.**

A. Except as provided in this Chapter, no person shall conduct surface mining operations unless a permit, Reclamation Plan, and financial assurances for reclamation have first been approved by the County. Any applicable exemption from this requirement does not automatically exempt a project or activity from the application of other regulations, ordinances or policies of

the County, including but not limited to, the application of the California Environmental Quality Act ("CEQA", Public Resources Code, Division 13, Section 21000 et seq.), as may be amended from time to time, the requirement of surface mining or other permits, the payment of development impact fees, or the imposition of other dedications and exactions as may be permitted under the law. The provisions of this Chapter shall apply to all lands within the County, public and private.

B. This Chapter shall not apply to the following activities, subject to the above-referenced exceptions:

(1) Excavations or grading conducted for farming or on-site construction or for the purpose of restoring land following a flood or natural disaster.

(2) Onsite excavation and onsite earthmoving activities which are integral and necessary part of a construction project that are undertaken to prepare a site for construction of structures, landscaping, or other land improvements, including the related excavation, grading, compaction, or the creation of fills, road cuts, and embankments, whether or not surplus materials are exported from the site, subject to all of the following conditions:

(a) All required permits for the construction, landscaping, or related land improvements have been approved by a public agency in accordance with applicable provisions of state law and locally adopted plans and ordinances, including but not limited to the CEQA, as may be amended from time to time.

(b) The County's approval of the construction project included consideration of the onsite excavation and onsite earthmoving activities pursuant to CEQA.

(c) The approved construction project is consistent with the general plan or zoning of the site.

(d) Surplus materials shall not be exported from the site unless and until actual construction work has commenced and shall cease if it is determined that construction activities have terminated, have been indefinitely suspended, or are no longer being actively pursued.

(3) Operation of a plant site used for mineral processing, including associated onsite structures, equipment, machines, tools, or other materials, including the onsite stockpiling and onsite recovery of mined materials, subject to all of the following conditions:

(a) The plant site is located on lands designated for industrial or commercial uses in the County general plan.

(b) The plant site is located on lands zoned industrial or commercial, or are contained within a zoning category intended exclusively for industrial activities by the County.

(c) None of the minerals being processed are being extracted onsite.

(d) All reclamation work has been completed pursuant to the approved Reclamation Plan for any mineral extraction activities that occurred onsite after January 1, 1976.

(4) Prospecting for, or the extraction of, minerals for commercial purposes and the removal of overburden in total amounts of less than 1,000 cubic yards in any one location of one acre or less.

(5) Surface mining operations that are required by federal law in order to protect a mining claim, if those operations are conducted solely for that purpose.

(6) Any other surface mining operations that the State Mining and Geology Board determines to be of an infrequent nature and which involve only minor surface disturbances.

(7) Excavations, grading, or other earthmoving activities in an oil or gas field that are integral to, and necessary for, ongoing operations for the extraction of oil or gas that comply with all of the following conditions:

(a) The operations are being conducted in accordance with PRC Division 3 (commencing with Section 3000).

(b) The operations are consistent with any general plan or zoning applicable to the site.

(c) The earthmoving activities are within oil or gas field properties under a common owner or operator.

(d) No excavated materials are sold for commercial purposes.

8. The solar evaporation of sea water or bay water for the production of salt and related minerals.

9. Emergency excavations or grading conducted by the Department of Water Resources or the Reclamation Board for the purpose of averting, alleviating, repairing, or restoring damage to property due to imminent or recent floods, disasters, or other emergencies.

10. The cleaning out of a previously engineered, constructed facility for which approved design plans exist, is an activity to restore the usefulness of that flood control facility to its original design purposes. It is not the intent of this Subsection to exempt the removal of materials from natural channels. The removal of post construction accumulated materials from a responsible, public agency approved, managed, engineered, constructed facility intended for the purpose of water retention, or detention, debris retention, or from a flood water conveyance, where the post extraction condition, capacity or grade of the facility or conveyance does not exceed the as-built approved design specification contained in the approved documents for the facility or conveyance.

11. Road construction and maintenance for timber or forest operations if the land is owned by the same person or entity, and if the excavation is conducted adjacent to timber or

forest operation roads. This exemption is only available if slope stability and erosion are controlled in accordance with Board regulations and, upon closure of the site, the person closing the site implements, where necessary, revegetation measures and postclosure uses in consultation with the Department of Forestry and Fire Protection. This exemption does not apply to onsite excavation or grading that occurs within one hundred (100) feet of a Class One watercourse or seventy-five (75) feet of a Class Two watercourse, as defined by the Department of Forestry and Fire Protection or to excavations for materials that are, or have been, sold for commercial purposes.

C. Prior to engaging in any activity claimed to be exempt under this Section, the operator shall notify the Director of ~~Planning and Building Inspection~~ Planning prior to commencing the proposed activity. The Director shall determine whether the proposed activity is exempt, or not exempt under this Section and notify the operator, in writing, within thirty (30) days of the Director's determination. The Director's determination shall be appealable pursuant to Section 16.04.140. (Ord. 4029, 1999)

SECTION 8. Section 16.04.040 of Chapter 16.04 of the Monterey County Code shall be amended as follows:

**16.04.040 Permit and plan approval--Required.**

A. Any person, except as provided in Section 16.04.030, who proposes to engage in surface mining operations as defined in this Chapter shall, prior to the commencement of such operations, obtain a permit to mine, and approval of a Reclamation Plan, in accordance with the provisions set forth in this Chapter and as further provided in Article 5, California Surface Mining and Reclamation Act of 1975, as may be amended from time to time.

**B. Fees.**

1. A fee, as established from time to time by the Board of Supervisors for the permitted use shall be paid to the County of Monterey, State of California, at the time of filing.

2. The County shall establish such fees as it deems necessary to cover the reasonable costs incurred in implementing this Chapter and State regulations, including but not limited to, processing of applications, annual reports, inspections, monitoring, enforcement and compliance. Such fees shall be paid by the operator, as required by the County, at the time of filing of the surface mining application, Reclamation Plan application, and at such other times as are determined by the County to be appropriate in order to ensure that all reasonable costs of implementing this Chapter are borne by the mining operator.

C. All applications for a Reclamation Plan for surface mining operations shall be made on forms provided by the Salinas office of the County ~~Planning and Building Inspection~~ Planning Department and as called for by Section 2772 of California Surface Mining and Reclamation Act of 1975, as may be amended from time to time. (Ord. 4029, 1999; Ord. 3007 § 3, 1984; Ord. 2402 § .014(a), 1978)

SECTION 9. Section 16.04.060 of Chapter 16.04 of the Monterey County Code shall be amended as follows:

**16.04.060 Notice to Director of the Department of Conservation, State Mining and Geology Board, of permit applications and annual report requirements.**

A. The Director of the Department of Conservation, State Mining and Geology Board, shall be notified of the filing of all permit applications. (California Public Resources Code Section 2774(e), as may be amended from time to time).

B. Surface mining operators shall forward an annual surface mining report to the State Department of Conservation and to the County ~~Planning and Building Inspection~~ Planning Department on a date established by the State Department of Conservation, upon forms furnished by the State Mining and Geology Board. New mining operations shall file an initial surface mining report and any applicable filing fees with the State Department of Conservation within thirty (30) days of permit approval, or before commencement of operations, whichever is sooner. Any applicable fees, together with a copy of the annual inspection report, shall be forwarded to the State Department of Conservation at the time of filing the annual surface mining report. (Ord. 4029, 1999 Ord. 2402 § .014(c), 1978)

SECTION 10. Section 16.04.070 of Chapter 16.04 of the Monterey County Code shall be amended as follows:

**16.04.070 Application, review, public hearing, and findings.**

A. Applications for a site approval or Reclamation Plan for surface mining or land reclamation projects shall be made on forms provided by the ~~Planning and Building Inspection~~ Planning Department. Said application shall be filed in accord with this Chapter and procedures to be established by the Planning Director. The forms for Reclamation Plan applications shall require, at a minimum, each of the elements required by SMARA (Sections 2772--2773) and State Regulations, as may be amended from time to time, and any other requirements deemed necessary to facilitate an expeditious and fair evaluation of the proposed Reclamation Plan, to be established at the discretion of the Director of the ~~Planning and Building Inspection~~ Planning Department. As many copies of the application as may be required by the Director of the ~~Planning and Building Inspection~~ Planning Department shall be submitted to the ~~Planning and Building Inspection~~ Planning Department.

B. As many copies of a Reclamation Plan application as may be required shall be submitted in conjunction with all applications for surface mining operations. For surface mining operations that are exempt from a Coastal Development Permit, or Use Permit pursuant to this Chapter, the Reclamation Plan application shall include information concerning the mining operation that is required for processing the Reclamation Plan. All documentation for the Reclamation Plan shall be submitted to the County at one time.

C. Applications shall include all required environmental review forms and information prescribed by the Director of the ~~Planning and Building Inspection~~ Planning Department.

D. Upon completion of the environmental review procedure and filing of all documents required by the Director of ~~Planning the Planning and Building Inspection~~ Department, consideration of the Site Approval or Reclamation Plan for the proposed or existing surface mine shall be completed pursuant to Chapters 20.70 and 21.74 of the Monterey County Code at a public hearing before the Planning Commission, and pursuant to Section 2774 of the Public Resources Code, as those provisions may be amended from time to time.

E. Within thirty (30) days of acceptance of an application for a surface mining operations and/or a Reclamation Plan as complete, the ~~Planning and Building Inspection~~ Planning Department shall notify the Office of Mine Reclamation, State Department of Conservation of the filing of the application(s). Whenever mining operations are proposed in the one hundred (100) year flood plain of any stream, as shown in Zone A of the Flood Insurance Rate Maps issued by the Federal Emergency Management Agency, and within one mile, upstream or downstream, of any State highway bridge, the ~~Planning and Building Inspection~~ Planning Department shall also notify the State Department of Transportation that the application has been received.

F. The ~~Planning and Building Inspection~~ Planning Department shall process the application(s) through environmental review pursuant to the California Environmental Quality Act (Public Resources Code Sections 21000 et seq.) and the Monterey County CEQA Guidelines, as those provisions may be amended from time to time.

G. Subsequent to the appropriate environmental review, the ~~Planning and Building Inspection~~ Planning Department shall prepare a staff report with recommendations for consideration by the Planning Commission.

H. Not less than ten (10) calendar days prior thereto, the Secretary of the Planning Commission shall give notice of hearing thereon by one publication in a newspaper of general circulation and by posting notice thereof in conspicuous places close to the property involved. In addition, the Secretary of the Planning Commission may also give notice of such hearing by mailing, postage prepaid, a notice of the time and place of such hearing to all persons owning property adjacent to the exterior boundaries of the area actually mined or to be mined. Addresses shall be used from the last equalized assessment roll, or alternatively, from such other records of the assessor or the tax collector as contain more recent addresses in the option of the Secretary of the Planning Commission.

I. The Planning Commission shall hold at least one noticed public hearing on the application for surface mining operation and/or Reclamation Plan.

J. The Planning Commission shall then take action to approve, conditionally approve, or deny the application for surface mining operation and/or Reclamation Plan, and to approve the initial financial assurances pursuant to PRC Section 2770(d), as may be amended from time to time. Where the Planning Commission takes action to approve or conditionally approve surface mining operations and/or Reclamation Plans, the following Findings of Approval shall be made as applicable:

1. Surface Mining Operations. In addition to any findings required by this Chapter and Monterey County Code Sections 20.70.050 and 21.74.050, Approvals for surface mining operations shall include a finding that the project complies with the provisions of SMARA and State regulations, as those provisions may be amended from time to time.

2. Reclamation Plans. For Reclamation Plans, the following findings shall be required:

a. That the Reclamation Plan complies with SMARA Sections 2772 and 2773, as may be amended from time to time, and any other applicable provisions.

b. That the Reclamation Plan complies with applicable requirements of State regulations (CCR Sections 3500--3505, and Sections 3700--3713, as those provisions may be amended from time to time).

c. That the Reclamation Plan and potential use of reclaimed land pursuant to the plan are consistent with this Chapter and the Monterey County General Plan and any applicable resource plan or element.

d. That the Reclamation Plan has been reviewed pursuant to CEQA and the Monterey County CEQA Guidelines, as those provisions may be amended from time to time, and all significant adverse impacts from reclamation of the surface mining operations are mitigated to the maximum extent feasible.

e. That the land and/or resources such as water bodies to be reclaimed will be restored to a condition that is compatible with, and blends in with, the surrounding natural environment, topography, and other resources, or that suitable off-site mitigation will compensate for related disturbance to resource values.

f. That the Reclamation Plan will restore the mined lands to a usable condition which is readily adaptable for appropriate land uses consistent with the General Plan and applicable resource plan.

g. That a written response to the State Department of Conservation has been prepared, describing the disposition of major issues raised by that Department. Where the County's position is at variance with the recommendations and objections raised by the State Department of Conservation, said response shall address, in detail, why specific comments and suggestions were not accepted.

K. Written notice of the decision of the Planning Commission shall be given promptly to the applicant and to those who have requested notice of the decision in writing at the hearing on the application.

L. ~~The Planning and Building Inspection~~ Planning Department shall forward a copy of each approved Coastal Development Permit and/or Use Permit for surface mining operations and/or approved Reclamation Plan, and a copy of the approved financial assurances to the State Department of Conservation. By July 1st of each year, the ~~Planning and Building Inspection~~

Planning Department shall submit to the State Department of Conservation for each active or idle mining operation a copy of the Site Approval or Reclamation Plan amendments, as applicable, or a statement that there have been no changes during the previous year. (Ord. 4029, 1999 Ord. 3007 § 4, 1984; Ord. 2402 § .015, 1978)

SECTION 11. Section 16.04.080 of Chapter 16.04 of the Monterey County Code shall be amended as follows:

**16.04.080 Reclamation Plan--Review by State Department of Conservation--  
Conditions of approval to require financial assurances--Performance bond.**

A. Reclamation Plan and Financial Assurances. Prior to final approval of a Reclamation Plan, financial assurances (as provided in this Chapter), or any amendments to the Reclamation Plan or existing financial assurances, the Planning Commission shall certify to the State Department of Conservation that the Reclamation Plan and/or financial assurance complies with the applicable requirements of State law, and submit the plan, assurance, or amendments to the State Department of Conservation for review. The Planning Commission may conceptually approve the Reclamation Plan and financial assurance before submittal to the State Department of Conservation. If a surface mining application is being processed concurrently with the Reclamation Plan, the Planning Commission may simultaneously also conceptually approve the surface mining application. However, the Planning Commission may defer action on the surface mining application until taking final action on the Reclamation Plan and financial assurances. If necessary to comply with permit processing deadlines, the Planning Commission may conditionally approve the surface mining permit with the condition that the ~~Planning and Building Inspection~~ Planning Department shall not issue the surface mining permit for the mining operations until cost estimates for financial assurances have been reviewed by the State Department of Conservation and final action has been taken on the Reclamation Plan and financial assurances.

B. Review by State Department of Conservation. Pursuant to PRC Section 2774(d), as may be amended from time to time, the State Department of Conservation shall be given thirty (30) days to review and comment on the Reclamation Plan and forty-five (45) days to review and comment on the financial assurance. The Planning Commission shall evaluate written comments received, if any, from the State Department of Conservation during the comment periods. Staff shall prepare a written response describing the disposition of the major issues raised by the State for the Planning Commission's approval. In particular, when the Planning Commission's position is at variance with the recommendations and objections raised in the State's comments, the written response shall address, in detail, why specific comments and suggestions were not accepted. Copies of any written comments received and responses prepared by the Planning Commission shall be promptly forwarded to the operator/applicant.

C. Conditions of approval shall require financial assurances:

1. To ensure that reclamation will proceed in accordance with the approved Reclamation Plan, the County shall require as a condition of approval, security which will be released upon satisfactory performance. The applicant shall pose security in the form of a surety bond, trust

fund, irrevocable letter of credit from an accredited financial institution, lien, undertaking, other surety guarantee, or other method acceptable to the County and the State Mining and Geology Board, conditioned upon the faithful performance of the Reclamation Plan, and as specified in State regulations, and which the County reasonably determines is adequate to perform reclamation in accordance with the surface mining operation's approved Reclamation Plan. Financial assurances shall be made payable to the County of Monterey and the State Department of Conservation. (Public Resources Code Section 2773.1(a)(4), as may be amended from time to time). Such surety shall be filed with the Director of the ~~Planning and Building Inspection~~ Planning Department and reviewed and revised, as necessary, annually maintained in an amount equal to the cost of completing the remaining reclamation of the site as prescribed in the approved or amended Reclamation Plan during the succeeding one-year period, or other reasonable term, as determined by the Director of the ~~Planning and Building Inspection~~ Planning Department, or the Director's authorized designee.

2. Financial assurances will be required to ensure compliance with elements of the Reclamation Plan, including but not limited to, revegetation and landscaping requirements, restoration of aquatic or wildlife habitat, restoration of water bodies and water quality, slope stability and erosion and drainage control, disposal of hazardous materials, and other measures, if necessary.

3. Cost estimates for the financial assurance shall be submitted to the ~~Planning and Building Inspection~~ Planning Department for review and approval prior to the operator securing financial assurances. The Planning Director shall forward a copy of the cost estimates, together with any documentation received supporting the amount of the cost estimates, to the State Department of Conservation for review. If the State Department of Conservation does not comment within forty-five (45) days of receipt of these estimates, it shall be assumed that the cost estimates are adequate, unless, the County has reason to determine that additional costs may be incurred. The Director of the ~~Planning and Building Inspection~~ Planning Department shall have the discretion to approve the financial assurance if it meets the requirements of this Chapter, SMARA, and State regulations.

4. The amount of the financial assurance shall be based upon the estimated costs of reclamation for the years or phases stipulated in the approved Reclamation Plan, including any maintenance of reclaimed areas as may be required, subject to adjustment for the actual amount required to reclaim lands disturbed by surface mining activities since January 1, 1976, and new lands to be disturbed by surface mining activities in the upcoming year. Cost estimates should be prepared by a California registered professional engineer and/or other similarly licensed and qualified professionals retained by the operator and approved by the Director of the ~~Planning and Building Inspection~~ Planning Department. The estimated amount of the financial assurance shall be based on an analysis of physical activities necessary to implement the approved Reclamation Plan, the unit costs for each of these activities, the number of units of each of these activities, and the actual administrative costs. Financial assurances to ensure compliance with revegetation, restoration of water bodies, restoration of aquatic or wildlife habitat, and any other applicable element of the approved Reclamation Plan shall be based upon cost estimates that include but may not be limited to labor, equipment, materials, mobilization of equipment, administration, and reasonable profit by a commercial operator other than the permittee. A contingency factor of

ten (10) percent shall be added to the cost of financial assurances.

5. In projecting the costs of financial assurances, it shall be assumed without prejudice or insinuation that the surface mining operation could be abandoned by the operator and, consequently, the County or State Department of Conservation may need to contract with a third party commercial company for reclamation of the site.

6. The financial assurances shall remain in effect for the duration of the surface mining operation and any additional period until reclamation is completed (including any maintenance required).

7. The amount of financial assurances required of a surface mining operation for any one year shall be adjusted annually to account for new lands disturbed by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved Reclamation Plan. The financial assurances shall include estimates to cover reclamation for existing conditions and anticipated activities during the upcoming year, excepting that the permittee may not claim credit for reclamation scheduled for completion during the coming year.

8. Revisions to financial assurances shall be submitted to the Planning Director each year prior to the anniversary date for approval of the financial assurances. The financial assurance shall cover the cost of existing disturbance and anticipated activities for the next calendar year, including any required interim reclamation. If revisions to the financial assurances are not required, the operator shall explain, in writing, why revisions are not required.

D. Repealed.  
(Ord. 4029, 1999; Ord. 3007 § 5, 1984; Ord. 2402 § .016, 1978)

SECTION 12. Section 16.04.085 of Chapter 16.04 of the Monterey County Code is amended to read as follows:

**16.04.085 Statement of responsibility.**

The person submitting the Reclamation Plan shall sign a statement accepting responsibility including an update of financial assurances, for reclaiming the mined lands in accordance with the Reclamation Plan. Said statement shall be kept by the ~~Planning and Building Inspection~~ Planning Department in the mining operation's permanent record. Upon sale or transfer of the operation, the new operator shall submit a signed statement of responsibility to the ~~Planning and Building Inspection~~ Planning Department for placement in the permanent record.  
(Ord. 4029, 1999)

SECTION 13. Section 16.04.095 of Chapter 16.04 of the Monterey County Code shall be amended as follows:

**16.04.095 Interim management plans.**

A. Within ninety (90) days of a surface mining operation becoming idle, the operator shall submit to the Planning Department a proposed Interim Management Plan (IMP). The proposed IMP shall fully comply with the requirements of SMARA, including but not limited to all conditions, and shall provide measures the operator will implement to maintain the site in a stable condition, taking into consideration public health and safety. The proposed IMP shall be submitted on forms provided by the ~~Planning and Building Inspection~~ Planning Department, and shall be processed as an amendment to the Reclamation Plan. imps shall not be considered a project for the purposes of environmental review.

B. Financial assurances for idle operations shall be maintained as though the operation were active, or as otherwise approved through the idle mine's IMP.

C. Upon receipt of a complete proposed IMP, the ~~Planning and Building Inspection~~ Planning Department shall forward the IMP to the State Department of Conservation for review. The IMP shall be submitted to the State Department of Conservation at least forty-five (45) days prior to approval by the ~~Planning and Building Inspection~~ Planning Department.

D. Within sixty (60) days of receipt of the proposed IMP, or a longer period mutually agreed upon by the Director of ~~Planning the Planning and Building Inspection~~ Planning Department and the operator, the ~~Planning and Building Inspection~~ Planning Department shall review, deem adequate and approve or deny the IMP in accordance with this Chapter. If the IMP is inadequate, the operator shall have thirty (30) days, or a longer period mutually agreed upon by the operator and the Director of the ~~Planning and Building Inspection~~ Planning Department, to submit a revised IMP. The ~~Planning and Building Inspection~~ Planning Department shall approve or deny the revised IMP within sixty (60) days of receipt. If the ~~Planning and Building Inspection~~ Planning Department denies the revised IMP, the operator may appeal that action to the Board of Supervisors pursuant to Monterey County Code Section Chapters 20.86 and 21.80, as those provisions may be amended from time to time.

E. The IMP may remain in effect for a period not to exceed five years, at which time the ~~Planning and Building Inspection~~ Planning Department may renew the IMP for another period not to exceed five years, and for increments of five years thereafter, or require the surface mining operator to commence reclamation in accordance with its approved Reclamation Plan. (Ord. 4029, 1999)

SECTION 14. Section 16.04.100 of Chapter 16.04 of the Monterey County Code shall be amended as follows:

**16.04.100 Site inspections.**

A. As a condition of approval for the permit or the Reclamation Plan, or both, a schedule for periodic inspections of the site shall be established with the Director of ~~Planning and Building Inspection~~ Planning to evaluate continuing compliance with the permit and the Reclamation Plan.

B. Except as otherwise required, the Director of ~~the Planning and Building Inspection Department~~ Planning or the Director's designee shall promptly conduct inspection of all surface mining operations in the County of Monterey and perform all acts which the Director deems necessary to implement the requirements of the Surface Mining and Reclamation Act of 1975, as may be amended from time to time.

C. Each operator of a surface mining operation shall reimburse or pay to the County the full cost of the inspection services, including related administrative costs, required pursuant to the Act. The Director of ~~Planning and Building Inspection~~ Planning is authorized to enter into such agreements with operators or surface mining operations, as the Director deems appropriate, approved as to form by County Counsel, in order to ensure full recovery of all of the County's costs in the implementation of the Act.

D. The ~~Planning and Building Inspection~~ Planning Department shall arrange for inspection of a surface mining operation within six months of receipt of the Annual Report required in Section 16.04.060, to determine whether the surface mining operation is in compliance with the approved use permit, or coastal permit, or Reclamation Plan, approved financial assurances, and State regulations. In no event shall less than one inspection be conducted in any calendar year. Said inspections may be made by a State-registered geologist, State-registered civil engineer, State-licensed landscape architect, or State-registered forester, who is experienced in land reclamation and who has not been employed by the mining operation in any capacity during the previous twelve (12) months, or other qualified specialists, as selected by the Director of ~~the Planning and Building Inspection Department~~ Planning. All inspections shall be conducted using a form approved and provided by the State Mining and Geology Board. The ~~Planning and Building Inspection~~ Planning Department shall notify the State Department of Conservation within thirty (30) days of completion of the inspection that said inspection has been conducted, and shall forward a copy of said inspection notice and any supporting documentation to the mining operator and State Department of Conservation. The operator shall be solely responsible for the reasonable cost of such inspection. (Ord. 4029, 1999; Ord. 3585, 1992; Ord. 3007 § 6, 1984; Ord. 2402 § .018, 1978)

SECTION 15. Section 16.04.150 of Chapter 16.04 of the Monterey County Code shall be amended as follows:

**16.04.150 Appeal--Acceptance.**

**A. Who May Appeal--Time of Appeal.**

1. Any person aggrieved by an act, determination, or administrative interpretation of the Director of ~~the Planning and Building Inspection Department~~ Planning, in the exercise of the authority granted herein, shall have the right to appeal the Director's act, determination, or administrative interpretation to the Planning Commission. Such appeal shall be in writing and shall be filed with the Secretary to the Planning Commission, within (10) days after written notice of the decision has been mailed to the applicant, in accordance with the provisions of Chapters 20.88 and 21.82 of the Monterey County Code, as those provisions may be amended

from time to time.

2. An appeal may be made to the Board of Supervisors by the applicant, the Director of ~~the Planning and Building Inspection Department~~ Planning, any public agency, or person aggrieved by a decision of the Planning Commission. Such appeal shall be in writing and shall be filed with the Clerk of the Board of Supervisors and with the appropriate authority within ten (10) days after written notice of the decision has been mailed to the applicant.

3. Written notice of the decision shall be given promptly to the appellant and to those who have requested notice, in writing, of the hearing on the application; and no appeal shall be accepted until the notice of the decision has been given.

4. At the time of the filing of the appeal the appellant shall pay the required filing fee as established from time to time by the Board of Supervisors to the Clerk of the Board of Supervisors. Except the Director of Building ~~Inspection~~ Services shall be exempt from payment of fees.

B. Requirements for Contents of Appeal. The appellant must specifically state in the notice of appeal:

1. The identity of the appellant and his or her interest in the decision;
2. The identity of the decision appealed from the conditions appealed from;
3. A clear, complete but brief, statement of the reasons why, in the opinion of the appellant, the decision or the conditions imposed were unjustified or inappropriate because:
  - a. There was lack of a fair and impartial hearing, or
  - b. The findings or decision or conditions are not supported by the evidence, or
  - c. The decision was contrary to law;
4. The specific reasons the appellant disagrees with the findings of the Planning Commission if he or she disagrees;
5. The notice of the appeal shall set forth specific facts of the matter in sufficient detail to notify interested persons of the nature of the proceedings, to place the interested persons upon notice as to how any proposed action may affect their interest so that they may formulate their defense or opposition without being subjected to surprise. The Board will not accept an appeal stated in generalities, legal or otherwise.

C. Form. A form for giving notice of appeal may be provided. The form need not be used if the contents of the notice of appeal is complete.

D. Acceptance of Appeal. An appeal shall not be accepted by the Board of Supervisors unless it is complete and complies with all requirements. The Secretary of the Board shall not accept a notice of appeal if it is obvious on the face of the notice that it is incomplete. (Ord. 4029, 1999; Ord. 3007 § 9, 1984; Ord. 2402 § .022, 1978)

SECTION 16. Section 16.04.180 of Chapter 16.04 of the Monterey County Code shall be amended as follows:

**16.04.180 Violations and penalties.**

A. Where surface mining is being performed in violation of this Chapter, the site may be posted with a "Stop Work" notice by the Director of ~~the Planning and Building Inspection Department~~ Planning, and the owner of record notified of the violation in writing by personal delivery thereof to the person to be notified or by certified mail, return receipt requested, postage prepaid, stating that the owner has ten (10) days in which to correct the violation. All work shall cease immediately upon notice, and shall not begin until a valid permit has been issued therefor pursuant to this Chapter, except as authorized to correct the violation.

B. If any surface mining or clearing of trees and brush over that necessary for normal surveying or ongoing continued land and vegetation maintenance purposes for which a permit is required is evident on the property as determined by field inspection prior to the grant of the permit, the Director of ~~Building Services Inspection~~, County Surveyor or the Secretary of the Planning Commission may withhold approval of the permit to mine or other approval for the term determined by the Board of Supervisors necessary to allow property compaction and re-establishment of the disturbed soil, covered by sufficient appropriate vegetation to prevent erosion.

C. If the Director of ~~the Planning and Building Inspection Department~~ Planning, based upon an annual inspection of the mining operation, determines that a surface mining operation is not in compliance with this Chapter, the applicable site approval, any required permit and/or the Reclamation Plan, the County shall follow the procedures set forth in Public Resources Code, Sections 2774.1 and 2774.2, as may be amended from time to time, concerning violations and penalties, as well as those provisions of the Monterey County Code Sections 20.70.060 and 21.74.060, as may be amended from time to time, for revocation, or modification and/or abandonment of a surface mining permit and/or Reclamation Plan which are not preempted by SMARA. (Ord. 4029, 1999; Ord. 3007 § 9, 1984)

SECTION 17. Section 16.04.190 of Chapter 16.04 of the Monterey County Code shall be amended as follows:

**16.04.190 Notice of violation recordation.**

A. Whenever the Director of ~~the Planning and Building Inspection Department~~ Planning determines that mining has not been completed in accordance with a mining permit or the plans and specification for reclamation, or whenever the Director of ~~the Planning and Building Inspection Department~~ Planning determines that mining has been done without the required

permit, the Director may record a Notice of Violation with the Office of the County Recorder. The owner(s) of the property, as revealed by the assessment roll, on which the violation is situated and any other person responsible for the violation shall be notified of the recordation, if their address is available.

B. If the property owner(s) or authorized agent disagree with the determination, he or she may submit evidence to the Director of ~~the Planning and Building Inspection Department~~ Planning indicating that there is no violation and then shall have a right to appeal an adverse decision of the Director to the Planning Commission and the Board of Supervisors, in accordance with the provisions of Sections 16.04.150 through 16.04.160, as those provisions may be amended from time to time. (Ord. 4029, 1999; Ord. 3007 § 9, 1984)

SECTION 18. Section 16.04.200 of Chapter 16.04 of the Monterey County Code shall be amended as follows:

**16.04.200 Violation--Removal of notice.**

A. The Director of ~~the Planning and Building Inspection Department~~ Planning shall submit a removal of the Notice of Violation to the County Recorder when:

1. It is determined by the Director of ~~the Planning and Building Inspection Department~~ Planning, the Planning Commission, or the Board of Supervisors, after review, that no violation of this Chapter exists; or

2. All required and corrective work, including replacement and landscaping if required, has been completed and approved by the Director of ~~the Planning and Building Inspection Department~~ Planning.

B. The fee for the submittal of removal of Notice of Violation shall be that set from time to time by the Board of Supervisors. (Ord. 4029, 1999; Ord. 3007 § 9, 1984)

SECTION 19. Section 16.24.020 of Chapter 16.24 of the Monterey County Code shall be amended as follows:

**16.24.020 Political sign placement.**

A. No political sign shall be erected earlier than sixty (60) days before the election to which it relates.

B. No political sign or any part thereof shall be supplied with electrical power for lighting, movement, or any other purpose unless a building permit is first obtained from the County Building ~~Inspection Services~~ Services Department.

C. No political sign shall be erected in such a manner that it will, or reasonably may be expected to obstruct, the view of, or conflict with any traffic sign, signal, or device. A political sign shall not be erected in such a manner that it will, or reasonably may be expected to obstruct,

the view of pedestrian or vehicular traffic.

D. No political sign shall be erected or maintained upon the property of another without first obtaining permission to do so from the owner or tenant of said property. In the case of vacant property, written permission must be obtained from the property owner, and such signs must have affixed to the rear of the said sign a copy of the written permission, including the name, address, telephone number, and signature of the property owner.

E. No political sign shall be erected or maintained unless a statement of responsibility has been filed with the Director of Planning certifying a person who will be responsible for the placing and removal of the political sign pursuant to this Chapter and who will reimburse the County of Monterey for any costs incurred to remove it.

F. No political sign shall be erected or maintained which exceeds the maximum size allowed for signs in the zones in which the sign is located. If building or use permits are required in the zoning area to accommodate a sign of the proposed size, these permits shall also be required of political signs. (Ord. 3013, 1984)

SECTION 20. Section 16.60.030 of Chapter 16.60 of the Monterey County Code shall be amended as follows:

**16.60.030 Regulations.**

Except as provided in Section 16.60.060 of this Chapter the following regulations apply:

A. No oak or madrone tree six inches or more in diameter two feet above ground level shall be removed in the North County Area Plan or Toro Area Plan areas without approval of the permit(s) required in Section 16.60.040 of this Chapter.

B. No oak, madrone or redwood tree six inches or more in diameter two feet above ground level shall be removed in the Carmel Valley Master Plan area without approval of the permit(s) required in Section 16.60.040 of this Chapter.

C. No native tree six inches or more in diameter two feet above ground level shall be removed in the Cachagua Area Plan area without approval of the permit(s) required in Section 16.60.040 of this Chapter.

“Native trees,” for the purpose of this Section, are:

1. Santa Lucia Fir;
2. Black Cottonwood;
3. Fremont Cottonwood;
4. Box Elder;

5. Willows;
6. California Laurel;
7. Sycamores;
8. Oaks;
9. Madrones.

D. No oak tree may be removed in any other area of the County of Monterey designated in the applicable area plan as Resource Conservation, Residential, Commercial or Industrial (except Industrial, Mineral Extraction) without approval of the permit(s) required in Section 16.60.040 of this Chapter.

E. No landmark oak tree shall be removed in any area except as may be approved by the Director of ~~Planning and Building Inspection~~ pursuant to Section 16.60.040 of this Chapter. Landmark oak trees are those trees which are twenty-four (24) inches or more in diameter when measured two feet above the ground, or trees which are visually significant, historically significant, or exemplary of their species.

F. No oak trees may be removed in any other area of the County of Monterey designated in the applicable area plan as Agricultural or Industrial, Mineral Extraction, unless such removal meets and purpose and standards required in Section 16.60.050 of this Chapter.

G. No oak trees may be removed in any area of the County of Monterey for commercial harvesting purposes without approval of a use permit by the Planning Commission. (Ord. 3420, 1989)

SECTION 21. Section 16.60.040 of Chapter 16.60 of the Monterey County Code shall be amended as follows:

**16.60.040 Permits required.**

A. Permit Required. No person shall do, cause, permit, aid, abet, suffer or furnish equipment or labor to remove, cut down or trim more than one-third of the green foliage of, poison or otherwise kill or destroy any tree as specified in this Section until a tree removal permit for the project has first been obtained.

All provisions of this Section shall apply to any person removing trees on behalf of any other person, including all companies or persons in the business of removing trees or construction. It be unlawful for any person or company to remove or cause to be removed or undertake any work for which a permit is required under this Section, unless a valid permit has been obtained and is in effect.

B. Removal of Three or Less Protected Trees. The Director of ~~Planning and Building Inspection~~ Planning may approve the removal of no more than three protected trees per lot in a

one-year period. The following information shall be submitted to the Director of ~~Planning and Building Inspection~~ Planning prior to consideration of such removal:

1. Applicants or authorized representatives name, address and telephone number;
2. The description of the site(s) involved, including the street address, if any, and the assessors parcel number;
3. A site plan sufficient to identify and locate the trees to be removed, other trees, buildings, proposed buildings, and other improvements;
4. The purpose for the tree removal;
5. A description of the species, diameter two feet above ground level, estimated height, and general health of the trees to be removed;
6. A description of the method to be used in removing the tree(s);
7. A statement showing how trees not proposed for removal are to be protected during removal or construction;
8. Proposed visual impact mitigation measures the applicant intends to take (if appropriate). Size, location and species of replacement trees, if any, shall be indicated on the site plan;
9. Such further information as may be required by the Director of ~~Planning and Building Inspection~~ Planning, including but not limited to the opinion of a registered professional forester, tree surgeon, or other qualified expert to enable the determination of matter required under these regulations.

C. Removal of More Than Three Protected Trees.

1. Removal of more than three protected trees on a lot in a one-year period shall require a Forest Management Plan and approval of a Use Permit by the Monterey County Planning Commission.
2. The Forest Management plan shall be prepared by a qualified professional forester, as selected from the County's list of Consulting Foresters. Plan preparation shall be at the applicants expense.
3. The Director of ~~Planning and Building Inspection~~ Planning shall prescribe the format and content requirements for the Forest Management Plan and maintain a list of qualified and acceptable foresters to prepare the Forest Management Plan.

4. All tree removal requests coming under this Subsection shall be subject to the requirements of the California Environmental Quality Act (CEQA).

D. Relocation or Replacement. As a consideration of the granting of a permit pursuant to Subsections B or C, the applicant shall be required to relocate or replace each removed protected tree on a one-to-one ratio. This requirement may be varied upon a showing that such a requirement will create a special hardship in the use of the site or such replacement would be detrimental to the long-term health and maintenance of the remaining habitat.

E. Required Findings. In order to grant the permit for tree removal, the appropriate authority shall make the following findings based on substantial evidence:

1. The tree removal is the minimum required under the circumstances of the case; and

2. The removal will not involve a risk of adverse environmental impacts such as:

a. Soil erosion;

b. Water Quality. The removal of the trees will not substantially lessen the ability for the natural assimilation of nutrients, chemical pollutants, heavy metals, silt and other noxious substances from ground and surface waters;

c. Ecological Impacts. The removal will not have a substantial adverse impact upon existing biological and ecological systems, climatic conditions which affect these systems, or such removal will not create conditions which may adversely affect the dynamic equilibrium of associated systems;

d. Noise Pollution. The removal will not significantly increase ambient noise levels to the degree that a nuisance is anticipated to occur;

e. Air Movement. The removal will not significantly reduce the ability of the existing vegetation to reduce wind velocities to the degree that a nuisance is anticipated to occur;

f. Wildlife Habitat. The removal will not significantly reduce available habitat for wildlife existence and reproduction or result in the immigration of wildlife from adjacent or associated ecosystems; or

3. The tree is diseased, injured, in danger of falling too close to existing or proposed structures, creates unsafe vision clearance, or is likely to promote the spread of insects or disease.

F. Conditions of Approval. In granting any permit as provided herein, the appropriate authority may attach reasonable conditions to mitigate environmental impacts and ensure compliance with the provisions of this Chapter, including but not limited to replacement of trees removed.

G. Emergencies. In the case of emergency caused by hazardous or dangerous condition of a tree and requiring immediate action for the safety of life or property, such necessary action may be taken to remove the tree or otherwise reduce or eliminate the hazard without complying with the other provisions of this Section, except that the person responsible for cutting or removal of the tree(s) shall report such action to the Director of ~~Planning and Building Inspection~~ Planning within ten (10) working days thereafter.

H. Fees. The fee for permits required in Section 4(B) shall be fifty dollars (\$50.00). (Ord. 3420, 1989)

SECTION 22. Section 16.60.050 of Chapter 16.60 of the Monterey County Code shall be amended as follows:

**16.60.050 Purpose and standards for agricultural areas.**

Removal of oak trees in the areas outside of the North County Area Plan, Toro Area Plan, Cachagua Area Plan and Carmel Valley Master Plan designated Farmlands, Rural Grazing or Permanent Grazing by the applicable area plan shall be allowed only if the following purposes and standards are satisfied.

A. Purposes. Oak tree removal is allowed without a permit for any of the following reasons:

1. Rangeland improvement;
2. Promotion of wildlife habitat;
3. Enhancement of watershed areas;
4. Elimination of trees hazardous to life or property; or
5. Firewood for the use of the owners and other persons residing on site.

B. Standards.

1. The current Best Management Practices as promulgated by the University of California Hardwood Range Management Plan shall be followed to maintain and promote regeneration of oak trees.

2. A representative sample of sizes, ages and species of oaks shall be retained with special emphasis places on retaining samplings.

3. The number of oaks on any acre shall not be reduced to less than twenty-five (25) percent canopy existing at the time of adoption of this ordinance.

4. Removal of oak trees encroaching on existing cultivated farmland is allowed.

C. Oak trees on land being converted to irrigated farmland where a Use Permit is required for such conversion by area plan policy shall not be allowed until such use permit is approved and applicable conditions are met.

D. Removal for purposes not under the guidelines of this Section may be approved by the Director of ~~Planning and Building Inspection~~ Planning on an individual basis. (Ord. 3420, 1989)

SECTION 23. Section 16.72.010 of Chapter 16.72 of the Monterey County Code shall be amended as follows:

**16.72.010 Environmental studies--Reimbursement.**

Any person who is required to bear the cost of providing environmental studies which relate to and cover planning for possible development of properties other than the property or properties of the person responsible for such studies, may be reimbursed for that portion of his or her expenses related to such other property pursuant to this Section. The County, prior to processing any development entitlement for properties covered by any such environmental studies, may require the developer or owner of such property to pay to the County an amount equal to the developer's or owner's proportional share of such environmental study, as determined by the Director of ~~the Department of Planning and Building Inspection~~ Planning ("Director"). Except as otherwise provided for in this Section, any fees that may be required pursuant to this Section shall be determined and collected and reimbursements shall be made pursuant to the provisions of Chapter 18.56 of this Code. For the purpose of this Section, the term "environmental studies" means an "Initial Study", a "Negative Declaration", and an "Environmental Impact Report" as such terms are defined or used in the California Environmental Quality Act, Public Resources Code Section 21000, et seq., as amended ("CEQA") and this Code. The term "environmental studies", also includes such other studies as the Director may require in order to ensure compliance with the requirements of CEQA and this Code. (Ord. 3664, 1993)

SECTION 24. Section 18.04.010 of Chapter 18.04 of the Monterey County Code shall be amended as follows:

**18.04.010 Definitions.**

As used in Chapters 18.04 through 18.28 and 18.52 or in any of the uniform codes made a part of them, unless otherwise apparent from the context, the words set out in this Section shall have the following meanings:

A. "Building Official" means the Director of ~~Planning and Building Inspection~~ Building Services of the County of Monterey and the Director's designees.

B. "Chief Building Inspector" means the individual appointed by the Director of ~~Planning and Building Inspection~~ Building Services as the Chief Building Inspector of the County of Monterey and the Chief Building Inspector's designees.

C. "City" means the County of Monterey when it refers to a political entity, and means the unincorporated area of the County of Monterey when it refers to an area.

D. "City Council" means the Board of Supervisors of the County of Monterey.

E. "Deck" means any attached or detached structure for the purpose of providing walking area, yard space, or entertainment area.

F. "Enforcing officer" means the person, office or department designated by State law or the Board of Supervisors to enforce any provision of this Title. Enforcing officer includes any County officer, employee or agent to whom enforcement powers have been lawfully delegated by a designated enforcement officer.

G. "Fire chief" means the chief of the fire protection district wherein lies any proposed building site, or, in any area not under the jurisdiction of a fire protection district, it means the Chief Ranger of the State Division of Forestry, Monterey County Division, King City, California.

H. "Mayor" means the Chairman of the Board of Supervisors of the County of Monterey.

I. "Municipality" means the County of Monterey. (Ord. 3453 §§ 1, 2, 1990)

SECTION 25. Section 18.25.030 of Chapter 18.25 of the Monterey County Code shall be amended as follows:

#### **18.25.030 Definitions.**

Unless the particular provision or the context otherwise requires, the definitions and provisions contained in this Section shall govern the construction, meaning and application of words and phrases used in this Chapter, and, except to the extent that a particular word or phrase is otherwise specifically defined in this Section, the definitions and provisions contained in Chapters 18.26 and 21.06 of this Code shall also govern the construction, meaning, and application of words and phrases used in this Chapter.

"Alteration" means any exterior change or exterior modification of any historic resource. Alteration includes, but is not limited to:

1. Exterior structural change or modification of a site, fence or structure;
2. Change or modification of the exterior architectural features of a site, fence, or structure, including surface texture and materials;
3. Change or modification of a site, including grading, paving, cutting or removal of trees, removal or modification of significant vegetation, or other natural features;
4. New structures or fences;
5. Demolition of structures or fences;
6. Placement or removal of exterior objects or features such as signs, plaques, light fixtures, street furniture, walls, fences, and steps;
7. Disturbance of any archaeological site; and,
8. Alteration does not include ordinary maintenance and repair of structures and maintenance of gardens.

"Cultural" means related to the origins or history of humans in Monterey County.

"Cultural resource" means buildings, structures, signs, features, sites, places, areas, or other objects of scientific, aesthetic, educational, cultural, architectural, or historic significance to the residents of the County.

“Design criteria” means the criteria that must be followed pursuant to this Chapter to improve or modify an historic resource or a structure within an historic district.

“Designated site” means 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 State Historic Places, the California Register of Historic Places, the State Historic Landmark Register, or the County Register of Historic Sites.

“Historic district” means an area, which may include public rights-of-way, within the County having special historic and architectural worth and designated as such by the Board of Supervisors pursuant to the provisions of this Chapter. The area may predominantly, though not exclusively, contain historic resources.

“Historic resource” means any structure, object, fence, site, or portion of a site which has a significant historic, archaeological, architectural, engineering or cultural value, real property or improvement thereon such as a structure, archaeological excavation, or object that is unique or significant because of its location, design, setting, materials, workmanship, or aesthetic feeling and is designated as such by the Board of Supervisors pursuant to the provisions of this Chapter.

“Historic Resources Review Board” or “Review Board” means the Historic Resources Review Board of the County of Monterey.

“Integrity” means soundness or completeness.

“Local Official Register” or “Local Official Register Of Historic Resources” means the inventory of structures and areas designated by the Board of Supervisors as historic resources and historic districts.

“Minor alteration” means any of the following alterations: placement, removal, exterior structural change or modification of a fence, sign, plaque, light fixture, street furniture, steps, platforms, walks, driveway, temporary motion picture, television, and theater stage steps and scenery.

“National Register of Historic Places” means a national list, administered by the Keeper of the Register, United States Department of the Interior, of districts, sites, buildings, structures, and objects of local, State, or national importance that are significant for their historical, architectural, archaeological, or cultural values.

“Object” means an item of significant historic value that can be seen or touched, such as an artifact, monument, or work of art.

“Ordinary maintenance and repair” means any work for which a building permit is not required by law where the purpose and effect of such work is to prevent or correct any deterioration of or damage to a structure or any part thereof and to restore the structure or part thereof to its condition prior to the occurrence of such deterioration or damage.

“Preservation” means use of long-term or permanent safeguards to guarantee the viability of man-made resources.

“Regulated permits” means any permit issued for any work on an historic structure, its site, or a structure within any historic district. For the purposes of this Chapter, “regulated permit” does not mean a building permit issued for the demolition of a structure.

“Secretary” means the Director of the ~~Department of Planning and Building Inspection~~ Planning Department or the Director’s designee.

“Significant” means having historic, archaeological, architectural, or engineering value.

“State Office of Historic Preservation” means a division of the State Department of Parks and Recreation which serves as the staff to the State Historic Preservation Officer, or such other

official designated and appointed by the Governor to administer the historic preservation programs of the State and which administers the California Register of Historic Places.

SECTION 26. Section 18.25.100 of Chapter 18.25 of the Monterey County Code shall be amended as follows:

**18.25.100 Local Official Register.**

Resolutions adopting designations of historic resources and historic districts shall collectively be known as the Local Official Register of Historic Resources. The Local Official Register shall be kept on file with the Secretary, who shall transmit copies to the Clerk of the Board of Supervisors and to the Director of ~~Planning and Building Inspection~~ Planning, the Director of Public Works, the Director of the County Library Department, and such other entities as the Secretary or the Review Board deems appropriate.

SECTION 27. Chapter 18.32.010 of the Monterey County Code shall be amended as follows:

**18.32.010 Definitions.**

As used in this Chapter, unless otherwise apparent from the context, the words and phrases set out in this Section shall have the following meanings:

A. "Building inspector" means the ~~Building Inspector~~ Official of the County of Monterey.

B. "Family" means an individual or two or more persons related by blood or marriage or a group of not more than five persons not all of whom are related by blood or marriage and who live together in a single dwelling unit.

C. "Family fallout shelter" and "shelter" means any structure, either above or below ground, constructed on private property, for the purpose of protecting the members of one family from radioactive fallout resulting from a nuclear explosion.

D. "Person" means any individual, firm, partnership, association, corporation, organization or business trust.

E. "Shall" is mandatory, and "may" is permissive.

F. Words used in the present tense include the future as well as the present; words used in the masculine gender include the feminine and neuter; the singular includes the plural and the plural the singular. (Ord. 1214 § 1(a), 1961)

SECTION 28. Section 18.32.050 of Chapter 18.32 of the Monterey County Code shall be amended as follows:

**18.32.050 Permit--Application requirements.**

Any person desiring to obtain a permit to construct a family fallout shelter shall file an application therefor with the ~~Building Inspector~~ Official. Said application shall be accompanied by the fee required in Section 18.32.080, three copies of a plot plan showing the location of the shelter, the size of lot, the size, location and occupancy of any existing buildings on the lot, and

three sets of plans and specifications clearly showing the material, size, arrangement of the foundation, framing of floors, walls and roof, design of reinforced concrete, reinforced masonry or steel framing, location and design of stairway, entrance and exit facilities, location and design of ventilating system, and such other details as shall be required by the Building Inspector to show structural adequacy. (Ord. 1214 § 4(a), 1961)

SECTION 29. Section 18.32.090 of Chapter 18.32 of the Monterey County Code shall be amended as follows:

**18.32.090 Appeal from decision of Building Inspector Official.**

In case the applicant is not satisfied with the decision of the Building ~~Inspector~~ Official, he or she may, within thirty (30) days, appeal in writing to the Board of Supervisors. A copy of such appeal shall be given by the applicant to the Building Inspector. The Board of Supervisors may thereafter modify, affirm, or overrule the decision of the Building Inspector insofar as the same relates to the interpretation of this Chapter. (Ord. 1214 § 7, 1961)

SECTION 30. Section 18.40.040 of Chapter 18.40 of the Monterey County Code shall be amended as follows:

**18.40.040 Definitions.**

For the purposes of this Chapter the following definitions shall apply:

A. "Administrative manual" shall mean the manual prepared pursuant to Subsection 18.40.050G7.

B. "Affordable" means: in the case of rent, a monthly amount which, together with utility allowance, does not exceed: (i) for very low income inclusionary units, one-twelfth of thirty (30) percent of the maximum income for a very low income household, adjusted by household size based on the number of bedrooms in the unit; (ii) for low income inclusionary units, one-twelfth of thirty (30) percent of sixty (60) percent of median income, adjusted for household size based on the number of bedrooms in the unit; and (iii) for moderate income inclusionary units, one-twelfth of thirty (30) percent of one hundred ten (110) percent of median income, adjusted for household size based on the number of bedrooms in the unit.

In the case of a sales price, average monthly housing payments, including mortgage loan principal and interest, any associated loan insurance fees, property taxes and assessments, an allowance for property maintenance and repairs established by the County based on the initial cost and size of the home, homeowners insurance, a reasonable allowance for utilities, land rent (if the home is on rented land) and homeowners association dues, if any, which during the first calendar year of a household's occupancy, do not exceed: (i) for very low income inclusionary units, one-twelfth of thirty (30) percent of the maximum income for a very low income household, adjusted by household size based on the number of bedrooms in the unit; (ii) for low income inclusionary units, one-twelfth of thirty (30) percent of seventy (70) percent of median income, adjusted for household size based on the number of bedrooms in the unit; and (iii) for moderate income inclusionary units, one-twelfth of thirty-five (35) percent of one hundred ten (110) percent of median income, adjusted for household size based on the number of bedrooms in the unit.

Adjustments for household size based on the number of bedrooms in the unit and amounts utilized for utility allowances and other monthly housing cost factors, including assumed mortgage interest rates, loan insurance fees, maintenance and repair allowances, homeowners insurance, property tax and assessment costs, and homeowners association dues, shall be as provided by the County in the administrative manual.

C. "Inclusionary housing agreement" shall mean an agreement between the County and an applicant, governing how the applicant shall comply with this Chapter.

D. "Applicant" means a person or entity who applies for a residential development and, if the applicant does not own the property on which development is proposed, also means the owner or owners of the property.

E. "Appropriate Authority" means that person, official, or body designated by County regulations to hear, grant, deny, modify, condition, revoke or otherwise act on permits required by the County's regulations.

F. "Approval" means any approval by the Appropriate Authority of a discretionary permit for residential development, including but not limited to planned unit development or planned community development approval, subdivision approval, use permit, building permit or combined development permit, and if no discretionary approval is required, also means a building permit for residential development.

G. "Building permit" means a permit issued by the Monterey County Department of ~~Planning and Building Inspection~~ Building Services authorizing the construction of new dwellings.

H. "Director" means the Assistant County Administrative Officer for Environmental Resource Policy (or a county officer with similar responsibilities designated by the County Administrative Officer should that office no longer exist), or his or her designee.

I. "Dwelling" or "Unit" means any structure or portion thereof designed or used as the residence or sleeping quarters of a household, including a live/work unit.

J. "First approval" means the first approval, as the term "approval" is defined in this Chapter, to occur with respect to a residential project.

K. "For sale inclusionary unit" means an inclusionary unit which is designated in an inclusionary housing agreement to be sold to a household eligible under this Chapter.

L. "Household" means one or more individuals who occupy one dwelling unit as a single housekeeping unit, whether or not related by blood or marriage.

M. "Housing Authority" means the Housing Authority of the County of Monterey.

N. "HUD" means the United States Department of Housing and Urban Development.

O. "Inclusionary unit" means a housing unit which is required by an approval to meet affordability and occupancy limits under this Chapter.

P. "Low income inclusionary unit" means an inclusionary unit reserved for occupancy by low income households at an affordable rent or sales price.

Q. "Low income household" or "Lower income household" means a household, including a very low income household, with an annual income which does not exceed HUD's annual determination for low income households with incomes of eighty (80) percent of the median income, adjusted for household size.

R. "Median income" means the median household income as determined periodically by HUD for the Salinas Metropolitan Statistical Area and updated on an annual basis.

S. "Moderate income inclusionary unit" means an inclusionary unit reserved for occupancy by moderate income households at an affordable rent or sales price.

T. "Moderate income household" means a household, including a low income household and a very low income household, with an annual income which does not exceed one hundred twenty (120) percent of the median income, adjusted for household size.

U. "Owner occupied development" means a residential development in which the same person or persons are sole or majority owner(s) of the property at the time of first approval of the development and at the time the development receives its building permit, and those persons make and record a legally binding agreement, acceptable to the Director and approved as to form by County Counsel, to reside in the residential development for not less than one year from the recordation of the notice of completion, and where the proposed owner-occupant has not previously been an owner-occupant under this Chapter during a period of ten (10) years prior to application for a first approval.

V. "Pending development" means a residential development for which an application for a first approval was deemed complete by the County on or before the effective date of Ordinance No. 04185 amending this Chapter, so long as the number of dwellings does not increase after the first approval.

W. "Planning Area" means one of eight geographic sub-areas of Monterey County established for the General Plan. They are the Toro, North County, Greater Monterey Peninsula, Central Salinas Valley, South County, Greater Salinas, Coast, and Cachagua Planning Areas.

X. "Rental inclusionary unit" means an inclusionary unit which is designated in an inclusionary housing agreement to be rented to a household eligible under this Chapter.

Y. "Residential development" means any project requiring any subdivision of land, use permit, discretionary permit or building permit, or combination thereof, for which an application or applications are submitted to the County and which would by construction or alteration of structures create three or more new or additional dwelling units and/or lots.

Z. "Subdivision" means a "subdivision" as that term is defined by the California Subdivision Map Act.

AA. "Very low income inclusionary unit" means an inclusionary unit reserved for occupancy by very low income households at an affordable rent or housing cost.

BB. "Very low income household" means a household with an annual income which does not exceed HUD's annual determination for very low income households earning fifty (50) percent of median income, adjusted for household size. (Ord. 4185 § 3, 2003; Ord. 3768, 1994; Ord. 3768, 1994; Ord. 2830, 1982; Ord. 2694, 1981)

SECTION 31. Section 18.44.090 of Chapter 18.44 of the Monterey County Code shall be amended as follows:

#### **18.44.090 Discretionary exemptions.**

The Director of Building Inspection ~~Department~~ Services may, in his or her discretion, exempt facilities from the provisions of this Chapter, or impose reasonable conditions in lieu of compliance therewith, if he or she determines that any of the following conditions exist:

A. The requirements herein would cause an unnecessary and undue hardship upon the owner or purchaser of the facility or the public. Guidelines generally exemplifying such potential exemptions to this ordinance shall be promulgated by the Director of Building Inspection Services adopted by the Board of Supervisors.

B. The requirements herein would create an emergency condition affecting the health, sanitation, fire protection or safety of the facility owner or the public.

C. The granting of the exemption or imposition of reasonable conditions in lieu of compliance with the requirements herein would not increase the quantity of water consumed by the facility or otherwise adversely affect service to other existing water consumers. (Ord. 3190, 1986)

SECTION 32. Section 18.44.100 of Chapter 18.44 of the Monterey County Code shall be amended as follows:

**18.44.100 Appeals.**

**A. Who May Appeal--Time for Appeal.**

1. An appeal may be made to the Board of Supervisors by any public agency or person aggrieved by a decision of the Director of Building ~~Inspection~~ Services pursuant to this Chapter, other than those relating to aesthetics and plant selection. Appeals relating to aesthetics and plant selection shall be made to the Planning Commission pursuant to Chapter 20.100 of the Monterey County Code. Such appeal shall be in writing and shall be filed with the Clerk of the Board of Supervisors and with the Department of Building ~~Inspection~~ Services within ten (10) days after written notice of the decision has been mailed to the applicant.

2. Written notice of the decision shall be given promptly to the applicant and to those who have requested notice, in writing, at the hearing on the application; and no appeal shall be accepted until the notice of the decision has been given.

3. At the time of the filing of the appeal the appellant shall pay the required filing fee as established from time to time by the Board of Supervisors to the Clerk of the Board of Supervisors.

**B. Requirements for Contents of Appeal.** The appellant must specifically state in the notice of appeal:

1. The identity of the appellant and his or her interest in the decision;
2. The identity of the decision appealed from and the conditions appealed from;
3. A clear, complete, but brief, statement of the reasons why, in the opinion of the appellant, the decision or the conditions imposed were unjustified or inappropriate;
4. The specific reasons the appellant disagrees with the findings of the Director of Building ~~Inspection~~ Services;
5. The specific facts of the matter in sufficient detail to notify interested persons of the nature of the proceedings, to place the interested persons upon notice as to how any proposed action may affect their interest so that they may formulate their defense or opposition without being subjected to surprise. The Board will not accept an appeal stated in generalities, legal or otherwise.

**C. Form.** A form for giving notice of appeal shall be provided. The form need not be used if the contents of the notice of appeal is complete.

**D. Acceptance of Appeal.** An appeal shall not be accepted by the Board of Supervisors unless it is complete and complies with all requirements. The Clerk of the Board shall not accept a notice of appeal if it is obvious on the face of the notice that it is incomplete.

E. Notice. The appellant shall furnish the Director of Building ~~Inspection~~ Services stamped envelopes addressed to those on the departments list to receive notice of the hearing appealed from, if any, and the list of those who have requested to receive notice of appeal.

F. Action by the Board of Supervisors on Appeal.

1. Upon receipt of the notice of appeal, the Board shall within fifteen (15) days following the filing of the appeal, set a date for public hearing thereon, giving notice thereof to the appellant, to those in the departments list, if any, and to those who have requested notice of the appeal, in writing, during the consideration of the matter by the Director of Building ~~Inspection~~ Services. The evidence presented to the Board of Supervisors on appeal shall be limited to that evidence which was presented to the Director of Building ~~Inspection~~ Services, provided, however, that when relevant new evidence is available at the time of appeal, the application may be returned to the Director of Building ~~Inspection~~ Services for reconsideration.

2. If the basis of the appeal is the adequacy or weight of the evidence to support the findings, conditions or decision of the Director of Building ~~Inspection~~ Services, the Board shall affirm if there is substantial evidence to affirm despite the evidence to the contrary.

3. If a request for continuance is granted, the person who asks for the continuance shall notify the interested public in the same manner and to the same extent that notice was given to the public regarding the hearing on the appeal. The notice shall state the date to which the hearing upon the appeal is continued. If notice is not given, the appeal may not be heard on a date for which inadequate notice is given. Failure to give notice may be grounds for denial of an appeal.

4. The Board of Supervisors may reverse or affirm, wholly or in part, or modify the order, requirement, condition, findings or decision appealed from, and may make such order, requirement, condition, finding or decision as should be made, and such action shall be final. (Ord. 3190, 1986)

SECTION 33. Section 18.44.120 of Chapter 18.44 of the Monterey County Code shall be amended as follows:

**18.44.120 Enforcement.**

The Director of Building ~~Inspection~~ Services shall be the officer primarily charged with enforcement of this Chapter. All departments, officials, and public employees of the County of Monterey who are vested with the duty or authority to issue permits or licenses, shall conform to the provisions of this Chapter, and shall issue no such permits or licenses for uses, buildings, or purposes where the same would be in conflict with the provisions of this Chapter, and any such permits, licenses, or uses, if issued in conflict with the provisions of this Chapter, shall be null and void.

SECTION 34. Section 18.46.050 of Chapter 18.46 of the Monterey County Code shall be amended as follows:

**18.46.050 Enforcement.**

A. It shall be the duty of the Director of ~~Planning and Building Inspection~~ Planning of the County of Monterey, State of California, and all officers and employees of said County herein charged by law with the enforcement of this Chapter to enforce all the provisions of the same.

B. Repealed.

C. Any building or structure set up, erected, constructed, altered, enlarged, converted, moved, or maintained, contrary to the provisions of this Chapter, and/or any use of any land, building, or premises, established, conducted, operated, or maintained contrary to the provisions of this Chapter, shall be, and the same is hereby declared to be a violation of this Chapter and a public nuisance.

D. Repealed.

E. Repealed.

F. Repealed.

G. Repealed.

(Ord. 3659 § 8, 1993)

SECTION 35. Section 18.48.020 of Chapter 18.48 of the Monterey County Code shall be amended as follows:

**18.48.020 Applicability.**

The regulations set forth in this Chapter shall apply to the unincorporated portion of Monterey County within the boundaries of the Carmel Valley Master Plan Area. The terms of this Chapter shall not apply to any project an application for which was on file with the Department of ~~Planning and Building Inspection~~ Planning on or prior to June 2, 1987. (Ord. 3336, 1988)

SECTION 36. Section 18.50.050 of Chapter 18.50 of the Monterey County Code shall be amended as follows:

**18.50.050 Requirements for new construction.**

A. All new construction, as defined herein, shall be equipped with ultra low flow toilets with a maximum tank size or flush capacity of 1.6 gallons, and shower heads with a maximum flow capacity of 2.5 gallons per minute.

B. All new construction shall include as part of the exterior landscape development, low water use or native drought-resistant plant material and low precipitation sprinkler heads, bubblers, drip irrigation system and timing devices. Before any permit may be issued for such new construction, the applicant shall submit a landscape plan for review and approval by the Director of ~~Planning and Building Inspection~~ Building Services in conformity with landscape guidelines adopted by the Board of Supervisors. The Department of ~~Planning and Building Inspection~~ Building Services shall charge appropriate fees for review of such plans. (Ord. 3438, 1989)

SECTION 37. Section 18.50.060 of Chapter 18.50 of the Monterey County Code shall be amended as follows:

### **18.50.060 Notice of violation recordation.**

Whenever the Director of ~~Planning and Building Inspection~~ Building Services determines that there is an existing violation of this Chapter, that ultra low flow toilets and shower heads have not been installed consistent with this ordinance, the Director of ~~Planning and Building Inspection~~ Building Services may record a Notice of Violation with the Office of the County Recorder. The owner(s) of the property, as revealed by the assessment roll, on which the violation is situated and any other person responsible for the violation shall be notified of the recordation, if their address is known to the Director of ~~Planning and Building Inspection~~ Building Services or is otherwise reasonably available. (Ord. 3438, 1989)

SECTION 38. Section 18.50.070 of Chapter 18.50 of the Monterey County Code shall be amended as follows:

### **18.50.070 Discretionary exemptions.**

The Director of ~~Planning and Building Inspection~~ Building Services may exempt facilities from the provisions of this Chapter, or impose reasonable conditions in lieu of compliance therewith, if he or she determines that any of the following conditions exist:

A. The requirements herein would cause an unnecessary and undue hardship upon the owner or purchaser of the facility or the public.

B. The requirements herein would create an emergency condition affecting the health, sanitation, fire protection or safety of the facility owner or the public.

C. The granting of the exemption or imposition of reasonable conditions in lieu of compliance with the requirements herein would not increase the quantity of water consumed by the facility or otherwise adversely affect service to other existing water consumers. (Ord. 3438, 1989)

SECTION 39. Section 18.50.080 of Chapter 18.50 of the Monterey County Code shall be amended as follows:

### **18.50.080 Appeals.**

#### **A. Who May Appeal--Time for Appeal.**

1. An appeal, other than those relating to aesthetics and plant selection, may be made to the Board of Supervisors by any public agency or person aggrieved by a decision of the Director of ~~Building Inspection Services~~ Building Services pursuant to this Chapter. Such appeal shall be in writing and shall be filed with the Clerk of the Board of Supervisors and with the Department of ~~Building Inspection Services~~ Building Services within ten (10) days after written notice of the decision has been mailed to the applicant.

Appeals relating to aesthetics and plant selection shall be made to the Planning Commission pursuant to Chapter 20.100 of the Monterey County Code.

2. Written notice of the decision shall be given promptly to the applicant, and to those who have requested notice, in writing, at the hearing on the application; and no appeal shall be accepted until the notice of the decision has been given.

3. At the time of the filing of the appeal the appellant shall pay the required filing fee as established from time to time by the Board of Supervisors to the Clerk of the Board of Supervisors.

B. Requirements for Contents of Appeal. The appellant must specifically state in the notice of appeal:

1. The identity of the appellant and his or her interest in the decision.
2. The identity of the decision appealed from and the conditions appealed from.
3. A clear, complete, but brief, statement of the reasons why, in the opinion of the appellant, the decision or the conditions imposed were unjustified or inappropriate.
4. The specific reasons the appellant disagrees with the findings of the Director of ~~Planning and Building Inspection~~ Building Services.
5. The specific facts of the matter in sufficient detail to notify interested persons of the nature of the proceedings, to place the interested persons upon notice as to how any proposed action may affect their interest so that they may formulate their defense or opposition without being subjected to surprise. The Board will not accept an appeal stated in generalities, legal or otherwise.

C. Form. A form for giving notice of appeal shall be provided. The form need not be used if the contents of the notice of appeal is complete.

D. Acceptance of Appeal. An appeal shall not be accepted by the Board of Supervisors unless it is complete and complies with all requirements. The Clerk of the Board shall not accept a notice of appeal if it is obvious on the face of the notice that it is incomplete.

E. Notice. The appellant shall furnish the Director of ~~Planning and Building Inspection~~ Building Services stamped envelopes addressed to those on the department's list to receive notice of the hearing appealed from, if any, and the list of those who have requested to receive notice of appeal.

F. Action by the Board of Supervisors on Appeal.

1. Upon receipt of the notice of appeal, the Board shall within fifteen (15) days following the filing of the appeal, set a date for public hearing thereon, giving notice thereof to the appellant, to those in the department's list, if any, and to those who have requested notice of the appeal, in writing, during the consideration of the matter by the Director of ~~Planning and Building Inspection~~ Building Services. The evidence presented to the Board of Supervisors on appeal shall be limited to that evidence which was presented to the Director of ~~Planning and Building Inspection~~ Building Services, provided, however, that when relevant new evidence is available at the time of appeal, the application may be returned to the Director of ~~Building Inspection~~ Services for reconsideration.

2. If the basis of the appeal is the adequacy or weight of the evidence to support the findings, conditions or decision of the Director of ~~Building Inspection~~ Services, the Board shall affirm if there is substantial evidence to affirm despite the evidence to the contrary.

3. If a request for continuance is granted, the person who asks for the continuance shall notify the interested public in the same manner and to the same extent that notice was given to the public regarding the hearing on the appeal. The notice shall state the date to which the hearing upon the appeal is continued. If notice is not given, the appeal may not be heard on a date for which inadequate notice is given. Failure to give notice may be grounds for denial of an appeal.

4. The Board of Supervisors may reverse or affirm, wholly or in part, or modify the order, requirement, condition, findings or decision appealed from, and may make such order,

requirement, condition, finding or decision as should be made, and such action shall be final. (Ord. 3438, 1989)

SECTION 40. Section 18.50.100 of Chapter 18.50 of the Monterey County Code shall be amended as follows:

**18.50.100 Enforcement.**

The Director of ~~Planning and Building Inspection~~ Building Services shall be the officer primarily charged with enforcement of this Chapter. All departments, officials, and public employees of the County of Monterey who are vested with the duty or authority to issue permits or licenses, shall conform to the provisions of this Chapter, and shall issue no such permits or licenses for uses, buildings, or purposes where the same would be in conflict with the provisions of this Chapter, and any such permits, licenses, or uses, if issued in conflict with the provisions of this Chapter, shall be null and void. (Ord. 3438, 1989)

SECTION 41. Section 18.51.060 of Chapter 18.51 of the Monterey County Code shall be amended as follows:

**18.51.060 Payment of fee.**

The developer shall pay the water impact fee to the ~~Planning and Building Inspection~~ Building Services Department as follows:

- A. Before the final subdivision map or parcel map is approved, or
- B. In the case of building permits, before the building permit is issued, or
- C. In the case of industrial projects, before commencement of activities authorized by any use permit and before issuance of any building permit. (Ord. 3659 § 8, 1990)

SECTION 42. Section 18.51.080 of Chapter 18.51 of the Monterey County Code shall be amended as follows:

**18.51.080 Deposit and accumulation of funds.**

The ~~Planning and Building Inspection~~ Building Services Department shall deposit the water impact fees in a separate interest-bearing account maintained by the Monterey County Flood Control and Water Conservation District (Monterey County Water Resources Agency). The funds shall remain there until sufficient revenues are available to begin preparation of the activities described in Section 18.51.070. As soon as reasonably possible, the funds, together with any interest accrued thereon, shall be expended for the intended activities. (Ord. 3659 § 8, 1990)

SECTION 43. Section 18.51.100 of Chapter 18.51 of the Monterey County Code shall be amended as follows:

**18.51.100 Fee expiration date.**

The water impact fee required by this Chapter shall apply only to new developments for which applications are filed before January 1, 2001. The Director of ~~Planning and Building Inspection~~ Building Services shall waive the fee otherwise required by this Chapter if, at the time the fee is to be paid, the Director determines, based on information provided by the County Auditor and Monterey County Water Resources Agency, that the activities to be funded by the fee have been fully paid or that sufficient funds have been set aside to pay for the activities in full.

**Description of Area Subject to the Water Impact Ordinance.** The area comprising the study area is that portion of North Monterey County as shown in the U.S. Geologic Survey Report, "Ground Water in North Monterey County, California, 1980, Report No. 83-4024":

1. Beginning at Juan Hill (VABM 1342) on the Monterey County/San Benito County lines, approximately one thousand (1,000) feet northwest of the intersection of San Juan Grade Road with the County lines and continuing northwest along the San Benito/Monterey County line to the intersection of the County lines of San Benito, Santa Cruz and Monterey;
2. Thence, westerly along the Santa Cruz/Monterey County line to the mean high tide line of the Pacific Ocean;
3. Thence, southerly along the mean high tide line to the intersection of the centerline with the Moss Landing Harbor channel entrance;
4. Thence, easterly along the centerline of Elkhorn Slough to the confluence of the "Five-Finger Slough";
5. Thence, southeasterly along the centerline of the drainage of the Five-Fingered Slough to the Southern Pacific railroad tracks;
6. Thence, southerly along said tracks to the intersection with California State Highway No. 156;
- 6a. Thence easterly along the centerline of California State Highway No. 156 to the Moro Cojo Slough;
7. Thence, southeasterly along the centerline of Moro Cojo Slough to a point approximately one thousand (1,000) feet south of Blackie Road;
8. Thence, easterly along the drainage divide south of Blackie Road to U.S. Highway 101;
9. Thence, southerly along the east side of Highway 101 to the base of Schneider Hill at a point where a ridge rises in the southeasterly direction to the top of Schneider Hill;
10. Thence, southeasterly to the top of Schneider Hill;
11. Thence, east-north-easterly along the drainage divide separating Pesante Creek to the north and Gabilan Creek to the south to the intersection of Crazy Horse Canyon and San Juan Grade Roads;
12. Thence, north along the ridgeline between Crazy Horse Canyon and San Juan Grade Roads to Juan Hill (VABM 1342) at the Monterey and San Benito County line. (Ord. 4005, 1999; Ord. 3856, 1996; Ord. 3508 § 2, 1991; Ord. 3496 § 8, 1990)

User Category	Description	GPD Avg. Flow	Unit
A2, A5,	Residential regular	250	Each living unit

A7, A9			
A1, C0	Residential/commercial-Vacant		
B0	Motel/hotel	109	Each room
B2	Bed & breakfast inn	72	Each room
C1	Business government	195	Location/each licensed business
D0	Supermarket w/o grinder	1921	Location
E0	Medical office	109	Each licensed physician
F0	Dental office	359	Each licensed dentist
G1	Restaurant one meal	8	Each restaurant seat
G2	Restaurant two meals	19	Each restaurant seat
G3	Restaurant three meals	32	Each restaurant seat
G4	Restaurant w/ bar	35	Each restaurant seat
H0	Bar	422	Location/Each licensed business
NC	Nightclub	1267	Location/Each licensed business
J0	Service station/garage	186	Location/Each licensed business
M0	Dry cleaner	870	Location/Each licensed business
N0	Laundromat	169	Each washing machine
P0	Rest home/convalescent	108	Each bed of licensed capacity
Q0	General hospital	427	Each bed of licensed capacity
R1	School 0-6	3	School population
R2	School 7-12 & college	5	School population
R3	School boarding	53	School population
S0	Animal hospital	487	Location/Each licensed business
T0	Bakery	382	Location/Each licensed business
U0	Theatre	628	Location/Each

			licensed business
W0	Bowling center	1911	Location/Each licensed business
Y0	Mortuary	516	Location/Each licensed business
Z1	Take-out food - small	472	Location/Each licensed business
Z2	Take-out food - medium	1161	Location/Each licensed business
Z3	Take-out food - large	2117	Location/Each licensed business

(Ord. 3659 § 8, 1990)

SECTION 44. Section 18.52.090 of Chapter 18.52 of the Monterey County Code shall be amended as follows:

**18.52.090 Enforcement by administrative process, powers of enforcing officer.**

- A. Repealed.
- B. Repealed.
- C. Repealed.
- D. Repealed.

E. Whenever there is cause to suspect a violation of any provision of this Title; or whenever necessary to investigate either an application for granting, extension or modification of any application described in this Title, or an action to revoke or modify a discretionary permit, or whenever necessary to investigate a proposed amendment of this Title, the enforcing officers or their duly authorized representatives, may enter any site for the purpose of investigation, provided they shall do so in a reasonable manner. No owner or occupant or agent thereof shall, after reasonable notice and opportunity to comply, refuse to permit such entry. In the course of such inspection, no enclosed building or structure shall be entered without the express permission of the owner or occupant. When necessary and with the prior approval of the District Attorney or County Counsel, the Department of ~~Planning and Building Inspection~~ Building Services may apply to the Court for an inspection warrant.

- F. Repealed.

G. Whenever any work is being done contrary to the provisions of this Title, the Building Official may order the work stopped by notice in writing served on a person, firm or corporation, engaged in doing or causing such work to be done and any such person shall forthwith stop such work until authorized by the enforcing officer to proceed with the work. (Ord. 3659 § 8, 1993; Ord. 3464, 1990; Ord. 3453 § 12, 1990)

SECTION 45. Section of 18.52.130 of Chapter 18.52 of the Monterey County Code shall be amended to read as follows:

**18.52.130 Restoration of land required before application complete.**

No application for a discretionary land use permit under the authority of the Director of ~~Planning and Building Inspection~~ Planning, the Zoning Administrator, the Subdivision Committee, the Minor Subdivision Committee, the Planning Commission or the Board of Supervisors shall be deemed complete if there is a violation on said property of a County ordinance which regulates grading, vegetation removal or tree removal until that property has been restored to its pre-violation state.

“Restoration” of the property shall include, but not be limited to, the revegetation of native plants and trees and the reconstruction of natural features of the land which have been removed or changed in violation of County ordinances regulating grading, vegetation removal or tree removal. Alternatives to restoration of the property shall not be considered unless the applicant can show that restoration would endanger the public health or safety or that restoration is infeasible due to circumstances beyond the control of the applicant or the property owner.

Plans for restoration shall be submitted and approved by the Director of ~~Planning and Building Inspection~~ Building Services prior to the commencement of restoration and the plan shall include a time period to ensure reestablishment of the soil or vegetation. (Ord. 3464, 1990; Ord. 3453 § 12, 1990)

SECTION 46. Section 18.54.060 of Chapter 18.54 of the Monterey County Code shall be amended as follows:

**18.54.060 Payment of fee.**

The developer shall pay the water impact fee to the ~~Planning and Building Inspection~~ Building Services Department before the final subdivision map or parcel map is approved, or, in the case of building permits, before the building permit is issued. (Ord. 3703, 1993)

SECTION 47. Section 18.54.080 of Chapter 18.54 of the Monterey County Code shall be amended as follows:

**18.54.080 Deposit and accumulation of funds.**

The ~~Planning and Building Inspection~~ Building Services Department shall pay the fees collected under this ordinance into the County general fund or the Water Resources Agency fund, to

SECTION 48. Section 18.56.040 of Chapter 18.56 of the Monterey County Code shall be amended as follows:

**18.56.040 Review and inspection authority.**

A. Project Review.

1. Within ten (10) days of receipt of an application for a development permit, the ~~Planning and Building Inspection Department~~ Planning Department and Building Services Department shall forward the Reviewing Authority a review request a project description of all

preliminary or completed applications for building permits, tent parcel maps, tentative maps, and use permits for construction or development.

2. The Reviewing Authority shall review and make fire protection recommendations for project applications in compliance with these regulations. The Reviewing Authority shall forward a standard report of those recommendations to the ~~Planning and Building Inspection Department~~ Planning Department and Building Services Department within seven to thirty (30) days after initially receiving the original review request. The Reviewing Authority shall notify the Monterey County ~~Planning and Building Inspection Department~~ Planning Department and Building Services Department if the review period will extend beyond ten (10) days.

3. If after review of an application, the Reviewing Authority determines that the application needs corrections, amendments or redesign, either because of non-compliance with regulations contained in this Chapter, or because an exception to regulations contained in this Chapter is required, the applicant shall make the required corrections, amendments or redesign in consultation with the Reviewing Authority. The Reviewing Authority shall ensure that any and all corrections, or alternate requirements are satisfactorily completed before an application is resubmitted. In order resubmittal of an application to be deemed complete by the Monterey County ~~Planning and Building Inspection Department~~ Planning Department and Building Services Department, the resubmitted application must contain a standard letter from the Reviewing Authority stating that the project as submitted can meet regulations of this Chapter subsequent to any included and implemented SRA Fire Conditions.

B. Conditions of Approval. The ~~Planning and Building Inspection Department~~ Planning Department and Building Services Department shall incorporate any recommendations by the Reviewing Authority, and all applicable regulations of this Chapter, as conditions of approval for any reviewed development permit, and to be identified in related reports and permits as SRA Fire Conditions.

C. Required Findings. 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.

D. Approved Project Inspection.

1. Upon approval of the development application, the Monterey County ~~Planning and Building Inspection Department~~ Planning Department and Building Services Department shall forward a copy of any Monterey County adopted or approved SRA Fire Conditions to the Reviewing Authority to ensure project compliance during inspections.

2. The Inspection Authority shall inspect projects for compliance with regulations pursuant to this Chapter, including compliance with SRA Fire Conditions.

3. Inspections shall be conducted, and defects remedied, prior to:

- a. Issuance of a certificate of occupancy;
- b. Recordation of a parcel map or final map;
- c. Filing of a notice of completion; or
- d. Final inspection of any project or building permit,

4. Upon completion of inspection, the Inspection Authority shall forward a standard form to the ~~Planning and Building Inspection Department~~ Planning Department and Building Services Department signifying either an approved inspection, disapproved inspection, with an explanation of the requirements, if any, that have not been met.

5. A project shall not be deemed to have satisfied all conditions of approval by the ~~Planning and Building Inspection Department~~ Planning Department, Building Services

Department, or Public Works Department until receipt of the standard inspection notice from the Inspection Authority. (Ord. 3600, 1992)

SECTION 49. Section 18.56.050 of Chapter 18.56 of the Monterey County Code shall be amended as follows:

**18.56.050 Exceptions and regulations.**

**A. Exceptions: Criteria and Consideration.**

1. All regulations and standards established in this Chapter shall constitute standard criteria for the minimum allowable fire protection level for SRAs required for development and the of development permits.

2. If no other practical alternative project or site design exists, as determined by the Reviewing Authority, to accommodate the minimum fire safe requirements in this Chapter, the Reviewing Authority shall consider alternative standards or measures. This process shall be defined as applying for an exception, and consideration of the application shall occur in the following priority order:

a. Those standards that are presented as “alternative standards or measures” by the Reviewing Authority and are related to the categories listed below, and may include other unlisted categories. Any adopted alternative measures must have the “same practical effect” as the State minimum standards as determined by the Reviewing Authority.

b. Those standards that are alternative standards presented to, and reviewed as “new standards or measures.” They may be presented by the Reviewing Authority, applicant, or applicant’s agent. Any accepted new standards or measures must have the “same practical effect” as the State minimum standards as determined by the Reviewing Authority.

**B. Categorical Alternative Standards or Measures.**

Alternative standards or measures may be included in, but are not limited to, the following categories:

1. Automatic sprinkler systems.
2. Non-combustible construction.
3. Extraordinary fuel modification measures.
4. Creation of evacuation areas.
5. Alternative access routes.
6. Alternative roadway modifications.

C. Specific Alternative Standards or Measures. At the discretion of the Reviewing Authority, specific alternative measures or standards may be imposed on development, following the minimum requirements. The Reviewing Authority may require one measure or standards, or a combination of measures or standards, to have the “same practical effect” as the regular established in this Chapter.

**D. Requests for Exceptions.**

1. A request for an exception shall be made in writing, and presented to the Reviewing Authority with information sufficient to support the request during the pre-application or informational stage of the permit application process. The written request must include substantial evidence that there are no other site or design alternatives for the specific parcel of land.

2. If after review of an application the Reviewing Authority determines that an exception is required for such an application, applicant shall make a request for exception in writing to the Reviewing Authority. The request must include two sets of complete plans. The written request must include substantial evidence that there are no other site or design alternatives for the specific parcel of land.

E. Appeal Procedure--Exceptions.

1. Where an exception containing proposed alternative standards or measures is not granted by the Reviewing Authority, the applicant may appeal such denial to the Monterey County ~~Department of Planning and Building Inspection~~ Planning Department and Building Services Department. The appeal shall be filed with and heard by the Chief of Building Inspection within ten (10) days of the decision of the Reviewing Authority.

2. The appeal shall contain plans, application for exception, identification of standards or measures to be replaced, and substantial evidence that the alternative measures or standards will have the same practical effect. The appeal shall include evidence that there are no other reasonable building or site design that could alleviate the need for alternative measures or standards being applied.

3. A copy of the appeal shall be forwarded to the Reviewing Authority for a recommendation. The recommendation shall contain document outlining the effects of the requested exception on wildland fire protection.

4. If the appeal is not granted, the applicant may request a public hearing on the appeal before the Board of Supervisors. The request shall include plans, application for the exception, identification of standards or measures to be replaced, and substantial evidence that the alternative standards or measures will have the same practical effect. Any new evidence in support of the appeal may be presented at the hearing. The hearing before the Board of Supervisors shall be de novo.

5. Notice of the public hearing on the appeal before the Board of Supervisors shall be given pursuant to provisions in the zoning ordinance regarding appeals from the grant or denial of use permits.

F. Appeal Approval--Findings. In order to grant an appeal, the Board of Supervisors shall make findings that the decision meets the intent of providing defensible space consistent with this Chapter. A statement of reasons shall accompany the decision. The findings and decision shall be forwarded to the California Department of Forestry-Ranger Unit having jurisdiction over the in which applicant's property is located. (Ord. 3600, 1992)

SECTION 50. Section 18.60.020 of Chapter 18.60 of the Monterey County Code shall be amended as follows:

**18.60.020 Definitions.**

A. Building Permit. "Building Permit" shall mean any building permit issued by the Director of ~~the Planning and Building Inspection Department~~ Building Services of the County pursuant to the provisions of the Monterey County Code. Nothing in this ordinance shall be construed as prohibiting the issuance of a building permit for any project which has been issued a foundation permit prior to February 18, 1992, if such foundation permit is valid on the effective date of this ordinance.

B. Carmel Valley Master Plan Area. "Carmel Valley Master Plan" shall mean the area as defined in the document entitled "Monterey County Carmel Valley Master Plan" and adopted by the Board of Supervisors on December 16, 1986, and depicted on Exhibit A to this Chapter.

C. Greater Carmel Valley Area. "Greater Carmel Valley Area" shall mean that area depicted as the "area of potential benefit" on Exhibit A attached to the ordinance codified in this Chapter. (Ord. 3649, 1992; Ord. 3833, 1995)

SECTION 51. Section 18.60.040 of Chapter 18.60 of the Monterey County Code shall be amended as follows:

**18.60.040 Exemptions.**

The following categories of development are exempt from the provisions of this ordinance:

1. Any development which has been issued a building permit prior to February 18, 1992, or which received design approval and submitted plans for a building permit prior to February 18, 1992, and which were issued a building permit prior to August 25, 1992, and such permit has not lapsed or became void for any reason.

2. Any development: (a) submitted to the County prior to the effective date of Ordinance 52, as amended, of the Monterey Peninsula Water Management District, (b) approved subject to the condition that building permits not be issued until water was made available, and (c) for which an application for a building permit is filed with the County prior to February 1, 1993.

3. Any remodeling or alterations to an existing commercial or industrial use which does not result in an increase in total leasable floor area of the building or structure or diminishes the parking required under the current provisions of the Monterey County Code, or which will not result in an increase in vehicle trips as determined by the Director of Public Works.

4. Any remodeling or alterations to an existing residential development which does not result in an increase in the number of dwelling units within the building or structure or diminishes the parking required under the current provisions of the Monterey County Code.

5. Any development for which a building permit is required: (1) in order to comply with an order issued by the Director of ~~the Planning and Building Inspection Department~~ Building Services to repair an unsafe or substandard condition; or (2) in order to rebuild as a result of destruction by fire, earthquake, or other natural disaster, provided that such development is not prohibited by any provision of the Monterey County Code. (Ord. 3649, 1992; Ord. 3833, 1995)

SECTION 52. Section 18.60.060 of Chapter 18.60 of the Monterey County Code shall be amended as follows:

**18.60.060 Deposit, accumulation, and use of fees.**

A. Deposit and Accumulation of Funds. The Director of ~~Planning and Building Inspection~~ Building Services shall collect the traffic mitigation fees and deposit such fees in a separate, interest bearing account to be used for the purposes specified in this Section.

B. Use of Funds. The traffic mitigation fees shall be used for road and street improvements to Carmel Valley Road generally consistent with the Carmel Valley Master Plan and as may be approved or authorized by the Board of Supervisors.

Resolution No. 92-77. Resolution No. 92-77 as amended, shall be null and void, and shall be deemed repealed and no longer in effect. Payment of the applicable fee specified in this ordinance shall be deemed full compliance with any agreement or condition of approval required pursuant to Resolution No. 92-77. (Ord. 3833, 1995; Ord. 3649, 1992)

SECTION 53. Section 18.62.030 of Chapter 18.62 of the Monterey County Code shall be amended as follows:

**18.62.030 Definitions.**

The following definitions shall apply for the purposes of this Chapter:

A. "Appropriate authority" means that person, official, or body designated by the County Code to hear, grant, deny, modify, condition, revoke or otherwise act on land use permits and entitlements.

B. "Development agreement" means a binding agreement entered into between the County and a qualified applicant pursuant to the requirements and procedures of state law and this Chapter.

C. "Developer" means a qualified applicant who has entered into a development agreement approved and executed by the County. The term "developer" includes any successors in interest to the qualified applicant and includes the plural in the case of a developer consisting of more than one party.

D. "Director" means the Director of ~~the Planning and Building Inspection~~ Planning of the County of Monterey or his or her designee.

E. "Pending application" means a proposal for a development agreement that had been submitted by a qualified applicant to the County and was under active negotiation with the County prior to the effective date of Ordinance No. 4236 adding this Chapter.

F. "Property" means real property, unless otherwise specified.

G. "Qualified applicant" means a person who has a legal or equitable interest in the real property which is the subject of the development agreement and who is applying to enter into a development agreement with the County. The term "qualified applicant" shall include the plural in the case of an applicant consisting of more than one party. The term "person" as used herein includes any legal entity.

Words not defined herein shall have the same meaning as provided elsewhere in the County Code or in applicable state law.

SECTION 54. Section 18.62.100 of Chapter 18.62 of the Monterey County Code shall be amended as follows:

**18.62.100 Notice.**

A. Notice of public hearings to consider adoption of a development agreement shall be given pursuant to this Chapter and Government Code Section 65867, as may be periodically amended. The notice may be combined with any other notice required by law for other actions to be considered concurrently with the development agreement.

B. The contents of the public hearing notice shall contain at a minimum the following information:

1. The time and place of the public hearing;
2. The identity of the appropriate authority;
3. A general explanation of the matter to be considered at the public hearing; and
4. A general description, in text or by diagram, of the location of the real property that is the subject of the public hearing.

C. The notice shall be given as provided in Government Code Sections 65090 and 65091 and shall, at a minimum, be given in all of the following ways:

1. Notice of the public hearing shall be mailed or delivered at least ten (10) days prior to the public hearing to the owner(s) of the subject real property or the owner's duly authorized agent, and to the applicant;

2. Notice of the public hearing shall be mailed or delivered at least ten (10) days prior to the public hearing to each local agency expected to provide water, sewage, streets, roads, schools, or other essential facilities or services to the project, whose ability to provide those facilities and services may be significantly affected;

3. Notice of the public hearing shall be mailed or delivered at least ten (10) days prior to the public hearing to all owners of real property as shown on the latest equalized assessment role within three hundred (300) feet of the real property that is the subject of the proposed development agreement. If the number of owners to whom notice would be mailed is greater than one thousand (1,000), the County may, in lieu of mailed or delivered notice, provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation within the County at least ten (10) days prior to the hearing.

4. If the notice is mailed or delivered pursuant to Paragraph 3 above, the notice shall also be published pursuant to Government Code Section 6061 at least ten (10) days prior to the public hearing in at least one newspaper of general circulation in the County within the area of the property which is the subject of the development agreement.

5. The notice shall be mailed or delivered at least ten (10) days prior to the public hearing to any person who has filed a written request for notice with either the Clerk to the Board or the Department of ~~Planning and Building Inspection~~ Planning within the year preceding the hearing.

6. The Director may also, at least ten (10) days prior to the hearing, post public hearing notices in at least three different public places, accessible and visible to the public, on and near the subject property, or may provide notice by such additional means and to such additional persons as the Director, in his or her discretion, may determine to be appropriate.

D. The failure of any person or entity to receive notice of a hearing shall not affect the authority of the County to enter into a development agreement.

E. The applicant is responsible to provide a complete list of all the names, addresses, and Assessor's parcel numbers of all property owners within three hundred (300) feet of the property which is the subject of the development agreement, including the owner(s) of the subject property. The list shall be taken from the latest equalized assessment roll as prepared by the County Assessor.

F. Any public hearing conducted under this Chapter may be continued from time to time. (Ord. 4236 § 1 (part), 2004)

SECTION 55. Section 19.01.025 of Chapter 19.01 of the Monterey County Code shall be amended as follows:

**19.01.025 Minor Subdivision Committee.**

A. There is created a Minor Subdivision Committee to consist of one member of the Planning Commission and one alternate, the Director of Public Works, the Director of Environmental Health, the Director of ~~Planning and Building Inspection~~ Planning, the General Manager of the Monterey County Water Resources Agency, and the County Fire Warden, or their designated representatives. The Planning Commission shall designate which voting member and alternate shall sit on the Minor Subdivision Committee for a period of one year on a rotational basis. The Director of ~~Planning and Building Inspection~~ Planning or the designated representative shall be the secretary of the committee.

The Minor Subdivision Committee shall be charged with the following duties and responsibilities:

1. To serve in a technical capacity to the Board of Supervisors and the Planning Commission and make recommendations on the design, improvements, and standards of this Title pertaining to subdivisions.

2. To serve as the advisory agency authorized to approve, conditionally approve or disapprove minor subdivisions and divisions of property requiring a parcel map under Section 66426 of the Government Code of the State of California for which a public hearing pursuant to Section 19.04.025F, is required.

3. To serve as the decision-making body on revised minor subdivisions and requests for reconsideration of conditions for which a public hearing, pursuant to Section 19.04.025, is required prior to the recordation of the parcel map. (Ord. 3797, 1994)

SECTION 56. Section 19.01.030 of Chapter 19.01 of the Monterey County Code shall be amended as follows:

**19.01.030 Standard Subdivision Committee.**

A. There is created a Standard Subdivision Committee to consist of the Director of Public Works, the Director of ~~Planning and Building Inspection~~ Planning, the Director of Environmental Health, the General Manager of the Monterey County Water Resources Agency, the Director of Parks and the County Fire Warden, or their designated representatives. The Committee shall have the powers and duties specified by this Title. The Director of ~~Planning and Building Inspection~~ Planning or the designated representative shall be the secretary of the committee.

B. The Standard Subdivision Committee shall serve in a technical capacity to the Planning Commission and make recommendations on the design, improvements standard subdivisions. (Ord. 3797, 1994)

SECTION 57. Section 19.01.045 of Chapter 19.01 of the Monterey County Code shall be amended as follows:

**19.01.045 Fees and forms.**

No application, appeal or certificate of compliance shall be considered received pursuant to this Title without payment of the required fees unless the fees have been waived by resolution of the Board of Supervisors.

The Director of ~~Planning and Building Inspection~~ Planning shall prescribe various application forms and when made available to the public, all applications, for the division of real property shall be made on such forms.

SECTION 58. Section 19.02.107 of Chapter 19.02 of the Monterey County Code shall be amended as follows:

**19.02.107 Director.**

The Director of the County ~~Planning and Building Inspection~~ Planning Department or the designee of the Director. (Ord. 3855, 1996)

SECTION 59. Section 19.03.010 of Chapter 19.03 of the Monterey County Code shall be amended as follows:

**19.03.010 Tentative map--Form and contents.**

The tentative map shall be prepared in a manner acceptable to the Director of the Monterey County ~~Planning and Building Inspection~~ Planning Department by a registered civil engineer or licensed land surveyor and shall be submitted to the Planning Department and Building Inspection Department along with all the required fees. The tentative map shall be clearly and legibly drawn and contain the following:

- A. Title block located in the lower right corner of the map which shall contain the name "Tentative Map" and the type of development proposed.
- B. Name and address of legal owner, subdivider, and person preparing the map (including registration number if applicable).
- C. Assessor's parcel number(s).
- D. Date prepared, north arrow, scale one inch equals one hundred (100) feet and contour interval. The scale of the map may be varied by the Director of ~~Planning and Building Inspection~~ Planning if it is found that the project can be effectively illustrated at a different scale.
- E. A vicinity map one inch equals two thousand (2,000) feet showing roads, towns, major creeks, railroads and other data sufficient to locate the proposed subdivision and show its relation to the community and the current surrounding land uses.
- F. Existing topography of the proposed site, including but not limited to: The contour of the land at intervals of five feet of elevation up to five percent slope, or lesser contour intervals as may be approved by the Director of ~~Planning and Building Inspection~~ Planning. Contours shall be indicated on contiguous property for a distance of two hundred (200) feet. Every fifth contour shall be a heavier weight line.
- G. The approximate location and height of major vegetation and existing structures on the property and on adjacent parcels which might affect solar access to the site(s) proposed for development. Applicants shall indicate how many of the housing units in the proposed subdivision have full south solar access and any other information pertinent to solar access. Structures and trees to be removed shall be so indicated.
- H. The location of the floodway and/or floodway fringe boundaries as well as the approximate location of all areas subject to inundation or storm water overflow and the location, width and direction of flow of each water course.

I. The location, pavement and right-of-way width, grade and name of existing streets or highways.

J. The widths, location and type of all existing easements.

K. The location and size of existing sanitary sewers, water mains, and storm drains. The approximate slope of existing sewers and storm drains shall be indicated. The location of existing overhead utility lines on peripheral County or private roads.

L. Proposed improvements shall be shown including but not be limited to:

1. The location, grade, centerline radius and arc length of curves, pavement and right-of-way width and proposed name of all streets. Typical sections of all streets shall be shown as well as an indication if they will be offered for dedication.

2. The location and radii of all curb returns and cul-de-sacs.

3. The location, width and purpose of all easements.

4. The approximate lot layout and the approximate dimensions of each lot. The number of each shall be indicated and shall be numbered consecutively.

5. Proposed recreation sites, trails and parks for private or public use and other dedicated reserved areas.

6. Proposed common areas and areas to be dedicated to public open space common areas and open space parcels shall be indicated by letter designation.

7. The location and size of proposed sanitary sewers, water mains, and storm drains and stormwater detention ponds. Proposed slopes and approximate elevations of sanitary sewers and storm drains shall be indicated.

8. Approximate location of all rivers, watercourses drainage channels, drainage structures and reservoirs.

M. A subdivider's statement describing the existing and proposed use(s) or uses of the property.

The subdivider's statement shall contain the following information and shall be on the face or first sheet of the tentative map or a separate statement to be included with the application.

1. Existing zoning and proposed uses of the land;

2. Measures proposed regarding erosion control;

3. Proposed source of water supply and name of water system, method of sewage disposal and the name of sewage utility system if sewered;

4. Indicate type of tree planting or removal proposed;

5. Proposed public areas to be dedicated and common area or scenic easements proposed.

If common areas are proposed method of maintenance shall be stated;

6. Proposed height of all structures;

7. Proposed type development of the lots or units and whether they are for sale as lots or fully developed units.

N. The name or names of any geologists or soils engineer whose services were required in the preparation of the design of the tentative map.

O. If the subdivider plans to develop the site as shown on the tentative map in phases, a description of the proposed phases.

P. The Director of ~~Planning and Building Inspection~~ Planning may modify any of the foregoing tentative map requirements whenever the Director of ~~Planning and Building Inspection~~ Planning finds that the type of subdivision is such as not to necessitate compliance with these requirements, or that other circumstances justify such modifications.

SECTION 60. Section 19.03.015 of Chapter 19.03 of the Monterey County Code shall be amended as follows:

**19.03.015 Tentative map--Additional data and reports.**

The tentative map shall be accompanied by the following data or reports:

A. Appropriate numbers of copies of a completed subdivision application as prescribed by the Director of ~~Planning and Building Inspection~~ Planning.

B. Appropriate number of copies of the tentative map. All maps shall be folded to an approximate size of eight and one-half inches by eleven (11) inches. If multiple pages, the maps shall also be stapled and collated.

C. Two copies of a slope density analysis map of the proposed project that shows the following slope categories and a tabulation of the total area (acres or square feet) within each category as specified by the Monterey County General Plan and any amendments to the Plan including Coastal Land Use Plans as certified by the State of California. The categories for the countywide General Plan are as follows: 0--19.9 %, 20--29.9 %, and 30 % +. The following categories shall apply to the Big Sur Land Use Plan area east of State Highway 1; under 15 %, over 30 %. The map shall be of the same scale of the tentative map.

D. Two copies of a slope analysis map indicating all areas greater than twenty-five (25) percent slope (North County Land Use Plan Area only). The map shall be the same scale as the tentative map.

E. One transparency of each page of the tentative map (maximum size: eight and one-half inches by eleven (11) inches).

F. A photocopy of the Assessor's parcel page(s) showing the parcel involved and parcels within three hundred (300) feet of the subject property. Applicants must indicate on the assessor's map which parcels are included on the list of property owners.

G. A list of the names, addresses, and assessor's parcel numbers of all property owners within three hundred (300) feet of the property, including the parcel proposed for subdivision. The list shall be taken from the most recent records of the Monterey County Assessor.

H. Three sets of pre-addressed stamped envelopes with no return address, to all property owners shown of the list. Additional sets may be required if an application is continued or tabled by the appropriate hearing body.

I. Two copies of preliminary title report showing the legal owners at the time of submittal of the tentative map application.

J. Three copies of a preliminary soils report by a registered civil engineer based upon adequate test borings. If the preliminary soils report indicates the presence of critically expansive soils or other soils problems which, if not corrected, would lead to structural defects, the Director of ~~Planning and Building Inspection~~ Planning may require a soils report investigating each lot within the subdivision. This soils investigation report shall recommend corrective action which is likely to prevent structural damage to each structure proposed to be constructed in the area where such soils problems exist as well as precautions required for erosion control and prevention of sedimentation and damage to adjacent property. The Director of ~~Planning and Building Inspection~~ Planning may review the preliminary soils report and may require additional information or reject the report if it is found to be incomplete, inaccurate, or unsatisfactory.

K. If sewage disposal for the proposed subdivision will be provided by a public or private entity, a letter or document shall be submitted from the entity to the Division of Environmental

Health and Director of ~~Planning and Building Inspection~~ Planning stating that the entity can and will serve the proposed subdivision. The public entity must comply with all State and County allocation and capacity requirements. The letter or document shall also state the expiration date of such a commitment. In the event that an individual sewage disposal system will be utilized, preliminary percolation testing and profile analysis shall be required to be submitted along with a tentative map application. The report shall analyze at least one soil profile analysis test per lot and one percolation test hole per two lots. Soil profile analysis may be reduced if conformity to a given soil type can be established. The report submitted shall demonstrate the feasibility of the proposed lot design and density and shall address nitrate loading of subsoil surfaces when septic systems are proposed. The soil tests and percolation shall meet the standards of the Division of Environmental Health. The applicant shall also provide evidence proof that sewage disposal systems, both individual and package, for all lots which are proposed to be created through subdivision will not exceed nitrate and chemical loading levels in aquifers pursuant to the Regional Water Quality Control Basin Plan. If wastewater reclamation is proposed for a subdivision, the reclamation system must comply with the Basin Plan and the California Administrative Code subject to the review of the Director of Environmental Health.

L. Water Supply and Nitrate Loading Information.

1. Initial Water Use and Nitrate Loading Impact Questionnaire.

A. An application shall be preceded or accompanied by a completed Initial Water Use and Nitrate Loading Impact Questionnaire. The Health Department shall be the lead agency in determining the adequacy of information in the completed Initial Water Use Questionnaire and the Health Officer shall request, coordinate and consider recommendations from the appropriate water management agency serving the area of the proposed development. Any determination made by the Health Officer pursuant to this Section shall be subject to any and all appeal provisions contained in Chapter 19.17 of the Monterey County Code (Appeals to Administrative Interpretations of the Subdivision Ordinance) as may be amended from time to time.

1. The Questionnaire shall be accompanied by a location map; a to-scale site plan showing the entire parcel and proposed and existing structures, roads, land use, landscaping, wells and water lines, and hydrologic and drainage features. The Questionnaire shall be accompanied by written verification of legal water rights to the quantity of water necessary to assure an adequate and reliable drinking water supply. Verification of legal water rights shall include, but shall not be limited to the following forms of documentation: (a) a Condition of Title Report, prepared by a Title Company at the applicant's expense, shall accompany the Questionnaire and, any and all supporting documentation to indicate whether legal water rights have been subordinated and/or severed, must be included; (b) information that describes the legal basis and authority for diversion or extraction of water; (c) if groundwater is being pumped from a groundwater basin that has not been adjudicated, a statement to that effect is sufficient documentation to satisfy this requirement; (d) if the source of water is subject to permit requirements under the State Water Resources Control Board (SWRCB), a copy of the water rights permit must be included.

2. The Questionnaire shall include a description of how water is currently supplied and how it will be supplied to the proposed development; and a quantification and documentation of all existing and proposed water usage including water usage for residential, industrial, commercial, landscaping and other vegetated areas. This description shall also identify potential changes in water usage as a result of changes in land use and zoning.

3. The Questionnaire will detail the project's proposed sewage, wastewater, agricultural, and landscaping components. If it is determined by the Health Officer, from the Questionnaire, that the project has the potential to adversely affect the groundwater quality in the project's vicinity, additional nitrate loading information shall be provided to the Health Officer as described in Paragraph 3 of this Subsection and will be required at the applicant's expense. The applicant shall be informed in writing of the Health Officer's determination, the issues to be addressed to cure the inadequacies, and whether a Comprehensive Hydrogeologic Report will be required prior to the application being deemed complete.

The Health Department shall be the lead agency in determining the nitrate loading produced by a proposed project and in evaluating the potential public health and safety threats of the nitrate loading on the water source for the proposed project and other potable water supplies in the affected area.

B. Evaluation and Determination. After reviewing the Initial Water Use Questionnaire, the Health Officer shall determine whether existing hydrogeological investigations can be incorporated by reference to cover all or some of the pertinent issues.

1. If the Questionnaire identifies an intensification of water use, a determination shall be made by a hydrogeologist under contract to the County as to the requirement for any additional water resources information. If an intensification is determined to be "de minimis" by the hydrogeologist, then the requirement for additional water sources information may be waived. "De minimis" shall be defined consistent with the California Environmental Quality Act (CEQA) of the California Public Resources Code, and related State law and regulations, as may be amended from time to time.

2. If baseline water resource information in the area of the proposed development is determined to be inadequate, a comprehensive hydrogeologic investigation that meets the specified requirements outlined in Paragraph 3 of this Subsection will be required at the applicant's expense. The applicant shall be informed in writing of this inadequate determination, the issues to be addressed to cure the inadequacies, and whether a Comprehensive Hydrogeologic Report will be required prior to the application being deemed complete.

3. If adequate baseline information is available in the form of a prior hydrogeologic investigation, then only a project specific hydrogeologic report shall be required. The hydrogeologic report shall consist of background information from approved prior investigations and shall be updated to incorporate the hydrogeologist's findings and conclusions about impacts of the proposed development into the findings and conclusions of the prior investigations. The Health Officer shall approve the choice of which prior hydrogeologic investigation is selected to provide the baseline information.

4. If any hydrogeologic or hydrogeologic reports are deemed necessary, the County will notify the applicant in writing, and the County will contract directly with qualified consultants, at the applicant's expense, pursuant to Paragraph 3, Comprehensive Hydrogeologic Investigation, below.

2. Evaluation of Public Health and Safety Impacts. The source of water within the project boundaries which are to provide groundwater or surface water for the lots shall be evaluated for potential public health and safety impacts. The Monterey County Health Department shall be the lead agency in determining the adequacy of the proposed project's water supply, and in evaluating the health and safety threats to the supply.

Prior to an application being deemed complete, the following information shall be required depending on the water supply proposed:

A. For Individual Wells: a minimum of one well will be needed meeting the following standards:

1. A chemical analysis on the well(s) as per Chapter 15.04, Monterey County Code,
2. Witnessed and documented well production information proving a sustained minimum of 3 GPM for each of the lots proposed,
3. Copy(ies) of the Well Driller's Log(s),
4. Provide written documentation, as necessary, that no other reasonably available water source can physically and legally serve the project.

B. For Two to Four Connection Water System:

1. A chemical analysis as per Chapter 15.04, Monterey County Code,
2. Well production information meeting the minimum flow requirements as per Chapter 15.04, Monterey County Code,
3. Copy(ies) of the Well Driller's Log(s),
4. If applicable, a can and will serve letter from the owner/operator of the water system,
5. Provide written documentation, as necessary, that no other reasonably available water source can physically and legally serve the project.

C. For Five to Two Hundred (200) Connection Water System:

1. A chemical analysis as required per Title 22, Chapter 15, California Code of Regulations,
2. Well production information meeting the minimum flow requirements as per Title 22, Chapter 15, California Code of Regulations,
3. Copy(ies) of the Well Driller's Log(s),
4. If applicable, a can and will serve letter from the owner/operator of the water system,
5. Provide written documentation, as necessary, that no other reasonably available water source can physically and legally serve the project,
6. Evidence demonstrating how compliance with California Health and Safety Code, Section 116540 regarding technical, managerial, and financial capacity will be achieved.

D. For Public/Municipal Water System (over two hundred (200) connections); a "can and will serve" letter from the owner/operator of the water system.

3. Comprehensive Hydrogeologic Investigation.

A. Prior to an application being deemed complete, a hydrogeologic report based on a comprehensive hydrological investigation shall be prepared by a certified hydrogeologist, selected by the County and under contract with the County, at the applicant's expense, if required by this Section. At least one copy shall be placed in the ~~Planning and Building Inspection~~ Planning Department file for the Subdivision Application. The Health Department, the Monterey County Water Resources Agency, and the appropriate water management agency serving the area of the proposed development, shall also receive a copy of the hydrogeologic report required by this Section. The report shall be reviewed by the Health Officer and the Health Officer. If necessary, the Health Officer shall solicit recommendations from the appropriate water management agency serving the area of the proposed development.

B. After review of the hydrogeologic report, the Health Officer may require that the report be revised to include additional information or assessment, as deemed necessary to clarify, amplify, correct, or otherwise supplement the report, or as recommended by another water management agency. A third party review, at the applicant's expense may also be required by the Health Officer.

C. The hydrogeologic report shall contain the following elements:

1. **Summary.** The summary shall include a condensed version of the hydrogeologic report, the conclusions of the author, and any mitigation measures.

2. **Introduction.** The introduction shall contain the purpose and scope of the proposed project, along with its location and areal extent. A description of the existing site including to-scale site plans showing existing structures and landscaping, roads, land use, wells, and water lines.

3. **Site Description.** A description of the proposed project including to-scale site plans showing proposed building foot prints and landscaping, streets and roads, water supply, sewage disposal, and stormwater runoff facilities.

4. **Hydrogeologic Setting.** The topography, geology, recharge area, and soils of the proposed project site shall be discussed along with any groundwater exploration programs undertaken in the area.

5. **Hydrometeorologic Setting.** The historic rainfall and evapotranspiration shall be quantified. Include an isohyetal map and a discussion of any long-term fluctuations.

6. **Surface Water Resources.** This Section shall include discussion of and a map showing all watershed and drainage features. Any wetlands shall be identified and the impacts of the proposed project on them shall be discussed. Any streamflow shall be quantified along with a discussion of the water quality. A discussion of the stormwater drainage caused by the proposed project's impervious surfaces and how it will be controlled shall be included. An analysis of the potential for the beneficial use of captured stormwater shall be included.

7. **Groundwater Resources--**Four items shall be quantified and discussed in this Section as follows:

a. Hydrogeologic environment shall include aquifer identification and characterization, groundwater basin delineation, well yields, and a characterization of soils.

b. Groundwater levels and flow shall include a discussion of groundwater levels, a groundwater contour map, and a discussion of any seasonal and/or long-term fluctuations. This Section shall also include a discussion of the recharge areas and the amount of recharge shall be quantified using monthly time-step methodology. It shall also evaluate the impact of pumping on neighboring wells.

c. Groundwater in storage shall be quantified by discussing the amount of groundwater in storage and the amount that can be recovered.

d. Groundwater quality shall be discussed and any impacts on the groundwater by the proposed project shall be discussed and mitigation measures listed.

8. **Water Demand.** The current water use for the site shall be described, quantified and documented. The projected water demand for the proposed project shall be described and quantified (show source of information and method of calculations).

9. **Water Balance.** Discuss and calculate the water balance for the proposed project using monthly time-step methodology. The groundwater recharge shall include groundwater inflow plus the average precipitation minus evapotranspiration, runoff or streamflow, and soil moisture demands. The net groundwater recharge minus the existing demand and proposed project water demands equals change in storage. The report shall identify the long-term safe yield of the aquifer and the long-term source of water for the proposed project.

10. **Nitrate Balance.** Discuss and calculate the nitrate balance for the proposed project. The source of any nitrate contamination should be included along with the effects of the proposed project on the nitrate balance. Calculated nitrate levels shall be compared to actual levels.

11. Mitigation Measures. This Section should analyze project-caused water quality impacts and water quality impacts, in addition to impacts of the individual project when viewed in connection with the corresponding effects of other past, current, and reasonably likely future projects, and recommend mitigation measures that will lessen the proposed project's water quality impacts and water quality impacts, and also the project's effects on riparian resources.

12. Conclusions. The author's conclusions as to the adequacy of water for the project in terms of quality, quantity, and assured long term water supply, and the effect(s) of the project on the groundwater of the area.

13. References.

14. Appendices.

15. Additional Information. Such other information as the Health Officer may specify, identify, or request following the assessment of the Initial Water Use and Nitrate Loading Questionnaire.

M. Three copies of a detailed geological report prepared in conformance with California Division of Mines and Geology standards, that addresses seismic hazards, faulting, slope stability and liquefaction potential and contains measures recommended by the geologist for any geologic hazards that are shown as a result of the report. The report shall be prepared by a California registered geologist. The report shall be subject to the approval of the Director of ~~Planning and Building Inspection~~ Planning. In the case of a minor subdivision, a preliminary geologic report shall be required when it is determined that the subject project lies within a zone IV to VI geologic hazard.

N. Two copies of an archaeology report prepared by a certified archaeologist (SOPA, Society of Professional Archaeologists) where the proposed project is located in a "moderate or high sensitivity archaeological zone as shown on an Archaeological Sensitivity Map of the General Plan, Area Plan or Coastal Land Use Plan.

O. In the event the proposal is for the conversion of a mobile home park to another use, a report as prescribed by Government Code Section 66427.4 shall be submitted to address the impact of conversion upon displaced residents of the mobile home park to be converted.

P. A description of prior development activity on the site such as the removal of any vegetation, grading, etc. which may affect the proposed subdivision.

Q. Other data or information necessary to complete processing the map and environmental documents. (Ord. 4082, 2000; Ord. 3855, 1996)

SECTION 61. Section 19.03.020 of Chapter 19.03 of the Monterey County Code shall be amended as follows:

**19.03.020 Tentative map review and processing.**

A. Within thirty (30) days of the receipt of an application by a subdivider, the Director of ~~Planning and Building Inspection~~ Planning shall determine in writing whether the application is complete and forward the determination to the subdivider. If the application is determined to be incomplete, the Planning Director shall inform the subdivider of the additional information required or procedure by which application can be made complete. If the Director of ~~Planning and Building Inspection~~ Planning fails to make such determination within thirty (30) days, the application shall be deemed complete.

B. Tentative map approval can only be based on standards in effect when application is complete; exceptions:

a. Except as otherwise provided in Subdivision b or c, in determining whether to approve or disapprove an application for a tentative map, the local agency shall apply only those ordinances, policies, and standards in effect at the date the local agency has determined that the application is complete pursuant to Section 65943 of the Government Code.

b. Subdivision a shall not apply to a local agency which, before it has determined an application for a tentative map to be complete pursuant to Section 65943, has done both of the following:

1. Initiated proceedings by way of ordinance, resolution, or motion.

2. Published notice in the manner prescribed in subdivision (a) of Section 65090 containing a description sufficient to notify the public of the nature of the proposed change in the applicable general or specific plans, or zoning or subdivision ordinances.

A local agency which has complied with this Subdivision may apply any ordinances, policies, or standards enacted or instituted as a result of those proceedings which are in effect on the date the local agency approves or disapproves the tentative map.

c. If the subdivision applicant requests changes in applicable ordinances, policies or standards in connection with the same development project, any ordinances, policies or standards adopted pursuant to the applicant's request shall apply.

C. Within ten (10) days prior to the public hearing for a tentative map, the Director of ~~Planning and Building Inspection~~ Planning shall send a notice of the filing of the tentative map to the governing board of any elementary, high school or unified school district within the boundaries of which the subdivision is proposed to be located. Such notice shall also contain information about the location of the proposed subdivision, the number of units, density and other information which would be relevant to the affected school district. The governing board of the school district may comment on the proposed subdivision within twenty (20) working days of the date on which notice would be relevant to the affected school district. The governing board of the school district may comment on the proposed subdivision within twenty (20) working days of the date on which notice is mailed pursuant to the requirements. Failure of any such school district to comment within the twenty (20) working day period shall be deemed to recommend approval without comment on the proposed subdivision.

SECTION 62. Section 19.03.025 of Chapter 19.03 of the Monterey County Code shall be amended as follows:

**19.03.025 Public hearing process and filing.**

A. A proposed tentative subdivision map shall not be approved by the Planning Commission unless accompanied by an environmental recommendation. An environmental recommendation includes:

1. A prepared negative declaration accompanied by an environmental initial study; or

2. A circulated draft environmental impact report; or

3. Data supplementing a previously certified environmental impact report. The data for a supplemental environmental impact report shall be determined as adequate or inadequate by the Planning Commission. If the data is found to be inadequate the Planning Commission shall reject the data and require that a new environmental impact report be prepared.

B. After the application has been accepted, the Director of ~~Planning and Building Inspection~~ Planning shall forward copies of the tentative map application to affected departments, committees and public agencies or their consultants which shall in turn, forward to the Director of ~~Planning and Building Inspection~~ Planning their findings, recommendations and proposed conditions.

C. The Standard Subdivision Committee shall meet to review and consider the proposed development and make recommendations of proposed findings, conditions of approval or recommend disapproval to the Planning Commission. Notice of the meeting of the Standard Subdivision Committee shall be provided pursuant to Section 19.01.055.

D. After consideration by the Standard Subdivision Committee, the Director of ~~Planning and Building Inspection~~ Planning shall set the matter for public hearing before the Planning Commission to review and consider the report of the Standard Subdivision Committee on the proposed development. The Planning Commission may approve or deny, in whole or in part, the proposed development with appropriate findings, evidence and conditions.

1. The Planning Commission shall make a finding, based on substantial evidence, upon the recommendation of the Health Officer, pursuant to Section 19.03.015L, 19.05.040L, or 19.07.020K that the source capacity and water quality for all lots proposed to be created through the subdivision meets the requirements of all applicable health and safety regulations prior to approval of the standard subdivision tentative map, or vesting tentative map, or tentative parcel map.

2. The Appropriate Authority shall make a finding, based on substantial evidence, upon the recommendation of the Health Officer, pursuant to Section 19.03.015 that the source capacity and water quality for all lots proposed to be created through the subdivision meets the requirements of all applicable health and safety regulations prior to approval of the tentative parcel map.

E. The Board of Supervisors shall be the appropriate decision making body for any appeal from the decision of the Planning Commission.

F. A tentative map may be denied on any grounds provided by law. A tentative map shall be denied if any of the following findings are made:

1. That the proposed tentative map is not consistent with the applicable general plan, area plan, coastal land use plan or specific plan.

2. That the design or improvement of the proposed subdivision is not consistent with General plan, area plan, coastal land use plan, or specific plan.

3. That the site is not physically suitable for the type of development.

4. That the site is not physically suitable for the proposed density of development.

5. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

6. That the design of the subdivision or type of improvements is likely to cause serious public health problems.

7. That the design of the subdivision or the type of improvements will conflict with easement acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the appropriate decision making body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This Subsection shall apply only to easements of record or to easements established by judgment of a Court of competent

jurisdiction and no authority is hereby granted to a decision making body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.

8. That the subdivision fails to meet any of the requirements or conditions imposed by the Subdivision Map Act or this Title.

G. The Planning Commission may approve a subdivision or project where the soils investigation report discloses soils problems which, if not corrected, could lead to structural defects, when it is determined that the engineer's recommended actions are likely to prevent structural damage to each structure to be constructed. The Planning Commission shall require that subsequent permits are conditioned upon incorporation of the recommended corrective action in the construction of each structure.

H. In the event the Airport Land Use Commission has determined that the proposed subdivision is inconsistent with the airport land use plan and would be harmful to the airport and adjacent area, the Planning Commission may approve such subdivision or project on a two-thirds affirmative vote in accordance with Public Utilities Code Section 21676.

I. In the event the Planning Commission proposes to disapprove or approve at a lower density housing development project which is in compliance with the applicable plans, zoning and development policies in effect at the time the project's application was determined to be complete, the Planning Commission shall make written findings based upon substantial evidence in the record that both of the following conditions exist:

1. The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project developed at a lower density.

2. There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified other than disapproval of the housing development project or approval upon condition that the project be developed at a lower density.

J. The Planning Commission in approving a subdivision from the conversion of a mobile home park to another use shall conform to Government Code Section 66427.4 as amended from time to time.

K. If a negative declaration is adopted or an environmental impact report is certified by the Planning Commission for a tentative map application at a noticed public hearing, the application can be considered for approval or denial at the same hearing, provided that all other requirements of the application have been met.

L. The Director of ~~Planning and Building Inspection~~ Planning shall transmit to the County Surveyor a copy of any approved tentative map along with the resolution approving the same. (Ord. 4082, 2000; Ord. 4037, 1999; Ord. 3855, 1996; Ord. 3797, 1994)

SECTION 63. Section 19.04.010 of Chapter 19.04 of the Monterey County Code shall be amended as follows:

**19.04.010 Tentative parcel map--Form and contents.**

The tentative map parcel shall be prepared in a manner acceptable to the Department of ~~Planning and Building Inspection~~ Planning and shall be prepared by a registered civil engineer or licensed land surveyor. The form and contents shall comply and be consistent with the requirements of Section 19.03.010.

SECTION 64. Section 19.04.015 of Chapter 19.04 of the Monterey County Code shall be amended as follows:

**19.04.015 Tentative parcel map application--Additional data and reports.**

The tentative map application shall be submitted to Department of ~~Planning and Building Inspection~~ Planning for review in accordance with the same provisions of Section 19.03.015.

SECTION 65. Section 19.04.020 of Chapter 19.04 of the Monterey County Code shall be amended as follows:

**19.04.020 Tentative parcel map review and processing.**

The tentative parcel map shall be submitted to the Department of ~~Planning and Building Inspection~~ Planning for review and processing in accordance with the same provisions of Section 19.03.020

SECTION 66. Section 19.04.025 of Chapter 19.04 of the Monterey County Code shall be amended as follows:

**19.04.025 Public hearing process and filing.**

A. A proposed tentative parcel map shall not be considered filed until it is first considered by the appropriate decision making body following public notice. The appropriate decision making body shall make its decision within fifty (50) calendar days after the tentative parcel map has been accepted as filed.

B. All minor subdivisions are subject to the provisions of this Section.

C. The Director of ~~Planning and Building Inspection~~ Planning is the appropriate decision making body to consider minor subdivisions unless the matter is referred to public hearing under Section 19.04.025F. In such cases the Minor Subdivision Committee is the appropriate decision making body to hear and consider minor subdivisions or lot line adjustments.

D. Public notice shall be provided pursuant to Section 19.01.055.

E. An appeal may be taken from the action of the appropriate decision making body pursuant to Chapter 19.16 of this Title.

F. A minor subdivision shall be referred to the Minor Subdivision Committee for consideration at a public hearing if there is evidence of public controversy or public opposition to the proposed use or development. Such evidence includes, but is not limited to:

1. A staff recommendation for denial;
2. The applicant or applicant's representative requests, in writing, a public hearing;
3. Written request, based on a substantive issue, for a public hearing by one or more owners or residents in the area.

If a public hearing is required, it shall be noticed and conducted pursuant to the public hearing provisions of Section 19.01.055.

G. An application for a proposed tentative parcel map shall not be approved by the appropriate decision making body unless accompanied by an environmental recommendation. An environmental recommendation may include:

1. A prepared negative declaration accompanied by an environmental initial study; or
2. A circulated draft environmental impact report; or
3. Data supplementing a previously certified environmental impact report. The data for a supplemental environmental impact report shall be determined as adequate or inadequate by the appropriate decision making body.

If the data is found to be inadequate, the appropriate decision making body shall reject the data and require that a new environmental impact report be prepared.

H. If a negative declaration is adopted or an environmental impact report is certified by the appropriate decision making body for a tentative parcel application map at a noticed public hearing, the application can also be considered for approval or denial at the same hearing; provided that all other requirements of the application have been met.

I. A tentative parcel map may be denied on any grounds provided by law. A tentative parcel map shall be denied if any of the following findings are made:

1. That the tentative map is not consistent with the applicable General Plan, area plan, coastal land use plan or specific plan.
2. That the design or improvement of the proposed subdivision is not consistent with the General Plan, area plan, coastal land use plan or specific plan.
3. That the site is not physically suitable for the type of development.
4. That the site is not physically suitable for the proposed density of development.
5. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
6. That the design of the subdivision or type of improvements is likely to cause serious public health problems.
7. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the appropriate decision making body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This Subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to the decision making body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.
8. That the subdivision fails to meet any of the requirements or conditions imposed by the Subdivision Map Act or this Title. (Ord. 3797, 1994)

SECTION 67. Section 19.04.030 of Chapter 19.04 of the Monterey County Code shall be amended as follows:

**19.04.030 Action on tentative parcel map.**

A. Upon completion of the environmental documents, the Director of ~~Planning and Building Inspection~~ Planning shall set the matter for consideration by the appropriate decision

making body which may approve, disapprove, or conditionally approve the tentative parcel map in conformance with standards set forth in the Subdivision Map Act and this Title. A tentative parcel map may not be denied without a public hearing before the Minor Subdivision Committee. Such action shall take place within the applicable time limits of this Title.

B. The appropriate decision making body may approve a tentative parcel map where the soils investigation report discloses soils problems which, if not corrected, could lead to structural defects, if it determines that the engineer's recommended actions are likely to prevent structural damage to each structure to be constructed. The appropriate decision making body shall ensure that subsequent permits are conditioned upon incorporation of the recommended corrective action in the construction of each structure.

C. In the event the Airport Land Use Commission has determined that the proposed subdivision is inconsistent with the airport land use plan and would be harmful to the airport and adjacent area, the appropriate decision making body may approve such subdivision on a two-thirds affirmative vote in conformance with Public Utilities Code Section 21676.

D. The appropriate decision making body, in approving a tentative parcel map to be created from the conversion of a mobile home park to another use, shall conform to Government Code Section 66427.4 as amended from time to time. (Ord. 3797, 1994)

SECTION 68. Section 19.04.040 of Chapter 19.04 of the Monterey County Code shall be amended as follows:

**19.04.040 Extension(s) of the tentative parcel map.**

The subdivider may, upon written application, request extension(s) of the tentative parcel map approval. Such application shall be filed with the Director of ~~Planning and Building Inspection~~ Planning before approval is due to expire and shall state the reason(s) for requesting the extension. The appropriate decision making body may grant extension(s) not to cumulatively exceed two years or may deny an extension in the event the subdivision is no longer consistent with the general plan, area plan, coastal land use plan or specific plan, and zoning, or there is new information or substantial changes in circumstances which would have affected the original approval. Prior to the expiration of an approved or conditionally approved tentative map upon an application by the subdivider to extend that map, the map approval shall automatically be extended for sixty (60) days or until the application for the extension is approved, conditionally approved, or denied, whichever occurs first. (Ord. 3797, 1994)

SECTION 69. Section 19.05.025 of Chapter 19.05 of the Monterey County Code shall be amended as follows:

**19.05.025 Fees and forms.**

No application for a vesting tentative map shall be received for processing pursuant to this Chapter without payment of the required fees unless either the fees have been waived by resolution of the Board of Supervisors or the applicant is a public entity exempted from payment of such fees. Fees may be adjusted from time to time by resolution of the Board of Supervisors.

The Director of ~~Planning and Building Inspection~~ Planning shall prescribe various application forms and when made available to the public, all applications shall be made on such forms.

SECTION 70. Section 19.05.035 of Chapter 19.05 of the Monterey County Code shall be amended as follows:

**19.05.035 Vesting tentative map submittal--Form and contents.**

The vesting tentative map shall be prepared in a manner acceptable to the Director of ~~Planning and Building Inspection~~ Planning. The vesting tentative map shall be clearly and legibly drawn and shall include not less than the following:

A. Title block located in the lower right corner of the map which shall contain the name "Vesting Tentative Map" and the type of development proposed.

B. Name and address of legal owner, subdivider, and person preparing the map (including registration number if applicable).

C. Assessor's parcel number(s).

D. Date prepared, north arrow, scale one inch equals one hundred (100) feet and contour interval. The scale of the map may be varied by the Director of ~~Planning and Building Inspection~~ Planning if it is found that the project can be effectively illustrated at a different scale.

E. A vicinity map (one inch equals two thousand (2,000) feet) showing roads, towns, major creeks, railroads and other data sufficient to locate the proposed subdivision and show its relation to the community and the current surrounding land uses.

F. Existing topography of the proposed site, including but not limited to: The contour of the land at intervals of five feet of elevation up to five percent slope, or lesser contour intervals as may be approved by the Director of ~~Planning and Building Inspection~~ Planning. Contours shall be indicated on contiguous property for a distance of two hundred (200) feet. Every fifth contour shall be a heavier weight line.

G. The approximate location and height of major vegetation and existing structures on the property and on adjacent parcels which might affect solar access to the site(s) proposed for development. Applicants shall indicate how many of the housing units in the proposed subdivision have full southwall solar access and any other information pertinent to solar access. Structure trees to be removed shall be so indicated.

H. The location of the floodway and/or floodway fringe boundaries as well as the approximate location of all areas subject to inundation or storm water overflow and the location, width and direction of flow of each water course.

I. The location, pavement and right-of-way width, grade and name of existing streets or highways.

J. The widths, location and type of all existing easements.

K. The location and size of existing sanitary sewers, water mains, and storm drains. The approximate slope of existing sewers and storm drains shall be indicated. The location of existing overhead utility lines on peripheral County or private roads.

L. Proposed improvements shall be shown including but not be limited to:

1. The location, grade, centerline radius and arc length of curves, pavement and right-of-way width and proposed name of all streets. Typical sections of all streets shall be shown as well as an indication if they will be offered for dedication.

2. The location and radii of all curb returns and cul-de-sacs.
3. The location, width and purpose of all easements.
4. The approximate lot layout and the approximate dimensions of each lot. The number of lot shall be indicated and shall be numbered consecutively.
5. Proposed recreation sites, trails and parks for private or public use and other dedicated or reserved areas.
6. Proposed common areas and areas to be dedicated to public open space common areas and open space parcels shall be indicated by letter designation.
7. The location and size of proposed sanitary sewers, water mains, and storm drains and stormwater detention ponds. Proposed slopes and approximate elevations of sanitary sewers and storm drains shall be indicated.
8. Approximate location of all rivers, watercourses drainage channels, drainage structures and reservoirs.

M. A subdivider's statement describing the existing and proposed use(s) of the property. The subdivider's statement shall contain the following information and shall be on the face or first sheet of the tentative map or a separate statement to be included with the application:

1. Existing zoning and proposed uses of the land;
2. Measures proposed regarding erosion control;
3. Proposed source of water supply and name of water system, method of sewage disposal and the name of sewage utility system if seweraged;
4. Indicate type of tree planting or removal proposed;
5. Proposed public areas to be dedicated and common area or scenic easements proposed. If common areas are proposed method of maintenance shall be stated;
6. Proposed height of all structures;
7. Proposed type development of lots or unit and whether they are for sale as lots or fully developed units.

N. The name or names of any geologists or soils engineer whose services were required in the preparation of the design of the tentative map.

O. If the subdivider plans to develop the site as shown on the tentative map in phases, a description of the proposed phases.

P. The Director of ~~Planning and Building Inspection~~ Planning may modify any of the foregoing vesting tentative map requirements whenever the Director of ~~Planning and Building Inspection~~ Planning it finds that the type of subdivision is such as not to necessitate compliance with these requirements, or that other circumstances justify such modifications.

Q. The name or names of any geologists or soils engineer whose services were required in the preparation of the vesting tentative map.

R. If the subdivider plans to develop the site as shown on the vesting tentative map in phases, a description of the proposed phases.

SECTION 71. Section 19.05.040 of Chapter 19.05 of the Monterey County Code shall be amended as follows:

**19.05.040 Vesting tentative map submittal--Additional data and reports.**

The vesting tentative map shall be accompanied by the following data or reports provided by the applicant:

A. Appropriate numbers of copies of a completed subdivision application as prescribed by the Director of ~~Planning and Building Inspection~~ Planning.

B. Appropriate number of copies of the tentative map. All maps shall be folded to an approximate size of eight and one-half inches by eleven (11) inches. If multiple pages, the maps shall also be stapled and collated.

C. Two copies of a slope density analysis map of the proposed project that shows the following slope categories and a tabulation of the total area (acres or square feet) within each category as specified by the Monterey County General Plan and any amendments to the Plan including Coastal Land Use Plan as certified by the State of California. The categories for the countywide General Plan are as follows: 0--19.9 %, 20--29.9 %, and 30 %+ . The following categories shall apply to the Big Sur Land Use Plan area east of State Highway 1; under 15 %, over 30 %. The map shall be of the same scale of the vesting tentative map.

D. Two copies of a slope analysis map indicating all areas greater than twenty-five (25) percent slope (North County Land Use Plan Area only). The map shall be the same scale as the vesting tentative map.

E. One transparency of each page of the tentative map (maximum size: eight and one-half inches by eleven (11) inches).

F. A photocopy of the Assessor's parcel page(s) showing the parcel involved and parcels within three hundred (300) feet of the subject property. Applicants must indicate on the map which parcels are included on the list of property owners.

G. A list of the names, addresses, and assessor's parcel numbers of all property owners within three hundred (300) feet of the property, including the parcel proposed for subdivision. The list shall be taken from the most recent records of the Monterey County Assessor.

H. Three sets of pre-addressed stamped envelopes with no return address, to all property owners shown on the list. Additional sets may be required if an application is continued or tabled by the appropriate approving authority.

I. Two copies of preliminary title report showing the legal owners at the time of submittal of the vesting tentative map application.

J. Three copies of a preliminary soils report by a registered civil engineer based upon adequate test borings. If the preliminary soils report indicates the presence of critically expansive soils or other soils problems which, if not corrected, would lead to structural defects, the Director of ~~Planning and Building Inspection~~ Planning may require a soils report investigating each lot within the subdivision. This soils investigation report shall recommend corrective action which is likely to prevent structural damage to each structure proposed to be constructed in the area where such soils problems exist as well as precautions required for erosion control and prevention of sedimentation and damage to adjacent property.

K. If sewage disposal for the proposed subdivision will be provided by a public or private entity, a letter or document shall be submitted from the entity to the Division of Environmental Health and the Director of ~~Planning and Building Inspection~~ Planning stating that the entity can and will serve the proposed subdivision. The public entity must comply with all State and County allocation and capacity requirements. The letter or document shall also state the expiration date of such a commitment. In the event that an individual sewage disposal system will be utilized, preliminary percolation testing and soil profile analysis shall be required to be submitted along with a tentative map application. The report shall analyze at least one soil profile analysis test per lot and one percolation test hole per two lots. Soil profile analysis may be reduced if conformity to a given soil type can be established. The report submitted shall

demonstrate the feasibility of the proposed lot design and density and shall address nitrate loading of subsoil surfaces when septic systems are proposed. The soil tests and percolation tests shall meet the standards of the Division of Environmental Health. The applicant shall also provide proof that sewage disposal systems, both individual and package, for all lots which are proposed to be created through subdivision will not exceed nitrate and chemical loading levels in aquifers pursuant to the Regional Water Quality Control Basin Plan. If wastewater reclamation is proposed for a subdivision, the reclamation system must comply with the Basin Plan and the California Administrative Code subject to the review of the Director of Environmental Health.

L. Water Supply and Nitrate Loading Information.

1. Initial Water Use and Nitrate Loading Impact Questionnaire.

A. An application shall be preceded or accompanied by a completed Initial Water Use and Nitrate Loading Impact Questionnaire. The Health Department shall be the lead agency in determining the adequacy of information in the completed Initial Water Use Questionnaire and the Health Officer shall request, coordinate and consider recommendations from the appropriate water management agency serving the area of the proposed development. Any determination made by the Health Officer pursuant to this Section shall be subject to any and all Appeal provisions contained in Chapter 19.17 of the Monterey County Code (Appeals to Administrative Interpretations of the Subdivision Ordinance) as may be amended from time to time.

1. The Questionnaire shall be accompanied by a location map; a to-scale site plan showing the entire parcel and proposed and existing structures, roads, land use, landscaping, wells and water lines, and hydrologic and drainage features. The Questionnaire shall be accompanied by written verification of legal water rights to the quantity of water necessary to assure an adequate and reliable drinking water supply. Verification of legal water rights shall include, but shall not be limited to the following forms of documentation: (a) a Condition of Title Report, prepared by a title company at the applicant's expense, shall accompany the Questionnaire and, any and all supporting documentation to indicate whether legal water rights have been subordinated and/or severed, must be included; (b) information that describes the legal basis and authority for diversion or extraction of water; (c) if groundwater is being pumped from a groundwater basin that has not been adjudicated, a statement to that effect is sufficient documentation to satisfy this requirement; (d) if the source of water is subject to permit requirements under the State Water Resources Control Board (SWRCB), a copy of the water rights permit must be included.

2. The Questionnaire shall include a description of how water is currently supplied and how it will be supplied to the proposed development; and a quantification and documentation of all existing and proposed water usage including water usage for residential, industrial, commercial, landscaping and other vegetated areas. This description shall also identify potential changes in water usage as a result of changes in land use and zoning.

3. The Questionnaire will detail the project's proposed sewage, wastewater, agricultural, and landscaping components. If it is determined by the Health Officer, from the Questionnaire, that the project has the potential to adversely affect the groundwater quality in the project's vicinity, additional nitrate loading information shall be provided to the Health Officer as described in Paragraph 3 of this Subsection and will be required at the applicant's expense. The applicant shall be informed in writing of the Health Officer's determination, the issues to be addressed to cure the inadequacies, and whether a Comprehensive Hydrogeologic Report will be required prior to the application being deemed complete.

The Health Department shall be the lead agency in determining the nitrate loading produced by a proposed project and in evaluating the potential public health and safety threats of the nitrate loading on the water source for the proposed project and other potable water supplies in the affected area.

B. Evaluation and Determination. After reviewing the Initial Water Use Questionnaire, the Health Officer shall determine whether existing hydrogeological investigations can be incorporated by reference to cover all or some of the pertinent issues.

1. If the Questionnaire identifies an intensification of water use, a determination shall be made by a hydrogeologist under contract to the County as to the requirement for any additional water resources information. If an intensification is determined to be “de minimis” by the hydrogeologist, then the requirement for additional water sources information may be waived. “De minimis” shall be defined consistent with the California Environmental Quality Act (CEQA) of the California Public Resources Code, and related State law and regulations, as may be amended from time to time.

2. If baseline water resource information in the area of the proposed development is determined to be inadequate, a comprehensive hydrogeologic investigation that meets the specified requirements outlined in Paragraph 3 of this Subsection will be required at the applicant’s expense. The applicant shall be informed in writing of this inadequate determination, the issues to be addressed to cure the inadequacies, and whether a Comprehensive Hydrogeologic Report will be required prior to the application being deemed complete.

3. If adequate baseline information is available in the form of a prior hydrogeologic investigation, then only a project specific hydrogeologic report shall be required. The hydrogeologic report shall consist of background information from approved prior investigations and shall be updated to incorporate the hydrogeologist’s findings and conclusions about impacts of the proposed development into the findings and conclusions of the prior investigations. The Health Officer shall approve the choice of which prior hydrogeologic investigation is selected to provide the baseline information.

4. If any hydrogeologic or hydrogeologic reports are deemed necessary, the County will notify the applicant in writing, and the County will contract directly with qualified consultants, at the applicant’s expense, pursuant to Paragraph 3, Comprehensive Hydrogeologic Investigation, below.

2. Evaluation of Public Health and Safety Impacts. The source of water within the project boundaries which are to provide groundwater or surface water for the lots shall be evaluated for potential public health and safety impacts. The Monterey County Health Department shall be the lead agency in determining the adequacy of the proposed project’s water supply, and in evaluating the health and safety threats to the supply.

Prior to an application being deemed complete, the following information shall be required depending on the water supply proposed:

A. For Individual Wells; a minimum of one well will be needed meeting the following standards:

1. A chemical analysis on the well(s) as per Chapter 15.04, Monterey County Code,
2. Witnessed and documented well production information proving a sustained minimum of three GPM for each of the lots proposed,
3. Copy(ies) of the Well Driller’s Log(s),
4. Provide written documentation, as necessary, that no other reasonably available water source can physically and legally serve the project.

- B. For Two to Four Connection Water System:
1. A chemical analysis as per Chapter 15.04, Monterey County Code,
  2. Well production information meeting the minimum flow requirements as per Chapter 15.04, Monterey County Code,
  3. Copy(ies) of the Well Driller's Log(s),
  4. If applicable, a can and will serve letter from the owner/operator of the water system,
  5. Provide written documentation, as necessary, that no other reasonably available water source can physically and legally serve the project.

- C. For Five to Two Hundred (200) Connection Water System:
1. A chemical analysis as required per Title 22, Chapter 15, California Code of Regulations,
  2. Well production information meeting the minimum flow requirements as per Title 22, Chapter 15, California Code of Regulations,
  3. Copy(ies) of the Well Driller's Log(s),
  4. If applicable, a can and will serve letter from the owner/operator of the water system,
  5. Provide written documentation, as necessary, that no other reasonably available water source can physically and legally serve the project,
  6. Evidence demonstrating how compliance with California Health and Safety Code, Section 116540 regarding technical, managerial, and financial capacity will be achieved.

D. For Public/Municipal Water System (over two hundred (200) connections); a "can and will serve" letter from the owner/operator of the water system.

3. Comprehensive Hydrogeologic Investigation.

A. Prior to an application being deemed complete, a hydrogeologic report based on a comprehensive hydrological investigation shall be prepared by a certified hydrogeologist, selected by the County and under contract with the County, at the applicant's expense, if required by this Section. At least one copy shall be placed in the ~~Planning and Building Inspection~~ Planning Department file for the Subdivision Application. The Health Department, the Monterey County Water Resources Agency, and the appropriate water management agency serving the area of the proposed development, shall also receive a copy of the hydrogeologic report required by this Section. The report shall be reviewed by the Health Officer and the Health Officer. If necessary, the Health Officer shall solicit recommendations from the appropriate water management agency serving the area of the proposed development.

B. After review of the hydrogeologic report, the Health Officer may require that the report be revised to include additional information or assessment, as deemed necessary to clarify, amplify, correct, or otherwise supplement the report, or as recommended by another water management agency. A third party review, at the applicant's expense may also be required by the Health Officer.

C. The hydrogeologic report shall contain the following elements:

1. Summary. The summary shall include a condensed version of the hydrogeologic report, the conclusions of the author, and any mitigation measures.
2. Introduction. The introduction shall contain the purpose and scope of the proposed project, along with its location and areal extent. A description of the existing site including to-scale site plans showing existing structures and landscaping, roads, land use, wells, and water lines.

3. **Site Description.** A description of the proposed project including to-scale site plans showing proposed building foot prints and landscaping, streets and roads, water supply, sewage disposal, and stormwater runoff facilities.

4. **Hydrogeologic Setting.** The topography, geology, recharge area, and soils of the proposed project site shall be discussed along with any groundwater exploration programs undertaken in the area.

5. **Hydrometeorologic Setting.** The historic rainfall and evapotranspiration shall be quantified. Include an isohyetal map and a discussion of any long-term fluctuations.

6. **Surface Water Resources.** This Section shall include discussion of and a map showing all watershed and drainage features. Any wetlands shall be identified and the impacts of the proposed project on them shall be discussed. Any streamflow shall be quantified along with a discussion of the water quality. A discussion of the stormwater drainage caused by the proposed project's impervious surfaces and how it will be controlled shall be included. An analysis of the potential for the beneficial use of captured stormwater shall be included.

7. **Groundwater Resources--**Four items shall be quantified and discussed in this Section as follows:

a. Hydrogeologic environment shall include aquifer identification and characterization, groundwater basin delineation, well yields, and a characterization of soils.

b. Groundwater levels and flow shall include a discussion of groundwater levels, a groundwater contour map, and a discussion of any seasonal and/or long-term fluctuations. This Section shall also include a discussion of the recharge areas and the amount of recharge shall be quantified using monthly time-step methodology. It shall also evaluate the impact of pumping on neighboring wells.

c. Groundwater in storage shall be quantified by discussing the amount of groundwater in storage and the amount that can be recovered.

d. Groundwater quality shall be discussed and any impacts on the groundwater by the proposed project shall be discussed and mitigation measures listed.

8. **Water Demand.** The current water use for the site shall be described, quantified and documented. The projected water demand for the proposed project shall be described and quantified (show source of information and method of calculations).

9. **Water Balance.** Discuss and calculate the water balance for the proposed project using monthly time-step methodology. The groundwater recharge shall include groundwater inflow plus the average precipitation minus evapotranspiration, runoff or streamflow, and soil moisture demands. The net groundwater recharge minus the existing demand and proposed project water demands equals change in storage. The report shall identify the long-term safe yield of the aquifer and the long-term source of water for the proposed project.

10. **Nitrate Balance.** Discuss and calculate the nitrate balance for the proposed project. The source of any nitrate contamination should be included along with the effects of the proposed project on the nitrate balance. Calculated nitrate levels shall be compared to actual levels.

11. **Mitigation Measures.** This Section should analyze project-caused water quality impacts and water quality impacts, in addition to impacts of the individual project when viewed in connection with the corresponding effects of other past, current, and reasonably likely future projects, and recommend mitigation measures that will lessen the proposed project's water quality impacts and water quality impacts, and also the project's effects on riparian resources.

12. Conclusions. The author's conclusions as to the adequacy of water for the project in terms of quality, quantity, and assured long term water supply, and the effect(s) of the project on the groundwater of the area.

13. References.

14. Appendices.

15. Additional Information. Such other information as the Health Officer may specify, identify, or request following the assessment of the Initial Water Use and Nitrate Loading Questionnaire. (Ord. 4082, 2000)

SECTION 72. Section 19.05.045 of Chapter 19.05 of the Monterey County Code shall be amended as follows:

**19.05.045 Vesting tentative map--Review and processing.**

A. No vesting tentative map may be accepted for processing unless the map is consistent with the applicable general plan, area plan, coastal land use plan, master plan or specific plan.

B. Within thirty (30) days of the receipt of an application for filing by a subdivider, the Director of ~~Planning and Building Inspection~~ Planning shall determine in writing whether such application is complete and forward the determination to the subdivider. If determined to be incomplete, the subdivider shall be informed of additional information required or procedure by which said application can be made complete. If the Director of ~~Planning and Building Inspection~~ Planning fails to make determination within thirty (30) days, the application shall be deemed complete.

C. Within ten (10) days of the filing of a vesting tentative map, the Director of ~~Planning and Building Inspection~~ Planning shall send a notice of the filing of the vesting tentative map to the governing board of any elementary, high school or unified school district within the boundaries of which the subdivision is proposed to be located. Such notice shall also contain information about the location of the proposed subdivision, the number of proposed units, proposed density and other information which would be relevant to the affected school district. The governing board of the school district may comment on the proposed subdivision within twenty (20) working days of the date on which notice is mailed pursuant to the requirements. Failure of any such school district to comment within the twenty (20) working day period shall be deemed to recommend approval without comment on the proposed subdivision.

D. The Director of ~~Planning and Building Inspection~~ Planning shall forward copies of the vesting tentative map to affected departments, advisory agencies and other public agencies which may, in turn, forward to the Director of ~~Planning and Building Inspection~~ Planning their findings and recommendations thereon within the time specified.

SECTION 73. Section 19.05.055 of Chapter 19.05 of the Monterey County Code shall be amended as follows:

**19.05.055 Action on vesting tentative map.**

A. Upon completion of the required environmental documents, the Director of ~~Planning and Building Inspection~~ Planning shall refer the application to the Standard Subdivision

Committee for their review and comment. Such action shall take place within the applicable time limits.

B. A vesting tentative map may be denied on any ground provided by law. A vesting tentative map shall be denied if any of the following findings are made:

1. That the proposed map is not consistent with the general plan, area plan, coastal land use plan, or specific plan.

2. That the design or improvement of the proposed subdivision is not consistent with applicable general plan, area plan, coastal land use plan, master plan or specific plan.

3. That the site is not physically suitable for the type of development.

4. That the site is not physically suitable for the proposed density of development.

5. That the design of the subdivision or type of improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

6. That the design of the subdivision or type of improvements is likely to cause serious public health problems.

7. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the appropriate decision making body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This Subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to the Planning Commission to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.

8. That the subdivision fails to meet any of the requirements or conditions imposed by the Subdivision Map Act or this Title.

C. Action on Application.

1. The Planning Commission shall make a finding, based on substantial evidence, upon the recommendation of the Health Officer, pursuant to Section 19.03.015L, 19.05.040L, or 19.07.020K that the source capacity and water quality for all lots proposed to be created through the subdivision meets the requirements of all applicable health and safety regulations prior to approval of the standard subdivision tentative map, or vesting tentative map, or tentative parcel map.

2. The Appropriate Authority shall make a finding, based on substantial evidence, upon the recommendation of the Health Officer, pursuant to Section 19.03.015 that the source capacity and water quality for all lots proposed to be created through the subdivision meets the requirements of all applicable health and safety regulations prior to approval of the tentative parcel map.

3. The Planning Commission may approve a subdivision where the soils investigation report discloses soils problems which, if not corrected, could lead to structural defects, if it determines that the engineer's recommended actions are likely to prevent structural damage to each structure to be constructed. ~~The Planning and Building Inspection~~ Planning Department shall ensure that subsequent permits are conditioned upon incorporation of the recommended corrective action in the construction of each structure.

D. In the event the Airport Land Use Commission has determined that the proposed subdivision is inconsistent with the airport land use plan and would be harmful to the airport and

adjacent area, the appropriate decision making body may approve such subdivision on a two-thirds affirmative vote in conformance with Public Utilities Code Section 21676.

E. The Director of ~~Planning and Building Inspection~~ Planning shall transmit to the Public Works Department a copy of the approved vesting tentative map with a memorandum or resolution section forth the action. (Ord. 4082, 2000; Ord. 3855, 1996; Ord. 3797, 1994)

SECTION 74. Section 19.05.065 of Chapter 19.05 of the Monterey County Code shall be amended as follows:

**19.05.065 Extension(s) of approval of vesting tentative maps.**

The subdivider may, upon written application, request extension(s) of the vesting tentative map approval. Such application shall be filed with the Director of ~~Planning and Building Inspection~~ Planning sixty (60) days before approval is due to expire and shall state the reason(s) for the extension. The Planning Commission may grant an extension(s) not to cumulatively exceed three years for standard subdivisions. In the case of a vesting tentative map for a minor subdivision the Planning Commission may grant an extension(s) not to cumulatively exceed two years. Prior to the expiration of an approved or conditionally approved vesting tentative map, upon an application by the subdivider to extend the approval of the map, the map approval shall automatically be extended for sixty (60) days or until the extension is approved, conditionally approved, or denied, whichever occurs first. (Ord. 3797, 1994)

SECTION 75. Section 19.07.015 of Chapter 19.07 of the Monterey County Code shall be amended as follows:

**19.07.015 Preliminary project review map--Form and contents.**

The preliminary project review map shall be prepared in a manner acceptable to the Monterey County ~~Planning and Building Inspection~~ Planning Department by a registered civil engineer or licensed land surveyor shall be submitted with to the Monterey County ~~Planning and Building Inspection~~ Planning Department along with all required fees. The preliminary project review map shall be clearly and legibly drawn and contain the following:

A. Title block located in the lower right corner of the map which shall contain the name "Preliminary Project Review Map" and the type of development proposed.

B. Name and address of legal owner, subdivider, and person preparing the map (including registration number if applicable).

C. Assessor's parcel number(s).

D. Date prepared, north arrow, scale one inch equals one hundred (100) feet and contour interval. The scale of the map may be varied by the Director of ~~Planning and Building Inspection~~ Planning if it is found that the project can be effectively illustrated at a different scale.

E. A vicinity map (one inch equals two thousand (2,000) feet) showing roads, towns, major creeks, rivers, railroads and other data sufficient to locate the proposed subdivision and show its relation to the community and the current surrounding land uses.

F. Existing topography of the proposed site, including but not limited to: The contour of the land at intervals of five feet of elevation up to five percent slope, or lesser contour intervals as may be approved by the Director of ~~Planning and Building Inspection~~ Planning. Contours

shall be indicated on contiguous property for a distance of two hundred (200) feet. Every fifth contour shall be a heavier weight line.

G. The approximate location and height of major vegetation and existing structures on the property and on adjacent parcels which might affect solar access to the site(s) proposed for development. Applicants shall indicate how many of the housing units in the proposed subdivision have full south solar access and any other information pertinent to solar access. Structures and trees to be removed shall be so indicated.

H. The location of the floodway and/or floodway fringe boundaries as well as the approximate location of all areas subject to inundation or storm water overflow and the location, width and direction of flow of each water course.

I. The location, pavement and right-of-way width, grade and name of existing streets or highways.

J. The widths, location and type of all existing easements.

K. The location and size of existing sanitary sewers, water mains, and storm drains. The approximate slope of existing sewers and storm drains shall be indicated. The location of existing overhead utility lines on peripheral County or private roads.

L. Proposed improvements shall be shown including but not be limited to:

1. The location, grade, centerline radius and arc length of curves, pavement and right-of-way width and proposed name of all streets. Typical sections of all streets shall be shown as well as an indication if they will be offered for dedication.

2. The location and radii of all curb returns and cul-de-sacs.

3. The location, width and purpose of all easements.

4. The approximate lot layout and the approximate dimensions of each lot. The number of each shall be indicated and shall be numbered consecutively.

5. Proposed recreation sites, trails and parks for private or public use and other dedicated or reserved areas.

6. Proposed common areas and areas to be dedicated to public open space common areas and open space parcels shall be indicated by letter designation.

7. The location and size of proposed sanitary sewers, water mains, and storm drains and stormwater detention ponds. Proposed slopes and approximate elevations of sanitary sewers and storm drains shall be indicated.

8. Approximate location of all rivers, watercourses, drainage channels, drainage structures and reservoirs.

9. Any proposed landscaping of the project.

M. A subdivider's statement describing the existing and proposed use(s) of the property.

The subdivider's statement shall contain the following information and shall be on the face or first sheet of the preliminary project review map or a separate statement to be included with the application.

1. Existing zoning and proposed uses of the land.

2. Measures proposed regarding erosion control.

3. Proposed source of water supply and name of water system, method of sewage disposal and the name of sewage utility system if sewer.

4. Indicate type of tree planting or removal proposed.

5. Proposed public areas to be dedicated and common area or scenic easements proposed.

If common areas are proposed method of maintenance shall be stated.

6. Proposed height of all structures.

7. Proposed type development of lots or unit and whether they are for sale as lots or fully developed units.

N. The name or names of any geologists or soils engineer whose services were required in the preparation of the design of the preliminary project review map.

O. If the subdivider plans to develop the site as shown on the preliminary project review map in phases, a description of the proposed phases.

P. The Director of ~~Planning and Building Inspection~~ Planning may modify any of the foregoing preliminary project review map requirements whenever the Director of ~~Planning and Building Inspection~~ Planning finds the type of subdivision is such as not to necessitate compliance with these requirements, or that other circumstances justify such modifications.

SECTION 76. Section 19.07.020 of Chapter 19.07 of the Monterey County Code shall be amended as follows:

**19.07.020 Preliminary project review map--Additional data and application requirements.**

The preliminary project review map shall be accompanied by the following data or reports:

A. Appropriate numbers of copies of a completed subdivision application as prescribed by the Director of ~~Planning and Building Inspection~~ Planning.

B. Appropriate Number of Copies of the Preliminary Project Review Map. All maps shall be folded to an approximate size of eight and one-half inches by eleven (11) inches. If multiple pages, the maps shall also be stapled and collated.

C. Two copies of a slope density analysis map of the proposed project that shows the following slope categories and a tabulation of the total area (acres or square feet) within each category as specified by the Monterey County General Plan and any amendments to the Plan. The categories for the countywide General Plan are as follows: 0--19.9 %, 20--29.9 %, and 30 % +. The map shall be of the same scale of the preliminary project review map.

D. One transparency of each page of the preliminary project review map (maximum size: eight and one-half inches by eleven (11) inches).

E. A photocopy of the Assessor's parcel page(s) showing the parcel involved and parcels within three hundred (300) feet of the subject property. Applicants must indicate on the map which parcels are included on the of property owners.

F. A list of the names, addresses, and assessor's parcel numbers of all property owners within three hundred (300) feet of the property, including the parcel for which this application is received. The list shall be taken from the most recent records of the Monterey County Assessor.

G. Four sets of pre-addressed stamped envelopes with no return address, to all property owners shown on the list. Additional sets may be required if an application is continued or tabled by the advisory agency or legislative body.

H. Two copies of preliminary title report showing the legal owners at the time of submittal of the preliminary project review map application.

I. Three copies of a preliminary soils report by a registered civil engineer based upon adequate test borings. If the preliminary soils report indicates the presence of critically expansive soils or other soils problems which, if not corrected, would lead to structural defects, the Director of ~~Planning and Building Inspection~~ Planning may require a soils report investigating each lot

within the subdivision. This soils investigation report shall recommend corrective action which is likely to prevent structural damage to each structure proposed to be constructed in the area where such soils problems exist as well as precautions required for erosion control and prevention of sedimentation and damage to adjacent property.

J. If sewage disposal for the proposed subdivision will be provided by a public or private entity, a letter or document shall be submitted from the entity to the division of Environmental Health and Director of ~~Planning and Building Inspection~~ Planning stating that the entity can and will serve the proposed subdivision. The public entity must comply with all State and County allocation and capacity requirements. The letter or document shall also state the expiration date of such a commitment. In the event that an individual sewage disposal system will be utilized, preliminary percolation testing and profile analysis will be required to be submitted along with a tentative map application. The report shall analyze at least one soil profile analysis test per lot and one percolation test hole per two lots. Soil profile analysis may be reduced if conformity to a given soil type can be established. The report submitted shall demonstrate the feasibility of the proposed lot design and density and shall address nitrate loading of subsoil surfaces when septic systems are proposed. The soil tests and percolation tests shall meet the standards of the Division of Environmental Health. The applicant shall provide proof that sewage disposal systems, both individual and package, for all lots which are proposed to be created through subdivision will not exceed nitrate and chemical loading levels in aquifers pursuant to the Regional Water Quality Control Basin Plan. If wastewater reclamation is proposed for a subdivision the reclamation system must comply with the Basin Plan and the California Administrative Code subject to the approval Director of Environmental Health.

K. Water Supply and Nitrate Loading Information.

1. Initial Water Use and Nitrate Loading Impact Questionnaire.

A. An application shall be preceded or accompanied by a completed Initial Water Use and Nitrate Loading Impact Questionnaire. The Health Department shall be the lead agency in determining the adequacy of information in the completed Initial Water Use Questionnaire and the Health Officer shall request, coordinate and consider recommendations from the appropriate water management agency serving the area of the proposed development. Any determination made by the Health Officer pursuant to this Section shall be subject to any and all Appeal provisions contained in Chapter 19.17 of the Monterey County Code (Appeals to Administrative Interpretations of the Subdivision Ordinance) as may be amended from time to time.

1. The Questionnaire shall be accompanied by a location map; a to-scale site plan showing the entire parcel and proposed and existing structures, roads, land use, landscaping, wells and water lines, and hydrologic and drainage features. The Questionnaire shall be accompanied by written verification of legal water rights to the quantity of water necessary to assure an adequate and reliable drinking water supply. Verification of legal water rights shall include, but shall not be limited to the following forms of documentation: (a) a Condition of Title Report, prepared by a title company at the applicant's expense, shall accompany the Questionnaire and, any and all supporting documentation to indicate whether legal water rights have been subordinated and/or severed, must be included; (b) information that describes the legal basis and authority for diversion or extraction of water; (c) if groundwater is being pumped from a groundwater basin that has not been adjudicated, a statement to that effect is sufficient documentation to satisfy this requirement; (d) if the source of water is subject to permit requirements under the State Water Resources Control Board (SWRCB), a copy of the water rights permit must be included.

2. The Questionnaire shall include a description of how water is currently supplied and how it will be supplied to the proposed development; and a quantification and documentation of all existing and proposed water usage including water usage for residential, industrial, commercial, landscaping and other vegetated areas. This description shall also identify potential changes in water usage as a result of changes in land use and zoning.

3. The Questionnaire will detail the project's proposed sewage, wastewater, agricultural, and landscaping components. If it is determined by the Health Officer, from the Questionnaire, that the project has the potential to adversely affect the groundwater quality in the project's vicinity, additional nitrate loading information shall be provided to the Health Officer as described in Paragraph 3 of this Subsection and will be required at the applicant's expense. The applicant shall be informed in writing of the Health Officer's determination, the issues to be addressed to cure the inadequacies, and whether a Comprehensive Hydrogeologic Report will be required prior to the application being deemed complete.

The Health Department shall be the lead agency in determining the nitrate loading produced by a proposed project and in evaluating the potential public health and safety threats of the nitrate loading on the water source for the proposed project and other potable water supplies in the affected area.

B. Evaluation and Determination. After reviewing the Initial Water Use Questionnaire, the Health Officer shall determine whether existing hydrogeological investigations can be incorporated by reference to cover all or some of the pertinent issues.

1. If the Questionnaire identifies an intensification of water use, a determination shall be made by a hydrogeologist under contract to the County as to the requirement for any additional water resources information. If an intensification is determined to be "de minimis" by the hydrogeologist, then the requirement for additional water sources information may be waived. "De minimis" shall be defined consistent with the California Environmental Quality Act (CEQA) of the California Public Resources Code, and related State law and regulations, as may be amended from time to time.

2. If baseline water resource information in the area of the proposed development is determined to be inadequate, a comprehensive hydrogeologic investigation that meets the specified requirements outlined in Paragraph 3 of this Subsection will be required at the applicant's expense. The applicant shall be informed in writing of this inadequate determination, the issues to be addressed to cure the inadequacies, and whether a Comprehensive Hydrogeologic Report will be required prior to the application being deemed complete.

3. If adequate baseline information is available in the form of a prior hydrogeologic investigation, then only a project specific hydrogeologic report shall be required. The hydrogeologic report shall consist of background information from approved prior investigations and shall be updated to incorporate the hydrogeologist's findings and conclusions about impacts of the proposed development into the findings and conclusions of the prior investigations. The Health Officer shall approve the choice of which prior hydrogeologic investigation is selected to provide the baseline information.

4. If any hydrogeologic or hydrogeologic reports are deemed necessary, the County will notify the Applicant in writing, and the County will contract directly with qualified consultants, at the applicant's expense, pursuant to Paragraph 3, Comprehensive Hydrogeologic Investigation, below.

2. Evaluation of Public Health and Safety Impacts. The source of water within the project boundaries which are to provide groundwater or surface water for the lots shall be evaluated for

potential public health and safety impacts. The Monterey County Health Department shall be the lead agency in determining the adequacy of the proposed project's water supply, and in evaluating the health and safety threats to the supply.

Prior to an application being deemed complete, the following information shall be required depending on the water supply proposed:

A. For Individual Wells; a minimum of one well will be needed meeting the following standards;

1. A chemical analysis on the well(s) as per Chapter 15.04, Monterey County Code,
2. Witnessed and documented well production information proving a sustained minimum of 3 GPM for each of the lots proposed,
3. Copy(ies) of the Well Driller's Log(s),
4. Provide written documentation, as necessary, that no other reasonably available water source can physically and legally serve the project.

B. For Two to Four Connection Water System:

1. A chemical analysis as per Chapter 15.04, Monterey County Code,
2. Well production information meeting the minimum flow requirements as per Chapter 15.04, Monterey County Code,
3. Copy(ies) of the Well Driller's Log(s),
4. If applicable, a can and will serve letter from the owner/operator of the water system,
5. Provide written documentation, as necessary, that no other reasonably available water source can physically and legally serve the project.

C. For Five to Two Hundred (200) Connection Water System:

1. A chemical analysis as required per Title 22, Chapter 15, California Code of Regulations,
2. Well production information meeting the minimum flow requirements as per Title 22, Chapter 15, California Code of Regulations,
3. Copy(ies) of the Well Driller's Log(s),
4. If applicable, a can and will serve letter from the owner/operator of the water system,
5. Provide written documentation, as necessary, that no other reasonably available water source can physically and legally serve the project,
6. Evidence demonstrating how compliance with California Health and Safety Code, Section 116540 regarding technical, managerial, and financial capacity will be achieved.

D. For Public/Municipal Water System (over 200 connections); a "can and will serve" letter from the owner/operator of the water system.

3. Comprehensive Hydrogeologic Investigation.

A. Prior to an application being deemed complete, a hydrogeologic report based on a comprehensive hydrological investigation shall be prepared by a certified hydrogeologist, selected by the County and under contract with the County, at the applicant's expense, if required by this Section. At least one copy shall be placed in the ~~Planning and Building Inspection~~ Planning Department file for the Subdivision Application. The Health Department, the Monterey County Water Resources Agency, and the appropriate water management agency serving the area of the proposed development, shall also receive a copy of the hydrogeologic report required by this Section. The report shall be reviewed by the Health Officer and the Health Officer. If necessary, the Health Officer shall solicit recommendations from the appropriate water management agency serving the area of the proposed development.

B. After review of the hydrogeologic report, the Health Officer may require that the report be revised to include additional information or assessment, as deemed necessary to clarify, amplify, correct, or otherwise supplement the report, or as recommended by another water management agency. A third party review, at the applicant's expense may also be required by the Health Officer.

C. The hydrogeologic report shall contain the following elements:

1. Summary. The summary shall include a condensed version of the hydrogeologic report, the conclusions of the author, and any mitigation measures.

2. Introduction. The introduction shall contain the purpose and scope of the proposed project, along with its location and areal extent. A description of the existing site including to-scale site plans showing existing structures and landscaping, roads, land use, wells, and water lines.

3. Site Description. A description of the proposed project including to-scale site plans showing proposed building foot prints and landscaping, streets and roads, water supply, sewage disposal, and stormwater runoff facilities.

4. Hydrogeologic Setting. The topography, geology, recharge area, and soils of the proposed project site shall be discussed along with any groundwater exploration programs undertaken in the area.

5. Hydrometeorologic Setting. The historic rainfall and evapotranspiration shall be quantified. Include an isohyetal map and a discussion of any long-term fluctuations.

6. Surface Water Resources. This Section shall include discussion of and a map showing all watershed and drainage features. Any wetlands shall be identified and the impacts of the proposed project on them shall be discussed. Any streamflow shall be quantified along with a discussion of the water quality. A discussion of the stormwater drainage caused by the proposed project's impervious surfaces and how it will be controlled shall be included. An analysis of the potential for the beneficial use of captured stormwater shall be included.

7. Groundwater Resources--Four items shall be quantified and discussed in this Section as follows:

a. Hydrogeologic environment shall include aquifer identification and characterization, groundwater basin delineation, well yields, and a characterization of soils.

b. Groundwater levels and flow shall include a discussion of groundwater levels, a groundwater contour map, and a discussion of any seasonal and/or long-term fluctuations. This Section shall also include a discussion of the recharge areas and the amount of recharge shall be quantified using monthly time-step methodology. It shall also evaluate the impact of pumping on neighboring wells.

c. Groundwater in storage shall be quantified by discussing the amount of ground-water in storage and the amount that can be recovered.

d. Groundwater quality shall be discussed and any impacts on the groundwater by the proposed project shall be discussed and mitigation measures listed.

8. Water Demand. The current water use for the site shall be described, quantified and documented. The projected water demand for the proposed project shall be described and quantified (show source of information and method of calculations).

9. Water Balance. Discuss and calculate the water balance for the proposed project using monthly time-step methodology. The groundwater recharge shall include groundwater inflow plus the average precipitation minus evapotranspiration, runoff or streamflow, and soil moisture demands. The net groundwater recharge minus the existing demand and proposed project water

demands equals change in storage. The report shall identify the long-term safe yield of the aquifer and the long-term source of water for the proposed project.

10. Nitrate Balance. Discuss and calculate the nitrate balance for the proposed project. The source of any nitrate contamination should be included along with the effects of the proposed project on the nitrate balance. Calculated nitrate levels shall be compared to actual levels.

11. Mitigation Measures. This Section should analyze project-caused water quality impacts and water quality impacts, in addition to impacts of the individual project when viewed in connection with the corresponding effects of other past, current, and reasonably likely future projects, and recommend mitigation measures that will lessen the proposed project's water quality impacts and water quality impacts, and also the project's effects on riparian resources.

12. Conclusions. The author's conclusions as to the adequacy of water for the project in terms of quality, quantity, and assured long term water supply, and the effects of the project on the groundwater of the area.

13. References.

14. Appendices.

15. Additional information. Such other information as the Health Officer may specify, identify, or request following the assessment of the Initial Water Use and Nitrate Loading Questionnaire. (Ord. 4082, 2000.)

SECTION 77. Section 19.07.025 of Chapter 19.07 of the Monterey County Code shall be amended as follows:

**19.07.025 Preliminary project review map--Review and processing.**

A. Within thirty (30) days of the date of submittal of a package for scoring a preliminary project review map, the Director of ~~Planning and Building Inspection~~ Planning shall determine in writing whether submittal package is complete and forward such a determination to the subdivider in writing. If the submittal package is determined to be incomplete, the Director of ~~Planning and Building Inspection~~ Planning shall inform the subdivider in writing of the additional information required, or the procedure by the preliminary project review map submittal package can be completed.

B. A proposed preliminary project review map submittal shall be considered for scoring at duly noticed public hearing held by the Citizen's Subdivision Evaluation Committee.

C. The Citizen's Evaluation Committee shall not accept a preliminary project review map submittal unless accompanied by an environmental recommendation. An environmental recommendation includes:

1. A prepared negative declaration accompanied by an environmental initial study, or;
2. A circulated draft environmental impact report;
3. Data supplementing a previously certified environmental impact report, the data supplemental environmental impact report shall be deemed as adequate or inadequate by Staff prior to making its report to the Citizen's Subdivision Evaluation Committee.

D. After the submittal package for the preliminary project review map has been determined complete and placed on an agenda for a public hearing for scoring, the Director of ~~Planning and Building Inspection~~ Planning shall forward copies of the preliminary project review map and application to members of the Citizen's Subdivision Evaluation Committee.

E. Action by the Citizen's Subdivision Evaluation Committee:

The Citizen's Subdivision Evaluation Committee shall review the proposed preliminary project review map to evaluate the merits of the subdivision proposal and score it according to committee procedures. For the purposes of this ordinance "scoring" shall mean a numerical value based adopted criteria as established by the Carmel Valley Master Plan where development proposals are evaluated in relation to policies of the Carmel Valley Master Plan and environmental issues and points so that the relative importance of a policy or environmental issue is stressed. A project achieve compliance with all policies in order to be considered for approval. In order to gain approval, a project must score at least half the points within each evaluated category as itemized in the scoring sheet in accord with the Carmel Valley Master Plan. A project receiving a low score or less than one-half of the applicable points in any category may revise and reapply to the Citizen's Subdivision Evaluation Committee only once in any calendar year from the date of scoring by the Citizen's Subdivision Evaluation Committee.

F. Action by the Subdivision Committee or Minor Subdivision Committee:

The Subdivision Committee or Minor Subdivision Committee shall hold a duly noticed public hearing to review and consider the proposed development and make recommendations of proposed findings, conditions of approval or recommend disapproval to the Planning Commission. The Subdivision Committee or Minor Subdivision Committee shall only review the proposed project from a technical standpoint and will not evaluate the project to confirm scoring a development.

G. Action by Planning Commission:

1. After consideration by the Subdivision Committee or the Minor Subdivision Committee, the Director of ~~Planning and Building Inspection~~ Planning shall set the matter for public hearing before the Planning Commission to review and consider the report and recommendation of the Subdivision Committee or Minor Subdivision Committee regarding the proposed development.

2. The Planning Commission shall review the preliminary project review map and report of the Subdivision Committee or Minor Subdivision Committee and make recommendations relating to technical matters, subdivision design and consistency of the map with the land use element and provisions of the applicable General Plan, Local Coastal Program, Area Plan, Land Use Plan or Master Plan documents.

3. The Planning Commission shall make a finding, based on substantial evidence, upon the recommendation of the Health Officer, pursuant to Section 19.03.015L, 19.05.040L, or 19.07.020K that the source capacity and water quality for all lots proposed to be created through the subdivision meets the requirements of all applicable health and safety regulations prior to approval of the standard subdivision tentative map, or vesting tentative map, or tentative parcel map

4. The Appropriate Authority shall make a finding, based on substantial evidence, upon the recommendation of the Health Officer, pursuant to Section 19.03.015 that the source capacity and water quality for all lots proposed to be created through the subdivision meets the requirements of all applicable health and safety regulations prior to approval of the tentative parcel map.

H. Action by the Board of Supervisors. The Board of Supervisors shall review preliminary project review map at a noticed public hearing. The purpose of the review shall be to evaluate the score given the preliminary project review map by the Citizen's Subdivision Evaluation Committee. Upon review of the score and evaluation of the Planning Commission

report, the Board of Supervisors shall confirm or modify the preliminary project review map score and issue a resolution with findings that establishes the subdivision's evaluation score. Scores shall be valid for two years from the date of the Board of Supervisors resolution.

Once a project preliminary review map has received a score, the application shall be held in abeyance until the Board holds its annual allocation hearing. All preliminary project review maps in the group to be reviewed receiving a score thirty (30) days or longer before the Board of Supervisors annual allocation hearing shall be considered competitively on that date. Preliminary project review maps scored after the thirty (30) day date prior to the allocation hearing shall be held until the next allocation hearing.

The allocation hearing will review all scored subdivisions received for that hearing. Based upon scores, design elements, community need, environmental factors and availability of public facilities required, the Board of Supervisors shall allocate lots, established as available to be considered by preliminary project review maps within the limits set forth in the Carmel Valley Master Plan. Based upon findings made by the Board of Supervisors, any given preliminary project review map may receive zero to twenty-five (25) lots per year. The Board of Supervisors, at its discretion may allocate lots in subsequent years. Those lots allocated in future years would be monitored. Lots allocated, for which a tentative map is subsequently approved, and then expires prior to recordation of a final map shall revert to the allocation quantity in the year of map expiration.

Affirmation of a score shall not be construed an approval of a project.

I. After the Board of Supervisors has completed public hearings relative to allocating lots proposed standard subdivision or minor subdivision, the preliminary project review map may be converted to a tentative map or tentative parcel map. Applications for a tentative map or tentative parcel map shall follow the procedures as set forth in Chapters 19.03 and 19.04. (Ord. 4082, 2000; Ord. 3855, 1996)

SECTION 78. Section 19.09.005 of Chapter 19.09 of the Monterey County Code shall be amended as follows:

**19.09.005 Lot line adjustment map requirement.**

A. A lot line adjustment map shall be filed for any adjustment between two or more existing adjacent parcels, where the land taken from one parcel is added to an adjacent parcel, and where a greater number of parcels than originally existed is not thereby created. The appropriate decision making body shall limit its review and approval to a determination of whether or not the parcels resulting from the lot line adjustment conform to County Zoning and Building ordinances. The appropriate decision making body shall not impose conditions or exactions on its approval of a lot line adjustment except to conform to County zoning and building ordinances or to facilitate the relocation of existing utilities, infrastructure, or easements. No tentative map, parcel map, or final map shall be required as a condition to the approval of a lot line adjustment. The lot line adjustment shall be reflected in a deed or record of survey which shall be recorded. No record of survey shall be required for a lot line adjustment unless required by Section 8762 of the Business and Professions Code.

B. Lots may be consolidated through the lot line adjustment application procedure.

C. A lot line adjustment shall not be considered filed until it is first considered by the appropriate decision making body following public notice. The appropriate decision making

body shall make its decision within fifty (50) calendar days after the lot line adjustment has been accepted as final.

D. All lot line adjustments are subject to the provisions of this Section.

E. The Director of ~~Planning and Building Inspection~~ Planning is the appropriate decision making body to consider lot line adjustments unless the matter is referred to public hearing under Section 19.09.005G. In such case the Minor Subdivision Committee is the appropriate decision making body to hear and consider lot line adjustments.

F. Public notice shall be provided pursuant to Section 19.01.055.

G. An appeal may be taken from the action of the appropriate decision making body pursuant to Chapter 19.16.

H. A lot line adjustment shall be referred to the Minor Subdivision Committee for consideration at a public hearing if there is evidence of public controversy or public opinion to the proposed use or development. Such evidence includes, but is not limited to:

1. A staff recommendation for denial;
2. The applicant or applicant's representative requests, in writing, a public hearing;
3. Written request, based on a substantive issue, for a public hearing by one or more owners or residents in the area.

If a public hearing is required, it shall be noticed and conducted pursuant to the public hearing provisions of Section 19.01.055. (Ord. 3797, 1994)

SECTION 79. Section 19.09.010 of Chapter 19.09 of the Monterey County Code shall be amended as follows:

**19.09.010 Lot line adjustment map submittal--Form and contents.**

A. The lot line adjustment map shall be prepared in a manner acceptable to the Director of ~~Planning and Building Inspection~~ Planning and by a registered civil engineer or licensed land surveyor and shall be submitted to the Monterey County ~~Planning and Building Inspection~~ Planning Department along with all required fees. The map shall be clearly and legibly drawn and contain not less than the following:

1. Title which shall contain the name and address of legal owner(s) and the person preparing the map.
2. Existing and proposed boundary lines, dimensions, and approximate areas of the original parcels and of the adjusted parcels.
3. Approximate location of all existing structures, distances between structures, and distances between structures and boundary lines of both the original parcel boundaries and the adjusted parcel boundaries.
4. Names, locations and widths of all existing streets, roads and rights-of-way on or bounding the original parcels.
5. Locations and dimensions of all existing and proposed streets, roads, and right-of-way.
6. Existing topography of the proposed site, including but not limited to: the contour of the land at intervals of two feet of elevation up to five percent, or lesser contour intervals as may be approved by the Director of ~~Planning and Building Inspection~~ Planning. Contours shall be indicated on contiguous property for a distance of two hundred (200) feet. Every fifth contour shall be a heavier weight line.

7. Vicinity map (one inch equals two thousand (2,000) feet) showing roads, towns, major creeks, railroads and other data sufficient to locate the proposed lot line adjustment.
8. Approximate location of existing and proposed domestic wells and location of existing and proposed septic tanks and leach fields for all lots affected by the adjustment.
9. Approximate location of all watercourses, drainage channels, and drainage structures.
10. Approximate locations of one hundred (100) year floodplain, reservoirs, streams, rivers, and existing proposed drainage structures.
11. Date of preparation of the map.
12. Assessor's parcel numbers on all parcels affected by the adjustment.
13. Proposed improvements if any.
14. Proposed easements or rights-of-way.

SECTION 80. Section 19.09.015 of Chapter 19.09 of the Monterey County Code shall be amended as follows:

**19.09.015 Lot line adjustment map application.**

A. The proposed lot line adjustment map shall be accompanied by the following data or reports:

1. Appropriate number of copies of the completed lot line adjustment application as prescribed by the Director of ~~Planning and Building Inspection~~ Planning.
2. Appropriate number of copies of the lot line adjustment map and one transparency of the lot (eight and one-half inches by eleven (11) inches). All maps must be folded to an approximate size of eight and one-half inches by eleven (11) inches.
3. One copy of the current Assessor's Parcel Map of the properties to be adjusted.
4. A description of any prior development activity on the site as removal of vegetation, grading, etc. which may affect the proposed adjustment.
5. Other data or information necessary to complete processing of the map and environmental documents.
6. A list of the names, addresses, and assessor's parcel numbers of all property owners within three hundred (300) feet of the property, including the parcel for which this application is filed. The list shall be taken the most recent records of the Monterey County Assessor.
7. A photocopy of the Assessor's parcel page(s) showing the parcel involved and parcels within three hundred (300) feet of the subject property. Please indicate on the map which parcels are included on the list of property owners.
8. One set of pre-addressed stamped envelopes, with no return address, to all property owners shown on the list. Additional sets may be required if an application is continued or tabled by the Subdivision Committee.

SECTION 81. Section 19.09.020 of Chapter 19.09 of the Monterey County Code shall be amended as follows:

**19.09.020 Lot line adjustment--Review and processing.**

A. No lot line adjustment may be accepted for processing unless the map is consistent with applicable zoning and building ordinances.

B. Within thirty (30) days of the receipt of an application for filing by a subdivider, the Director of ~~Planning and Building Inspection~~ Planning shall determine in writing whether such application is complete and forward the determination to the subdivider. If determined to be incomplete, the applicant will be informed of additional information required or procedure by which said application can be made complete. If the Director of ~~Planning and Building Inspection~~ Planning fails to make such determination within thirty (30) days, the application shall be deemed complete.

C. The Director of ~~Planning and Building Inspection~~ Planning shall forward copies of the proposed lot line adjustment map to the affected departments, committees and public agencies or their consultants which may, in turn, forward to the Director of ~~Planning and Building Inspection~~ Planning their finding recommendations thereon within the time specified.

SECTION 82. Section 19.09.025 of Chapter 19.09 of the Monterey County Code shall be amended as follows:

**19.09.025 Action on the lot line adjustment.**

A. Upon completion of the environmental documents, or finding that the proposed adjustment is exempt from CEQA the Director of ~~Planning and Building Inspection~~ Planning shall set the matter before the appropriate decision making body which shall approve, disapprove, or conditionally approve the lot line adjustment in conformance with standards set forth in the Subdivision Map Act and this Chapter.

B. A lot line adjustment application may be granted based upon the following findings:

1. That the lot line adjustment is between two (or more) existing adjacent parcels.
2. A greater number of parcels than originally existed will not be created as a result of the lot line adjustment.
3. The parcels resulting from the lot line adjustment conforms to County zoning and building ordinances. (Ord. 3797, 1994)

SECTION 83. Section 19.09.035 of Chapter 19.09 of the Monterey County Code shall be amended as follows:

**19.09.035 Extension(s) of the lot line adjustment map approval.**

The applicant may, upon written application, request extension of the lot line adjustment map approval. Such application shall be filed with the Director of ~~Planning and Building Inspection~~ Planning, before approval is due to expire and shall state the reason(s) for requesting the extension. The appropriate decision making body may grant extension(s) not to cumulatively exceed two years. It also may deny an extension in the event the lot line adjustment no longer conforms with County zoning and building ordinances, or where there is new information or substantial changes in circumstances which would have altered the original approval. (Ord. 3797, 1994)

SECTION 84. Section 19.10.095 of Chapter 19.10 of the Monterey County Code shall be amended as follows:

**19.10.095 Underground utilities.**

All utility distribution facilities (including but not limited to electric, communication and cable television lines) installed in and for the purpose of supplying service to any subdivision or minor subdivision shall be placed underground, except as follows:

A. Equipment appurtenant to underground facilities, such as surface-mounted transformers, pedestal-mounted terminal boxes and meter cabinets, and concealed ducts, or such equipment when concealed by shrubbery landscaping or other screening and approved by the Director of ~~Planning and Building Inspection~~ Planning.

B. The appropriate decision making body may waive the requirements of this Subsection for topographical, soil or other physical conditions make underground installations of said facilities unreasonable or impractical. The decision making body may require underground services to be installed in subdivisions where underground utilities are not otherwise required, or where the overhead distribution lines presently exist to serve the lots and underground services are not otherwise required. The appropriate decision making body may require separate approval of the location and extent to any proposed overhead system to achieve minimum visual effect.

SECTION 85. Section 19.11.015 of Chapter 19.11 of the Monterey County Code shall be amended as follows:

**19.11.015 Application.**

The application shall be in a form prescribed by the Director of ~~Planning and Building Inspection~~ Planning and shall contain the following:

- A. Adequate evidence of title to the real property within the subdivision.
  - B. Sufficient data to enable the decision making body to make all of the determinations and findings required by this Chapter.
  - C. A final map or parcel map which delineates dedications which will not be vacated and dedications which are a condition to reversion.
  - D. Such other pertinent information as may be required upon review of the application.
- \* Based on three acres of parkland per 1,000 population

The following parkland dedication table, based on the above formula, is to be followed:

<b>Dwelling Type or Land Use</b>	<b>Average No. Persons / Dwelling</b>	<b>Acres per Dwelling Unit</b>	<b>Acres per Dwelling Unit</b>
Single-Family or Mobilehome	3.0	.015	.009
Duplex or Multifamily	2.1	.010	.0063

For the purpose of this Section, the number of proposed dwelling units shall be determined as follows: In areas zoned for one dwelling unit per lot or parcel, the number of dwelling units shall equal the number of parcels indicated on the tentative map. When all or part of the subdivision is located in an area zoned for multiple dwelling units per parcel, the number

of dwelling units in the area so zoned shall equal the maximum number of dwelling units allowed under that zone. For residential condominium projects, the number of dwelling units shall equal the number of condominium units indicated on the tentative map. For planned development projects, the number of dwelling units shall equal the number of dwelling units indicated on the approved final development plan. The term "new dwelling unit" does not include dwelling units lawfully in place prior to the date on which the tent map is approved.

Lands to be dedicated or reserved for park and/or recreational purposes shall be suitable in the opinion of the Director of ~~Planning and Building Inspection~~ Planning, the Director of Public Works, and the Director of Parks and Recreation in location, topography, environmental characteristics and development potential as related to the intended use. The primary intent of this Section shall be construed to provide the land for functional action recreational recreation units of on a local level of service which reasonably serves the subdivision and which or neighborhood service, including but not limited to: tot lots, play field lots, playgrounds, neighborhood parks, playfields, community or district parks, and other specialized recreational facilities that may serve the family group and also senior citizens citizen and child care activities. Principal consideration shall be given therefore to lands that offer:

1. A variety of recreational potential for all age groups;
2. Recreational opportunities within walking distance from residents homes;
3. Possibility for expansion or connection with school grounds;
4. Integration with hiking, riding and bicycle trails, natural stream reserves and other open space;
5. Coordination with all other park systems; and
6. Access to at least one existing or proposed public street.

E. Formula for Fees in Lieu of Land Dedication.

1. General Formula. If there is no park or recreational facility designated in the General Plan to be served the immediate and future needs of the residents of the subdivision, the subdivider shall, either dedicate land in the amount provided in Section 19.12.010D or pay a fee in lieu of dedication equal to the value of the land prescribed for dedication in Section 19.12.010D and in an amount determined in accordance with the provisions of Section 19.12.010G.

2. Fees in Lieu of Land--Fifty (50) Parcels or Less. Except as provided in Section 19.12.010F, if the subdivision does not provide and has no park or recreational facilities facility, the subdivider pay a fee equal to the land value of the portion of the park or recreational facilities required to serve the needs of the residents of the proposed subdivision as prescribed in Section 19.12.010D and in an amount determined in accordance with the provisions of Section 19.12.010G.

3. Use of Money. The money collected shall be used, in accordance with the schedule developed pursuant to Section 19.12.010K, for the purpose of acquisition, development, maintenance and operation for County regional park units, developing new or rehabilitation existing neighborhood or community park or recreational facilities reasonably related to serving the subdivision, a accordance with established in lieu recreation fee districts developed by the Department of ~~Planning and Building Inspection~~ Planning and the County Parks Department, including the purchase of necessary land and/or improvement of such land for park or recreational purposes. The money shall be committed within five years after payment thereof or the issuance of building permits on one-half of the lots created by the subdivision, whichever occurs later. If the money is not committed, it shall be distributed and paid to the then record

owners of the subdivision in the same proportion that the size of their lot bears to the total area of all lots in the subdivision.

SECTION 86. Section 19.12.120 of Chapter 19.12 of the Monterey County Code shall be amended as follows:

**19.12.120 School district schedule.**

Following concurrence by the Board pursuant to Section 19.12.070, the Director of ~~Planning and Building Inspection~~ Planning shall notify each school district affected thereby. The governing body of the school district shall then submit a schedule specifying how it will use the fees, land, or facilities to solve the conditions of overcrowding. The schedule shall include the school sites to be used, the classroom facilities to be made available, and the time when such facilities will be available. In the event the governing body of the school district cannot meet the schedule, it shall submit modifications to the Board of Supervisors and the reasons for the modifications.

SECTION 87. Section 19.16.010 of Chapter 19.16 of the Monterey County Code shall be amended as follows:

**19.16.010 Applicability.**

The provisions of this Chapter apply to discretionary decisions made pursuant to the provisions of this Title by the Director of ~~Planning and Building Inspection~~ Planning, the Minor Subdivision Committee, and the Planning Commission. (Ord. 3797, 1994)

SECTION 88. Section 19.16.020 of Chapter 19.16 of the Monterey County Code shall be amended as follows:

**19.16.020 Designation of appeal authorities.**

A. The Board of Supervisors is the Appeal Authority to consider appeals from the discretionary decisions of the Director of ~~Planning and Building Inspection~~ Planning made pursuant to this Title.

B. The Board of Supervisors is the Appeal Authority to consider appeals from the discretionary decisions of the Minor Subdivision Committee made pursuant to this Title.

C. The Board of Supervisors is the Appeal Authority to consider appeals from the decisions of the Planning Commission. (Ord. 3797, 1994)

SECTION 89. Section 19.17.040 of Chapter 19.17 of the Monterey County Code shall be amended as follows:

**19.17.040 Application.**

A. Appeals pursuant to this Chapter may only be taken from the written decision or opinion of the Director of ~~Planning and Building Inspection~~ Planning, or the Health Officer as applicable.

B. Requests for a written decision or opinion from the Director of ~~Planning and Building Inspection~~ Planning shall be made in writing. Requests must be specific and in sufficient detail to provide a clear basis for issuing the requested decision or opinion.

C. Upon receipt of an appropriate request, the Director of ~~Planning and Building Inspection~~ Planning shall respond in writing within ten (10) days setting forth the decision of the Director of ~~Planning and Building Inspection~~ Planning. Said response shall also include the statement "Should you wish to appeal this decision, the appeal must be filed with the Secretary to the Planning Commission no later than 5:00 p.m. on \_\_\_\_\_, or no subsequent appeal on this issue may be heard." The Director of ~~Planning and Building Inspection~~ Planning shall provide a minimum of ten (10) days from the date of mailing the letter for filing an appeal.

D. The appeal shall set forth in detail:

1. The identity of the appellant and interest in the decision;
2. The identity of the decision appealed;
3. A clear, complete, but brief statement of the reasons why, in the appellant's opinion, the administrative decision or interpretation is unjustified or inappropriate because:
  - a. The findings, interpretation and decision are not supported by the evidence, or
  - b. The decision or interpretation is contrary to law.
4. The specific reasons the appellant disagrees with the decision or interpretation.

E. The appeal shall not be accepted by the Secretary to the Planning Commission unless it is complete and complies with all requirements. (Ord. 4082, 2000; Ord. 3797, 1994)

SECTION 90. Section 21.02.040 of Chapter 21.02 of the Monterey County Code shall be amended as follows:

#### **21.02.040 Nature of Zoning Ordinance.**

The Zoning Ordinance consists of the establishment of various districts, regulations and permit processes for the unincorporated territory of the County of Monterey. The zoning districts list the uses which are allowed or may be allowed subject to discretionary permit processes. Those listed uses and other uses which are consistent with the Monterey County General Plan and applicable area plans may be allowed subject to appropriate permits. Other uses are prohibited. Further, the districts provide the regulation of structural height, bulk, and setbacks, as well as prescribing other site development amenities and requirements such as parking, landscaping, and lighting control.

This Title is not intended and shall not be construed as authorizing the County of Monterey, through the Board of Supervisors, Planning Commission, Zoning Administrator, Minor Subdivision Committee or Director of ~~Planning and Building Inspection~~ Planning, acting pursuant to this Title, to exercise its power to grant or deny a permit in a manner which will take or damage private property for public use without the payment of just compensation therefor.

SECTION 91. Section 21.02.040 of Chapter 21.04 of the Monterey County Code shall be amended as follows:

### **21.02.040 Nature of Zoning Ordinance.**

The Zoning Ordinance consists of the establishment of various districts, regulations and permit processes for the unincorporated territory of the County of Monterey.

The zoning districts list the uses which are allowed or may be allowed subject to discretionary permit processes. Those listed uses and other uses which are consistent with the Monterey County General Plan and applicable area plans may be allowed subject to appropriate permits. Other uses are prohibited. Further, the districts provide the regulation of structural height, bulk, and setbacks, as well as prescribing other site development amenities and requirements such as parking, landscaping, and lighting control.

This Title is not intended and shall not be construed as authorizing the County of Monterey, through the Board of Supervisors, Planning Commission, Zoning Administrator, Minor Subdivision Committee or Director of ~~Planning and Building Inspection~~ Planning, acting pursuant to this Title, to exercise its power to grant or deny a permit in a manner which will take or damage private property for public use without the payment of just compensation therefor.

SECTION 92. Section 21.04.030 of Chapter 21.04 of the Monterey County Code shall be amended as follows:

#### **21.04.030 Powers.**

A. The Zoning Administrator shall have the authority to hear and decide applications for variances and to grant, deny, revoke and modify variances pursuant to Chapter 21.72.

B. The Zoning Administrator shall have the authority to hear and decide applications for Use Permits for those uses identified in the zoning district regulations by the designation “(ZA)” a grant, deny, revoke and modify Use Permits for such uses pursuant to Chapter 21.74.

C. The Zoning Administrator shall have the authority to hear and decide applications for Administrative Permits and to grant, deny, revoke and modify Administrative Permits pursuant to Chapter 21.70.

D. The Zoning Administrator shall have the authority to hear and decide applications for Combined Development Permits and to grant, deny, revoke and modify Combined Development Permits pursuant to Chapter 21.76.

E. The Zoning Administrator shall have the authority to hear and decide applications for Design Approvals pursuant to Chapter 21.44.

F. In addition to those items designated in the zoning districts (ZA) to be heard by the Zoning Administrator, the Director of ~~Planning and Building Inspection~~ Planning may also designate the Zoning Administrator as the Appropriate Authority to consider other Use Permits provided said permits not involve the following factors:

1. Significant public policy issues;
2. Unmitigable significant adverse environmental impacts;
3. Significant changes in the nature of a community;
4. Establishment of precedents or standards by which other projects will be measured.

If at any point in the consideration of the permit application the Director of ~~Planning and Building Inspection~~ Planning or the Zoning Administrator finds that an application before the Zoning Administrator involves any of the listed factors, the Zoning Administrator shall refer the application to the Planning Commission. In such case, the Planning Commission shall become the Appropriate Authority. (Ord. 3784, 1994)

SECTION 93. Section 21.06.350 of Chapter 21.06 of the Monterey County Code shall be amended as follows:

**21.06.350 Director of ~~Planning and Building Inspection~~ Planning.**

“Director of ~~Planning and Building Inspection~~ Planning” means the Director of ~~Planning and Building Inspection~~ the Planning Department of the County of Monterey.

SECTION 94. Section 21.10.030 of Chapter 21.10 of the Monterey County Code shall be amended as follows:

**21.10.030 Uses allowed.**

- A. The first single family dwelling per lot;
- B. Single family dwellings, not exceeding a density of five dwelling units/acre, gross;
- C. Duplexes, not exceeding five dwelling units/acre, gross;
- D. Multiple dwellings not exceeding five dwelling units/acre gross;
- E. The keeping of pets, but not more than two dogs per dwelling unit;
- F. Temporary residence, pursuant to Section 21.64.070, used as living quarters during the construction of the first dwelling on a lot;
- G. Small family day care home;
- H. Licensed residential care homes for aged persons or hospices of not more than six persons including any permitted rooming and boarding;

I. Accessory structures and accessory uses to any permitted use;

J. Water system facilities including wells and storage tanks serving four or fewer service connections, pursuant to Chapter 15.04, Monterey County Code, and replacement of water tanks and wells where no increase in service connections is created. The screening of any tanks and associated structures shall be approved by the Director of ~~Planning and Building Inspection~~ Planning;

K. Cultivation, cutting and removal of Christmas trees;

L. Home occupations, pursuant to Section 21.64.090;

M. Other uses of a similar character, density and intensity to those listed in this Section.

SECTION 95. Section 21.10.060 of Chapter 21.10 of the Monterey County Code shall be amended as follows:

**21.10.060 Site development standards.**

A. Minimum Building Site. The minimum building site which may be created shall be five thousand (5,000) square feet unless otherwise approved as part of clustered residential subdivision.

**B. Development Density, Maximum.**

The maximum development density allowed shall not exceed the units/acre shown for the specific "HDR" District as illustrated on the zoning map (e.g. "HDR/10" means an "HDR" District with a maximum gross density of ten (10) units per acre).

**C. Structure Height and Setback Regulations**

The following structure height and setback regulations apply unless superseded by a structure height limit noted on the zoning map (e.g. "HDR/10(24)" would limit structure height to twenty-four (24) feet), setback requirements when combined with a "B" District or setbacks shown on a recorded final or parcel map, or setback lines on a Sectional District Map.

In an approved planned unit development where the dwelling unit and accessory structures are to be located on a lot in the development, no setbacks from the lot lines are required except as necessary to meet Building Code and Fire Code requirements, unless otherwise noted on the recorded final map, parcel map or Sectional District Map.

**1. Main Structures.**

**a. Minimum Setbacks.**

Front: twenty (20) feet;

Side: five feet;

Rear: ten (10) feet;

b. Height. Maximum height: thirty-five (35) feet.

2. Accessory Structure (Habitable).

a. Minimum Setbacks.

Front: fifty (50) feet;

Side: six feet;

Rear: six feet.

b. Height. Maximum height: fifteen (15) feet.

3. Accessory Structures (Non-habitable).

a. Minimum Setbacks.

Front: fifty (50) feet, or behind the main structure, whichever is less;

Side: six feet on front one-half of property; one foot on rear one-half of property;

Rear: one foot.

D. Minimum Distance Between Structures.

Main Structures: ten (10) feet;

Accessory/Main Structure: six feet;

Accessory/Accessory: six feet.

E. Building Site Coverage, Maximum: sixty (60) percent.

F. Parking Regulations. Parking for all development shall be established pursuant to Chapter 21.58.

G. Landscaping Requirements. For developments of more than two residential units on a lot, a minimum of ten (10) percent of the developed lot area shall be landscaped prior to occupancy, pursuant to a landscaping plan approved by the Director of ~~Planning and Building Inspection~~ Planning.

H. Lighting Plan Requirements. For developments of more than two dwelling units on a lot, all exterior lighting shall be unobtrusive, harmonious with the local area and constructed or located so that only the area intended is illuminated and off-site glare is fully controlled. The location, type and wattage of the exterior lighting must be approved by the Director of ~~Planning and Building Inspection~~ Planning prior to the issuance of building permits or the establishment of the use.

I. Sign Regulations. Signing for all development shall be established pursuant to Chapter 21.60. (Ord. 3784, 1994)

SECTION 96. Section 21.10.070 of Chapter 21.10 of the Monterey County Code shall be amended as follows:

### **21.10.070 Special regulations.**

A. Developments in excess of five dwelling units on a lot shall provide a trash enclosure area for the residents of the development. The location of and the design of the trash enclosure area shall be approved by the Director of Environmental Health, the Director of ~~Planning and Building Inspection~~ Planning. A plan showing the trash enclosure area shall contain the following:

1. A site plan of the overall development;
2. The location of the trash enclosure area;
3. Elevations of the design of the trash enclosure area;
4. Adequate fencing to ensure safety of the residents and the public.

B. Developments in excess of five dwelling units on a lot shall provide a recreational area for the residents of the development. The location of and the design of the recreational area shall be approved by the Director of ~~Planning and Building Inspection~~ Planning. A plan showing the recreational area shall contain the following:

1. A site plan of the overall development;
2. The location of the recreational area;
3. A list and location of all recreational area facilities to be provided;
4. The recreational area shall consist of at least three percent of the lot.

C. Manufactured dwelling units meeting the standards of Section 21.64.040 are permitted subject to the requirements of any conventional dwelling unit in this Chapter.

D. Multiple dwellings and dwelling groups for affordable housing projects shall be an allowed use in this District provided all of the following standards and requirements are met:

1. That the project site is located in a Development Incentive Zone as established in the Monterey County Housing Element.
2. That the project be a one hundred (100) percent affordable housing project;
3. That the proportion of very low and low income units in the project be in accord with the housing needs analysis of the Monterey County Housing Element;
4. That the continuing availability of the units be assured by deed restrictions, agreements or other such instruments as may be approved by the Director of ~~Planning and Building~~

~~Inspection~~ Planning and the County Counsel;

5. That the project does not include any form of subdivision;
6. That the project's gross density does not exceed the gross density as shown on the Sectional District Map;
7. That the project complies with all of the Site Development Standards in Section 21.10.060 of this Chapter;
8. The project complies with the Special Regulations in Section 21.10.070A and B of this Chapter;
9. That the project is reviewed by the Water Resources Agency, Health Department, Public Works Department, County Fire Warden and any other agencies deemed necessary by the Director of ~~Planning and Building Inspection~~ Planning and that the requirements of those agencies are satisfied;
10. That the design, color and location of all structures, signs and fences are subject to Chapter 21.44 (Regulations for Design Control Districts) of this Title.

E. Any residential development of twenty-five (25) or more units is subject to Section 21.64.250 (Regulations for the Reduction of Vehicle Trips) of this Title. (Ord. 3784, 1994)

SECTION 97. Section 21.12.030 of Chapter 21.12 of the Monterey County Code shall be amended as follows:

**21.12.030 Uses allowed.**

- A. The first single family dwelling per lot;
- B. The keeping of pets, but not more than four dogs per dwelling unit;
- C. Guesthouses meeting the development standards of Section 21.64.020;
- D. Temporary residence, pursuant to Section 21.64.070, used as living quarters during the construction of the first dwelling on a lot;
- E. Small family day care home;
- F. Licensed residential care homes for aged persons or hospices of not more than six persons including any permitted rooming and boarding;
- G. Water system facilities including wells and storage tanks serving four or fewer service connections, pursuant to Chapter 15.04, Monterey County Code, and replacement of water tanks and wells where no increase in service connections is created. The screening of any tanks and

associated structures shall be approved by the Director of ~~Planning and Building Inspection~~ Planning;

H. Accessory structures and accessory uses to any permitted use;

I. Cultivation, cutting and removal of Christmas trees;

J. Home occupations, pursuant to Section 21.64.090;

K. Rooming and boarding of not more than two persons;

L. Other uses of a similar character, density and intensity to those listed in this Section;

M. Intermittent livestock farming or animal husbandry uses such as “4-H” projects on a minimum of twenty thousand (20,000) square feet.

SECTION 98. Section 21.12.060 of Chapter 21.12 of the Monterey County Code shall be amended as follows:

**21.12.060 Site development standards.**

A. Minimum Building Site. The minimum building site which may be created shall be six thousand (6,000) square feet unless otherwise approved as part of a condominium, planned unit development or similar clustered residential subdivision.

B. Development Density, Maximum. The maximum development density shall not exceed the units/acre as shown for the specific “MDR” District as shown on the zoning map. (e.g. “MDR/4” means an “MDR” District with a maximum gross density of four units per acre.)

C. Structure Height and Setback Regulations. The following structure height and setback regulations apply unless superseded by a structure height limit noted on the zoning map (e.g. “MDR/5 (24)” would limit structure height to twenty-four (24) feet), setback requirements when combined with a “B” District or setbacks shown on a recorded final or parcel map, or setback lines on a Sectional District Map.

In an approved planned unit development where the dwelling unit and accessory structures are to be located on a lot in the development, no setbacks from the lot lines are required except as necessary to meet Building Code and Fire Code requirements, unless otherwise noted on the recorded final, parcel map or Sectional District Map.

1. Main Structures.

a. Minimum Setbacks.  
Front: twenty (20) feet;  
Side: five feet;

Rear: ten (10) feet.

b. Height. Maximum height: thirty (30) feet;

2. Accessory Structures (Habitable).

a. Minimum Setbacks.

Front: fifty (50) feet;

Side: six feet;

Rear: six feet.

b. Height. Maximum height: fifteen (15) feet.

3. Accessory Structures (Non-habitable).

a. Minimum Setbacks.

Front: fifty (50) feet, or behind the main structure, whichever is less.

Side: six feet on front one-half of property; one foot on rear one-half of property;

Rear: one foot.

D. Minimum Distance Between Structures.

Main structures: ten (10) feet;

Accessory/Main structure: six feet;

Accessory/Accessory: six feet.

E. Building Site Coverage. Maximum: thirty-five (35) percent.

F. Parking Regulations. Parking for all development shall be established pursuant to Chapter 21.58.

G. Landscaping Requirements. For development of more than two residential units on a lot, a minimum of ten (10) percent of the developed lot area shall be landscaped prior to occupancy, pursuant to a landscaping plan approved by the Director of ~~Planning and Building Inspection~~ Planning.

H. Lighting Plan Requirements. For developments of more than two residential units on a lot, all exterior lighting shall be unobtrusive, harmonious with the local area and constructed or located so that only the area intended is illuminated and off-site glare is fully controlled. The location, type and wattage of the exterior lighting must be approved by the Director of ~~Planning and Building Inspection~~ Planning prior to the issuance of building permits or the establishment of the use.

I. Sign Regulations. Signing for all development shall be established pursuant to Chapter 21.60. (Ord. 3784, 1994)

SECTION 99. Section 21.12.070 of Chapter 21.12 of the Monterey County Code shall be amended as follows:

**21.12.070 Special regulations.**

A. Developments in excess of five dwelling units on a lot shall provide a trash enclosure area for the residents of the development. The location of and the design of the trash enclosure area shall be approved by the Director of Environmental Health, the Director of ~~Planning and Building Inspection~~ Planning. A plan showing the trash enclosure area shall contain the following:

1. A site plan of the overall development;
2. The location of the trash enclosure area;
3. Elevations of the design of the trash enclosure area;
4. Adequate fencing to ensure safety of the residents and the public;
5. Adequate area for the separation and holding of recyclable materials.

B. Developments in excess of five dwelling units on a lot shall provide a recreational area for the residents of the development. The location of and the design of the recreational area shall be approved by the Director of ~~Planning and Building Inspection~~ Planning. A plan showing the recreational area shall contain the following:

1. A site plan of the overall development;
2. The location of the recreational area;
3. A list and location of all recreational area facilities to be provided;
4. The recreational area shall consist of at least three percent of the lot.

C. Manufactured dwelling units meeting the standards of Section 21.64.040 are permitted subject to the requirements for conventional dwelling unit in this Chapter.

D. The MDR District in the Del Monte Forest area is subject to the following development standards.

1. Building Site Coverage/Floor Area Ratio

Density	Coverage/FAR
2 units or less per acre	25 %
More than 2 units per acre	35 %

For the purpose of this Section, floor area ratio means the total combined gross floor areas of all floors in all buildings on the building site as measured from the exterior face of the enclosing walls expressed as a percentage of the total lot area. Enclosed floor area constructed and maintained completely below ground shall not be counted as floor area.

2. Height of main structures: twenty-seven (27) feet.

3. Side Yard Setbacks.

a. First Story: ten (10) feet;

b. Second Story: twenty (20) feet.

E. Any residential development of twenty-five (25) or more units are subject to Section 21.64.250 (Regulations for the Reduction of Vehicle Trips) of this Title. (Ord. 3784, 1994)

SECTION 100. Section 21.14.030 of Chapter 21.14 of the Monterey County Code shall be amended as follows:

**21.14.030 Uses allowed.**

A. The first single family dwelling per lot;

B. Guesthouses meeting the development standards of Section 21.64.020;

C. The keeping of pets;

D. Animal husbandry and small livestock farming; provided that not more than one horse, mule, cow, or similar livestock shall be kept for each twenty thousand (20,000) square feet of land area;

E. Rooming and boarding of not more than two persons;

F. Accessory structures and accessory uses to any permitted use;

G. Temporary residence, pursuant to Section 21.64.070, used as living quarters during the construction of the first dwelling on a lot;

H. Small family day care home;

I. Licensed residential care homes for aged persons or hospices of not more than six persons including any permitted rooming and boarding;

J. Water system facilities including wells and storage tanks serving four or fewer service connections, pursuant to Chapter 15.04, Monterey County Code and replacement of water tanks and wells where no increase in service connections is created. The screening of any tanks and

associated structures shall be approved by the Director of ~~Planning and Building Inspection~~  
Planning;

K. Cultivation, cutting and removal of Christmas trees;

L. Home occupations, pursuant to Section 21.64.090;

M. Stands for the sale of agricultural products grown on the premises having no permanent electricity, plumbing or paving and where adequate restroom facilities exist on premises, subject to the approval of the Director of Environmental Health;

N. Crop farming, tree farming, viticulture and horticulture;

O. Other uses of a similar character, density and intensity to those listed in this Section;

P. Intermittent livestock farming or animal husbandry uses such as "4-H" projects.

SECTION 101. Section 21.16.030 of Chapter 21.16 of the Monterey County Code shall be amended as follows:

**21.16.030 Uses allowed.**

A. The first single family dwelling per lot;

B. Guesthouses meeting the development standards of Section 21.64.020;

C. The keeping of pets;

D. Rooming and boarding of not more than two persons;

E. Accessory structures and accessory uses to any permitted use;

F. Temporary residence, pursuant to Section 21.64.070, used as living quarters during the construction of the first dwelling on a lot;

G. Cultivation, cutting and removal of Christmas trees;

H. Small family day care home;

I. Licensed residential care homes for aged persons or hospices of not more than six persons including any permitted rooming and boarding;

J. Water system facilities including wells and storage tanks serving four or fewer service connections, pursuant to Chapter 15.04, Monterey County Code and replacement of water tanks and wells where no increase in service connections is created. The screening of any tanks and associated structures shall be approved by the Director of ~~Planning and Building Inspection~~

Planning;

K. Animal husbandry and small livestock farming; provided that not more than one horse, mule, cow, or similar livestock shall be kept for each twenty thousand (20,000) square feet of land area;

L. All agricultural uses on a minimum of ten (10) acres including crop and tree farming, livestock farming, animal husbandry, apiaries, aviaries, except for those uses requiring an Administrative or Use Permit;

M. Home occupations, pursuant to Section 21.64.090;

N. Stands for the sale of agricultural products grown on the premises having no permanent electricity, plumbing or paving and where adequate restroom facilities exist on premises, subject to the approval of the Director of Environmental Health;

O. Single family dwellings not exceeding three in total on a minimum of ten (10) acres for an owner, operator or employees employed on the site;

P. Crop farming, tree farming, viticulture and horticulture;

Q. Other uses of a similar character, density and intensity to those listed in this Section;

R. Intermittent livestock farming or animal husbandry such as "4-H" projects.

SECTION 102. Section 21.18.030 of Chapter 21.18 of the Monterey County Code shall be amended as follows:

**21.18.030 General Development Plan.**

A. A General Development Plan shall be required prior to the establishment of any development in the Light Commercial district if there is no prior approved General Development Plan and if:

1. The lot is in excess of one acre; or
2. The development proposed includes more than one use; or
3. The development includes any form of subdivision (Title 19, Subdivision Ordinance).

B. No new development, change or expansion of use, or physical improvements may be approved unless such development, use or expansion is found to be in conformance with an approved General Development Plan and amendments thereto where such plan is required.

C. General Development Plans and amendments thereto shall be approved by the Board of Supervisors upon recommendation of the Planning Commission.

D. The General Development Plan shall be prepared by the developer and submitted for review and approval prior to or concurrent with approval of any required permits for the development. The plans shall address the long range development and operation of the facilities including physical expansion and new development, operational changes, circulation or transport improvements, alternative development opportunities, environmental considerations, potential mitigation of adverse environmental impacts and conformance to the policies of the local area plan.

E. The requirement of a General Development Plan or an amendment to a General Development Plan may be waived by the Director of ~~Planning and Building Inspection~~ Planning when, due to the circumstances of the particular situation, there is no potential significant adverse impact from the development and requiring the General Development Plan will not further the purposes of this Chapter.

SECTION 103. Section 21.18.040 of Chapter 21.18 of the Monterey County Code shall be amended as follows:

**21.18.040 Uses allowed.**

A. Change of commercial uses within a structure provided the new use will not change the nature or intensity of the use of the structure;

B. Water system facilities including wells and storage tanks serving four or fewer service connections, pursuant to Chapter 15.04, Monterey County Code, and replacement of water tanks and wells where no increase in service connections is created. The screening of any tanks and associated structures shall be approved by the Director of ~~Planning and Building Inspection~~ Planning;

C. Cultivation, cutting or removal of Christmas trees;

D. Other uses of a similar character, density and intensity to those listed in this Section.

SECTION 104. Section 21.18.070 of Chapter 21.18 of the Monterey County Code shall be amended as follows:

**21.18.070 Site development standards.**

A. Structure Height and Setback Regulations.

1. The maximum structure height is thirty-five (35) feet unless superseded by a structure height limit noted on the zoning map (e.g. "LC/(24)") would limit structure height to twenty-four (24) feet).

2. Setbacks for developments in the "LC" District are established by the approval of the General Development Plan where such plan is required.

3. Setbacks for development where a General Development Plan is not required shall be established by the Appropriate Authority through the project review process based on:

- a. Surrounding land use;
- b. Provision of adequate parking and landscaping; and
- c. Other site design features.

4. All minimum setback requirements established by a combining "B" District, setbacks shown on a recorded final map or parcel map, or setback lines shown on a Sectional District map, shall apply.

B. Building Site Coverage, Maximum: fifty (50) percent, excluding parking and landscaping.

C. Parking Regulations. All parking shall be established pursuant to Chapter 21.58.

D. Landscaping Requirements. All developments allowed shall have landscaping covering a minimum of ten (10) percent of the developed site area subject to a plan approved by the Director of ~~Planning and Building Inspection~~ Planning. Landscaping shall be in place prior to the commencement of use.

E. Lighting Plan Requirements. All exterior lighting shall be unobtrusive, harmonious with the local area and constructed or located so that only the area intended is illuminated and off-site glare is fully controlled. The location, type and wattage of the exterior lighting must be approved by the Director of ~~Planning and Building Inspection~~ Planning prior to the issuance of building permits or the establishment of the use.

F. Sign Regulations. Signing for all development shall be established pursuant to Chapter 21.60.

SECTION 105. Section 21.20.030 of Chapter 21.20 of the Monterey County Code shall be amended as follows:

**21.20.030 General Development Plan.**

A. A General Development Plan shall be required prior to the establishment of any development in the Heavy Commercial district if there is no prior approved General Development Plan and if;

1. The lot is in excess of one acre; or

2. The development proposed includes more than one use; or
3. The development includes any form of subdivision (Title 19, Subdivision Ordinance).

B. No new development, change or expansion of use, or physical improvements may be approved unless such development, use or expansion is found to be in conformance with an approved General Development Plan and amendments thereto where such plan is required.

C. General Development Plans and amendments thereto shall be approved by the Planning Commission.

D. The General Development Plan shall be prepared by the developer and submitted for review and approval prior to or concurrent with approval of any required permits for the development. The plans shall address the long range development and operation of the facilities including physical expansion and new development, operational changes, circulation or transport improvements, alternative development opportunities, environmental considerations, potential mitigation of adverse environmental impacts and conformance to the policies of the local area plan.

E. The requirement of a General Development Plan or an amendment to a General Development Plan may be waived by the Director of ~~Planning and Building Inspection~~ Planning when, due to the circumstances of the particular situation, there is no potential significant adverse impact from the development and requiring the General Development Plan will not further the purposes of this Chapter.

SECTION 106. Section 21.20.040 of Chapter 21.20 of the Monterey County Code shall be amended as follows:

**21.20.040 Uses allowed.**

A. Change of commercial uses within a structure provided the new use will not change the nature or intensity of the use of the structure;

B. Water system facilities including wells and storage tanks serving four or fewer service connections, pursuant to Chapter 15.04, Monterey County Code and replacement of water tanks and wells where no increase in service connections is created. The screening of any tanks and associated structures shall be approved by the Director of ~~Planning and Building Inspection~~ Planning;

C. Cultivation, cutting or removal of Christmas trees;

D. Other uses of a similar character, density and intensity to those listed in this Section.

SECTION 107. Section 21.20.070 of Chapter 21.20 of the Monterey County Code shall be amended as follows:

## **21.20.070 Site development standards.**

### **A. Structure Height and Setback Regulations.**

1. The maximum structure height is thirty-five (35) feet unless superseded by a structure height limit noted on the zoning map. (e.g. "HC/(24)") would limit structure height to twenty-four (24) feet).

2. Setbacks for developments in the "HC" District are established by the approval of the General Development Plan where such plan is required.

3. Setbacks for development where a General Development Plan is not required shall be established by the Appropriate Authority through the project review process based on:

- a. Surrounding land use;
- b. Provision of adequate parking and landscaping;
- c. Other site design features.

4. All minimum setback requirements established by a combining "B" District, setbacks shown on a recorded final map or parcel map, or setback lines shown on a Sectional District map, shall apply.

**B. Building Site Coverage, Maximum: fifty (50) percent, excluding parking and landscaping.**

**C. Parking Regulations: All parking shall be established pursuant to Chapter 21.58.**

**D. Landscaping Requirements.** All developments allowed shall have landscaping covering a minimum of ten (10) percent of the site area subject to a plan approved by the Director of ~~Planning and Building Inspection~~ Planning. The landscaping shall be in place prior to the commencement of use.

**E. Lighting Plan Requirements.** All exterior lighting shall be unobtrusive, harmonious with the local area and constructed or located so that only the area intended is illuminated and off-site glare is fully controlled. The location, type and wattage of the exterior lighting must be approved by the Director of ~~Planning and Building Inspection~~ Planning prior to the issuance of building permits or the establishment of the use.

**F. Sign Regulations.** Signing for all development shall be established pursuant to Chapter 21.60.

**SECTION 108.** Section 21.22.030 of Chapter 21.22 of the Monterey County Code shall be amended as follows:

### **21.22.030 General Development Plan.**

A. A General Development Plan shall be required prior to the establishment of any development in the Visitor Serving/ Professional Office district if there is no prior approved General Development Plan and if:

1. The lot is in excess of one acre; or
2. The development proposed includes more than one use; or
3. The development includes any form of subdivision. (Title 19, Subdivision Ordinance)

B. No new development, change or expansion of use, or physical improvements may approved unless such development, use or expansion is found to be in conformance with an approved General Development Plan and amendments thereto where such plan is required.

C. General Development Plans and amendments thereto shall be approved by the Planning Commission.

D. The plans shall be prepared by the developer and submitted for review and approval prior to or concurrent with approval of any required permits for the development. The plan shall address the long range development and operation of the facilities including physical expansion and new develop operational changes, circulation or transportation improvements, alternative development opportunities, environmental considerations, potential mitigation of adverse environmental impacts and conformance to the policies of the local area plan.

E. The requirement of a General Development Plan or an amendment to a General Development Plan may be waived by the Director of ~~Planning and Building Inspection~~ Planning when, due to the of the particular situation, there is no potential significant adverse impact from the development and requiring the General Development Plan will not further the purposes of this Chapter.

SECTION 109. Section 21.22.040 of Chapter 21.22 of the Monterey County Code shall be amended as follows:

### **21.22.040 Uses allowed.**

A. Change of visitor serving/professional office uses within a structure provided the new use will not change the nature or intensity of the commercial use of the structure;

B. Water system facilities including wells and storage tanks serving four or fewer service connections, pursuant to Chapter 15.04, Monterey County Code and replacement of water tanks and wells where no increase in service connections is created. The screening of any tanks and associated structures shall be approved by the Director of ~~Planning and Building Inspection~~ Planning;

C. Other uses of a similar character, density and intensity to those listed in this Section

SECTION 110. Section 21.22.070 of Chapter 21.22 of the Monterey County Code shall be amended as follows:

**21.22.070 Site development standards.**

A. Structure Height and Setback Regulations.

1. The maximum structure height is thirty-five (35) feet unless superseded by a structure height limit noted on the zoning map. (e.g. "VO (24)") would limit structure height to twenty-four (24) feet).

2. Setbacks for development in the VO district are established by the approval of the General Development Plan where such plan is required.

3. Setbacks for development where a General Development Plan is not required shall be established by the Appropriate Authority through the project review process based on:

- a. Surrounding land use;
- b. Provision of adequate parking and landscaping;
- c. Other site design features.

4. All minimum setback requirements established by a combining "B" District, setbacks shown on a recorded final map or parcel map, or setback lines shown on a Sectional District map, shall apply.

B. Building Site Coverage, Maximum: fifty (50) percent, excluding parking and landscaping.

C. Parking Regulations: All parking shall be established pursuant to Chapter 21.58.

D. Landscaping Requirements.

All developments allowed shall have landscaping covering a minimum of ten (10) percent of the site area subject to a plan approved by the Director of ~~Planning and Building Inspection~~ Planning. The landscaping shall be in place prior to the commencement of use.

E. Lighting Plan Requirements. All exterior lighting shall be unobtrusive, harmonious with the local area and constructed or located so that only the area intended is illuminated and off-site glare is fully controlled. The location, type and wattage of the exterior lighting must be approved by the Director of ~~Planning and Building Inspection~~ Planning prior to the issuance of building permits or the establishment of the use.

F. Sign Regulations. Signing for all development shall be established pursuant to Chapter 21.60.

SECTION 111. Section 21.24.030 of Chapter 21.24 of the Monterey County Code shall be amended as follows:

**21.24.030 General Development Plan.**

A. A General Development Plan shall be required prior to the establishment of any development in the Agricultural Industrial district if there is no prior approved General Development Plan, and if:

1. The lot is in excess of one acre; or
2. The development proposed includes more than one use; or
3. The development includes any form of subdivision (Title 19, Subdivision Ordinance).

B. No new development, change or expansion of use, or physical improvements may be approved unless such development, use or expansion is found to be in conformance with an approved General Development Plan and amendments thereto where such plan is required.

C. General Development Plans and amendments thereto shall be approved by the Planning Commission.

D. The plans shall be prepared by the developer and submitted for review and approval prior to or concurrent with approval of any required permits for these developments. The plan shall address the long range development and operation of the facilities including physical expansion and new development, operational changes, circulation or transportation improvements, alternative development opportunities, environmental considerations, potential mitigation of adverse environmental impacts and conformance to the policies of the local area plan.

E. The requirement of a General Development Plan or an amendment to a General Development Plan may be waived by the Director of ~~Planning and Building Inspection~~ Planning when, due to the circumstances of the particular situation, there is no potential significant adverse impact from the development and requiring the General Development Plan will not further the purposes of this Chapter.

SECTION 112. Section 21.24.040 of Chapter 21.24 of the Monterey County Code shall be amended as follows:

**21.24.040 Uses allowed.**

A. Change of agricultural industrial uses within a structure provided the new use will not change the nature or intensity of the use of the structure;

B. Water system facilities including wells and storage tanks serving four or fewer service connections, pursuant to Chapter 15.04, Monterey County Code and replacement of water tanks and wells where no increase in service connections is created. The screening of any tanks and associated structures shall be approved by the Director of ~~Planning and Building Inspection~~ Planning;

C. Cultivation, cutting and removal of Christmas trees;

D. Other uses of a similar character, density and intensity to those listed in this Section.

SECTION 113. Section 21.24.070 of Chapter 21.24 of the Monterey County Code shall be amended as follows:

**21.24.070 Site development standards.**

A. Structure Height and Setback Regulations.

1. The maximum structure height is thirty-five (35) feet unless superseded by a structure height limit noted on the zoning map. (e.g. "AI/(50)") would limit structure height to fifty (50) feet). Additional height may be allowed subject to a Use Permit (ZA).

2. Setbacks for development in the AI district are established by the approval of the General Development Plan where such plan is required.

3. Setbacks for development where a General Development Plan is not required shall be established by the Appropriate Authority through the project review process based on:

a. Surrounding land use;

b. Provision of adequate parking and landscaping;

c. Other site design features.

4. All minimum setback requirements established by a combining "B" District, setbacks shown on a recorded final map or parcel map, or setback lines shown on a Sectional District map, shall apply.

C. Building Site Coverage. Maximum fifty (50) percent, excluding parking and landscaping.

D. Parking Regulations. All parking shall be established pursuant to Chapter 21.58.

E. Landscaping Requirements. All developments allowed shall have landscaping covering a minimum of ten (10) percent of the site area subject to a plan approved by the Director of ~~Planning and Building Inspection~~ Planning. The landscaping shall be in place prior to the commencement of use.

F. Lighting Plan Requirements. All exterior lighting shall be unobtrusive, harmonious with the local area and constructed or located so that only the area intended is illuminated and off-site glare is fully controlled. The location, type and wattage of the exterior lighting must be approved by the Director of ~~Planning and Building Inspection~~ Planning prior to the issuance of building permits or the establishment of the use.

G. Sign Regulations. Signing for all development shall be established pursuant to Chapter 21.60.

SECTION 114. Section 21.26.030 of Chapter 21.26 of the Monterey County Code shall be amended as follows:

**21.26.030 General Development Plan.**

A. A General Development Plan shall be required prior to the establishment of any development in the Light Industrial district if there is no prior approved General Development Plan and if:

1. The lot is in excess of one acre; or
2. The development proposed includes more than one use; or
3. The development includes any form of subdivision (Title 19, Subdivision Ordinance).

B. No new development, change or expansion of use, or physical improvements may approved unless such development, use or expansion is found to be in conformance with an approved General Development Plan and amendments thereto where such plan is required.

C. General Development Plans and amendments thereto shall be approved by the Planning Commission.

D. The plans shall be prepared by the developer and submitted for review and approval prior to or concurrent with approval of any required permits for these developments. The plans shall address the long range development and operation of facilities including physical expansion and new development, operational changes, circulation or transportation improvements, alternative development opportunities, environmental considerations, potential mitigation of adverse environmental impacts and conformance to the policies of the local area plan.

E. The requirement of a General Development Plan or an amendment to a General Development Plan may be waived by the Director of ~~Planning and Building Inspection~~ Planning when, due to the circumstances of the particular situation, there is no potential significant

adverse impact from the development and requiring the General Development Plan will not further the purposes of this Chapter.

SECTION 115. Section 21.26.040 of Chapter 21.26 of the Monterey County Code shall be amended as follows:

**21.26.040 Uses allowed.**

A. Change of light industrial uses within a structure provided the new use will not change the nature or intensity of the use of the structure;

B. Water system facilities including wells and storage tanks serving four or fewer service connections, pursuant to Chapter 15.04, Monterey County Code and replacement of water tanks and wells where no increase in service connections are created. The screening of any tanks and associated structures shall be approved by the Director of ~~Planning and Building Inspection~~ Planning;

C. Cultivation, cutting and removal of Christmas trees;

D. Other uses of a similar character, density and intensity to those listed in this Section.

SECTION 116. Section 21.26.070 of Chapter 21.26 of the Monterey County Code shall be amended as follows:

**21.26.070 Site development standards.**

**A. Structure Height and Setback Regulations.**

1. The maximum structure height is thirty-five (35) feet unless superseded by a structure height limit noted on the zoning map. (e.g. "LI/(50)") would limit structure height to fifty (50) feet). Additional height may be allowed subject to a Use Permit (ZA).

2. Setbacks for development in the "LI" District are established by the approval of the General Development Plan where such plan is required.

3. Setbacks for development where a General Development Plan is not required shall be established by the Appropriate Authority through the project review process based on:

- a. Surrounding land use;
- b. Provision of adequate parking and landscaping;
- c. Other site design features.

4. All minimum setback requirements established by a combining "B" District, setbacks shown on a recorded final map or parcel map or setback lines shown on a Sectional District map

shall apply.

B. Building Site Coverage, Maximum: fifty (50) percent, excluding parking and landscaping.

C. Parking Regulations. All parking shall be established pursuant to Chapter 21.58.

D. Landscaping Requirements. All developments allowed shall have landscaping covering a minimum of ten (10) percent of the site area subject to a plan approved by the Director of ~~Planning and Building Inspection~~ Planning. The landscaping shall be in place prior to the commencement of use.

E. Lighting Plan Requirements. All exterior lighting shall be unobtrusive, harmonious with the local area and constructed or located so that only the area intended is illuminated and off-site glare is fully controlled. The location, type and wattage of the exterior lighting must be approved by the Director of ~~Planning and Building Inspection~~ Planning prior to the issuance of building permits or the establishment of the use.

F. Sign Regulations. Signing for all development shall be established pursuant to Chapter 21.60.

SECTION 117. Section 21.28.030 of Chapter 21.28 of the Monterey County Code shall be amended as follows:

**21.28.030 General Development Plans.**

A. A General Development Plan shall be required prior to the establishment of any development in the Heavy Industrial district if there is no prior approved General Development Plan and if:

1. The lot is in excess of one acre; or
2. The development proposed includes more than one use; or
3. The development includes any form of subdivision (Title 19, Subdivision Ordinance).

B. No new development, change or expansion of use, or physical improvements may approved unless such development, use or expansion is found to be in conformance with an approved General Development Plan and amendments thereto where such plan is required.

C. General Development Plans and amendments thereto shall be approved by the Planning Commission.

D. The plans shall be prepared by the developer and submitted for review and approval prior to or concurrent with approval of any required permits for the development. The plans shall address the long range development and operation of the facilities including physical expansion

and new develop operational changes, circulation or transportation improvements, alternative development opportunities, environmental considerations, potential mitigation of adverse environmental impacts and conformance to the policies of the local area plan.

E. The requirement of a General Development Plan or an amendment to a General Development Plan may be waived by the Director of ~~Planning and Building Inspection~~ Planning when, due to the circumstances of the particular situation, there is no potential significant adverse impact from the development and requiring the General Development Plan will not further the purposes of this Chapter.

SECTION 118. Section 21.28.040 of Chapter 21.28 of the Monterey County Code shall be amended as follows:

**21.28.040 Uses allowed.**

A. Change of heavy industrial uses within a structure provided the new use will not change the nature or intensity of the use of the structure;

B. Water system facilities including wells and storage tanks serving four or fewer service connections, pursuant to Chapter 15.04, Monterey County Code and replacement of water tanks and wells where no increase in service connections are created. The screening of any tanks and associated structures shall be approved by the Director of ~~Planning and Building Inspection~~ Planning;

C. Cultivation, cutting and removal of Christmas trees;

D. Other uses of a similar character, density and intensity to those listed in this Section.

SECTION 119. Section 21.28.070 of Chapter 21.28 of the Monterey County Code shall be amended as follows:

**21.28.070 Site development standards.**

A. Structure Height and Setback Regulations.

1. The maximum structure height is thirty-five (35) feet unless super by a structure height limit noted on the zoning map. (e.g. "HI/(50')") would limit structure height to fifty (50) feet). Additional height may be allowed subject to a Use Permit (ZA).

2. Setbacks for development in the HI District are established by the approval of the General Development Plan where such plan is required.

3. Setbacks for development where a General Development Plan is not required shall be established by the Appropriate Authority through the project review process based on:

- a. Surrounding land use;
- b. Provision of adequate parking and landscaping;
- c. Other site design features.

4. All minimum setback requirements established by a combining "B" District, setbacks shown on a recorded final map or parcel map or setback lines shown on a Sectional District map shall apply.

B. Building Site Coverage, Maximum: fifty (50) percent, excluding parking and landscaping.

C. Parking Regulations. All parking shall be established pursuant to Chapter 21.58.

D. Landscaping Requirements. All developments allowed shall have landscaping covering a minimum of ten (10) percent of the site area subject to a plan approved by the Director of ~~Planning and Building Inspection~~ Planning. The landscaping shall be in place prior to the commencement of use.

E. Lighting Plan Requirements. All exterior lighting shall be unobtrusive, harmonious with the local area and constructed or located so that only the area intended is illuminated and off-site glare is fully controlled. The location, type and wattage of the exterior lighting must be approved by the Director of ~~Planning and Building Inspection~~ Planning prior to the issuance of building permits or the establishment of the use.

F. Sign Regulations. Signing for all development shall be established pursuant to Chapter 21.60.

SECTION 120. Section 21.38.030 of Chapter 21.38 of the Monterey County Code shall be amended as follows:

**21.38.030 Uses allowed.**

- A. Crop and tree farming and grazing of horses, cattle, sheep and goats.
- B. Buildings accessory to any allowed uses;

C. Water system facilities including wells and storage tanks serving four or fewer service connections, pursuant to Chapter 15.04, Monterey County Code and replacement of water tanks and wells where no increase in service connections is created. The screening of any tanks and associated structures shall be approved by the Director of ~~Planning and Building Inspection~~ Planning.

- D. Other uses of a similar character, density and intensity to those listed in this Section.

SECTION 121. Section 21.40.030 of Chapter 21.40 of the Monterey County Code shall be amended as follows:

**21.40.030 Uses allowed.**

- A. Crop and tree farming, grazing of cattle, sheep and goats.
- B. Water system facilities including wells and storage tanks serving four or fewer service connections, pursuant to Chapter 15.04, Monterey County Code and replacement of water tanks and wells where no increase in service connections is created. The screening of any tanks and associated structures are approved by the Director of ~~Planning and Building Inspection~~ Planning;
- C. Home occupations pursuant to Section 21.64.090;
- D. Other uses of a similar character, density and intensity to those listed in this Section.

SECTION 122. Section 21.44.040 of Chapter 21.44 of the Monterey County Code shall be amended as follows:

**21.44.040 Appropriate Authority.**

The Appropriate Authority to consider and decide a Design Approval Application shall be:

- A. The Appropriate Authority to consider the discretionary permit combined with the Design Approval Application; or
- B. The Appropriate Authority for the discretionary permit requiring the Design Approval Application as a condition of approval of that discretionary permit; or
- C. The Zoning Administrator, except as provided by Section 21.44.040A, B, D, or E.
- D. The Director of ~~Planning and Building Inspection~~ Planning may approve, in lieu of the Appropriate Authority, plans and submittals in "D" Districts for small structures such as structure additions, accessory structures and similar minor structures and minor modifications to approved designs.

The Director of ~~Planning and Building Inspection~~ Planning is the Appropriate Authority to consider all Design Approval applications in the Farmlands (F), Permanent Grazing (PG) and Rural Grazing (RG) Zoning Districts.

E. The Planning Commission shall be the Appropriate Authority to consider Design Approval applications for those structures which have the greatest potential to impact public views, such as structures along scenic highway or road corridors, in areas designated as critical viewshed, or which may have a substantial adverse visual impact from common public viewing areas.

SECTION 123. Section 21.44.050 of Chapter 21.44 of the Monterey County Code shall be amended as follows:

**21.44.050 Public notice.**

A. At least ten (10) days prior to the consideration of a Design Approval Application by an Appropriate Authority, the Director of ~~Planning and Building Inspection~~ Planning shall give notice of such consideration by mailing, postage prepaid, a notice of the time and place of such consideration. Such notice shall be mailed or delivered in accordance with Paragraphs 3 and 5 of Section 21.78.040A.

B. No public notice shall be required for actions of the Director of ~~Planning and Building Inspection~~ Planning taken pursuant to Section 21.44.040D.

SECTION 124. Section 21.44.060 of Chapter 21.44 of the Monterey County Code shall be amended as follows:

**21.44.060 Action by the Appropriate Authority.**

A. The Appropriate Authority shall consider the size, configuration, materials and colors of the proposed structure to assure that they will comply with the provisions of Section 21.44.010.

B. The Appropriate Authority shall require such conditions of the proposed size, configuration, materials and colors as it may deem necessary to assure compliance with the provisions of Section 21.44.010.

C. The Appropriate Authority after review of such plans as deemed necessary may require a public hearing to be schedule the further consideration of said plans. Such public hearing and appeals, if any, shall be conducted pursuant to the public hearing (Chapter 21.78) and appeal provisions (Chapter 21.80) of this Title.

D. The standard and criteria of review of the Director of ~~Planning and Building Inspection~~ Planning shall be the same standard and criteria as that of an Appropriate Authority.

E. The Director of ~~Planning and Building Inspection~~ Planning may refer, at the Director's discretion, Design Approval applications to the Planning Commission for consideration and action.

SECTION 125. Section 21.45.040 of Chapter 21.45 of the Monterey County Code shall be amended as follows:

**21.45.040 Regulations.**

A. No construction of structures, additions, deposit or removal of materials, shall be permitted without the approval of the Appropriate Authority.

B. All such development as listed in Section 21.45.040A, except as provided in Section 21.45.040C, shall require an Administrative Permit pursuant to the provisions of Chapter 21.70 of this Title.

C. The Director of ~~Planning and Building Inspection~~ Planning, or the Zoning Administrator, may approve, without benefit of an Administrative Permit, small development projects such as structure additions, accessory structures, decks, fences, similar minor developments and minor modifications to previously approved projects. No public notice shall be required for actions of the Director of ~~Planning and Building Inspection~~ Planning, or the Zoning Administrator, taken pursuant to this Paragraph.

SECTION 126. Section 21.45.050 of Chapter 21.45 of the Monterey County Code shall be amended as follows:

**21.45.050 Action by the Appropriate Authority.**

A. The Appropriate Authority shall consider the location of the proposed development to assure that such development will comply with the provisions of Section 21.45.010.

B. The Appropriate Authority shall require such conditions and changes in the location of such proposed development as it may deem necessary to assure compliance with the provisions of Section 21.45.010.

C. The standard and criteria of review of the Director of ~~Planning and Building Inspection~~ Planning and Zoning Administrator shall be the same standard and criteria as that of an Appropriate Authority.

D. The Director of ~~Planning and Building Inspection~~ Planning or Zoning Administrator may refer, at their discretion, Site Plan Approval applications to the Planning Commission for consideration and action.

SECTION 127. Section 21.46.040 of Chapter 21.46 of the Monterey County Code shall be amended as follows:

**21.46.040 Appropriate Authority.**

The Appropriate Authority to consider and decide a Use Permit required pursuant to Section 21.46.030(D) shall be the Planning Commission unless:

A. Such Use Permit is being considered in conjunction with another discretionary permit required by this Title. In that case, the Appropriate Authority to consider the discretionary permit shall also consider the Use Permit required by Section 21.46.030D; or

B. The Director of ~~Planning and Building Inspection~~ Planning may approve plans and submittals in the “VS” District for small structures such as structure additions, accessory structures, and similar minor structures and minor modifications to previously approved projects. Such consideration shall be considered as a design approval pursuant to Section 21.44.040D of this Title.

The standards and criteria of review of the Director of ~~Planning and Building Inspection~~ Planning shall be the same standards and criteria as that of the Planning Commission. The Director of ~~Planning and Building Inspection~~ Planning may refer, at the Director’s discretion, such plans and submittals to the Planning Commission for consideration and action.

2. The Director of ~~Planning and Building Inspection~~ Planning may approve other development in the “VS” District provided that:

a. A determination is made following an on-site inspection pursuant to Section 21.46.060B that the development proposed is either not visible from a common public viewing area or will not create a substantial adverse visual impact from a common public viewing area; and

b. Public notice of the Director’s intended decision to approve such development has been provided pursuant to Section 21.78.040 and no written objections have been raised.

C. No development in the “VS” District which requires a Use Permit, variance or similar public hearing process, may be considered by the Director of ~~Planning and Building Inspection~~ Planning.

SECTION 128. Section 21.54.050 of Chapter 21.54 of the Monterey County Code shall be amended as follows:

**21.54.050 Appropriate Authority.**

A. The Appropriate Authority to consider and decide a Use Permit required pursuant to Section 21.54.080A is the Planning Commission unless such Use Permit is being consider conjunction with another discretionary permit required by Title. In that case, the Appropriate Authority to consider the discretionary permit shall also consider the Use Permit required by Section 21.54.080A; or

B. 1. The Director of ~~Planning and Building Inspection~~ Planning may approve plans and submittals for minor alterations and minor modifications to previously approved projects.

2. The standard and criteria of review for the Director of ~~Planning and Building Inspection~~ Planning shall be the same standards and criteria as that of the Planning Commission.

3. The Director of ~~Planning and Building Inspection~~ Planning may refer, at the Director’s discretion, such plans and submittals to the Planning Commission for consideration and action.

4. Appeals to the Director's decisions may be taken to the Board of Supervisors pursuant to Chapter 21.80 of this Title.

C. No alterations in the "HR" District which require a Use Permit, variance or similar public hearing process, may be considered by the Director of ~~Planning and Building Inspection~~ Planning.

SECTION 129. Section 21.57.040 of Chapter 21.57 of the Monterey County Code shall be amended as follows:

**21.57.040 Regulations.**

A. Major recreational equipment may be parked upon any lot, within "RES" Districts in the following areas:

1. Inside any enclosed structure which conforms to the zoning requirements of the district with which this "RES" District is combined;

2. Outside in the side yard or rear yard and screened from view of adjoining lots and roads used by the public. Screening by fencing or landscaping is permitted but shall be approved by the Director of ~~Planning and Building Inspection~~ Planning. On a corner parking is not permitted in side yards which abut a road us the public;

3. Anywhere on the premises for the purpose of active loading or unloading, or visitor parking not to exceed thirty-six (36) hours in any forty-eight (48) hour period. The use of electricity or propane fuel is permitted when necessary to prepare the major recreational equipment for use. No unit shall discharge any litter, sewage, effluent or other matter except into sanitary facilities designed to dispose of such material.

4. On a driveway more than thirty (30) feet from the front property line and screened from view of adjoining lots and roads used by the public when space is not available in the front, rear or side yard, or there is not reasonable access to either the side yard or rear yard. A fence is not necessarily deemed to prevent reasonable access. This parking is subject to the approval of the Director of ~~Planning and Building Inspection~~ Planning.

B. Major recreational equipment may be parked only for temporary, active loading or unloading purposes, upon any publicly used street, alley, highway, municipal off-street parking lot, or other land, public place not to exceed twenty-four (24) hours in any forty-eight (48) hour period.

C. Regulations for use of major recreational equipment on "RES" District premises are as follows:

1. Storage. Major recreational equipment may be used for storage only of those goods, materials, or equipment considered to be a part of the unit or essential for its immediate use. The

unit shall be owned by the resident on whose premises the unit is parked for storage.

2. Dwelling or Sleeping. Major recreational equipment may not be used for dwelling or sleeping purposes. Cooking is not permitted at any time. The unit shall not be permanently connected to sewer lines, water lines, or electricity. However, the unit shall be permitted to be connected to electricity temporarily for charging batteries and other similar purposes. All temporary electric hookup facilities shall comply with applicable state law.

3. Cessation of Non-conforming Uses. All present non-conforming uses of major recreational equipment and its storage on property within this combining district shall conform to the requirements of this Section within one year of the reclassification of said property to this district.

SECTION 130. Section 21.58.030 of Chapter 21.58 of the Monterey County Code shall be amended as follows:

#### **21.58.030 Regulations.**

Accessible off-street parking areas shall be provided and maintained as set forth in this Chapter. The parking access shall provide parking and maneuvering room for motor vehicles and for pedestrian safety based on the anticipated occupancy of a given structure, area of land or area of water. Any new structure hereafter constructed, erected or altered, and any new use hereafter inaugurated, altered or enlarged shall have permanently maintained off-street parking spaces in accordance with the provisions of this Chapter.

Parking facilities required by this Chapter shall conform to the design standards set forth in the Monterey County Parking Standards for Off-Street Parking, as approved by the Monterey County Planning Commission. All off-street parking facilities required by this Chapter shall be maintained for the duration of the use requiring such areas. Such facilities shall be used exclusively for the temporary parking of passenger automobiles, motor vehicles, or light trucks not exceeding one ton in capacity, and shall not be used for the sale, display, or storage of merchandise, or for the storage or repair of vehicles or equipment. In each district, off-street parking facilities for each use shall be provided in accordance with Section 21.58.040. The requirement for any use not specifically listed shall be determined by the Director of ~~Planning and Building Inspection~~ Planning based on standards established for any similar uses.

SECTION 131. Section 21.58.050 of Chapter 21.58 of the Monterey County Code shall be amended as follows:

#### **21.58.050 General provisions.**

A. Unless otherwise indicated, square footage shall be based on net floor area, which does not include areas to be used for toilets or restrooms, utilities, stairways, mechanical rooms and duct shafts, janitor and building maintenance rooms, and elevator rooms. For multi-stored structures, the net floor area of each floor shall be calculated.

B. Twenty-four (24) inches of bench or pew space is equal to one seat.

C. The standards indicated herein may be modified by a Use Permit from the Zoning Administrator, Planning Commission, or Board of Supervisors, where appropriate, in cases which, due to the unusual characteristics of a use or its immediate vicinity, do not necessitate the number of parking spaces, type of design, or improvements required by this Chapter. In such cases, it shall be determined that reduced parking will be adequate to accommodate all parking needs generated by the use, or that additional parking is not necessary because of specific features of the use, site, or site vicinity.

D. All parking and loading shall be provided on the same site as the use to which it relates, unless a Use Permit is approved by the Zoning Administrator, Planning Commission, or Board of Supervisors.

E. Parking spaces which are located within the required front setback shall not count toward the amount of required parking unless an Administrative Permit is first secured.

F. In all residential developments in High Density Residential (HDR) and Medium Density Residential (MDR) zoning districts, at least one covered parking space for each dwelling unit shall be provided. Covered parking shall count toward the amount of required parking. In all residential zoning districts other than HDR and MDR districts, residential development approved after the effective date of the amendment to this Subsection by Ordinance No. 5127 not required to provide covered parking spaces, provided that the development provides the total number of parking spaces otherwise required under Section 21.58.040. In all residential zoning districts other than HDR and MDR districts, residential development that was approved but which had not received final building inspection approval as of the effective date of Ordinance No. 5127 may be relieved of the requirement to provide covered parking spaces if the development provides the total number of parking spaces required by Chapter 21.58 and if the County approves the revised site plan to omit the covered parking and determines that no further environmental analysis is required..

G. Parking for the Handicapped. Non-residential parking lots with five or more spaces shall include handicapped parking as required by Title 24 of the California Administrative Code, and as set forth in this subsection. Handicapped spaces shall be included as part of the total number of parking spaces required by this Title.

Number of spaces required:

Total Spaces	Spaces for Handicapped
1-40	1
41-80	2
81-120	3
121-160	4
161-300	5
301-400	6
401-500	7

**Design and Identification.** Handicapped parking spaces shall be designed, located and provided with identification signs as set forth in Section 27102, Title 24, California Administrative Code and subsequent sections.

**H. Loading Spaces:** In any Zoning District, in connection with every structure or part erected and having a gross floor area of five thousand (5,000) square feet or more, which is to be occupied by a commercial or industrial use requiring the receipt or distribution by vehicles carrying materials or merchandise, there shall be provided and maintained, on the same lot with such structure, at least one off-street loading space plus one additional loading space for each additional twenty thousand (20,000) square feet or major fraction thereof. Such spaces shall conform to the design standards for loading spaces set forth in the Monterey County Parking Standards for Off- Street Parking as approved by the Monterey County Planning Commission.

**I. Access:** All off-street parking facilities shall be designed so as to limit access to the property from streets and highways to a minimum number of driveways. For purposes of in and egress, parking shall be designed such that, with the exception of a single family or duplex dwelling on a lot, vehicles entering and exiting a right-of-way can do so traveling in a forward direction. An exception to this requirement may be granted by the Director of Public Works when site constraints limit site design alternatives and traffic safety will not be compromised.

**J. Paving:** Parking and loading facilities shall be surfaced and maintained with surfacing material sufficient to control dust and loose material.

**K. Curbs, Bumpers, Wheel Stops:** A permanent curb, bumper, wheel stop or similar device shall be installed in parking spaces where needed, subject to the approval of the Director of ~~Planning and Building Inspection~~ Planning. In parking spaces abutting landscaped areas, the protective curbing around the landscape area may serve as the wheel stop, allowing the vehicle to overhang the landscaped area. In such cases, the length of the parking stall may be reduced by three feet, provided the landscaped area is widened by three feet. Landscape materials in areas subject to vehicle overhang shall be limited to low-growing shrubs and ground cover, in order to avoid damage by vehicles. In addition, only low sprinkler heads shall be placed in such areas.

**L. Mixed Uses:** In the case of mixed uses, the total requirement for off-street parking spaces shall be the sum of the requirements for the various uses, unless otherwise indicate for shopping centers. Off-street parking facilities for on shall not be considered as providing parking facilities for any other use, unless is it determined by the Director of ~~Planning and Building Inspection~~ Planning, Zoning Administrator, Planning Commission, or Board of Supervisors, where appropriate, that the particular grouping of uses is such that the hours of operation are substantially different (e.g., a theater and an office building).

**M. Bicycle Racks:** Parking lots with twenty (20) or more spaces are to provide one bicycle rack space for each ten (10) parking spaces. Bicycle racks are to be designed to enable bicycles to be locked to the rack.

N. Compact Spaces: Compact spaces shall not account for more than twenty-five (25) percent of the spaces required for any use.

SECTION 132. Section 21.64.110 of Chapter 21.64 of the Monterey County Code shall be amended as follows:

**21.64.110 Regulations for timeshare uses.**

A. Purpose. The purpose of the Section is to establish the standards, regulations and circumstances under which timesharing residential uses may be established. Further, the regulation of the Section intended to provide for the protection of existing residential uses and neighborhoods through mandatory findings for approval and public hearing processes.

B. Applicability. A timeshare project shall be permissible only in such zones and at the locations therein where a hotel, motel or similar visitor accommodation use would be permitted. No timeshare project shall be allowed in any case wherein covenants, conditions and restrictions expressly prohibit timeshare or other transient uses.

C. A Use Permit shall be required in accordance with Chapter 21.74 for any timeshare project.

D. Transient Occupancy Tax Applicable. All timeshare projects shall be subject to the provisions of Chapter 5.40 of the Monterey County Code (Uniform Transient Occupancy Tax Ordinance of the County of Monterey).

E. Application for Timeshare Project Approval. An applicant for approval of a proposed timeshare project shall submit a completed application on a form as prescribed by the Director of ~~Planning and Building Inspection~~ Planning, in addition to any other application, information or forms that may be necessary in the particular case as determined by the Director of ~~Planning and Building Inspection~~ Planning. The application shall include:

1. Identification by name of the timesharing project and street address where the timesharing project is situated, including legal description;
2. Identification of the time periods, types of units, and number of units that are in the timeshare project. In order to facilitate orderly planned timeshare projects, the total number of timeshare units anticipated for the project shall be stated and approved although the project may be built, convert maintained for timeshare purposes in phases convenient to the applicant;
3. A map drawn at the appropriate scale (1"=100' or as otherwise approved by the Director of ~~Planning and Building Inspection~~ Planning), showing the site in relation to surrounding property, existing roads and other existing improvements (in all cases, an engineers scale shall be used);
4. A site plan for the entire anticipated project (whether or not built, converted or maintain phases) showing proposed improvements, location of structures, vehicular ingress, and

egress, landscaping, and floor plans.

F. **General Conditions and Findings.** The Planning Commission may approve or deny an application for Use Permit for a timeshare project. The Commission may impose such conditions as it determines necessary to protect the public safety, health, peace and welfare. If a Use Permit is granted, the Use Permit shall be granted with a condition attached that no timeshare rights or entitlements shall be sold or offered for sale unless, at such time, there then exists a valid final subdivision public report for the sale of such timeshare rights or entitlements, issued by the Department of Real Estate of the State of California. In determining whether, and under what conditions to issue any such Use Permit, the Commission, among other things, shall consider:

1. The impact of the timesharing project on transient or permanent rental stock;
2. The impact of timesharing on present and future County services;
3. Conformity with current zoning regulations and the General Plan;
4. Conformity with existing uniform building and fire codes;
5. The sign program proposed for the project;
6. The landscaping proposed for the project;
7. Traffic circulation and parking for residents, guests, prospective purchasers and sales program personnel;
8. The applicant's description of the methods proposed to be employed to guarantee the future adequacy, stability and continuity of a satisfactory level of management and maintenance of the timeshare project.
9. The desirability of requiring an office of the managing agent or agency be located local on-site, as appropriate.
10. The nature and feasibility of alternative uses in case the sales program for timeshares fails.
11. Any other factors deemed relevant and any other information which the Commission or the applicant considers necessary or desirable to an appropriate and proper consideration of the application.

G. **Specific Conditions and Findings.** In addition to other considerations of a conditional Use Permit for a timeshare project, the following shall apply:

1. **Condominium Conversions.** In the event an existing condominium project is proposed to be converted to a whole or partial timeshare project, a verified description or statement of the number and percentage of the current condominium owners desiring or consenting to the

proposed conversion of some or all of the units to a timeshare basis shall be submitted. Also in such instance, there shall be submitted, a verified statement of the number and percentage of owners who have received notification, either personally (proof by signature of the recipient or witness) or by receipted certified U.S. Mail, the application to so convert the project will be submitted to the Commission on a date and time certain for hearing. No application shall be approved unless, among other considerations, it appears that more fifty (50) percent of the owners of condominium units (not including those owned by the applicant and/or the developer or any person or entity affiliated therewith) have received notification, either personally receipted certified U.S. Mail.

2. Hotel and Motel Conversions. In the event an existing hotel, motel, inn, or bed and breakfast facility is proposed to be converted in whole or in part to a timeshare project, the Planning Commission shall consider, in addition to the considerations in Section 21.64.110F, the following:

- a. The impact of the conversion on employment opportunities in the planning area of the project;
- b. The impact of the project on the visitor serving economy of the planning area;
- c. The impact of the conversion on energy, water and sewer use;
- d. The impact of the project on the stock of hotel and other visitor accommodations for low and moderate income persons;
- e. The impact of the project on the stock of hotel and other visitor accommodations for stays of less than one week within the planning area.

H. Approval of the Timeshare Projects. No timeshare project shall be approved by the County unless the following findings can be made:

1. That the project is compatible with adjacent land uses and is adequately buffered by open space and/or landscaping from any less intense use.
2. That the development plan is consistent with all goals and policies of the General Plan.
3. That adequate access for high density dwellings is available or attainable through the conditions of the development.
4. That all structures, existing or proposed, meet presently established minimum structural, health, safety and fire standards.
5. That the project does not significantly adversely impact:
  - a. Water use;

- b. Sewer use;
- c. Energy use;
- d. Traffic;
- e. Police protection and other county services;
- f. Fire protection;
- g. Employment opportunities in the planning area;
- h. The visitor serving economy of the planning area;
- i. The stock of hotel and other visitor serving accommodations including, but not limited to, that which serves low and moderate income persons;
- j. The stock of hotel and other visitor accommodations for stays of less than one week within the planning area.

6. That the project will not have a significant adverse impact on the health, safety, and welfare of the general public.

I. Exceptions. This Chapter shall not affect timeshare projects for which approved permits from the State Department of Real Estate have been issued prior to January 1, 1984, or projects in which units have been lawfully sold or offered for sale to the public prior to January 1, 1984, if said projects were in compliance with the zoning laws then in force.

SECTION 133. Section 21.64.120 of Chapter 21.64 of the Monterey County Code shall be amended as follows:

**21.64.120 Regulations for commercial and noncommercial wind energy conversion systems.**

A. Purpose: The purpose of this Section is to provide the necessary regulations for the establishment of commercial and noncommercial wind energy conversion systems in the locations and circumstances under which the use may be established without detriment to the public health, safety and welfare.

B. Applicability: The provisions of this Section are applicable in those districts which commercial and noncommercial wind energy conversion systems.

C. Regulations: Wind Energy Conversion Systems may be permitted in specified zoning districts subject to securing a the appropriate permits in each case, and subject to the following regulations:

1. The application shall include a plot plan using an engineers scale and drawn in sufficient detail to show the following:

a. Property lines, dimensions, acreage, and contours with appropriate intervals for site evaluation.

b. Location and elevation of proposed Wind Energy Conversion System.

c. Location and dimensions of all existing structures and uses on the lot within three hundred (300) feet of the system.

d. Height of any structures or trees over thirty-five (35) feet within a five hundred (500) foot radius on-site or off-site of the proposed Wind Energy Conversion System.

e. Surrounding land use and all structures irrespective of height, within five hundred (500) feet of the Wind Energy Conversion System location.

f. Standard drawings of the structural components of the Wind Energy Conversion System, including structures, tower, base and footings. Drawings and any necessary calculations shall be certified by a registered engineer that the system complies with the Uniform Building Code.

g. Evidence from a qualified individual that the site is feasible for a Wind Energy Conversion System.

h. Certification from a registered engineer or qualified person that the rotor and overspeed control have been designed for the proposed use on the proposed site.

2. Setbacks:

a. Wind Energy Conversion Systems shall maintain a minimum setback of two times the height of the Wind Energy Conversion System from any property line.

b. Wind Energy Conversion Systems shall maintain a minimum setback of at least five time Wind Energy Conversion System height from the right-of-way line of any public road or highway.

c. In all cases the Wind Energy Conversion Systems shall maintain a minimum distance of at least 1.25 times the Wind Energy Conversion Systems height from any habitable structure.

3. Height:

a. Noncommercial Wind Energy Conversion Systems shall not exceed a total height of fifty (50) feet unless the parcel on which the Wind Energy Conversion Systems is to be located is ten (10) acres or larger, in which case the maximum total height may be one hundred (100) feet.

b. Commercial Wind Energy Conversion Systems shall not exceed a total height of two hundred (200) feet.

c. In all cases the minimum height of the lowest position of the Wind Energy Conversion Systems blade shall be at least thirty (30) feet above the ground and thirty (30) feet above the highest existing structure or tree within a two hundred fifty (250) foot radius.

4. Wind Energy Conversion Systems Siting and Design Standards:

a. Wind Energy Conversion Systems shall not be placed on visually prominent ridgelines.

b. Wind Energy Conversion Systems shall be designed and placed in such a manner to minimize to the greatest extent feasible adverse visual and noise impacts on neighboring areas.

c. Colors and surface treatment of the Wind Energy Conversion Systems and support structures shall to the greatest extent feasible minimize disruption of the natural characteristics of the site.

d. Wind Energy Conversion Systems shall be equipped with air traffic warning lights and shall have prominent markings on the rotor blade tips of an international orange color where:

i. The total height of the Wind Energy Conversion Systems exceeds one hundred seventy-five (175) feet, or

ii. Any Wind Energy Conversion Systems exceeding one hundred twenty-five (125) feet in total height is placed at a ground elevation over two hundred (200) feet.

4. Noise: The Wind Energy Conversion System shall comply with the Noise Element of the General Plan and any noise ordinance of the County of Monterey.

5. Safety Measures:

a. Each Wind Energy Conversion Systems shall be equipped with both manual and automatic controls to limit the rotational speed of the rotor blade so it does not exceed the design limits of the rotor.

b. The height, color, and type of fencing for Wind Energy Conversion Systems installation shall be determined on the basis of individual applications as safety needs dictate.

c. Appropriate warning signs shall be posted. The type and placement of the signs shall be determined on an individual basis as safety needs dictate.

6. Electromagnetic Interference: The Wind Energy Conversion System shall be operated such that no disrupting electromagnetic interference is caused. If it is determined that a Wind Energy Conversion Systems is causing electromagnetic interference, the operator shall take the necessary corrective action to eliminate interference including relocation or removal of the

facilities, subject to the approval of the Director of ~~Planning and Building Inspection~~ Planning.

7. Liability Insurance: The Wind Energy Conversion System operator shall maintain a current insurance policy which will cover installation and operation of the Wind Energy Conversion Systems. The amount of said policy shall be established as a condition of permit approval.

D. Findings: The approval of the Use Permit shall include the following minimum findings:

1. That the proposed use is not detrimental to the public health and safety, and
2. That the use of the property for such purposes will not result in material damage, or prejudice to other property in the area, and
3. Installation of the Wind Energy Conversion System does not have the potential to create a substantially adverse visual impact when viewed from a common public viewing area.
4. That the subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivisions, and any other applicable provisions of this Title and that all zoning violation abatement costs have been paid.

M. Abatement:

1. If any Wind Energy Conversion System remains non-functional or inoperative for a continuous period of one year, the permittee shall remove said system at their expense. Removal of the system includes the entire structure including foundations, transmission equipment, and fencing from the property.
2. Non-function or lack of operation may be proven by reports to the State Energy Commission or by lack of income generation. The applicant, permit holder, and successors shall make available to the Director of ~~Planning and Building Inspection~~ Planning all reports to and from the purchaser or purchasers of energy from individual Wind Energy Conversion Systems or from the wind farm, if requested.
3. The applicant, or successors, shall continuously maintain a fund payable to the County of Monterey for the removal of non-functional towers and appurtenant facilities in an amount to the County of Monterey to enter the property to remove a tower pursuant to the terms of the Use Permit and to assure compliance with the other conditions set forth in the permit.

SECTION 134. Section 21.64.130 of Chapter 21.64 of the Monterey County Code shall be amended as follows:

**21.64.130 Regulations for land use in the Carmel Valley floodplain.**

A. Purpose: The purpose of this Section is to protect the Carmel River and its corridor including visual aspects, value as wildlife habitat and stabilize the river channel; preserve the rural character of Carmel Valley; and promote the public health and safety by lessening local flood potential and flood related hazards.

B. Applicability: This Section shall apply to that area within the riparian corridor, within two hundred (200) feet of the river bank, and within the floodway and floodway fringe designations illustrated on maps prepared by Nolte Engineers for the Federal Emergency Management Agency and titled, "Preliminary Boundary and Floodway Map" beginning at the westerly boundary of Lot 11, and the westerly boundary of that 4.768 acre parcel of Lot 12 as shown on Page 220 of Volume X3 of Surveys of the Hatton Partition of Rancho Canada de la Segunda and extending upstream to the Limit of Detailed Study easterly of Camp Stephani.

C. Definitions: For the purpose of this Section, unless the context otherwise requires, certain terms used in this Section are defined as follows:

1. Floodway: That portion of the valley floor required to carry the flow which may on the average occur once every one hundred (100) years (a one hundred (100) year flood). The floodway shall be that area shown on maps prepared by Nolte Engineers for the Federal Emergency Management Agency titled, Preliminary Flood Boundary and Floodway Map, and which are in the possession of the Monterey County Water Resources Agency and the Monterey County ~~Planning and Building Inspection~~ Planning Department.

2. Riparian Corridor: That portion of the valley floor vegetated with native plant materials characteristic of the channel, banks, and adjacent areas of the river. The riparian corridor is further defined as that area which includes trees and woody plants which are clearly dependent on the water course for their continued existence, but shall not extend beyond the floodway fringe.

3. Development: The construction of structures, grading, or other similar activity which require permit(s) from any governmental agency.

4. Floodway Fringe: That portion of the valley floor outside of the floodway normally required to carry the flow which may on the average occur once every one hundred (100) years (a one hundred (100) year flood), and which could be completely obstructed without increasing the floodwater surface elevation more than one foot a point. The floodway fringe shall be that area shown on maps prepared by Nolte Engineers for the Federal Emergency Management Agency titled Preliminary Flood Boundary and Floodway Map, and which are in the possession of the Monterey County Water Resources Agency and the Monterey County ~~Planning and Building Inspection~~ Planning Department.

D. Regulations.

1. The following activities are hereby prohibited, except as provided for herein.

a. Development within two hundred (200) feet of the riverbanks, or in the floodway or riparian corridor, as defined herein, except for areas separated vertically by more than the vertical elevation of flooding, as shown in the one hundred (100) year floodplain and floodway maps described in Section 21.64.030C, where it can be shown, to the satisfaction of the Monterey County Water Resources Agency Engineer, that development will accommodate sufficient setback to avoid erosion. All development within two hundred (200) feet of the river banks will require a Use Permit.

b. Alteration of the living riparian vegetation by removal, thinning, or other means.

c. Construction or alteration of levees, or the placement of fill material in the floodway or riparian corridor.

d. Any alteration of the natural course of the river or its banks, except as a part of a flood control project planned or approved by the Monterey County Water Resources Agency.

e. Any dredging of, or removal of, natural materials from the river channel or banks.

2. Development in the floodway fringe as defined herein, and subject to the provisions of Subsection 21.64.130D1 and Subsection 20.108.050A is permitted subject to the provisions of this Chapter and provided that all structures including related utilities shall be so located and constructed so as to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems flood waters. On-site waste disposal systems shall be located so as to avoid impairment of the contamination from and during flooding. The first habitable floor of any structures shall be located at least one foot above the one hundred (100) year flood level. Such use shall be subject to first securing a Use Permit prior to the commencement of any such development.

3. Development of recreation facilities and the establishment of low intensity open space use structural repairs and alterations to existing structures may be permitted in the floodway or floodway fringe provided such facilities or uses comply with the intent and all provisions of this ordinance, including the requirement for a Use Permit and adequate protection of riparian habitats and rip vegetation, smooth flood flow, retention of Federal Flood Insurance Eligibility, and prevention of damage to structures in the floodways. Such facilities and uses shall not include activities a structures which would increase flood-related hazards or impede flood flows. Structural repairs and alterations to existing structures may not expand, enlarge, increase, or otherwise intensify the existing structure.

#### E. Development of Lots of Record.

1. Lots of record as of August 7, 1981, whose development would be in conflict with the provisions of this Chapter because their developable portions are within two hundred (200) feet of the river bank or within the riparian corridor, may be developed for single family residential purposes, provided that such use, to the maximum extent feasible, comply with all applicable provisions of this Chapter. Such development shall be subject to first securing a Use Permit,

prior to the commencement of any such use.

2. New development, or the expansion of or addition to any existing uses, in the floodway is prohibited except for recreational facilities or low intensity open space uses, and structural repairs and alterations to existing structures as provided for in Subsection 21.64.130D3.

#### F. Riverbank Protection or Channel Modification.

1. Notwithstanding Subsection 21.64.130D1 and 2 of this Section, riverbank protection, riparian vegetation trimming or removal or channel modification measures may be taken, provided that Permit is first secured.

2. Emergency riverbank protection or channel modification measures are excepted from the prior requirement for a Use Permit, provided that the General Manager of the Monterey County Water Resources Agency must first declare such an emergency to exist or to be imminent. When declaring an existing or imminent emergency, the General Manager of the Monterey County Water Resources Agency shall take into account the high probability of flooding, erosion danger, blockage and structural damage within the next sixty (60) days. During a declared period of emergency, the General Manager must first approve in writing the type, location and extent of any such emergency measures. Application for approval shall be made to the General Manager on forms supplied by the Water Resources Agency and shall be accompanied by appropriate plans prepared by a registered civil engineer.

3. Should an emergency situation arise that requires immediate bank protective actions to mitigate a clear and present danger to life or property, such actions may be performed without prior approval of the Monterey County Water Resources Agency Engineer. Protective measures performed under this Subsection shall be limited to those needed to mitigate such clear and present danger to life or property. Within ten (10) calendar days of the commencement of such actions the type, location, and extent of protective measures performed under this Subsection shall be reported in writing to the General Manager of the Monterey County Water Resources Agency.

#### G. Approved Projects Exclusion.

1. Any development project for which all required permits have been secured and are in effect at that time of adoption of this Section shall be exempt from the provisions of this Section. Should any such permit(s) lapse or otherwise become ineffective for any reason, all provisions of this Section shall then apply.

2. Any channel modification, or alteration of riparian vegetation within the river channel or on the riverbanks which, in the opinion of the General Manager of the Monterey County Water Resources Agency and the Director of ~~Planning and Building Inspection~~ Planning would be of such a very minor nature that such projects could have no impact on the river, its visual appearance, habitat values or stability, are exempt from the other provisions of this Section. This exemption only applies if the proposed project is approved by the General Manager and the Director of ~~Planning and Building Inspection~~ Planning prior to the commencement of the

intended work.

3. Any development project which, in the opinion of the Director of ~~Planning and Building Inspection~~ Planning and the Monterey County Water Resources Agency would be of such a very minor nature, that such a project would have no impact on the flood plain or the riparian corridor, is exempt from the other provisions of this Section. This exemption only applies if the proposed project is approved by the Director of ~~Planning and Building Inspection~~ Planning and the General Manager of the Monterey County Water Resources Agency, prior to construction of the project.

H. Conflicts With Other Chapters. If this Section is found to be in conflict with any other Chapter, Section, Subsection or Title provisions of this Section shall prevail.

SECTION 135. Section 21.64.140 of Chapter 21.64 of the Monterey County Code shall be amended as follows:

**21.64.140 Regulations for the location and siting of genetic engineering experiments.**

A. Purpose: The purpose of this Section is to establish a uniform County regulatory policy, standards, and permitting process pertaining to the location and siting of experiments involving the release of genetically engineered microorganisms into the environment with the end in view that public health and safety and the environment are afforded the maximum degree of protection. It is not the intent of this Section to enter the regulatory sphere occupied by the federal and state government; rather, it is the intent of this Section to use land use plans and zoning ordinances as primary guides in the determination of proper location for the conduct of genetic engineering experiments.

B. Applicability: This Section is applicable to any and all experiments involving the release of genetically engineered microorganisms into the open environment conducted by any person or agency. It is not applicable where the experiment proposed has already been conducted without any adverse impacts on public health and safety and the environment, on a crop within the same crop grouping, as defined in 40 C.F.R. 180.34, within the United States.

C. Findings:

1. Experiments involving the release of genetically engineered microorganisms into the open environment may pose risks to public health, safety, and the environment not adequately addressed under current federal and state regulations.

2. While the control of the release of genetically engineered microorganisms into the environment may generally be considered the responsibility of federal and state governments, it is local government that may initially be called upon to respond to any adverse effects to public health, safety, and the environment, resulting from the release of such microorganisms into the open environment.

3. In order for local government to have the capacity to provide appropriate response in such instances, it is, at a minimum, necessary for local government to be able to determine sites within its jurisdiction appropriate for the conduct of such experiments within the parameters of its land use prerogatives.

4. In order to protect the public health, safety, and the environment, it is in the public interest for local government to establish rules and regulations addressing certain land use aspects of such experiments, including suitability of test sites and their compatibility with surrounding land uses.

#### D. Definitions:

1. "Agency" means any local agency as defined in Section 53090 of the government Code. It does not include the federal government or any agencies thereof.

2. "DNA" means deoxyribonucleic acid.

3. "Genetically engineered microorganisms" means microorganisms including bacteria, fungi, protozoa and viruses, created or modified by recombinant (rDNA) technology which are nonpathogenic to humans and animals.

4. "Genetic engineering" means a process or technology employed whereby the hereditary apparatus of a living cell is altered, modified, or changed so that the cell can produce more or different chemicals or perform completely new functions.

5. "In vitro" means, literally, in glass. This pertains to biological reactions taking place in an artificial apparatus; sometimes used to include growth of cells from multicellular organisms under cell culture conditions.

6. "Open environment" means any unenclosed area or area in the open or place outside a building or shelter.

7. "Person" means any individual, firm, partnership, trust, corporation, company, estate, public or private institution, association, organization, or group, and any representative, agent, or agency of any of the foregoing.

8. "Recombinant DNA (rDNA)" means the hybrid DNA produced by joining or deleting pieces of DNA from the same or different organisms or synthetic DNA from the same or different organisms or synthetic DNA together in vitro.

9. "Release" means to intentionally or deliberately discharge, emit, or liberate any genetically engineered microorganism into the open environment.

#### E. Regulations:

1. Genetic engineering experiments are an allowed use on properties designated by the Monterey County General Plan, area plans or coastal land use plans as Farmlands, Permanent Grazing, Rural Grazing, Agricultural Conservation or Agricultural Preservation, except as provided in subsection E.2. below and provided such experiments have been approved by the Agricultural Commissioner.

2. No person or agency shall conduct experiments involving the release of genetically engineered microorganisms into the open environment within one hundred (100) feet of an occupied structure without first obtaining a Use Permit pursuant to Chapter 21.74 of this Title. Chapter 21.74 shall govern all matters relating to Use Permits for such experiments except as provided for in this Section. A Permit Committee comprised of the Director of Environmental Health, Agricultural Commissioner and Director of ~~Planning and Building Inspection~~ Planning shall have the power to hear and decide applications for, and issue such Use Permits,

3. No application for a Use Permit may be considered unless the applicant demonstrates that he/she has been granted the necessary permit to conduct such experiments by the appropriate federal and state agencies at the time of the filing of the application.

4. All Use Permits for experiments involving the release of genetically engineered microorganisms shall require environmental review pursuant to the California Environmental Quality Act and the guidelines adopted by the County of Monterey. Such Use Permits may not be categorically exempt.

5. All Use Permit applications shall be accompanied by all necessary forms, plans and supporting information deemed necessary by the Director of ~~Planning and Building Inspection~~ Planning, the Director of Environmental Health and the Agricultural Commissioner to consider the Use Permit application complete. Such information shall include at the minimum:

- a. A site plan showing in sufficient detail and scale:
  - i. the size of the property proposed for the use;
  - ii. the current use of the property;
- b. Copies of all approved state and federal permits for the use;
- c. Copies of all information submitted to state and federal agencies, except materials and information considered to be "trade secrets";
- d. Information relative to the type of microorganism to be used;
- e. Plans and measures for the control of public access and trespass on the subject site;
- f. Measures for the protection of surface and groundwater;

- g. Measures for vector control;
- h. Measures for control of airborne materials from the site;
- i. Measures proposed for meeting potential liability.

6. Upon the application being deemed complete, it shall be submitted to the Monterey County Agricultural Advisory Committee for a report and recommendation prior to consideration by the Permit Committee.

7. The Permit Committee may impose such conditions as it deems necessary to protect the public health, safety and the environment.

8. The decision of the Permit Committee may be appealed to the Board of Supervisors pursuant to Chapter 21.80 of this title.

**F. Financial Assurances and Indemnification:**

1. Each permit issued pursuant to this Section shall have as a condition of the permit, a requirement that the applicant provide financial assurances that are necessary to respond adequately to damage claims arising from activities permitted under this Chapter. The financial assurances shall be in the form of a trust fund, surety bond, letter of credit, insurance, or other equivalent financial arrangement in a form and in amounts acceptable to the County.

2. Each permit issued pursuant to this Section shall have, as a condition of the permit, a requirement that the applicant indemnify and hold harmless the County and its officers, agents, and employees from actions or claims of any description brought on account of any injury or damages sustained, including death, by any person or property resulting from the issuance of the permit and the conduct of the activities or experiments authorized under said permit.

**C. Severability:** If any section, subsection, sentence, clause, or phrase of this Section is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Section. The Board of Supervisors hereby declares that it would have passed this Section and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses, or phrases may be declared invalid. (Ord. 3849 § 1, 1995)

**SECTION 136.** Section 21.64.150 of Chapter 21.64 of the Monterey County Code shall be amended as follows:

**21.64.150 Regulations and development standards for mobile home parks.**

**A. Purpose:** The purpose of this Section is to provide the minimum development standards for mobile home parks.

B. Applicability: The provisions of this Section are applicable in all residential zoning districts.

C. Regulations:

1. Mobile home parks may be permitted subject to the approval of the Planning Commission of a Use Permit in any residential zoning district.

2. The minimum lot area for a mobile home park shall be five acres.

3. The density of a mobile home park shall not exceed the density shown for the parcel on the Sectional District Map, or eight units per acre, whichever is less.

4. The minimum mobile home site within the mobile home park shall not be less than three thousand (3,000) square feet.

5. Minimum setbacks from adjoining streets and properties shall:

a. Front setback: twenty (20) feet;

b. Side setback: ten (10) feet; and

c. Rear setback: ten (10) feet.

6. Landscaping and fencing shall be provided and designed to screen the mobile home park from the street and adjoining properties. Landscaping and fencing plans shall be approved by the Director of ~~Planning and Building Inspection~~ Planning.

7. All landscaped areas shall be maintained in a litter-free, weed-free, condition. All plant material shall be maintained in a healthy, growing condition.

8. Ten (10) percent of the total area of the mobile home park shall be developed and maintained for recreational purposes.

9. Two parking spaces shall be provided on each mobile home site. The parking spaces shall not part of the minimum street width.

10. All utility distribution facilities, including but not limited to electrical, communication and cable television lines installed in, and for the purpose of, supplying service within any mobile home park, be placed underground, except:

a. Equipment appurtenant to underground facilities, such as surface-mounted transformers, pedestal mounted terminal boxes and meter cabinets; and

b. Concealed ducts, or such equipment when concealed by shrubbery, landscaping, or other screening as approved by the Director of ~~Planning and Building Inspection~~ Planning.

The Planning Commission may waive the requirements of this subsection if topographical, soil, or other physical conditions make underground installation of said facilities unreasonable or impractical.

11. No mobile home park shall have commercial uses other than those used primarily by the residents of the park such as coin-operated machines for laundry, soft drinks, cigarettes, and similar us condition that the uses shall be located in the interior of the park.

SECTION 137. Section 21.64.240 of Chapter 21.64 of the Monterey County Code shall be amended as follows:

**21.64.240 Determination of vested rights.**

A. Purpose.

1. The purpose of this Section is to establish regulations, procedures, and standards to be used in the determination of vested land use rights as those rights are defined under existing law. This Section is not intended to make a change in common law or statutory vested rights standards in existence as of the date of adoption hereof.

2. This Section is not intended to address the following:

a. Legal non-conforming uses or structures which are regulated in Chapter 21.68 of Title 21.

b. Questions regarding permit enforcement which are regulated in Chapter 21.84 of Title 21.

c. Vesting tentative maps which are regulated in Title 19.

d. Development or uses in accordance with binding development agreements.

3. This Section is not intended to and does not limit nor restrict any other rights which may exist in law or equity, including the right to have a development application evaluated under the laws, policies, and/or regulations in effect at the time the application is determined to be complete by the Monterey County ~~Planning and Building Inspection~~ Planning Department.

B. Applicability. The provisions of this Section are applicable in all zoning districts.

C. Regulations.

1. No person who has obtained a vested right in a development prior to the effective date of the applicable County ordinances or regulations or who has obtained a permit from the County

in compliance with all applicable County ordinances or regulations in effect at the time said permit was granted shall be required to secure approval for said development; provided, however, that no significant or substantial change may be made in any such development without prior approval having been obtained from the County pursuant to other applicable County ordinances and regulations.

2. Any person claiming a vested right in a development, which right is disputed by an official or department of the County, and who wishes to be exempt from any County land use or development permit requirements, shall substantiate the claim in a proceeding before the Planning Commission pursuant to this Section. In such a proceeding the claimant shall have the burden of proof as to each finding necessary to establish a vested right as set forth in Subsection 6 following.

3. Any person who claims that a development is exempt from the County's permit requirements by reason of a vested right, and whose such claim is disputed by an official or department of the County, shall initiate such claim by filing a claim of vested rights with the ~~Planning and Building Inspection~~ Planning Department.

4. For each claim, claimant shall provide the following information together with any other relevant information required by the Director of ~~Planning and Building Inspection~~ Planning:

- a. Name of claimant, address, telephone number.
- b. Name, address, and telephone number of claimant's representative, if any.
- c. Description of the development claimed to be exempt, including all incidental improvements such as utilities, road and other infrastructure, and a description of the specific parcel of land on, or specific boundaries within which such development or use exists. A site plan, development plan, grading plan, and construction or architectural plans may be attached as appropriate.
- d. A list of all governmental approvals which have been obtained, including those from State or Federal agencies, and the date of each final approval. Copies of all approvals shall be attached.
- e. A list of any governmental approvals which have not yet been obtained and anticipated dates of approval.
- f. A list of any conditions to which the approvals are subject and date on which the conditions were satisfied or are expected to be satisfied.
- g. A specification of the nature and extent of the work or use in progress or completed, including: (1) date of each portion commenced (e.g., grading, foundation work, structural work, etc.); (2) any governmental approval pursuant to which the portion was commenced; (3) portions completed and date on which completed, if applicable; (4) status of each portion on date of

claim; (5) amounts of money expended on portions of work completed or in progress (dates and amounts of expenditures shall be itemized);

h. A description of those portions of the development or use continuing and remaining to be completed.

i. A list of the amount and nature of any liabilities incurred that are not covered above and dates incurred, and a list of any remaining liabilities to be incurred and date when these are anticipated to be incurred.

j. A statement of the expected total cost of the development or use.

k. A statement on whether the development or use is planned as a series of phases or segments, and if so, a description of the phases or segments involved.

l. A statement of the date when is it anticipated that the total development or use will be completed.

m. A written authorization of any agent acting on behalf of the applicant.

n. A certification by applicant or agent as to all contents of documents submitted in support of the claim of vested right.

5. As soon as practicable after an application for a determination of a claim of vested rights is found to be complete by the ~~Planning and Building Inspection~~ Planning Department, and in no event later than ninety (90) days from such date, the Planning Director shall notice a hearing before the Planning Commission pursuant to Chapter 21.78 of the Monterey County Code, to determine the claim of vested rights. The Director of ~~Planning and Building Inspection~~ the Planning Department shall make a written recommendation to the Planning Commission for consideration of the claim of vested rights. At such hearing, the Director of ~~Planning and Building Inspection~~ Planning shall introduce into evidence all evidence submitted by the claimant and all evidence submitted either supporting or in opposition to the claim.

6. Action by the Planning Commission on a claim of vested right shall be supported by written findings of fact. The required findings to substantiate a claim of vested right shall be as follows:

a. That the vested right has been established with respect to a specific parcel of land or within specifically described boundaries, or for a specifically described development or use;

b. That each development or use as to which a vested right is sought was done in reliance upon a County-issued permit or was established prior to enactment of County regulations requiring such a permit;

c. That each development or use as to which a vested right is sought does not exceed either:

1. The scope authorized by the terms and conditions of the County-issued permit relied upon (if any); or

2. The extent of the development or use as of the effective date of County ordinances or regulations regulating the development or use.

d. That the person claiming a vested right performed substantial work and incurred substantial financial liabilities in good faith reliance upon a building permit issued by the County as required under existing law, or did the same prior to the effective date of the regulation from which a vested right exemption is sought; and

e. That each development or use as to which a vested right is sought has not been abandoned and including the effective date of the regulation from which a vested right exemption is sought.

7. Each claim of vested rights is substantiated pursuant to Paragraph 6 of this Subsection C shall be acknowledged by the Planning Commission to the extent it has been substantiated. If the claim is not substantiated, it shall be denied by the Planning Commission. However, if the circumstances suggest that a claimant may be able to provide additional information to substantiate the claim or that other evidence is pertinent to the claim, the matter may be continued so that claimant may submit additional evidence.

8. Appeals from a decision of the Planning Commission granting or denying a claim of vested rights may be made to the Board of Supervisors by any public agency or person aggrieved by the decision pursuant to Chapter 21.80 of the Monterey County Code.

9. A final determination by the Planning Commission recognizing a claim of vested rights shall constitute acknowledgment that the development does not require any additional permit under C regulations provided that no substantial change may be made in the development except in accordance with the permit requirements of the County. If any approval upon which the acknowledgment is based lapse either by its own terms or pursuant to any provision of law, the acknowledgment made under this Section shall automatically and without further action be null and void and the development or use shall become subject to the permit requirements of the County.

D. Filing Fee. The application fee for a determination of vested land use rights shall be as established from time to time by the Board of Supervisors, and no part of such fee shall be refundable unless said refund is requested in writing concurrently with the withdrawal of the request and provided that the applicant has not been sent written notice of the application's completeness or incompleteness. In the latter case, fifty (50) percent of the filing fee shall be refunded. (Ord. 3633, 1992)

SECTION 138. Section 21.64.260 of Chapter 21.64 of the Monterey County Code shall be amended as follows:

**21.64.260 Preservation of oak and other protected trees.**

A. Purpose. The purpose of this Section is to provide the regulations for the protection and preservation oak and other specific types of trees as required in the Monterey County General Plan, area plans and master plans. This Section is also intended to provide the procedures under which proposed removal of such trees may be considered or exempted.

B. Applicability. The provisions of this Section are applicable throughout the unincorporated area of the County of Monterey outside the Coastal Zone.

C. Regulations. Except as provided in Subsection 21.64.240F of this Section the following regulations apply:

1. No oak or madrone tree six inches or more in diameter two feet above ground level shall be removed in the North County Area Plan or Toro Area Plan areas without approval of the permit(s) required in Subsection 21.64.240D.

2. No oak, madrone or redwood tree six inches or more in diameter two feet above ground level shall be removed in the Carmel Valley Master Plan area without approval of the permit(s) required in Subsection 21.64.240D.

3. No native tree six inches or more in diameter two feet above ground level shall be removed in the Cachagua Area Plan area without approval of the permit(s) required in Subsection 21.64.240D.

“Native trees,” for the purpose of this subsection, are:

- a. Santa Lucia Fir;
- b. Black Cottonwood;
- c. Fremont Cottonwood;
- d. Box Elder;
- e. Willows;
- f. California Laurel;
- g. Sycamores;
- h. Oaks;

i. Madrones.

4. No oak tree six inches or more in diameter two feet above ground level may be removed in any other area of the County of Monterey designated in the applicable area plan as Resource Conservation, Residential, Commercial or Industrial (except Industrial, Mineral Extraction) without approval of the permit(s) required in Subsection 21.64.240D.

5. No landmark oak tree shall be removed in any area except as may be approved by the Director of ~~Planning and Building Inspection~~ Planning pursuant to Subsection 21.64.240D. Landmark oak trees are those trees which are twenty-four (24) inches or more in diameter when measured two feet above the ground, or trees which are visually significant, historically significant, or exemplary of their species.

6. No oak trees six inches or more in diameter two feet above ground level may be removed in any other area of the County of Monterey designated in the applicable area plan as Agricultural or Industrial, Mineral Extraction, unless such removal meets the purpose and standards required in Subsection 21.64.240E.

7. No oak trees may be removed in any area of the County of Monterey for commercial harvesting purposes without approval of a Use Permit by the Planning Commission.

D. Permits Required.

1. Permit Required: No person shall do, cause, permit, aid, abet, suffer or furnish equipment or labor to remove, cut down or trim more than one-third of the green foliage of, poison or otherwise kill or destroy any tree as specified in this Section until a tree removal permit for the project has first been obtained.

All provisions of this Section shall apply to any person removing trees on behalf of any other person, including all companies or persons in the business of removing trees or construction. It shall be unlawful for any person or company to remove or cause to be removed or undertake any work for which a permit is required under this Section, unless a valid permit has been obtained and is in effect.

2. Removal of Three or Less Protected Trees: The Director of ~~Planning and Building Inspection~~ Planning may approve the removal of no more than three protected trees per lot in a one-year period. The following information shall be submitted to the Director of ~~Planning and Building Inspection~~ Planning prior to consideration of such removal:

- a. Applicants or authorized representatives name, address and telephone number;
- b. The description of the site(s) involved, including the street address, if any, and the assessor's parcel number;

- c. A site plan sufficient to identify and locate the trees to be removed, other trees, buildings, proposed buildings, and other improvements;
- d. The purpose for the tree removal;
- e. A description of the species, diameter two feet above ground level, estimated height, and general health of the trees to be removed.
- f. A description of the method to be used in removing the tree(s);
- g. A statement showing how trees not proposed for removal are to be protected during removal or construction;
- h. Proposed visual impact mitigation measures the applicant intends to take (if appropriate). Size, location and species of replacement trees, if any, shall be indicated in the site plan;
- i. Such further information as may be required by the Director of ~~Planning and Building Inspection~~ Planning, including, but not limited to, the opinion of a registered professional forester, tree surgeon, or other qualified expert to enable the determination of matter required under these regulations.

### 3. Removal of More Than Three Protected Trees:

- a. Removal of more than three protected trees on a lot in a one-year period shall require a Forest Management Plan and approval of a Use Permit by the Monterey County Planning Commission.
- b. The Forest Management Plan shall be prepared by a qualified professional forester, as selected from the County's list of Consulting Foresters. Plan preparation shall be at the applicant's expense.
- c. The Director of ~~Planning and Building Inspection~~ Planning shall prescribe the format and content requirements for the Forest Management Plan and maintain a list of qualified and acceptable foresters to prepare the Forest Management Plan.
- d. All tree removal requests coming under this subsection shall be subject to the requirements of the California Environmental Quality Act (CEQA).

4. Relocation or Replacement: As a consideration of the granting of a permit pursuant to Subsections 2 or 3, the applicant shall be required to relocate or replace each removed protected tree on a one-to-one ratio. This requirement may be varied upon a showing that such a requirement will create a special hardship in the use of the site or such replacement would be detrimental to the long-term health and maintenance of the remaining habitat.

5. Required Findings: In order to grant the permit for tree removal, the Appropriate Authority shall make the following findings based on substantial evidence:

a. The tree removal is the minimum required under the circumstances of the case; and

b. The removal will not involve a risk of adverse environmental impacts such as:

1. Soil erosion;

2. Water Quality: The removal of the trees will not substantially lessen the ability for the natural assimilation of nutrients, chemical pollutants, heavy metals, silt and other noxious substances from ground and surface waters;

3. Ecological Impacts: The removal will not have a substantial adverse impact upon existing biological and ecological systems, climatic conditions which affect these systems, or such removal will not create conditions which may adversely affect the dynamic equilibrium of associated systems;

4. Noise Pollution: The removal will not significantly increase ambient noise levels to the degree that a nuisance is anticipated to occur;

5. Air Movement: The removal will not significantly reduce the ability of the existing vegetation to reduce wind velocities to the degree that a nuisance is anticipated to occur;

6. Wildlife Habitat: The removal will not significantly reduce available habitat for wildlife existence and reproduction or result in the immigration of wildlife from adjacent or associated ecosystems; or

c. The tree is diseased, injured, in danger of falling too close to existing or proposed structures, creates unsafe vision clearance, or is likely to promote the spread of insects of disease.

6. Conditions of Approval: In granting any permit as provided herein, the Appropriate Authority may attach reasonable conditions to mitigate environmental impacts and ensure compliance with the provisions of this Section, including but not limited to replacement of trees removed.

7. Emergencies: In the case of emergency caused by hazardous or dangerous condition of a tree and requiring immediate action for the safety of life or property, such necessary action may be taken to remove the tree or otherwise reduce or eliminate the hazard without complying with the other provisions of this Section, except that the person responsible for cutting or removal of the tree(s) shall report such action to the Director of ~~Planning and Building Inspection~~ Planning within ten (10) working days thereafter.

E. Purpose and Standards for Agricultural Areas. Removal of oak trees in the areas outside of the North County Area Plan, Toro Area Plan, Cachagua Area Plan and Carmel Valley Master Plan designated Farmlands, Rural Grazing or Permanent Grazing by the applicable area

plan shall be allowed only if the following purposes and standards are satisfied.

1. Oak tree removal is allowed without a permit for any of the following reasons:

- a. Rangeland improvement;
- b. Promotion of wildlife habitat;
- c. Enhancement of watershed area;
- d. Elimination of trees hazardous to life or property, or;
- e. Firewood for the use of the owners and other persons residing on site.

2. Standards:

a. The current Best Management Practices as promulgated by the University of California Hardwood Range Management Plan shall be followed to maintain and promote regeneration of oak trees.

b. A representative sample of sizes, ages and species of oaks shall be retained with special emphasis placed on retaining samplings.

c. The number of oaks on any acre shall not be reduced to less than twenty-five (25) percent canopy existing at the time of adoption of this ordinance.

d. Removal of oak trees encroaching on existing cultivated farmland is allowed.

3. Oak trees on land being converted to irrigated farmland where a Use Permit is required for such conversion by area plan policy shall not be allowed until such use permit is approved and applicable conditions are met.

4. Removal for purposes not under the guidelines of this Subsection may be approved by the Director of ~~Planning and Building Inspection~~ Planning on an individual basis.

F. Exemptions. The following tree removal activities are exempted from the provisions of this Section:

1. Timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Zberg-Nejedly Forest Practices Act of 1973 (commencing with Section 45110 of the Public Resources Code).

2. Tree removal pursuant to Public Utilities Commission General Order 95 or by governmental agencies within public rights-of-way.

3. Tree removal for construction of structures, roads and other site improvements included in an approved subdivision, Use Permit, or similar discretionary permit.

SECTION 139. Section 21.64.270 of Chapter 21.64 of the Monterey County Code shall be amended as follows:

**21.64.270 Regulations for historic resources.**

A. Purpose: To provide reasonable flexibility of zoning standards to encourage and accommodate the renovation and rehabilitation of historic resources and structures within historic districts.

B. Following the provision of notice pursuant to Chapter 21.70 of this Code, the Director of ~~Planning and Building Inspection~~ **Planning** may grant an exception to the zoning district regulations when such exception is necessary to permit the preservation or restoration of, or improvements to, a structure designated as historically significant pursuant to the provisions of Chapter 18.85 of this Code. Such exceptions may include, but are not limited to, parking, yards, height, and coverage regulations. Such exceptions shall not include approval of uses not otherwise allowed by the zoning district regulations. (Ord. 3795, 1994)

SECTION 140. Section 21.64.280 of Chapter 21.64 of the Monterey County Code shall be amended as follows:

**21.64.280 Administrative permits for transient use of residential property for remuneration.**

A. Findings and Declarations.

1. Title 21 provides for zoning districts to accommodate development where adequate services and facilities exist to support such development.

2. Title 21 also establishes certain residential and commercial zoning districts to accommodate a wide range of commercial uses compatible with residential and other surrounding land uses.

3. The use of single and multiple family dwelling units, duplexes, guesthouses, caretaker units, and other structures normally occupied for residential purposes, for bed and breakfast, hostel, hotel, inn, lodging, resort, or other transient lodging purposes has impacts on residential areas which must be addressed through existing County use permit processes.

4. Allowing transient use of residential property will provide an administrative procedure to legalize existing visitor serving opportunities and increase and enhance public access to areas of the County and other visitor destinations.

5. If not properly regulated, such use of residential property may create adverse impacts on surrounding residential uses including, but not limited to, increased levels of commercial and

residential vehicle traffic, parking demand, light and glare, and noise detrimental to surrounding residential uses and the general welfare of the County. Moreover, such use may increase demand for public services, including, but not limited to, police, fire, and medical emergency services, and neighborhood watch programs.

6. Requiring administrative permits for such use of residential property enables the County of Monterey to address any adverse impacts of such use, is consistent with and declaratory of existing regulations under Title 21, and necessary to maintain the integrity of the various zoning districts.

7. This ordinance is necessary in order to protect the public health, safety, and welfare.

B. Purpose. The purpose of this Section is to:

1. Preserve and enhance the residential character of the zoning districts established in Title 21 and the sense of security and safety in stable neighborhoods of owner-occupied residences.

2. Implement the provisions and advance the purposes and objectives of Title 21.

3. Except as provided in this Section, restrict transient use of property for remuneration, which use may be inharmonious with and injurious to the preservation of the character and environment of the various zoning districts in Title 21.

4. Promote the public health, safety, and general welfare of the County.

C. Definitions. Except as otherwise defined or where the context otherwise indicates, the following words shall have the following meaning:

1. "Person" means any individual, partnership, firm, business, or similar entity, public or private agency, municipality, city, State or Federal agency.

2. "Remuneration" means compensation, money, rent, or other bargained for consideration given in return for occupancy, possession, or use of residential real property.

3. "Residential property" means any single- or multiple- family dwelling units, duplexes, guesthouses, caretaker units, or other dwelling unit or structure located on one or more contiguous lots of record in any of the zoning districts in Title 21 which allow residential uses.

4. "Transient" means, except as provided herein, a period of time not less than seven nor more than thirty (30) consecutive calendar days.

5. "Transient Use of Residential Property" means the use, by any person, of residential property for bed and breakfast, hostel, hotel, inn, lodging, motel, resort or other transient lodging uses where the term of occupancy, possession or tenancy of the property by the person entitled to such occupancy, possession, or tenancy is, except as provided herein, for not less than seven nor

more than thirty (30) consecutive calendar days.

D. Administrative Permit.

1. Permitted Use.

a. Transient use of residential property for remuneration shall be permitted in all zoning districts which allow residential use upon the issuance of an administrative permit pursuant to Chapter 21.70 of Title 21, subject to the regulations in Section D2.

b. Transient use of residential property in existence on the effective date of this Section shall, upon application, be issued an administrative permit provided that any such units devoted to transient use are registered with the Director of ~~Planning and Building Inspection~~ Planning and the administrative permit application is filed within ninety (90) days of the effective date of this Section. Upon registration, the owner/registrant shall record a covenant and/or deed restriction against each unit whereby such owner/registrant agrees to comply with the regulations set forth in Section D2. The owner/registrant shall have the burden of demonstrating that the transient use was established. Payment of transient occupancy taxes shall be, but is not the exclusive method of demonstrating, evidence of the existence of historic transient use of residential property.

c. The rental period and days per year of rental for residential properties registered for transient uses with the Director of ~~Planning and Building Inspection~~ Planning pursuant to this Section shall be limited to the rental period and days per year of rental established by the owner/registrant at the time of registration. Nothing in this Section shall preclude the owner/registrant from increasing or extending the rental period for the registered property provided an administrative permit is first obtained under this Section.

2. Regulations.

a. The minimum rental period for all transient use of residential property shall be the greater of seven consecutive calendar days or the minimum rental period set forth in enforceable, recorded conditions, covenants, and restrictions encumbering the property rented. Transient use of residential property for a term less than provided herein is hereby expressly prohibited. Any residential property the rezoning of which is being proposed or considered by the Planning Commission or the Board of Supervisors so as to be exempted from the provisions of this Section, shall be exempted from the permit and/or registration requirements of this Section pending consideration and final decision on said rezoning by the Planning Commission and the Board of Supervisors. Such exemption shall terminate immediately in the event the Board of Supervisors reaches a final decision not to adopt the above-described rezoning proposed for any such property.

b. The number of occupants in any residential unit for transient use shall not exceed the limits set forth in the California Uniform Housing Code and other applicable State and County housing regulations for residential structures based on the number of bedrooms within the unit.

Each permit shall specify the maximum number of occupants allowed.

c. Availability of the rental unit to the public shall not be advertised on site.

d. Any administrative permit issued pursuant to this Section shall require, as a condition of approval, that applicant who does not reside within a five-mile radius of the residence being rented, designate a person located within a twenty-five (25) mile radius of the rental unit, as a local contact person who will be available twenty-four (24) hours a day to respond to tenant and neighborhood questions or concerns and to otherwise be responsible for assuring that the rental unit complies with the requirements of the administrative permit issued and the provisions of this Section and other applicable provisions of Title 21. The name, address, and telephone number(s) of such a designated person shall be furnished to the Director of ~~Planning and Building Inspection~~ Planning prior to issuance of the coastal administrative permit and made available for public review. The permit holder shall promptly notify the Director of ~~Planning and Building Inspection~~ Planning of any change in the local contact person's address or telephone number.

e. A copy of any administrative permit and/or registration issued pursuant to this Section shall be furnished by the Director of ~~Planning and Building Inspection~~ Planning to the Treasurer of the County of Monterey and the Sheriff of the County of Monterey.

f. The administrative permit holder and/or registrant shall collect and remit to the Treasurer of the County of Monterey, the transient occupancy tax for each rental unit pursuant to Chapter 5.40 of the Monterey County Code. However, nothing in this Section shall be construed to require an applicant from collecting and paying any transient occupancy tax for any transient use of residential property had and made prior to the effective date of this Section.

g. The use of a residential unit for a transient use shall not violate any applicable conditions, covenants, or other restrictions on real property. The applicant shall provide notice to any affected homeowners' association in a manner consistent with the notice requirements for a use permit. In the event the homeowners' association objects to the issuance of the permit, the permit shall not be approved until the homeowners' association's objection has been withdrawn or the right of the applicant to use the subject residential property for transient use has been validated, approved, or otherwise ordered by a Court, arbitrator, or other appropriate entity with the authority to review, approve, validate, or otherwise act on the proposed use of the action of the homeowners' association.

h. Compliance with the requirements of this Section shall be considered conditions of approval, the violation of which may result in a revocation of any administrative permit by the Director of ~~Planning and Building Inspection~~ Planning.

### 3. Violations.

a. Any person who uses, or allows the use of, residential property in violation of the provisions of this Section is guilty of a misdemeanor for each day in which such residential property is used, or allowed to be used, in violation of this Section and is punishable pursuant to

Title 21 and Chapter 1.20 of the Monterey County Code.

b. Any person acting as agent, real estate broker, real estate sales agent, property manager, reservation service, or who otherwise arranges or negotiates for the use of property in violation of the provisions of this Section is guilty of a misdemeanor for each day in which such residential property is used, or allowed to be used, in violation of this Section, and is punishable pursuant to Title 21 and Chapter 1.20 of the Monterey County Code.

E. Declaration of Intent. The Board of Supervisors finds that the current provisions of the Monterey County Coastal Implementation Plan and Title 21 restrict the use of residential property to be occupied by a person or persons for short-term occupancies. The Board further finds that occupancies of less than thirty (30) days of residential property is a transient use of residential property for remuneration and may be allowed only upon the issuance of an administrative permit in the coastal zone, or an administrative permit in the non-coastal areas. This ordinance, therefore, is intended to clarify, restate, and ratify these findings to ensure full and complete enforcement of the Monterey County Coastal Implementation Plan and Title 21. The Board of Supervisors further finds that this ordinance does not create, enhance, or diminish any rights or obligations of any person holding any interest in real property covered by this ordinance. In adopting the provisions of Section 1 of this ordinance, the Board of Supervisors finds that it intends to carry out the Local Coastal Program in a manner fully consistent with the California Coastal Act.

F. No Adverse Impact. The Board of Supervisors finds that the adoption of this ordinance has the effect of regulating a previously illegal use; however, the use permitted pursuant to this ordinance, as regulated, will not constitute a substantial adverse physical change to the environment or any substantive change in the intensity of use of existing single family dwellings.

G. Effective Date. Section 1 of this ordinance shall become effective on the thirty-first day after adoption or upon certification by the California Coastal Commission, whichever date occurs last. Section 2 of the ordinance shall become effective on the thirty-first day after its adoption. (Ord. 3911, 1997)

SECTION 141. Section 21.64.310 of Chapter 21.64 of the Monterey County Code shall be amended as follows:

**21.64.310 Regulations for the siting, design, and construction of wireless communication facilities.**

A. Purpose: The purpose of this Section is to establish the regulations, standards and circumstances for the siting, design, construction and maintenance of wireless communication facilities in the unincorporated area of the County of Monterey. It is also the purpose of this Chapter to assure, by the regulation of siting of wireless communications facilities, that the integrity and nature of residential, rural, commercial, and industrial areas are protected from the indiscriminate and inappropriate proliferation of wireless communication facilities while complying with the Federal Telecommunication Act of 1996, General Order 159A of the Public Utilities Commission of the State of California and the

policies of Monterey County.

B. Applicability: The provisions of this Section are applicable in all zoning districts.

C. Regulations: Wireless communication facilities shall be allowed on any lot or parcel in any zoning district, subject to a discretionary permit, and subject to the following regulations:

1. Wireless communication facilities shall comply with all applicable goals, objectives and policies of the general plan, area plans, zoning regulations and development standards.

2. Wireless communication facilities shall comply with all FCC rules, regulations, and standards.

3. Wireless communication facilities shall comply with all applicable criteria from the Monterey County Airport Land Use Commission (ALUC) and the Federal Aviation Administration (FAA).

4. Wireless communication facilities shall be sited in the least visually obtrusive location possible. Appropriate mitigation measures shall be applied in instances where the facility is visible from a public viewing area.

5. A visual simulation of the wireless communication facility shall be provided. Visual simulation can consist of either a physical mock-up of the facility, balloon simulation, computer simulation or other means. In instances where the wireless communication facility is located near or in a residential area, photos shall be submitted of the proposed wireless communication facility from the nearest residential neighbors. In instances where the wireless communication facility is located along a scenic corridor, or within a Historic Resource Area or District, a detailed visual analysis of the facility shall be submitted.

6. Where the wireless communication facility is proposed to be located within a designated historic resource site or district, the applicant shall comply with the regulations for historic resources pursuant to Chapter 21.54 and Chapters 18.25 and 18.26.

7. Where a wireless communication facility exists on the proposed site location, co-location shall be pursued to the maximum extent feasible. If a co-location agreement cannot be met, documentation of the effort and the reasons why co-location was not possible shall be submitted and reviewed by the Director of ~~Planning and Building Inspection~~ Planning.

8. Other regulations enacted pursuant to the General Plan and Area Plan, may be applied to the proposed wireless communication facility, depending on the location and type of facility.

D. Exemptions: The following types of wireless communications facilities are allowed in any zoning district and are exempt from the provisions of this Chapter:

1. Structure-mounted antennas as defined in Section 21.64.310F3 of this Chapter.

2. Ground-mounted antennas as defined in Section 21.64.310F4 of this Chapter.

3. A ground- or building-mounted receive-only radio or television antenna including any mast, for the sole use of the tenant occupying the parcel on which the radio or television antenna is located.

4. A ground- or building-mounted citizens band radio antenna including any mast, provided the height of the antenna, including the tower, support structure, or post, does not exceed zoning district height requirements of the zoning district.

5. A ground-, building- or tower-mounted antenna operated by a federally licensed amateur radio operator as part of the Amateur Radio Service, provided that its maximum height does not exceed the height requirements of the zoning district.

6. A ground- or building-mounted receive-only radio or television satellite dish, which does not exceed eighteen (18) inches in diameter, for the sole use of the resident occupying a residential parcel on which the satellite dish is located; provided the height of said dish does not exceed the height of the ridgeline of the primary structure on said parcel.

7. Mobile services providing public information coverage of news events of a temporary nature.

8. Hand held devices such as cell phones, business-band mobile radios, walkie-talkies, cordless telephones, garage door openers and similar devices as determined by the Planning Director.

#### E. Findings:

1. The proliferation of antennas, towers, and or satellite dishes could create significant, adverse visual impacts; therefore, there is a need to regulate the siting, design, and construction of wireless communication facilities to insure that the appearance and integrity of the community is not marred by the cluttering of unsightly facilities.

2. General Order 159A of the Public Utilities Commission (PUC) of the State of California acknowledges that local citizens and local government are often in a better position than the Commission to measure local impact and to identify alternative sites. Accordingly, the Commission will generally defer to local governments to regulate the location and design of cell sites, wireless communication facilities and MTSOs (mobile telephone switching office) including (a) the issuance of land use approvals; (b) acting as Lead Agency for purposes of satisfying the California Environmental Quality Act (CEQA) and, (c) the satisfaction of noticing procedures for both land use and CEQA procedures.

3. While the licensing of wireless communication facilities is under the control of the Federal Communication Commission (FCC) and Public Utilities Commission (PUC) of the State of California, local government must address public health, safety, welfare, zoning, and

environmental concerns.

4. In order to protect the public health, safety and the environment, it is in the public interest for local government to establish rules and regulations addressing certain land use aspects relating to the construction, design, and siting of wireless communication facilities and the compatibility with surrounding land uses.

#### F. Definitions.

1. "ALUC" means Airport Land Use Commission of Monterey County

2. "Antenna" means any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves when such system is either external to or attached to the exterior of a structure.

3. "Antenna, structure-mounted" means any antenna, other than an antenna with its supports resting on the ground, directly attached or affixed to a building, tank, tower, building-mounted mast less than ten (10) feet tall and six inches in diameter and not exceeding the height limit for the zoning district.

4. "Antenna, ground-mounted" means any antenna with its base placed directly on the ground or a mast less than ten (10) feet tall and six inches in diameter and not exceeding the height limit for the zoning district.

5. "Cellular service" means a telecommunications service that permits customers to use wireless, mobile telephones to connect, via low-power radio transmitter sites called cell sites, either to the public switched network or to other mobile cellular phones.

6. "CEQA" means California Environmental Quality Act. Guidelines established to identify and prevent potentially significant environmental impacts as well to identify ways that environmental damage can be avoided or significantly reduce by the use of alternatives or mitigation measures.

7. "Co-located communication facility" means a telecommunication facility comprised of a single telecommunication tower or building supporting one or more antennas, dishes, or similar devices owned or used by more than one public or private entity.

8. "Equipment building, shelter or cabinet" means a cabinet or building used to house equipment used by telecommunication providers to house equipment at a facility.

9. "FAA" means Federal Aviation Administration.

10. "FCC" means Federal Communications Commission.

11. "MTSOs" means Mobile Telephone Switching Offices.

12. "Monopole" means a structure erected on the ground to support wireless communication antennas and connecting appurtenances.

13. "PCS (Personal Communications Services)" means digital wireless telephone technology such as portable phones, pagers, faxes and computers. Such mobile technology promises to allow each consumer to use the same telephone number wherever they go. Also known as Personal Communications Network (PCN).

14. "PUC" means California Public Utilities Commission

15. "Satellite dish" means any device incorporating a reflective surface that is solid, open mesh, or bar configured that is shallow dish, cone, horn, or cornucopia-shaped and is used to transmit and/or receive electromagnetic signals.

16. "Telecommunication facility" means a facility that transmits and/or receives electromagnetic signals. It includes antennas, microwave dishes, horns, and other types of equipment for the transmission or receipt of such signals, telecommunication towers or similar structures supporting said equipment, equipment buildings, parking area, and other accessory development.

17. "Telecommunication tower" means a mast, pole, monopole, guyed tower, lattice tower, free-standing tower, or other structure designed and primarily used to support antennas.

18. "Wireless communication facility" means an unstaffed facility for the transmission and reception of low-power radio signals. Wireless communication facilities include antennas, microwave dishes, horns, and other types of equipment for the transmission or receipt of such signals, telecommunication towers or similar structures supporting said equipment, equipment buildings, parking area, and other accessory development.

19. "Wireless communication facility, commercial" means a wireless communications facility that is operated primarily for a business purpose or purposes.

20. "Wireless communication facility, non-commercial" means a wireless communication facility that is operated solely for a non-business purpose.

#### G. Registration Requirement:

1. All telecommunications carriers and providers that offer or provide any telecommunication services for a fee directly to the public, within the unincorporated areas of the County of Monterey, shall register with the County pursuant to this Chapter on forms to be provided by the Director of ~~Planning and Building Inspection~~ Planning and which shall include the following:

a. The identity and legal status of the registrant, including any affiliates.

b. The name, address, and telephone number of the officer, agent or employee responsible for the accuracy of the registration statement.

c. A narrative and map description of registrant's existing or proposed facilities within the unincorporated areas of the County of Monterey.

d. A description of the telecommunication services that the registrant intends to offer to provide, or is currently offering or providing, to persons, firms, businesses or institutions within the unincorporated areas of the County of Monterey.

e. Information sufficient to determine that the applicant has applied for and received any certificate of authority required by the California Public Utilities Commission to provide telecommunications services or facilities within the unincorporated areas of the County of Monterey.

f. Information sufficient to determined that the applicant has applied for and received any building permit, operating license or other approvals required by the Federal Telecommunications Commission (FCC) to provide services or facilities within the unincorporated areas of the County of Monterey.

g. Such other information as the Director of ~~Planning and Building Inspection~~ Planning may reasonably require.

2. The purpose of the registration under this Section is to:

a. Provide the County with accurate and current information concerning the telecommunications carriers and providers who offer or provide telecommunications services within the unincorporated areas of the County of Monterey, or that own or operate facilities within the unincorporated areas of the County of Monterey;

b. Assist the County in the enforcement of this Chapter;

c. Assist the County in monitoring compliance with local, State and Federal laws.

3. Amendment. Each registrant shall inform the County, within sixty (60) days of any change of the information required pursuant to this Section.

H. General Development Standards.

1. Site Location.

a. Site location and development of wireless communications facilities shall preserve the visual character and aesthetic values of the specific parcel and surrounding land uses. Facilities shall be integrated to the maximum extent feasible to the existing characteristics of the site.

b. Co-location is encouraged when it will decrease visual impact and discouraged in cases when it will increase visual impact.

c. Wireless communications facilities, to every extent possible, should not be sited to create visual clutter or negatively affect specific views.

d. In designated visually sensitive areas, scenic corridors or areas of high visibility, telecommunication facilities shall be sited below the ridge line or designed to minimize their visual impact.

e. Wireless communications facilities shall be screened from any public viewing areas to the maximum extent feasible.

f. Disturbance of existing topography and on-site vegetation shall be minimized, unless such disturbance would substantially reduce the visual impacts of the facility.

g. Any exterior lighting, except as required for FAA regulations for airport safety, shall be manually operated and used only during night maintenance checks or in emergencies. The lighting shall be constructed or located so that only the intended area is illuminated and off-site glare is fully controlled.

h. No telecommunication facility shall be installed at a location where special painting or lighting will be required by the FAA regulations unless the applicant has demonstrated to the Director of ~~Planning and Building Inspection~~ Planning, that the proposed location is the most feasible location for the provision of services as required by the FCC.

i. No telecommunication facility shall be installed within the safety zone of any airport within Monterey County or any helipad unless the airport owner/operator indicates that it will not adversely affect the operation of the airport or helipad.

j. No telecommunication facility shall be located in an environmentally sensitive habitat.

## 2. Design Review Criteria.

a. Towers and monopoles shall be constructed of metal or other non-flammable material, unless specifically conditioned by the County to be otherwise.

b. Support facilities (i.e. vaults, equipment rooms, utilities, and equipment enclosures) shall be constructed of non-flammable, non-reflective materials and shall be placed in underground vaults, unless otherwise approved by the County.

c. All ancillary buildings, poles, towers, antenna supports, antennas, and other components of telecommunication facilities shall be of a color approved by the Appropriate Authority. If the facility is conditioned to require paint, it shall initially be painted with a flat paint color approved by the Appropriate Authority, and thereafter repainted as necessary with a flat paint color. Components of the telecommunication facility which will be viewed against

soils, trees, or grasslands shall be of a color matching these landscapes.

d. Special design of the telecommunication facilities may be required to mitigate potentially significant adverse visual impacts.

3. Requirements for Application Submittal. Applications for the use of wireless communication facilities shall be subject to the ~~Planning and Building Inspection~~ Planning Department "Requirements for Application Submittal for the Development of Wireless Communication Facilities".

I. Appropriate Authority:

1. The Planning Commission, the Zoning Administrator or the Director of ~~Planning and Building Inspection~~ Planning shall be the Appropriate Authority to hear and decide all applications for Wireless Communication Facilities based on the following:

Planning Commission. The Planning Commission shall be the Appropriate Authority for applications for the installation of new, wireless communications facilities proposed in visually sensitive areas, critical viewsheds, scenic corridors and Historic Resource Zoning Districts.

Zoning Administrator. The Zoning Administrator shall be the Appropriate Authority for applications for new wireless communications facilities proposed on existing buildings or structures and which exceed the height limit for the zoning district, co-located facilities, and facilities that have no significant adverse visual impact from any common public viewing area.

Director of ~~Planning and Building Inspection~~ Planning. The Director of ~~Planning and Building Inspection~~ Planning shall be the Appropriate Authority for additions/amendments to existing, approved wireless communications. The Director of ~~Planning and Building Inspection~~ Planning may refer a proposed project to the Zoning Administrator if the project is determined to be more than minor in nature.

2. Upon submission of the application, if necessary, it shall be submitted to the Monterey County Airport Land Use Commission, and/or local land use advisory committee, as appropriate, for a report and recommendation prior to consideration by the Appropriate Authority.

3. The Director of ~~Planning and Building Inspection~~ Planning, the Zoning Administrator or Planning Commission may impose such conditions deemed necessary to protect public health, safety, welfare, and the environment.

J. Action by the Appropriate Authority. In order to grant any Administrative Permit or Use Permit, the findings of the Appropriate Authority shall be:

1. That the development of the proposed wireless communications facility will not significantly affect any public viewshed, scenic corridor or any identified environmentally sensitive area or resource as defined in the Monterey County General Plan, Area Plan or Local Coastal Plan.

2. That the site is adequate for the development of the proposed wireless communications facility and that the applicant has demonstrated that it is the most adequate for the provision of

services as required by the FCC.

3. That the proposed wireless communication facility complies with all of the applicable requirements of Section ~~20~~ 21.64.310 of this Title.

4. That the subject property upon which the wireless communications facility is to be built is in compliance with all rules and regulations pertaining to zoning uses, subdivisions and any other applicable provisions of this Title and that all zoning violation abatement costs, if any have been paid.

**K. Site Restoration Upon Termination/Abandonment of Facility.**

1. The site shall be restored to its natural state within six months of termination of use or abandonment of the site.

2. Applicant shall enter into a site restoration agreement subject to the approval of the Director of ~~Planning and Building Inspection~~ Planning and County Counsel.

L. Indemnification. Each permit issued pursuant to this Section shall have as a condition of the permit, a requirement that the applicant indemnify and hold harmless the County and its officers, agents, and employees from actions or claims of any description brought on account of any injury or damages sustained, by any person or property resulting from the issuance of the permit and the conduct of the activities authorized under said permit.

M. Severability. If any section, subsection, sentence, clause or phrase of this Section is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Section. The Board of Supervisors hereby declares that it would have passed this Section and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases may be declared invalid.

N. Conflicts with Other Chapters. If this Section is found to be in conflict with any other Chapter, Section, Subsection, or Title, the provisions of this Section shall prevail.

SECTION 142. Section 21.66.020 of Chapter 21.66 of the Monterey County Code shall be amended as follows:

**21.66.020 Standards for environmentally sensitive habitats.**

A. Purpose: The purpose of this Section is to provide development standards which will allow for the protection, maintenance, and, where possible, enhancement and restoration of environmentally sensitive habitats. The environmentally sensitive habitats of Monterey County are unique, limited, and fragile resources important to the enrichment of present and future generations of County residents and visitors.

B. Applicability: The provisions of this Section shall be applicable to areas known by available resource information, review or other research, to contain environmentally sensitive habitats.

C. Regulations: Biological Survey Requirement.

1. A biological survey shall be required for all proposed development meeting one or more of the following criteria:

a. The development is proposed within a known environmentally sensitive habitat, based on the most current resource maps, other reliable other available resource information, or through the planner's on-site investigation;

b. The development is located within one hundred (100) feet of an environmentally sensitive habitat, and has potential negative impact on the long-term maintenance of the habitat.

2. The survey shall be required, submitted, and meet approval of the Director of ~~Planning and Building Inspection~~ Planning prior to the project application being determined complete.

3. The survey shall be prepared by a qualified biologist, as selected from the County's list of consulting biologists maintained by the ~~Planning and Building Inspection~~ Planning Department. Report preparation shall be at the applicant's expense.

4. The biological survey shall contain the following elements:

a. Identify the property surveyed, with accompanying location map and site plan showing topography and all existing and proposed structures and roads, and the proposed project site or sites;

b. Describe the method of survey;

c. Identify the environmentally sensitive habitat found on the site and within one hundred (100) feet of the site with an accompanying map delineating the habitat location or locations.

d. Describe and assess potential impacts of the development on the environmentally sensitive habitat(s) identified in the survey found on the site or on neighboring properties;

e. Recommend mitigation measures which will reduce impacts;

f. Assess whether the mitigation measures will reduce the development's impact to an insignificant level.

5. The biological survey shall be waived by the Director of ~~Planning and Building Inspection~~ Planning for development of a single family dwelling on a vacant lot created through subdivision or lot line adjustment, for which an accepted biological survey was previously

prepared.

**D. General Development Standards.**

1. Development, including vegetation removal, excavation, grading, filling, and construction of roads and structures be prohibited in environmentally sensitive habitats. exception, resource dependent uses, including nature education and research, hunting, fishing and aquiculture, may be allowed within environmentally sensitive habitats if it has been determined through the biological survey that impacts of such uses will not harm the habitat's long-term maintenance.

2. Development on parcels containing or within one hundred (100) feet of environmentally sensitive habitats, shall be permitted only they will not have a significant adverse impact on the habitat's long-term maintenance, either on a development or cumulative basis. Development shall only be approved where conditions of approval are available which will mitigate adverse impacts to and allow for the long-term maintenance of the habitat, as determined through the biological survey.

3. Removal of indigenous vegetation and land disturbance, such as grading, excavation, paving, and fill, in or within one hundred (100) feet of environmentally sensitive habitats shall be limited to that necessary for the structural improvements and driveway access. Modifications to the proposal shall be made for siting, location, design, bulk, vegetation removal, and grading where such modifications will reduce impacts to the habitat.

4. The use of native species consistent with and found in the project area shall be required in landscaping required as a condition of project approval.

5. Development activities which would adversely affect the breeding habitat of rare, threatened and endangered birds shall be regulated by conditions of project approval to avoid significant impacts during their breeding and nesting seasons.

SECTION 143. Section 21.66.030 of Chapter 21.66 of the Monterey County Code shall be amended as follows:

**21.66.030 Standards for agricultural uses.**

A. Purpose: The purpose of this Section is to provide development standards which will support the preservation of agricultural soils and to protect productive farmland not on prime soils.

B. Applicability: The regulations of this Section are applicable in all zoning districts where agricultural uses are allowed.

C. Regulations:

1. Conversion of uncultivated land to cropland shall not be permitted on slopes over twenty-five (25) percent.

2. A Use Permit shall be required for development of new or expanded agricultural operations on uncultivated slopes of fifteen (15) percent--twenty-five (25) percent in the North County Area Plan, Central Salinas Valley Area Plan and Cachagua Area Plan areas.

D. Section 21.66.030D of Chapter 21.66 of Title 21 of the Monterey County Code is repealed.

E. Agricultural Management Plan Requirement

1. An Agricultural Management Plan shall be required for the development of new or expanded agricultural uses pursuant to Section 21.66.030C2.

2. The plan, if required, shall be prepared by a consultant selected by the applicant from the County list of Agricultural Viability Report Consultants, at the applicant's expense.

3. The Agricultural Management Plan, if required, shall contain, at a minimum, the following elements:

a. Location map (1" = 2000');

b. Scale site plan showing the entire parcel, and proposed and existing structures (including accessory agricultural structures and residences), roads, fences, contours, wells, water lines, septic tanks and leach lines;

c. Scale plan showing the entire parcel, and existing land uses, areas presently under and proposed for cultivation, areas of vegetation type, areas to be cleared, and areas to be graded for the development;

d. Soils analysis, discussing soils conditions (including erosion potential and erosion control) and their relationship to appropriate agricultural management on the parcel;

e. Water availability and demand, and the relation to appropriate agricultural management on the parcel;

f. Map delineating areas which are suitable for agricultural production, based on soils, water, and other conditions as deemed appropriate by the consultant in the absence of an agricultural viability report;

g. Description and analysis of existing and proposed agricultural activities on the parcel, including types of crops and acres under cultivation, geographic distribution of crops over the parcel, rotation of crops, and related agricultural activities, including agricultural goods and equipment storage, packing and processing;

h. Erosion control plan element;

i. Hydrologic report element;

j. Description of recommended agricultural management techniques for the parcel and proposed development or development alternatives to reduce erosion, conserve water, protect water quality, and minimize impacts to plant and animal habitats.

4. The plan shall be reviewed by the Soil Conservation Service, County Agricultural Commissioner, and any other agencies or departments appropriate for the specific project. After comments have been received, the Director of ~~Planning and Building Inspection~~ Planning may require that the plan be revised to include additional information or assessment as deemed necessary by the reviewing agencies. A third party review may also be required at applicants expense. All departmental review, report revisions, and third party review must be complete before the plan may be approved by the Director of ~~Planning and Building Inspection~~ Planning.

5. The plan shall be required, submitted, and approved by the Director of ~~Planning and Building Inspection~~ Planning prior to the application being determined complete.

#### F. General Development Standards.

1. Subdivision of parcels located in "F" (Farmlands), "PG" (Permanent Grazing) or "RG" (Rural Grazing), or any land under Williamson Act contract, shall only be permitted when such subdivision does not adversely affect the land's long-term agricultural viability. Each subdivided parcel must be capable of remaining a viable agricultural unit, as determined through the agricultural viability report prepared for the project.

2. New development adjacent to agricultural areas shall be required to establish a well-defined buffer zone within the area to be developed. The area to be utilized as a buffer shall be placed in an easement, required as a condition of project approval. Requirements for the easement are as follows:

a. The easement width shall be sufficient to protect agriculture from impacts of new residential or other incompatible development and to mitigate against the effects of agricultural operations on the proposed uses. For development adjacent to "F", "PG" or "RG" Zoning Districts, the easement shall be a width of two hundred (200) feet, or wider where necessary to mitigate adverse impacts between agricultural and adjacent land uses. In all other zoning districts, the easement may be reduced to a width of not less than fifty (50) feet.

b. The easement shall extend the full length of the boundaries between the property to be developed and adjacent agricultural lands. Permanent roads which have been established by a dedicated road easement, or which have been paved, or which are a public road, may serve as part of this easement.

c. Land within the easement may not be used for recreational areas as part of housing projects or public facilities. Minor storage structures or sheds associated with the residential uses

may be permitted within the easement area. Specific permitted and prohibited uses shall be stipulated in the easement document.

3. Agricultural support services such as coolers, cold storage, loading docks, and commercial farm equipment shops may be in “F” (Farmlands), “RG” (Rural Grazing) or “PG” (Permanent Grazing) Districts subject to a Use Permit provided that:

a. The land on which the support facilities are proposed is not suitable for cultivation because of irregular terrain or inadequate soil quality, or other physical constraints which limit agricultural productivity; and

b. The proposed support facilities are a necessary accessory to the cultivation, harvesting, or processing of crops raised by the applicant on the same property where the support facilities are proposed; and

c. The maintenance and operation of the proposed support facilities will not impair the ability to produce crops on either the remainder of the subject property or neighboring properties; and

d. The agricultural support facilities are in connection with the cultivation, harvesting, processing, or storage of crops grown on lands in close proximity to the subject property, especially when the maximum amount of prime farmland for production would be preserved, expanded, or enhanced.

e. The land on which the support facilities are constructed shall not be subdivided from the remainder of the subject property.

f. Agricultural support facilities shall be compatible with land uses on neighboring properties. (Ord. 3784, 1994)

SECTION 144. Section 21.66.040 of Chapter 21.66 of the Monterey County Code shall be amended as follows:

**21.66.040 Standards for hazardous areas.**

A. Purpose: The purpose of this Section is to provide development standards which regulate land use and develop using the best available planning practices, in order to minimize risk to life and property and damage to the natural environment.

B. Applicability: The regulations of this Section are applicable in all zoning districts.

C. Regulations:

1. Geologic Report Requirement.

a. Regardless of a lot’s seismic hazard zone, a geologic report shall be required for the following

projects:

1. New power plants;
2. Large dams;
3. Manufacturing explosives;
4. New hospitals;
5. Emergency communication facilities;
6. Schools, detention centers, civic buildings, and other public facilities.

b. Regardless of a lot's seismic hazard zone, a geologic report shall also be required for any development project located in the following areas:

1. Landslide areas, or areas showing evidence of ground movement within historic times;
2. Within fifty (50) feet of the face of a cliff or bluff or within the area of a twenty (20) degree angle above horizontal from the face of a cliff, whichever is greater;
3. Within one-eighth mile of an active or potentially active fault;
4. On slopes of greater than thirty (30) percent; and
5. In any area of known geologic hazards.

c. If a parcel is located in Seismic Hazard Zone IV, V, or VI, in Recent Alluvium or in Unstable Uplands areas, a geologic report shall be required for, the following types of projects:

1. Churches;
2. Theaters;
3. Hotels, motels;
4. Utility centers;
5. Large commercial or industrial structures or centers which are not exempt from environmental review under CEQA;
6. Apartment buildings.

d. If a parcel is located in Seismic Hazard Zone VI, an Unstable Uplands or Recent Alluvium area, or in an area of a known and documented hazard, a geologic report shall be

required for, the following types of projects:

1. Single family dwellings in an immediate hazard area;
2. Small commercial or industrial structures in immediate hazard areas which are exempt from environmental review under CEQA; and,
3. Grading in immediate hazard areas.

e. Projects which require no report, unless a hazard is known and documented, include but are not limited to:

1. Uninhabited structures;
2. Pole barns;
3. Storage shed;
4. Greenhouses;
5. Uses in existing structures;
6. Structural additions which are exempt from environmental review under CEQA;
7. Additions to water systems;
8. Outdoor public gatherings;
9. Other uses of a similar nature.

f. The report shall be prepared, at the applicant's expense, by a registered geologist or certified engineering geologist.

g. The report shall be required and deemed adequate by the Department of ~~Planning and Building Inspection~~ Planning prior to application being considered complete.

h. Third party review by a registered geologist or certified engineering geologist may be required at the applicant's expense if the County finds the applicant's report faulty.

i. The report shall be consistent with "Guidelines for Geologic/Seismic Reports" of the California Division of Mines and Geology (CDMG Notes No. 37) and shall include, at a minimum, the following elements, as applicable to the site:

1. Regional geologic setting;

2. Geologic conditions, including soil, sediment and rock types and characteristics in addition to structural features such as bedding, joints and faults;

3. Evidence of past landslide conditions, the implications of such conditions for the proposed development, and the potential effects of the development on landslide activity both on-site and off-site;

4. Ground and surface water conditions and variations, including hydrologic changes caused by the development (e.g., introduction of sewage effluent and irrigation water to groundwater system, and alterations in surface drainage);

5. Effect of the proposed development including siting, structural design, septic system, landscaping, drainage, and grading, and impacts of construction activity on the stability of the site and the adjacent area;

6. Any other factors that might affect slope stability;

7. Potential erodibility of site and mitigating measures to be used to ensure minimized erosion problems during and after construction (i.e., landscaping and drainage design); and,

8. Any other recommended mitigation measures.

## 2. Development Standards.

a. If a geologic report has been prepared for a proposed development, the following requirements shall apply:

1. The report recommendations shall be incorporated into project design, as follows:

a. If the proposed development requires a discretionary permit, the recommendations contained in the report shall be made conditions of project approval.

b. If the proposed development requires only a ministerial permit, the recommendations contained in the geologic report shall be incorporated into project design.

c. All structures, with the exception of utility lines where no alternative route is feasible, shall be sited a minimum of fifty (50) feet from an identified active fault. Greater setbacks may be required where it is warranted by local geologic conditions, as recommended in the geologic report prepared for the project.

3. Development shall be sited and designed to conform to site topography so as to minimize grading and other site preparation activities where feasible. Modifications in location siting shall be required where such modifications will allow better conformity to natural topography and minimize required grading.

4. Development of new roads on slopes of thirty (30) percent and greater shall only be allowed where potential erosion and geologic impacts can be adequately mitigated. Adequate mitigation shall be that level at which the proposed development will not induce landsliding, significant soil creep, nor increase existing rat erosion. Mitigation measures shall not include massive grading or excavation, or the construction of protective devices that substantially alter landforms.

SECTION 145. Section 21.66.050 of Chapter 21.66 of the Monterey County Code shall be amended as follows:

**21.66.050 Standards for archaeological resource areas.**

A. Purpose: The purpose of this Section is to provide development standards which assure the maintenance and protection of the County's archaeological resources. New land uses and development, both public and private, shall be considered compatible with this intent only where they incorporate all site planning and design features necessary to avoid or mitigate impacts to archaeological resources.

B. Applicability: The regulations of this Section are applicable in all zoning districts.

C. Regulations: Archaeological Survey Report Requirement.

1. An archaeological survey report shall be required for any development project located within:

a. "High Archaeological Sensitivity Zone" as mapped on current County resource maps;

b. "Moderate Archaeological Sensitivity Zone", as mapped on current County resource maps, which requires environmental assessment according to Monterey County CEQA Guidelines; and,

c. "Low Archaeological Sensitivity Zone" where specific information is already known to exist which states that archaeological resources are present; and

d. Development within seven hundred fifty (750) feet of a known archaeological resource; or

e. In an area of suspected archaeological resources, as determined through the planner's on-site investigation or other available information.

2. The archaeological survey report shall be required and approved by the Director of ~~Planning and Building Inspection~~ Planning prior to an application being considered complete.

3. The survey report shall be prepared, at the applicant's expense, by a qualified archaeologist, from the County's list of archaeological consultants or by a member of the Society

of Professional Archaeologists.

4. The report shall be prepared according to the report standards of the Society of Professional Archaeologists and include, at a minimum, a field survey by the archaeologist, survey of available State resource information at the Northwest Regional Information Center of the California Archaeological Inventory, description of the site's sensitivity and any identified archaeological resources, appropriate levels of development on the site, and recommended mitigation measures.

5. The archaeological survey report shall be waived by the Director of ~~Planning and Building Inspection~~ Planning under the following circumstances:

a. A previous report was prepared for the site by a qualified archaeologist, as included on the County's list of archaeological consultants or as a member of the Society of Professional Archaeologists; and

b. The report clearly and adequately included the currently-proposed development site within the scope of its survey; or

c. The proposed development does not involve land clearing or land disturbance; or

d. Minor projects on previously disturbed sites; or

e. Other acceptable evidence from an archaeologist.

D. Development Standards.

1. Development on parcels with an archaeological site, as identified through an archaeological report prepared for the site, shall include the recommended mitigation measures contained in the archaeological survey report prepared for the site as conditions of approval.

2. Development proposed on parcels with an identified archaeological site shall be designed and located so as to avoid development on or impacts to the site. Alternative siting or location, reduction of project size, and other techniques, such as limiting of public access and requiring archaeological easements as conditions of project approval, shall be utilized where resulting in reduced impact to or avoidance of the archaeological site.

3. Where development on or development impacts to an identified archaeological or paleontological site cannot be avoided, a mitigation plan shall be required for the project. Prior to the application being considered complete, the plan shall be submitted to, and approved by the Director of ~~Planning and Building Inspection~~ Planning. The mitigation plan shall be prepared at the applicant's expense by a qualified archaeologist, either from the County's list of archaeological consultants or by a member of the Society of Professional Archaeologists. Included in the mitigation plan shall be recommended preservation measures in accordance with the guidelines of the State Office of Historic Preservation and the State of California Native American Heritage Commission. consulting archaeologist shall file the mitigation plan with the

State Office of Historic Preservation.

4. Where a mitigation plan has been prepared for a proposed development, a condition of project approval shall be that:

a. The preservation measures shall be undertaken and completed prior to the issuance of building or grading permits; or

b. Where appropriate according to the recommendation contained in the mitigation plan, the preservation measures shall be undertaken concurrent with grading or other soil-disturbing activities and shall be undertaken in accordance with mitigation plan, as a condition of the grading or building permit; and

c. The results of the preservation activities shall be compiled into a final report prepared by the archaeologist and submitted to the ~~Planning and Building Inspection~~ Planning Department.

SECTION 146. Section 21.66.060 of Chapter 21.66 of the Monterey County Code shall be amended as follows:

**21.66.060 Standards for farm employee and farm worker housing.**

A. Purpose: The purpose of this Section is to provide the minimum standards for the application and development of farm employee housing and farm worker facilities.

B. Applicability: The regulations of this Section are applicable in those zoning districts which allow farm employee housing or farm worker housing.

C. Regulations:

1. Development of farm employee and farm worker housing or additions to or renewal of permits for existing farm labor housing shall require a Use Permit or an Administrative Permit. The Use Permit application shall include, at a minimum, the following elements:

a. Assessment of how much water will be used by the proposed development and description of how water is proposed to be supplied to the housing, including water source location and type, water quality, water quantity, and storage; and,

b. Description of the sewage disposal method, such as septic systems, to be used to service the housing.

2. Farm employee and farm worker housing shall meet the following criteria, which shall be made conditions of project approval where appropriate:

a. There must be adequate water and sewer available to service the development, as determined by the Director of Environmental Health.

b. The housing must be located off prime and productive agricultural land, or on a lot where no other alternatives exist on site, on the least viable portion of the lot.

D. All permits for farm employee or farm worker housing shall be conditioned to expire at a time to be specified by the decision making body at the time of permit approval. Renewal of the permit shall require on-site inspections by the ~~Planning and Building Inspection~~ Planning Department and Health Department, prior to public hearing, to assess compliance with the previous conditions of project approval.

E. All renewals of permits for existing farm employee or farm worker housing shall be subject to the criteria of this Section. New conditions of project approval shall be applied in order to assure compliance with the criteria where feasible.

SECTION 147. Section 21.68.110 of Chapter 21.68 of the Monterey County Code shall be amended as follows:

**21.68.110 Amortization of legal nonconforming public use airports.**

**A. Findings and Declarations.**

1. Pursuant to Article XI of the California Constitution, the County of Monterey may adopt and enforce ordinances and regulations to protect and promote the public health, safety, and welfare of its citizens.

2. The existence of legal nonconforming public use airports in or in the vicinity of a residentially-zoned area or other area not zoned for airport use may pose a threat to the public health, safety, and welfare, and may not be compatible with the objective of orderly development of the County. To protect the health, safety, and general welfare of the persons and property within the County and to promote the orderly development of the County, it is necessary and appropriate to establish a process to determine whether to eliminate nonconforming public use airports after a reasonable amortization period.

3. This ordinance is necessary to enable the County to eliminate nonconforming public use airports if appropriate based on findings and to determine a reasonable amortization period for the elimination of such nonconforming uses and thereby promote and protect the public health, safety, and welfare of its citizens and achieve the objective of orderly development of the County, without infringing upon the constitutional rights of the owners of such nonconforming public use airports.

**B. Definitions.** The following words, whenever used in this Section, shall be construed as defined in this subsection. Words and phrases not defined herein shall be construed as defined in the Monterey County Code.

1. "Nonconforming public use airport" means a public use airport, as defined herein, wherein the use as a public use airport was legally established but which use is nonconforming to subsequently adopted land use regulations.

2. "Owner" is the owner of the property on which the subject nonconforming public use airport is located.

3. "Personal use airport" is an airport limited to the noncommercial activities of an individual owner or family and occasional invited guests and includes any personal use airport as that term is defined by Section 3527 of Title 21 of the California Code of Regulations as of the date of this ordinance.

4. "Public use airport" is an airport that is open for aircraft operation to the general public and includes any "public use airport" as that term is defined by Section 3527 of Title 21 of the California Code of Regulations as of the date of this ordinance.

5. "Value" as used in this Section with respect to the value of a nonconforming public use airport, or to the value of improvements on such a facility, or to the value of reconstruction or replacement, means the current cost of construction, or the current cost of replacement in kind of existing structures or improvements, excluding consideration of the value of land.

C. Applicability. The regulations set forth in this Section shall apply to properties located in the unincorporated areas outside of the coastal zone in Monterey County.

D. Scope.

1. All nonconforming public use airports may be continued and maintained from the effective date of this ordinance until one of the following events occurs: the owner abandons said use; or the Board of Supervisors eliminates the nonconforming public use airport after a reasonable period of amortization determined in accordance with the procedures outlined in this Section. When the owner abandons said use or at the end of the reasonable period of amortization, each such nonconforming public use airport shall lose its status as a legal nonconforming use, and any such nonconforming public use airport shall then cease to operate as a public use airport.

2. This section is not intended to nullify any regulations set forth in this Chapter 21.68 pertaining to alteration or abandonment of nonconforming uses. Any expansion, intensification, or alteration to the nonconforming use, including conversion of a nonconforming public use airport to a personal use airport, shall comply with the regulations of this Chapter.

E. Notice--Public Hearing--Action.

1. The Director of ~~Planning and Building Inspection~~ Planning shall identify all nonconforming public use airports in the unincorporated area of the County.

2. The Director of ~~Planning and Building Inspection~~ Planning shall provide written notice to the owners of any such nonconforming use airports. The notice shall inform the owner that the County will initiate a process to determine whether to continue to allow the legal nonconforming use or whether to eliminate the use following a reasonable period of amortization. The notice shall request that the owner inform the Director of ~~Planning and Building Inspection~~ Planning within thirty (30) days of the date notice was sent if the owner desires to cease the nonconforming use within thirty (30) days of owner so notifying the Director. The notice shall further request that, if the owner does not presently desire to cease the nonconforming use, the owner provide to the Director the following information:

a. The location and size of the property and the public use airport.

b. History of the use of the property as a public use airport, including information about the length of time it has existed as a public use airport and any relevant permits or other official regulatory documents related to the use of the property as a public use airport.

c. Owner's total investment in the use of the property as a public use airport and such other information as owner deems relevant to a determination of the economic value of owner's investment in the property as a public use airport.

d. A map of the subject property, indicating the location of all parcels of real property within a distance of one thousand (1,000) feet from the exterior boundary of the subject property, and a list of the name and address of the owner of record of each such parcel as shown in the last equalized assessment roll.

e. Any other information owner may wish to submit which is relevant to the continuation or elimination of the nonconforming use and to a determination of a reasonable period of amortization.

f. Any other information as the Director of ~~Planning and Building Inspection~~ Planning may require.

3. If, within the thirty (30) days following the date notice was sent, the owner notifies the Director of ~~Planning and Building Inspection~~ Planning that owner desires to cease the nonconforming use, the owner shall cease using the property as a public use airport within thirty (30) days of owner so notifying the Director of ~~Planning and Building Inspection~~ Planning. Thereafter, the use of the property as a public use airport shall no longer be allowed as a nonconforming use.

4. If, within the thirty (30) days following the date notice was sent, the owner does not notify the Director of ~~Planning and Building Inspection~~ Planning that owner desires to cease the nonconforming use, then the Director of ~~Planning and Building Inspection~~ Planning shall initiate the process outlined in this Section with respect to each such nonconforming public use airport. The owner shall promptly supply the information requested in the notice to the Director of ~~Planning and Building Inspection~~ Planning. The Department of ~~Planning and Building Inspection~~ Planning shall prepare a staff report with a recommended course of action for consideration by

the Planning Commission. The recommendation shall consist of one of the following: the nonconforming use be allowed to continue; or the nonconforming use be eliminated following a reasonable period of amortization, together with a recommendation of what would constitute a reasonable period of amortization. In making the recommendation, the Department of ~~Planning and Building Inspection~~ Planning staff may take into account relevant factors such as the following: the compatibility of the nonconforming uses with the uses designated in the General or Area Plan for the surrounding area and properties; the owner's total investment in the use of the property as a public use airport; the original cost of any improvements made to use the property as a public use airport; the present actual and depreciated value and any salvage value of the structures and improvements made for the public use airport; dates of construction; the remaining useful life of the improvements; the appraised market value of the subject public use airport; the length of time the nonconforming use has continued; potential health and safety hazards, if any, to the surrounding community from the continuation of the nonconforming use; and the potential harm to the public if the nonconforming use is continued or is eliminated.

5. The Director of ~~Planning and Building Inspection~~ Planning shall conduct any appropriate environmental review pursuant to the California Environmental Quality Act (CEQA) of the recommended course of action.

6. The Director of ~~Planning and Building Inspection~~ Planning shall set a date for a public hearing before the Planning Commission on the recommended course of action. Notice of the hearing shall be given in the same manner as provided in Chapter 21.78 of the Monterey County Code, except that, in addition, notice shall be provided to all owners of real property within one thousand (1,000) feet of the subject property, as shown on the last equalized assessment roll.

7. Upon the date set for the hearing the Planning Commission shall conduct a public hearing thereon. At said hearing, the Planning Commission shall determine whether the nonconforming use of the property as a public use airport poses a threat to the public health, safety, and welfare of County residents and whether the nonconforming use of the property is compatible with and not detrimental to the land uses designated in the General or Area Plan for the surrounding areas and properties.

a. In the event the Planning Commission finds that the nonconforming use of the property as a public use airport poses a threat to the public health, safety, and welfare of County residents or is not compatible with or is detrimental to the land uses designated in the General or Area Plan for the surrounding areas and properties, it shall recommend to the Board of Supervisors that the nonconforming use as a public use airport be terminated after a reasonable period of amortization. The recommendation shall include a recommendation of a reasonable period of amortization of the nonconforming use, determined in accordance with Subsection F of this Section 21.68.110.

b. In the event the Planning Commission finds that the nonconforming use of the property as a public use airport does not pose a threat to the public health, safety, and welfare of County residents and is compatible with and not detrimental to the land uses designated in the General or Area Plan for the surrounding areas and properties, it shall recommend to the Board of

Supervisors that the nonconforming use as a public use airport be allowed to continue.

8. Upon receipt of the recommendation of the Planning Commission, the Clerk of the Board of Supervisors shall set the matter for a public hearing de novo within a reasonable time in accordance with Chapter 21.78 of the Monterey County Code. Notice of the hearing shall be given in the same manner as provided to all owners of real property within one thousand (1,000) feet of the subject property, as shown on the last equalized assessment roll. At said hearing, the Board of Supervisors shall determine whether the nonconforming use of the property as a public use airport poses a threat to the public health, safety, and welfare of County residents and is compatible with and not detrimental to the land uses designated in the General or Area Plan for the surrounding areas and properties.

a. In the event the Board of Supervisors finds that the nonconforming use of the property as a public use airport poses a threat to the public health, safety, and welfare of County residents and is not compatible with and not detrimental to the land uses designated in the General or Area Plan for the surrounding areas and properties, the Board shall adopt a resolution terminating the nonconforming public use airport after a reasonable period of amortization. The resolution shall include a determination of a reasonable period of amortization of the nonconforming use, determined in accordance with the provisions of Subsection F of this Section 21.68.110.

b. In the event the Board of Supervisors finds that the nonconforming use of the property as a public use airport does not pose a threat to the public health, safety, and welfare of County residents and is compatible with and not detrimental to the land uses designated in the General or Area Plan for the surrounding areas and properties, the Board shall allow the nonconforming use as a public use airport to continue.

F. In determining a reasonable period of amortization, the following factors may be considered:

1. The owner's total investment in the use of the property as a public use airport;
2. The original cost of any improvements made to use the property as a public use airport;
3. The present actual and depreciated value and any salvage value of the structures and improvements which were made to use the property as a public use airport and the remaining useful life of the improvements;
4. Dates of construction of the structures and improvements, and the source of funds therefor, which were made to use the property as a public use airport and the remaining useful life of the improvements;
5. The appraised market value of the subject public use airport, as determined by a qualified appraiser;
6. The length of time the nonconforming use has continued;

7. Potential adverse effects, if any, of the nonconforming use on the surrounding community, neighboring uses, and on the implementation of the General and Area Plan;

8. Potential health and safety hazards, if any, to the surrounding community from the continuation of the nonconforming use;

9. Potential harm, if any, to the public from the elimination of the nonconforming use;

10. The owner's ability to convert the use of the property from a nonconforming use to a conforming use.

#### G. Enforcement.

1. It shall be the duty of the Director of ~~Planning and Building Inspection~~ Planning of the County of Monterey and all officers and employees of said County herein charged by law with the enforcement of this Section, to enforce all provisions of this Section.

2. Any person, firm, or corporation, whether as principal or agent, employee or otherwise, violating or causing or permitting the violation of any of the provisions of this Section shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable for a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment in the County Jail of said County for a term not exceeding one hundred eighty (180) days or by both such fine and imprisonment. Such person, firm, or corporation shall be deemed to be guilty of a separate offense for each day during any portion of which any violation of this Section is committed, continued, or permitted by such person, firm, or corporation, and shall be punishable as herein provided.

3. Any building or structure set up, erected, constructed, altered, enlarged, converted, moved, or maintained contrary to the provisions of this Section, shall be, and the same is hereby declared to be, a violation of this Section and a public nuisance.

4. The County may summarily abate the public nuisance and the County Counsel or District Attorney may bring civil suit, or other action, to enjoin or abate the nuisance.

5. Each day any violation of this Section continues shall be regarded as a new and separate offense.

6. Any person, firm, or corporation who creates or maintains a public nuisance in violation of this Section shall be liable for costs of abatement which shall include, but not be limited to:

a. Costs of investigation;

b. Court costs;

c. Attorneys' fees;

d. Costs of monitoring compliance.

7. Upon a continuation of the public nuisance after notice from the County to cease the nuisance, any person, firm, corporation shall be liable for the costs of abatement set forth above plus a civil penalty of fifty (50) percent of those costs payable to the County in addition to any other costs of enforcement imposed by the Court.

H. Severability. If any subsection, sentence, clause, or phrase of this Section is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Section. The Board of Supervisors hereby declares that it would have passed this Section and each subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more subsections, sentences, clauses, or phrases be declared invalid.

I. Actions Held in Abeyance. Should any person, firm, or corporation violate the terms of this Section and any action is authorized either by the Board of Supervisors, County Counsel, or District Attorney, or is in fact filed by said agencies for said violation, no other action shall be taken on any application filed by or on behalf of said person, firm, or corporation, until the litigation has been resolved.

J. No Taking of Property Intended. Nothing in this Section shall be interpreted to effect an unconstitutional taking of property of any person. If the Board of Supervisors determines, based on specific evidence in the administrative record, that the application of one or more of the provisions of this Section to a public use airport would effect an unconstitutional taking of private property, the Board shall disregard such provision or provisions to the extent necessary to avoid such unconstitutional taking. (Ord. 4115, 2001)

SECTION 148. Section 21.70.030 of Chapter 21.70 of the Monterey County Code shall be amended as follows:

**21.70.030 Appropriate authority.**

The Director of ~~Planning and Building Inspection~~ Planning or the Zoning Administrator is the Appropriate Authority to consider Administrative Permits unless the matter is referred to public hearing under Section 21.70.060. In such case the Zoning Administrator is the Appropriate Authority to hear and consider Administrative Permits.

SECTION 149. Section 21.72.040 of Chapter 21.72 of the Monterey County Code shall be amended as follows:

**21.72.040 Application.**

An application for variance shall be made in writing on a form prescribed by the Director of ~~Planning and Building Inspection~~ Planning and be accompanied by statements, plans, and other evidence supporting the variance request. Variances from the terms of this Title shall only

be granted based upon the following findings.

A. That because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of this Title is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification; and

B. That the variance not constitute a grant of special privileges inconsistent with the limitations upon other property in the vicinity and zone in which such property is situated;

C. A variance shall not be granted for a use or activity which is not otherwise expressly authorized by the zone regularly governing the parcel of property.

SECTION 150. Section 21.74.040 of Chapter 21.74 of the Monterey County Code shall be amended as follows:

**21.74.040 Application.**

Application for a Use Permit shall be made to the Appropriate Authority in writing on a form prescribed by the Director of ~~Planning and Building Inspection~~ Planning and shall be accompanied by statements, plans, and elevations necessary to show the detail of the proposed use or structure.

SECTION 151. Section 21.75.040 of Chapter 21.75 of the Monterey County Code shall be amended as follows:

**21.75.040 Application.**

Application for an Emergency Permit shall be made to the Appropriate Authority in writing on a form prescribed by the Director of ~~Planning and Building Inspection~~ Planning and shall be accompanied by such statements, plans and elevations necessary to show the detail of the proposed use or structure and to explain the nature of the emergency.

SECTION 152. Section 21.75.080 of Chapter 21.75 of the Monterey County Code shall be amended as follows:

**21.75.080 Effect.**

Building Permits shall not be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the Emergency Permit granted. The construction or use authorized by the Emergency Permit may commence prior to the expiration of the appeal period or while an appeal is being resolved subject to the approval of the Director of ~~Planning and Building Inspection~~ Planning or Zoning Administrator and provided that the permittee acknowledges in writing that they are proceeding at their own risk and the appropriate indemnification agreement has been filed with the County Recorder.

SECTION 153. Section 21.76.040 of Chapter 21.76 of the Monterey County Code shall be amended as follows:

**21.76.040 Application.**

Application for a Combined Development Permit shall be made to the Appropriate Authority in writing on a form prescribed by the Director of ~~Planning and Building Inspection~~ Planning and shall be accompanied by statements, plans, and elevations necessary to show the detail of the proposed use or structure.

SECTION 154. Section 21.78.030 of Chapter 21.78 of the Monterey County Code shall be amended as follows:

**21.78.030 Public hearing required.**

Any action to approve or deny any application for a discretionary permit by an Appropriate Authority, including the Board of Supervisors, shall require that a public hearing be held and notice given pursuant to this Chapter.

General Plan, area plan, or master plan amendments shall be set for public hearing before the Board of Supervisors, following consideration by the Planning Commission, by the Director of ~~Planning and Building Inspection~~ Planning. The action by the Director to set the public hearing before the Board of Supervisors does not require public notice or a public hearing.

SECTION 155. Section 21.80.020 of Chapter 21.80 of the Monterey County Code shall be amended as follows:

**21.80.020 Applicability.**

The provisions of this Chapter apply to discretionary decisions made pursuant to the provisions of this Title by the Director of ~~Planning and Building Inspection~~ Planning, Zoning Administrator and the Planning Commission. (Ord. 3798, 1994)

SECTION 156. Section 21.80.040 of Chapter 21.80 of the Monterey County Code shall be amended as follows:

**21.80.040 Designation of Appeal Authority.**

A. The Planning Commission is the Appeal Authority to consider appeals from the discretionary decisions of the Director of ~~Planning and Building Inspection~~ Planning made pursuant to this Title. The decision of the Planning Commission shall be final and may not be appealed.

B. The Planning Commission is the Appeal Authority to consider appeals from the discretionary decisions of the Zoning Administrator made pursuant to this Title. The decision of the Planning Commission shall be final and may not be appealed, except as provided for in

Section 21.80.040C.

C. In the event the decisions made pursuant to Subsections A and B are accompanied by an environmental impact report, decisions of the Planning Commission may be appealed to the Board of Supervisors if the Appropriate Authority or the Appeal Authority approves or adopts any finding of overriding consideration of unmitigatable impacts identified in the applicant's controlling environmental impact report.

D. The Board of Supervisors is the Appeal Authority to consider appeals from the discretionary decisions, except decisions on appeals made pursuant to Subsections A and B of Section 21.80.040, of the Planning Commission made pursuant to this Title.

SECTION 157. Subparagraph A, B, and C of Section 21.82.040 of Chapter 21.82 of the Monterey County Code shall be amended as follows:

**21.82.040 Application.**

A. Appeals pursuant to this Chapter may only be taken from the written decision or opinion of the Director of ~~Planning and Building Inspection~~ Planning.

B. Requests for a written decision or opinion from the Director of ~~Planning and Building Inspection~~ Planning shall be in writing. Requests must be specific and in sufficient detail to provide a clear basis for issuing the requested decision or opinion.

C. Upon receipt of an appropriate request, the Director of ~~Planning and Building Inspection~~ Planning shall respond in writing within ten (10) days setting forth the decision of the Director of ~~Planning and Building Inspection~~ Planning. Said response shall also include the statement "Should you wish to appeal this decision, the appeal must be filed with the Secretary to the Planning Commission no later than 5:00 p.m. on \_\_\_\_\_, or no subsequent appeal on this issue may be heard." The Director of ~~Planning and Building Inspection~~ Planning shall provide a minimum of ten (10) days from the date of mailing the letter for filing an appeal.

SECTION 158. Section 21.84.020 of Chapter 21.84 of the Monterey County Code shall be amended as follows:

**21.84.020 Authority to enforce.**

The Director of ~~Planning and Building Inspection~~ Planning and his or her duly appointed subordinates are authorized to investigate all reported or apparent violations of this Title. If the Director of ~~Planning and Building Inspection~~ Planning finds that there is reasonable cause to believe that a violation exists, the Director of ~~Planning and Building Inspection~~ Planning is hereby authorized to take such measures as he or she deems necessary or expedient to enforce and secure compliance with the provisions of this Title.

The Director of ~~Planning and Building Inspection~~ Planning may request, and shall receive, the assistance and cooperation of other officials or departments of the County of Monterey to assist in the discharge of its duties.

SECTION 159. Section 21.84.050 of Chapter 21.84 of the Monterey County Code shall be amended as follows:

**21.84.050 Violations of conditions of permits.**

The conditions of the Use Permit, variance, Administrative Permit, Combined Development Permit or other permit approved under the authority of Title 21, immediately becomes effective upon initiation of the use and must be strictly complied with. The violation of any condition imposed by the Planning Commission, Board of Supervisors, Director of ~~Planning and Building Inspection~~ Planning or Zoning Administrator in connection with the granting of an Permit, variance, Administrative Permit, Combined Development Permit or other permit authorized by Title 21 shall constitute a violation of this Title and is declared to be a public nuisance.

SECTION 160. Section 21.84.120 of Chapter 21.84 of the Monterey County Code shall be amended as follows:

**21.84.120 Refusal to issue permits, licenses or other entitlements.**

No department, commission, or public employee of the County of Monterey which is vested with the duty or authority to issue or approve permits, licenses or other entitlements shall issue or approve such permits, licenses or other entitlements nor determine a discretionary permit complete where there is an outstanding violation of this Title involving the property upon which there is pending application for such permit, license or other entitlement unless such permit, license, or other entitlement is the, or part of the, administrative remedy for the violation. The authority to deny or determine incomplete shall apply whether the applicant for the permit was the owner of record at the time of such violation or the applicant is the current owner. After recordation of a Notice of Violation by the enforcing officer, all departments, commissions, and public employees shall refuse to issue permits or licenses or entitlements involving property except those necessary to abate the violation of Title, if such are obtainable, or those cleared pursuant to plan for restoration approved by the Director of ~~Planning and Building Inspection~~ Planning, pursuant to Section 21.84.130.

Written notice of the refusal to issue shall be mailed to the applicant for the permit, license or entitlement and to the property owner. Such written notice shall include information regarding the specific violation and the action necessary to abate the violation.

If the applicant for a permit, license or other entitlement disagrees with the determination that a violation exists, he or she may follow the procedure set forth in Section 21.84.110, if:

1. It has been determined by the Zoning Administrator, Planning Commission or Board of Supervisors, after review, that no violation of this Title exists; or

2. All required work to abate the violation has been completed, and approved by the enforcing officer.

The Director of ~~Planning and Building Inspection~~ Planning may waive the provisions of this Section and Section 21.84.130 for remedial, protective, or preventative work, needed to deal with an emergency situation.

SECTION 161. Section 21.84.130 of Chapter 21.84 of the Monterey County Code shall be amended as follows:

**21.84.130 Restoration of land required before application deemed complete.**

No application for a discretionary land use permit under the authority of the Director of ~~Planning and Building Inspection~~ Planning, the Zoning Administrator, the Minor Subdivision Committee, the Planning Commission or the Board of Supervisors shall be deemed complete if there is a violation on said property of a County ordinance which regulates grading, vegetation removal or tree removal until that property has been restored to its pre-violation state. "Restoration" of the property shall include, but not be limited to, the revegetation of native plants and trees and the reconstruction of natural features of the land which have been removed or changed in violation of County ordinances regulating grading, vegetation removal or tree removal. Alternatives to restoration of the property shall not be considered unless the applicant can show that restoration would endanger the public health or safety, or that restoration is unfeasible due to circumstances beyond the control of the applicant or the property owner.

Plans for restoration shall be submitted to and approved by the Director of ~~Planning and Building Inspection~~ Planning prior to the commencement of restoration and the plan shall include a time period to ensure reestablishment of the soil or vegetation.

SECTION 162. Section 21.86.040 of Chapter 21.86 of the Monterey County Code shall be amended as follows:

**21.86.040 Establishment of zones.**

A. In order to carry out the purposes of this Chapter all land within the boundaries of airports and other lands in the vicinity of the airport are divided into Instrument Approach Z Non-Instrument Approach Zones, Transitional Zones, Horizontal Zones and Conical Zones. These zones are based on the "imaginary surfaces" found in Federal Aviation Regulation (FAR) Part 77 (Objects Affecting Navigable Airspace). The boundaries of zones are shown on the following maps:

1. Monterey Peninsula Airport Approaches Zoning Map.

2. Salinas Municipal Airport Approaches Zoning Map.
3. Mesa Del Rey (King City) Airport Approaches Zoning Map.
4. Carmel Valley Airport Approaches Zoning Map.
5. Fritzsche Army Airfield (Fort Ord) Airport Approaches Zoning Map.

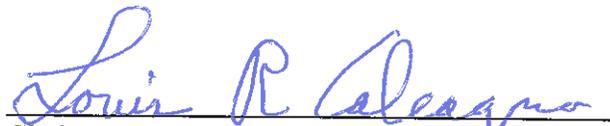
The Airport Approaches Zoning Maps and other pertinent documents are on file and available for inspection in the Monterey County ~~Planning and Building Inspection~~ Planning Department.

B. Where uncertainty exists as to the boundaries of any of the aforesaid districts as described as aforesaid or as shown on said maps, the Planning Commission and the ALUC, upon written application or upon its own motion, shall determine the location of such boundaries.

SECTION 163. This ordinance shall become effective on the thirty-first day following the adoption.

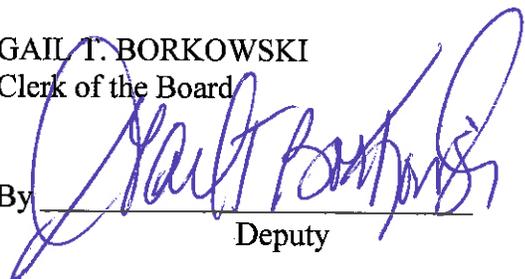
PASSED AND ADOPTED this 7 day of July, 2009, by the following vote:

AYES: Supervisors Armenta, Calcagno, Salinas, Parker, Potter  
 NOES: None  
 ABSENT: None

  
 Chair, Monterey County Board of Supervisors

ATTEST:

GAIL T. BORKOWSKI  
 Clerk of the Board

By   
 Deputy

APPROVED AS TO FORM:  
  
 LEROY W. BLANKENSHIP  
 Assistant County Counsel