

## CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
(805) 585-1800

# F14.5a



## ADDENDUM

**DATE:** May 11, 2016  
**TO:** Commissioners and Interested Parties  
**FROM:** South Central Coast District Staff  
**SUBJECT:** Agenda Item 14.5a on Friday, May 13, 2016  
Appeal A-4-STB-16-0046 (McGaughey, Santa Barbara County)

[Click here to go to original staff report](#)

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The purpose of this addendum is to attach and respond to correspondence received from the applicant's agent, Graham Lyons, on May 11, 2016 (Attachment 1).

In the letter, the applicant's agent asserts that the approved development is considered part of the principal permitted use (single family residence) on the subject residential-zoned property and should not be subject to the Commission's appellate jurisdiction. The agent argues that Section 35-71.3 of the County's certified Coastal Zoning Ordinance allows "uses, buildings, and structures accessory and customarily incidental to the above uses" as a permitted use in the single family residential zone district and that the approved water tank development fits this definition. In response, Commission staff would note that Section 30603(a)(4) of the Coastal Act provides that approval by a coastal county of any development that is not designated in the LCP as "the principal permitted use" is appealable to the Coastal Commission. Santa Barbara County's certified Coastal Zoning Ordinance lists a range of "permitted uses" for each zone district. In the single family residential zone district where the subject property is located, only a single family residence and related development that is customarily incidental to a single family residence is considered "the principal permitted use". In this case, the approved water tanks for the storage of nearly 34,000 gallons of delivered water per week from off-site are not considered customarily incidental to a single family residence and cannot be considered part of the principally permitted use. Furthermore, the property is already connected to a water service line and receives an appropriate supply of water from the Montecito Water District (MWD), which provides further evidence that the water tanks are not part of the principally permitted use. Thus, the County's action approving the development is appealable to the Commission and the County provided proper notification of this fact in their Notice of Final Action.

# Mullen & Henzell L.L.P.

ATTORNEYS AT LAW

Agenda Item No. F14.5a  
Appeal No. A-4-STB-16-0046  
Applicant: Linda McGaughey  
Opposing Appeal



e-mail: glyons@mullenlaw.com

May 11, 2016

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**Re: Appeal – Substantial Issue**  
**Appeal No. A-4-STB-16-0046 – McGaughey Water Tanks Project**  
**1965 Jelinda Drive, Montecito, CA 93108**

Dear Commissioners and Staff:

We represent Linda Page McGaughey, the owner of 1965 Jelinda Drive, Montecito, California (the “Property”). As you know, Santa Barbara County (the “County”) granted Ms. McGaughey approval for a Coastal Development Permit to make certain improvements on the Property, including the installation of water tanks (Case No. 15CDP-00000-00011) (the “McGaughey CDP”). We now write regarding the pending appeal of the McGaughey CDP (the “Appeal”) brought by Commissioners Steve Kinsey and Effie Turnbull-Sanders. As discussed below, the development contemplated by the McGaughey CDP constitutes a “principal permitted use” pursuant to Santa Barbara County’s Coastal Zoning Ordinance, and as a result, falls outside the Commission’s appellate jurisdiction. We therefore request that the Commission find there is no substantial issue based on lack of jurisdiction.

**1. The Coastal Commission Has Limited Appellate Jurisdiction After Certificate of a Local Coastal Plan**

After certification of a Local Coastal Plan, the Commission has appellate jurisdiction only over Coastal Development Permits (CDPs) issued for those developments described in Public Resources Code section 30603(a). Under that section, unless a development is located within specified geographic areas (including a “sensitive coastal resource area”) or constitutes a “major public works project or a major energy facility,” the Commission’s appellate jurisdiction is limited to developments that are “not designated as the principal permitted use” under the zoning ordinance or zoning district map. (Pub. Res. Code, § 30603(a)(4).)



In other words, if a county has a certified local coastal plan, “[the] county’s approval of a ‘principal permitted use’ development within a coastal zone is not appealable to the California Coastal Commission.” (*DeCicco v. California Coastal Com.* (2011) 199 Cal.App.4th 947, 949.) Since Santa Barbara County has certified a local coastal plan, these rules apply.

**2. The Water Tanks Called for by the McGaughey CDP Constitute a “Principal Permitted Use” Under the Coastal Zoning Ordinance**

The Commission’s Staff Report states that “the County’s CDP approval is appealable to the Coastal Commission because the permitted development does not constitute a principal permitted use.” (Staff Report, Appeal No. A-4-STB-16-0046, p.4.) However, Section 35-71.3 of the Coastal Zoning Ordinance for Santa Barbara County, which sets forth the principal permitted uses for land zoned E-1 (such as the Property), expressly permits the uses contemplated by the McGaughey CDP.

Section 35-71.3 provides a specific list of permitted uses within the E-1 zone. Among the permitted uses are “[u]ses, buildings, and structures accessory and customarily incidental to the above uses.” (Section 35-71.3, subd. 1, 10.). The improvements contemplated in the McGaughey CDP fall squarely within this permitted use and do not require a conditional use permit or any variance to the zoning ordinance.

Section 35-71.3 does not differentiate between or prioritize any of the listed permitted uses; all uses are all equally characterized as “permitted uses”. It is not within the Coastal Commission’s purview to arbitrarily designate certain permitted uses as principal, and others as not. The County’s Coastal Zoning Ordinance, which was certified by the Coastal Commission, makes no such distinction and it is not appropriate for the Commission to try and do so now.

**3. The Circumstances of the County’s Issuance of the CDP Are Consistent With the County’s Understanding That the Water Tanks Constitute Principal Permitted Uses**

Based on the circumstances surrounding the issuance of the McGaughey CDP, the County clearly understood that the contemplated improvement constituted a principal permitted use under the Coastal Zoning Ordinance. The County did not issue a Notice of Final Action until seven weeks after its decision became final, and even then, it is our understanding County staff issued the Notice of Final Action only because the Coastal Commission specifically requested it. During the seven-week

California Coastal Commission  
May 11, 2016  
Page 3

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period after the decision became final, the County was moving forward with the procedural steps required to issue the final permit. These actions show that not even the County believed the McGaughey CDP was appealable to the Coastal Commission.

**4. Conclusion**

Because the McGaughey CDP only contemplates uses that are “principal permitted uses” under the Coastal Zoning Ordinance, the Commission is barred from hearing the Appeal and has no basis to determine that a substantial issue exists. For the foregoing reasons, we respectfully request on behalf of Ms. McGaughey that the Commission refuse to hear the Appeal and allow the County to continue processing issuance of the final permit.

We appreciate your attention to this matter. Please contact us with any questions. Thank you.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Graham M. Lyons', with a long horizontal flourish extending to the right.

Graham M. Lyons of  
**Mullen & Henzell L.L.P**

GML:rpl  
G:\14429\0006\CORRO\75303.DOCX

## CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
(805) 585-1800

**F14.5a**

Appeal Filed: 4/5/16  
49<sup>th</sup> Day: 6/3/16  
Staff: W. Horn - V  
Staff Report: 4/28/16  
Hearing Date: 5/13/16

**STAFF REPORT: APPEAL - SUBSTANTIAL ISSUE**

**APPEAL NO.:** A-4-STB-16-0046

**LOCAL GOVERNMENT:** County of Santa Barbara

**LOCAL DECISION:** Approval with Conditions

**APPLICANTS:** Linda McGaughey

**APPELLANTS:** Commissioner Steve Kinsey and Commissioner Effie Turnbull-Sanders

**PROJECT LOCATION:** 1965 Jelinda Drive, Santa Barbara County (APN 007-500-017)

**PROJECT DESCRIPTION:** Request for after-the-fact approval for installation of two 3,500 gallon water storage tanks and one 1,500 gallon water storage tank used to store water for the irrigation of existing landscaping on the subject residential property, and water delivery service for the proposed tanks by truck up to four times per week. The project also includes after-the-fact approval for demolition of a 405 sq. ft. pergola that was installed adjacent to the water storage tanks.

**MOTION & RESOLUTION: Pages 5-6**

**NOTE:** The Commission will not take public testimony during this phase of the appeal hearing unless at least three commissioners request it. The Commission may ask questions of the Applicant, any aggrieved person, the Attorney General, or the Executive Director prior to determining whether or not to take testimony regarding whether the appeal raises a substantial issue. If the Commission takes testimony regarding whether the appeal raises a substantial issue, testimony is generally (and at the discretion of the Chair) limited to three minutes total per side. Only the Applicant, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify during this phase of the hearing. If the Commission finds that the appeal raises a substantial issue, it will schedule the de novo phase of the hearing for a future meeting, during which it will take public testimony. Written comments may be submitted to the Commission during either phase of the hearing.

**SUMMARY OF STAFF RECOMMENDATION: SUBSTANTIAL ISSUE EXISTS**

Staff recommends that the Commission determine that a **substantial issue** exists with respect to the grounds on which the appeal has been filed. The **motion** and **resolution** for a “no substantial issue” finding (for which a “no” vote is recommended) are found on **page 5-6**.

**Summary of Staff Recommendation Continued:**

The County of Santa Barbara (County) approved a Coastal Development Permit (CDP) (No. 15CDP-00000-00011) for after-the-fact approval of two 3,500 gallon water storage tanks and one 1,500 gallon water storage tank used to store water for the irrigation of existing landscaping on the subject property, and water delivery service for the proposed tanks by trucks up to four times per week. The project also includes after-the-fact approval for demolition of a 405 sq. ft. pergola that was installed adjacent to the water storage tanks. The project site is located on a 2.99-acre residential property located at 1965 Jelinda Drive in Montecito, Santa Barbara County.

The standard of review at this stage of an appeal requires the Commission to determine whether the appeal raises a substantial issue with respect to the grounds stated in the appeal relative to the conformity of the approved development with the standards in the certified Local Coastal Program (see Page 6 for appeal grounds).

The appellants contend that the approved project is not consistent with policies and provisions of Santa Barbara County's certified Local Coastal Program (LCP) and Coastal Act provisions incorporated into the LCP with regard to existing public services and new development, protection of water resources, and energy consumption and vehicle miles traveled, including Land Use Plan (LUP) Policies 1-4, 2-2, 2-4, 2-5, 2-6, Coastal Act Sections 30231, 30250(a), 30253(d), (as incorporated into the LCP pursuant to Policy 1-1), and Coastal Zoning Ordinance (Article II) Sections 35-60.1, 35-60.3, 35-60.4, and 35-60.5.

In its approval of the permit the County did not sufficiently analyze the proposed development to ensure that the project is consistent with all of the policies of the certified LCP. The approved development requires a quantity of water that greatly exceeds the capacity of the existing public service, requires trucking of water from outside sources resulting in significant miles traveled and energy consumed, and was not sufficiently analyzed or conditioned to prevent significant impacts to coastal water sources. The permit also allows the project to circumvent the water use restrictions imposed by the existing public service, thus setting a precedent for future interpretation of the County's LCP. Lastly, the County's action raises issues of regional and statewide significance because it ignores Governor Brown's previous executive orders to voluntarily reduce water consumption and circumvents Governor Brown's executive order issued April 1, 2015 mandating substantial water reductions across the state.

Staff recommends that the Commission find that a substantial issue exists with respect to the grounds raised by Commissioners Kinsey and Turnbull-Sanders on this subject appeal, relative to the approved project's conformity to the policies and provisions of the certified LCP.

## TABLE OF CONTENTS

<b>I. APPEAL JURISDICTION AND PROCEDURES .....</b>	<b>4</b>
A. APPEAL PROCEDURES.....	4
1. <i>Appeal Areas</i> .....	4
2. <i>Grounds for Appeal</i> .....	4
3. <i>Substantial Issue Determination</i> .....	4
4. <i>De Novo Permit Hearing</i> .....	5
B. LOCAL GOVERNMENT ACTION AND FILING OF APPEAL.....	5
<b>II. STAFF RECOMMENDATION FOR SUBSTANTIAL ISSUE.....</b>	<b>5</b>
<b>III. FINDINGS AND DECLARATIONS FOR SUBSTANTIAL ISSUE.....</b>	<b>6</b>
A. PROJECT DESCRIPTION AND BACKGROUND .....	6
B. SUMMARY OF APPEAL CONTENTIONS .....	6
C. ANALYSIS OF SUBSTANTIAL ISSUE.....	7
1. <i>Existing Public Services and New Development</i> .....	7
2. <i>Protection of Water Resources</i> .....	11
3. <i>Energy Consumption and Vehicle Miles Traveled</i> .....	12
4. <i>Substantial Issue Factors Considered by Commission</i> .....	13

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### APPENDIX A: Substantive File Documents

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### EXHIBITS

- Exhibit 1. [Vicinity Map](#)
- Exhibit 2. [Site Map](#)
- Exhibit 3. [Project Plans](#)
- Exhibit 4. [MWD Ordinance No. 94](#)
- Exhibit 5. [Commission Appeal Form](#)

## **I. APPEAL JURISDICTION AND PROCEDURES**

### **A. APPEAL PROCEDURES**

The Coastal Act provides that after certification of Local Coastal Programs (LCPs), a local government's actions on Coastal Development Permit applications for development in certain areas and for certain types of development may be appealed to the Coastal Commission. Local governments must provide notice to the Commission of their coastal development permit actions. During a period of ten working days following Commission receipt of a notice of local permit action for an appealable development, an appeal of the action may be filed with the Commission.

#### **1. Appeal Areas**

Approvals of CDPs by cities or counties may be appealed if the development authorized is to be located within the appealable areas, which include the areas between the sea and the first public road paralleling the sea, 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 greater, on state tidelands, or along or within 100 feet of natural watercourses and lands within 300 feet of the top of the seaward face of a coastal bluff. (Coastal Act Section 30603(a)). Any development approved by a County that is not designated as a principal permitted use within a zoning district may also be appealed to the Commission irrespective of its geographic location within the Coastal Zone. (Coastal Act Section 30603(a)(4)). Finally, developments which constitute major public works or major energy facilities may be appealed to the Commission. (Coastal Act Section 30603(a)(5)).

In this case, the County's CDP approval is appealable to the Coastal Commission because the permitted development does not constitute a principal permitted use.

#### **2. Grounds for Appeal**

The grounds for appeal of a local government approval of development shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in the Coastal Act (See Public Resources Code Section 30603(b)(1)).

#### **3. Substantial Issue Determination**

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue exists with respect to the grounds on which the appeal was filed. When Commission staff recommends that a substantial issue exists with respect to the grounds of the appeal, a substantial issue is deemed to exist unless three or more Commissioners wish to hear arguments and vote on the substantial issue question. If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side, at the Chair's discretion, to address whether the appeal raises a substantial issue. Pursuant to Section 13117 of the Commission's regulations, the only persons qualified to testify before the Commission at the substantial issue stage of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. It takes a majority of Commissioners present to find that no substantial issue is raised by the appeal.

#### **4. De Novo Permit Hearing**

Should the Commission determine that a substantial issue exists, the Commission will consider the CDP application de novo. The applicable test for the Commission to consider in a de novo review of the project is whether the proposed development is in conformity with the certified Local Coastal Program and, if the development is between the sea and the first public road paralleling the sea, the public access and recreation policies of the Coastal Act. Thus, the Commission's review at the de novo hearing is *not* limited to the appealable development as defined in this Section I. If a de novo hearing is held, testimony may be taken from all interested persons.

### **B. LOCAL GOVERNMENT ACTION AND FILING OF APPEAL**

On March 27, 2015, the Santa Barbara County Planning Director approved the subject CDP (No. 15CDP-0000-00011) for the demolition of an existing unpermitted 405 sq. ft. pergola, after-the-fact approval for installation of two 3,500 gallon water storage tanks and one 1,500 gallon water storage tank used to store water for the irrigation of existing landscaping on the subject property, and water delivery service for the proposed tanks by trucks up to four times per week. Approval of the subject CDP was appealed to the County's Montecito Planning Commission on March 31, 2015 by Theodore Klein. The Montecito Planning Commission approved the subject CDP on February 17, 2016.

The Notice of Final Action for the project was received by Commission staff on April 4, 2016. A ten working-day appeal period was set and notice provided beginning April 4, 2016, and extending to April 19, 2016.

An appeal of the County's action was filed by Commissioners Steve Kinsey and Effie Turnbull-Sanders on April 15, 2016, during the appeal period. Commission staff notified the County, the applicant, and interested parties that were listed on the appeal form and requested that the County provide its administrative record for the permit. The administrative record was received on April 18, 2016.

## **II. STAFF RECOMMENDATION FOR SUBSTANTIAL ISSUE**

**MOTION:**        *I move that the Commission determine that Appeal No. A-4-STB-16-0046 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

### **STAFF RECOMMENDATION:**

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 (i.e., a tied vote results in a finding that a "substantial issue" is raised).

### **RESOLUTION TO FIND SUBSTANTIAL ISSUE:**

The Commission hereby finds that Appeal No. A-4-STB-16-0046 raises 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 and/or the public access and recreation policies of the Coastal Act.

### **III. FINDINGS AND DECLARATIONS FOR SUBSTANTIAL ISSUE**

The Commission hereby finds and declares:

#### **A. PROJECT DESCRIPTION AND BACKGROUND**

The project approved by the County includes after-the-fact approval for installation of two 3,500 gallon water storage tanks and one 1,500 gallon water storage tank used to store water for the irrigation of existing landscaping on a property developed with an existing residence, and water delivery service for the proposed tanks by trucks up to four times per week. The project also includes after-the-fact approval for demolition of an unpermitted 405 sq. ft. pergola that was installed adjacent to the water storage tanks.

The project site is located at 1965 Jelinda Drive within a developed residential neighborhood of the Montecito area, Santa Barbara County (APN 007-500-017). The subject parcel is 2.99 acres in size and bounded on the east by Jelinda Drive and bounded on all other sides by existing residential development ([Exhibit 1](#)). Existing development on the subject site consists of an existing single-family residence constructed in 1988 and a swimming pool and cabana. On July 31, 2014, the County opened a Zoning Violation Case (No. 14ZEV-00000-00168) after discovery of unpermitted development on the subject property consisting of a 405 sq. ft. pergola, two 3,500 gallon water storage tanks, and one 1,500 gallon water storage tank. To resolve the violation, the property owner applied for the subject CDP, requesting after-the-fact authorization to retain the unpermitted water storage tanks and to demolish the unpermitted pergola. The water tanks are situated in the northern portion of the residential property, in an area that was previously developed with retaining walls and other landscaping ([Exhibit 2](#)). No grading or native vegetation removal was required to accommodate the water tanks ([Exhibit 3](#)). The site is currently served by the Montecito Water District (MWD) and is provided monthly water allotments pursuant to Ordinance No. 94 adopted by the MWD on March 24, 2015 ([Exhibit 4](#)).

#### **B. SUMMARY OF APPEAL CONTENTIONS**

The appeal filed by Commissioners Kinsey and Turnbull-Sanders is attached as [Exhibit 5](#). The appeal grounds assert that the approved development is inconsistent with the County of Santa Barbara's Local Coastal Program (LCP) with regard to existing public services and new development, protection of water resources, and energy consumption and vehicle miles traveled, including Land Use Plan (LUP) Policies 1-4, 2-2, 2-4, 2-5, 2-6, Coastal Act Sections 30231, 30250(a), 30253(d) (as incorporated into the LCP pursuant to Policy 1-1), and Coastal Zoning Ordinance (Article II) Sections 35-60.1, 35-60.3, 35-60.4, and 35-60.5.

## C. ANALYSIS OF SUBSTANTIAL ISSUE

Pursuant to Sections 30603 and 30625 of the Coastal Act, the appropriate standard of review for an appeal is whether a substantial issue exists with respect to the grounds raised by the appellants relative to the project's conformity to the policies contained in the certified County of Santa Barbara Local Coastal Program (LCP) or the public access policies of the Coastal Act. The appellants contend that the project, as approved by the County, is inconsistent with the County of Santa Barbara's LCP policies with regard to existing public services and new development, energy consumption, and protection of water resources. No public access policies were raised here.

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question" (Cal. Code Regs., Title 14, Section 13115(b)).

In evaluating the issue of whether the appeal raises a substantial issue, the Commission considers the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretation of its LCP; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

In this case, for the reasons discussed below, the Commission determines that the appeal raises a **substantial issue** with regard to the grounds on which the appeal has been filed.

### 1. Existing Public Services and New Development

The appellants assert that the proposed project fails to conform with the following LCP policies and provisions regarding the capacity of existing public services to serve new development.

Land Use Plan (LUP) Policy 1-1 states that all Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified County LUP as guiding policies.

LUP Policy 1-4 states:

*Prior to the issuance of a coastal development permit, the County shall make the finding that the development reasonably meets the standards set forth in all applicable land use plan policies.*

LUP Policy 2-4 and Article II CZO Section 35-60.3 state:

*Within designated urban areas, new development other than that for agricultural purposes shall be serviced by the appropriate public sewer and water district or an existing mutual water company, if such service is available.*

LUP Policy 2-5 and Article II CZO Section 35-60.4 state:

*Water-conserving devices shall be used in all new development.*

LUP Policy 2-6 and Article II CZO Section 35-60.5 state in relevant part:

*Prior to issuance of a development permit, the County shall make the finding based on information provided by environmental documents, staff analysis, and the applicant, that adequate public or private services and resources (i.e. water, sewer, roads, etc.) are available to serve the proposed development. The applicant shall assume full responsibility for costs incurred in service extensions or improvements that are required as a result of the proposed project. Lack of available public or private services or resources shall be the grounds for denial of the project or reduction in the density otherwise indicated in the land use plan...*

Coastal Act Policy 30250(a) states in relevant part:

*New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, or contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources...*

As described above, the approved CDP includes installation of three water storage tanks (two 3,500 gallon water storage tanks and one 1,500 gallon water storage tank) used to store water for irrigating the existing landscaping on the subject property, and water delivery service for the proposed tanks by truck up to four times per week (to provide up to 34,000 gallons of water per week for landscaping).

Per the approved Land Use Designations Map for the Montecito Community Plan and the Coastal Plan, the project site is located within a designated urban area of Montecito and the site already receives municipal water services from the Montecito Water District (MWD). The MWD's primary sources of water are Jameson Lake and Lake Cachuma, which, as of March 2016, were both below 15% capacity. In addition to the decreasing levels at Jameson Lake and Lake Cachuma, the loss of private water wells in the Montecito area due to decreased groundwater levels through the lack of groundwater recharge and continuing dry weather conditions has led to a significant increase in water demand from the MWD. The MWD also depends on water deliveries for the State Water Project, however even with state water deliveries the MWD only has sufficient water supplies to last until the middle of 2017.

The State of California is currently facing one of the most severe droughts on record. In January 2014, the Governor declared a drought State of Emergency and asked that officials throughout the state take all necessary actions to prepare for water shortages. To manage remaining water supplies and reduce customer water usage the MWD enacted Ordinance No. 92 on February 11, 2014, which declared a stage 3 water shortage emergency and mandated water use regulations, including encouraging MWD customers to reduce water consumption by 30%. The regulations

adopted under Ordinance No. 92 were not significant enough to lessen the stress on water supplies and in response the MWD declared a stage 4 water emergency and enacted Ordinance No. 93 which imposed monthly water supply allocation limits on each property and monetary penalties for those customers who exceeded their monthly water allocation. The conservation measures of Ordinance No. 93 proved successful in alleviating the stress on local water supplies. The MWD passed Ordinance No. 94 on March 24, 2015, which updated monthly allocations to customers and prohibited any waste of water ([Exhibit 4](#)). Pursuant to Section 8.2 of Ordinance No. 94, any consumption of water that is in excess of 25% of the mandated monthly allocations shall result in the installation of a flow restriction device on the service lines for the account. Additionally, any account that is fitted with a flow restriction device, that continues to exceed the allowable monthly allocation, shall be subject to discontinuation of water service. Water service for the account will not be restored until a water management plan is implemented to ensure that future consumption will not exceed the allowable monthly allocations.

Single Family Residential (SFR) accounts serviced by the MWD under Ordinance No. 94 are allocated 25 Hundred Cubic Feet (HCF) per month for essential health and sanitation purposes. In addition, SFR accounts are provided monthly water allocations for non-essential uses. The total water allocation for a SFR, including non-essential uses, is determined by multiplying the adjusted annual total of 140 HCF by the Monthly Allocation Factor (MAF) for the SFR class of development by the acreage of the parcel.

$$\text{Monthly Water Allocation} = 25 \text{ HCF} + (140 \text{ HCF})(\text{MAF})(\text{acreage})$$

**Table 1. Single Family Residential Monthly Allocation Factors**

<i>Month</i>	<i>Jul</i>	<i>Aug</i>	<i>Sep</i>	<i>Oct</i>	<i>Nov</i>	<i>Dec</i>	<i>Jan</i>	<i>Feb</i>	<i>Mar</i>	<i>Apr</i>	<i>May</i>	<i>Jun</i>
<i>MAF</i>	.115	.113	.107	.095	.067	.048	.055	.046	.068	.081	.102	.103

Using this equation, monthly municipal water allocations for the existing single family residence on the subject 2.99-acre parcel is shown in the following table in both HCF<sup>1</sup> and gallons.

**Table 2. Total Monthly Water Allocation per Single Family Residential Account**

<i>Month</i>	<i>Jul</i>	<i>Aug</i>	<i>Sep</i>	<i>Oct</i>	<i>Nov</i>	<i>Dec</i>	<i>Jan</i>	<i>Feb</i>	<i>Mar</i>	<i>Apr</i>	<i>May</i>	<i>Jun</i>
<i>Monthly Allocation Factor (MAF)</i>	.115	.113	.107	.095	.067	.048	.055	.046	.068	.081	.102	.103
<i>Monthly Allocation (HCF)</i>	73.1	72.3	69.8	64.8	53.0	45.1	48.0	44.3	53.5	58.9	67.7	68.1
<i>Monthly Allocation (Gallons)</i>	54,708	57,082	52,203	48,446	39,679	33,729	35,951	33,103	33,992	44,062	50,638	50,951

As indicated in the table above, the total municipal water allocation (for essential and non-essential uses) from MWD for the subject residential property ranges from 33,103 to 57,082 gallons per month, depending on the time of year. In the subject CDP, the County authorized three new water storage tanks on the property that have a total capacity of 8,500 gallons. In addition, the tanks are permitted to receive water from a trucking service up to a maximum of

<sup>1</sup> 1 HCF equals 748 gallons.

four times per week. Specifics on the amount of water to be refilled during each trucking trip are not provided in the project description; however, it is possible that the entire 8,500 gallon capacity of the tanks could be expended and refilled up to four times per week, resulting in a potential maximum consumption of up to 34,000 gallons of water per week. With approximately four weeks in each month, the storage capacity of the tanks could result in a potential maximum consumption of up to 136,000 gallons of water per month. This total is in addition to, and nearly three times the 33,103 to 57,082 gallons per month of water that is already being allocated to the property from the MWD for residential use pursuant to the water preserving restrictions of Ordinance No. 94.

LUP Policy 2-4 and Coastal Zoning Ordinance (CZO) Section 35-60.3 of the County's certified LCP require that development within urban areas be serviced by the appropriate water district or existing mutual water company. The intent of LUP Policy 2-4 and CZO Section 35-60.3 is to ensure that new development is serviced by existing public water services if they are available. Further, LUP Policy 2-5 requires new development to utilize water conservation devices and LUP Policy 2-6 and CZO Section 35-60.5 require that new development is served by adequate public or private services as demonstrated in the necessary environmental documents, staff analysis and the applicant. In this case, the MWD is an existing public water district providing appropriate levels of water to development with respect to the current drought. The LCP requires new development to be served by existing public water providers and does not contain any policies that would allow the installation of on-site water storage to circumvent the MWD's water use restrictions during a water shortage emergency for the purpose of supplemental irrigation where the site's residential development already receives water district services. Thus, the project, which does not utilize water conservation devices or assist in water conservation, directly contravenes Policies 2-4, 2-5, and 2-6 of the County's certified LUP.

The County's findings do not address all of these issues, but simply state that adequate private services are available to service the tanks and that the residence would continue to be serviced by the MWD. The County's record for the project includes a "Water Availability Certification" form which designates RMR Water Truck Services as the water purveyor for the project and states that the water they deliver to the site would be sourced from a location in Castaic (Los Angeles County) outside of the Coastal Zone. However, the County's findings do not address Policy 2-4's requirement that water service be provided by a public water district. Although Policy 2-6 states that new development may be served by public *or* private services, that policy is more broad and applies to sewer, road, and other services in addition to water. While this section may allow development to be served by private roads or sewer systems, its more general provisions are subordinate to the more specific requirement in Policy 2-4 that development in urban areas obtain water from *public* water districts. As discussed earlier, the parcel for the project is within the designated urban area of Montecito and receives water service from the MWD. As such, pursuant to policy 2-4, the parcel shall be serviced by the appropriate water district if such service is available. The County's findings also do not address the ability of the existing water service to provide for the project or why outside sources of water are needed. Accordingly, the County's approval did not include adequate evidence to demonstrate that the project is consistent with all applicable policies of the certified LCP.

The County's certified Coastal Land Use Plan (LUP) also incorporates Coastal Act Policy 30250(a). This policy requires that new development be concentrated in existing developed

areas with adequate public services. Considering the limited water available to the MWD and the restrictions imposed by Ordinance No. 94, the capacity of the subject water storage tanks and potential rate of refill is not consistent with the available public services provided by MWD. While the residential landscaping and associated irrigation system on the subject property is existing and not considered new development, the changed circumstances of the Montecito area with regard to water availability has lessened the ability of MWD to provide water for the new water storage tank development at the time of this permit. If the MWD was capable of providing the volume of water necessary for the permitted tanks at this time, then the trucking of an alternative water source to the site would not be required. Because the storage tanks allow delivery of a volume of water that cannot be provided by the MWD at this time, the project raises substantial issues regarding consistency with Coastal Act Section 30250(a), as incorporated into the LUP.

## **2. Protection of Water Resources**

The appellants assert that the proposed project fails to conform with the following LCP policies and provisions regarding the protection of water resources.

LUP Policy 2-2 and Article II CZO Section 35-60.1 states, in relevant part:

*The long term integrity of groundwater basins or sub-basins located wholly within the coastal zone shall be protected. To this end, the safe yield as determined by competent hydrologic evidence of such a groundwater basin or sub-basin shall not be exceeded except on a temporary basis as part of a conjunctive use or other program managed by the appropriate water district. If the safe yield of a groundwater basin or sub-basin is found to be exceeded for reasons other than a conjunctive use program, new development, including land division and other use dependent upon private wells, shall not be permitted if the net increase in water demand for the development causes basin safe yield to be exceeded, but in no case shall any existing lawful parcel be denied development of one single family residence...*

LUP Policy 2-5 and Article II CZO Section 35-60.4 state:

*Water-conserving devices shall be used in all new development.*

Coastal Act Section 30231 states:

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

As discussed previously, the County's record for the subject CDP includes a "Water Availability Certification" form that was completed by the applicant and designates RMR Water Truck Services as the entity providing water for the project and their source of water would be a location in Castaic (Los Angeles County). RMR Water Truck Services is located in Castaic, Los Angeles County and sources water for its projects from nearby Lake Castaic (which is outside of

the coastal zone). While RMR has indicated in a phone conversation that the source of water for the project is currently Lake Castaic, there is nothing in the County's permit conditions for the project that specifically limits the source of off-site water for the project to that location. As such, water for the project could potentially come from other sources, including sources within the coastal zone or sources hydrologically connected to watersheds that replenish groundwater basin supplies within the coastal zone.

Coastal Act Section 30231 requires that depletion of coastal groundwater supplies shall be minimized. Similarly, LUP Policy 2-2 and CZO Section 35-60.1 require that the long term integrity of basins and groundwater basins within the coastal zone shall be protected. Although the County's findings state that the water sourced to re-fill the storage tanks will be taken from outside of the coastal zone, neither the approved project description or permit conditions require the water to be procured from outside the coastal zone. Additionally, even if the water is sourced from outside of the coastal zone, there is no analysis in the County's record that demonstrates that this water is not collected from water courses with high connectivity to watersheds that replenish groundwater basin supplies within the coastal zone. Further, should RMR and the applicant need to obtain a new source of water for the project within or connected to basins within the coastal zone, the high volume of water required could have significant effects on the long term integrity of those basins, particularly when considered cumulatively with other past, present and reasonably foreseeable projects. The County's permit action does not contain adequate specificity and enforceability regarding where the water used to fill the storage tanks will be sourced to ensure that it will not create significant individual or cumulative impacts to groundwater supplies within the coastal zone. Additionally, large, private water tanks to store water for irrigation of residential land are not water-conserving devices. On the contrary, they allow residential development to avoid conserving water, which would otherwise be required by the MWD. As such, the County's action does not demonstrate that the approved project is consistent with the water resource protection policies of the County's LCP.

### **3. Energy Consumption and Vehicle Miles Traveled**

The appellants assert that the proposed project fails to conform with the following Coastal Act provision (that is incorporated into the County's LCP pursuant to LUP Policy 1-1) regarding energy consumption and vehicle miles traveled to serve new development.

Coastal Act Section 30253(d) states, in relevant part:

*New development shall do all of the following...*

*Minimize energy consumption and vehicle miles traveled.*

The project description approved by the County states that water delivery service for the proposed storage tanks would occur by truck up to four times per week and be limited to no more than twice on Monday and twice on Wednesday. The County's findings for approval of the subject CDP indicate that the trucking service will obtain water to fill the tanks from a water source that is outside of the coastal zone. However, neither the approved project description nor the conditions of approval required by the County include any restrictions on where the water may actually be sourced. The County's record for the CDP includes a "Water Availability Certification" form that was completed by the applicant and designates RMR Water Truck Services as the entity providing water for the project and states that their source of water would

be a location in Castaic (Los Angeles County). Specifics regarding the amount of water that would be transported to refill the 8,500 gallon storage tanks during each trucking trip were not provided in the project description. However, the County's staff report dated January 28, 2016 states that the proposed project would generate eight (8) new traffic trips weekly for the delivery of water to the site. RMR Water Truck Services is located in Castaic, Los Angeles County and verified in a phone conversation that water for the project is sourced from nearby Lake Castaic. The route from RMR Water Truck Services headquarters in Castaic to the project location is approximately 70 miles one way. As discussed earlier, the maximum permitted water deliveries for the project is a total of 8 truck trips per week. Multiplying the approximate trip length for a single truck trip (70 miles) by the number of truck trips permitted weekly to refill the tanks (eight) yields an estimated total driving distance of 560 miles per week. In contrast, no extra vehicle miles would need to be traveled if the property obtained all of its water from the MWD. Considering the long distances driven weekly to provide water for the approved water storage tanks over an indefinite time period, the County's action does not demonstrate that the approved project minimizes energy consumption and vehicle miles traveled, consistent with Coastal Act Section 30253(d) that is incorporated into the County's LCP as a policy.

#### **4. Substantial Issue Factors Considered by Commission**

In evaluating the issue of whether the appeal raises a substantial issue, the Commission considers the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretation of its LCP; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

The first factor in evaluating the issue of whether the appeal raises a substantial issue is the degree of factual evidence and legal support for the local government's decision that the development is consistent with the subject provisions of the certified LCP. In this case, the County's findings did not adequately address the approved development's consistency with the public services, energy consumption, and protection of groundwater resource provisions of the LCP. As discussed previously, the development requires a quantity of water that greatly exceeds the capacity of the existing public service, requires trucking of water from outside sources resulting in significant miles traveled and energy consumed, and was not sufficiently analyzed or conditioned to prevent significant impacts to coastal water resources.

The second factor in evaluating the issue of whether the appeal raises a substantial issue is the extent and scope of the development as approved. As described above, the subject development includes installation of two 3,500 gallon water storage tanks and one 1,500 gallon water storage tank used to store water for irrigating the existing landscaping on the subject property, and water

delivery service for the proposed tanks by trucks up to four times per week (to provide for 34,000 gallons of water per week). While the approved water storage tank development only occupies a small area, the scope of the development as a whole is significant because it involves obtaining scarce water resources from a distance through inefficient trucking of that water.

The third factor in evaluating the issue of whether the appeal raises a substantial issue is the significance of the coastal resources affected by the decision. Water resources are a coastal resource of great significance. The County's permit action does not contain adequate specificity and enforceability regarding the location of the water source used to fill the storage tanks to ensure that it will not create significant individual or cumulative impacts to groundwater supplies within the coastal zone.

The fourth factor in evaluating the issue of whether the appeal raises a substantial issue is the precedential value of the local government's decision for future interpretation of its LCP. The certified County LCP contains strong policies that require new development to be serviced by existing public services, including public water supplies. These policies are intended to ensure that new development is appropriately sized and located in existing developed areas able to accommodate it. The approved development circumvents the water use restrictions imposed by the existing public service, the MWD, and allows storage capacity that greatly exceeds the acceptable levels of water usage during drought conditions. As such, the precedential value of the County's action is significant.

The final factor in evaluating the issue of whether the appeal raises a substantial issue is whether the appeal raises only local issues, or those of regional or statewide significance. The approved development that is the subject of this appeal that involves the transport, storage, and use of water not only raises local issues, but also has implications for resources of regional or statewide significance. The State of California is suffering one of the most prolonged and severe droughts in recent history. Governor Brown has issued several executive orders asking Californians to voluntarily reduce water consumption, and on April 1, 2015, Governor Brown issued an executive order mandating substantial water reductions across the state. The County's action raises issues of regional and statewide significance because it ignores the previous orders to voluntarily reduce water consumption and circumvents the recently issued executive order mandating water reductions.

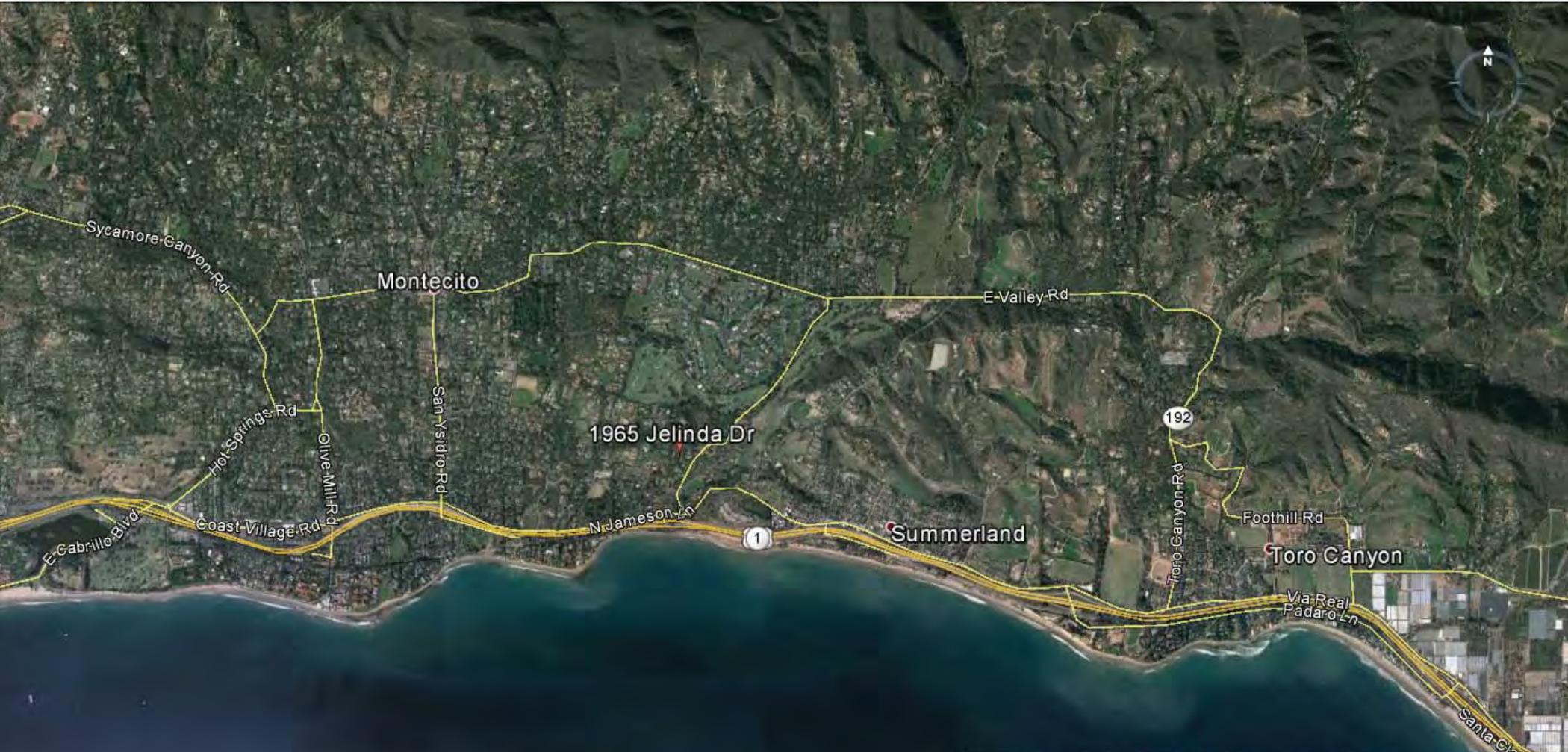
In conclusion, the Commission finds that each of the five factors listed above, used to evaluate whether a substantial issue exists, is satisfied in this case. For the reasons discussed in detail above, the appeal raises a substantial issue with respect to the consistency of the approved development with the policies and provisions of the County's certified LCP with regards to existing public services and new development, protection of water resources, and energy consumption and vehicle miles traveled. In evaluating whether the subject appeal raises a substantial issue, the Commission has explicitly addressed several factors that play a part in identifying if the issues raised in an appeal are significant. The Commission finds that there is not adequate factual and legal support for the County's position that the proposed project complies with LCP policies. Further, because the County has not ensured that the project conforms to the existing policies and provisions of the LCP and has not provided sufficient evidence to support its decision, the project will have adverse precedential value regarding interpretation of the County's LCP for future projects. Therefore, the Commission finds that a

substantial issue exists with respect to the grounds raised by Commissioners Kinsey and Turnbull-Sanders in the subject appeal, relative to the approved project's conformity to the policies and provisions of the certified LCP.

## **APPENDIX A**

### **Substantive File Documents**

Certified Santa Barbara County Local Coastal Plan; Santa Barbara County Montecito Planning Commission Findings and Conditions dated January 19, 2016 (Appeal No. 15APL-00000-00007 and Case No. 15CDP-00000-00011); Memorandum to the Santa Barbara County Montecito Planning Commission Findings and Conditions dated January 28, 2016; Santa Barbara County Notice of Violation (Case No. 14ZEV-00000-00168) dated December 2, 2014; Letter from Graham Lyons of Mullen & Hanzell, LLP to the Montecito Planning Commission dated January 15, 2016; Santa Barbara County Planning & Development Department Water Availability Certification Form dated March 20, 2015; Montecito Water District Board of Supervisors Ordinance No. 92 dated February 11, 2014; Montecito Water District Board of Supervisors Ordinance No. 93 dated February 21, 2014; Montecito Water District Board of Supervisors Ordinance No. 94 dated March 24, 2015; Montecito Water District Newsletter dated March 23, 2016; Montecito Water District Newsletter dated April 22, 2016.



**EXHIBIT 1**  
**A-4-STB-16-0046 (McGaughey)**  
**Vicinity Map**

Data CSUMB SFML, CA OPC  
© 2016 Google  
Data SIO, NOAA, U.S. Navy, NGA, GEBCO





Project Location

1965 Jelinda Dr

Las Entradas Dr

Jelinda Dr

Gould Ln

Sheffield Dr

Google earth

© 2016 Google

EXHIBIT 2  
A-4-STB-16-0046 (McGaughey)  
Site Map

300 ft

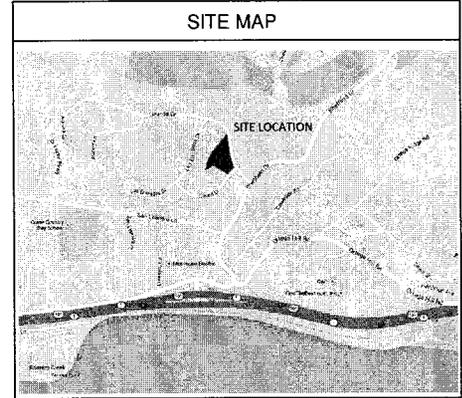


INDEX	
A-1	: PROPOSED SITE & ELECTRICAL PLAN
A-2	: STRUCTURAL AND CONCRETE PLAN

DATA AND AREA	
PARCEL NUMBER:	007-500-017
LAND USE ZONE:	E-1
OCCUPANCY:	R-3
LOT AREA:	2,993 ACRES
RES. 1ST FLOOR:	3,806 SQ. FEET
RES. 2ND FLOOR:	2,074 SQ. FEET
GARAGE/BASEMENT:	1610 SQ. FEET
POOL CABANA:	800 SQ. FEET
NEW ADDITION:	480 SQ. FEET

SCOPE OF WORK
1. Install water tanks & pumps on SOG
2. Demo (E) wood canopy (unpermitted)

OWNER
Linda McGaughey Trust
P.O. Box 1299 Santa Barbara, CA. 93102



REVISIONS	BY

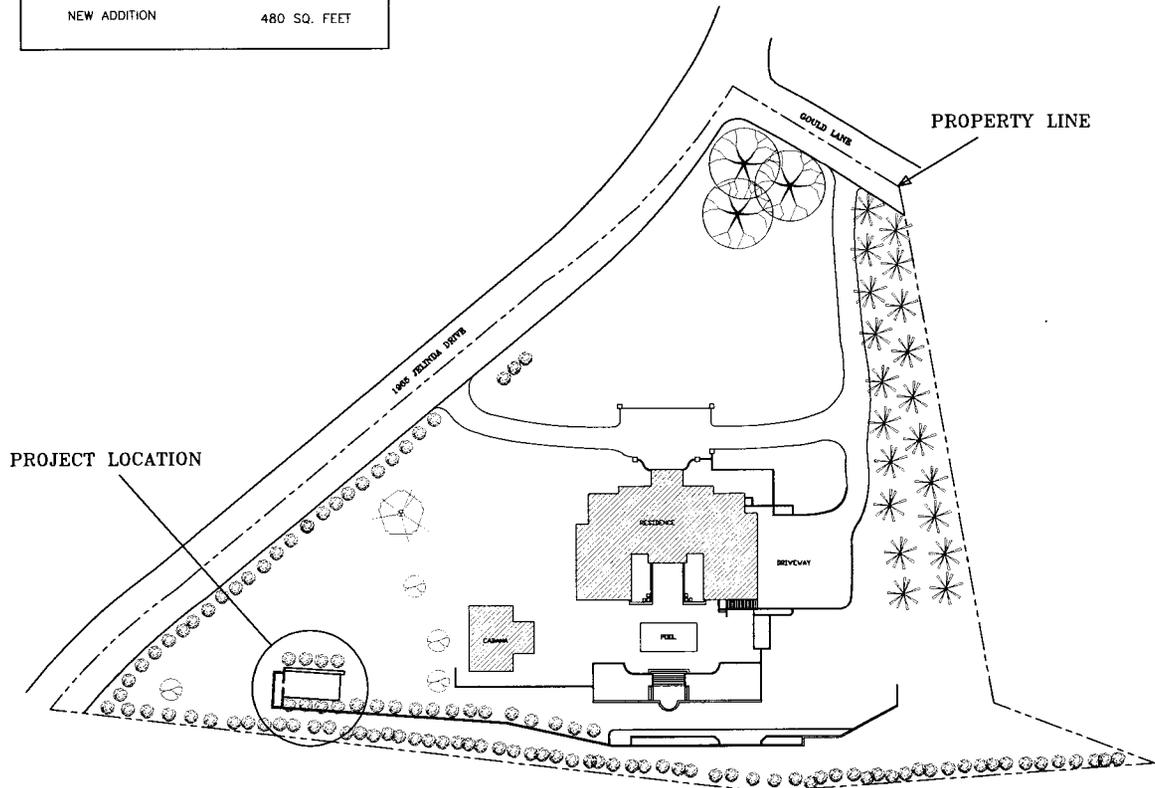
McGaughey Residence  
1965 Jelinda Drive  
Santa Barbara, CA 93108

1822 Sharnett Ave  
Santa Barbara, CA, 93101  
P/E: (805) 864-4788  
www.breathtakinglandscaping.com

BREATHTAKING LANDSCAPING

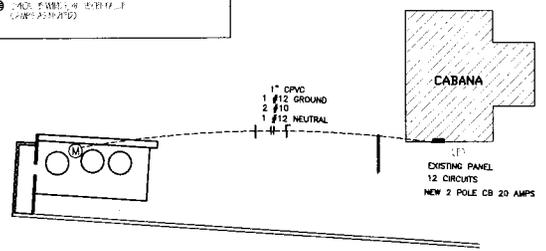
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J.S.H.  
CHECKED BY  
DATE  
8-23-14  
SCALE  
AS NOTED  
DWG. NO.  
Landsc.1965JD

A-1



ELECTRICAL SYMBOLS	
(M)	MOTOR
⊖	MAIN/CRUIT PANEL
⊖	DISTRIBUTION PANEL
⊖	CONTROL PANEL - AS NOTED
⊖	ELECTRIC CODE SWITCH
⊖	PLUG BUTTON
⊖	INDEPENDENT OF HIS. FUTURE
⊖	EXIT LIGHTING
⊖	INCANDESCENT LOW VOLTAGE CIRCUIT
⊖	SAFETY DISCONNECT - PROJECT TYPE
⊖	EXISTING - NEW
⊖	VEHICLE RECHARGING
⊖	RELAY
⊖	ELECTRIC METER
⊖	SWITCHED CONTINUENCE OUTLET
⊖	RECEPTACLE WITH GROUND FAULT INTERRUPTER
⊖	MOTION DETECTOR (AS NOTED)
⊖	GROUND CIRCUIT INTERRUPTER (GFI)
⊖	NO. 5 WIRE IN SERVICE (AS NOTED)

ELECTRICAL NOTES	
1.	VERIFY EXISTING CONDITIONS PRIOR TO INSTALLATION.
2.	IF ELECTRICAL WORK IS TO BE PERFORMED IN CONFORMANCE WITH THE NATIONAL ELECTRICAL CODE AND ALL APPLICABLE LOCAL ORDINANCES, THESE PLANS SHALL BE A BASIS FOR OBTAINING ANY NECESSARY PERMITS FROM THE LOCAL JURISDICTION.
3.	CONCEAL ALL WIRING AND EQUIPMENT IN ACCORDANCE WITH THE NATIONAL ELECTRICAL CODE AND ALL APPLICABLE LOCAL ORDINANCES. CONCEALMENT SHALL BE IN ACCORDANCE WITH THE NATIONAL ELECTRICAL CODE AND ALL APPLICABLE LOCAL ORDINANCES.
4.	IF THE OWNER WISHES TO INSTALL ANY EQUIPMENT OR MATERIALS NOT SHOWN ON THESE PLANS, THE OWNER SHALL CONSULT WITH THE DESIGNER PRIOR TO INSTALLATION.
5.	FIELD DISCONNECT SWITCHES SHALL BE INSTALLED IN ACCORDANCE WITH THE NATIONAL ELECTRICAL CODE AND ALL APPLICABLE LOCAL ORDINANCES.
6.	GROUNDING AND BONDING SHALL BE IN ACCORDANCE WITH THE NATIONAL ELECTRICAL CODE AND ALL APPLICABLE LOCAL ORDINANCES.
7.	ALL ELECTRICAL WORK SHALL BE IN ACCORDANCE WITH THE NATIONAL ELECTRICAL CODE AND ALL APPLICABLE LOCAL ORDINANCES.
8.	CONSTRUCTION WITH REGARD TO ELECTRICAL, PLUMBING, AND MECHANICAL SHALL BE IN ACCORDANCE WITH THE NATIONAL ELECTRICAL CODE AND ALL APPLICABLE LOCAL ORDINANCES.
9.	ALL ELECTRICAL WORK SHALL BE IN ACCORDANCE WITH THE NATIONAL ELECTRICAL CODE AND ALL APPLICABLE LOCAL ORDINANCES.



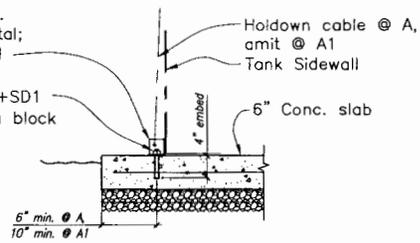
ELECTRICAL PLAN  
SCALE 1/16" = 1'-0"

EXHIBIT 3  
A-4-STB-16-0046 (McGaughey)  
Project Plans

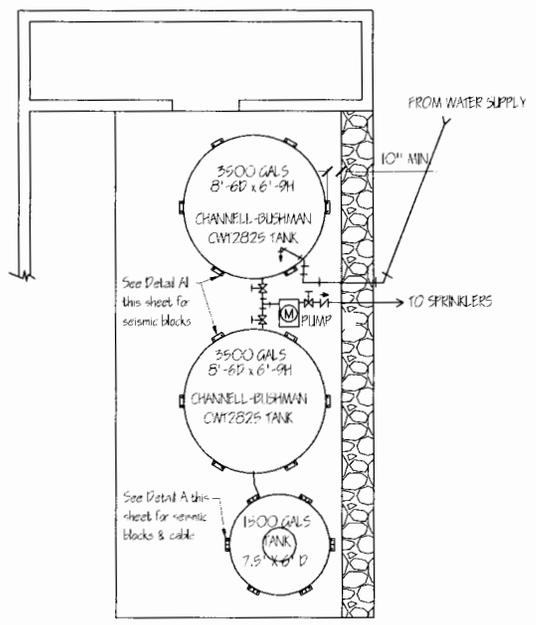
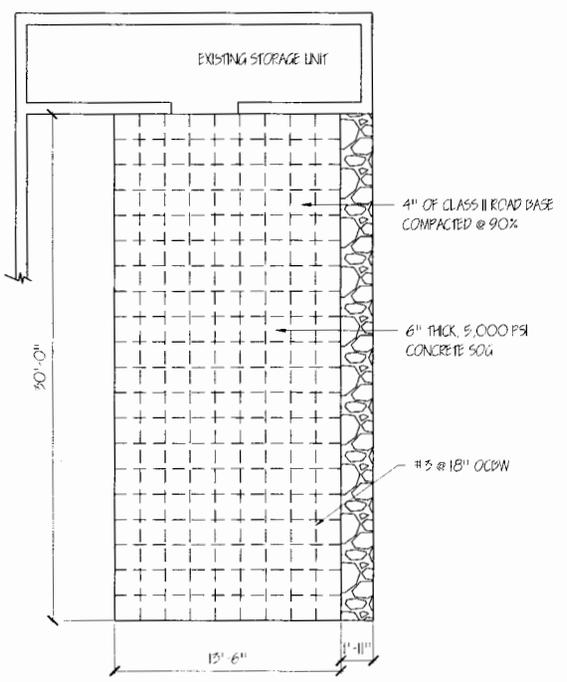
REVISIONS	BY

Seismic Block @ A:  
 L3 x 3 x 1/4 x 0'-9 w 1/4"  
 gusset w 1/2" Ø for 1/8" cable.  
 (6) blocks & (6) cables total;  
 Omit gusset & cables @ A1

(2)-3/4"Ø Powers StudBolt+SD1  
 Wedge Anchors @ 6" oc ea block



SECT. A A1 No Sale!  
 6' Dia. Tank Anchorage



McCaughey Residence  
 1965 Jetinda Drive  
 Santa Barbara, CA 93108

1855 Sunset Ave  
 Santa Barbara, CA 93101  
 P: (805) 864-4788  
[www.breathtakinglandscaping.com](http://www.breathtakinglandscaping.com)

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DRAWN BY  
 J.S.H.  
 CHECKED BY  
 DATE  
 8-23-14  
 SCALE  
 AS NOTED  
 DWG. NO.  
 Landsc.1965JD



A-2

## ORDINANCE NO. 94

### AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE MONTECITO WATER DISTRICT REVISING ALLOCATION OF WATER DURING WATER SHORTAGE EMERGENCY AND PROVIDING PENALTY RATES AND RESTRICTIONS FOR CONSUMPTION IN EXCESS OF ALLOCATION

WHEREAS, the Montecito Water District ("District") is a County Water District organized and existing under the laws of the State of California, situated and serving an area entirely within the County of Santa Barbara; and

WHEREAS, the District's dependence on surface water supplies and the adverse effects of unpredictable and unreliable rain have been the primary reasons for historical water shortages. Santa Barbara County is currently designated in an exceptional, D4, drought condition by the United State Department of Agriculture for a second year in a row. The exceptional drought has registered rainfall at the District's Jameson Lake station for the last four consecutive years at 53% in 2011/12, 36% in 2012/13, 43% in 2013/14 and 37% to date for 2014/15. These four consecutive years of below average rainfall exceed the previous Santa Ynez River critical drought period of 1947-1951 resulting in no recharge to the District's local Jameson Lake, Lake Cachuma and the groundwater basin and a significant reduction of the normal available local water supply; and

WHEREAS, local water supplies continue to decline with Jameson Lake currently at 21% of capacity and Lake Cachuma at 28% of capacity. Lake Cachuma water deliveries for the 2014/15 water year are restricted to 45% of normal with a projected 0% allocation in 2015/16 water year for the first time in the Cachuma Project history. MWD's owned and operated Jameson Lake will provide less than 20% of its normal water supplies for this and the following water year; and

WHEREAS, with drought conditions affecting the entire State of California and the second year of a declared water shortage emergency statewide, the Department of Water Resources has provided a State Water Project supply allocation of 20% for 2015; and

WHEREAS, due to the severity of the drought and water supply reductions, the District declared an emergency water shortage and adopted Ordinance 92 on February 11, 2014, restricting the use of water and suspending the issuance of new water service connections within the District's service boundaries; and

WHEREAS, to manage remaining water supplies and reduce customer water usage due to below average rainfall and documented water well failures, the District adopted Ordinance 93 on February 21, 2014, providing monthly water allocations to all customer classifications and monetary penalties for excessive water use; and

WHEREAS, the District and other local water agencies are participating in an aggressive program to locate and purchase supplemental water supplies throughout the State as a short term measure to improve immediately available water supplies while work continues on the long term objective of creating new, locally managed and reliable water supplies; and

WHEREAS, the District has located and purchased significant supplemental water supplies that will temporarily and partially offset the loss of local and State Water Project supplies and provide the District with greater flexibility in allocating water to its customers, resulting in an ability to increase customer monthly water allocations. Adjustments to the customer monthly water allocations are a direct result of the available water supply; and until normalization of water supplies occurs either through recharge of State and local surface water reservoirs or the providing and delivering new locally controlled and reliable water supplies, such adjustments to customer monthly allocations will be reviewed on a periodic basis; and

WHEREAS, pursuant to Resolution No. 2107, adopted by the Board on August 29, 2013, current rates are based upon a policy of allocating a 13% share of State Water Project costs to Agricultural customers for non-domestic uses, who in turn are limited to 13% of the State Water Project supply that they would otherwise be entitled to for those uses during drought conditions, if they had contributed at the 100% level. The allocation limits established under Ordinance 93, and the availability of carryover from the previous State Water Project supply therefore reflect that policy; and

WHEREAS, the District Board of Directors has the discretionary authority to allocate supplemental water supplies to its customers that are not subject to the percentage allocations as defined under Resolution 2107. The allocation of supplemental water supplies will be in accordance with the available water supply and will apply to all customer water use classifications and increase or decrease depending on available and projected water supplies and in accordance with this Ordinance.

**NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE BOARD OF DIRECTORS OF THE MONTECITO WATER DISTRICT AS FOLLOWS:**

Section 1. Repeal of Ordinance 93. Ordinance 93 is hereby repealed in its entirety and replaced with this Ordinance 94.

Section 2. Prohibition Against Waste of Water. It shall be unlawful for any water user obtaining any water from and through the distribution facilities of the District to waste any of that water.

Section 3. Definitions. As used in this Ordinance, the following words or terms shall have the meanings set forth in this section.

3.1. An Account is a District record that identifies the meters through which water is served to a particular property, the name of the person requesting the service, the location of the property and the person responsible for payment. Each such Account is identified by an account number.

3.2. Account Classifications.

3.2.1. The Agricultural classification applies to the exclusive use of at least two contiguous acres of land, under one ownership, to grow crops for human consumption or as floriculture. This classification applies only to properties for which the District has granted an agricultural use classification permit as of the effective date of Ordinance No. 90, and for which the customer provides satisfactory evidence as may be required by the District from time to time to confirm that the property is used principally and predominantly for the cultivation and harvest of crops suitable for human consumption or for use as floriculture. Specifically excluded from this classification are the cultivation of any other crops, ornamental plants grown in containers for onsite retail sale, livestock grazing, polo fields, and the breeding, raising, training or stabling of horses.

3.2.2. The Commercial classification applies to all properties where water is used for purposes of business, industry, trade or commerce. It includes businesses and industries that produce or sell goods or services, whether such sales are wholesale or retail. Commercial uses shall include, but are not limited to, offices, retail stores and complexes, banks, restaurants, hotels, grocery stores, specialty markets, and manufacturing and processing facilities. A mixed use Commercial property with Single Family Residential or Multi Family Residential use shall be classified as Commercial and billed at Commercial rates unless one or more separate meters is installed to serve the residential use of the property.

3.2.3. The Institutional classification includes properties, owned privately or publicly, that are used primarily as public offices, schools, churches, cemeteries, philanthropic organizations, membership associations, country clubs, sports clubs, recreational facilities, golf courses and tennis clubs. This classification also includes historic sites that are not in residential use and that are open to the public on a regular schedule. It also includes public entities providing essential services to the community such as Montecito Fire Protection District, Summerland-Carpinteria Fire Protection District,

Montecito Sanitary District, Summerland Sanitary District, and the Montecito Community Hall and Library.

3.2.4. The Multi-family Residential classification includes all properties with two or more residential units where at least two units are served by a single “master” meter. The multiple units may be constructed in any combination and configuration, including but not limited to apartment buildings, trailer parks and residential condominiums existing as of the effective date of this Ordinance and served by a single “master” meter. A mixed use property that has both Multi-family Residential and Commercial uses will be billed at the rate applicable to Commercial uses unless a separate meter is installed to serve residential use.

3.2.5. The Single Family Residential classification includes all properties with a primary single family residential unit. The classification also applies to properties with uses and structures customarily incidental and accessory to single family residential use, such as a guesthouse, cabana, private recreational facilities, livestock grazing, polo fields, and the breeding, raising, training or stabling of horses. The Single Family Residential classification also includes all properties with any number of residential condominium units, each of which is served by a separate meter. Home occupations within a residence that are permitted by the County of Santa Barbara, or that are exempt from such permit requirements, are included in this definition. A mixed use property that has both Single Family Residential and Commercial uses will be billed at the rate applicable to Commercial uses unless a separate meter is installed to serve residential use.

3.3. Base Allotment means the calculated average amount of water actually delivered to the property per month during the three-year fiscal period 2003/04 – 2005/06. A Base Allotment will be calculated for properties classified as Commercial or Institutional. If the property does not have three years of use history, or if the use changes materially, the District will determine the Base Allotment by taking into account other relevant factors such as the established historical use of the property, or the water usage of properties of comparable sizes or with comparable uses during the Base Allotment period.

3.4. The Monthly Allocation Factor (MAF) is a Monthly Billing Cycle allocation adjustment that will be applied to the Single Family Residential, Commercial, Institutional and Agricultural classifications that distributes the annual allocation of water to an account over a twelve month period. The calculated MAF reflects the distinct way water is used by each classification over a five dry year monthly averaging period.

3.4.1 The Single Family Residential MAF is defined as follows:

Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
.115	.113	.107	.095	.067	.048	.055	.046	.068	.081	.102	.103

3.4.2 The Commercial MAF is defined as follows:

Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
.1	.103	.092	.090	.072	.067	.068	.067	.075	.085	.092	.092

3.4.3 The Institutional MAF is defined as follows:

Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
.13	.126	.114	.092	.059	.034	.039	.038	.061	.089	.107	.11

3.4.4 The Agricultural MAF is defined as follows:

Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
.117	.114	.121	.112	.063	.035	.051	.034	.06	.074	.104	.114

3.5. A Monthly Billing Cycle is a period of approximately 30 consecutive days between meter readings by the District. There are 12 billing cycles in each Water Year. Meter reading is for the purpose of ascertaining actual flow through the meter for the period since the last meter reading for that Account.

3.6 A Revised Allocation Period is the period of time during which revised allocations pursuant to any amendment of this Ordinance are effective.

3.7. A Water Year begins on October 1 each year and ends on September 30 of the following year.

#### Section 4. Allocation by Customer Class.

4.1. Agricultural Accounts shall receive an annual allocation of 1.0 AF per cultivated acre of land, with monthly allocation determined by the Agricultural MAF, as defined in Section 3.4.4 of this Ordinance. For example, the Agricultural MAF for January is 0.051, which means that the January allocation for two cultivated acres of Agricultural land is 0.102 AF, determined as follows:  $2 \times 1.0 \times 0.051 = 0.102$ . Included in the monthly water allocation is the domestic component of 20 HCF per dwelling unit.

4.2 Commercial Accounts shall receive an annual allocation that is 26% higher than the Ordinance 93 Base Allotment allocation (or the adjusted Base Allotment allocation for properties that do not have use history during the three-year fiscal period 2003/04 – 2005/06, or if use has changed materially) as identified under Section 3.3 with the monthly allocation determined by the Commercial MAF, as defined in Section 3.4.2 of this Ordinance.

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4.3 Institutional Accounts shall receive an annual allocation that is 26% higher than the Ordinance 93 allocation of 70% of Base Allotment (or the adjusted Base Allotment allocation for properties that do not have use history during the three-year fiscal period 2003/04 – 2005/06, or if use has changed materially) as identified under Section 3.3 with the monthly allocation determined by the Institutional MAF, as defined in Section 3.4.3 of this Ordinance.

4.4 Multi-Family Residential Accounts shall be allocated 7 HCF per dwelling unit per month. This allocation is not subject to adjustment by a Monthly Allocation Factor.

4.5 Single Family Residential Accounts shall be allocated 25 HCF per month for essential health and sanitation uses, including a landscape buffer (“Essential Use Allocation”). The Essential Use Allocation is not subject to adjustment by the Monthly Allocation Factor. In addition to the Essential Use Allocation, Single Family Residential Accounts shall receive a 26% increase to the annual acreage-based allocation for non-essential use provided under Ordinance 93, with an adjusted annual total of 140 HCF per acre per year for other uses (“Non-essential Use Allocation”), with monthly allocation determined by the Single Family Residential MAF, as defined in section 3.4.1 of this Ordinance. For example, a 1.3 acre Single Family Residential Account shall receive a total allocation, including both the Essential Use and Non-essential Use Allocations, of 33 HCF for the month of January, determined as follows:  $25 \text{ HCF} + (140 \text{ HCF})(0.055)(1.3) = 35 \text{ HCF}$ .

Section 5. Use of Allocated Water. Subject to the prohibition against the waste of water and to the penalties provided under Section 7 for the violation of this Ordinance, it shall be the sole responsibility of each water user to manage his or her water needs in such a manner as not to exceed the amount of water allocated to that Account.

Section 6. Place of and Class of Use of Rationed Water. Water allocated to an Account may be used only on and for the property served by that Account and on no other property, and only for that class of use or uses served by that Account and for no other use.

Section 7. Billing Cycles, Notice of Amount Allocated and Carry-Forward.

7.1. Notice of Amount of Allocation. Thirty days before the first day of each Water Year, the District shall notify each Account in writing of the date of the commencement of the Water Year. The notice shall set forth the amount of water allocated to the Account for each Monthly Billing Cycle during the Water Year.

7.2. Notice for Allocation Decrease. Thirty days before the first day of each Revised Allocation Period for which allocations will be decreased for any customer class, the District shall notify each Account in writing of the date of the commencement of the Revised Allocation Period, and the applicable Monthly Billing Cycles for that Account remaining in the Water Year (“Remaining Monthly Billing Cycles”). The notice shall set forth the amount of water allocated to the Account for each Remaining Monthly Billing Cycle.

7.3. Notice for Allocation Increase. Prior to the first day of each Revised Allocation Period for which allocations will not be decreased for any customer class, the District shall notify each Account in writing of the date of commencement of the Revised Allocation Period, and the applicable Monthly Billing Cycles for that Account remaining in the Water Year (“Remaining Monthly Billing Cycles”). The notice shall set forth the amount of water allocated to the Account for each Remaining Monthly Billing Cycle.

7.4. Billing Statement. Each Monthly Billing Cycle statement shall set forth the allocation for that Monthly Billing Cycle, the amount of water consumed during that Monthly Billing Cycle, the amount consumed in excess of the Account’s allocation for that Monthly Billing Cycle, if any, and the applicable penalty rates and total amount billed under those penalty rates.

7.5. Water Year Carry-Forward Adjustment. The allocation for each Account represents the maximum amount available for consumption on a monthly basis, and any unused allocation during a Monthly Billing Cycle shall not carry forward for use during subsequent Monthly Billing Cycles. However, any consumption in excess of the amount allocated during any Monthly Billing Cycle in any Water Year shall reduce the annual allocation for the subsequent Water Year. This reduction shall not be offset by unused allocation during any Monthly Billing Cycle. For example, if an Account exceeds its allocation by 5 HCF during one Monthly Billing Cycle of a Water Year, but consumes less than its monthly allocation during each of the other Monthly Billing Cycles of that Water Year, its annual allocation for the subsequent Water Year will be reduced by 5 HCF.

Section 8. Excessive Consumption. If an Account uses more water during any Monthly Billing Cycle than has been allocated to that Account, such excess use shall

constitute a violation of this Ordinance, and the penalty rates for excessive consumption and restrictions set forth in this section shall apply.

8.1 Consumption will be subject to all currently applicable rates and surcharges; in addition consumption in excess of the monthly allocation will be subject to a penalty premium of \$30 per HCF.

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8.2. In addition to Section 8.1, consumption that is 25% in excess of allocation shall result in the installation of a flow restriction device on the service lines for the Account, subject to the discretion of the General Manager, which shall be exercised on the basis of the criteria set forth in Section 10.3 of this Ordinance. Once installed, a flow restriction device will be removed only after the person responsible for the Account demonstrates to the satisfaction of the General Manager that a water management plan is in place to ensure that future consumption will not exceed monthly allocation.

8.3. In addition to Sections 8.1 and 8.2, if a violation of this Ordinance occurs during at least two Monthly Billing Cycles of any Water Year, the rate premium set forth in Section 8.1 shall be increased to \$45 per HCF for both the second and any subsequent violation of this Ordinance during that Water Year. The repeat violation shall result in the installation of a flow restriction device on the service lines for the Account, subject to the discretion of the General Manager, which shall be exercised on the basis of the criteria set forth in Section 10.3 of this Ordinance.

8.4. In addition to Sections 8.1, 8.2 and 8.3, any Account that currently has a flow restriction device installed on a service line pursuant to Sections 8.2 or 8.3 that subsequently exceeds allocated consumption during any Monthly Billing Cycle in which the flow restriction device is installed shall be subject to discontinuation of water service, subject to the discretion of the General Manager, which shall be exercised on the basis of the criteria set forth in Section 10.3 of this Ordinance. Once discontinued, water service will not be restored until the person responsible for the Account demonstrates to the satisfaction of the General Manager that a water management plan is in place to ensure that future consumption will not exceed the Account's monthly allocation.

8.5 Tampering with Flow Restriction Device. Any person who tampers with a flow restriction device that is installed on an Account line pursuant to this Ordinance shall be guilty of a misdemeanor and subject to prosecution under section 377 of the Water Code. In the event of such tampering, the Account will also be subject to discontinuation of water service.

Section 9. Changes In Acreage of Land Used for Agricultural Account. An Agricultural Account holder shall not be allowed to add additional land to be served by the Agricultural Account.

Section 10. Appeals and Exceptions.

10.1. Appeals. Any water user may appeal penalty rates and restrictions applicable to excessive consumption under Section 8 of this Ordinance to the Board of Directors, by filing a written appeal with District within 30 days of written notice of the penalty rates or restrictions appealed from. Such an appeal shall be accompanied by an appeal fee in an amount established from time to time by resolution of the Board of Directors. If a person appeals any penalty rate under this Ordinance, all amounts due must be paid before the Appeals Committee will hear the appeal, subject to the discretion of the General Manager to allow an appeal to proceed prior to payment of the disputed penalty rate. If the General Manager determines that payment is a prerequisite to appeal, the Appeals Committee may dismiss an appeal for nonpayment, making the action appealed from final as to the District.

10.2. Appeals Committee Recommendation. The Appeals Committee will hear the appellant and make a recommendation to the Board of Directors within 30 days of the filing of the appeal based on the criteria stated in Section 10.3. The Board of Directors shall consider the recommendations of the Appeals Committee. The District shall give the appellant written notice of the meetings at which the appeal will be considered by the Appeals Committee and the Board.

10.3. Board Action. Subject to the meeting schedule of the Board, an appeal shall be heard by the Board within 30 days of the date upon which the Appeals Committee makes its recommendation. The Board may, in its discretion, affirm, reverse, or modify the Appeals Committee's recommendation and make any adjustments and impose any conditions it deems just and proper, if it finds two or more of the following: (1) the penalties or restrictions imposed under this Ordinance would cause an undue hardship, (2) the granting of the appeal will not significantly adversely affect the goals of this Ordinance, (3) due to peculiar facts and circumstances, none of the provisions of this Ordinance are applicable to the situation under consideration; or (4) error in the application of this Ordinance or other applicable rules or law.

10.4. Notice of Decision. The Board's decision shall be written and provided to the appellant. Such decisions are final as to the District and not subject to further appeal unless the Board's decision expressly provides otherwise. Judicial review of final decisions shall be available pursuant to California Code of Civil Procedure section 1094.5.

Section 11. Suspension of Conflicting Ordinances and Rules and Regulations. To the extent that the terms and provisions of this Ordinance are inconsistent, or in conflict with the terms and provisions of any prior District Ordinances, Resolutions and Rules and Regulations, the terms of this Ordinance shall prevail and inconsistent and conflicting provisions of prior Ordinances, Resolutions and Rules and Regulations shall be suspended during the effective period of this Ordinance.

Section 12. Allocation Adjustment. From time to time, the District may be able to obtain temporary supplies of supplemental water in excess of the amounts currently available, or the District's water supply may increase due to a change in weather conditions. In such event, the District may allocate additional water for use in the best interest of the District, and such an additional allocation shall require either an amendment to this Ordinance or a resolution. Conversely, from time to time the District may determine that allocations and associated demands cannot be satisfied without depleting the water supply and jeopardizing public health and safety. In that event, the District may reduce allocations in order to reduce water demand. Such a reduction in allocation shall also require either an amendment of this Ordinance or a resolution.

Section 13. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, that invalidity shall not affect the validity of the remaining portions of this Ordinance. The Board of Directors hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases may be invalid.

Section 14. Effective Date. This Ordinance shall become effective during the May, 2015 Monthly Billing Cycle and shall remain in effect until the Board declares that a water shortage emergency no longer exists.

PASSED AND ADOPTED by the Governing Board of the Montecito Water District this 24th day of March, 2015.

AYES:  
NAYES:  
ABSENT:  
ABSTAIN:

APPROVED:

ATTEST:

\_\_\_\_\_  
Darlene Bierig, President

\_\_\_\_\_  
Tom Mosby, Secretary

APPROVED AS TO FORM AND CONTENT

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Robert Cohen, District Counsel

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Michael Colantuono, Special Counsel

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST DISTRICT OFFICE  
 89 SOUTH CALIFORNIA STREET, SUITE 200  
 VENTURA, CA 93001-4508  
 VOICE (805) 585-1801 FAX (805) 641-1732

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

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

**SECTION I. Appellant(s)**

Name: Commissioners Steve Kinsey and Effie Turnbull-Sanders

Mailing Address: California Coastal Commission, 89 S. California Street, Suite 200

City: Ventura, California

Zip Code: 93001

Phone: 805-585-1800

**SECTION II. Decision Being Appealed**

1. Name of local/port government: County of Santa Barbara
2. Brief description of development being appealed:  
 Installation of two 3,500 and one 1,500 gallon capacity (8,500 gallon total capacity) water storage tanks for irrigation of a private residential lawn and authorization of a water delivery service via truck for up to four deliveries (maximum of 34,000 gallons) per week.
3. Development's location (street address, assessor's parcel no., cross street, etc.):  
 1965 Jelinda Drive, Montecito, California 93108 (APN No. 007-500-017)
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.

TO BE COMPLETED BY COMMISSION:	
APPEAL NO:	A-4-STB-16-0046
DATE FILED:	4/15/16
DISTRICT:	South Central Coast

**EXHIBIT 5**  
**A-4-STB-16-0046 (McGaughey)**  
**Appeal Filed**

**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 17, 2016

7. Local government's file number (if any): CDP No. 15CDP-00000-00011

**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:

Linda McGaughey  
1965 Jelinda Drive  
Montecito, California 93108

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)

(2)

(3)

(4)

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)**

**SECTION IV. Reasons Supporting This Appeal**

**PLEASE NOTE:**

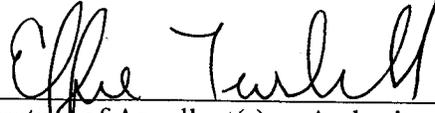
- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local 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.

See attached.

**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.



\_\_\_\_\_  
Signature of Appellant(s) or Authorized Agent

Date: April 15, 2016

**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.

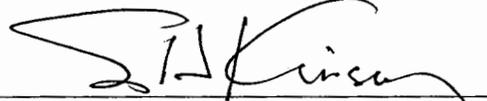
\_\_\_\_\_  
Signature of Appellant(s)

Date: \_\_\_\_\_

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)**

**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: \_\_\_\_\_

April 15, 2016

**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: \_\_\_\_\_

\_\_\_\_\_

**McGaughey – 1965 Jelinda Drive (Montecito, Santa Barbara County)**

**Section IV. Reasons Supporting The Appeal**

Appeal of decision by Santa Barbara County granting a coastal development permit for the after-the-fact authorization of the installation of three water tanks (two 3,500-gallon tanks and one 1,500-gallon tank) to be used for irrigation of existing onsite landscaping and water delivery service by truck up to four times per week to a property that is developed with an existing single family residence located at 1965 Jelinda Drive in Montecito, Santa Barbara County, based on the grounds that it is inconsistent with the County of Santa Barbara's Local Coastal Program (LCP) policies regarding water resources, cumulative impacts and energy consumption, as described below.

Land Use Plan Policy 1-1 states that all Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified County Land Use Plan as guiding policies. The following Coastal Act policies are applicable to the appeal:

Section 30231 of the Coastal Act states:

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, minimizing alteration of natural streams.*

Section 30250(a) of the Coastal Act states:

*New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases, for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.*

Section 30253(d) of the Coastal Act states:

*New development shall:*

*Minimize energy consumption and vehicle miles traveled.*

Section 30254 of the Coastal Act states:

*New or expanded public work facilities shall be designed and limited to accommodate needs generated by development or uses permitted consistent with the provisions of this Division; provided, however, that it is the intent of the Legislature that State Highway 1 in rural areas of the coastal zone remain a scenic two-lane road. Special districts shall not be formed or expanded except where assessment for, and provision of, the service would not induce new development inconsistent with this division. Where existing or planned public works facilities can accommodate only a limited amount of new development, services to coastal-dependent land use, essential public services and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and visitor-serving land uses shall not be precluded by other development.*

The following policies and provisions of the Santa Barbara County LCP are also applicable:

Land Use Plan Policy 1-4 states:

*Prior to the issuance of a coastal development permit, the County shall make the finding that the development reasonably meets the standards set forth in all applicable land use plan policies.*

Land Use Plan Policy 2-2 and Article II Zoning Ordinance Section 35-60.1 state:

*The long term integrity of groundwater basins or sub-basins located wholly within the coastal zone shall be protected. To this end, the safe yield as determined by competent hydrologic evidence of such a groundwater basin or sub-basin shall not be exceeded except on a temporary basis as part of a conjunctive use or other program managed by the appropriate water district. If the safe yield of a groundwater basin or sub-basin is found to be exceeded for reasons other than a conjunctive use program, new development, including land division and other use dependent upon private wells, shall not be permitted if the net increase in water demand for the development causes basin safe yield to be exceeded, but in no case shall any existing lawful parcel be denied development of one single family residence. This policy shall not apply to appropriators or overlying property owners who wish to develop their property using water to which they are legally entitled pursuant to an adjudication of their water rights.*

Land Use Plan Policy 2-4 and Article II Zoning Ordinance Section 35-60.3 state:

*Within designated urban areas, new development other than that for agricultural purposes shall be serviced by the appropriate public sewer and water district or an existing mutual water company, if such service is available.*

Land Use Plan Policy 2-5 and Article II Zoning Ordinance Section 35-60.4 state:

*Water-conserving devices shall be used in all new development.*

Land Use Plan Policy 2-6 and Article II Zoning Ordinance Section 35-60.5, which state, in part:

*Prior to issuance of a development permit, the County shall make the finding, based on information provided by environmental documents, staff analysis, and the applicant, that adequate public or private services and resources (i.e., water, sewer, roads, etc.) are available to serve the proposed development. The applicant shall assume full responsibility for costs incurred in service extensions or improvements that are required as a result of the proposed project. Lack of available public or private services or resources shall be grounds for denial of the project or reduction in the density otherwise indicated in the land use plan or zoning maps.*

Land Use Plan Appendix A Definition of “development” states, in relevant part:

*“Development” means, on land, in or under water, the placement or erection of any solid material or structure.”*

The State of California is currently facing one of the most severe droughts on record. In January 2014, the Governor declared a drought State of Emergency and asked that officials throughout the state take all necessary actions to prepare for water shortages. Accordingly, the Montecito Water District (MWD) adopted Ordinance No. 92 on February 11, 2014, which declared a water shortage emergency (Stage 3) and mandated water use restrictions, including a 30% immediate reduction in water usage for all customers and suspension of all applications for new water service or to increase in size an existing water meter. Since the use restrictions adopted under Ordinance No. 92 were determined by the MWD to be inadequate to protect water supply, a Stage 4 water shortage emergency was declared by the MWD on February 21, 2014 pursuant to MWD Ordinance No. 93, which imposed water supply allocation limits to each property. The MWD depends in large part on surface water supplies derived primarily from Jameson Lake, Lake Cachuma, and, to a lesser extent, but increasingly, from groundwater supplies. The amount of water available to the MWD from these sources has been severely diminished by several years of very low rainfall. The MWD also depends on water deliveries from the State Water Project. Notably, the MWD received no water from the State Water Project in 2015.

The project site is located within the urban, coastal area of Montecito in Santa Barbara County and receives water services from the MWD. No agricultural uses exist on the lot and none are proposed. The MWD has limited its customers’ water use, particularly that used for irrigation and water features. The approved project is a request for after-the-fact authorization of the installation of two 3,500-gallon water tanks and one 1,500-gallon water tank and water delivery service by truck up to four times per week. The water imported to the project site and stored in the water tanks would be used specifically to circumvent County-wide restrictions on water use and augment the MWD municipal water services solely for the purpose of private residential landscape irrigation.

Policy 2-4 of the County’s certified Land Use Plan and Section 35-60.3 of the County’s certified Coastal Zoning Ordinance direct new development to use water district services if available. Further, Policy 2-5 of the Land Use Plan requires new development to utilize water conservation devices. The installation of three water storage tanks (with a capacity totaling 8,500 gallons) constitutes new development that is intended to serve existing site development. As such, the

subject authorized new development must conform to the policies and provisions of the County's certified LCP. The LCP requires new development to be served only by existing public facilities and, importantly, the LCP does not contain *any* policies that would allow the installation of on-site water storage to circumvent the MWD's water use restrictions during a water shortage emergency for the purpose of supplemental irrigation where the site's residential development already receives water district services. The authorization of the installation of three sizeable water tanks for private residential landscape irrigation is thus in direct contravention to the intent of policies 2-4 and 2-5 of the certified Land Use Plan.

The County's Coastal Land Use Plan incorporates Section 30250(a) and Section 30254 of the Coastal Act, which require that new development be concentrated with existing development and matched to the public services available, and that where public works facilities (such as MWD) can accommodate only a limited amount of new development, that priority Coastal Act land uses not be precluded by lower priority development. Residential development is not a Coastal Act priority land use, nor is the irrigation of landscaping associated with residential development. Further, Section 30231 of the Coastal Act (which is incorporated into the LCP as a policy), Land Use Policy 2-2, and Coastal Zoning Ordinance Section 35-60.1 require preventing depletion of ground water supplies. Throughout the County's Coastal Zone, the major resource limitation is that of water. According to the LCP, all of the planning areas of the urbanized South Coast of Santa Barbara County experience constraints due to limited water resources (even without consideration of the current exacerbating drought conditions). Given the declarations of the MWD regarding the extreme water supply jeopardy facing the District and its customers, the potential for cumulative, significant overdraft of groundwater exists and will intensify if the drought continues and reliance on groundwater increases to backfill missing surface water supplies. Under these conditions, the cumulative impacts of approved groundwater extractions have the potential to preclude higher priority land uses under the Coastal Act than residential use. The LCP states that because buildout in these areas, i.e., the total number of housing units permitted under the land use plan, exceeds available water supplies, priorities for development are needed to assure that the priority land uses specified in Section 30254 of the Coastal Act are not precluded and that the depletion of groundwater supplies is prevented.

In the subject matter, the County of Santa Barbara authorized the after-the-fact installation of three water storage tanks and a water delivery program via trucks to re-fill these storage tanks up to four times per week (for an authorized total of up to 34,000 gallons per week). Although the findings for approval state that the water sourced to re-fill these water storage tanks will be taken from outside of the Coastal Zone (no specific information is provided about the water source), neither the approved project description nor the conditions placed upon the coastal development permit require the water to be procured outside of the Coastal Zone. Additionally, even if the water used to re-fill the water storage tanks is sourced from outside of the Coastal Zone, there have been no studies or analysis completed to demonstrate that this water is not collected from water courses with high connectivity to watersheds that replenish groundwater basin supplies within the Coastal Zone. As such, it is impossible to determine from the authorization of the development whether the water sourced to re-fill these water storage tanks will create significant cumulative impacts to groundwater supplies within the Coastal Zone. Therefore, the permit is not conditioned to ensure compliance with the policies and provisions of the LCP that protect groundwater basins, require use of public utilities where available, and ensure that priority land

uses are not precluded where resources are limited. As such, substantial issue is raised with regard to the project's consistency with Coastal Act Sections 30231, 30250, 30254, Land Use Plan Policy 2-2 and Article II Zoning Ordinance Section 35-60.1. .

Since the MWD provides water services to the subject residential parcel, additional water service through trucked in water delivery would be contrary to the State's, the County's, and the MWD's policies to ensure water conservation and the protection of groundwater resources. The re-filling of these water storage tanks—to a total of up to 34,000 gallons of water per week—has the potential for individual impacts to local groundwater supply if the water is sourced from within the Coastal Zone and cumulative impacts to local groundwater supply if the water is sourced from outside of the Coastal Zone from sources with high connectivity to Coastal Zone groundwater basins. The approved project, which authorizes a very large water use for non-priority uses during a severe drought, thus raises multiple issues regarding consistency with the LCP policies cited above. This is particularly true because the MWD water services remain available to the property and the three water storage tanks would only serve to obviate the need for the property owners to conserve water consistent with State and District intent.

Further, in approving the subject water storage tanks, the County imposed no monitoring condition to allow the MWD to analyze the impacts of this significant augmentation of the property owner's water usage. Rather, the *only* limitation placed on the authorization of this project was the restriction that the property owners can receive water deliveries no more than four times per week. Nothing in the County's action on the permit requires monitoring that would provide data sufficient to support a responsive action, such as a threshold that would require termination of the water delivery program should adverse impacts be identified.

Finally, the authorization of up to four truck trips per week to re-fill the subject water tanks would not minimize energy consumption or vehicles miles traveled. Trucking water to the property from potentially long distances is one of the least efficient means of delivering water, and will not minimize vehicle miles traveled, thus raising substantial issue with regard to the project's consistency with Coastal Act Section 30253(d).

In conclusion, substantial issues are raised regarding the approved development's consistency with the policies and provisions of the Santa Barbara County LCP relating to water resource protection, cumulative impacts, priority land uses, and energy consumption. The County's decision in this case raises issues of local, regional, and statewide significance and could have significant precedential value.