

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: APPEAL**SUBSTANTIAL ISSUE DETERMINATION/ DE NOVO FINDINGS**

Appeal NumberA-3-SLO-05-017, Pine Knolls Water Tanks
Applicant.....Cambria Community Services District
Appellants.....Commissioners Meg Caldwell and Mike Reilly; Environmental Center of San Luis Obispo (ECOSLO)/Sierra Club Santa Lucia Chapter; Ralph Covell
Local government.....San Luis Obispo County
Local Decision.....DRC2004-00093, Approved with Conditions (February 10,2005)
Project location.....Terminus of Manor Way (988 Manor Way) in the Pine Knolls neighborhood of Cambria, North Coast Planning Area, San Luis Obispo County. Water tanks will be constructed on the existing 11,000 square foot site, and an approximate 6,100 square foot expansion area from the property to the north (APN(s) 013-301-028 and portion of 013-111-005).
Project descriptionRemoval of two existing 103,000 gallon water tanks; construction of two new 550,000 gallon water tanks; relocation of electrical control panel and overhead electric service; replacement of 200 linear feet of waterline and valves.
File documents.....San Luis Obispo County Certified Local Coastal Program (LCP); and San Luis Obispo County CDP Application File DRC2004-00093.
Staff recommendation ...**Substantial Issue Raised; Approval with Conditions**

Summary of Staff Recommendation

San Luis Obispo County approved a proposal by the Cambria Community Services District (CCSD) to demolish and replace two existing 103,000-gallon water tanks with two new 550,000-gallon water tanks. The new tanks are intended to provide additional water storage to meet the community's system wide fire protection, back-up emergency, and daily operational needs. The project is located at the terminus of Manor Way in the Pine Knolls residential neighborhood of Cambria, San Luis Obispo County. The CCSD proposes to construct the tanks on a site encompassing an 11,000 square foot Pine Knolls tank site owned by the CCSD, and an approximate 6,100 square foot expansion area from the property to the north (the "northeast expansion area"). The undeveloped northeast expansion area is part of a 1,644-acre area owned by Ralph Covell and covered by a conservation easement held by the Nature Conservancy that consists of densely vegetated Monterey pine forest habitat. The CCSD initiated eminent domain



California Coastal Commission
April 2005 Meeting in Santa Barbara

Staff: J. Bishop Approved by:

proceedings in 2004 in order to secure the additional land for their proposal. The standard of review is the San Luis Obispo County certified Local Coastal Program (LCP).

Appeals submitted by Commissioners Caldwell and Reilly, ECOSLO/Sierra Club, and Ralph Covell raise issues concerning new development within Monterey pine forest environmentally sensitive habitat (ESHA). The proposed project raises issues with a number of core ESHA protection policies and implementing ordinances. First, the project is inconsistent with the LCP because water tanks are not a resource dependent use allowed in ESHA. Second, the project expands development into a 6,100 square foot area that contains undisturbed Monterey pine forest habitat resulting in the permanent loss of ESHA. Third, the project would temporarily degrade the ESHA resource during construction. Fourth, the project is inconsistent with the policies of the LCP protecting rare and endangered plants and animals because it removes a significant number of sensitive Monterey pine and native Coast live oak trees, which serve as cover for other rare and sensitive wildlife species. Lastly, the project raises issues with the public facilities requirements of the LCP, which prohibit water tanks in Sensitive Resource Areas (SRA's) and ESHA's unless there is no other feasible location on or off-site the property. Staff recommends that the Commission find that a **substantial issue** exists with respect to this project's conformance with the certified San Luis Obispo County Local Coastal Program (LCP) and take jurisdiction over the coastal development permit for the project.

Staff further recommends that the Commission **approve with conditions** a coastal development permit for a new water tank project that avoids encroachment into sensitive Monterey pine forest ESHA. The 6,100 square foot northeast expansion area contains undisturbed, healthy pine forest ESHA and must be avoided. The existing 11,000 square foot Pine Knolls tank site is already disturbed and does not contain ESHA. As detailed in the findings below, there appear to be a variety of alternative tank designs that can be accommodated on the CCSD's property and that still meet the community's immediate and reasonable needs for fire, operational, and emergency water supply for existing development. The CCSD proposal includes storage capacity for a future development scenario that is approximately 20% greater than that needed to support existing development. However, the CCSD is currently enforcing a new water connection moratorium due to severe constraints in the water system. In addition, the Coastal Commission has previously identified water withdrawals from San Simeon and Santa Rosa Creeks and impacts to riparian habitat as a significant water supply issue in Cambria. The CCSD is currently evaluating a desalination project to provide additional water to the community. Although additional storage capacity may be desirable for future buildout scenarios in Cambria, this capacity has not yet been firmly established or evaluated for consistency with the LCP. Moreover, to the extent that it is needed, the design and construction of new capacity should be accomplished consistent with the LCP, including the ESHA protection policies. The CCSD has not established that additional tank capacity at the Pine Knolls location is the only way to accommodate future development water needs. Therefore, staff recommends that the permit be approved with a condition requiring all new development to be on the existing disturbed tank site only and not encroach into the adjacent ESHA. Although the project will need to be modified, it appears that there are feasible design options to provide for existing demand. A variance to LCP residential setback requirements (on the forest sides only) may be needed, and other constraints previously identified by the CCSD can be adjusted (such as reducing the maintenance area around the tanks from 12' to 8', and slightly modifying the proposed fire access road alignment). The County conditions related to fencing, landscape screening, lighting, tank color, cultural resources, drainage and erosion control, noise, and the implementation of BMP's during construction are retained



through the permit conditions. Thus, only as conditioned can the project be found consistent with the LCP.

Staff Report Contents

Summary of Staff Recommendation.....	1
1. Appeal of San Luis Obispo County Decision	4
A. San Luis Obispo County Action	4
B. Appeal Procedures	4
C. Appellants' Contentions.....	5
2. Staff Recommendation on Substantial Issue.....	5
3. Staff Recommendation on De Novo Permit	6
4. Conditions of Approval.....	6
A. Standard Conditions.....	6
B. Special Conditions.....	7
5. Substantial Issue Findings.....	7
6. De Novo Findings and Declarations	11
A. Project Background.....	11
B. Project Description and Location	13
C. County-Approved Project.....	14
D. Coastal Development Permit Findings	15
1. Public Works.....	15
2. Environmentally Sensitive Habitat Areas (ESHA).....	19
8. California Environmental Quality Act (CEQA)	36
9. Exhibits	
A. Vicinity Map	
B. Land Use Designation Map	
C. Project Plans and Site Photos	
D. San Luis Obispo County Final Action (includes Findings and Conditions of Approval)	
E. Commissioners Reilly and Caldwell Appeal Contentions	
F. ECOSLO/Sierra Club Appeal Contentions	
G. Ralph Covell Appeal Contentions	
H. Notice Prior to Issuance of Executive Director Cease and Desist Order (No. ED-04-CD-02)	
I. County Planning Director Letter Rescinding Emergency Permit	
J. CCSD Revised and Updated Emergency Permit Application	
K. November 29, 2004 letter from CCSD General Manager Tammy Rudock	
L. October 21, 2004 letter from CCSD and CCC response	
M. CCC Conceptual Design Alternatives	
N. CCSD Response to CCC Conceptual Design Alternatives	
O. CCC letter of January 12, 2005 Requesting Information	
P. CCC Alternative Conceptual Design Alternatives	
Q. Site Plans for Sand City and Los Water Tanks	



1. Appeal of San Luis Obispo County Decision

A. San Luis Obispo County Action

On February 10, 2005, the San Luis Obispo County Planning Commission approved the proposed project subject to multiple conditions (see exhibit D for the County's Final Local Action Notice, including findings and conditions on the project). The Planning Commission's approval was not appealed locally (i.e., to the Board of Supervisors).¹ Notice of the Planning Commission's action on the coastal development permit (CDP) was received in the Coastal Commission's Central Coast District Office on March 2, 2005. The Coastal Commission's ten-working day appeal period for this action began on March 3, 2005 and concluded at 5pm on March 16, 2005. Three valid appeals (see below) were received during the appeal period.

B. Appeal Procedures

Coastal Act Section 30603 provides for the appeal of approved coastal development permits in jurisdictions with certified local coastal programs for development that is (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance; (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff; (3) in a sensitive coastal resource area; (4) for counties, not designated as the principal permitted use under the zoning ordinance or zoning district map; and (5) any action on a major public works project or energy facility. This project is appealable because the project is located in a sensitive coastal resource area; because the public utility facility use proposed is not the principal permitted use within the residentially zoned area; and because the action taken is on a major public works project.

The grounds for appeal under Section 30603 are limited to allegations that the development does not conform to the standards set forth in the certified LCP or the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a de novo coastal development permit hearing on an appealed project unless a majority of the Commission finds that "no substantial issue" is raised by such allegations. Under Section 30604(b), if the Commission conducts a de novo hearing, the Commission must find that the proposed development is in conformity with the certified local coastal program. Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act, if the project is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone. This project is not so located and thus this additional finding need not be made in a de novo review in this case.

The only persons qualified to testify before the Commission on the substantial issue question are the Applicant, persons who made their views known before the local government either personally or through their representatives), and the local government. Testimony from other persons regarding

¹ San Luis Obispo County charged a fee for the local coastal permit appeal. In these instances, aggrieved parties can appeal such decisions directly to the Commission.



substantial issue must be submitted in writing. Any person may testify during the de novo stage of an appeal.

C. Appellants' Contentions

Appeal of Commissioners Caldwell and Reilly

The two Commissioner Appellants contend that the County-approved project raises substantial issues with respect to the project's conformance with core LCP sensitive resource area (SRA) and environmentally sensitive habitat area (ESHA) protection policies. In sum, Commissioners Caldwell and Reilly contend that the project has not been sited and designed to avoid significant impacts to the Monterey pine forest. They contend that the project does not minimize removal of native vegetation and will have significant adverse impacts on rare or sensitive plant and animal species. They also contend that the project is inconsistent with LCP requirements for public utility facilities located in identified SRA's and ESHA's because there appear to be other feasible alternatives that avoid adverse impacts (see Exhibit E).

Appeal of the ECOSLO/Sierra Club

The ECOSLO/Sierra Club appeal contains contentions similar to the Commissioner appeal, contending that the County-approved project raises substantial LCP issues related to inadequate protection for the identified Monterey pine forest habitat (see Exhibit F).

Appeal of Ralph Covell

Mr. Covell's appeal contains contentions similar to the Commissioner and ECOSLO/Sierra Club appeals. Mr. Covell also contends that the project greatly exceeds the water storage volume required to meet potential fire hazards in the CCSD territory (see Exhibit G).

2. Staff Recommendation on Substantial Issue

The staff recommends that the Commission determine that a substantial issue exists with respect to the grounds on which the appeals were filed pursuant to Coastal Act Section 30603.

MOTION: *I move that the Commission determine that Appeal No. A-3-SLO-05-017 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION of SUBSTANTIAL ISSUE: Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.



RESOLUTION TO FIND SUBSTANTIAL ISSUE: The Commission hereby finds that Appeal No. A-3-SLO-05-017 presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan.

3. Staff Recommendation on De Novo Permit

The staff recommends that the Commission, after public hearing **approve** a coastal development permit for the proposed development subject to the standard and special conditions below.

MOTION: *I move that the Commission approve Coastal Development Permit Number A-3-SLO-05-017 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL: Staff recommends a YES vote. Passage of this motion will result in approval of the coastal development permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT: The Commission hereby approves the coastal development permit on the ground that the development as conditioned, will be in conformity with the provisions of the San Luis Obispo County certified Local Coastal Program. Approval of the coastal development permit complies with the California Environmental Quality Act because feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment.

4. Conditions of Approval

A. Standard Conditions

- 1. Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.



4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

B. Special Conditions

1. **Scope of Permit.** This permit authorizes:
 - a) The demolition and removal of two existing water tanks on APN 013-301-018.
 - b) The construction of new water tanks on APN 013-301-018 only.
 - c) Relocating an existing control panel and overhead electric service on APN 013-301-018.
 - d) Replacement of approximately 200-linear ft. of buried 10-inch asbestos cement waterline and valves with 14-inch concrete coated welded steel cement-lined waterline and valves on Manor Way.
 - e) Site excavation on APN 013-301-018.
 - f) Development of an emergency access road on APN 013-301-018.
 - g) Installation of site fencing and landscape screening on APN 013-301-018.
2. **Revised Project Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit two sets of Revised Project Plans to the Executive Director for review and approval. The Revised Project Plans shall show all development located within the existing 11,000 square foot Pine Knolls tank site (APN 013-301-018).
3. **County Conditions of Approval.** Except for County conditions of approval 1, 2, 13, 14, 16, 17, 18, 19, and 20, all conditions of San Luis Obispo County's approval of the project become conditions of this permit. All conditions of San Luis Obispo County's approval pursuant to planning authority other than the Coastal Act continue to apply.

5. Substantial Issue Findings

A. Environmentally Sensitive Habitat Areas

1. Applicable Policies

Appellants contend that the project is inconsistent with the ESHA policies of the SLO County LCP because of project impacts to the Monterey pine forest habitat. The LCP is very protective of environmentally sensitive habitat areas (ESHA). The LCP restricts new development in ESHA to resource dependent uses, and requires new development within or adjacent to ESHA's to avoid significant habitat impacts (Policy 1, 29 and CZLUO Sections 23.07.164(e) and 23.07.170(b)). Vegetation that is rare or endangered must be protected and new development must disturb the minimum amount of vegetation as possible (Policy 30 and 35). CZLUO Section 23.08.288(d) prohibits public



utility facilities in Sensitive Resource Areas (SRA's) and ESHA's unless the approval body makes a finding that there is no other feasible location on or off-site the property. In general, LCP policies and ordinances define and protect SRA's and ESHA's, allowing only a very limited amount of development within or near these areas.

2. Analysis of Consistency with Applicable Policies

As detailed below, the appeals by Commissioners Caldwell and Reilly, ECOSLO/Sierra Club, and Ralph Covell, raise a **substantial issue** because the County approved project is inconsistent with provisions of the San Luis Obispo County certified Local Coastal Program with respect to Sensitive Resource Areas (SRA's); Environmentally Sensitive Habitat Areas (ESHA's); Terrestrial Habitat (TH) protection; and the development of public utility facilities within and adjacent to such areas. The following substantial issues are raised:

Sensitive Resource Area (SRA)

The project is located within an LCP designated Sensitive Resource Area (SRA) combining designation. The SRA Combining Designation is applied by the Coastal Zone Land Use Ordinance (CZLUO) to identify areas with special environmental qualities, or areas containing unique or endangered vegetation or habitat resources. The purpose of this combining designation standard is to require that proposed uses be designed with consideration of the identified sensitive resources, and the need for their protection, and where applicable, to satisfy the requirements of the California Coastal Act. In this case, the SRA combining designation is applied to the project due to the presence of environmentally sensitive Monterey pine forest habitat.

Pursuant to CZLUO Section 23.07.164(e), projects located within a SRA can only be approved if special required findings are made. In sum, the findings require that new development avoid significant adverse impacts on the Monterey pine forest through site design. The proposed project does not avoid impacts to forest habitat. As detailed in the de novo findings, incorporated herein, there appear to be feasible alternatives that could be developed consistent with the LCP and thus the special required findings cannot be made in this case.

The project results in the permanent loss of approximately 6,100 square feet of undisturbed Monterey pine forest habitat, which is the basis for the SRA designation. Topsoil will be cleared in previously undisturbed areas, and the project will remove approximately 26 Monterey pine trees and 24 native Coast live oak trees. In addition, 7 Monterey pine trees and 9 Coast live oak trees will be impacted as a result of construction activities. Physical improvements such as fencing, retaining walls, steel water tanks, concrete foundations, and other permanent hardscape within the sensitive Monterey pine forest will have significant adverse impacts to the habitat. Alternative site designs appear to be available that avoid these impacts. Thus, as substantial issue is raised with respect to protection of identified sensitive resource areas.

Environmentally Sensitive Habitat Areas (ESHA)

The project site includes a mapped Terrestrial Habitat (TH) overlay, indicating the presence of ESHA. Like the SRA combining designation requirements, projects located within *or adjacent* (emphasis added)



to ESHA require special findings to be made (pursuant to CZLUO Section 23.07.170(b)). In general, the required findings ensure that the project avoids significant impacts to the forest habitat and maintains the biological continuance of the habitat area. As detailed in the de novo findings, incorporated herein, because there appear to be feasible alternatives that could be developed consistent with the LCP, and because the County's required offsite Tree Replanting Mitigation Plan is inadequate to preserve and protect the Monterey pine forest onsite, the special required findings cannot be made in this case.

As described above, excessive ground disturbance, tree removal, and overall habitat loss will have a significant adverse impact on the resource. The habitat loss will occur in a conservation easement area held by the Nature Conservancy, that was obtained specifically to protect the identified habitat from development impacts. Incremental loss of forest habitat, particularly in established protected areas, does not maintain the biological continuance of the habitat area, as required by the LCP.

The County's approval of the project applied policies and ordinances for development within and adjacent to ESHA, largely due to the significant removal of native Monterey pine and Coast live oak trees. While the County approval requires replacement of lost Monterey pine trees at a 2:1 ratio and Coast live oaks at a 4:1 ratio, it did not require that the siting and design of the water tanks be minimized to avoid removal of habitat. Since the County's approval allows for removal and mitigation of these sensitive species and habitat, rather than avoidance through redesign or reduction of structural footprint, the County's action raises a substantial issue with respect to protection of ESHA.

The Land Use Plan (LUP) of the LCP also contains a number of applicable ESHA protection policies. LCP Policy 1 mimics the required findings listed above, requiring that development within or adjacent to locations of environmentally sensitive habitat (within 100 feet) shall not significantly disrupt the resource. Within an existing resource, only resource dependent uses are allowed. First, the project approved by the County would allow a public utility facility that is not dependant on a location within an ESHA, to be developed within the pine forest ESHA. Second, the project would permanently occupy and remove 6,100 square feet of significant ESHA area in an area protected by a conservation easement, which is indicative of the sensitivity of the impacted habitat. Third, temporary impacts to the ESHA resource can also be expected during construction. Lastly, the County approved project is inconsistent with the LCP ESHA setback standards because development is located within the identified resource, and within the required 100-foot buffer area (see site plan in Exhibit C).

Terrestrial Habitat Protection

The project site contains Terrestrial Habitat (TH), which is a Combining Designation in place to protect rare and endangered species of terrestrial plants and animals, such as Monterey pines, by preserving their habitats. Emphasis for protection is on the entire ecological community rather than only the identified plant or animal. Terrestrial Habitat (TH) is defined in the LCP as a type of ESHA requiring special protection. LCP Policy 29 for protection of Terrestrial Habitats also requires that only uses dependent on the sensitive resources be allowed within the identified sensitive habitat. Development adjacent to ESHA shall be sited and designed to prevent impacts that would significantly degrade such areas and shall be compatible with the continuance of the resource. The County approved project is inconsistent with the LCP because it allows development within an ESHA that is not resource dependent. As described above, development in the northeast expansion area will have significant adverse impacts on the Monterey pine forest Terrestrial Habitat. Thus, a substantial issue is raised.



Protection of Rare and Endangered Vegetation

LCP Policy 30 requires that native trees and plant cover be protected wherever possible. Policy 35 requires that vegetation that is rare or endangered or serves as cover for endangered wildlife shall be protected against any significant disruption of habitat value. Monterey pine (*pinus radiata*) is listed as a Rare, Threatened or Endangered (list 1B) plant species by the California Native Plant Society (CNPS). The proposed project will remove approximately 26 Monterey pine trees and 24 Coast live oaks, both of which are also native species. In addition, there are seven Monterey pines, and nine Coast live oaks that will be impacted during construction. As indicated in the Initial Study/Mitigated Negative Declaration for the project, the loss of these trees may have adverse effects on known special-status bird species that have the potential to live and nest in this area of the Cambria Monterey pine forest (e.g. Cooper's hawk, northern harrier, white-tailed kite, sharp-shinned hawk, long-eared owl, and loggerhead shrike). Thus, a substantial issue is raised.

Public Utility Facilities in SRA's and ESHA's

CZLUO Section 23.08.288(d) prohibits public utility facilities in Sensitive Resource Areas (SRA's) and Environmentally Sensitive Habitat Areas (ESHA's) unless the approval body makes a finding that there is no other feasible location on or off-site the property. Commissioners Caldwell and Reilly have questioned whether his finding can be made because there appears to be at least one other feasible less environmentally damaging alternative that exists consistent with the LCP. Thus, a substantial issue is raised with respect to consistency with CZLUO Section 23.08.288(d). (See De Novo review for a detailed description of alternatives).

Tank Volume Requirements

Appellant Ralph Covell contends that the project "greatly exceeds the needed water storage requirements to meet potential fire hazards in the CCSO territory". According to the feasibility study of February 4, 2005 by Boyle Engineering, the types and sizes of structures being served determine the amount of fire storage needed. For the Pine Knolls water tanks, the 2000 Uniform Fire Code (Table A-III-A-1) determined the needed flow rate and duration for specific types of construction and building sizes. This resulted in a minimum of 3,500 gallons-per-minute of flow for a duration of three hours, resulting in 630,000 gallons of needed fire storage for the service area currently served by the Pine Knolls tanks. The current proposal is for 630,000 of additional fire storage and does not exceed this amount. Thus, this appeal contention does not raise a substantial issue.

However, the Appellant's contention does raise a valid concern about the overall tank volume requirements for the project. Needed tank volume consists of three parts: 1) fire storage; 2) emergency backup storage; and 3) daily operational storage. While the Commission recognizes the need for additional water storage to fight fires, the amount of tank volume needed for emergency and operational storage with this project should not exceed that which is currently necessary if such a volume requires impacts to sensitive coastal resources, such as Monterey pine ESHA. Commission staff has reviewed the calculations provided by the CCSO and it appears that the emergency and operational volumes proposed at the Pine Knolls site go beyond that which is currently needed. Additional review is needed in order to support increases in both emergency and operational volumes at this time. This is a substantial issue and is addressed in more detail in the following De Novo permit alternatives analysis.



C. Substantial Issue Conclusion

The approved project is located in an LCP designated Sensitive Resource Area due to the presence of native Monterey pine forest terrestrial habitat (TH). Under the LCP, Monterey pine forest (TH) is considered ESHA and is to be protected. The County approved project is proposed within a Monterey pine forest ESHA resource and appears not to have been adequately protected. The cutting of a significant number of Monterey pine and Coast live oak trees, and the permanent removal of 6,100 square feet of forest will lead to adverse impacts and significant habitat disruptions. The approved project appears to exceed the necessary tank storage volume requirements, and therefore could be too large in scale for the site given the surrounding sensitive resources. As such, the proposed project is inconsistent with the LCP habitat protection policies as well as the requirements for public utility facilities in SRA's and ESHA's. Thus, the appeals raise a substantial issue with respect to consistency with the certified LCP.

See the De Novo ESHA findings, incorporated herein by reference, for more detail.

6. De Novo Findings and Declarations

A. Project Background

Cambria is an unincorporated coastal town of approximately 6218 persons² located in northern San Luis Obispo County. The town, extensively subdivided into very small lots in the early part of the last century without regard to topographical or other planning constraints, is partially built out with mostly single family residential development located within hilly pine forest or along the coastal terrace that lies adjacent to the sea. Roads serving the homes in the pine forest are often narrow and steep. Although there have not been any large fires in this area for many years, the combination of dense residential uses, limited access and the forest make this a high-risk area for fire. The commercial center of the town stretches along Santa Rosa Creek and is subject to periodic flooding.

Public services (water, sewer, and fire protection, parks) are provided by the Cambria Community Services District (CCSD) that is governed by a locally elected board. The district has struggled for years to provide water for new development in the community but has been limited by scarce local water resources. The town is currently under a development moratorium due to the lack of water supplies for additional construction. The district has also known for many years that water storage for fire protection was inadequate. The CCSD does not have water storage specifically dedicated to fire protection or emergency conditions and the District currently relies on operational storage for all of its water needs. The Commission has previously identified water supply constraints, including insufficient fire protection flows, as a significant water supply issue in Cambria. In the 1998 North Coast Plan Update, the Commission found that significant concerns existed with the CCSD's withdrawals from San Simeon and Santa Rosa Creeks and potential impacts to riparian habitat. These concerns were reiterated in the Commission's 2001 adoption of the Periodic Review of the San Luis Obispo LCP.

² Data from 2000 Census. Average annual growth is projected at 2.3 percent.



On October 13, 2004, Commission staff in the Santa Cruz office received notice that the Planning Director of San Luis Obispo County had issued a non-appealable, emergency permit to the CCSO for the removal of two 103,000-gallon water tanks and the construction of two 550,000 gallon water storage tanks on the district's Pine Knoll site and adjacent land. The cause of the emergency was a 2002 planning document (Cambria Community Services Master Plan of 2002) that "identified a significant deficiency in fire storage at the Pine Knolls water tank site" and damage to the tanks from the Paso Robles earthquake in December of 2003. Prior to application for the emergency permit, the district had been in the process of obtaining a Coastal Development Permit from the County and was also prosecuting an eminent domain action against the neighboring landowner to obtain additional land (approximately 9115 square feet) for the tank site. The land to be acquired was Monterey pine forest ESHA subject to a conservation easement held by the Nature Conservancy to protect it from development.

Coastal Commission staff questioned the validity of the emergency permit because it had been known for years that fire storage in Cambria was inadequate and thus this inadequacy was not "sudden or unexpected" as required for use of the emergency permit process. Further inquiry into the state of the existing tanks revealed that they were not actually damaged by the 2003 earthquake but also that they did not meet current standards for seismic bracing so if there was another earthquake, they might fail. Commission staff advised that this information was not a valid basis for granting an emergency permit and requested that the district withdraw their request for an emergency permit and continue processing the regular permit for the project. The district refused to withdraw the emergency permit and Commission staff started proceedings to obtain an Executive Director's Cease and Desist Order against the district and the county, as the issuing agency, to stop any development under the emergency permit. (Notice Prior to Issuance of Executive Director Cease and Desist Order, Number ED-04-CD-02, October 21, 2004, see Exhibit H).

Upon receipt of the notice, the County rescinded the emergency permit (Letter from Victor Holanda, Planning Director to Sarah Christie, dated October 22, 2004, Please see Exhibit I).

On November 17, 2004, the district again submitted an application to the county for an emergency permit to construct the tanks. (Please see letter from Bob Gresens, District Engineer to Matt Janssen, San Luis Obispo County Planning Department, Exhibit J) On November 19, 2004, the County Planning Director advised the district that he would not authorize an emergency permit for this project. Commission, county and district staff subsequently met on November 23, 2004 to discuss the project and alternatives to the project that would avoid impacts on the neighboring Pine Forest ESHA. The district asserted that none of the alternatives were feasible and, on November 29, 2004 again requested an emergency permit from the County and threatened legal action if the County did not comply. (Letter from Tammy Ruddock, District General manager to Victor Holanda, County Planning Director, Please see Exhibit K). The County did not comply with the District's request.

The Executive Director's Cease and Desist Order issued on October 22, 2004. The district's response was to file a legal challenge to the order and to contend that, in any event, the district did not need a coastal development permit to pursue their project (Please see letter from Art Montandon, district legal counsel to Sandy Goldberg dated October 21, 2004 and response dated October 21, 2004, Exhibit L). The legal challenge was heard in San Luis Obispo Superior Court on December 17, 2004. The



Commission was represented by counsel from the Attorney General's office and the district by District Counsel. The court ruled in favor of the Commission but retained jurisdiction, advising the parties to work cooperatively to secure a permit for the project in an expeditious manner.

Over the next weeks, Commission and County staff met with District staff in an effort to agree upon a project that would meet the district's needs while preserving the adjacent ESHA. A number of alternative plans were forwarded to the district (Please see Exhibit M), but none were acceptable. (Please see District response to alternatives, Exhibit N). The District did modify its original project somewhat to reduce but still not avoid encroachment into forest habitat. In the meantime, the County continued to expedite the processing of the Coastal Development Permit for the district's project. An application for the project was filed as complete on December 2, 2004 and scheduled for a January planning commission hearing. The item was initially heard on January 13, 2005 but continued to a February meeting to allow the applicant time to prepare additional information regarding the proposed changes to the conservation easement, the status of the applicant's CEQA document, and a response to Commission staff's letter of January 12, 2005 (Please see Exhibit O).

On February 10, 2005, the Pine Knolls Tank Replacement project was approved by the San Luis Obispo County Planning Commission subject to a number of conditions. (Please see Exhibit D, Local Approval) The Final Local Action Notice was received in the Santa Cruz office of the Coastal Commission on March 2, 2005. Timely appeals were filed on March 16, 2005 and the item was set for hearing at the April Commission meeting in Santa Barbara.

B. Project Location and Description

The proposed project is located in the town of Cambria, in the North Coast Planning Area of San Luis Obispo County. The project site is situated at the terminus of Manor Way (988 Manor Way) in the Pine Knolls residential neighborhood of Cambria. A short gravel road at the end of Manor Way provides access to the project site. The project site is bordered by single-family residences to the south and west, and open space to the north and east. See Exhibits A, B, and C for illustrative project location information.

The existing Pine Knolls tank site owned by the CCSO is approximately 11,000 square feet in size and contains two 103,000-gallon water tanks at an elevation of approximately 285-feet above mean sea level. Each tank is 24-feet in diameter and 32-feet tall. Sparse cover of annual grasses and weedy species occur on the existing tank site. Landscape trees and shrubs are located along the site's western and southern boundary, and provide some screening for the adjacent neighborhood.

The proposed project area includes the existing Pine Knolls tank site, as well as an extension of approximately 6,100 square feet of land area beyond the northeastern portion of the property (referred to as the "northeast expansion area"). Thus, the total proposed project area, including the existing tank site, is approximately 17,100 square feet. The northeast expansion area is part of a 1,644-acre area owned by appellant Ralph Covell and held in a conservation easement by The Nature Conservancy. The undeveloped northeast expansion area consists of densely vegetated Monterey pine forest. A Sensitive Resource Area (SRA) combining designation boundary line, used to identify areas with special environmental qualities, or areas containing unique or endangered vegetation or habitat resources, runs



co-terminus with the northern border of the existing tank site. A Terrestrial Habitat (TH) boundary line is mapped near the property (approximately 80 to 90 feet northeast of the property line), indicating the presence of the native Monterey pine forest ESHA.

The topography of the existing Pine Knolls tank site is level and soils have been disturbed or modified for current tank use. The top 1 to 4.5 foot layer of soil consists of light brown poorly graded sand with clay, in a medium dense condition. Underlying the surface layer is 1 to 3 feet of very stiff, mottled sandy lean clay, identified as residual soil. At 2.5 to 6 feet below grade, there is bedrock (sandstone). The topography of the northeast expansion area is also relatively level, and is approximately 5-feet higher in elevation than the existing Pine Knolls tank site. The soils within the northeast expansion area have not been disturbed or modified from their natural state. These soils are classified as San Simeon sandy loam, 9 to 15 percent slopes. San Simeon sandy loam is moderately deep, moderately well drained, strongly sloping soils that occur on foothills and terraces.

The proposed project would replace the two existing 103,000-gallon welded steel tanks at the existing Pine Knolls tank site and expand the site to include two 550,000-gallon welded steel tanks. The project site will be excavated to approximately five feet below grade and soils will be re-compacted or imported to ready the site prior to preparing the tank foundations. The tank foundations will consist of steel-reinforced cast-in-place concrete. The new tanks will have approximately the same height as the existing tanks (32-foot sidewall height). Each of the two replacement tanks will have a 60-foot diameter footprint, for a total of 5,700 square feet (2,850 square feet for each tank). Other site improvements include driveways and walkways constructed of river rock and chain link security fencing. A control building (approximately 30 square feet) will be constructed to house the tank controls. In addition, the project will replace approximately 200-linear feet of buried 10-inch asbestos cement waterline and valves with 14-inch concrete coated welded steel cement-lined waterline and valves. This waterline will increase the fire flow capacity between the tanks and the distribution system. The pipeline will be installed in an existing driveway between the tank site and the end of Manor Way. Also, the project will replace an existing check valve vault with a new pressure-reducing valve vault at the end of Manor Way.

The proposed project would be constructed in several phases. The initial phase of work will involve removal of approximately the top five feet of soil, and re-compaction of fill material for the new northeastern tank. Both existing tanks will remain in service until the new northeastern tank is constructed. Construction activities include building a concrete ringwall foundation and erection of the steel tank walls, floor and roof. Tank surface preparation and coating will take place next. After the first (northeastern) tank is completed, disinfected, and brought online, the existing 103,000-gallon tanks will be taken out of service and dismantled. The second (southwestern) tank will then be constructed in the same manner as the northeastern tank. The total estimated construction time for the project is anticipated to be approximately seven to nine months. Construction time could be extended due to site conditions as a result of wet weather.

C. County-Approved Project

In summary, the County found that although the project was located within the Monterey pine forest ESHA resource, the proposed water tanks have been sited to impact the least amount of undisturbed habitat area as feasible. The County conditioned the project to include a Tree Replacement Mitigation



Plan, and an onsite landscaping plan to reduce impacts to a less than significant level. The County found that the project is not dependent on the Monterey pine forest, yet is dependent on the location of this specific site. The County found that allowing the water tanks to expand into the 6,100 square foot northeastern expansion area would cause less of an impact than re-locating the project on another site. The County conditions of approval also include measures to address cultural resources, drainage, sediment and erosion control, noise, project aesthetics, air quality, and implementation of BMP's during construction. See Exhibit D for complete text of County Findings and Conditions.

D. Coastal Development Permit Findings

1. Public Works

a. Applicable Policies

Policy 2: New or Expanded Public Works Facilities. New or expanded public works facilities shall be designed to accommodate but not exceed the needs generated by projected development within the designated urban reserve lines. Other special contractual agreements to serve public facilities and public recreation areas beyond the urban reserve line may be found appropriate. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.04.021c OF THE CZLUO].

Policy 7: Permit Requirements. The county shall require a permit for all public works projects located within the coastal zone except:

- a. For maintenance or repair activities that do not result in an enlargement or expansion of the facility.*
- b. Where the development is a state university, college, public trust lands or tidelands (which require a permit from the State Coastal Commission that must meet the requirements of Chapter 3 of the Coastal Act. The county Local Coastal Program will serve in an advisory function).*
- c. For those minor projects that can be categorically exempted as provided for in the Coastal Act on account of geographic area or function per Section 30610(e) where the categorical exclusions has been approved by the county and Coastal Commission.*
- d. The installation, testing and placement in service or the replacement of any necessary utility connection between an existing service facility and any development approved pursuant to this division; provided that the county may, where necessary, require reasonable conditions to mitigate any adverse impacts on coastal resources including scenic resources.*

[THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO CHAPTER 23.03 OF THE CZLUO.]

23.08.288 – Public Utility Facilities: *The requirements of this section apply to Public Utility Facilities where designated as S-13 uses by Coastal Table 'O', Part I of the Land Use Element.*



Public Utility Facilities for other than electric and communications transmission and natural gas regulation and distribution, require Development Plan approval pursuant to Section 23.02.034 (Development Plan).

- a. Permit requirements. In addition to the emergency repair and the general permit requirements of section 23.08.286a and b., Development Plan approval is required for any new facility or modification of any existing facility in the Agriculture, Rural Lands, Residential, Office and Professional, and Commercial land use categories. Development Plan approval is required for any new facility or modification to any existing facility which would increase the structure heights above those specified in section 23.04.124 or modify any operational standards causing an increase in any of the categories specified in chapter 23.06 of this title*
- b. ...*
- c. Development standards. The following standards apply in addition to any that may be established as conditions of approval:*
 - (1) Environmental quality assurance. An environmental quality assurance program covering all aspects of construction and operation shall be submitted prior to construction of any project component. This program will include a schedule and plan for monitoring and demonstrating compliance with all conditions required by the Development Plan. Specific requirements of this environmental quality assurance program will be determined during the environmental review process and Development Plan review and approval process.*
 - (2) Clearing and revegetation. The land area exposed and the vegetation removed during construction shall be the minimum necessary to install and operate the facility. Topsoil will be stripped and stored separately. Disturbed areas no longer required for operation will be regarded, covered with topsoil and replanted during the next appropriate season.*
 - (3) Fencing and screening. Public Utility Facilities shall be screened on all sides. An effective visual barrier will be established through the use of a solid wall, fencing and/or landscaping. The adequacy of the proposed screening will be determined during the land use permitting process.*
- d. Limitation on use, sensitive environmental areas. Uses shall not be allowed in sensitive areas such as on prime agricultural soils, Sensitive Resource Areas, Environmentally Sensitive Habitats, or Hazard Areas, unless a finding is made by the applicable approval body that there is no other feasible location on or off-site the property. Applications for Public Utility Facilities in the above sensitive areas shall include a feasibility study, prepared by a qualified professional approved by the Environmental Coordinator. The feasibility study shall include a constraints analysis, and analyze alternative locations.*



b. Consistency with Applicable Policies

The proposed project is an expansion of existing public works facility located in a residentially zoned area. Under Table 'O' of the LCP, this type of development is listed as a S-13 use, allowable but subject to the special standards and processing requirements of CZLUO Section 23.08.280.

Pursuant to CZLUO Section 23.08.288, a Development Plan (coastal development permit) is required for new and expanded public works facilities in the residential land use category. On February 10, 2005 the County Planning Commission granted a Development Plan/Coastal Development Permit to the Cambria Community Services District (DRC2004-00093) in satisfaction of this LCP requirement. The other development standards required under this ordinance, such as revegetating disturbed areas and screening the site have also been addressed through the County's conditions of approval (See Exhibit D) and incorporated into this permit. The final requirement under this ordinance regarding the development of public works facilities in environmentally sensitive habitat areas is addressed in more detail in the ESHA findings of this report.

Public Works Policy 7 of the LCP requires a permit for public works projects located within the coastal zone, unless specific circumstances exist. The specific circumstances include: 1) repair and maintenance activities that do not enlarge or expand the facility; 2) where development is a state university, public trust lands or tidelands; 3) minor projects that can be categorically exempted; and 4) the installation, testing and placement in service or the replacement of any necessary utility connection between an existing service facility and any development approved pursuant to this division. In this case, none of these specific circumstances exist. Thus, a coastal development permit is required.

Public Works Policy 2 of the LCP requires that new or expanded public works projects shall be designed to accommodate but not exceed the needs generated by projected development within the urban reserve line. This policy was certified to implement the Coastal Act requirement that public services be adequate to serve urban development that is otherwise consistent the resource protection policies of the Coastal Act and not be growth inducing. This policy requires an examination of how much storage is actually needed at this time for the proposed project.

The District's July 2004 Water Master Plan³ identified a need for an additional 2.2 million gallons of storage to meet system wide fire protection, emergency, and operational storage needs. Of this amount, 1.1 million gallons is proposed to be stored at the Pine Knolls tank site. However, there are a number of assumptions underlying the Water Master Plan projections that raise questions about how much water storage is needed at this site, particularly in light of the proposed impacts to ESHA (see below).

First, the CCSD is currently implementing a moratorium on new water connections because of the severe water supply constraints in the current system. As mentioned, these constraints include inadequate fire fighting flows as well as constraints associated with water withdrawals from San Simeon and Santa Rosa Creeks. The Coastal Commission has long recognized these constraints and in both the 1998 North Coast Area Plan update findings, and the adopted Periodic Review of the SLO County LCP, has advised that new development in Cambria not be approved absent a serious effort to address the water supply

³ Task 3 Report. Potable Water Distribution System Analysis for Cambria Community Services District Prepared by Kennedy/Jenks Consultants July 2004.



constraints, including the provision of adequate fire storage. This also includes recommending that the riparian habitat requirements of the creeks be fully evaluated, and that the County and community consider strategies to identify and achieve a reduced potential buildout of Cambria that would better protect coastal resources.

The CCSD is currently evaluating a desalination project that could provide additional water supplies to the community, and is currently planning new capacity to serve only the number of customers currently on the CSD's waiting list for water (670 new connections). Currently there are 3,812 existing water connections and 165 connections in process that have been grandfathered into the current moratorium. Although the current planning assumes a more limited buildout scenario for the community, the actual capacity of any future water supply is not yet established or evaluated for consistency with the LCP. In the optimum situation, new public services, which admittedly are substantial public investments, would be sized to provide for future development that has been evaluated in an LCP planning context for consistency with the Coastal Act and protection of coastal resources. More important in this case, the development and delivery of the actual service expansions to serve potential future development should not be inconsistent with other policies of the LCP or the Coastal Act. Rather, new service capacities should be designed and accomplished consistent with the LCP, such as the ESHA policies that require avoidance of ESHA. The water tanks proposed by the CSD include an approximate 200,000 additional gallons for the assumed future development. If there were no adverse impacts to coastal resources associated with this capacity design in the proposed location, this additional storage on this site might be acceptable. However, given the impacts to ESHA, discussed in detail in the next finding, it is not appropriate to provide future capacity at this location. In addition, the CSD has not shown that this future capacity could not be reasonably provided at other locations or through other changes in the water supply system.

Finally, and separate from the excess capacity provided in the project using a future buildout scenario, the model uses a number of assumptions/multipliers that appear to inflate needed storage capacities communitywide. For example, daily operational storage is the amount water that moves up and down in the tanks in response to hourly changes in customer demands. At its July 24, 2003 meeting, the CCSD Board directed its staff to plan for a 50% increase in daily residential and commercial water use (per connection) as way to provide some relief to existing customers from current water conservation measures that have evolved from years of water shortages in Cambria. This 50-percent across the board "quality of life increase" results in a projected amount of daily water use that may not be accurate. In this example, it is uncertain if people in the community will actually use more water in the future as a result of the Board directive, or if the community will continue to conserve water as it has. In any event, this assumption should not be relied upon when sizing the storage tanks for this project, particularly given the environmental sensitivity of the site.

c. Public Works Conclusion

The applicant is proposing a newly expanded public utility in a residential area of Cambria. While the project has met the necessary permit requirements and development standards, questions remain about the needed storage volume. This raises conflict with LCP Policy 2 in particular, as it appears that the proposed facility is too large for this site in light of current constraints and uncertainty regarding projected development within the service area. Until a sustainable water source is provided in Cambria,



it is not appropriate to use a projected buildout scenario to size and design this facility that necessitates adverse impacts to ESHA. As required by 23.08.288, alternative designs and locations must be considered. Thus, the Commission finds the project as proposed is inconsistent with Public Works Policy 2 and CZLUO 23.08.288, as new development must be located in areas able to accommodate it without impacts to ESHA.

2. Environmentally Sensitive Habitat Areas (ESHA)

a. Applicable Policies

The project site is located within an LCP designated Sensitive Resource Area (SRA) combining designation with a Terrestrial Habitat (TH) ESHA overlay. The following LCP policies and ordinances are relevant to the protection of environmentally sensitive Terrestrial Habitat, such as the Monterey pine forest adjacent to the CCSD property:

***Policy 1: Land Uses Within or Adjacent to Environmentally Sensitive Habitats:** New development within or adjacent to locations of environmentally sensitive habitats (within 100 feet unless sites further removed would significantly disrupt the habitat) shall not significantly disrupt the resource. Within an existing resource, only those uses dependent on such resources shall be allowed in the area [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07.170-178 OF THE COASTAL ZONE LAND USE ORDINANCE (CZLUO).]*

***Policy 29: Protection of Terrestrial Habitat.** Designated plant and wildlife habitats are environmentally sensitive habitat areas and emphasis for protection should be placed on the entire ecological community. Only uses dependent on the resource shall be permitted within the identified sensitive habitat portion of the site. Development adjacent to environmentally sensitive habitat areas and holdings of the State Department of Parks and Recreation shall be sited and designed to prevent impacts that would significantly degrade such areas and shall be compatible with the continuance of such habitat areas. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.176 OF THE CZLUO.]*

***Policy 30: Protection of Native Vegetation.** Native trees and plant cover shall be protected wherever possible. Native plants shall be used where vegetation is removed [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.176 OF THE CZLUO.]*

***Policy 35: Protection of Vegetation:** Vegetation which is rare or endangered or serves as cover for endangered wildlife shall be protected against any significant disruption of habitat value. All development shall be designed to disturb the minimum amount possible of wildlife or plant habitat. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.176 OF THE CZLUO.]*

***CZLUO 23.07.160 – Sensitive Resource Area (SRA):** The Sensitive Resource Area combining designation is applied by the Official maps (Part III) of the Land Use Element to identify areas with special environmental qualities, or areas containing unique or endangered vegetation or habitat resources. The purpose of these combining designation standards is to require that the proposed uses be designed with consideration of the identified sensitive resources, and the need*



for their protection, and, where applicable, to satisfy the requirements of the California Coastal Act. The requirements of this title for Sensitive Resource Areas are organized into the following sections:

23.07.162	Applicability of Standards
23.07.164	SRA Permit and Processing Requirements
23.07.166	Minimum Site Design and Development Standards
23.07.170	Environmentally Sensitive Habitats
23.07.172	Wetlands
23.07.174	Streams and Riparian Vegetation
23.07.176	Terrestrial Habitat Protection
23.07.178	Marine Habitats

CZLUO Section 23.07.164(e) – Sensitive Resource Area Required Findings: Any land use permit application within a Sensitive Resource Area shall be approved only where the Review Authority can make the following required findings:

- (1) The development will not create significant adverse effects on the natural features of the site or vicinity that were the basis for the Sensitive Resource Area designation, and will preserve and protect such features through the site design.
- (2) Natural features and topography have been considered in the design and siting of all proposed physical improvements.
- (3) Any proposed clearing of topsoil, trees, or other features is the minimum necessary to achieve safe and convenient access and siting of proposed structures, and will not create significant adverse effects on the identified sensitive resource.
- (4) The soil and subsoil conditions are suitable for any proposed excavation; site preparation and drainage improvements have been designed to prevent soil erosion, and sedimentation of streams through undue surface runoff.

Like the SRA Combining Designation, Environmentally Sensitive Habitats also contain Required Findings (pursuant to 23.07.170(b)).

CZLUO Section 23.07.170 – Environmentally Sensitive Habitats: The provisions of this section apply to development proposed within or adjacent to (within 100 feet of the boundary of) an Environmentally Sensitive Habitat as defined by Chapter 23.11 of this title, and as mapped by the Land Use Element combining designation maps.

(b) Required findings: Approval of a land use permit for a project within or adjacent to an Environmentally Sensitive Habitat shall not occur unless the applicable review body first finds that:

- (1) There will be no significant negative impact on the identified sensitive habitat and the proposed use will be consistent with the biological continuance of the habitat.
- (2) The proposed use will not significantly disrupt the habitat.



CZLUO Section 23.07.176 – Terrestrial Habitat Protection: *The provisions of this section are intended to preserve and protect rare and endangered species of terrestrial plants and animals by preserving their habitats. Emphasis for protection is on the entire ecological community rather than only the identified plant or animal.*

- a. *Protection of vegetation. Vegetation that is rare or endangered, or that serves as habitat for rare or endangered species shall be protected. Development shall be sited to minimize disruption of habitat.*
- b. *Terrestrial habitat development standards:*
 - (1) *Revegetation. Native plants shall be used where vegetation is removed.*
 - (2) *Area of disturbance. The area to be disturbed by development shall be shown on a site plan. The area in which grading is to occur shall be defined on site by readily-identifiable barriers that will protect the surrounding native habitat areas.*

The LCP (CZLUO Section 23.11.030) defines “Environmentally Sensitive Habitat” as:

A type of Sensitive Resource Area where plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments. They include, wetlands, coastal streams and riparian vegetation, terrestrial and marine habitats and are mapped as Land Use Element combining designations

If questions arise about the precise boundary location of any land use category or combining designation map boundary, the LCP contains procedures to resolve such questions (CZLUO Section 23.01.041c(3)).

CZLUO Section 23.01.041 – Rules of Interpretation: *Any questions about the interpretation or applicability of any provision of this title, are to be resolved as provided by this section.*

c. **Map boundaries and symbols:** *If questions arise about the location of any land use category or combining designation boundary, or the location of a proposed public facility, road alignment or other symbol or line on the official maps, the following procedures are to be used to resolve such questions in the event that planning area standards (Part II of the Land use Element), do not define precise boundary or symbol location:*

(3) *Where a boundary is indicated as approximately following a physical feature such as a stream, drainage channel, topographic contour line, power line, railroad right-of-way, street or alleyway, the boundary location shall be determined by the Planning Department, based upon the character and exact location of the particular feature used as a boundary.*

In addition, the LCP includes generalized mapping of Monterey pine terrestrial habitat, which is specifically identified as a Sensitive Resource Area (ESHA) in the North Coast Area Plan as follows:



Monterey Pine Forests (SRA) – Native Monterey pines occur in only a few areas along the California coast from north of Santa Cruz to Cambria and on one of the Channel Islands off the Santa Barbara County Coast. While widely grown in the Southern Hemisphere as commercial timber, the Monterey Pine occurs in only three areas of its native California. The southernmost stand in California is the 2,500 acres surrounding Cambria with another isolated 500 acres at Pico Creek. These stands are extremely important as a “gene pool” due to genetic variations found there. Relatively undisturbed strands occur on the Cambria fringe area and in isolated pockets to the north. Monterey pine forests cover most of the Cambria urban area. The larger remaining stands in undeveloped areas should be retained intact as much as possible by use of cluster development in open areas of sparse tree cover and preservation of finer specimen stands through open space easements

Finally, CZLUO Section 23.08.288(d) addresses the development of public utility facilities in sensitive habitat areas. It states in relevant part:

23.08.288(d) - Limitation on use, sensitive environmental areas. Uses shall not be allowed in sensitive areas such as on prime agricultural soils, Sensitive Resource Areas, Environmentally Sensitive Habitats, or Hazard Areas, unless a finding is made by the applicable approval body that there is no other feasible location on or off-site the property. Applications for Public Utility Facilities in the above sensitive areas shall include a feasibility study, prepared by a qualified professional approved by the Environmental Coordinator. The feasibility study shall include a constraints analysis, and analyze alternative locations.

b. Resource Background - Status of the Monterey Pine Resource⁴

Monterey Pine Forest ESHA in Cambria

The project site is located within the native range of Monterey pine (*Pinus radiata*) forest. Monterey pine forest is a rare and significant environmentally sensitive plant community. Within its native range, only five populations of Monterey pine forest remain in the world, three of which are in the California coastal zone: the main native stand mantling the Monterey Peninsula; the smaller stand near Año Nuevo in Santa Cruz County; the Cambria stand in North San Luis Obispo County (parts of which are the least disrupted of the remaining groves); and stands on two remote Mexican islands, Guadalupe and Cedros, off the coast of Baja. Each stand is restricted to coastal areas typified by summer fog, poor soils and mild temperatures. Although there is some uncertainty concerning the precise historical distribution of

⁴ Sources for some of the information in this section include: *Monterey Pine Forest Conservation Strategy Report*, Jones & Stokes Associates, Inc., prepared for the California Department of Fish and Game, December 1996; *Monterey Pine Forest Ecological Assessment: Historical Distribution, Ecology, and Current Status of Monterey Pine*, Jones & Stokes Associates, Inc., prepared for the California Department of Fish and Game, September 12, 1994; *Pitch Canker in California*, Andrew J. Storer, Thomas R. Gordon, David L. Wood, and Paul L. Dallara (from the Pitch Canker Task Force Web Site April 1999); *Current Status of Pitch Canker Disease in California*, CDF Tree Notes #20, July 1995; *California Forestry Note #110*, CDF, November 1995; *Pitch Canker Action Plan, Appendix D to SLO County North Coast Area Plan public hearing document*, December 1996; *Pine Pitch Canker Task Force Position Paper*, California Forest Pest Council, January 23, 1997; *RFP for “Developing Programs for Handling...Infected Pine Material within the Coastal Pitch Canker Zone...”*, CDF, December 1997; *The Cambria Forest*, Taylor Coffman, Coastal Heritage Press, 1995; *Pebble Beach Lot Program Final Environmental Impact Report*, EIP Associates, June 1997; and *In situ Genetic Conservation of Monterey Pine (Pinus radiata D. Don): Information and Recommendations*. D.L. Rogers. Report No. 26, Genetic Resources Conservation Program, University of California, Davis, September 2002; California Native Plant Society, “A Petition to the State of California Fish and Game Commission,” August 1999.



these stands, it is clear that all of them, with the exception of perhaps the Año Nuevo stand, have suffered from extensive losses and fragmentation due to development over the last 50 years. The Guadalupe Island population's survival is uncertain, with no natural regeneration for decades – the result of overgrazing by introduced goats. The three remaining California stands are also threatened by habitat loss, due to existing and proposed development (housing and resort development, golf course development, urbanization), continued fragmentation of the remaining intact forest (by roads and other development), soil compaction and erosion (road grading, recreational overuse), genetic contamination by planted non-local Monterey pines, and invasive exotic plants (genista or “broom”, pampas grass, acacia, eucalyptus, etc.). Commercial logging was an issue in the past, but today is largely confined to firewood cutters and small salvage operations.

As described in the certified North Coast Area Plan, each of the three native stands in California (Año Nuevo, Monterey Peninsula, and Cambria) is geographically isolated from the others and ecologically and genetically unique. The southernmost stand in California is the 2,500 acres surrounding Cambria with another isolated 500 acres at Pico Creek. In addition to their distributional rarity, these stands are extremely important as a “gene pool” due to genetic variations found there.⁵ Relatively undisturbed stands occur on the Cambria fringe area and in isolated pockets to the north. Monterey pine forest covers most of the Cambria urban area. According to biologist V.L. Holland, a comparison of the three naturally occurring mainland populations of Monterey pine shows that members of the Cambria populations have significantly larger cones than do the other populations. Along with the increased cone size there are other distinguishing features of the cones, such as larger apophyses, greater asymmetry, and larger seeds. It has also been noted that the Cambria population probably occupies the driest of the three remaining stands and that the larger cones and seeds may be an adaptation to this drier habitat. In Cambria, Monterey pines are often planted as ornamentals or to replace trees destroyed by construction activity. In the past, little attention has been paid to the source of the trees and they are often replaced from plantation stock, not from the indigenous stock. Accordingly, there is a real danger that the genes from plantation grown plants will dilute the genetic uniqueness of the Cambria pines.⁶

In recognition of this high sensitivity and uniqueness of Monterey pine, the certified SLO LCP identifies Monterey pine forest as terrestrial habitat (TH) to be treated as ESHA, and includes generalized mapping of the pine forest habitat areas known at the time of LCP certification.

Since certification of the LCP, the sensitivity of Monterey pine forest has been further recognized. In 1994 Monterey pine was included on the California Native Plant Society's (CNPS) 1B List, which includes native plants considered to be rare, threatened, or endangered.⁷ CNPS also uses a system called the R-E-D Code for sensitive species that indicates the overall level of conservation concern for any particular plant, based on its rarity, endangerment, and distribution. In the case of Monterey pine, the

⁵ See, also, California Native Plant Society, “A Petition to the State of California Fish and Game Commission,” August 1999

⁶ *Biological Survey of Leffingwell Ranch Cambria, California*, V.L. Holland, Ph.D., Lynne Dee Oyler, M.S., July 30, 1994

⁷ CNPS summarizes the status of List 1B plants as follows: “The 1021 plants of List 1B are rare throughout their range. All but a few are endemic to California. All of them are judged to be vulnerable under present circumstances or have a high potential for becoming so because of their limited or vulnerable habitat, their low numbers of individuals per population (even though they may be wide ranging), or their limited number of populations. Most of the plants of List 1B have declined significantly over the last century.” *CNPS Inventory of Rare and Endangered Plants of California* (2001).



CNPS R-E-D code is 3-3-2 (with 3 indicating highest concern) because of its limited number of restricted occurrences (only 5 locations, 3 in California), serious endangerment in California, and its rarity outside of California (but for the small pine forest populations on Guadalupe and Cedros Islands off of Baja, the R-E-D code presumably would be 3-3-3). Reflecting the high level of concern, Monterey pine has been given the highest threat ranking by the California Department of Fish and Game in its Natural Diversity Database (G1, S1.1).⁸ In short, concern for the protection of Monterey pine forest is quite high. In recognition of the high conservation concern for Monterey pine, the species also was placed on the International Union for Conservation of Nature and Natural Resources Red List of threatened species in 1997.

As mentioned, the Monterey pine forests in Cambria are threatened primarily by the direct loss of habitat due to development, soil erosion, fire suppression, and the introduction of invasive exotic plants. In addition, fragmentation, pine pitch canker, genetic contamination, and loss of genetic diversity threaten the forest. New development may result in the physical loss of trees as well as impacts to the overall forest habitat and species therein. Fragmentation of Monterey pine forest by continuing development can also create smaller isolated pockets of pine stands. Once a stand is fragmented, the small pockets are more subject to disease and root damage, and overall forest integrity is reduced.

In summary, native Monterey Pine forests are rare and play a special role in ecosystems, such as by providing critical habitat for other rare and unusual species. Each of the five remaining populations of Monterey pine is distinctive. The native pine stands in Cambria represent an important natural resource for California, and the world. Overall, within the native range of Monterey pine, forest habitat areas that have not been substantially developed and urbanized meet the definition of ESHA under the Coastal Act. Effective conservation of the diversity within the species requires that each native population be protected. Finally, Monterey Pine forests are demonstrably easily disturbed and degraded by human activities and developments. Therefore, within the native forest habitats, those stands of Monterey pines that have not been substantially developed and urbanized meet the definition of Environmentally Sensitive Habitat Area (ESHA) under the San Luis Obispo County certified LCP.

c. ESHA Identification on the Project Site

On of the most important steps in the development review is to accurately identify the presence of ESHA within or adjacent to the development site. The LCP (CZLUO Section 23.11.030) defines "Environmentally Sensitive Habitat" as:

A type of Sensitive Resource Area where plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments. They include, wetlands, coastal streams and riparian vegetation, terrestrial and marine habitats and are mapped as Land Use Element combining designations.

⁸ G1 is a global condition ranking indicating that at the species or natural community level less than 6 viable element occurrences (Eos) OR less than 1,000 individuals OR less than 2,000 acres remain. S1.1 is the corresponding state ranking coupled with a threat ranking, in this case "very threatened".



The certified LCP generally uses a map-based system to identify areas where new development needs to be reviewed for conformance with the LCP provisions protecting ESHA. Essentially, the LCP uses "combining designations" as geographic overlays to land use designations that identify particular resources or constraints that need to be considered during the development review process. These geographic "overlays" are useful tools for generally identifying particular areas known to support sensitive habitats. In such areas, the LCP prescribes the need for more detailed project review to avoid or minimize adverse environmental impacts. As described in part on page 7-1 of the Framework for Planning:

Combining designations identify areas with characteristics that are either of public value or are hazardous to the public. The special location, terrain, man-made features, plants or animals of these areas create a need for more careful project review to protect those characteristics, or to protect public health, safety and welfare.

If questions arise about the precise boundary location of any land use category or combining designation boundary, the LCP contains procedures to resolve such questions. Section 23.01.041c(3) states:

Where a boundary is indicated as approximately following a physical feature such as a stream, drainage channel, topographic contour line, power line, railroad right-of-way, street or alleyway, the boundary location shall be determined by the Planning Department, based upon the character and exact location of the particular feature used as a boundary.

In this case, a number of factors were reviewed to determine if the proposed project site qualifies as Monterey pine forest ESHA. Factors to consider when making an ESHA determination include general health of the forest, loss of habitat area to development, fragmentation of habitat and increased edge effects, health and species composition of the forest understory, and connectivity to other forested areas. It is important to note that Monterey pine forest needs to be understood as a complete and dynamic habitat – understory and overstory, animals and interactions, soils and climates. A forest is a complex, interdependent web of living organisms rather than just a collective noun for a group of trees in the landscaping sense. At issue is preservation of habitat, not simply evaluation of individual tree impacts.

Biology

The existing 11,000 square foot Pine Knolls tank site owned by the CSD does not contain sensitive habitat. The site is disturbed and contains two existing water tanks. There is sparse cover of annual grasses and weeds with some landscape trees and shrubs planted along the sites western and southern boundaries. Two Monterey pines are located on the existing site separated from the nearby forest, and appear to have been planted as landscape screening. The Biological Assessment⁹ states that these two trees are likely not of native stock. Coast live oaks ring the western boundary of the project site.

In contrast, the northeast expansion area is described in the Biological Assessment as being Closed-Cone Coniferous Forest, of the Monterey Pine Series. The trees are described as being of a common age structure with most trees having a diameter between 10-20 inches. The study notes that some small seedlings and saplings are also present. The Coast live oaks range from seedlings to large trees, with an

⁹ Biological Assessment, Cambria Community Services District Mitigated Negative Declaration Pine Knolls Tank Site Cambria, San Luis Obispo county, California. Prepared by Jennifer Langford, May 2004.



average diameter of 7 inches. Common understory species observed in the Monterey pine forest within and adjacent to the project site include: toyon (*Heteromeles arbutifolia*), coffee berry (*Rhamnus californica*), snowberry (*Symphoricarpos mollis*), bracken fern (*Pteridium aquilinum* var. *pubescens*), California blackberry (*Rubus ursinus*), and sticky monkey flower (*Mimulus aurantiacus*).

Besides the Monterey pine, no sensitive plant or animal species were observed on the portion of the proposed project site in the Monterey pine forest. As discussed previously, the native Monterey pine (*Pinus Radiata*) is listed as Rare, Threatened or Endangered (list 1B) by CNPS. Though no other sensitive plant species were observed on the project site, suitable habitat is present for four other local sensitive plants including: Hickman's onion, Cambria morning glory, branching beach star, and Michael's rein-orchid. In addition, there is suitable habitat provided in the Monterey pine forest for six sensitive bird species including: northern harrier, white-tailed kite, Cooper's hawk, sharp-shinned hawk, long-eared owl, and loggerhead shrike.

In this case, the northeast expansion area proposed for development is in good health and relatively intact. The most fragmentation and disruption has occurred in the location of the existing tank site and the residences to the west and south. There is healthy contiguous Monterey pine forest habitat, and thus habitat connectivity, primarily to the north and east of the subject property. The aerial photo attached as Exhibit C are extremely helpful in showing connectivity to other forested areas. Even smaller stands of Monterey pine forest may be considered ESHA if the health of the stand is good, particularly if there is a healthy understory with a strong assemblage of other native and sensitive plant species present. The rare and special plant species present on the project site, combined with a healthy understory and good tree condition indicate the health of the project site stand is optimal. It should also be noted that this particular forest stand is part of a conservation easement held by The Nature Conservancy to be protected from development. Finally, the Commission's ecologist visited and evaluated the site on November 11, 2004 and concurs with the finding that the site contains environmentally sensitive Monterey pine forest habitat.

Maps

The LCP maps show an SRA combining designation boundary line running co-terminous with the property boundary of the CCSD's existing 11,000 square foot property. Slightly offset from the SRA boundary, the LCP maps show a Terrestrial Habitat boundary line (see Exhibit B).

As described previously, the LCP generally uses a map based system to identify areas where new development needs to be closely reviewed for conformance with the LCP provisions protecting ESHA and uses "combining designations" as geographic overlays that identify particular resources or constraints that need to be considered during the development review process. The CCSD has questioned whether or not this area is within ESHA. Clearly, the LCP maps do not necessarily provide a precise or an up-to-date accurate depiction of the Monterey pine forest resource, as it exists on the ground today in any particular case. But this reality is contemplated by the LCP through the applicable rules of interpretation. The LCP rules of interpretation CZLUO Section 23.01.041c(3) states:

c. Map boundaries and symbols: If questions arise about the location of any land use category or combining designation boundary, or the location of a proposed public facility, road alignment or other symbol or line on the official maps, the following procedures are to be used to resolve such



questions in the event that planning are standards (Part II of the Land Use Element), do not define precise boundary or symbol location:

(3) Where a boundary is indicated as approximately following a physical feature such as a stream, drainage channel, topographic contour line, power line, railroad right-of-way, street or alleyway, the boundary location shall be determined by the Planning Department, based upon the character and exact location of the particular feature used as a boundary.

In this case, the particular physical feature used as the boundary for the mapped SRA (combining designation) is the Monterey pine forest terrestrial habitat (TH). Therefore, to the extent there may be a question about the location of the TH boundary in this case, under the LCP the identification of the mapped SRA Monterey pine forest boundary is to be based on where the resource is actually on the ground. Thus, even though the existing SRA maps of the Monterey pine habitat on the tank site don't correspond directly with actual resources, the LCP directs that this discrepancy be resolved based on the physical features of the resource that is mapped – i.e. the sensitive resource boundary is determined by actual on-the-ground forest habitat conditions.

It should be noted that the County of San Luis Obispo supports an ESHA determination for the project site. Early in the development review process with the County, at a March 31, 2004 meeting between John Hofschroer (SLO County Planning) and Robert Gresens (CCSD), Mr. Hofschroer cited the LCP's Rules of Interpretation (Section 23.01.041c) in making the determination the EHSA boundary included the proposed project site.¹⁰ Moreover, the Planning Commission in its approval of the project also found that the proposed project was within Monterey pine forest ESHA.

The issue of reconciling outdated or imprecise LCP maps with actual resource conditions was detailed in the Commission's review of the Periodic Review of the San Luis Obispo County LCP adopted by the Commission in July 2001. The County has recently responded to the Commission's concern in their most recent Periodic Review Implementation LCP amendment submittal to the Commission (SLO-MAJ-1-03). In that submittal, which the Commission certified on February 20, 2004 and that is now in effect, the County incorporated the Commission's suggested modification that more specifically and directly references the rules of interpretation for resolving questions regarding projects which may be appealed to the Coastal Commission based on the location of development within a Sensitive Resource Area. As stated by the Commission's findings on page 37 of SLO-MAJ-1-03 (Phase 1 Periodic Review Implementation) the purpose of this modification was to clarify that "the location of development in relationship to sensitive resource areas must be determined in accordance with the actual location of the resource, rather than a depiction on a map". Specifically, the LCP states in significant part:

CZLUO Section 23.01.043(c) - Appealable development. *As set forth in Public Resources Code Section 30603(a) and this title, an action by the County on a permit application, including any Variance, Exception, or Adjustment granted, for any of the following projects may be appealed to the California Coastal Commission:*

- i. Development approved between the sea and the first public road paralleling the sea, or within 300 feet of the inland extent of any beach (or of the mean high tide line of*

¹⁰ January 27, 2005 Revision to the Initial Study/Mitigated Negative Declaration



the ocean where there is no beach), whichever is the greater distance, as shown on the adopted post-certification appeals maps.

- ii. *Approved developments not included in subsection c(1) of this section that are proposed to be located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff as shown on the adopted post-certification appeals maps.*
- iii. *Developments approved in areas not included in subsection c(1) or c(2) that are located in a Sensitive Coastal Resource Area, which includes:*
 - (i) Special marine and land habitat areas, wetlands, lagoons, and estuaries mapped and designated as Environmentally Sensitive Habitats in the Local Coastal Plan.*

...

The procedures established by Section 23.01.041 c. (Rules of Interpretation) shall be used to resolve any questions regarding the location of development within a Sensitive Coastal Resource Area (underline added).

In conclusion, the Commission finds that the Monterey pine forest habitat that exists on the project site is ESHA under the SLO LCP and, moreover, does constitute mapped Terrestrial Habitat to be protected pursuant to the policies cited above.

ESHA Identification Conclusion

Native Monterey pine stands only occur in five relatively small and separate locations. Native Monterey pine forest habitat is rare and seriously at risk in California, and is nearly non-existent outside of California. Monterey pine is included on CNPS's 1B List because of its status. For these reasons, the proposed project's location in an area of Monterey pine forest habitat requires that an ESHA determination be made. As discussed above, there are a number of factors that should be evaluated to determine whether the proposed project site is ESHA. These factors include evaluating the general health of the forest on the project site, assessing the level of fragmentation and level of development in and around the project site, describing the health and species composition of the forest understory, and examining the level of connectivity of the project site to other nearby forested sites.

All of these factors support the designation of the northeast expansion area as ESHA. The property is contiguous with large tracts of remaining undeveloped Monterey pine forest protected under a conservation easement and supports rare and sensitive plant and animal species. The presence of seedlings on the project site indicates a healthy forest where Monterey pine regeneration is taking place. After carefully weighing all the above factors, it has been determined that the site is ESHA.

d. Impacts to Monterey Pine Forest ESHA

As described above, the northeast expansion area is located entirely within an ESHA. The proposed project impacts approximately 6,100 square feet of ESHA habitat for public utility development that is not dependent on the Monterey pine forest. Structural development within this area will result in a



permanent loss of habitat. Additional adverse impacts will result from site preparation during construction and subsequent use of the site. Constructing water tanks on this site will result in a significant disruption and destruction of environmentally sensitive forest habitat areas on the site. The loss of healthy habitat areas as a result of new development, particularly those protected from development through conservation easements, will have negative effects on the biological continuance of the identified Monterey pine forest.

e. Inconsistencies

The CCSO proposes to develop 550,000 gallon water tanks and other associated site improvements within ESHA. This project is inconsistent with core policies and ordinances of the San Luis Obispo LCP and should not be approved as currently designed. The LCP requires that development within or adjacent to ESHA shall not disrupt the resource and only those uses dependent on the resource shall be allowed. As established in the above findings, the northeast expansion area is located within Monterey pine forest ESHA and the proposed development is not resource dependent. Furthermore, the applicant has not demonstrated that the project can be developed without significantly disrupting and adversely impacting the sensitive Monterey pine forest habitat in this area. Therefore, this development is inconsistent with the applicable LCP policies and ordinances protecting ESHA.

f. Alternatives

Notwithstanding the ESHA prohibitions of the LCP, CZLUO Section 23.08.288(d) does provide a potential limited exception for necessary utilities. This section prohibits public utility facilities in SRA's and ESHA's unless there is no other feasible location on or off-site the property. A feasibility study must be conducted that analyzes constraints and alternative locations. Staff has worked on a number of project concepts that address certain design criteria and site constraints. The following analysis addresses each of these constraints and shows how they can be met with an onsite design. Offsite alternatives are also briefly discussed.

Onsite Alternatives

Based on a number of conversations with CCSO district staff, Commission staff now understands that the district's optimal requirements on the Pine Knolls site include the following components:

1) 1,100,000 gallons of water storage. The district asserts the need for an additional 2.2 million gallons of storage to meet system wide fire protection, emergency, and operational storage needs. Of this amount, 1,100,000 gallons is proposed at the Pine Knolls site to serve Pressure Zone 1 of the District's water distribution system. This amount of storage will provide roughly half of the projected system wide fire storage, emergency, and operational storage needed to adequately serve the town. Future projects on other district sites will ultimately provide the remaining 1,100,000 gallons identified by the CSD as the needed volume.

2) Multiple tanks. Although the district had earlier explored a design that placed one, large, 1,100,000 million gallon, concrete tank wholly on the existing 11,000 square foot site, this alternative was rejected because of maintenance considerations (whole single tank would be down for maintenance) and because it could not be built whilst leaving both of the existing tanks in place.



3) Existing Tanks to remain during construction. Currently, there are two 103,000-gallon tanks on the site. The district would like to maintain this water storage until at least one of the new tanks is built and brought online. Given the location of the existing tanks, maintaining service of them during construction severely limits design options on the site. The district has stated that it does not want to locate temporary tanks that would allow the early removal of the existing tanks on or off site due to cost. The CSD's original one tank design did contemplate a temporary tank to address this constraint.

4) Tank height: Tank height cannot exceed 32' (water height of 29.5') due to the hydraulics of the water system. (Boyle Engineering letter to Bob Gresens, District Engineer, dated February 4, 2005, page 6.) Higher tanks would, according to the district, create unacceptable water pressure problems in part of the system that could not be alleviated by pressure relief valves or other mechanisms. According to the district, tanks cannot be buried or partially buried due to system hydraulics and poor water circulation within the buried portion of the tank. According to the district, all tanks must be the same height.

5) Maintenance area around tanks. The district states that the tanks will need to be painted on the interior and exterior approximately every 10 to 15 years depending upon corrosion and wear of the paint. The district asserts such painting operations require the use of air compressors for sandblasting; lifts; and scaffolding. The district states that a pickup truck pulling such equipment will need to be able to maneuver around each tank. Hauling off of sand will also be necessary out of tank access hatches. In addition, the district asserts the need for an ambulance to be able to traverse around the tanks in the event a worker is injured.

6) Access Road. The district states that an access road, a minimum of 12', but preferably 15', with three-foot buffers on both sides (for a total of 18 feet) is needed across the south property boundary to allow fire truck and bulldozer access to the adjacent forest in the event of fire. The purpose of this road is to allow fire trucks and/or bulldozers to have direct access to the forest margin. No additional roads are proposed off district property within the forest.

7) Residential Zoning Setbacks. The district states that the setbacks they are required to observe for the project (assuming 30' tall tanks) are based on the standards of Title 23.04.110 and would require 16' setbacks all around the property as a commercial or industrial use located next to residentially zoned land. The proposed use is a public services utility, not a commercial or industrial use and, thus this section of the zoning ordinance would not apply to the project. The site is zoned residential single-family (RSF) and normal setbacks in Tract 112 of Pine Knolls are 25' front yard, 5' side yard and 10' rear.

Analysis

In early December, Commission staff prepared a number of alternative site plans for the existing 11,000 square foot site that would provide most or all of the storage sought by the district. (Please see Exhibit M). At the time Alternatives A-D were prepared, some of the constraints limiting the design were not known (i.e. limit on tank height due to limit on water depth in the tanks). The district reviewed these alternatives and rejected them all. A summary of the alternatives and an analysis of the district's comments follow:

Alternative A: This alternative provides for the fire access road, construction of four tanks (three 30' diameter by 36' height and one 50' diameter by 35' in height tank) for 1,055,000 gallons of storage.



Tanks could be constructed sequentially to allow the existing tanks to remain until their storage capacity was replaced with new tanks.

The district rejected this alternative because the water level in the tanks cannot exceed 29.5' and thus would only provide slightly over 900,000 gallons of storage, not the 1,100,000 desired. The district also noted that the configuration did not comply with 16' foot side yard set backs for industrial development or the optimal 12' maintenance area around the tanks and the proposed access road was too sharp for fire trucks.

Based on further evaluation, it appears that only 5 to 8 feet are required for maintenance around the tanks. This is based on discussions with other tank suppliers, tank maintenance companies, professionals, as well as other recent Commission evaluations of steel water tank projects in Los Osos and San City. Using this parameter, Alternative A could be revised to increase the diameter of the smaller tanks to 31.5', decrease the size of the large tank to 48' in diameter, observe the limit on water depth at 29.5' and still provide the 934,000 gallons of storage needed for existing uses and fire storage. Setbacks under this revised alternative vary from 8' to 10' clearance between tanks and 7' to 17' clearance around tanks. This alternative meets the residential setbacks for side yards and rear yard (5' side, 10' rear) but one tank encroaches 12' into the 25' front yard setback. The access road could be slightly realigned to come into the property directly off the road and thus allow for fire truck access (Please see revised Alternative A).

The Commission notes, however, that to maximize water storage on this site and avoid impacts on the adjacent ESHA, strict side, front, and rear yard setbacks on the existing 11,000 square foot tank site cannot be met and a variance would have to be obtained. Weighing the need to protect ESHA and the need to maximize storage on site, a more flexible allowance on setbacks would appear to be warranted, particularly when two sides of the site border land that will not be developed. If it was determined that strict adherence to set backs was more protective of coastal resources, then water storage on site would have to be significantly reduced.

In summary, a revised Alternative A provides adequate storage to meet current needs, meets the multiple tank requirement, provides adequate room around the tanks for maintenance, meets the height limits, provides for an access road and allows the existing tanks to remain until replaced. This alternative meets most of the district's criteria but avoids any encroachment into the neighboring pine forest habitat.

Alternative B: Alternative B proposes a cluster of five 36' tall and 31' diameter tanks with an access road around three sides of the site. The tanks could be a minimum of ten feet apart but a small encroachment into the neighboring parcel is needed to provide road access around one of the tanks. Total storage under this alternative is 1,000,000 gallons.

The district rejected this alternative because with a maximum water depth of only 29.5 feet, the storage using this cluster configuration would only provide 832,000 gallons of storage. Other reasons for rejecting this alternative included inadequate set backs, tanks were too close to one another (district now asserts that 12 feet is required between tanks rather than the 5 to 8 feet stated in the Initial Study) and the access road entrance was too sharp for emergency vehicles.

The Commission notes that a slight reconfiguring of the tanks and a 2.5' increase in diameter for two of



the tanks would yield 939,000 gallons of storage which is adequate for existing use. The revised alternative meets side and rear yard setbacks but encroaches 5' into the 25' front yard setback. Distances between tanks vary between 9' and 15' clearances around the tanks vary from 7' to 20' (front of site). Similarly, the access road entrance could be easily redesigned to accommodate emergency vehicles (Please see Revised Alternative B). Finally, the existing tanks can remain in service until they are replaced. In summary, a revised Alternative B meets most of the CCSO's criteria and avoids encroachment into the neighboring property.

Alternative C: Alternative C provides for two tanks, 35' in height and 50' in diameter. A ten-foot wide access road runs around the full perimeter of the site, the tanks are 10' apart and total storage is 1,070,000 gallons.

The district rejected this alternative because total storage was only 832,000 gallons when the limit on water depth was calculated (maximum depth 29.5'), Other factors weighing against this alternative were lack of landscaping, tanks too close, set backs not met, only one of the existing tanks could be maintained until replaced and the access road was too sharp for fire trucks.

Alternative C could be revised to address most of the district's concerns by changing the size of the tanks to 48' in diameter with a maximum water depth of 29.5' (storage of 818,000 gallons) and the addition of two 20' diameter tanks for an additional 140,000 gallons of storage (for a total storage on site of 998,000 gallons). Changing tank size and placement would also allow for a 15' wide access road. The access road entrance in Alternative C is virtually identical to the one proposed by the district so it appears that the CCSO comment regarding its adequacy is misplaced. Existing tank storage of 200,000 gallons could largely be retained on site under this alternative by sequencing the new tank construction as shown on Revised Alternative C, Exhibit P.

In summary, Revised Alternative C provides 10' to 16' clearance between tanks and 8' to 19' of clearance around the tanks. Revised Alternative "C" also meets the side and rear yard setbacks, but two of the tanks encroach 10' and 5' respectively into the 25' front yard setback, and provides slightly more storage than that required for current use.

Alternative D: Alternative D provides for two tanks, one 40' in diameter and 30' high and the other 60' in diameter and 34' in height with a total storage capacity of 1,060,000 gallons and a 12' wide access road.

This design was rejected by the district for a number of reasons; the access road was too narrow, too sharp, not in the right location, inadequate clearance around tanks, inadequate storage capacity (using the maximum water depth criteria of 29.5 feet, total capacity is 901,000 gallons) and tank sizing will not allow normal operations when the large tank is down for maintenance.

Consistent with the district's comments, Alternative D could be reworked to provide a maximum of 920,000 gallons of storage while allowing clearances of 8' to 18' between tanks and 8' to 16' around the tanks, consistency with rear yard and side yard setbacks but not the front yard setback, and the retention of existing storage until replaced by the new tanks (Please see Revised Alternative D). The access road in Alternative D is generally in the same configuration as that proposed by the district.



Alternative E: Staff has also prepared a site plan and tank configuration that meets all of the District's siting criteria, however, as can be seen, if all the criteria are strictly adhered to, only 408,000 gallons of storage can be developed on the site (Please see Alternative E, Exhibit P).

Conclusion: The preceding discussion of alternatives shows that there are a number of tank configurations that meet most of the district's requirements and do not require encroachments into the adjacent habitat. The alternatives presented certainly do not exhaust all the possibilities as undoubtedly; there are a number of other alternatives for on site storage that could also be developed. There is no alternative, however, that completely meets the district's criteria. Compromise on some of the criteria will be needed to provide for a project that will fit on the existing site and meet the district's current needs. Some of the criteria articulated by the district are less subject to flexibility than others. For example, the district has stated that the water level in the tanks cannot exceed 29.5 feet in depth for operational reasons as discussed earlier in this report. If this is accurate, then this factor essentially limits the height of tanks that can be used on the site to 32' (29.5' water depth, 2.5' of freeboard) and thus the storage capacity of each tank. This constraint is very important in this case because the existing site is relatively small at 11,000 square feet and the ability to construct taller tanks would allow more storage by going vertical rather than using scarce site space with larger diameter tanks.

Another consideration is the provision of adequate space around each tank to allow for maintenance (painting, cleaning etc), This criterion may be more flexible. The district itself gives various minimum clearances as meeting their needs. The environmental documents prepared by the district state that a 5' to 8' walkway would be developed around the tanks (Initial Study/Mitigated Negative Declaration, January 27,2005 Revision, page 9). In other conversations, the figure of 10' to 12' has been given. In the district's response to alternatives proposed by Commission staff, they have stated that 12' is insufficient and that 15.5' is actually needed between tanks (12' between tank foundations that extend 1'9' beyond the tank). This figure conflicts with other figures ranging between 12'-15' given by the district at various times. Finally, a recent water tank replacement project in Los Osos shows a clearance of 8' around 42-6' tall tanks, and one proposed in Sand City shows clearances as small as 3' and 5' around 425,000 gallon tanks (see Exhibit Q). Clearance around tanks on a small site greatly affects the size of tanks placed on the site and thus the storage capacity. Obviously, a reasonable amount of room is needed to perform maintenance and from a practical standpoint 8 to 10 feet is adequate to stage the hydraulic lift and other equipment needed for painting and other maintenance based on information from various sources. Therefore, a reduction in the district's most conservative estimate of 15' can be supported.

Setbacks from the property line greatly influence the size and placement of the tanks. The concept of setbacks was developed as a modern planning tool to provide noise buffering, and visual, and physical space between neighboring uses. The use of setbacks is thus employed to reduce conflicts among neighbors by providing for reasonable privacy from adjacent noise and views thereby allowing greater enjoyment of individual developments. In this case, setbacks for the purposes of privacy from views into the yards and homes of neighbors from the Pine Knolls site and noise generated by the proposed development are less of a concern because water tanks are not inhabited nor are they noisy. The primary issue for this project is the impact of views of the tanks from adjacent properties because the tanks will be as tall as the tallest house permitted in the zone district and, as with a new house, will be visible. The areas of most concern would be the west and south property boundaries because existing single-family



homes are located on these adjacent parcels. The proposed tanks will thus be visible from the backyard of one property and the side yard of another. The east and north boundaries are less important from a perspective of concern for adjacency of development, because this land is part of a 1,644-acre holding and is subject to a conservation easement that does not allow development..

Many property owners face the dilemma of new development on adjacent vacant lots or the more common trend of the replacement of a small house on an adjacent lot with a much larger one. Aside from noise and visual privacy impacts, these changes introduce new structures into the viewshed of neighboring homes thus changing the appearance of the immediate neighborhood.. Although, water tanks currently are located on the site, the new development will be more intense. In this particular case, the use of fencing and landscaping with fast growing plant materials trained for vertical growth take up little room and can provide adequate visual buffering from the backyard and side yard view of the neighbors. As many people do when a larger home is built next to them, the neighbors may also wish to consider adding additional landscaping along the relevant property lines. Although the Commission staff has not prepared landscape plans for the alternatives discussed in this Finding, all of the alternatives provide adequate setbacks for fencing and fast growing landscaping along all of the site boundaries. As discussed earlier, there are no doubt a number of other alternatives that could be prepared by engineers and landscape architects that would provide reasonable visual relief from the new tanks as well.

As discussed in the preceding paragraphs of his report, it will be more consistent with the policy direction of the LCP to allow some flexibility in the set backs, particularly when the planning objectives of the setbacks can be met by proper fencing and landscaping as detailed in the preceding paragraph, in order to preserve ESHA and to maximize water storage on this site.

Storage capacity is also a very important consideration for the district. They have proposed 1.1 million gallons of storage at Pine Knolls (630,000 gallons fire storage, 470,000 gallons for operations). Given the dual constraints of limited tank height and the need for clearance around the tanks, this amount of storage is unlikely to be achieved on this site. However, it should be noted that the proposed 1.1 million gallon exceeds the community's current needs and can be reduced to 934,000 (the amount necessary to serve current community needs). This change alone allows much more design flexibility due to a smaller tank size. There are a number of alternatives (and likely many more that have not been yet developed) that provide about 90% of the desired storage and enough storage to meet current needs of 934,000 gallons.

The other district criteria for tank development on the Pine Knolls site are less problematic. There are a number of site plans that allow the existing tanks to remain in service until they can be replaced, the access road can be accommodated at the 12' width easily, and a multiple tank configuration can also be achieved under a variety of scenarios. Finally, all the alternatives proposed in this report and the others that certainly could be developed; contain room for required fencing and landscaping to buffer the tanks from view.

Offsite Alternatives

In addition to the onsite alternatives analyzed above, CZLUO Section 23.08.288(d) requires that offsite alternatives also be analyzed. A number of offsite alternatives were evaluated in an effort to identify areas or mechanisms other than additional tank capacity at Pine Knolls to address the identified water



need. These included: 1) distribution system upgrades to address hydraulic constraints; 2) water storage tanks dedicated only to fight fires as a way to address limited space on the Pine Knolls tank site; 3) the use of "localized" water treatment to overcome water quality concerns; and 4) the use of pressure zone interactions to assist in water supply and fire protection. In each case, the district dismissed the alternative because they were determined to be either: infeasible, not recommended, not practical, or not acceptable.

Examination of the water system analysis provided to the Commission raises questions about this conclusion that other offsite alternatives are not feasible to address future water storage needs in Cambria. As explained by the CSD, the capacity planned for the Pine Knolls site is based on fire flow to fight two major fires in pressure zone 1, serve future development at a level approximately 20% greater than existing development, and provide emergency water flows for this future level of development. As just discussed, it appears feasible to provide sufficient water storage on the Pine Knolls site to provide adequate fire flows, operational and emergency storage for existing development in pressure zone 1 without impacting ESHA. One possible option for additional storage that is dismissed by the CSD is increased tank capacity at other tank sites. The feasibility study submitted by the CSD dismisses this option in part because the "distribution system capacity is inadequate to provide sufficient fire flow...." If sufficient fire flow capacity is already provided at Pine Knolls, though, distribution capacity is not needed for fire flows but rather for operational and/or emergency flows to Pressure zone 1. It is not clear that such an alternative is infeasible. Indeed, the CSD's water plan describes existing pressure valves (such as between zone 7 and zone 1) and recommends a new pressure valve that could provide for the movement of water from other pressure zones into zone 1. For example, on page 54, the plan recommends a new pressure valve to move water from zone 5 to zone 1 to address the possible emergency situation of simultaneous fires in zones 5 and 1. It is unclear why such system dynamics and upgrades would not address the potential shortfall in operational and/or emergency capacity in Pressure zone 1.

The CSD also observes that other tank sites are "mapped ESHA" and thus additional capacity at these sites is not feasible. However, no site specific analysis of each tank site, including an assessment of actual resource constraints on the ground, has been provided. Thus, it has not been established that there is insufficient water storage capacity on other tank sites.

Finally, it is not clear that the feasibility of new alternative tank sites within the community has been completely evaluated. For example, the Water Plan dismisses the possibility of a tank in the vicinity of the new Cambria school because of pipeline restrictions placed on the permit by the Coastal Commission to address growth inducement. The purpose of these restrictions was to guard against growth-inducing pipeline extensions outside of the urban area. Although further evaluation would be needed, it is not clear that this permit could not be amended to provide tanks and pipelines for necessary water storage for existing and planned development within the urban area while still maintaining the purpose of the permit issued by the Commission.

g. Alternatives Conclusion

In conclusion, the Commission finds that there are reasonable alternatives to the proposed site plan that would give the district the storage it reasonably needs for existing development in the area served by the tanks while avoiding any encroachment into the adjacent Pine forest ESHA. Further, the CSD has not



conclusively established that there are not other feasible alternatives to address the potential storage shortfall for future development. It is understood in order to maximize fire storage on the Pine Knolls site, typical setbacks may be reduced and clearance around the tanks may be less than optimal, however this compromise is required to comply with the appropriately protective policies relevant to ESHA. As conditioned to revise the site plan to maintain all development within the boundaries of the existing site (Special Condition 2), the project will be consistent with the ESHA policies and ordinances of the LCP.

E. California Environmental Quality Act (CEQA)

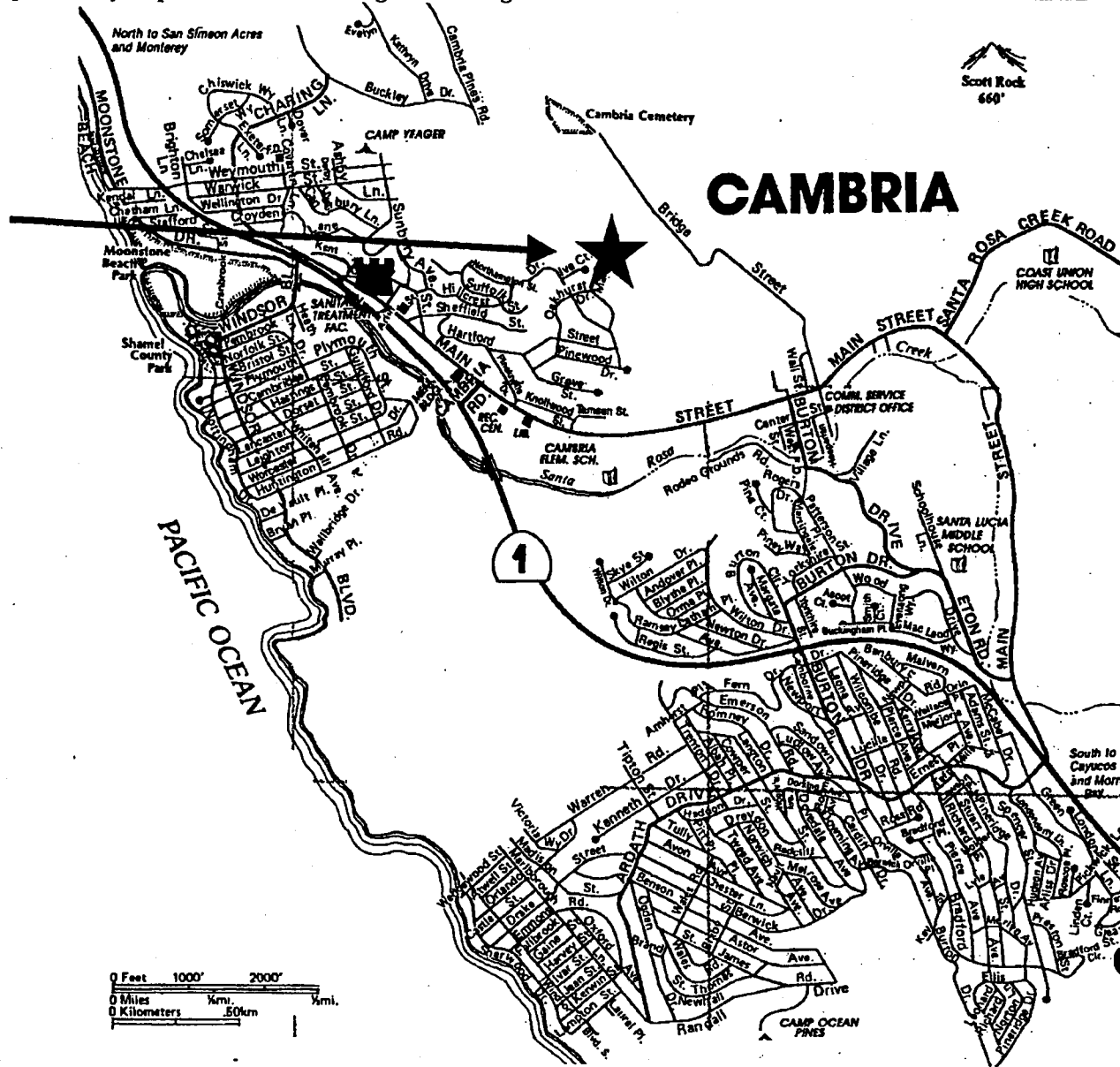
Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. This staff report has analyzed the environmental impacts posed by the project and identified changes to the project that are necessary to reduce such impact to an insignificant level. Based on these findings, which are incorporated by reference as if set forth herein in full, the Commission finds that only as modified and conditioned by this permit will the proposed project avoid significant adverse effects on the environment within the meaning of CEQA.



SITE

CAMBRIA

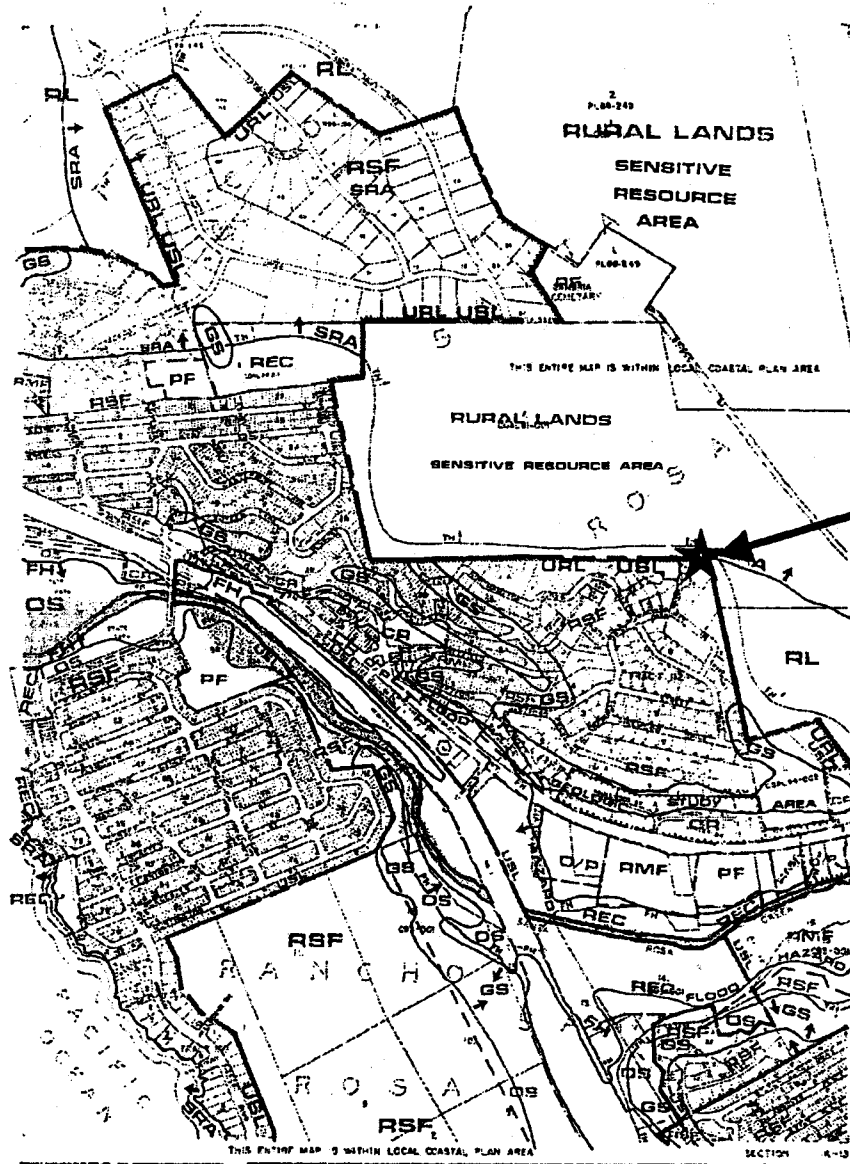


A
Exhibit
(page 1 of 1 pages)

Project
Conditional Use Permit
CCSD/DRC2004-00093



Exhibit
Vicinity Map



SITE

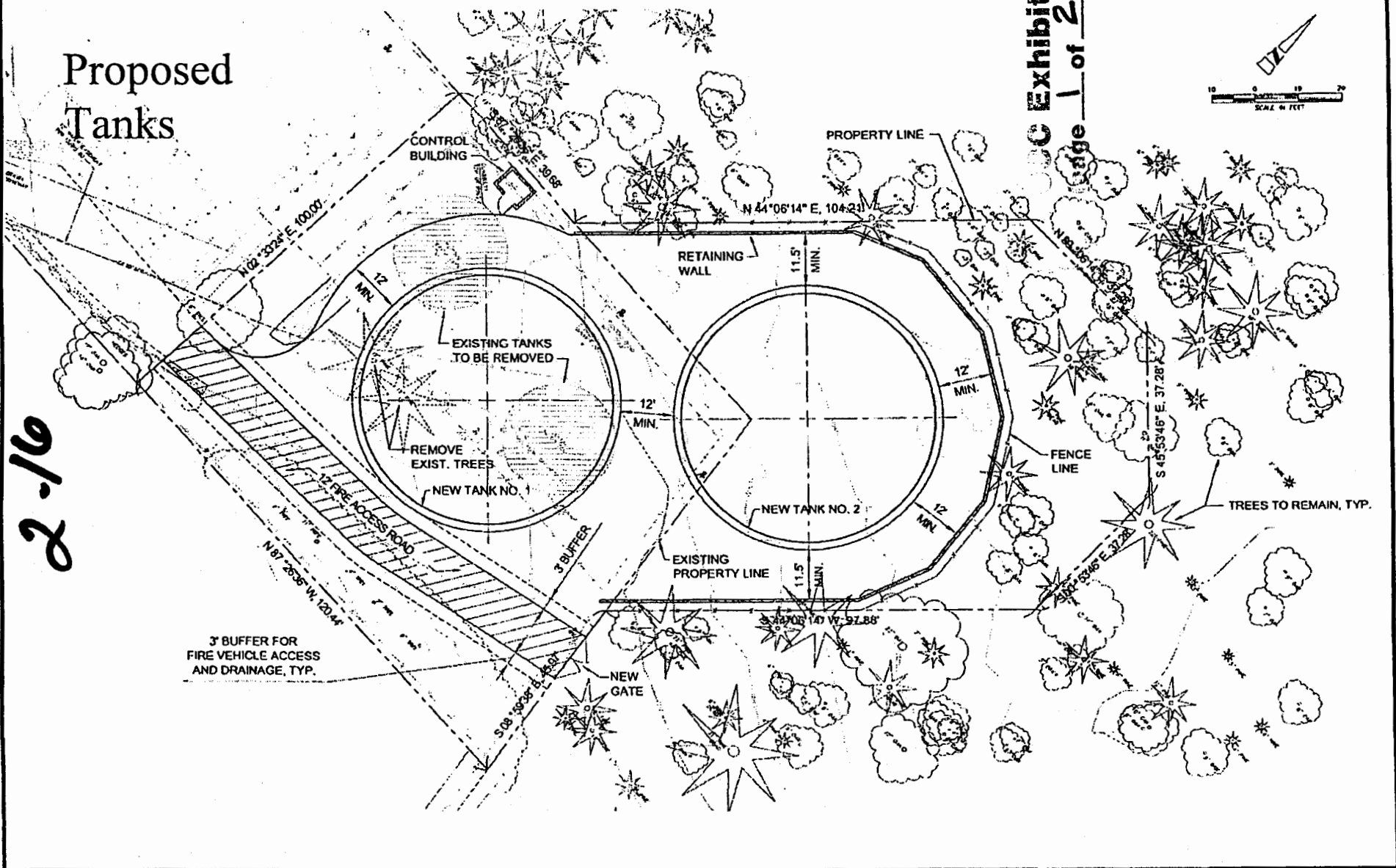
71.2

CCOC Exhibit B
(page 1 of 1 pages)

Project
Conditional Use Permit
CCSD/DRC2004-00093



Exhibit
Land Use Category Map – Residential Single
Family & Rural Lands



2-16



San Luis Obispo County Department of Planning & Building

Existing Tank
Site

easement area
(not to scale)

2-15

Project
Conditional Use Permit
CCSD/DRC2004-00093



Exhibit
Vicinity Map



→ CCC

SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

**FINAL LOCAL
ACTION NOTICE**

REFERENCE # 3-SLO-05-081

APPEAL PERIOD 3/3-3/16/05

February 17, 2005

CCSD
Attn: Robert Gresens
P. O. Box 65
Cambria, CA 93428

Ralph Covell
5694 Bridge Street
Cambria, CA 93428

Ken Bornholdt
1303 Higuera St.
San Luis Obispo, CA 93401

RECEIVED

MAR. 02 2005

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

NOTICE OF FINAL COUNTY ACTION

HEARING DATE: February 10, 2005

SUBJECT: Cambria Community Services District - County File No. DRC2004-00093

LOCATED WITHIN COASTAL ZONE: YES

The above-referenced application was approved by the San Luis Obispo County Planning Commission. A copy of the findings and conditions are being sent to you, along with the Resolution of approval.

This action is appealable to the Board of Supervisors within 14 days of this action. If there are Coastal grounds for the appeal there will be no fee. If an appeal is filed with non-coastal issues there is a fee of \$578.00. An appeal to the Board of Supervisors must be made to the Planning Commission Secretary, Department of Planning and Building.

This action may also be appealable to the California Coastal Commission pursuant to regulations contained in Coastal Act Section 30603 and the County Coastal Zone Land Use Ordinance 23.01.043. These regulations contain specific time limits to appeal, criteria, and procedures that must be followed to appeal this action. The regulations provide the California Coastal Commission 10 working days following the expiration of the County appeal period to appeal the decision. This means that no construction permits can be issued until both the County appeal period and the additional Coastal Commission appeal period have expired without an appeal being filed.

Exhaustion of appeals at the county level is required prior to appealing the matter to the California Coastal Commission. This second appeal must be made directly to the California Coastal Commission Office. Contact the Commission's Santa Cruz Office at (831) 427-4863 for further information on their appeal procedures.

CCC Exhibit D

Page 1 of 12 pages

COUNTY GOVERNMENT CENTER • SAN LUIS OBISPO • CALIFORNIA 93408 • (805) 781-5600

EMAIL: planning@co.slo.ca.us

FAX: (805) 781-1242

WEBSITE: <http://www.sloplanning.org>

If the use authorized by this Permit approval has not been established or if substantial work on the property towards the establishment of the use is not in progress after a period of twenty-four (24) months from the date of this approval or such other time period as may be designated through conditions of approval of this Permit, this approval shall expire and become void unless an extension of time has been granted pursuant to the provisions of Section 23.02.050 of the Land Use Ordinance.

If the use authorized by this Permit approval, once established, is or has been unused, abandoned, discontinued, or has ceased for a period of six (6) months or conditions have not been complied with, such Permit approval shall become void.

If you have any questions regarding these procedures, please contact me at (805) 781-5611. If you have questions regarding your project, please contact your planner at (805) 781-5600.

Sincerely,

LONA FRANKLIN, SECRETARY
COUNTY PLANNING COMMISSION

(Planning Department Use Only)

Date NOFA copy mailed to Coastal Commission: after February 25, 2004

Enclosed: X Staff Report
 X Findings and Conditions

Exhibit D
(page 2 of 12 pages)

PLANNING COMMISSION
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

Thursday, February 10, 2005

PRESENT: Commissioners Bob Roos, Eugene Mehlschau, Sarah Christie, Chairperson Doreen Liberto-Blanck

ABSENT: None

RESOLUTION NO. 2005-002
RESOLUTION RELATIVE TO THE GRANTING
OF A DEVELOPMENT PLAN/COASTAL DEVELOPMENT PERMIT

WHEREAS, The County Planning Commission of the County of San Luis Obispo, State of California, did, on the 10th day of February, 2005, grant a Development Plan/Coastal Development Permit to CAMBRIA COMMUNITY SERVICES DISTRICT to allow for (a) the replacement of two existing 103,000-gallon water tanks with two new 550,000-gallon water tanks; (b) relocating an existing control panel and overhead electric service; (c) the removal of approximately 26 pine and 24 oak trees, and replanting of 59 Monterey pine trees and 114 Coast live oak trees in the designated replacement area on the West Ranch. (d) This project shall be consistent with the approved site plans, landscape plans, and elevations dated January 5, 2005 (AKA Alternative # 4 involving the use of 6,000 square feet of undisturbed ESHA). (e) Maximum Height for the project is 35' as measured from average natural grade. This height limit includes all structures associated with the tanks including but not limited to: railings, stairs, vents, or any other mechanical/non-mechanical equipment on top of the tank. (f) The replacement of approximately 200-linear ft. of buried 10-inch asbestos cement waterline and valves with 14-inch concrete coated welded steel cement-lined waterline and valves. Site excavation which will include removing approximately 5 ft of material below grade and either native soil will be re-compacted or imported materials will be placed on the site prior to preparing the foundation. Land Use Category: Residential Single Family. The property is located in the county at the terminus of Manor Way (988 Manor Way), in the Pine Knolls residential neighborhood in the community of Cambria, in the North Coasta planning area. APN: 013-301-018 and a portion of APN 013-111-005. Supervisorial District #2. County File No. DRC2004-00093.

WHEREAS, the Planning Commission, after considering the facts relating to such application, approves this Permit based on the Findings listed in Exhibit A.

WHEREAS, the Planning Commission, after considering the facts relating to such application, approves this Permit subject to the Conditions listed in Exhibit B.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the County of San Luis Obispo, State of California, in a regular meeting assembled on the 10th day of February, 2005, does hereby grant the aforesaid Permit No. DRC2004-00093.

If the use authorized by this Permit approval has not been established or if substantial work on the property towards the establishment of the use is not in progress after a period of twenty-four (24) months from the date of this approval or such other time period as may be designated through conditions of approval of this Permit, this approval shall expire and become void unless an extension of time has been granted pursuant to the provisions of Section 23.02.050 of the Land Use Ordinance.

If the use authorized by this Permit approval, once established, is or has been unused, abandoned, discontinued, or has ceased for a period of six months (6) or conditions have not been complied with, such Permit approval shall become void.

On motion of Chairperson Liberto-Blanck, seconded by Commissioner Mehlschau, and on the following roll call vote, to-wit:

AYES: Chairperson Liberto-Blanck, Commissioners Mehlschau, Roos

NOES: None

ABSENT: None

ABSTAIN: Commissioner Christie

the foregoing resolution is hereby adopted.

_____/s/ Doreen Liberto-Blanck_____
Chairman of the Planning Commission

ATTEST:

_____/s/ Lona Franklin_____
Lona Franklin, Secretary,
County Planning Commission

EXHIBIT D
Page 4 of 12 pages

FINDINGS - EXHIBIT A
DRC2004-00093

Environmental Determination

- A. A previously completed Mitigated Negative Declaration, dated June 8, 2004, and adopted July 22, 2004 (and amended on January 27, 2005) completed by Cambria Community Services District acting as the lead agency, finds that there is no substantial evidence that the project may have a significant effect on the environment. Mitigation measures are proposed to address aesthetics, biology, cultural, air quality, geology and soils, and are included as conditions of approval. The County, acting as a responsible agency, is using the Mitigated Negative Declaration and will make it's own findings pursuant to CEQA Guidelines Section 15096.

Development Plan

- B. The proposed project or use is consistent with the San Luis Obispo County General Plan because the use is an allowed use and as conditioned is consistent with all of the General Plan policies. The following are specific findings in the general plan for which the project shall be in compliance with:

Coastal Plan Policies

1. Coastal Plan Policy 1 - Land Uses Within or Adjacent to Environmentally Sensitive Habitats: Development adjacent to locations of environmentally sensitive habitats shall not significantly disrupt the resource. This project site is located within an Environmentally Sensitive Habitat Area (ESHA). The existing tank site does not contain sensitive undisturbed habitat area, but the 6,000 square foot easement area does contain sensitive undisturbed habitat. The project as proposed has been sited to impact the least amount of undisturbed habitat area feasible (approximately 6,000 square feet). The portion of sensitive habitat area that will be impacted shall be replaced. The project is conditioned to include a tree replacement mitigation plan, and an on site landscaping plan which will reduce impacts to ESHA to a less than significant level.
2. -Coastal Plan Policy 29 - Protection of Terrestrial Habitats: Only uses dependent on the sensitive resources shall be permitted within the identified sensitive habitat portion of the site. In addition, development adjacent to ESHA shall be sited and designed to prevent impacts that would significantly degrade such areas and shall be compatible with the continuance of such habitat areas. This proposed project site includes the current tank site which is located on a disturbed site that does not contain ESHA, as well as the 6,000 square foot easement area which is not disturbed and does contain ESHA. This proposed project is not dependent on the Monterey Pine Forest, however is dependent on the location of this specific site. The proposed project is dependent on this specific site because there is existing infrastructure that connects this tank site to the community-wide water system which is gravity fed from this specific tank location. If another site were to be chosen, it may trigger the replacement of all the existing lines within the community which will create a much greater impact to sensitive resources throughout the community. Allowing the tanks to expand on the existing tank site, and on a portion of the 6,000 square foot easement will be far less of an impact then re-locating the project on another site. All impacts topines and oaks shall be replaced to reduce impacts to a less than significant level. The project has been sited and designed to reduce impacts to ESHA as much as possible.
3. Coastal Plan Policy 30 - Protection of Native Vegetation: Native trees and plant cover shall be protected wherever possible. The project as proposed will remove approximately 26 Monterey Pine trees and 24 Coast Live Oaks (both of which are native species) and will replace them with the same species at an off site location (West Ranch). The project is

conditioned to include a tree replacement mitigation plan which will reduce impacts to a less than significant level.

4. Coastal Plan Policy 35 - Protection of Vegetation: The proposed tanks are sited to impact the least amount of habitat and vegetation as feasible. The project is conditioned to include mitigation which will reduce impacts to a less than significant level. This mitigation includes a tree replacement mitigation plan which proposes to replace removed pines at a 2:1 ratio and oaks at a 4:1 ratio. All pines within 20 feet of construction activities shall also be mitigated on a 1:1 ratio, and the oak trees located near construction activities shall be replaced at a 2:1 ratio. The project as proposed has been designed to reduce impacts to vegetation to a less than significant level.

Coastal Zone Land Use Ordinance

5. Sensitive Resource Area Required Findings pursuant to 23.07.164 e: Any land use permit application within a Sensitive Resource Area shall be approved only where the review authority can make the following required findings:

- a. The development will not create significant adverse effects on the natural features of the site or vicinity that were the basis for the Sensitive Resource Area designation, and will preserve and protect such features through the site design. The project as proposed meets this finding and will not create a significant adverse effect on the Monterey Pine Forest because a mitigation plan is required to reduce impacts to a less than significant level.
- b. Natural features and topography have been considered in the design and siting of all proposed physical improvements. This project meets this finding because it is located on a site that is relatively flat, is located in an existing residential neighborhood that is developed, includes a landscape and tree replacement plan, and the applicant has reduced the footprint to the greatest amount feasible (see Boyle feasibility study and response to the CCC letter dated 1/12/05).
- c. Any proposed clearing of topsoil, trees, or other features is the minimum necessary to achieve safe and convenient access and siting of proposed structures, and will not create significant adverse effects on the identified sensitive resource. This project meets this finding because it has been designed to minimize impacts to the Monterey Pine Forest as much as feasible and locate the new tanks as close to the existing tanks as possible.

6. Environmentally Sensitive Habitats Required Findings pursuant to 23.07.170 b: Approval of a land use permit for a project within or adjacent to an Environmentally Sensitive Habitat shall not occur unless the applicable review body first finds that:

- a. There will be no significant negative impact on the identified sensitive habitat and the proposed use will be consistent with the biological continuance of the habitat. The proposed project is consistent with this required finding because it will replace all impacted and removed sensitive species.
- b. The proposed use will not significantly disrupt the habitat. This project is located in a developed residential neighborhood on the existing tank site, and the minimum amount of sensitive habitat area to the north-east. The project is conditioned to include a tree replacement mitigation plan which will reduce impacts to a less than significant level.

7. Public Utility Facilities pursuant to 23.08.288 d: The Coastal Zone Land Use Ordinance requires the approval body make a finding that there is no other feasible location on or off-site the property when a project is proposed within an ESHA. This project is dependent upon this specific site because this tank site is in a location where existing infrastructure exists which allows the water to be gravity fed to the community-wide water system. Re-location of the tank site may require replacement

of all water lines throughout the community which will include a much greater impact to environmentally sensitive habitat, and the fiscal impact of relocation will eliminate the possibility of this project entirely.

- C. The proposed project (alternative # 4) is the most feasible project that meets most of the project's objectives within the known constraints existing on the site and mandated on the site by permitting agencies
- D. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.
- E. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because the project as proposed does not generate activity that presents a potential threat to the surrounding property and buildings. This project is subject to Ordinance requirements designed to address health, safety and welfare concerns. This project will also benefit the general public's safety because it will increase the water storage for fighting fires in the community during the fire season. According to the Boyle feasibility study the existing tanks are too small and their seismic integrity is challenged.
- F. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because it is located within an existing developed residential neighborhood, and will replace two existing water tanks. There will be no greater impact to the character of the neighborhood than exists today, and in fact will be better because the new tanks will be safer by being constructed to more robust standards.
- G. The project will not result in substantial detrimental effects of the enjoyment and use of adjoining properties.
- H. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the project is located on a road constructed to a level able to handle any additional traffic associated with the project.
- 8. Intrusion into the conservation easement is necessary as demonstrated by the Boyle feasibility study and CCSD's response to the Coastal Commission's letter dated January 12, 2005 because the project helps to resolve critical health and safety issues within the community of Cambria.

CONDITIONS OF APPROVAL - EXHIBIT B
DRC2004-00093

8 of 12 pages
D

1. This permit authorizes:
 - A. The replacement of two existing 103,000-gallon water tanks with two new 550,000-gallon water tanks.
 - B. Relocating an existing control panel and overhead electric service.
 - C. The removal of approximately 26 pine and 24 oak trees, and replanting of 59 Monterey pine trees and 114 Coast live oak trees in the designated replacement area on the West Ranch.
 - D. This project shall be consistent with the approved site plans, landscape plans, and elevations dated January 5, 2005 (AKA Alternative # 4 involving the use of 6,000 square feet of undisturbed ESHA).
 - E. Maximum Height for the project is 35' as measured from average natural grade. This height limit includes all structures associated with the tanks including but not limited to: railings, stairs, vents, or any other mechanical/non-mechanical equipment on top of the tank.
 - F. The replacement of approximately 200-linear ft. of buried 10-inch asbestos cement waterline and valves with 14-inch concrete coated welded steel cement-lined waterline and valves.
 - G. Site excavation which will include removing approximately 5 ft of material below grade and either native soil will be re-compacted or imported materials will be placed on the site prior to preparing the foundation.

Aesthetics

2. Construction staging shall be designated as far as possible from existing single-family homes, however construction staging shall not impact any more Monterey Pine or Oak trees than those identified in condition 1.C. above.
3. Construction areas shall be maintained to minimize unnecessary debris piles.
4. Construction areas shall implement dust control measures (i.e. watering).
5. **Prior to any ground disturbing activities** the applicant shall submit a tank color board to the Department of Planning and Building for review and approval.
6. Any lighting proposed on site shall be shielded to keep all light on site and shall not emit any direct light offsite.
7. **Prior to any ground disturbing activities**, a fencing and screening plan shall be submitted for review and approval. Public Utility Facilities shall be screened on all sides. An effective visual barrier will be established through the use of a solid wall, fencing and/or landscaping.

Air Quality

8. Water trucks or sprinkler systems shall be utilized in sufficient quantities to prevent airborne dust from leaving the project site. Increased water frequency shall be required whenever wind speeds exceed 15mph. Reclaimed (nonpotable) water shall be used.
9. All dirt stockpile areas shall be covered or sprayed daily as needed. Dirt stockpiles shall not be located to impact healthy pine or oak trees.

10. All disturbed soil areas shall be revegetated and stabilized after construction activities are complete, and reviewed and approved by the County Department of Planning and Building.
11. Streets shall be swept at the end of each day if visible soil material is carried onto adjacent paved roads.

Biological Resources

12. Permeable materials shall be used for driveways, walkways, and roads.
13. **Prior to any ground disturbing activities**, a Replanting Mitigation Plan shall be prepared that includes the location of the restoration site and, the type, size and location of vegetation to be planted. The replanting plan shall state the density of planting and avoid overcrowding. The plan shall also include information on weed control and irrigation. The plan shall require that oak tree seedlings are caged from browsing animals and that all new plants are being weeded regularly. The plan shall also include yearly monitoring for no less than three years or until vegetation is successfully established. This mitigation plan shall be reviewed and approved by the San Luis Obispo County Planning and Building Department.
14. The applicant shall limit tree removal to no more than 26 healthy pine trees having a eight inch diameter or larger at four feet from the ground and no more than 24 oak trees having a six inch diameter or larger at four feet from the ground. Construction plans shall clearly delineate all trees within 50 feet of the proposed project, and shall show which trees are to be removed or impacted, and which trees are to remain unharmed.
15. **Prior to any ground disturbing activities**, the applicant shall fence the proposed area of disturbance and clearly tag which trees are to be removed or impacted. The trees tagged in the field shall be consistent with the trees delineated on the construction plans. Tree removal, grading, utility trenching, compaction of soil, or placement of fill shall not occur beyond the fenced disturbance area. **The fencing shall remain installed until the project is complete.**
16. **Prior to operation of the new facility**, the applicant shall demonstrate that the easement on the neighboring property (APN 013,111,005) has been reduced to meet the minimum site necessary to construct alternative # 4.
17. Pine and oak trees removed as a result of the construction and site disturbance activities shall be replaced at a 2:1 ratio for the pine trees and at a 4:1 ratio for the oak trees. Trees that are not proposed for removal, but are being impacted as a result of construction shall be replaced at a 1:1 ratio for pine trees and at a 2:1 ratio of oak trees. Monterey pine replacement trees shall be in-kind and one gallon saplings grown from the Cambrian stand; *Pinus radiata macrocarpa*. Replacement Coast live oak trees shall also be at least one gallon container sizes.
 - A. Removed trees: There are **twenty-six (26)** Monterey pine trees being removed, and **twenty-four (24)** Coast live oak trees are being removed as a result of construction activities.
 - B. Impacted trees: There are **seven (7)** Monterey pine trees proposed to be impacted, and **nine (9)** Coast live oak trees proposed to be impacted
 - C. Replacement Pines: A total of **59** Monterey pine trees shall be replanted.
 - D. Replacement Oaks: A total of **114** Coast live oak trees shall be replanted.
18. **Within 90 days of issuance of the land use permit**, the replacement trees required in Condition #14 above shall be planted. These newly planted trees shall be maintained until successfully established. This shall include caging from animals (e.g., deer,

Exhibit D
9 of 12 pages

- rodents), periodic weeding and adequate watering (e.g., drip-irrigation system). If possible, planting during the warmest, driest months (June through September) shall be avoided. In addition, standard planting procedures (e.g., planting tablets, initial deep watering) shall be used.
19. Once the replacement trees have been planted, the applicant shall retain a qualified individual (e.g., landscape contractor, arborist, nurseryman, botanist) to prepare a letter stating the above planting and protection measures have been completed. This letter shall be submitted to the Department of Planning and Building for review and approval.
 20. To promote the success of the new trees, the applicant shall retain a qualified individual (e.g., arborist, landscape architect/ contractor, nurseryman) to monitor the new trees until successfully established, on an annual basis, for no less than three years. The first report shall be submitted to the County Environmental Coordinator one year after the initial planting and thereafter on an annual basis until the monitor, in consultation with the County, has determined that the newly planted vegetation is successfully established. The applicant and successors-in-interest agree to complete any necessary remedial measures identified in the report and approved by the Environmental Coordinator.
 21. The applicant recognizes the above mentioned measures and agrees to minimize trimming of the remaining pine and oak trees. If trimming is necessary, the applicant agrees to either use a skilled arborist or apply accepted arborist's techniques when removing limbs. Unless a hazardous or unsafe situation exists, trimming shall be done only during the winter for deciduous species. Smaller trees (6 inches diameter and smaller) within the project area are considered to be of high importance, and when possible, shall be given similar consideration as larger trees.
 22. Wherever soil compaction from construction has occurred within drip lines of trees, the compacted root zone area shall be aerated by using the following techniques: Injecting pressurized water, careful shallow ripping that radiates out from the trunk (no cross root ripping), and/or other techniques approved by a qualified professional.
 23. To prevent or reduce the spread of disease from pine pitch canker, bark beetles or other diseases affecting the forest, the following measures shall be followed if native oaks and Monterey pine are removed from the site:
 - A. Infected or contaminated material shall not be transported to areas that are free of the disease.
 - B. When cutting or pruning a diseased tree, tools shall be cleaned with a disinfectant before using them on uninfected branches or other trees.
 - C. Disease and insect buildup shall be avoided by prompt removal and disposal of dead pine material by either burnings (where and when allowed), burying, tarping with clear plastic for six months, or chipping. If material is chipped, it shall be left as a thick layer on site.
 - D. Plant material shall be covered or enclosed when it is taken off site to avoid dispersal of contaminated bark beetles.
 24. Native evergreen trees and shrubs shall be used to screen the tank from the adjacent residential neighborhood. Proposed native plants to be utilized for landscaping shall include: Monterey cypress (*Cupressus macrocarpa*), coast redwood (*Sequoia sempervirens*), Pacific wax myrtle (*Myrica californica*), coffeeberry (*Rhamnus*

californicus) and pink winter currant (*Ribes sanguineum*). If Monterey pines are used, they shall be of "local stock" and not from out of area sources.

25. The construction zone and a zone within 30 feet from the project limits shall be monitored the following spring after construction for the presence of invasive exotic plant species. If present, these species shall be treated and follow-up monitoring and treatments shall occur until the incidence of these plants is similar or less than the incidence (cover) of the adjacent undisturbed area.

Cultural Resources

26. In the event archaeological resources are unearthed or discovered during any construction activities, the following standards apply:
- A. Construction activities shall cease and the Environmental Coordinator and Planning Department shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, and disposition of artifacts may be accomplished in accordance with state and federal law.
 - B. In the event archaeological resources are found to include human remains, or in any other case where human remains are discovered during construction, the County Coroner is to be notified in addition to the Planning Department and Environmental Coordinator so that proper disposition may be accomplished.

Geology and Soils

27. An erosion control plan shall be prepared in accordance with Section 23.05.036 of the County of San Luis Obispo Coastal Zone Land Use Ordinance. The erosion control plan shall outline methods that shall be implemented to control erosion from graded or cleared portions of the site, including but not limited to:
- A. Placing sandbags where appropriate along the perimeter of a project site prior to initial grading if grading is to be undertaken during the rainy season (October 15 through April 15).
 - B. Minimizing the length of time that soils lie exposed.
 - C. Revegetating graded areas in a manner approved by the County Department of Planning and Building.
 - D. Sediment and erosion control measures shall be implemented during project construction in accordance with Section 23.05.036 (d) of the County Coastal Zone Land Use Ordinance. These measures include slope surface stabilization and erosion and sedimentation control devices.

Noise

28. Construction activities for the proposed project shall be limited to the hours between 7 am and 9 pm Monday to Friday and 8 am to 5 pm Saturday to Sunday in accordance with Section 23.06.042 of the Coastal Zone Land Use Ordinance.
29. The CCSD shall provide notification to residences within 300 feet of planned construction activities, which also includes the overall duration of the various construction stages. The notification shall also describe the noise abatement measures that have been taken, and shall include a phone number for residents to call.
30. During all site preparation, grading and construction, the CCSD shall require the construction contractors to maintain and operate all equipment consistent with the manufacturers' specifications.

31. The CCSD shall ensure that construction equipment includes available noise suppression devices and properly maintained mufflers to the most feasible extent. Construction noise shall be reduced by using quiet or "new technology" equipment, particularly the quieting of exhaust pipes by use of improved mufflers where feasible. All internal combustion engines used at the project site shall be equipped with the type of muffler recommended by the vehicle manufacturer. In addition, all equipment shall be maintained in good mechanical condition so as to minimize noise created by faulty or poorly maintained engine, drive-train and other components.
32. Staging of construction equipment and unnecessary idling of equipment within 200-feet of residences shall be avoided whenever feasible.

On-going conditions of approval (valid for the life of the project)

33. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 23.02.050 or the land use permit is considered vested. This land use permit is considered to be vested once a construction permit has been issued and/or substantial site work has been completed. Substantial site work is defined by Land Use Ordinance Section 23.02.042 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.
34. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 23.10.160 of the Land Use Ordinance.

Public Utility Facilities Development Standards

35. Prior to any site disturbance the applicant shall submit an environmental quality assurance program covering all aspects of construction and operation. This program shall include a schedule and plan for monitoring and demonstrating compliance with all conditions required by the Development Plan.
36. **Prior to any site disturbance**, the applicant shall prepare an engineered drainage plan to be reviewed and approved by the County Department of Public Works.

12 of 12 (page 4)

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863
HEARING IMPAIRED: (415) 904-5200

**APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT**

Please review attached appeal information sheet prior to completing this form.

SECTION I. Appellant(s):

Name, mailing address and telephone number of appellant(s):

Commissioner Meg Caldwell, Chair, and Commissioner Mike Reilly

California Coastal Commission

45 Fremont St., Suite 2000

San Francisco, CA 94105

(415) 904-5200

SECTION II. Decision Being Appealed

1. Name of local/port government:

San Luis Obispo County

2. Brief description of development being appealed:

Request by Cambria Community Services District to remove two existing 103,000 gallon water tanks; and construct two new 550,000 gallon water tanks on existing tanks site which will be expanded to include a 6,100 square foot area on an adjacent property protected by a conservation easement. Proposal includes the removal of approx. 26 pine and 24 oak trees.

3. Development's location (street address, assessor's parcel number, cross street, etc.):

988 Manor way, Pine Knolls neighborhood, Cambria APN 013-301-018 and 013-111-005

4. Description of decision being appealed:

a. Approval; no special conditions: _____

b. Approval with special conditions: XX

c. Denial: _____

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-05-017

DATE FILED: 3-16-05

DISTRICT: Central Coast

RECEIVED

MAR 16 2005

CCG Exhibit E
(page 1 of 6 pages)

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (PAGE 2)

5. Decision being appealed was made by (check one):

a. ☐ Planning Director/Zoning
Administrator

c. ☒ Planning Commission

b. ☐ City Council/Board of
Supervisors

d. ☐ Other: _____

6. Date of local government's decision: February 10, 2005

7. Local government's file number: DRC2003-00093

SECTION III Identification of Other Interested Persons

Give the names and addresses of the following parties: (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Cambria Community Services District

P.O. Box 65

Cambria, CA 93428

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearings (s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Matt Janssen, Planner

SLO County Planning & Building Dept.

County Government Center, San Luis Obispo, CA 93408

(2) Environmental Center of San Luis Obispo/Sierra Club, Santa Lucia Chapter

1205 Nipomo Street

P.O. Box 15755

San Luis Obispo, CA 93401

San Luis Obispo, CA 93406

(3) Ralph M. Covell

5694 Bridge St.

Cambria, CA 93428

(4) Greenspace, The Cambria Land Trust

P.O. Box 1505

Cambria, CA 93420

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section which continues on the next page.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 3

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See Attached.

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed: MR Caldwell
Appellant or Agent

Date: March 16, 2005

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

(Document2)

CCC Exhibit E
(page 3 of 6 pages)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 3

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See Attached.

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed: *Maria Ruff*
Appellant or Agent

Date: March 16, 2005

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

(Document2)

CCC Exhibit E
(page 4 of 6 pages)

Reasons for Appeal: San Luis Obispo County Coastal Development Permit DRC2004-00093 (Cambria Community Services District – Pine Knolls Water Tank Replacement Project)

The County approved project is for the removal of two existing 103,000 gallon water tanks, the construction of two new 550,000 gallon water tanks, and the relocation of an existing electrical control panel with overhead electric service. The new water tanks are proposed to be located on the existing tank site, which will be expanded to include a 6,000 square foot area on the adjacent property to the north that is heavily forested and protected by a conservation easement. The project will include the removal of approximately 26 pine and 24 oak trees. The project is located at the terminus of Manor Way (998) Manor Way in the Pine Knolls residential neighborhood of Cambria, in the North Coast Planning Area (APN 013-301-018 and a portion of APN 013-111-005).

The project is inconsistent with the policies and ordinances of the San Luis Obispo County Local Coastal Program, as detailed below.

1. Environmentally Sensitive Habitat Area (ESHA)

- **Coastal Plan Policy 1 for Land Uses Within or Adjacent to Environmentally Sensitive Habitats.** Policy 1 requires that development within or adjacent to ESHA shall not significantly disrupt the resource. The project site is located within ESHA. The proposed project will expand the existing tank site into a 6,000 square foot easement area that contains undisturbed sensitive Monterey pine forest habitat. The project will remove a significant number of trees and results in the permanent loss of ESHA, which is inconsistent with LCP Policy 1.
- **Coastal Plan Policy 29 for Protection of Terrestrial Habitats.** Policy 29 requires that only uses dependent on the sensitive resource shall be allowed within the identified sensitive habitat portion of the site. In addition, development adjacent to ESHA shall be sited and designed to prevent impacts that would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas. The project utilizes a 6,000 square foot conservation easement area containing undisturbed Monterey pine forest ESHA. This project is inconsistent with Policy 29 because water tanks are not dependent on the Monterey pine forest and will significantly degrade the area.
- **Coastal Plan Policy 30 for Protection of Native Vegetation.** Policy 30 requires that native trees and plant cover be protected wherever possible. The proposed project will remove approximately 26 Monterey pine trees and 24 Coast live oaks (both of which are native species). The project is inconsistent with this LCP policy because it appears that the project can be re-designed to be located on an already disturbed portion of the site and avoid tree removal.
- **Coastal Plan Policy 35 for Protection of Vegetation.** Policy 35 requires that vegetation which is rare or endangered or serves as cover for endangered wildlife shall be protected against any significant disruption of habitat value. The LCP requires that new development be designed to disturb the minimum amount possible of wildlife or plant habitat. In addition to the unnecessary removal of sensitive Monterey pine trees, the project will have adverse effects on sensitive bird species

that live and nest in the Monterey pine forest (e.g. Cooper's hawk, northern harrier, white-tailed kite, sharp-shinned hawk, long-eared owl, and loggerhead shrike). The county approved project will remove all of the trees within the approx. 6,000 square foot easement area, significantly disrupting the habitat.

- **Environmentally Sensitive Habitat (ESHA) Required Findings – CZLUO Section 23.07.170(b)** requires that specific findings be made for projects within or adjacent to ESHA including: a) There will be no significant negative impact on the identified sensitive habitat and the proposed project will be consistent with the biological continuance of the habitat. The project is inconsistent with this required finding because it will permanently remove Monterey pine forest ESHA. While offsite mitigation is proposed, negative impacts to the biological continuance of the species and habitat onsite will occur; b) The proposed project will not significantly disrupt the habitat. The proposed project is inconsistent with the required findings because excessive tree removal and permanent habitat loss will significantly disrupt the sensitive Monterey pine forest habitat.
- 2. **Sensitive Resource Area (SRA) Required Findings - CZLUO Section 23.07.164(e)** requires that specific findings be made for projects within a SRA. including: a) the development will not create significant adverse impacts on the natural features of the site or vicinity that were the basis for the SRA designation, and will preserve and protect such features through the site design. The project as proposed does not meet this finding and will have adverse impacts to the surrounding Monterey pine forest; b) Natural features and topography have been considered in the design and siting of all proposed physical improvements. The project does not meet this finding because it appears that the project can be re-designed to avoid encroachment into adjacent ESHA; c) Any proposed clearing of topsoil, trees, or other features is the minimum necessary to achieve safe and convenient access and siting of proposed structures, and will not create significant adverse effects on the identified sensitive resource. The project does not meet this finding because clearing of topsoil (grading), and tree removal has not been minimized. The permanent loss of Monterey pine forest ESHA will have an adverse effect of the resource.
- 3. **Public Utility Facilities – CZLUO Section 23.08.288(d)** prohibits public utility facilities in Sensitive Resource Areas (SRA's) and Environmentally Sensitive Habitat Areas (ESHA's) unless the approval body make a finding that there is no other feasible location on or off-site the property. This finding cannot be made because there appears to be at least one other feasible less environmentally damaging alternative exists. Thus, the County approved project is inconsistent with CZLUO 23.08.288(d).

STATE OF CALIFORNIA - THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: ECOSLO

Mailing Address: 1204 Nipomo St

City: San Luis Obispo

Zip Code: 93401

Phone: (805) 544-1777

SECTION II. Decision Being Appealed

1. Name of local/port government:

San Luis Obispo County Department of Planning and Building

2. Brief description of development being appealed:

San Luis Obispo County Planning Commission approval of a request by the Cambria Community Services District to construct two 550,000 gallon water tanks in a Monterey pine forest habitat designated as ESHA under the LCP.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

5694 Bridge St.
Cambria, CA 93428

4. Description of decision being appealed (check one.):

- ☒ Approval; no special conditions
☐ Approval with special conditions:
☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

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FEB 24 2005

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-05-017

DATE FILED: 3-16-05

DISTRICT: Central Coast

CCC Exhibit F
(page 1 of 5 pages)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
☐ City Council/Board of Supervisors
☒ Planning Commission
☐ Other

6. Date of local government's decision: February 10, 2005

7. Local government's file number (if any): DRC2004-00093

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Cambria Community Services District
P.O. Box 65
Cambria, CA 93428

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) ECOSLO (Environmental Center of San Luis Obispo)
by Pamela Heatherington, Executive Director
1204 Nipomo Street
San Luis Obispo, CA 93401

(2) Ralph M. Covell
5694 Bridge St.
Cambria, Ca 93428

(3)

(4)

CCC Exhibit F
(page 2 of 5 pages)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)**SECTION V. Certification**

The information and facts stated above are correct to the best of my/our knowledge.

Pamela Heatherington, Executive Director
Signature of Appellant(s) or Authorized Agent ECCESLO

Date: February 23, 2005

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)**SECTION IV. Reasons Supporting This Appeal****PLEASE NOTE:**

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

1. The project is inconsistent with San Luis Obispo Coastal Zone Land Use Ordinance Sections 23.07.170-178. In particular, the permit is inconsistent with the following Sections.

23.07.170.178 (b) Required Findings: Approval of a development for a project within or adjacent to an environmentally sensitive habitat shall not occur unless the applicable review body finds that:

(1) There will be no significant negative impact on the identified sensitive habitat and the proposed use will be consistent with the biological continuance of the habitat.

(2) The proposed use will not significantly disrupt the habitat.

(3) (e)(1) New development within or adjacent to the habitat will not significantly disrupt the resource.

(2) New development within the habitat shall be limited to those uses dependent on the resource.

2. The CCSO rejected alternative configurations for its development which would avoid significant disruptions of resources, as required by LCP policy, and would have required removal of far fewer trees in the area mapped as sensitive habitat.

3. The project is located in the ESHA and thus violates California Public Resources Code Section 30240 (a), which states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.



SIERRA
CLUB
FOUNDED 1892

Santa Lucia Chapter
P.O. Box 15755
San Luis Obispo, CA 93406
(805) 543-8717
www.santalucia.sierraclub.org

RECEIVED

March 14, 2005

MAR 14 2005

Pam Heatherington
ECOSLO
1204 Nipomo St.
San Luis Obispo, CA 93401

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Dear Ms. Heatherington,

The Santa Lucia Chapter of the Sierra Club would like to be included in ECOSLO's appeal to the Coastal Commission of the County's decision to permit construction of water storage tanks by the Cambria CSD in an ESHA protected by a conservation easement.

The Chapter originally reported the CSD's imminent intent to violate the Coastal Act to the Coastal Commission and has testified on the issue before the Planning Commission. We would be pleased to testify along with ECOSLO before the Coastal Commission.

Best,

Andrew Christie
Chapter Coordinators, Santa Lucia Chapter

CCC Exhibit F
(page 5 of 5 pages)

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
13 FRONT STREET, SUITE 500
SANTA CRUZ, CA 95060
(408) 427-4343



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please review attached appeal information sheet prior to completing this form.

SECTION I. Appellant(s):

Name, mailing address and telephone number of appellant(s):

RALPH M. COVELL

5694 BRIDGE ST.

CAMBRIA, VA 93428

(805) 927-3398

Zip

Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government:

San Luis Obispo County Department of Planning and Building

2. Brief description of development being appealed:

Request by Cambria Community Services District for a Development Plan/Coastal Development Permit for the removal of two existing 103,000 gallon water tanks, and the construction of two new water tanks. One tank to be located on approximately 6,000 sq. ft easement and requires removal of 50 trees in ESHA.

3. Development's location (street address, assessor's parcel number, cross street, etc.):

APN 013.301.018 and a portion of 013.111.005

4. Description of decision being appealed:

a. Approval; no special conditions: _____

b. Approval with special conditions: X

c. Denial: _____

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-520-05-017

DATE FILED: 3-16-05

DISTRICT: Central Coast

CCC Exhibit G
(page 1 of 4 pages).

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MAR 07 2005

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (PAGE 2)

5. Decision being appealed was made by (check one):

a. ☐ Planning Director/Zoning Administrator

c. ☒ Planning Commission

b. ☐ City Council/Board of Supervisors

d. ☐ Other: _____

6. Date of local government's decision: February 10, 2005

7. Local government's file number: DRC2004-00093

SECTION III Identification of Other Interested Persons

Give the names and addresses of the following parties: (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Cambria Community Services District

1316 Tamson Drive, Suite 201

Cambria, CA 93428

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearings (s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) _____

(2) _____

(3) _____

(4) _____

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section which continues on the next page.

CCC Exhibit G
(page 1 of 4 pages)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (PAGE 3)

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

SEE ATTACHED

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.


Signature of Appellant(s) or Authorized Agent

Date 3/7/05

NOTE: If signed by agent, appellant(s) must also sign below:

SECTION VI. Agent Authorization

I/We hereby authorize _____ to act as my/our representative and to bind me/us in all matters concerning this appeal.

CCC Exhibit G
(page 1 of 4 pages)

Signature of Appellant(s)

Date _____

**ATTACHMENT
TO
APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT
OF
RALPH M. COVELL**

San Luis Obispo County Department of Planning and Building
File No.: DRC2004-00093

The Decision of the Planning Commission may be appealed to the Coastal Commission pursuant to 14 California Administrative Code § 13111 and 13573 because the local government charged a fee for the filing of the appeal.

The project contemplated by the Cambria Community Services District (CCSD) and approved by the San Luis Obispo County Department of Planning and Building is incompatible with the San Luis Obispo Local Coastal Program (LCP) for the following reasons:

1. The project is inconsistent with San Luis Obispo Coastal Zone Land Use Ordinance Sections 23.07.170-178. In particular, the permit is inconsistent with the following Sections:

23.07.170-178 (b) Required Findings: Approval of a development for a project within or adjacent to an environmentally sensitive habitat shall not occur unless the applicable review body finds that:

(1) There will be no significant negative impact on the identified sensitive habitat and the proposed use will be consistent with the biological continuance of the habitat.

(2) The proposed use will not significantly disrupt the habitat...

(3) (e)(1) New development within or adjacent to the habitat will not significantly disrupt the resource.

(2) New development within the habitat shall be limited to those uses dependent on the resource.

2. The CCSD rejected alternative configurations for its development which would avoid significant disruption of resources, as required by LCP policy, and would have required removal of far fewer trees in the area mapped as sensitive habitat.

3. The project greatly exceeds water storage volume required to meet potential fire hazards in the CCSD territory and the taking of Environmentally Sensitive Habitat Area (ESHA) property is not justified, as required by the LCP.

4. The project is located in ESHA and thus violates California Public Resources Code Section 30240 (a), which states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

CCC Exhibit G
(page 1 of 4 pages)

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400



**SENT VIA FACSIMILE AND
REGULAR AND CERTIFIED MAIL**

October 21, 2004

San Luis Obispo County Department of Planning and Building
Vic Holanda, Director
County Government Center
San Luis Obispo, CA 93408
(Certified Mail No. 7004 1160 0003 4567 4501)

Cambria Community Services District
Tammy Rudock, General Manager
PO Box 65
Cambria, CA 93428
(Certified Mail No. 7004 1160 0003 4567 4518)

**Subject: Notice Prior to Issuance of Executive Director Cease
and Desist Order No. ED-04-CD-02**

Location: Terminus of Manor Way (988 Manor Way) in the Pine Knolls
residential neighborhood of the unincorporated community of
Cambria. (APN 013-111-005).

Violation Description: Proposed development consisting of the removal of 27 pine
trees and 34 oak trees, the demolition of two existing
103,000 gallon water tanks, and the construction of two new
550,000 gallon water tanks in Environmentally Sensitive
Habitat Area (ESHA) as mapped in the Coastal Zone Land
Use Plan (CZLUP), and improper issuance of Emergency
Coastal Development Permit ZON2004-00225.

Dear Mr. Holanda and Ms. Rudock:

The purpose of this letter is to give you notice that the Executive Director of the Coastal Commission intends to issue a Cease and Desist Order addressing unpermitted development on 988 Manor Way in the unincorporated community of Cambria (APN 013-111-005). If issued, the Executive Director Cease and Desist Order would direct the County to rescind the emergency permit and the Cambria Community Services District (CCSD) to cease and desist from performing or maintaining unpermitted vegetation removal, grading, trenching and stockpiling of soils, gravel, fill, boulders, landscaping, signs fencing or other materials, and the removal and replacement of existing water storage tanks.

The Commission is authorized to take this action pursuant to Section 30809 of the Coastal Act which provides:

- (a) If the executive director determines that any person or governmental agency has undertaken, or is threatening to undertake, any activity that (1) may require a permit from the commission without securing a permit or (2) may be inconsistent with any permit previously issued by the commission, the director may issue an order directing that person or government agency to cease and desist. **The order may also be issued to enforce any requirements of a certified local coastal program or port master plan, or any requirements of this division which are subject to the certified program or plan, under the following circumstances:....***
- (3) The local government or port governing body is a party to the violation. (Emphasis added).*

While we acknowledge the high importance of this project to the CCSD and the community, the water supply situation in Cambria being addressed by this project does not qualify as an emergency under the Coastal Act or the LCP. The County and the CCSD should have processed the project as a non-emergency coastal development permit so that the public notice and the hearing process that are typically required, including possible Coastal Commission appellate review, could take place. As we have discussed, we are hopeful that the County and the CCSD will agree to initiate a full coastal development permit review as soon as possible so that the necessary public reviews can take place while still allowing the CCSD to move forward expeditiously. We understand that the County is willing to expedite calendaring and processing of this item. We are, of course, willing to do anything we can to help expedite this, as well.

If the County and the CCSD do not voluntarily rectify the current situation, the Cease and Desist Order will be issued to the County and CCSD to enforce the requirements of the certified local coastal program. This development is about to be undertaken without the required authorization in a properly issued coastal development permit (CDP). Section 30600(a) of the Coastal Act states that, in addition to obtaining any other permit required by law, any person wishing to perform or undertake any development in the

coastal zone must, with certain exceptions not applicable in this case, obtain a CDP. "Development" is defined by Section 30106 of the Coastal Act (Act) as follows:

"Development" means, on land, in or under water, 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...change in the intensity of use of water, or of access thereto...and the removal or harvesting of major vegetation other than for agricultural purposes...

The proposed development clearly constitutes "development" within the meaning of the above-quoted definition and therefore requires a CDP.

Although the County issued an emergency permit (County file number ZON2004-00225) for the referenced development on October 8, 2004, to the Cambria Community Services District (CCSD), the emergency permit was not issued in compliance with Section 23.03.045 of the Land Use Ordinance (LUO) of the San Luis Obispo County Local Coastal Program (LCP). The replacement and expansion of existing water tanks to meet an historically identified deficiency in water storage capacity for fire flows does not meet the definition of an emergency under the LCP or the Act. Section 23.03.045 of the County's LUO defines an emergency as follows:

"For the purposes of this section, an emergency is a sudden, unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services."

An "emergency" permit under either the Coastal Act or the LCP is intended to cover situations which are sudden or unexpected, and is not intended to cover long range community infrastructure planning projects. In this case, the emergency permit was issued despite the fact that the proposed activity is not required in response to a sudden, unexpected occurrence. Thus, the project does not meet the definition of an emergency under the County's LCP or the Act. In addition, it appears that the project will lead to the destruction of mapped ESHA protected under the LCP.

Cambria has historically grappled with the issue of water shortages for both domestic and fire fighting purposes. Water shortages are well-documented in the Commission's Staff Report for the North Coast Area Plan Update in late 1997, the Periodic Review of the County's LCP, conducted in 2000-2001, and have been the subject of numerous community meetings, public hearings and media accounts. The stated justification in the CCSD's Emergency Permit Application, dated 9/29/04, is a three year old declaration by the CCSD of a water shortage emergency condition. The capacity of the Pine Knolls water tanks may not be optimum to fight a large fire in this section of Cambria, but this condition has been recognized by the County, the CCSD, the Coastal Commission and the public for several years. It is not sudden or unexpected that this situation exists in October 2004. The County's longstanding, forgoing knowledge of Cambria's water

supply issues by definition precludes the CCSD from qualifying for an emergency permit for the purpose of planned expansion of their infrastructure.

County staff has indicated that any project to improve the District's fire-fighting capability could qualify as an "emergency." By logical extension, this could include expansion of other water storage tanks, installation of new tanks, firebreaks, pipelines, impoundments and significant vegetation clearance. This interpretation by the County is extremely overbroad. As noted above, to qualify as an emergency, the situation must be, at a minimum, "a sudden, unexpected occurrence demanding immediate attention to prevent or mitigate loss or damage to life, health, property or essential public services." (Section 23.03.045).

The District's emergency permit application also states that "...the existing tanks are inadequate for resisting seismic forces," and that "...the existing tanks had inadequate seismic restraint." However, District did not identify any structural damage to the tanks as a result of the December 22, 2003 earthquake, magnitude 6.0. While the addition of seismic restraints may be appropriate, the tanks were not damaged by the recent earthquake, therefore replacement with stronger tanks is not required in response to an "emergency" -- i.e., a "sudden, unexpected occurrence." (If the tanks had sustained seismic damage and posed an eminent threat to public health and safety, the appropriate response under the permitting procedures and resource protection policies of the LCP and the Act would be to issue an emergency permit for temporary structural reinforcement, while pursuing replacement or redesign as part of the regular CDP process.)

In addition, the emergency permit application states that it is necessary to allow "start of construction prior to the rainy season as well as the onset of the 2005 bird nesting season." The emergency permit was issued only one week before the beginning of the rainy season, which has now begun (as of October 15). The project is expected to require many months of construction -- all of which will be occurring during the rainy season. The need to remove the 61 trees (which are mapped ESHA in the CZLUP) before birds can begin their nesting activities does not constitute an emergency under the LCP. The District simply desires to avoid postponing construction until after the nesting season. However, this desire does not transform the project -- replacement of the water storage tanks -- into an immediate action that is demanded due to a sudden, unexpected occurrence.

Finally, the non-emergency nature of this activity is reflected in the preceding actions and public process leading up to the issuance of the permit for this specific project, which commenced over a year ago. The CCSD received a draft soils engineering report and a draft Phase I archeological report in August and September of 2003, and circulated a Notice of Intent to Adopt a Negative Declaration (Negative Declaration) in February of 2004.

Emergency Permit is inconsistent with San Luis Obispo County's LCP

We are acting to compel compliance with San Luis Obispo County's LCP provisions, specifically emergency permit provisions contained in 23.03.045, and ESHA protection provisions contained in 23.07.170-178. We have determined that the emergency permit ZON2004-0025 was improperly issued for the following reasons:

The San Luis Obispo County CZLUO Section 23.03.045 a. defines an emergency as "...a sudden, unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services."

This permit is inconsistent with Section 23.03.045 because there has been no sudden, unexpected occurrence that demands immediate action. The staff report for Permit ZON2004-00225 states that the nature of the emergency is a declared water shortage emergency condition declared by the Cambria Community Services District on November 16, 2001, nearly three years prior to the issuance of the emergency permit. This clearly does not meet the definition of an emergency as a "sudden, unexpected occurrence demanding immediate action" under the County's own definition. In addition, Cambria's water shortage has been the subject of much public discussion and debate for several years prior to the November 15, 2001 declaration by the CCSD. No matter the severity of the situation, it can hardly be characterized as "sudden and unexpected."

The permit application cites as the probable consequence of failing to take action as "The potential spread of fire from an uncontrolled structural fire to the surrounding forrest (sic) could lead to a major conflagration. A larger and/or more localized earthquake than the December 22, 2003 event could also cause the tanks to fall. Redesign of the project in response to neighborhood concerns raised during the CEQA review process also led to the current late season bid. An emergency permit will prevent further delay by allowing start of construction prior to the rainy season as well as the onset of the 2005 bird nesting season."

The threat of a potential fire (or any generalized potential for a natural disaster, such as an earthquake, lightning strike, tidal wave, etc.) does not constitute an emergency under the County's LCP or the Coastal Act, particularly now that fire season has ended and the rainy season has begun. Grading and significant vegetation removal during the wet season will likely further damage surrounding habitat and water quality through surface runoff and erosion. The desire to avoid project delays by removing trees before bird nesting activities commence does not meet the test of an emergency under the LCP or the Coastal Act.

This permit is inconsistent with Section 23.03.045 (3) of the County's LUO, which requires the Planning Director to "...verify the facts, including the existence and nature of the emergency, insofar as time allows. When reasonable, the Director shall also

consult with the California Coastal Commission regarding claims of emergencies. ***This is critically important when a proposed action may result in development on lands that are within the permit jurisdiction of the California Coastal Commission.***" (emphasis added.)

A regular coastal development permit for this project is within the permit appeal jurisdiction of the Commission. The County did not contact the Commission to consult when it received the application for an emergency permit. The first notice the Commission received about the application was the Final Local Action Notice October 13, 2004, after the County had already approved the emergency permit. On one occasion prior to approval of the emergency permit, County staff placed a call to Commission staff to mention that the possibility of pursuing an emergency permit had been raised. During this discussion, Commission staff informed County staff that the tank replacement project *did not meet the LCP requirements for an emergency permit*. CCSD representatives mentioned the tank replacement project to Commission staff, but did not indicate that they had already applied to the County for an emergency permit.

This permit is inconsistent with Section 23.03.045 (5)(i), which requires that the work can and will be completed within 30 days unless otherwise specified by the terms of the permit. County planning staff and the Mitigated Negative Declaration indicate that the total construction time for the project is approximately 9 months.

This permit is inconsistent with Section 23.03.045 (5)(iii), which requires the Planning Director to find that the work proposed would be consistent with the requirements of the certified Local Coastal Program. The project is clearly inconsistent with SLO County CZLUO Sections 23.07.170-178. In particular, the permit is not consistent with, at a minimum, the following Sections:

23.07.170-172 (b) Required Findings: Approval of a development for a project within or adjacent to an environmentally sensitive habitat shall not occur unless the applicable reviewing body first finds that:

- (1) There will be no significant negative impact on the identified sensitive habitat and the proposed use will be consistent with the biological continuance of the habitat.*
- (2) The proposed use will not significantly disrupt the habitat....*
- (3) (e)(1) New development within or adjacent to the habitat will not significantly disrupt the resource.*
- (2) New development within the habitat shall be limited to those uses dependent on the resource.*

The County's emergency permit does not contain findings that the project complies with these requirements for approval; nor does it appear that such findings could be made. Moreover, the Negative Declaration recommended approval of an alternative configuration of the replacement tanks that would avoid significant disruption of

resources, as required by the above LCP policy, and would likely only require removal of 2 trees in the area of mapped ESHA. These are issues that must be addressed in a regular coastal development permit application *before* the permanent destruction of 61 trees in an area that is ESHA.

History of the Violation Investigation

On October 7, 2004, a San Luis Obispo County resident forwarded an article by Kathe Tanner, published that day in the San Luis Obispo County Tribune News, stating that the Cambria Community Services District was preparing to construct a new water tank at the Pine Knolls site in Cambria, and tree removal could commence that weekend. The resident was concerned about the number of trees that would be removed by the project, and wondered why no coastal development permit had been issued.

On October 8, 2004, Commission staff met with CCSD Directors and staff on another matter in the Santa Cruz office that same day. When staff inquired about this project, the CCSD representatives assured them that they will be seeking a coastal development permit before commencing any grading or tree removal.

The same day, on October 8, 2004, the San Luis Obispo County Planning Director issued emergency permit ZON2004-00225.

On October 13, 2004, the Commission received a Final Local Action Notice of a "Non-Appealable Action and Construction Activities" for the above mentioned property, pursuant to the issuance of an Emergency Permit.

On October 18, 2004, Commission staff e-mailed County and CCSD about the emergency permit issuance. Commission staff left two messages at the CCSD office, and talked with County planning staff. County staff responded via e-mail with explanation of the County's action on the permit.

October 19, 2004, CCSD staff called CCC staff, and agreed to fax more information. CCSD staff e-mailed a copy of the emergency permit application.

October 20, 2004, CCC staff met with CCSD staff. CCSD staff was advised that CCC was preparing to issue a Notice of Intent to file a Cease and Desist Order. CCC staff also notified County staff.

Executive Director Cease and Desist Order Process

Section 30809(a) of the California Coastal Act (Division 20 of the Public Resource Code) authorizes the Executive Director to issue an order directing a person or a governmental agency to cease and desist if that person has undertaken, or is threatening to undertake, any activity that may require a permit without securing a permit. In addition, 30809 provides that an "...order may be also issued to enforce any

requirements of a certified local coastal program or port master plan, or any requirements of this division which are subject to the jurisdiction of the certified program or plan, under any of the following circumstances:... (3) *The local government or port governing body is a party to the violation."*

The removal of vegetation, grading, excavating, placement of stockpiled material, boulders, signs, drainage devices, landscaping, and fencing on the subject property constitute development which requires a CDP. Since this development does not meet the requirements for the issuance of an emergency permit under the Coastal Act or the County of San Luis Obispo certified Local Coastal Program, and will be performed in an area in which the Commission has permit jurisdiction through the coastal development permit appeal process, the performance of this development requires a regular CDP from the County. The County has issued an emergency permit for the development at the Pine Knolls Tank Site and Cambria by the Pines Sea Ranch although the requirements under the LCP for issuing an emergency permit are not met. Thus, the County has failed to enforce the requirements of the LCP and is a party to the violation of the LCP. Moreover, CCSD does not have a valid permit authorizing the development and is threatening to undertake development that does not comply with the LCP.

If issued, the Executive Director Cease and Desist Order will direct the CCSD to refrain from conducting the proposed development without securing a valid CDP. In addition, it will direct the County of San Luis Obispo to cease and desist from failing to follow the requirements of their certified local coastal program, and to rescind Permit ZON2004-0225. Violations of the Coastal Act may give rise to penalties under the Coastal Act. A violation of an ED Cease and Desist Order may result in penalties and damages, subject to Sections 30820, 30821.6, and 30822 of the Coastal Act (PRC Division 20 §30809(b)(3)).

Section 30809(b) of the Coastal Act states:

The cease and desist order shall be issued only if the person or agency has failed to respond in a satisfactory manner to an oral notice given in person or by telephone, followed by a written confirmation, or a written notice given by certified mail or hand delivered to the landowner or the person performing the activity.

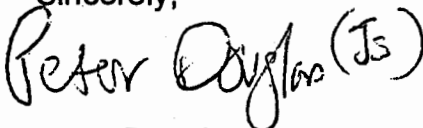
Section 13180(a) of Title 14 Division 5.5 of the California Code of Regulations defines the term "satisfactory manner" with regard to Section 30809(b) of the Coastal Act as being, in part, "a response which is made in the manner and within the timeframe specified in the notice." To prevent the issuance of the Executive Director Cease and Desist Order to you, you must provide assurances by telephone by 12 Noon, October 22, 2004 and confirmed in writing by 12 Noon, October 25, 2004 (this confirmation should be provided by telephone to Sarah Christie at (916) 747-1164 and followed by a written confirmation via facsimile to Sarah Christie at (415) 904-5235 and regular mail at the address listed on the letterhead) that:

1. The Cambria Community Services District will refrain from conducting any of the development authorized in Emergency Permit (ZON2004-00225) unless and until the development is authorized in final action on a regular coastal development permit.
2. The County of San Luis Obispo Planning and Building Department will comply with the requirements of the LCP, and has rescinded Emergency Permit ZON2004-00225.
3. If the CCSD desires further consideration of this project it will apply for a coastal development permit following the procedures set forth in CZLUO Section.

The Executive Director Cease and Desist Order may be subject to such terms and conditions as the Executive Director may determine are necessary to avoid irreparable injury to any area within the jurisdiction of the Commission, pending action by the Commission under Section 30810 and 30811 of the Coastal Act (which grants the Commission the authority to issue Cease and Desist and Restoration Orders). Executive Director Cease and Desist Orders issued under Section 30809 of the Coastal Act are effective upon issuance, and last for a period of 90 days. These Executive Director Cease and Desist Orders may also be followed up by a Cease and Desist Order or Restoration Order or both issued by the Commission pursuant to Section 30810 and 30811 of the Coastal Act, which will have a longer effective period.

We look forward to your cooperation in this matter. If you have any questions regarding this letter or the enforcement case, please call Sarah Christie (916) 747-1164 or send correspondence to the attention of Ms. Christie at the address listed on the letterhead.

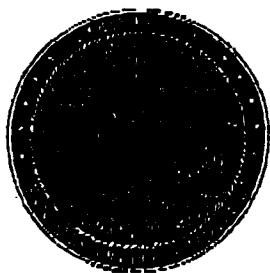
Sincerely,



Peter Douglas
Executive Director

cc: Lisa Haage, Chief of Enforcement, CCC
Sarah Christie, Statewide Enforcement Analyst, CCC
Sandy Goldberg, Staff Counsel, CCC
Nancy Cave, Northern CA Enforcement Supervisor, CCC
Charles Lester, Deputy Director, CCC

Exhibit H
(Page 9 of 9 pages)

SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDINGVICTOR HOLANDA, AICP
DIRECTOR

RECEIVED

October 22, 2004

OCT 22 2004

Ms. Sarah Christie
Statewide Enforcement Analyst
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Subject: Notice Prior to Issuance of Executive Director Cease and Desist Order No.
ED-04-CD-02

Dear Ms. Christie:

We are in receipt of your letter of October 21, 2004 regarding the potential for a Cease & Desist Order on the Cambria Community Services District (CCSD) Pine Knolls Replacement Tank Emergency Permit (ZON2004-00225). We understand the contents and requirements of your letter.

We agree to meet the requirements of item #2 on page 9 of your letter and have rescinded our Emergency Permit as of the date of this letter. We will also inform CCSD of the requirements of items 1 and 3. However, we have no direct control over these two items, and assume you will contact CCSD directly to guarantee their implementation.

Thank you for your attention to this matter. If you have additional questions or comments, don't hesitate to call or e-mail Matt Janssen at (805) 781-5104/mjanssen@co.slo.ca.us.

Sincerely,

Victor Holanda, AICP
Planning Director

c: Matt Janssen, Planning and Building
Tim McNulty, County Counsel
Shirley Bianchi, District Two Supervisor
Tammy Rudock, CCSD General Manager

CCC Exhibit 1
(page 1 of 1 pages)

CAMBRIA COMMUNITY SERVICES DISTRICT

DIRECTORS:

JOAN COBIN, President
GREG SANDERS, Vice President
PETER CHALDECOTT
ILAN FUNKE-BILU
DONALD VILLENEUVE



OFFICERS:

TAMMY RUDOCK, General Manager
KATHY CHOATE, District Clerk
ARTHER R. MONTANDON, Legal Counsel

1316 Tamson Drive, Suite 201 • P.O. Box 65 • Cambria CA 93428
Telephone (805) 927-6223 • Facsimile (805) 927-5584

November 17, 2004

Attn: Matt Janssen
Department of Planning & Building
County Government Center
San Luis Obispo, CA 93408

Subject: Pine Knolls Tank Replacement Project – Revised and Updated Emergency Permit Application

Dear Mr. Janssen,

As requested by our Board of Directors during its special meeting of November 10, 2004, I am forwarding this letter along with an updated Emergency Permit Application. Please note that attachment A to this letter provides new information on our existing Pine Knolls tanks that further quantifies and supports our need for an emergency permit. Based on steel thickness measurements we obtained in September of this year, we had Boyle Engineers perform a structural analysis of the existing Pine Knolls tanks. From their analysis, we have learned the tanks are in imminent danger of collapse during an earthquake. In addition, we are not able to operate our water system based on the six-foot maximum operating level they have recommended. Therefore, we believe this additional information further documents the emergency condition that we are under.

We also wish to clarify the following:

- Why the current tank location is necessary.
- The CEQA process we followed.
- A comparison of ESHA area impacts with the prior concrete tank design.
- Why we believe we are exempt from the "Public Lot process."
- Why time is of the essence in allowing us to proceed under an emergency permit.

Why the current tank location is necessary. The current tank location ties to three criteria: elevation; lay out of the existing distribution system; and, water quality. The existing tanks were constructed around 1960 and have a floor elevation of approximately 285 feet above sea level. Because these are a part of an overall gravity feed distribution system, the elevation of the water surface in the tanks determines the delivery pressures at our fire hydrants and service taps. The larger diameter pipes in the system are routed to the existing tanks site from the main supply pumps. The larger pipe diameters are needed in this part of the system due to the higher flow velocities into and out of the tanks each day, as well as during fire events. Water quality is also a concern in determining the location of storage tanks. Turnover rate, or how often the tanks fill and empty throughout the course of the day is a good indicator of how fresh the water is once it enters the distribution system. Because the Pine Knolls tanks are located closer to the center of demand in the system, they have a relatively frequent turnover rate.

Matt Janssen
SLO County Planning
November 17, 2004

Therefore, the existing Pine Knolls site is ideally located for elevation, existing pipeline locations, as well as overall water quality.

Please also note that we responded to an earlier County question on this issue in our response to comments that were made a part of our July 22, 2004 public CEQA hearing. In essence, the 285-foot contour line that controls the vertical elevation of our tanks runs further into the surrounding ESHA. Therefore, we chose to use an area that is contiguous with our existing tanks to minimize disturbance to the ESHA. The following figure further illustrates this point by showing the 285-foot contour line.



CEQA process followed. Our District went through two CEQA reviews that resulted in the current project. The first reviews were on a custom, cast-in-place concrete tank. This earlier design concept had significant limitations:

- The concrete tank required removing an existing tank from service in order to build one-half of the structure at a time. This would severely limit our existing operation during construction because we are already short of capacity. In view of the more recent seismic analysis information, operating on one tank is even more severely limited than we had first imagined.
- The old concept placed massive, 32-foot high walls near the neighboring residences. One neighbor has repeatedly expressed her fear from having the tank so close to her house. Even

Matt Janssen
SLO County Planning
November 17, 2004

though we do not agree with her opinion on the concrete tank's safety, we cannot argue with what she is feeling. Having the new tanks further away, help to alleviate her fears.

- There was no room to stage construction with the concrete tank concept. Therefore, it required permanent and temporary easements in the Covell property to maneuver around the northern and eastern boundaries during construction. Construction equipment, construction staging, and excavations would have impacted these areas.
- The old tank concept cut off an emergency vehicle access to the surrounding woods.

As the result of public comments we received, our Board elected not to adopt the mitigated negative declaration for the concrete tank during its March 2004 Board meeting. The design was subsequently modified to the current two-steel tank arrangement that had its CEQA review hearing on July 22, 2004. The current project's mitigated negative declaration was adopted during this second CEQA hearing. Among the mitigations, we are committed to replanting the number of Pine trees and Coast live oaks required under condition 17 of the previously issued October 8, 2004 emergency permit. The current steel tank project is also much more conducive to maintaining existing operations. For example, the contractor can build Tank 2 first, place it in service, and then demo the existing tanks before building tank 1. This provides a far superior means for coordinating construction with existing operations.

A comparison of ESHA area impacts with the prior concrete tank design. To assist your review, we developed attachments to this letter showing the areas disturbed by both the previous concrete tank design concept, as well as the current steel tank design. Attachment B is from the PowerPoint presentation I made during the November 16, 2004 Planning Commission meeting. The two slides I have included show both the old and new tank layouts. With the old concrete design concept, the area of impact into the ESHA was about 7,350 square feet. With the current steel tank design, the impact into the ESHA is 9,115 square feet, or approximately 1,765 square feet more (0.04 acres). Attachment C to this letter further illustrates the areas in question. As shown, the impact into the ESHA is reshaped by the current steel tank design, with certain areas no longer being impacted.

Within the 1,765 square foot area identified in Attachment C, there are approximately five Monterey Pine trees and nine Coastal live oaks requiring removal. For discussion purposes, we also looked into ways to equate the ESHA areas between both the old and new designs. Attachment D is very close in allowing this to happen by shifting the tank locations, modifying the outer retaining wall location, and adding "bump ins" into the tank site area. Although we would prefer to keep the current layout, this at least shows one possible solution to the concern over the ESHA area. In addition, and as mentioned at your October 28, 2004 Planning Commission meeting, we are willing to set aside an ESHA area behind our existing Leimert tank site. This area is contiguous with the same-forested area surrounding the Pine Knolls tanks and is further illustrated in Attachment E. The area proposed as an offset was also shown to the Coastal Commission staff on November 3, 2004 during their tour of the area. If an offset ESHA area approach is acceptable, we would prefer to keep the current Pine Knolls tank project layout the same. Keeping the design as is allows us to proceed more expeditiously with our contractor and does a better job of addressing our neighbor's fears over the proximity of the tank to her residence. As I suggested during the October 28, 2004 Planning Commission meeting, the offset area could be added as a condition to the emergency permit.

Exemption from the Public Lot process. As mentioned during the November 16, 2004 Planning Commission meeting, we believe the Government Code Section 66428 allows our agency to be exempt

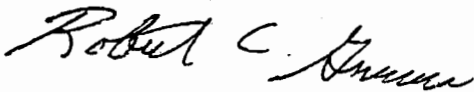
Matt Janssen
SLO County Planning
November 17, 2004

from this requirement. Because of the time urgency and public safety that is at risk, we strongly urge your planning director to exempt our public entity from this process. Attachment F contains an annotated copy of Government Code section 66428 for your convenient reference.

Time Urgency. Since the October 8, 2004 Emergency Permit was first issued, we lost critical construction time in which to complete key construction activities on a new tank prior to both the heavy, January rainy season, as well as the February to August bird nesting season. If we could obtain another emergency permit, we would push our contractor to complete their earthwork and foundation on a new tank prior to the end of this year. In order to do so, we will need your approval within the next week. We have also asked our engineer to investigate means for seismically restraining the existing tanks. However, we are at a point where a new tank could be built in about the same time as the seismic restraints. Therefore, we believe it is everyone's best interest to allow our steel tank project to proceed under an emergency permit.

In closing, we appreciate your assistance on the emergency permit. We strongly believe that an emergency exists, we have abided by CEQA, we have been responsive to public concerns, we are providing mitigations that address the ESHA concerns, and are willing to work with you further in making sure the project proceeds promptly. Should you have any questions on this request, do not hesitate to call me.

Sincerely,



Robert C. Gresens
District Engineer

Attachments:

- A - November 3, 2004 letter by Boyle Engineers summarizing seismic analysis of the existing Pine Knolls tanks
- B - Layout slides from November 16, 2004 PowerPoint presentation to Planning Commission
- C - Annotated aerial photo illustration showing layout of prior design concept easement areas within ESHA versus current steel tank layout
- D - Annotated aerial photo showing layout with moved tanks to approximate the same ESHA area impact between prior design concept and current design.
- E - Potential ESHA offset area at Leimert tank site
- F - Copy of Government Code section 66428 highlighted to show exemption for government entities.
- G - Updated Emergency Permit application

CAMBRIA COMMUNITY SERVICES DISTRICT

DIRECTORS:

JOAN COBIN, President
GREGORY SANDERS, Vice President
PETER CHALDECOTT
ILAN FUNKE-BILU
DONALD VILLENEUVE



OFFICERS:

TAMMY RUDOCK General Manager
ARTHER R. MONTANDON, District Counsel
KATHY CHOATE, District Clerk

1316 Tamson Drive, Suite 201 P.O. Box 65 Cambria CA 93428
Telephone (805) 927-6223 Facsimile (805) 927-5584

November 29, 2004

Victor Holanda
Planning Director
San Luis Obispo Planning and Building
County of San Luis Obispo
County Government Center
San Luis Obispo, California 93408

RECEIVED

DEC 07 2004

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Subject: Pine Knolls Water Tanks Project

Dear Mr. Holanda:

Thank you and others for participating in the telephone conference last Tuesday, November 23, 2004. The participants from San Luis County included Pat Beck, Matt Janssen, and Deputy County Counsel James Orton. Coastal Commission staff included Lisa Haage, Chief of Enforcement; Diane Landry, Jonathon Bishop; and Sandra Goldberg, Staff Counsel. The CCSD's participation included Arther R. Montandon, District Counsel; Steve Kaufman Attorney from Richards, Watson & Gershon; Bob Gresens, District Engineer; Jim Adams, Water Systems Supervisor; Tammy Rudock, General Manager; and Mike Nunley and Cesar Romero, Boyle Engineering, who have been analyzing the alternative construction possibilities of the Pine Knolls Tanks. I believe our exchange of information and ideas assisted us all to more clearly understand each other's concerns and positions.

The CCSD representatives have, throughout the process of getting the Pine Knolls Tanks reconstructed, proactively attempted to respond to all of the County's and the Coastal Commission's concerns. We have provided all of our information and directed our staff and consultants to be available to immediately respond to any questions and develop additional analysis and information to assist County and Coastal Commission staff in evaluating the emergency Cambria is facing and the project designs that could effectively eliminate the immediate danger to all of our citizens and the environment. The CCSD has spent thousands of staff and consultant hours and hundreds of thousands of dollars attempting to resolve our differences. This collaborative approach to intergovernmental

CCC Exhibit K
(page 1 of 9 pages)

cooperation, though sometimes trying, almost always results in a product that is better for the constituencies we all serve. Unfortunately, that has not been the case for the Pine Knolls Water Tanks project.

Justification for an Emergency Permit

We have discussed the immediate and real danger facing our constituents and the environment. CCSD staff throughout this process provided unrefuted evidence that an extraordinary emergency presently exists in Cambria. The facts we presented are summarized as follows.

Fire Danger. Since the CCSD's Board of Directors' declaration of a Water Code Section 350 water shortage emergency three years ago, it has as the law requires, been working diligently on the projects needed to end the emergency.

The declaration was based upon two factual findings: 1) that there was not a dependable water supply for current and future growth; and 2) that by applying national fire standards Cambria's water storage was 2,000,000 gallons short of what is needed to provide adequate water to fight fires. Please note that calculation of this shortfall was based upon two assumptions that are not correct. These are that the current water storage tanks are always full and that Cambria does not have a unique topography or significant combustible flora that significantly increases fire danger. The reality is that the water tanks are seldom full, due to the fact that the CCSD's customers use the same water used to fight fires, and Cambria exists on a series of rolling hills, in and surrounded by a forest, with many diseased trees. To further aggravate the fire danger the County and the Coastal Commission over many years have approved many wooden structures that are built very close together. The close proximity of the existing structures coupled with a relatively high fuel load from vegetation significantly increases our fire danger. Due to this significant fire safety problem, the CCSD Board of Directors directed staff to prioritize its limited funds and effort towards increasing water storage to minimize this fire danger.

The recognition of the fire safety problem is one thing, the process to decide what to do and how to pay for it is much more difficult. The first step taken was to evaluate the integrity and operation of the water delivery system. Needed upgrades to the CCSD's pipe delivery system were identified and made first. The existing 200,000-gallon capacity Pine Knolls tanks were chosen as the CCSD's first storage replacement project because the Pine Knolls tanks are the most critical storage facility in the entire CCSD's water storage and delivery system. The CCSD staff believes replacement at this location was the best option. The CCSD could reuse an existing tank site, which is at the best elevation to deliver gravity fed water and not relocate its water mains, many of which are located in ESHAs. Other sites were considered and rejected due to functionality, the additional negative impact on the environment, and extra costs.

The proposed project will increase the capacity of the tanks from 200,000 gallons to 1,100,000 gallons of water, less than half of the additional water storage needed by

Cambria. The tanks would continue to be located at the highest point of the water system to enable the gravity feed of water to all of the other storage tanks. The gravity feed of water not only avoids excessive energy use, it provides a viable water source that will not be rendered useless during an emergency, where the energy to run pumps may be lost. Water from the Pine Knolls tanks is delivered to all of the other water storage tanks. The elevated location and capacity of these tanks are critical to the effective operation of Cambria's whole water delivery system. When the Pine Knolls tanks are upgraded the other water storage tanks could then be upgraded to provide the additional 1,100,000 gallons of water storage needed to fight fires.

If the Pine Knolls tanks are not upgraded to increase water storage capacity immediately, a fire could significantly impact the safety and health of the whole community and local environment. If a fire starts during peak customer water usage and cannot be contained in the original structure the CCSD will not have enough water to fight the fire even if all its wells are pumping at full capacity. If the fire involves more than two structures and the current water storage tanks are full the CCSD will not have enough water to fight the fire even if all of its wells are pumping at full capacity. If a forest fire starts, like the Strawberry Canyon fire a year ago, and the fire department cannot suppress it before it spreads, the CCSD will not have enough water to fight the fire even if all of its wells are pumping at full capacity. Under any of these very possible scenarios the whole community of Cambria and its forests would burn to the ground.

Danger Posed by Earthquakes. It was only in the past few weeks that the CCSD was made aware of the specific current seismic capacity of the Pine Knolls Tanks. In their current condition, these thirty-two foot tall tanks are only seismically safe up to a water level of six feet. As you were told by the CCSD's water operations staff, the CCSD water system cannot operate if the Pine Knolls tanks are at that level. Daily domestic demand will cause the system to intake air even if all of the CCSD's wells are pumping at full capacity. The intake of air will cause significant damage to customer water pipes and to the CCSD's water infrastructure system. If this damage occurs, the CCSD will not be able to deliver water to its customers or to fight fires. The repair of this pipe damage would result in the significant disruption to the environment since many of the CCSD's pipes that would need to be repaired are in or near ESHAs and would cost a significant amount of money. To avoid the fire danger, the infrastructure system damage, and the potential environmental damage, the CCSD is currently operating these tanks at water levels that make them seismically unsafe, despite the threat of an earthquake.

The dangers of a sudden earthquake that will damage these tanks are very real. We experienced a catastrophic earthquake a year ago with an epicenter ten miles from Cambria. It damaged similar water storage tanks thirty miles east of Cambria. We believe the CCSD's tanks were spared damage this time because the earthquake occurred at a time when the water levels were low.

The State Legislature has recognized the significant danger of an earthquake in California at any time. (See Government Code Sections 8871, 8878.51). In Government Code

Section 8899.10 the California Legislature specifically finds that, "...the citizens of California live under the constant shadow of death, personal injury, and property damage from earthquakes." On November 26, 2004, there were 17 earthquakes in the Cambria area, two of which are considered "big earthquakes" by the United States Geographical Survey. One was a 3.2 magnitude earthquake four miles from Parkfield and the larger was a 3.4 magnitude earthquake nine miles from San Simeon. Just yesterday, on November 28, 2004 there was an even larger 4.2 magnitude earthquake seven miles from Parkfield.

If a significant earthquake damages the Pine Knolls tanks there will be damage to the surrounding neighborhood and to the downstream neighborhood. There would not be enough water storage to provide for the daily sanitary needs of the entire community. All damaging earthquakes significantly increase the fire danger and there would be no water to fight a fire, and as stated above the community and its surrounding forest would burn to the ground.

As the CCSD Board, staff, and consultants have stated over and over again the situation is a serious emergency that requires immediate action to protect life, property, and the environment.

Project Development

CCSD staff and consultants believe that the modified two-tank design is environmentally superior, will cause the least disruption to the forest habitat, and will minimize the time the community and forest will be in danger because it can be built now. As you know the CCSD staff and consultants have:

1. Designed the original concrete tank project relying on a map acquired from County's web site. Although the boundaries of this map were incorrect from our discussions with County planning, the Coastal Commission staff still refers to a similar mapped ESHA boundary. For example, the modified two steel tank layout avoids much of the ESHA area identified by the "TH" boundary shown on the Commission's drawing K13.
2. Provided 15 copies of the Initial Study/Mitigated Negative Declaration to the state clearinghouse on June 8, 2004, advertised the current design's Notice of Intent to Adopt a Negative Declaration in The Tribune newspaper on July 15, 2004, and fully noticed the project's July 22, 2004 public hearing.
3. Conducted the CEQA hearing and approved the current design during a televised public meeting.
4. Conducted applicable environmental review and considered and approved a mitigated negative declaration at two televised public meetings. The significant mitigations were approved after comments from the County and State Fish and Game were received
5. Awarded the bid to a contractor at a televised public meeting.

6. Adopted a resolution at a televised public meeting authorizing the commencement of a Superior Court action to acquire an additional 9,115 square feet of property.
7. Acquired a right to possess the extra 9,115 square feet after two hearings before the court.
8. Received an ECDP from the County to commence construction in a time frame to minimize impact on the surrounding habitat.
9. Told the contractor to be ready to proceed.
10. Pursuant to the County's ECDP process the CCSD filed an application for a CDP within 30 days of the granting of the ECDP.

After all of the CCSD's very public effort to address Cambria's emergency situation the Coastal Commission issued a Cease and Desist Order and the County purported to revoke the ECDP.

Second ECDP

In the interest of cooperating with the County and the Coastal Commission staff, and to remedy the emergency facing Cambria, the CCSD applied for a second ECDP with more information supporting the emergency and a modified two-tank design.

We discussed your November 19, 2004, letter that denied the CCSD's second application for an Emergency Coastal Development Permit ("ECDP") for the reconstruction of the Pine Knolls water storage tanks. The letter states that the denial was based upon the need for a submittal of a "Public Lot" application and that a feasible project exists with less impact to the Environmentally Sensitive Habitat Area ("ESHA").

The CCSD included a modified two-tank design in its second application reducing the amount of land needed for the tanks to approximately the area needed to construct the original square tank considered by the CCSD (7,000 square feet). County and Coastal Commission staff stated that they would not approve this modified two-tank project for an ECDP and could not recommend it for a regular Coastal Development Permit ("CDP") and that the original square tank was environmentally superior.

County and Coastal staff stated that the only ECDP that could be approved is for the seismic retrofit of the existing tanks to meet the CCSD's current water storage needs despite the fact that these retrofitted tanks will only provide two thirds of their previous capacity or 133,333 gallons of storage capacity. This will severely increase the danger of the current fire emergency. We have estimated that this will take at least six months, cost over \$100,000 dollars for tanks that will be torn down, and result in tanks with one third less water capacity to fight a fire. In this same amount of time the CCSD could have one of the modified two tanks project constructed, adding 550,000 gallons of water storage for Cambria.

While these inadequate retrofitted tanks are serving Cambria you suggested that the CCSD design a square tank project that will fit on the land currently owned by the

CCSD, conduct the required environmental review, process a County Public Lot application, and if this application is approved by the Planning Director and the County Subdivision Review Board, after any appeals to the Board of Supervisors and the Coastal Commission, and if the project is still viable and doesn't require redesign or subsequent environmental review, the CCSD could apply to the County for a CDP to be considered by the County Planning Commission. If the CDP is granted, the Planning Commission's decision could be appealed to the Board of Supervisors and then to the Coastal Commission. If the CDP survives all appeals, and there are no lawsuits, the CCSD may then publicly bid the project, and construct the tanks. We estimate that this process, without lawsuits, will take over two years to get the square tank into service. All this time the community and the environment will continue to be in extreme danger of a catastrophic fire.

The square tank design has significant impacts on the mapped ESHA. Since the CCSD will have to tear down the tanks it spent over \$100,000 retrofitting to construct your preferred square tank. County and Coastal Staff recommended that the project include temporary water storage tanks (200,000 gallons) to serve Cambria, placed in or near the ESHA until the new square tank can be put into service. The CCSD's consultants have concluded that this overall design will require the destruction of over 12, 000 square feet of the forest habitat. The CCSD's modified two-tank design will only require 5,000 square feet. It was County and Coastal Commission staff's opinion that this option was environmentally superior because the habitat would grow back. Our consultants state that it could take decades for the habitat to grow back and that our modified design is environmentally superior.

Finally, since the Pine Knolls tanks play such a critical roll in the entire CCSD distribution system, it is also important to provide two tanks as opposed to one for reliability. For example, the current two-tank design concept allows taking one tank out of service for maintenance activities. Typically, tanks of this type are painted about once every 15 years. Having two tanks at this location allows for periodic painting as well as any unforeseen maintenance needs. Therefore, concepts discussed during the November 23, 2004 telephone conference suggesting one single tank do not provide an acceptable level of reliability.

Legal Issues

Though CCSD staff did not argue legal issues during our telephone conference, we disagree with many of the legal positions of the County and Coastal Commission.

First, we dispute that the modified Pine Knolls tank project is in a mapped ESHA. We have obtained the map adopted by the County and approved by the Coastal Commission from Coastal Commission staff. It places the ESHA one hundred feet from the CCSD's jurisdictional border. We designed the project to avoid any significant impact on the ESHA. No one has provided the CCSD with proof that this mapped ESHA incorporated by a land use ordinance has ever been moved. If it is modified it legally requires an official act of "equal dignity." In other words, since it was adopted by ordinance and

approved by the Coastal Commission, it must under go the same process to be amended. We can find no proof that the map given to us by the Coastal Commission Staff to design the Pine Knolls tanks was ever amended.

Second, Coastal Commission staff has stated that the CCSD's acquisition of land through condemnation is a development because it is a "land division" (Public Resources Code Section 30106). As we stated, the CCSD is acquiring the Pine Knolls expansion site in Superior Court through its powers of eminent domain. Currently the CCSD only has an order of possession for the site. This court process is superior to your statutory requirement that land divisions require a CDP. See Wells Fargo Bank vs. Town of Woodside, 33 Cal. 3rd 379 (1983). To avoid any continued argument that this is a land division we have amended our pleadings to condemn only an easement. This is done at the suggestion of Coastal Commission staff. It will also allow the CCSD to abandon any portion of the easement it does not need due to the modified design pursuant to a summary statutory abandonment process.

The County has taken the position that the CCSD's Superior Court acquisition of property is subject to the Subdivision Map Act as implemented by SLO County Code pursuant to SLOCC 21.02.010 and requires a "Public lot" determination by the Planning Director. The County's position is that all land conveyed to or from a governmental agency has to go through this process. If the CCSD's acquisition is subject to the County's ordinance it requires a LCP. (SLCCC 21.01.010).

As stated by CCSD staff during our telephone conference call, this lot is subject to the SLOCC 21.02.010, why weren't the CCSD's 500+ lot transfers in the past three years subject to the "Public Lot" process? In addition, the Subdivision Map Act places the burden on the County, based upon substantial evidence, to find that a parcel map is required. (Government Code Section 66428). It is the County's burden to demonstrate based on substantial evidence that the CCSD is subject to the Subdivision Map Act.

If the County takes this legal position for easements, such as the one the CCSD is acquiring through eminent domain we ask to see all the "Public Lot" determinations for County easements for the past six months before we reconsider applying for a Public Lot determination. In addition, it is the CCSD's position that it is not subject to this ordinance due to the rationale stated in Wells Fargo Bank vs. Town of Woodside, 33 Cal. 3rd 379 (1983). In addition the CCSD is not a "Subdivider" and this acquisition is not a "Subdivision" under the Act. (Government Code Sections 66423, 66424, and 66426.5, see also, 75 Ops. Atty. Gen. 136 (1992) citing Morris vs. Reclamation District No. 108, 17 Cal. 2nd 43 (1941), which held public agencies and public officers are not subject to the Subdivision Map Act).

Coastal staff also stated that the CCSD could not file and maintain an action for a "taking" of its property. Inverse condemnation is a viable cause of action available to the CCSD against the County and the Coastal Commission. In Marin Municipal Water District vs. City of Mill Valley, 202 Cal. App. 3rd 1161 (1988), the court citing the

California Supreme Court held, "...a public entity whose property has been damaged by another public entity suffers no less a taking merely because of its public entity status." The CCSO is protected by Public Resources Code Section 30010, which prohibits the County and Commission from taking or damaging private property without just compensation. As such, the CCSO should enjoy the same deference given to single-family houses and other structures the County and Commission have approved in and near ESHA's for the past 30+ years.

Even without the deference given single-family development the CCSO is proposing an ESHA dependant use compatible with the ESHA that does not have a significant impact on the ESHA pursuant to Public Resources Code Section 30240. The Pine Knolls tanks are dependant of the ESHA's elevation to provide the gravity feed required for public safety. The tanks are not only compatible with the ESHA, their existence protects the ESHA from total destruction by fire. The use is not new. It is two water storage tanks that replace two water storage tanks. There are no occupied structures and there is not a more environmentally benign use next to the ESHA of concern.

We additionally believe that the focus on ESHA has unduly overlooked the other provisions of the LCP, which carry equal, and perhaps even more important, weight in the case of this water storage facility. Hazard Policy 9 (page 11-4) provides: "Fire hazard areas shall be defined as those having potential for catastrophic fire. The county shall designate and show on the Hazards maps those high risk fire areas as delineated by the State Division of Forestry . . . THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO CHAPTER 23.05.082 OF THE CZLUO.]" Section 23.05.082, entitled "Fire Safety Standards," in turn, provides: "In areas where fire protection is provided by another official agency (e.g., a community services district, etc.), new uses shall comply with such fire safety standards as required by the fire protection agency." (Emphasis added.) CCSO is the fire protection agency in this instance, and this project is necessary to comply with the fire safety standards required by the District. This policy is mandatory; it cannot be ignored. Under settled rules of statutory construction, it must be harmonized or "balanced" with the ESHA policy in the LCP, but also applied in a way that is most protective coastal resources. This project does exactly that. Thus, the project complies with the requirements of the LCP governing emergency permits. It has had public comment. The emergency nature of the project requiring immediate action is heightened by the recent Boyle Engineering report (11/2/04), which now constrains the District's ability to store water in the existing tanks to a water level of six feet to avoid seismic safety problems. As previously indicated in our application, the work must proceed now to avoid the heavy rainy season in January, as well as the onset of the 2005 bird nesting season."

Also, neither the County nor the Commission has followed their procedures for revocation of the first emergency permit. The CCSO considers the first ECDP issued to be in full force and effect until each agency goes through the substantive and procedural due process required to revoke a development permit. We intend to fully participate in

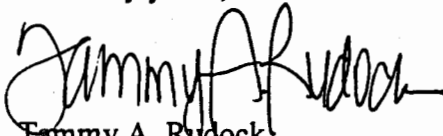
the required process and will appeal each adverse action. For example, the CCSD staff and consultants will appear at the January 2005 SLO County Planning Commission hearing as required by the ECDP process and present the CCSD's position as set forth in this letter.

Conclusion

Finally, we have worked diligently with you and the Coastal staff and cooperated with all agencies to expeditiously build a much needed project, which will reduce the fire and earthquake danger to Cambria, in a manner that serves all environmental interests. It has always been our opinion that Government Code Section 53091 exempts the CCSD from applying for and obtaining a CDP. Nothing in the information submitted by Ms. Goldberg or Ms. Christie has changed our position that the CCSD is exempt. They cite no binding legal authority that supports their position that the CCSD is exempt from the CDP process if it builds a water storage facility. We have spoken to representatives from other special districts and members of ACWA that have successfully refused to obtain a LCP for the facilities enumerated in Government Code Section 53091. Subsequent research has only confirmed our position that LCP's and related ordinance are local zoning ordinances. Yost vs. Thomas, 36 Cal. 3rd 561 (1984).

We request that you immediately reconsider issuance of the emergency permit for the environmentally superior modified two tank version of the Pine Knolls Tanks project. If County does not issue it by December 6, 2004 we will be required to take immediate steps to protect our citizens and our environment from the very real dangers of a catastrophic earthquake and fire and construct the modified alternative with all haste and pursue all available remedies in court.

Sincerely yours,



Tammy A. Rudock
General Manager

C: Board of Directors
Arther R. Montandon, District Counsel
Bob Gresens, District Engineer
Charles Lester, Deputy Director, CCC
Matt Janssen, SLO County Supervising Planner
Lisa Haage, Coastal Commission Chief of Enforcement
Sandy Goldberg, Staff Counsel, CCC
Steve Kaufman, Attorney, Richards, Watson & Gershon
Diane Landry, CCC

CCC Exhibit K
(page 9 of 9 pages)

CAMBRIA COMMUNITY SERVICES DISTRICT

DIRECTORS:

JOAN COBIN, President
GREGORY SANDERS, Vice President
PETER CHALDECOTT
ILAN FUNKE-BILU
DONALD VILLENEUVE



OFFICERS:

TAMMY RUDOCK General Manager
ARTHER R. MONTANDON, District Counsel
KATHY CHOATE, District Clerk

1316 Tamson Drive, Suite 201 • P.O. Box 65 • Cambria CA 93428
Telephone (805) 927-6223 • Facsimile (805) 927-5584

October 21, 2004

Sandra Goldberg
Attorney at law
California Coastal Commission
45 Fremont Street # 2000
San Francisco, CA 94105-2219

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OCT 21 2004

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

7
Exhibit
Page 1 of 5
(see page 5)

Subject: Cambria Community Services District, Pine Knolls Water Tank Reconstruction Project

Dear Ms. Goldberg:

Thank-you for taking time to speak with me. This project is very important for the fire safety of the Cambria community including the coastal habitats your agency is charged with protecting. We have worked diligently to insure that all environmental concerns have been addressed. If this project is not commenced soon it will be delayed for over a year due to the environmental habitat concerns. We have contacted the County staff and been informed that the fastest they could process a permit would be four months and that approval could be appealed to your Commission, delaying it another two to three months.

As I stated, my research has indicated that the CCSD is not required to apply for a Coastal Development Permit. If you have any authority to the contrary please inform me as soon as possible so I can give the proper advice to the District Board. My opinion is based upon Government Code Section 53091, which states:

(a) Each local agency shall comply with all applicable building ordinances and zoning ordinances of the county or city in which the territory of the local agency is situated.

....

(d) Building ordinances of a county or city shall not apply to the location or construction of facilities for the production, generation, storage, treatment, or transmission of water, wastewater, or electrical energy by a local agency.

(e) Zoning ordinances of a county or city shall not apply to the location or construction of facilities for the production, generation, storage, treatment, or transmission of water, or for the production

The CCSD's project is the reconstruction of a water storage facility, which is exactly the type of project this statute was meant to protect. The Attorney General has opined this exception to be applicable to special districts that supply water and provides an "absolute exemption" for local agencies that are constructing, "...facilities for the production, generation, storage,

treatment, or transmission of water." (78 Ops. Atty. Gen. 31, 1995). This "absolute exception" was reconfirmed in the legislative history to a 2002 amendment (SB 1711) to Government Code Section 53091.

The issue is whether this exception is applicable to exempt the CCSD from obtaining a Coastal Development Permit required by the California Coastal Act, Public Resources Code 30000, et seq. and the laws enacted to implement this Act. As I stated to you on the phone, I could not find a law, case, or Attorney General Opinion that specifically addresses this issue.

The County of San Luis Obispo has a certified Local Coastal Plan ("LCP") implemented through its "Coastal Land Use" ordinance, Title 23 of the San Luis County Code. (It is located at <http://www.sloclerkrecorder.org/CountyCode/ DATA/TITLE23/index.html> on their website). This ordinance looks and is applied as a zoning ordinance. It is even titled a "Land Use" ordinance. See also, Public Resources Code Sections 30512, 30512.1, 30512.2, and 30513 that specifically state these are "land use" and "zoning" ordinances.

I looked at the Coastal Act to see if it empowered the County or the Coastal Commission to enact a law or regulation that would require a development permit from a local agency for a water storage facility thus overriding the exception in Government Code Section 53091. These are the statutes I found relevant to my analysis.

Public Resources Code 30005.5 states:

Nothing in this division shall be construed to authorize any local government, or to authorize the commission to require any local government, to exercise any power it does not already have under the Constitution and laws of this state or that is not specifically delegated pursuant to Section 30519.

Since, under the "laws of the state" the County cannot require a land use or building permit from the CCSD for a water storage facility, I reviewed Public Resources Code Section 30519 to see if the authority exists there to require a permit for a water storage facility and I could find no such delegation of authority. That statute does state, in applicable part:

(a) Except for appeals to the commission, as provided in Section 30603, after a local coastal program, or any portion thereof, has been certified and all implementing actions within the area affected have become effective, the development review authority provided for in Chapter 7 (commencing with Section 30600) shall no longer be exercised by the commission over any new development proposed within the area to which the certified local coastal program, or any portion thereof, applies and shall at that time be delegated to the local government that is implementing the local coastal program or any portion thereof.

This statute requires a mandatory delegation of Commission permitting authority after certification of the LCP. The Commission's remaining authority is to hear certain appeals pursuant to Public Resources Code Section 30600. An enforcement action can only be initiated and an appeal can only be heard if a Coastal Development Permit is required.

CCC Exhibit L
(page 2 of 9 pages)

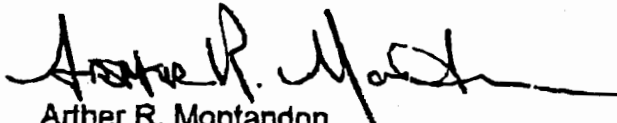
Even prior to the approval of the LCP the Coastal Act, specifically Public Resources Code Section 30600.5, required the Commission to delegate its Coastal Development Permit authority to the County prior to certification of the LCP after the effective date of the statute, 1982. Public Resources Code Section 30600 states as delegated, the County cannot require a Coastal Development Permit from the CCSD. It states, in relevant part:

b) (1) Prior to certification of its local coastal program, a local government may, with respect to any development within its area of jurisdiction in the coastal zone and consistent with the provisions of Sections 30604, 30620, and 30620.5, establish procedures for the filing, processing, review, modification, approval, or denial of a coastal development permit. Those procedures may be incorporated and made a part of the procedures relating to any other appropriate land use development permit issued by the local government.

(2) A coastal development permit from a local government shall not be required by this subdivision for any development on tidelands, submerged lands, or on public trust lands, whether filled or unfilled, or for any development by a public agency for which a local government permit is not otherwise required. (Emphasis added).

As such, even before certification of the LCP the County was without authority to require the CCSD to apply for a Coastal Development Permit. I have concluded that the CCSD is not required to apply for a Coastal Development Permit. We remain willing to cooperate and provide any information we have to assist you and the Commission staff in reviewing our project. Please respond with any authority that will assist me in my analysis and advice.

Sincerely yours,



Arther R. Montandon
District Counsel

Cc. Board of Directors
Tammy Rudock, General Manager

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October 21, 2004

OCT 25 2004

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREABy Telecopy and Mail

Arther R. Montandon, District Counsel
Cambria Community Services District
1316 Tamson Drive, Suite 201
P.O. Box 65
Cambria, CA 93428

Re: Pine Knolls Water Tank Reconstruction Project

Dear Mr. Montandon:

I am writing in response to your letter dated October 21, 2004. Due to prior commitments, I have had limited time to locate the materials that respond to your arguments. The Coastal Commission does not agree that Cambria Community Service District ("CCSD") is not required to obtain a coastal development permit from San Luis Obispo County for the above-referenced project. I am enclosing an Attorney General Opinion – 65 Ops. Cal. Atty. Gen. 88 (1982) – that determined that a local government that is implementing a Local Coastal Program ("LCP") certified by the Coastal Commission has permitting authority over state agencies and counties, that are otherwise exempt from local regulation. The same analysis applies with respect to local government permitting authority over a water district. The Coastal Act provides that any person undertaking development in the coastal zone must obtain a coastal development permit. The definition of person under the Coastal Act is very broad and includes water districts. The Act states:

30111. "Person" means any individual, organization, partnership, limited liability company, or other business association or corporation, including any utility, and any federal, state, local government, or special district or an agency thereof.

The language you quote in your letter from Public Resources Code section 30600(b) only deals with coastal development permits issued by a local government *prior to certification of an LCP*. There is no similar restriction on permitting jurisdiction of a local government that is implementing a *certified* LCP, such as San Luis Obispo County.

I have also enclosed the following relevant documents for your review: a Memorandum on this issue from Santa Barbara Office of County Counsel dated September 10, 2001; correspondence to the City of San Buenaventura dated September 8, 1999 regarding local government jurisdiction over state agencies; and a letter dated January 9, 2003 to the Bureau of Reclamation that addresses a project on federal property carried out by the Carpinteria Valley Water District that was approved in a coastal development permit that Santa Barbara County issued to the Water District.

In addition, I have enclosed excerpts from two Coastal Commission Permit Staff Reports regarding coastal development permits that a local government issued to water districts (Coastside County

Exhibit L
(page 4 of 5 pages)
5

Water District and Leucadia County Water District) that were appealed to the Coastal Commission. Our records indicate that local governments implementing an LCP certified by the Coastal Commission routinely exercise their jurisdiction to require coastal developments from water districts, such as CCSD.

Finally, please note that if your assertion that CCSD does not need a coastal development permit *from the County* was correct (which we do not believe is the case), CCSD is not exempt from the California Coastal Act and would need to apply for a coastal development permit from the state Coastal Commission. This has not occurred.

Please provide these materials to the District Board for their consideration. Thank you.

Sincerely,

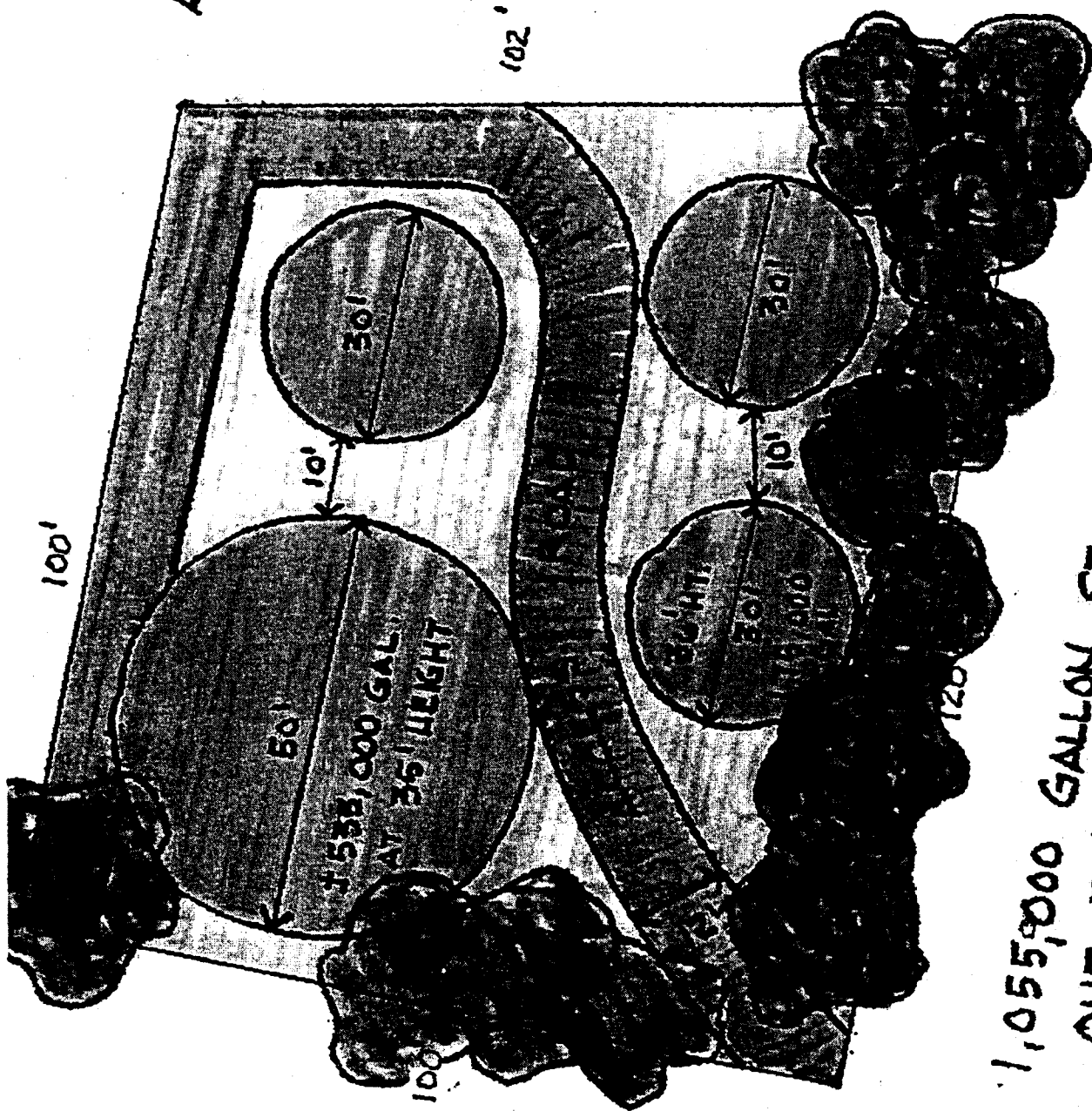


SANDRA GOLDBERG
Staff Counsel

Enclosures

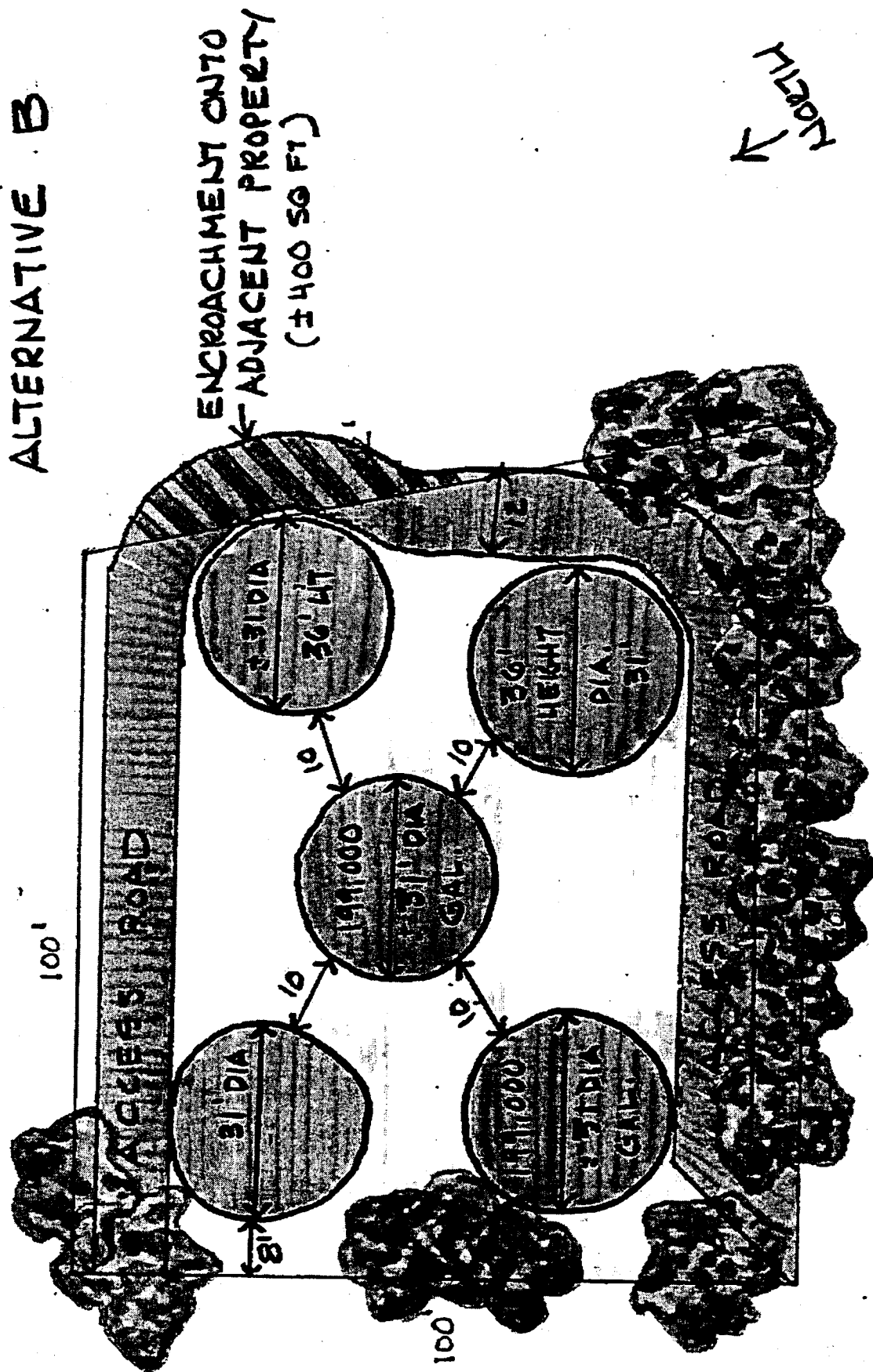
CCC Exhibit L
(Page 5 of 5 pages)
5

ALTERNATIVE A



1,055,000 GALLON STORAGE
ONE 50' DIAMETER + THREE 30' DIA. TANKS

ALTERNATIVE B

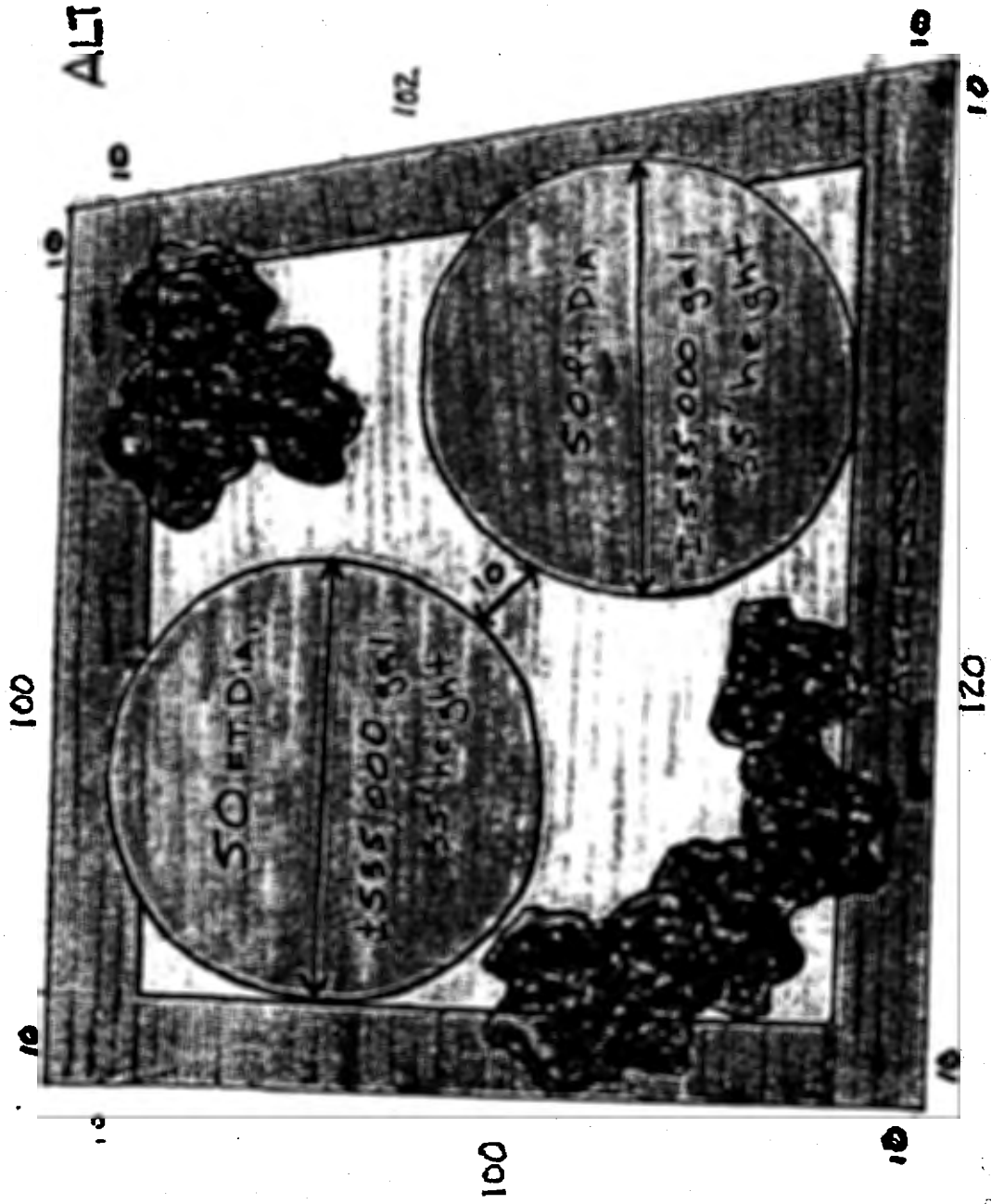


1,000,000 GALLON STORAGE ALTERNATIVE
FIVE \pm 31' DIAMETER TANKS

20 SCALE

DEC. 1. 2004 DSL

ALTERNATIVE C

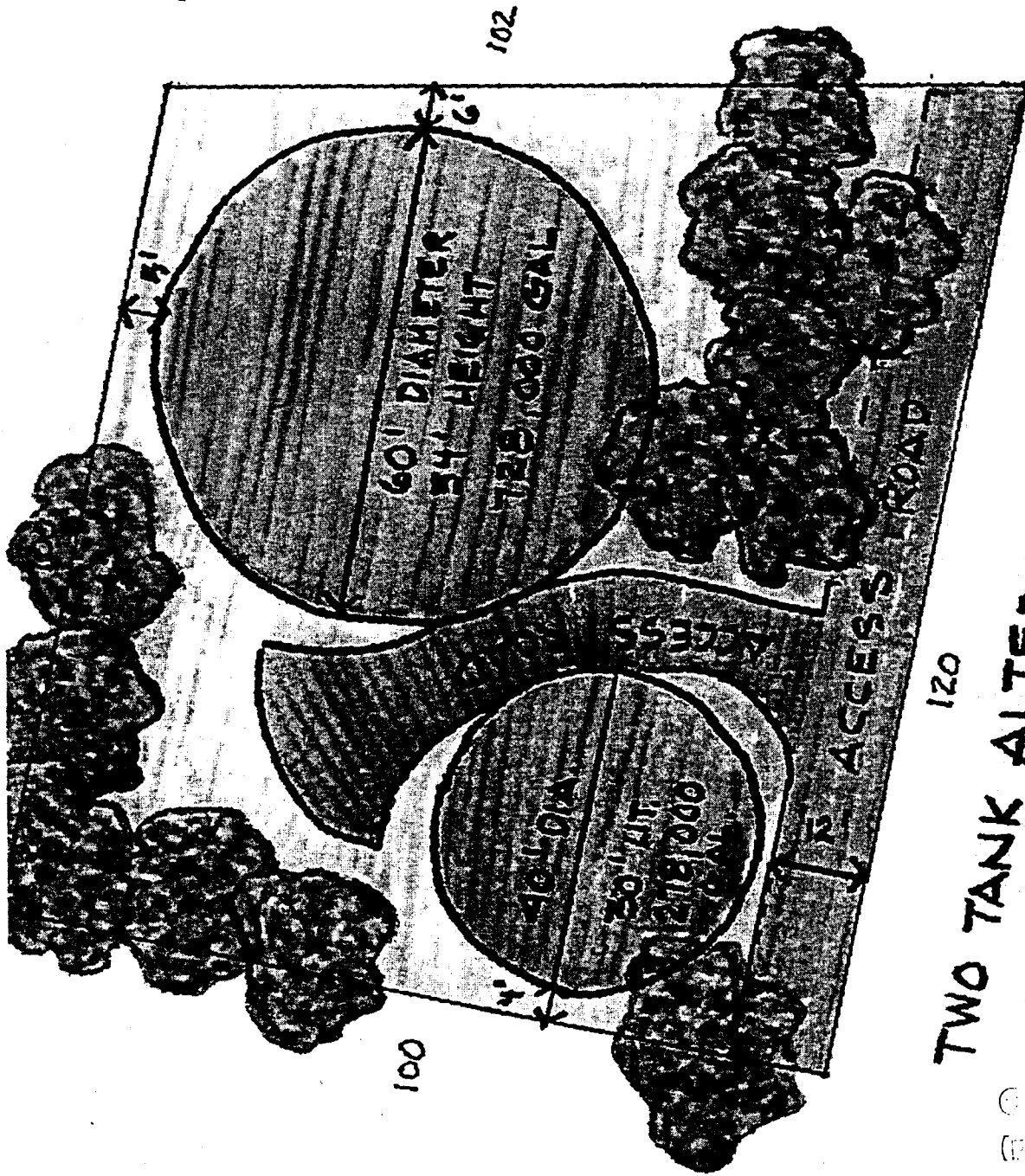


1 N

CCSD SITE ALTERNATIVE
TWO 50' TANKS
1,070,000 GALLONS STORAGE

20 SCALE

ALTERNATIVE D



TWO TANK ALTERNATIVE
1,006,000 GALLONS STORAGE

	Regarding Capacity	CCSD Review Comments Regarding Hydraulics	Regarding Layout
meter tanks ameter tank	Volume shown on CCC sketch = 1,060,000 gallons However, at a 29.5 foot maximum water depth, the 30' diameter tanks shown reduce to 156,000 gallons each, & the 50' diameter tank shown reduces to 433,000 gallons Therefore, the total volume is only 901,000 gallons, which is 200,000 gallons less than what is needed.	Cannot operate tanks with two different heights due to hydraulics. To match the existing distribution system hydraulics, the maximum water depth cannot exceed 29.5 feet.	<ul style="list-style-type: none"> * Access road at entrance too sharp for emergency vehicles * Access road moved away from trails used by Fire Dept. * Layout violates CZLUO 23.04.110 side setback for a commercial site next to a residential land use. The 35-foot high tank is app from the western property line. Min required is 18 feet. * Layout violates CZLUO by having a tank height greater than 35' * Inadequate clearance allowed around north side of larger tank. * Side setback for 36' high tank is only 10 feet, where CZLUO 23.04.110 would require 18 feet. * No landscape screening could occur between house to north a 35 foot high tank (violates CZLUO 23.04.100). * Doesn't satisfy requirement for minimum 12-ft clearance between foundations will extend approximately 1'-9" beyond tank shell.
oot diameter	Volume shown on CCC sketch = 1,000,000 gallons, which is 100,000 gallons short of what is needed. However, at a 29.5 foot maximum depth, the volume of the 31' diameter tanks shown reduces to 166,500 gallons each. Therefore, the total volume is only 832,500 gallons, which is 267,500 gallons short of what is needed.	To match the existing distribution system hydraulics, the maximum depth cannot exceed 29.5 feet. At the 36-foot height shown, there is no freeboard, which is needed to prevent damage during an earthquake. Freeboard would add 2.5 feet to the height shown, making the tanks 38.5' high.	<ul style="list-style-type: none"> * Access road at entrance too sharp for emergency vehicles * Access road moved away from trails used by Fire Dept. * Layout violates CZLUO 23.04.110 side setback for a commercial site next to a residential land use. A 38.5 foot high tank would 19 feet of setback versus the 8 feet shown. * Layout violates CZLUO by having a tank height greater than 35' * Construction of new tanks would undermine existing tanks * Distances shown between tanks inadequate for construction & p * Doesn't satisfy requirement for minimum 12-ft clearance between foundations will extend approximately 1'-9" beyond tank shell.
ar tanks	Volume shown on CCC sketch = 1,070,000 gallons, which is 30,000 gallons short of what is needed. However, at a 29.5 foot max. water surface, the 50' diameter tanks shown reduce to 433,000 gallons each Therefore, the total volume is only 866,000 gallons, which is 234,000 gallons short of what is needed.	To match the existing distribution system hydraulics, the maximum depth cannot exceed 29.5 feet.	<ul style="list-style-type: none"> * Access road at entrance too sharp for emergency vehicles * Access road moved away from trails used by Fire Dept. * 10-foot wide access road inadequate * Layout violates CZLUO 23.04.110 side setback for a commercial site next to a residential land use. The 35-foot high tank is app from the western property line. Min required is 18 feet. * Inadequate clearance allowed around north side of northwest * Inadequate clearance allowed around east side of southeast * No landscape screening could occur between house to west at northwestern 35-foot high tank (violates CZLUO 23.04.100). * No landscape screening could occur between house to south a southeastern 35 foot high tank (violates CZLUO 23.04.100). * Cannot maintain existing tank operations during construction * Separation between tanks inadequate. * Doesn't satisfy requirement for minimum 12-ft clearance between foundations will extend approximately 1'-9" beyond tank shell.
ar tank & ar tank	Volume shown on CCC sketch = 1,006,000 gallons, which is 94,000 gallons short of what is needed. However, at a 29.5 foot max water depth, the 60' diameter tank reduces to 624,000 gallons, and the 40' diameter tank shown reduces to 277,000 gallons Therefore, the total volume is only 901,000 gallons, which is 200,000 gallons less than what is needed.	Cannot operate tanks with two different heights due to hydraulics. To match the existing distribution system hydraulics, the maximum depth cannot exceed 29.5 feet.	<ul style="list-style-type: none"> * Access road at entrance too sharp for emergency vehicles * Access road moved away from trails used by Fire Dept. * 12-foot wide access road inadequate along south side next to f * Layout violates CZLUO 23.04.110 side setback for a commercial site next to a residential land use. The 30-foot high tank is app from the western property line. Min required is 18 feet. * Inadequate clearance allowed around west side of southwest construction & maintenance. * Inadequate clearance allowed around north and east sides of construction & maintenance. * Southwestern tank layout violates CZLUO 23.04.108 by not having front setback. * No landscape screening can occur between the 30-foot high s and houses to the west and south (violates CZLUO 23.04.100) * Cannot maintain existing tank operations during construction * Separation between tanks inadequate. * Cannot maintain operations when larger tank is removed from

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
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SANTA CRUZ, CA 95060
(408) 427-4863
HEARING IMPAIRED: (415) 904-5200

**January 12, 2005**

Tammy Rudock, General Manager
Cambria Community Services District
1316 Tamson Dr., Suite 201
P.O. Box 65
Cambria, CA 93428

Subject: ***Pine Knolls Tank Replacement Project***

Dear Ms. Rudock:

Thank you for taking the time to meet with Coastal Commission staff regarding replacement of the Pine Knolls water tanks. We acknowledge the complexity of the project and appreciate the opportunity to continue working with the District on a project that protects sensitive resources and meets the community's water storage needs. As we discussed in our last meeting on January 7, 2005, we are writing this letter to identify information and technical analyses that we believe are necessary to fully evaluate the District's current proposed tank replacement project. We appreciate the District's willingness to consider project design changes to avoid impacts to the forest resources bordering the District's current tank site. However, we remain concerned that the District has not fully considered every feasible and reasonable opportunity to avoid impacts to the forest while still meeting the community's water supply needs.

As we understand it, according to the District there are at least four constraints that are critical to the design and operation of the tank site and the new water tanks, and that preclude further redesign to avoid impacts to the forest. These are: 1) the volume of water storage needed; 2) water surface elevation in the tanks; 3) the need for fire access; and 4) construction phasing/maintenance. The comments and questions below are grouped into sections based on these four constraints.

Volume of Water Storage Needed

According to your letter of November 29, 2004 Cambria's water storage is 2 million gallons short of what is needed to provide adequate water to fight fires. More recently, the District has stated that the deficit may be even greater. Please provide the relevant "national fire standards" and any other standards used as the basis for this evaluation and calculations used to determine the current fire storage deficit. Overall, we would appreciate receiving the technical documentation and analyses supporting the District's conclusion that the only feasible way to address Cambria's water supply needs is by locating 1.1 million gallons of storage on the Pine Knolls site.

More specifically, with respect to the Pine Knolls tank site, the proposed project will increase the capacity of the tanks from 200,000 gallons to 1,100,000 gallons of water. While Coastal Commission staff understands the need to develop additional water storage to overcome deficiencies in the system, the need for 1.1 million gallons of water at the Pine Knolls site remains unclear. Table 5-8 of the 2004 Potable Water Distribution Analysis shows the fire storage requirement at Pine Knolls to be 630,000 gallons. The current proposal exceeds this

CCC Exhibit 0
(page 1 of 4 pages)

requirement by adding additional daily working storage and emergency reserves. Therefore, the required storage volume appears to be based on future demand conditions at a projected level of community buildout, rather than only the volumes needed to meet current system deficiencies. We feel it is important to differentiate between how much water is needed currently, versus that which is needed to support future community buildout. Why do the operational and emergency reserves also need to be increased to such a large degree? Please provide the technical analysis and supporting documentation for the proposed emergency storage of 300,000 gallons. It was mentioned at the December 29, 2004 meeting in Cambria by Ms. Rudock that the storage requirement calculations on pages 39 and 40 of the Potable Water Distribution Analysis are not accurate. In addition to providing the technical analysis supporting the needed volumes of water, please provide the revised calculations and reason for any changes.

Is the current double tank 1.1 million gallon proposal the only way to meet the overall system requirements? During our December 29, 2004 meeting in Cambria, other storage alternatives were discussed. One idea was to reduce the amount of storage at Pine Knolls, thereby eliminating the need to encroach into ESHA, and supplement the reduction with added storage at other tank sites (i.e. Stuart Street and Leimert). In the case of the Leimert tank site, the District has raised issue over added storage due to water quality concerns. Is it possible to overcome the water quality concerns with water treatment and/or periodic controlled "flushing/turning over" of the tank? Also, please address the possibility of having water storage tanks dedicated only to fight fires. If feasible, where could they be located within the current distribution system? In previous discussions, the District dismissed these particular alternatives because they involve extensive system upgrades. Please describe in detail the alternative system upgrades that would be needed to implement these storage alternatives, including cost estimates. The District has stated that other existing tank sites are also highly constrained and located in Environmentally Sensitive Habitat Areas. Please provide a description and general site plan for each of the other tank sites.

In addition, the Potable Water Distribution Analysis (Pg. 42) states that "pressure zone interaction may be adjusted to provide more pressure and flow to a particular zone, if needed, and may be an alternate method of assisting a zone with storage supply and fire protection." The Executive Summary (ES-2) states, "Adjustments in pressure reducing stations at Charing and Stuart Street could be made to connect zones and maintain storage in higher zones." Please describe the different pressure zone interactions that have been analyzed, such as adjusting, combining, or separating pressure zones to assist in water supply and fire protection. Please address the feasibility of using such methods to address fire protection needs while reducing the need for storage at the Pine Knolls site.

Water Levels/Elevations

One way to limit encroachments into the forest would be to use taller and narrower tanks. The District has stated that raising the tank elevation is infeasible and would change head pressures to the detriment of the distribution system. Please examine the end user impacts of increases in head pressure (from increasing the highest tank elevation by 2, 5 and 10 feet, for example), provide estimates of the number of end users whose water pressure would increase beyond levels you deem acceptable, and possible end user modifications that could be implemented to alleviate these conditions for operational service. Could distribution system upgrades, such as adding pressure release valves or increasing delivery pipe diameters, be installed to handle increased system pressures? If so, how many of them would be needed and where in the

system could they be installed? How would such changes affect the operation and functioning of the current distribution system? Does the system currently rely on pressure valves to regulate the distribution of water? Is it feasible to sink taller, narrower tanks on the site, potentially coupled with the use of pumps when use of the entire tank volume may be necessary, to provide fire and emergency water supply? Could a taller tank be designed to include a baffle system at the upper elevation of the tank that would release water into the lower portion of the tank so as not to ever exceed a 29' operating level?

Emergency Fire Access Road

The current proposal includes an emergency fire access road near the southern property boundary. The fire emergency road is 12' wide with 3' buffers on either side. Please describe the width and buffers for the existing fire access. Please explain the purpose of the fire access road (under what circumstances and how would it be used?) and provide the technical data/fire codes that support the need for a fire access road of this size, configuration, and location. Are other locations/configurations of this access feasible? For example, it appears from the submitted site plan that the access road could be moved further towards the southern property boundary. Or, could the fire access road be reconfigured to run parallel with the western property boundary? Commission staff believes that both of these alternatives could free up additional space allowing the tanks to be removed from the forest area and onto the existing disturbed tank site. Please explain why such alternatives are not feasible. Is it feasible to design a fire access road that also serves a drainage function to resolve constraints posed by existing drainage patterns (e.g. by using a small retaining wall to direct drainage away from adjacent properties)?

In addition, there has been discussion of the need for the fire responders to access the informal path or trail that is immediately east of the current tank site. It is unlikely that these paths will maintain their current configuration if the tank storage site encroaches into the forested area immediately to the north, as this would then provide a path that would dead end into the fencing around the tanks. Please explain the functioning of the fire access in light of possible future site changes.

Construction Phasing and Operations

Another major design constraint according to the District is the need to maintain at least 200,000 gallons of water storage at the site while the project is being constructed. The District asserts that both existing tanks must remain online during construction of the first replacement tank. Please explain why this is the case and whether there are any feasible alternatives for providing temporary water supply at other locations or through temporary reallocations of water within the system. It has been discussed on numerous occasions with the County and the District that one way of overcoming this constraint is to use a temporary water storage tank during construction. A temporary water tank built within the districts property would allow one tank to be taken out of service, thereby freeing up additional onsite space. Based on the site plans provided, it appears that a temporary tank could be accommodated on the existing Pine Knolls tank site. In a letter dated November 29, 2004 the District states that their consultants concluded that the use of temporary tanks would require the destruction of over 12,000 square feet of forest habitat. Please provide the data to support this contention. A second concern with respect to a temporary tank is that it would require construction of a permanent foundation and could not be placed on gravel. Please explain why the temporary tank would require a more

permanent foundation than is available now. Please address whether it is feasible to provide a temporary water tank on site or at another location.

Lastly, we would like to better understand the long-term operation and maintenance requirements, as this information relates to setbacks, distance necessary around the tanks, and the like. Please describe in detail all maintenance requirements, including the type and operating specifications of the equipment needed for maintenance (e.g. the stated need for a scissor lift for painting) and any regulatory requirements that may dictate maintenance constraints. In addition, please provide a current construction schedule for the project.

We look forward to continuing to coordinate our review of the project with the County and CCSD. As more information is developed, and as the County's coastal development permit process proceeds, we may have additional questions and information needs. We have made this project a high priority for the agency and will continue to allocate staff as necessary to expedite processing of the project. We remain hopeful that by continuing to work together that we can identify a feasible project that meets the water supply needs of the community and the habitat protection requirements of the County's LCP. If you have any questions regarding these comments or wish to discuss them further, please contact me at 831-427-4863.

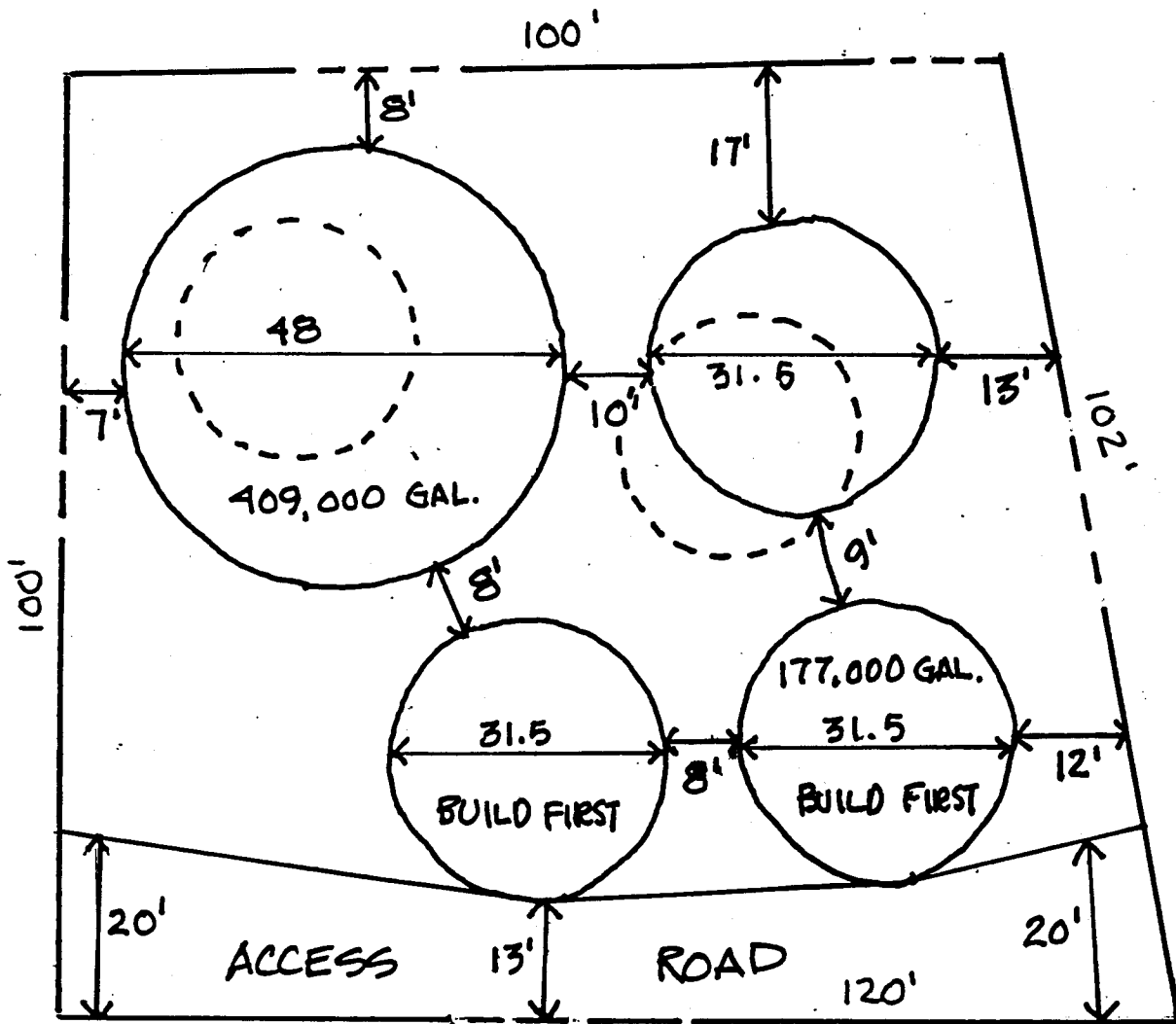
Sincerely,

Charles Lester
By *9B*

Charles Lester
Deputy Director
Santa Cruz District Office

Cc: Matt Janssen, SLO County Planning and Building

CCC Exhibit 0
(page 1 of 1 pages)

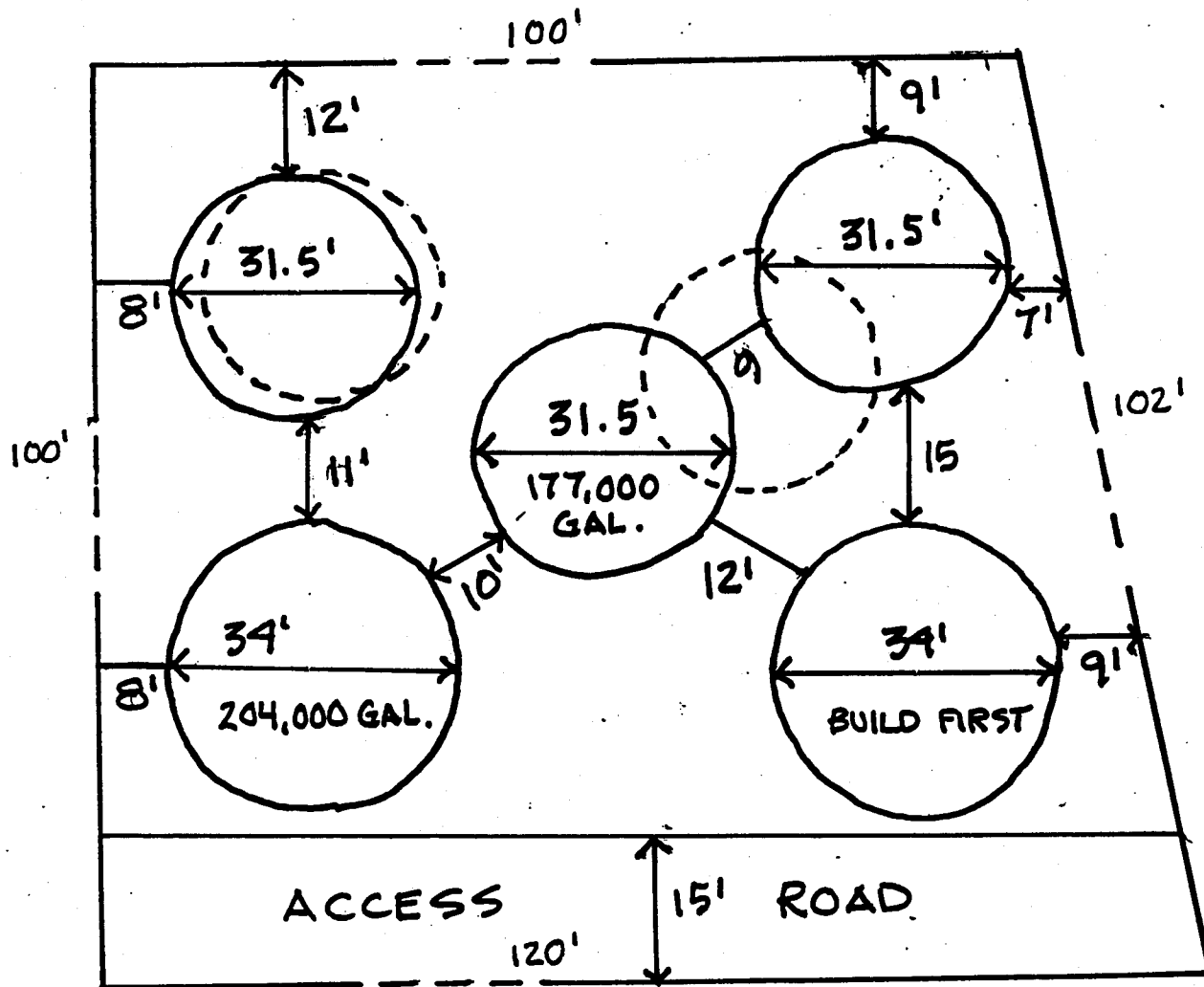


REVISED ALTERNATIVE "A"

Four Tanks (all 29.5' water depth, overall height 32')

- One 48' diameter tank, 409,000 gallon capacity
- Three 31.5' diameter tanks, 177,000 gallon capacity each
- Total water storage capacity 940,000 gallons

Existing tanks shown by dotted line
20 scale (1 inch equals 20 feet)

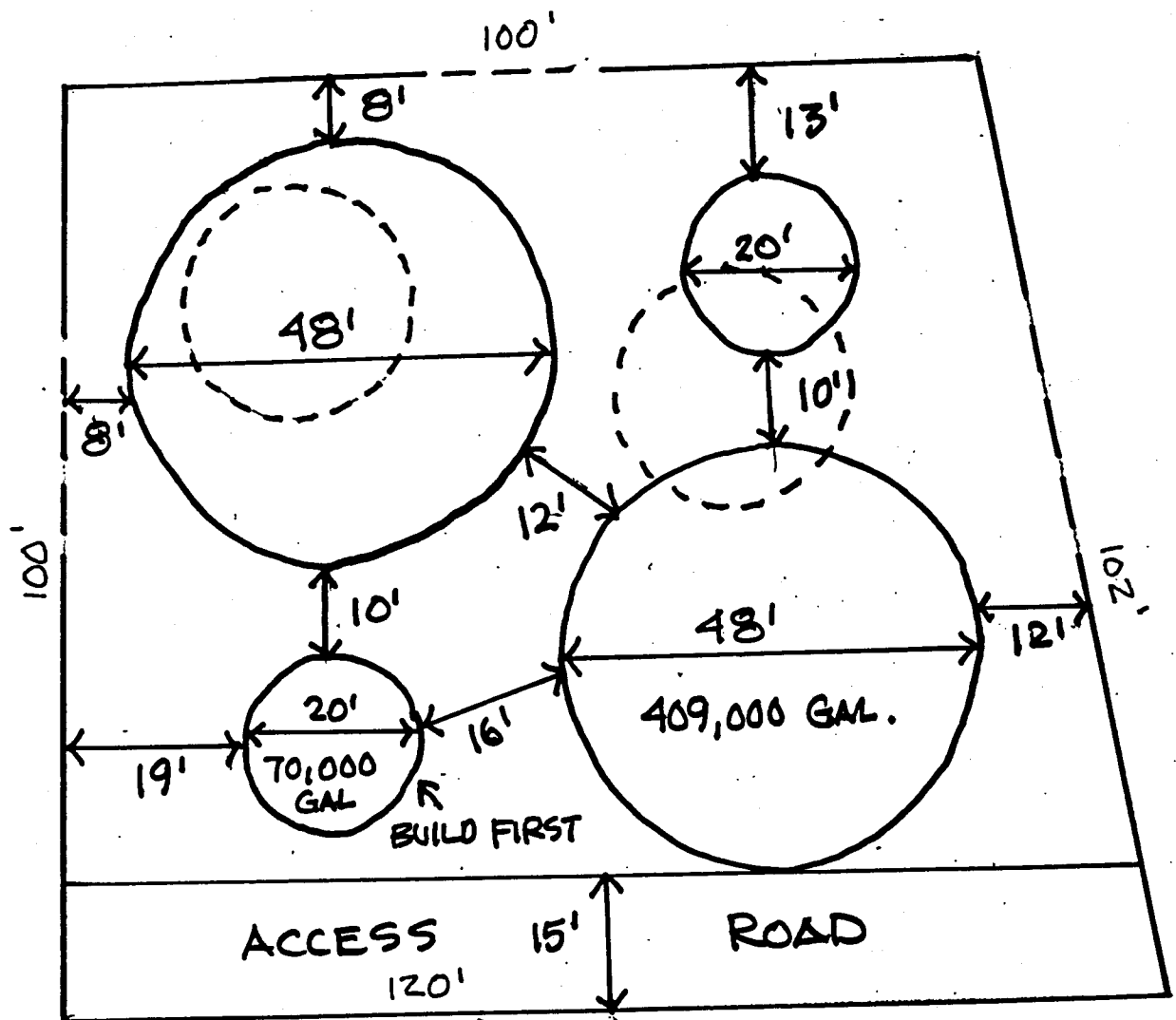


REVISED ALTERNATIVE "B"

Five Tanks (all 29.5' water depth, overall height 32')

- Three 31.5' diameter tanks, 177,000 gallon capacity each
- Two 34' diameter tanks, 204,000 gallons capacity each
- Total water storage capacity 939,000 gallons

Existing tanks shown by dotted line
20 scale (1 inch equals 20 feet)

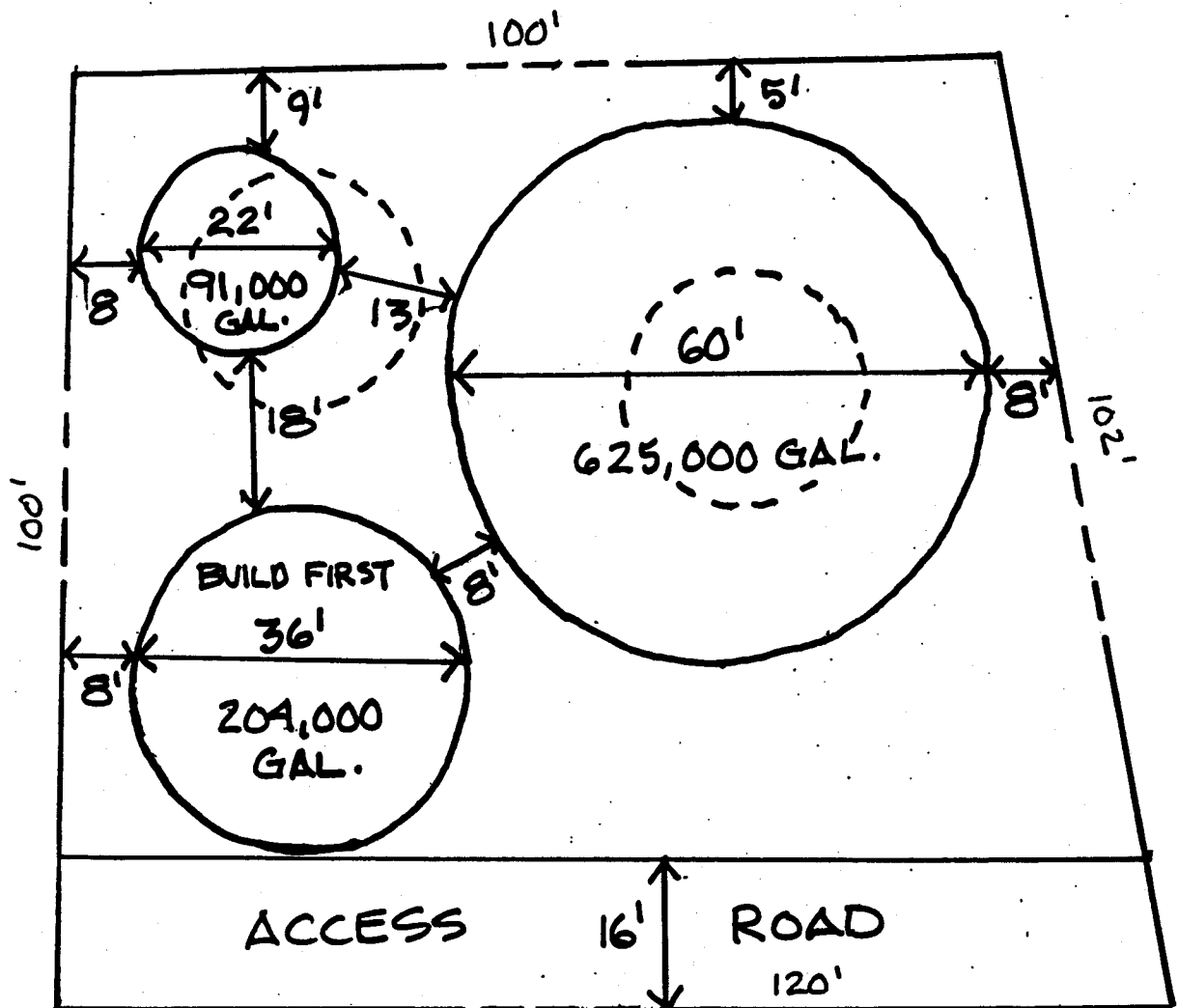


REVISED ALTERNATIVE "C"

Four Tanks (all 29.5 water depth, overall height of 32')

- Two 48' diameter tanks, 409,000 gallons capacity each
- Two 20' diameter tanks, 70,000 gallons capacity each
- Total water storage capacity 958,000 gallons

Existing tanks shown by dotted line
20 scale (1 inch equals 20 feet)



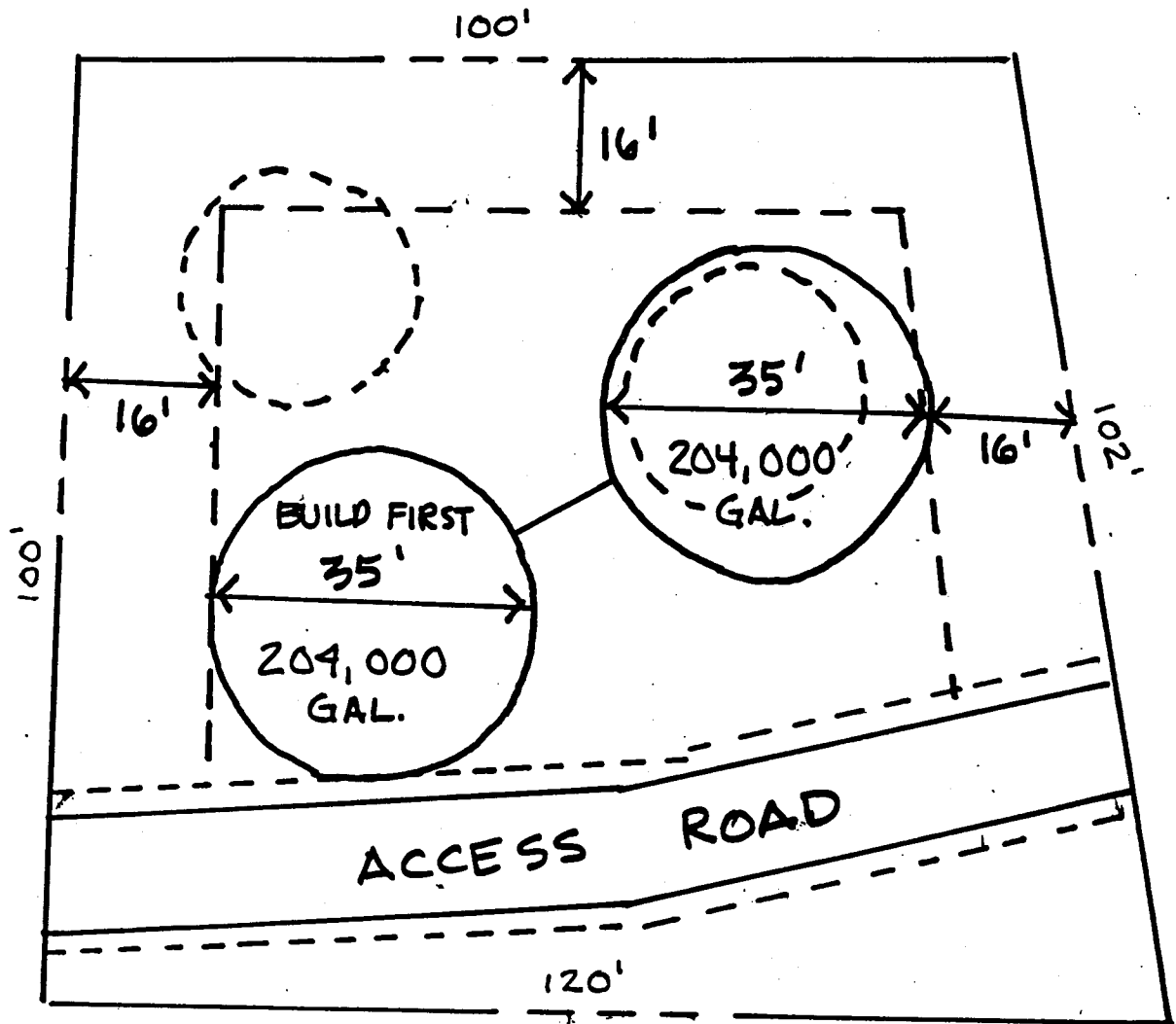
REVISED ALTERNATIVE "D"

Three Tanks (all 29.5 water depth, overall height of 32')

- One 60' diameter tank, 625,000 gallons capacity
- One 35' diameter tank, 204,000 gallon capacity
- One 22' diameter tank, 91,000 gallon capacity
- Total water storage capacity 920,000

Existing tanks shown by dotted line

20 scale (1 inch equals 20 feet)



ALTERNATIVE "E"

Site plan complies with all CCSD criteria for set backs, clearances, access road, tank height, and water depth levels

- Two 35' diameter tanks (29.5 water depth, overall height of 32')
- Tank capacity of 204,000 gallons each
- Total water storage 408,000 gallons

Existing Tanks shown by dotted line
20 scale (1 inch equals 20 feet)

SAND CITY WATER STORAGE TANKS

SAND CITY WATER TANK PROJECT

HIGHWAY 1

8" FEEDWATER
6" CONCENTRATE

5' SETBACK
FROM FENCE

3' SETBACK
FROM FENCE

425,000 GAL
STORAGE TANK

425,000 GAL
STORAGE TANK

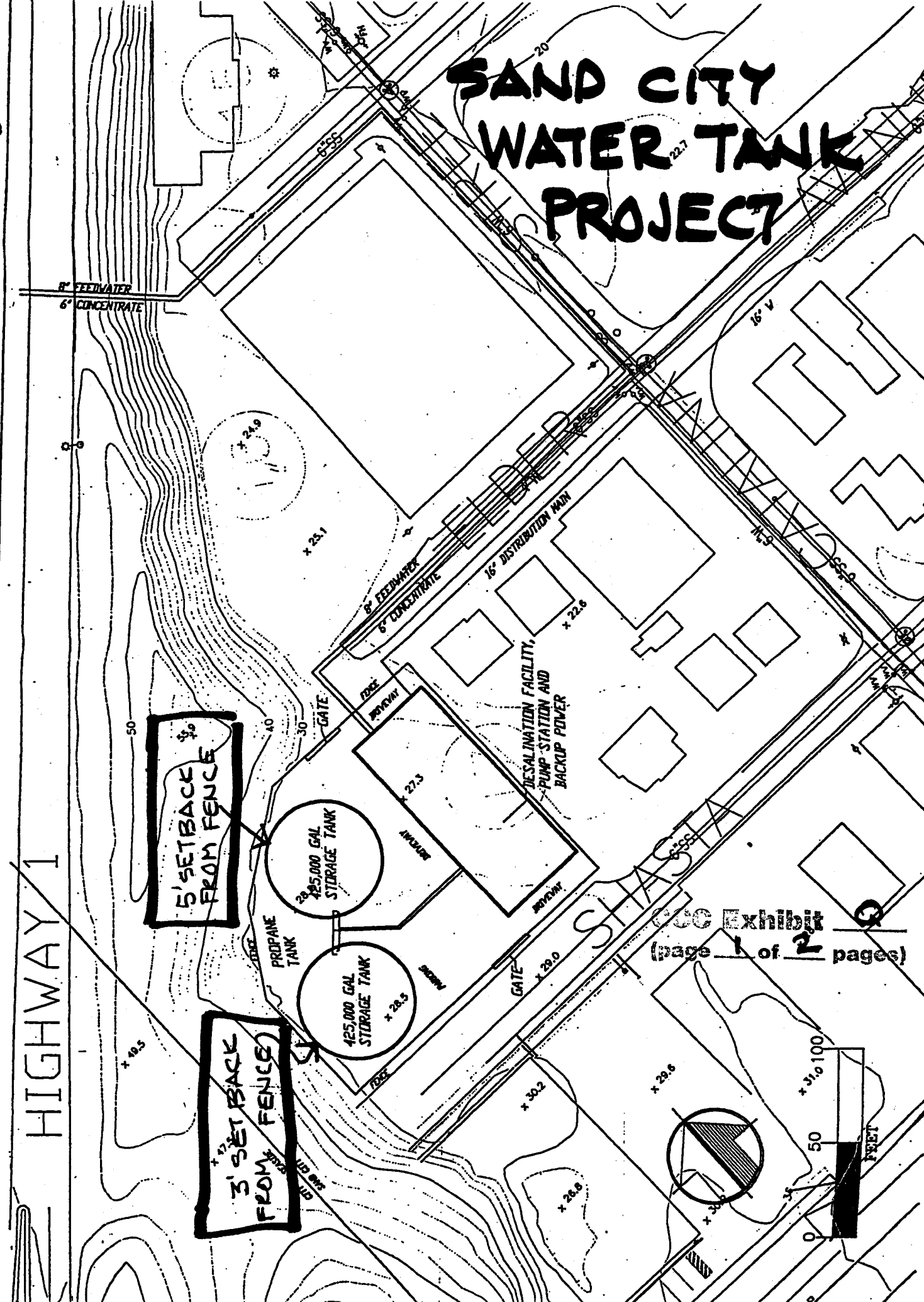
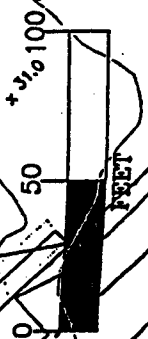
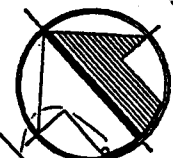
PROpane
TANK

8" FEEDWATER
6" CONCENTRATE

DESALINATION FACILITY,
PUMP STATION AND
BACKUP POWER

16" DISTRIBUTION MAIN

Exhibit
(page 1 of 2 pages)



LOS OSOS WATER STORAGE TANKS

