

CALIFORNIA COASTAL COMMISSION

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January 13, 1999

To: Commissioners and Interested Persons

From: Central Coast Deputy Director
Charles Lester, District Manager
Steven Guiney, Coastal Program Analyst

Subject: **Revised Findings for City of Morro Bay Local Coastal Program Major Amendment Number 1-97.** For Commission review and action at its meeting of February 2 - 5 1999, to be held at the Hotel del Coronado, 1500 Orange Avenue, Coronado 92118, (619) 435-6611.

Synopsis

Commission Action on Submitted Amendment Request

On November 5, 1998, the Commission voted 8 - 0 to deny the land use plan amendments and the implementation plan amendments as submitted and to approve them if modified as recommended in the staff report and as modified by the Commission at the meeting. The Commissioners on the prevailing side were: Areias, Armanasco, Herron, Johnson, Nava, Tuttle, and Wan.

The Commission made specific changes to two of the suggested modifications recommended by staff. One additional change is necessary to maintain consistency with the Commission's first specific change, resulting in changes to three of staff's suggested modifications.

The changes made by the Commission involved the following:

1. Retention of the retrofit program and requiring the City to submit a report to the Executive Director for review and approval by January 30, 2000, that will evaluate alternatives to on- and off-site retrofitting programs which will provide the same level of water conservation as is currently being accomplished through the retrofit program.
2. Submittal by the City to the Commission for review and approval of the methodology to be used in a hydrological connectivity study of Chorro Creek and the aquifer underlying it, and the methodology to be used in an instream flow study, if an instream flow study is necessary.

The changes made by the Commission or necessitated by the Commission's changes are found on pages 5, 6, 14, 24, 25, 26, and 28.

Submitted Amendment Request

The City of Morro Bay proposed to amend both its Land Use Plan and Implementation Plan concerning water supply, allocation, and management to bring them up to date with current water supply and policy developments. In particular, the City has started to receive water from the State Water Project. In addition to updating information on the City's water resources, the amendment as proposed by the City would delete seven policies in the LUP and replace them with three new policies. The three new policies would be much less detailed with fewer requirements and restrictions, in part because the City now has a water management plan, certified by the Coastal Commission on January 11, 1995. The Implementation Plan was modified by repealing Chapter 13.20, *Building Limitation* and replacing it with a new Chapter 13.20, *Allocation of Water Resources* to implement the Water Management Plan.

Staff Recommended Action on Submitted Amendment Request

Because there remains some uncertainty about available water in drought years, and because the necessary instream flow conditions or hydrologic characteristics of Chorro Creek are not fully understood, staff recommended that certain policies be retained in the LCP, particularly concerning environmentally sensitive habitat protection and the availability of services. Although the proposed changes to the Implementation Plan were generally consistent with the LUP, staff recommended several minor modifications to the new ordinance section in order to correspond with the LUP as modified.

Summary of Staff Recommendation

Staff recommends that the Commission **approve the proposed changes with suggested modifications** for the reasons given in this report.

Analysis Criteria

The relationship between the Coastal Act and a local government's Local Coastal Program (LCP) can be described as a three-tiered hierarchy. The Coastal Act articulates statewide policies. The Land Use Plan (LUP) portion of an LCP incorporates and refines the Coastal Act policies for the local jurisdiction, giving local guidance as to the kinds, locations, and intensities of coastal development. The LUP must be consistent with the Coastal Act. In order to approve the proposed LUP changes, the Commission must find that the LUP, as proposed to be amended, is consistent with the Coastal Act. The Implementation Plan (IP), or zoning, portion of an LCP typically sets out the various zone districts and site regulations which are the final refinement specifying how coastal development is to proceed on a particular parcel. The IP must be consistent with and adequate to carry out the policies of the LUP. In order to approve the City's proposed Implementation Plan changes, the Commission must find that the proposed changes are consistent with the LUP, as proposed to be amended.

Additional Information

For further information about this report or the amendment process, please contact Steven Guiney or Charles Lester, Coastal Commission, 725 Front Street, Suite 300, Santa Cruz, CA 95060, (408) 427-4863.

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I. Staff Recommendation

A. COMMISSION APPROVAL OF REVISED FINDINGS

Staff recommends that the Commission approve these revised findings as accurately reflecting the changes made by the Commission at the November 5, 1998, meeting.

B. SUGGESTED MODIFICATIONS

Note key for modifications: Deletions as a result of the Commission's three changes are shown as ~~underlined struck through italics~~; additions are shown as **underlined bold italics**. Unaltered text represents City-proposed language. **Unitalicized bold** is language suggested by Coastal Commission staff. ~~Unitalicized struck through~~ language represents deletions suggested by Coastal Commission staff.

1. Land Use Plan

- a. Resolution 32-97, LUP Chapter 5, page 3. Correct wastewater treatment plant capacity and Morro Bay's share thereof:

"The total design capacity of the existing Wastewater Treatment Plant is ~~2.09~~ **2.36** million gallons per day (mgd); therefore, Morro Bay's share (65 percent) is ~~1.36~~ **1.534** mgd..."

- b. Resolution 32-97, LUP Chapter 5, page 3. Correct typographical error by changing D to C:
~~D~~ **C. Policies for Public Works Water Facilities and Allocating These Resources to New Development**
- c. Resolution 32-97, LUP Chapter 5, page 3. Add the following to the proposed Policy 3.01:

Policy 3.01: The City of Morro Bay shall approve future growth in conjunction with water and sewage treatment availability. Water resources will be allocated to new development yearly by the City Council. **Development shall be approved only if the City finds that sewer and water services are available to serve the proposed use.** So long as existing public works facilities for the provision of water...and visitor serving land uses.

- d. Resolution 32-97, LUP Chapter 5, page 4. Add the following new policy:

Policy 3.04 Use of existing groundwater water sources and methods of obtaining additional water supplies shall ensure protection of riparian and wetland habitats, and avoid saltwater intrusion or other damage to aquifers. Extractions of water from groundwater basins that are hydrologically connected to surface flows of Chorro Creek shall not exceed the amounts

determined by an instream-flow methodology study to be the minimum necessary for maintaining riparian and wetland habitats.

- e. Resolution 32-97, LUP Chapter 5, page 4. Add the following new policy:

Policy 3.05 The City shall prepare a study by January 1, 2001, which determines whether the aquifer near Chorro Creek that supplies municipal water is hydrologically connected to surface flows in the creek. Prior to commencing the hydrological connectivity study, the City shall submit a copy of the proposed study methodology for review and approval by the Commission. If the study determines that a hydrological connection exists, an Instream Flow Incremental Methodology (IFIM) study shall be prepared by June 30, 2002, as directed by Policy 3.04. Prior to commencing the IFIM study, the City shall submit a copy of the proposed study methodology for review and approval by the Commission. The results of the study to determine if a hydrological connection exists shall be incorporated into the LCP by amendment within one year of its completion, except that if there is a hydrological connection, that study and the IFIM study shall be incorporated into the LCP by amendment within one year of completion of the IFIM study.

- f. Resolution 32-97, LUP Chapter 5, page 4. Add the following new policy:

Policy 3.06 To preserve the habitat of Chorro Creek and to ensure a reliable water supply, the City's water supply options, in order of priority, are:

1. Conservation
2. Reclamation (if reclaimed water is needed to allow greater periods of groundwater extraction from Chorro wells, relevant only if aquifer and surface flows are hydrologically connected)
3. State Water
4. Groundwater (at extraction levels consistent with protection of the aquifer and, if relevant, riparian and wetland habitat of Chorro Creek.)
5. Desalination
6. Lake Nacimiento

2. Implementation Plan

- a. Proposed section 13.20.020L, definition of "Retrofit program," modify as follows:

"Retrofit Program" means a water conservation method as **originally** contained in Coastal Development Permit No. 4-81-309A3, which replaces existing plumbing fixtures with low-flow fixtures and applying the water equivalency units saved towards a new Project located on another parcel (Off-Site Retrofit), or to apply the water equivalency units saved as a credit to the site retrofitted (On-Site Retrofit). ~~The retrofit program to earn water equivalency units shall terminate with the certification of this amendment and the ability of the city to serve projects with the water resources identified in the Water Management Plan.~~ By January 30, 2000, the City is scheduled to submit a Water Management review report to the Executive Director. At the same time, the City

shall also submit a separate report to the Executive Director for review and approval evaluating ~~whether retrofitting should be reimposed in light of the existing water supply situation.~~ alternatives to on- and off-site retrofitting programs that will provide the same level of water conservation as is currently being accomplished.

- b. Proposed section 13.20.080A, Projects defined which do not need an award of water equivalency units, add the words "non-temporary use" in the second sentence, as follows:

A. Projects which involve the demolition...Water equivalency units credited to demolished buildings shall be limited to the highest number of water equivalency units credited to legally permitted **non-temporary** uses which have existed in the building since January 1, 1977...

- c. Proposed section 13.20.090D, City Bank of Water Equivalency Units, modify the first sentence, as follows:

The half of the water equivalency units ~~which were~~ earned as part of the Off-Site Retrofit Program ~~from 1991 to the expiration of the program with the adoption of Ordinance 456 certification of LCP amendment 1-97,~~ shall be held by the City in reserve, as a "bank" of water equivalency units.

II. Findings

The Commission finds and declares the following for City of Morro Bay LCP amendment #1-97:

A. AMENDMENT SUBMITTAL BACKGROUND

This amendment is submitted to bring the City of Morro Bay LCP up to date with current water supply and policy developments. In particular, since the Commission last reviewed the City's water policies in late 1994, the City has started to receive water from the State Water Project. Before evaluating the Coastal Act consistency of the City's submittal, a brief review of the City's water policy history is necessary.

1. Background

The City of Morro Bay has experienced serious water quality and quantity problems from its groundwater wells over the years. Morro Bay has historically been dependent entirely on groundwater pumped from the Morro Creek and Chorro Creek basins for its water supply. These two basins are typical central California basins. They are relatively small and, although they can recharge quickly after moderate to significant rainfall, the water levels in the basins can drop quickly and the water quality can deteriorate significantly during drought periods and/or periods of heavy pumping. Chorro and Morro Creeks also support a great diversity of fauna and flora including, in Chorro Creek, such sensitive species as steelhead trout, California red-legged frogs and the southwestern pond turtles (Exhibit 1, Watershed Map).

2. Water Loss Recovery Efforts (1970s)

The City of Morro Bay and the Coastal Commission have developed and implemented multiple policies since the early 1970s in an effort to address these water supply constraints. In 1973, the City initiated a water loss recovery plan in order to save (recover) water lost through leaks in the city water system. Between 1973 and 1977, the program recovered 112 water equivalencies or 28 acre feet of water.¹

However, in 1977, prior to the certification of the City's LCP, the Commission found in its "Filer" decision that the Morro and Chorro Creek groundwater basins were in danger of being overdrafted by as much as 700 acre feet per year. The Filer application involved a 10 unit residential development on vacant land surrounded by developed lots in Morro Bay. The Commission's main concerns for this proposal were the lack of water and the potential adverse effects (such as seawater intrusion and impacts to riparian habitat) due to increased pumping from the groundwater basins. Based on this finding, the Commission notified the City that only those applications that were already under review by the City, would be considered by the Commission until measures were taken to ensure an adequate water supply that would not endanger coastal resources. In response, the City developed programs to replace leaky water system pipes and retrofit existing structures with water saving devices in order to "save" enough water to allow building without increasing the amount of water withdrawn from the groundwater basins.

3. Water Recovery Allocation Model (CDP 4-81-309)

After the 1976-77 drought, the City continued replacing City water system pipes and, in 1981, submitted to the Commission a Water Recovery Allocation Model in the form of an application for a coastal development permit. The Commission approved the Model as coastal development permit 4-81-309. The Model was based on the amount of water conserved by the City's water system replacement program (e.g., by replacing deteriorated pipes, etc.). At this time, the City's water policy focused on the use of groundwater, which had been the City's historical mainstay, and conservation. This focus was not to change for over ten years.

In 1984, the Commission certified the City of Morro Bay LCP. The LCP's certified water policies essentially incorporated the Commission's previous decision in CDP 4-81-309 utilizing the water recovery allocation model as the basis for determining water availability for new development. The LCP policies also established priority uses for receiving water; required the preparation of a water management plan; and ensured protection of coastal resources, including Morro Bay wetlands, groundwater and riparian habitat, and agricultural operations (see Exhibit 3, Policies 3.01 - 3.07).

Subsequently in 1985, the Commission approved the City's implementation of a retrofitting program as part of permit amendment 4-81-309A3 and LCP amendment 1-85. Under this program, which is still in effect, a project proponent must earn water equivalencies through the installation of water saving devices in an existing structure. To ensure that enough water is recovered, the City requires that the retrofitting result in twice as many water equivalencies as is needed for the proposed project. Given that the retrofit program establishes that ~~8~~ 7 single

¹ Note: 1 water equivalency = 1/4 acre foot/year = 10,700 cubic feet per year = approximate amount of water necessary to serve one single family residence for one year based upon the 1977 drought year.

family residences must be retrofitted to conserve enough water to provide one water equivalency, a new single family residence proposal would have to retrofit 46 14 existing houses in order to earn enough water to be able to build. The City "banks" any extra water saved as a result of the retrofitting and allocates it to other projects through the Water Recovery Allocation Model.

The Water Recovery Allocation Model provides for allocation of water equivalencies to construction projects on a quarterly basis. In the first three quarters of the year, water is distributed to land uses on a percentage basis (48.7% to visitor-serving and other commercial uses; 42.8% to residential uses, and 8.5% to industrial uses). During the fourth quarter, water is allocated on a Coastal Act development priority basis in the following priority order: commercial fishing/agriculture, coastal dependent uses, coastal related uses, essential public services and basic industries, public recreation, commercial recreation, visitor accommodations, other commercial and office use, industrial uses, and residential uses.

4. Measures F, G and I

Also in 1984, the voters of Morro Bay passed Measure F which prescribes the pace for new development in the City, as well as the "mix" among types of uses (i.e., residential, commercial, and industrial). Measure F allows a population of no more than 12,200 people in Morro Bay by December 31, 2000. Once the population reaches 12,200, no further residential building will be permitted unless a population increase is approved by a majority vote of the people of the city at a regular or special election. Section 3 of Measure F controls growth by limiting residential building permits issued in any one year to 70, although that number can be increased, or decreased, by a maximum of 10 percent if necessary to achieve the allotted annual population growth target. Further, under Section 4 of Measure F, commercial and industrial building permits issued in any one year cannot require more than 130 percent of the water allocated to residential units in that year. Sections 3 and 4 of Measure F have been certified as part of the City's LCP (LCP amendment 1-85).

By the mid-1980s, the City had a growth control mechanism and a population cap. The City's water policy remained focused on groundwater and conservation. Then, in the late 1980s and early 1990s, Morro Bay, like other coastal communities, was in the grip of one of the longest and most severe droughts in recent history. It was clear by this time that the City's reliance on groundwater was beginning to result in salt water intrusion into the Morro and Chorro groundwater basins.

The drought prompted the City to turn to desalination, first of brackish water from the Morro Creek basin and later from seawater wells. The water produced by the desalination plant, along with that produced from the City's groundwater well fields, enabled the City to meet the demand for potable water during the drought period in 1990 - 92. A series of permits were issued by the Commission for use of the wells to supply a temporary, portable desalination facility and then, subsequently, a permanent facility (the desalination plant itself is in the City's permit jurisdiction). Commission permit 3-94-46 allowed the permanent use of the seawater wells and a brine discharge pipe to support a maximum potable water production of 400 gallons per minute (645 acre feet a year) from the City's permanent desalination plant.

In addition to pursuing desalination, on December 17, 1991, Morro Bay voters approved Measure G. This measure mandated that the City pursue State Water through the Coastal

Aqueduct as an imported source of water. Thus, in the early 1990s, recognizing that the City's water supply was very vulnerable to climatic factors beyond the City's control, the City's water policy focus had shifted away from total reliance on groundwater. Desalinization was being developed as a supplemental source and there was a push towards State Water.

Finally, just before the worst of the drought, in 1990, the Morro Bay electorate approved Measure I. Under Measure I, no more than one-half of the savings from retrofitting could be allocated to a new use. Furthermore, the City could not allocate water to a new use based on water savings derived from projects performed by the City or on City managed property; projects that had previously earned water saving credits; replacement of City water pipes; and mandated projects or measures (such as forced rationing of water use or compulsory retrofitting of private property). Measure I was never submitted for certification as an amendment to the LCP or as an amendment to permit 4-81-309. However, it is included in the City's proposed new Chapter 13.20, *Water Allocation*, which is part of this submittal.

5. Water Management Plan

On January 11, 1995, the Coastal Commission certified amendment 1-94 to the City's LCP, thereby incorporating a Water Management Plan prepared by the City into the LCP. As mentioned, the need for a water management plan is discussed in several places in the existing Land Use Plan (LUP) and is required by the existing LUP prior to any additional subdivisions within the City that are not considered in-fill. The Water Management Plan is the City's blueprint for how it will meet the demand for water until at least the time the City is projected to reach its maximum projected population. As currently certified, it lists the City's water source priorities in the following order: conservation, reclamation, groundwater, State Water, desalination, and Lake Nacimiento water. It should be noted that the City has no water storage capacity or facilities other than its water tanks, which hold about a one day supply, so that the City cannot store water obtained in the wet season for use later in the dry season. Several years ago the City investigated constructing reservoirs on some of the Chorro Creek tributaries, but that was not pursued. While reservoirs would likely have significant adverse environmental effects, another, less damaging option, would be for the City to construct additional water tanks.

a. Conservation

The City's first priority, conservation, is implemented by City retrofit requirements. Retrofitting the plumbing in an existing house with low flow fixtures is required when the house is sold. Retrofitting of existing houses is required to obtain water equivalencies to be credited toward new development. To ensure that enough water is saved, the city requires retrofitting to save water at a 2:1 ratio. Any excess is banked by the City for future allocation. The LCP amendment would eliminate the retrofitting requirement except for when residential properties are sold.

b. Reclamation

For the City's second priority, reclamation, there is no program in place. The City's appropriative water rights permits from the State Water Resources Control Board (SWRCB) require that the City stop pumping when the flow in Chorro Creek drops to 1.4 cubic feet per second, the amount the SWRCB determined to be necessary to maintain the Chorro Creek habitat. The City is pursuing funding for studies of a treatment plant proposed in the Chorro Valley which would reclaim wastewater and use it to ensure that the minimum flow in Chorro Creek is maintained so that the City could continue pumping. A Phase I feasibility study has been completed that provides background data and discussion for the reclamation source. According to the City a draft Phase II report will probably be available in the fall of 1998, although it is not yet available as of the date of this staff report. The Phase II report will take the proposal to and set the stage for an environmental impact report (EIS) and environmental impact statement (EIS) (required because federal funding would be involved in the project). When the Phase II report is final, the City will decide whether to pursue the project and go forward with an EIR and an EIS.

c. Groundwater

Groundwater, the third priority, is not now being used to a great degree because of the availability of State Water, although the City still has wells to tap the Morro and Chorro aquifers (see Exhibit 1). According to the City, groundwater has not been used since last fall, when State Water deliveries began, except for a week in November, when the State Water system was shut down for maintenance. The amount of potable water drawn from the City's Morro and Chorro Creek basin wells combined over the last 18 years has ranged from a high of 1,727 afy to a low of 1,164 afy per year during extreme drought conditions in 1991; groundwater use has been negligible since the arrival of State Water in late 1997. Boyle Engineering, in the *Analysis and Recommendations for a Water Management Plan*, prepared for the City in 1994, projected that the groundwater basins should be able to produce up to 950 afy (700 af from Chorro, 250 af from Morro) even in the worst single drought year.

As of the writing of this staff report, the City was preparing to pump from the Chorro Creek wells for up to ten days during which the State Water main pipeline to Santa Barbara was to be inspected and which would shut down deliveries all along the system. The City estimates it will pump approximately 40 acre feet from the Chorro wells during this time.

d. State Water

Since the 1995 certification of these priorities, the State Water Project (SWP) began construction of the Coastal Branch to bring water to San Luis Obispo and Santa Barbara Counties from the Feather River at Oroville. The coastal branch of the SWP to Morro Bay was completed in 1997 and late last year began delivering water to the City. According to the City, deliveries of water from the SWP constitute the virtual totality of potable water supply:

For the period October 10 through October 21, a total of 16,000 gallons (about one-twentieth of an acre foot) of groundwater was extracted, compared to the average of more than 1.3 million gallons (about four acre feet) per day before SWP deliveries.

Although the City is generally entitled to 1,313 afy of water from the State Water Project, the actual delivery amount could vary depending on weather, hydrologic conditions, and political decisions. Information developed as part of the City's Water Management Plan shows that the State Water Project's average supply to Morro Bay would be 1,155 afy per year. Critical drought (based on the years 1987 - 1992) would see a delivery of 748 afy and the worst single year scenario (based on 1977) would see only 263 afy delivered (see findings below for more detail).

e. Desalination

The City desalination plant is very expensive to operate relative to other options so this fifth priority is typically used only when absolutely necessary. The existing desalination plant can produce a maximum of 645 acre feet per year of water, although that would require the plant to run 24 hours a day 365 days per year. Routine "downtime" for maintenance would reduce the actual water production to about 515 afy.

f. Lake Nacimiento

Finally, planning for distribution of Lake Nacimiento water is in the environmental review stage. Water deliveries from Lake Nacimiento, if they occur, are at least several years in the future.

B. LAND USE PLAN AMENDMENTS: ISSUES AND ANALYSIS

The City is proposing to update the LCP's water policies to reflect both the adopted Water Management Plan and the fact that SWP water is now available. Overall, the proposed LCP amendment would modify the Land Use portion of the LCP by revising Chapter Five, Public Works and Locating and Planning New Development. Twenty pages of text would be removed from Chapter Five and the existing policies would be modified. The text proposed to be removed from Chapter Five is text that originally appeared in the City's 1981 *Preliminary Water Management Plan* and which was inserted into the chapter verbatim. As mentioned, the City now has a certified water management plan based on more current information as well as a better understanding of the City's water resources.

In addition to textual updates, the amendment would also delete the chapter's seven policies (Exhibit 3) and replace them with three new policies (Exhibit 2, 3.01-3.03). The three new policies are much less detailed with fewer requirements and restrictions. For example, the proposed new policies do not list an allocation hierarchy of residential land uses based on whether or not a parcel is subdivided or whether it is located contiguous to or isolated from presently developed areas. References, restrictions, or requirements based on the development of a water management plan are similarly not discussed since the City now has a water management plan. The most important issues for analysis, though, concern Coastal Act

requirements for overall Development and Public Services, and the protection of Environmentally Sensitive Habitats and Agriculture.

1. Development and Public Services: Water Supply

The following Coastal Act development and public service policies are applicable to this LCP amendment request:

Section 30250. *(a) 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. . . .*

Section 30254. *New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted consistent with the provisions of 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 most important element of the proposed amendment which raises concerns under these policies is the replacement of Policy 3.01.

Policy 3.01

The existing policy to be deleted directs the City to allocate water and sewer service to development based on Coastal Development Permit No. 4-81-309 as approved by the Coastal Commission. The amount of water and sewer services to be allocated to new development is to be limited to the amounts of water recovered according to Permit No. 4-81-309 (see Exhibit 3). This policy provides for the required findings of water availability under Coastal Act sections 30250 and 30254.

In contrast, the new City-proposed policy would state:

Water resources will be allocated to new development yearly by the City Council. So long as existing public works facilities for the provision of water can only accommodate a limited amount of new development, water resources shall be allocated in such a manner so as to not preclude service to coastal dependent land uses, 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.

The City has submitted amendments to the Implementation Plan which would implement this policy by incorporating the allocation measures from CDP 4-81-309 into the proposed Chapter 13.20 (see Exhibit 2).

With respect to water supply issues, Coastal Act policy 30250 requires that new development be limited to that which can be accommodated by existing public services. Section 30254

requires that if only limited new development can be accommodated by planned or existing services, certain priority development types will not be precluded. Although the policies that are

to be replaced by the City's proposed amendment are obsolete in some respects, they are consistent with Sections 30250 and 30254. This is because they specify that development shall be approved in conjunction with findings of water and sewage treatment availability and that Coastal Act priorities are not precluded (see Exhibit 3). Proposed new Policy 3.01 eliminates the requirement that new development be approved in conjunction with the availability of public services.

To eliminate the requirement of Coastal Act Sections 30250 and 30254, a finding that water will definitely be available in all circumstances would be needed. However, as documented below, a careful examination of the City's water supplies, even with the arrival of State Water, coupled with an analysis of projected water demand in Morro Bay, cannot support such a finding.

SUPPLY OPTIONS

a. Desalination

According to the EIR for the City's desalination plant, water demand in the year 2000 is projected to be 1,790 acre feet with mandatory conservation and 2,269 acre feet with standard water demand. The Water Management Plan technical appendices project 1780 acre feet with mandatory conservation and 1930 acre feet with standard water demand. Since the Water Management Plan is part of the LCP, the 1780 figure will be used for purposes of this analysis. The existing desalination plant can produce a maximum of 645 acre feet per year of water, although routine "downtime" for maintenance would reduce the actual water production to about 515 afy.

b. State Water

As mentioned, the City is generally entitled to 1,313 afy of water from the State Water Project. However, the amount that the City receives could vary depending on weather, hydrologic conditions, and political decisions. By paying fees above and beyond that charged for the 1313 afy, the City has been able to ensure, on a temporary basis, that all 1313 afy will be delivered even if overall SWP deliveries are cut by up to 50 percent. Further cuts in overall delivery would result in proportional reductions in the City's supply (e.g., if deliveries are cut to 60 percent, then the City would receive 60 percent of 1313 afy, or 788 afy). Morro Bay has applied to San Luis Obispo County, the entity through which all local governments in the county obtain water from the SWP, to permanently guarantee that the City will receive all 1313 AFY even if SWP deliveries are reduced by up to 50 percent. The County has not yet acted on the City's request and it is unknown when the County will act on the City's request.

As of the writing of this staff report, the City is relying entirely on water delivered by the State Water Project, even though it is the City's fourth priority as a water source. When making full delivery, the SWP can provide over 75 percent of the City's demand with a population of 12,200, the cap placed on population by Measure F. According to the City's Water Management Plan Appendices, when the City reaches buildout, based on 100 percent occupancy of all dwellings, the population is projected to be about 15,600. Demand in a drought year in Morro Bay is

projected to be about 130 gallons per capita per day; in a non-drought year 141 gallons per capita per day. Total yearly demand in drought conditions with the buildout population would be

about 2272 acre feet of water. State Water deliveries, at the contracted rate of 1313 acre feet per year could supply up to about 58 percent of that demand. In non-drought conditions, the demand would total about 2464 acre feet. State Water could supply up to about 53 percent of that demand. SWP deliveries will be affected by drought and, when that occurs — as it most likely will — Morro Bay's allotment could be cut back. According to the City's Water Management Plan, at those times the City will rely more on the desalination plant and the groundwater wells.

Information developed as part of the City's Water Management Plan shows that the State Water Project's average supply to Morro Bay would be 1,155 afy per year. Critical drought (based on the years 1987 - 1992) would see a delivery of approximately 748 afy and the worst single year scenario (based on 1977) might see only 263 afy delivered.

The arrival of State Water is the basis for the proposed removal of the retrofitting program. However, this is a narrow basis on which to base removal of an existing water conservation program. Not only is the delivery of State Water subject to large fluctuations, it has environmental impacts far removed from Morro Bay. State Water comes from the Delta and Trinity River and it affects anadromous fish. There is a clear connection through the Coastal Act between use of State Water to change local water supply and conservation measures and the effects of the use of State Water on coastal resources. Documents such as the State Water Plan and other State and Federal documents, which lay out the water situation for all of California ought to be, required reading for those who receive State Water. The Commission finds that State Water cannot at this time be the basis for removing the retrofit requirement. The City must show how other measures can replace or conserve the same amount of water that is saved by retrofitting.

c. Groundwater

The amount of potable water drawn from the City's Morro and Chorro Creek basin wells combined over the last 18 years has ranged from a high of 1,727 afy to a low of 1,164 afy per year during extreme drought conditions in 1991; groundwater use has been negligible since the arrival of State Water in late 1997. Boyle Engineering, in the *Analysis and Recommendations for a Water Management Plan*, prepared for the City in 1994, projected that the groundwater basins should be able to produce up to 950 afy, without damaging the aquifers themselves by inducing sea water intrusion (700 af from Chorro, 250 af from Morro) even in the worst single drought year. This is an average based on the six year drought from 1987-1992. The City's groundwater consultant stated it would be possible to extract more than 950 afy in a drought in any given single year so long as the six year average did not exceed 950 acre feet. If and/or when the City is not able to pump from the Chorro wells, then the amount of groundwater available would be only that from the Morro wells.

However, as discussed in more detail in the ESHA finding, there remains some uncertainty about both hydrology and safe yield of Chorro Creek relative to protection of ESHA. The State Water Resources Control Board approved the City's application for 1164 afy from the Chorro basin, with a condition that pumping must cease when stream flow falls to 1.4 cfs. That means that in most years the City could not pump from the Chorro wells from June through October — a substantial limitation on the Chorro creek groundwater option. More generally, it is not yet clear whether 950 acre feet is a number to be relied on for longterm supply projects (see finding 2).

d. Conjunctive Use

Under the most extreme projected drought conditions, State Water could only deliver 263 acre feet of water. Thus, during the average worst projected single drought year, ground water and State water together would produce 1,213 acre feet of water if the Chorro wells can be pumped and safely deliver 700afy. Under the lowest historical ground water pumping and lowest projected State Water Project delivery scenario, those two sources could only produce 1,427 acre feet of water. Mandatory water conservation procedures would reduce demand to no more than the projected 1,780 acre feet, and perhaps less. However, without use of the desalination plant, there would be a shortfall of from 353 to 567 acre feet per year, or between about 69 percent to just over the 515 afy the plant could produce operating at 80 percent. If the plant was able to operate at 88 percent, then it could produce 567 acre feet of water, the amount of the maximum shortfall. With use of the desalination plant, in extreme drought conditions with demand limited to 1,780 acre feet per year, the City could, on a yearly basis, and with some downtime for the desalination plant maintenance, provide for the demand. Extra production could occur only if the plant was operated essentially all day, every day, all year. As discussed earlier, this is unlikely except possibly for short periods in extended extreme drought conditions, since the cost of operating the desalination plant is more expensive than either groundwater pumping or State Water Project water and there would have to be down time for maintenance of the plant.

The following table summarizes the City's potential water supply from its various sources under the single worst drought year conditions and with maximum production.

Water Source	Amount (acre feet per year)	
	Single worst drought year	Maximum production
Ground water	950	1,723.5
State Water	263	1,313
Desalination	515	515
TOTAL	1,728	3,555.5

DEMAND

The following table shows drought year and "normal" year water demand currently, with the population cap set by Measure F, and with the population at buildout (based on 100 percent occupancy of all dwellings).

Current Demand*	Measure F Demand (population 12,200)		Buildout Demand (population 15,600)	
	Drought Year (130gpcpd)**	Normal Year (141gpcpd)	Drought Year (130gpcpd)	Normal Year (141gpcpd)
1250 afy	1780afy	1927afy	2272afy	2462afy

*Current demand population and demand figures based on 1997 population of 9696 and demand of 115afy.
 **figures from City's water Management Plan appendices; gpcpd = gallons per capita per day

Comparison of the figures in the Supply and Demand tables indicates that in the single worst year of a drought, at the population allowed under Measure F and at the buildout population, the City's supply would fall short of the demand. However, the Measure F and buildout demand figures are relatively high. At the current estimated demand of 115gpcpd, the yearly Measure F population demand would be 1708afy; the yearly buildout population demand would be 2010afy. The City imposed stringent conservation measures during the 1987 - 1992 drought, which resulted in a per capita daily demand of only 92 gallons. Under the Measure F population, with a demand of 92gpcpd, the total yearly demand would be 1275af; the buildout population yearly demand would be 1608af. Both of these figures are less than what the City's three supplies could produce in the single worst year of a drought. Of course, it is possible that one or more of the supplies could produce less than that projected, adding some uncertainty to the City's water supply capabilities.

The most critical factor for assessing water demand, though, is not necessarily how many acre feet of water the City would have in a single year. The average daily demand in the peak month, i.e., the month in which demand is highest (August), is probably the single most critical factor. Drought year annual demand at year 2000 population (12,200) is projected to be 1,780 acre feet. The average daily demand would be 4.88 acre feet ($1,780 \div 365 = 4.88$). However, this figure does not take into account seasonal variations in water use; therefore it is necessary to multiply the average daily demand by a "peaking factor." According to Table 6-6 of the water management plan technical appendices, the peaking factor for August is 1.32. Thus, the average daily demand in the peak month with annual demand of 1780 af would be 6.4 acre feet ($4.88 \times 1.32 = 6.4$).

Yet, if the City were to impose water use restrictions such that demand is reduced to a per capita daily demand of 92 gallons, as it was near the end of the 1987 - 1992 drought, then annual demand for a population of 12,200 would total only 1275af. Average daily demand

would be 3.5af ($1275 \div 365 = 3.49$) and with the peaking factor would be 4.62 af ($3.5 \times 1.32 = 4.62$). During any given day in the peak month in the worst single drought year, the City could produce only about 2.8 to 3.2 acre feet without the Chorro wells. With the Chorro wells, the production would be about 4.7 to 5.1 acre feet. Thus, on any given day in the peak month in the worst single drought year, the City's production could range from about one-half acre foot of water more than needed to a shortfall of about 1.82 acre feet, even with the reduced per capita daily use of 92 gallons.

f. Conclusion

Although there is now state water available to the City, and the supply of water to Morro Bay will probably be more than adequate in a typical year, there is still some uncertainty concerning water supply in the event that drought conditions materialize or, as discussed below, new constraints are needed to protect riparian habitats. Indeed, when the Commission certified the City's water management plan in 1995, before state water was on line, it found that it was "unlikely that the State Water Project [would] be able to deliver" consistently the amount that the City had contracted for, given the vagaries of weather and unforeseen political decisions concerning the distribution of State Water. While State Water certainly relieves some of the pressure on new development in the City of Morro Bay, some uncertainty remains. To address this uncertainty, Policy 3.01 should be amended as follows to maintain the general obligations of Coastal Act Sections 30254 and 30250:

Policy 3.01: The City of Morro Bay shall approve future growth in conjunction with water and sewage treatment availability. Water resources will be allocated to new development yearly by the City Council. **Development shall be approved only if the City finds that sewer and water services are available to serve the proposed use.** So long as existing public works facilities for the provision of water can only accommodate a limited amount of new development, water resources shall be allocated in such a manner so as to not preclude service to coastal dependent land uses, 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.

Other than these additions to address Coastal Act development policies, the old policy may be replaced. There are references to the pipeline replacement program which are outdated and need not remain. The proposed amendment will incorporate much of permit 4-81-309 including the water allocation system and will supersede the permit. The City also has a certified water management plan, making this requirement obsolete. Overall, if the proposed Policy 3.01 is modified as suggested, then the deletion of the existing Policy 3.01 will be consistent with Coastal Act Sections 30250 and 30254.

Policy 3.02

The existing policy to be deleted requires that the City ensure the following uses receive priority, in the order they are listed, for available water and wastewater treatment facilities:

- Commercial Fishing/Agriculture
- Coastal-Dependent Land Uses
- Coastal-Related Land Uses
- Essential Public Services and Basic Industries
- Public Recreation

- Commercial Recreation
- Visitor-Serving Land Uses
- Residential and other Commercial and Industrial Land Uses.

Residential land uses are allocated water based on the following order of varying residential parcels:

1. presently subdivided parcels within existing developed areas
2. presently subdivided parcels contiguous to developed areas or unsubdivided parcels within existing develop areas
3. unsubdivided parcels contiguous to developed areas
4. unsubdivided parcels isolated from either presently developed or subdivided areas

The list of the priority in which water is to be allocated will be incorporated into the implementation plan ordinances in Chapter 13.20. As discussed above, Coastal Act priority developments will also be covered by new Policy 3.01. The hierarchy within the residential land use category is not necessary since existing Policy 3.03 says that once a water management plan is implemented, subdivision in previously unsubdivided area may be permitted. Furthermore, the definition of infill in proposed new Chapter 13.20 will tend to direct development to parcels in the same order as listed in existing Policy 3.02. Therefore, the proposed deletion of Policy 3.02 is consistent with Coastal Act section 30254.

2. Environmentally Sensitive Habitat

The following policies concern the protection of environmentally sensitive habitat (ESHA):

Section 30231. *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 groundwater supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Section 30240. *(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*

These policies are most directly implicated by the proposed replacement of Policy 3.01 and the deletion of Policy 3.04. The remainder of existing Policy 3.01 discussed above that would be deleted with the amendment states:

Methods of obtaining additional water resources shall ensure protection of the biological productivity of coastal waters. Accordingly, extractions of water from groundwater shall not exceed Basin Safe Yield except under a conjunctive use program. Determinations of Basin Safe Yield shall ensure that groundwater extractions, stream diversions, etc. must not exceed a magnitude when biological productivity of coastal waters is adversely affected.

a. Background

Existing Policy 3.04 states that Chapter 3 Coastal Act Policies are required to be the basis for reviewing the adequacy of a water management plan, which, among other things, shall ensure at a minimum the following:

- Continued protection of the Morro Bay wetland areas and flushing of accumulated salts from sediments.
- An adequate surface water supply to protect the biological productivity of coastal waters including riparian stream corridors.

Although the City now has a water management plan, certified by the Commission, this certification was in part contingent on the protections built into the existing Policy 3.04. In particular, after a discussion concerning the need to protect biological productivity of coastal waters, including riparian stream corridors and the estuary of Morro Bay, the Commission acknowledged that the new water management plan would "help to ensure consistency with City LUP Policy 3.04(2) and (3)." Because of this reliance by the Commission on existing LCP ESHA protections, the removal of environmentally sensitive habitat protection policies needs to be examined carefully at this next point of water policy evolution for the City.

The need for careful examination is underscored by a modification that the Commission required with its certification of the water management plan that required a five year review and update process for the water management plan. This requirement is also now being proposed by the City as new Policy 3.02:

The City has adopted, and the Coastal Commission has certified a Water Management Plan. The City shall review the Water Management Plan at least once every five years to ensure that water sources are adequate and to reflect any changes in climatic, hydrological, technological or political conditions that could affect the City's long-term water supply, negatively or positively. As part of the five year review, the City shall prepare a report and submit a copy to the Executive Director of the California Coastal Commission for review. The policies and programs of the Water Management Plan are incorporated herein by reference. The Water Management Plan may be amended from time to time at the discretion of the City council.

Although we are two years away from the first five-year review following actual certification of the water management plan by the Commission, this LCP amendment requires a review of current information concerning the protection of environmentally sensitive habitat.

As mentioned in the background discussion, Chorro Creek supports environmentally sensitive riparian habitats. More discussion of this habitat is found in the draft Watershed Management Plan for the Morro Bay National Estuary Program, which also discusses Los Osos Creek. For purposes of this amendment, Chorro Creek is of particular concern:

Chorro and Los Osos creeks support a great diversity of fauna and flora including a number of sensitive species, including steelhead trout, California red-legged frogs and southwestern pond turtles...Although it is not the intent of the program to focus on management of any single species, biological work group participants have agreed that the steelhead trout population serves as an excellent indicator of the health of our creeks

and watershed. Both Chorro and Los Osos creeks have historically supported steelhead populations and both still have remnant population of resident (non-migratory) steelhead trout (Morro Bay State Estuary and Watershed Management Plan, 28).

The draft plan goes on to say that one of the primary goals of the Estuary Program is to reestablish healthy steelhead habitat in Chorro Creek through various measures, including maintenance of adequate fresh water flows. Most significant, and since the last Commission review of Morro Bay water policy, the steelhead has been listed as a threatened species by the U.S. Fish and Wildlife Service. Similarly, the draft Estuary plan notes that the lagoon habitat of Chorro Creek has been heavily impacted by water diversion and siltation. This includes negative impacts to the Tidewater goby, a Federal Endangered Species.

Overall, the draft Estuary Plan articulates several management goals that require the protection and enhancement of riparian habitats through the maintenance of instream habitats, water quality, wetlands, and other riparian habitat values. Nonetheless, there is still a significant lack of information concerning the appropriate instream flows in the Morro Bay Watershed. Comprehensive new studies that will assess the geophysical, habitat, and stream corridor characteristics of the watershed's creeks have not yet occurred. As stated in the plan, "the integration of existing riparian habitat information and other stream data with new data from these studies will assist in the development of a detailed characterization of stream flow and related impacts" (Management Plan, 9).

b. Prior Studies

There has been some work done on the effects of the City's' pumping on Chorro Creek in the past. The 1985 environmental impact report (EIR) for Morro Bay's appropriative rights application recommended that no biological mitigations were necessary for the project, based in part on The Morro Bay Hydrogeology Study, by Converse Consultants, which stated

There has been some concern in the past over the effect of pumping wells 8 and 11A on the flow of Chorro Creek. This concern is the result of observations made during the Summer of 1976. Chorro Creek was observed to go dry near Wells 8 and 11A (State Water Resources Control Board, 1976). After examining the hydrogeologic conditions in the area, it is our opinion that this observation was coincidental with no relationship to water production from Wells 8 or 11A. This opinion is based on the following:

- Well logs of Wells 11 and 11A show 20 to 27 feet of surficial deposits of low permeability clay or clayey sand. This surficial clay was identified in all other downstream boring logs. This clay layer separates creek surface flow from subsurface flow in this area.
- . . . Since there is no continuity between the creek and the aquifer, the wells cannot draw water directly from the creek. . . .
- . . . The infiltration rate into the subsurface flow system is controlled by the permeability of the clayey layer and not well pumpage.

Below approximately 250 feet in elevation, where the city wells are located, the alluvium of the Morro and Chorro Creek drainage basins is capped by a layer of clay. The water from wells drilled through the alluvium flows to the level of the clay layer from internal pressure, creating Artesian wells. The contact between the alluvium and the consolidated older rock forms the boundary of the Morro and Chorro Creek underground streams or sursurface [sic] flow. Recharge of the subsurface flow takes place through the intrusion of freshwater of [sic] the head waters of the watershed, above the highest reach of the impermeable clay layer. Below this boundary, little or no percolation of surface flow into the subsurface flow occurs.

However, in 1988 and 1989, Department of Fish and Game personnel conducted field investigations which measured flows of approximately 0.5 cfs in Chorro Creek, at Canet Road, but little or no flow adjacent to City wells 8 and 11A. In December 1994, a stream flow measurement study in Chorro Creek was conducted by the Bay Foundation and the Friends of the Estuary, with data collected just upstream of Canet Road, and downstream near the confluence of Chorro Creek and San Luisito Creek (see Exhibit 1). Measurements were made using two different stream flow methods. The flume method indicated that the surface flow in Chorro Creek of 1.473 cfs at Canet Road dropped between 0.226 and 0.231 cfs when pump 11A was on, but by only 0.072 cfs when the pump was shut off for 24 hours. The stream transect method indicated a drop in the flow of from between 0.406 and 0.412 cfs when the pump was on, but only 0.055 cfs when the pump was off. Both measurement methods indicated that pumping from the well directly affected stream flow in the creek. There is thus a dispute over whether there is a hydrologic connection between the aquifer and the creek and the effect the City's wells have on the flow in Chorro Creek when the City is pumping from the wells.

c. Habitats and Habitat Requirements

The habitats potentially adversely affected by pumping from the City's wells include the riparian habitat along the creek from the area of the wells to the Chorro Creek delta which form a dense willow woodland just upstream of the delta, and the brackish water habitat of the estuary. As mentioned, various listed species are found in Chorro Creek, including steelhead, California red-legged frog, and the tidewater goby. Riparian vegetation, composed largely of willow, fringes the creek. In contrast, Morro Creek habitat is presently extremely degraded, and effectively channelized in the vicinity of the City's wells.

Steelhead migrate up Chorro Creek when winter and spring flows reach sufficient magnitude. For spawning, steelhead require a clean gravel substrate and clear, swiftly flowing water. Cool water is necessary for rearing young. With reduced stream flow, more sedimentation occurs, covering stream bed gravels, and the water becomes warmer. Riparian vegetation provides shade which helps to keep the water cool enough for juvenile steelhead to survive the warm months. Reduced streamflow can cause riparian plants to die, which allows for warming of the creek waters. In 1976, the Department of Fish and Game estimated that the annual adult steelhead migration in Chorro Creek was 160 fish. According to the Department's fisheries biologist for the area, "The current [1995] run of adult steelhead is thought to be only a fraction of this number. The Department believes that, with proper management, including the maintenance of stream flow, the Chorro Creek drainage will support a basin run of at least 450 adults."

The California red-legged frog needs extensive riparian vegetation and pools that remain year-round, or nearly so. As mentioned above, reduced stream flow can stress riparian vegetation and result in reduction in the amount of cover provided. Reduced stream flow also results in fewer and less extensive pools. Loss of vegetative cover can leave tadpoles exposed and vulnerable to predators. Reduction in pool size and extent can strand tadpoles in exposed areas and can result in increased competition for food and shelter among the tadpoles in the remaining and/or smaller pools. Lack of sufficient surface water can lead directly to loss of members of this species.

Species which inhabit the lowest reaches of Chorro Creek and the estuary itself are also adversely impacted with reduced surface flow. Tidewater gobies inhabit the delta and the estuary directly downstream from it. According to the Department of Fish and Game, the tidewater goby

... is dependent of flows from Chorro Creek to reduce salinity to usually less than 10 parts per thousand (ppt). The tidewater goby is believed to be one of the most short-lived species of its family, completing its life cycle in approximately one year. Spawning appears to peak in the late spring in south central California. During the summer, gobies are often found close to incoming freshwater because poor water quality and low dissolved oxygen levels may make much of the lagoon habitat marginal quality. Reduction of flows into Morro Bay caused by upstream diversions has seriously impacted the tidewater goby. This species has not been documented in the creek mouth since 1986, and, if it is still present, its numbers have been severely reduced.

One of the most important plant species occurring in the estuary is eelgrass, and the largest remaining acreage of eelgrass south of San Francisco is in the Morro Bay estuary. Ecologically, eelgrass meadows serve as shelter and nurseries for fish such as juvenile rockfishes and surfperches, and worms and crustaceans. Although eelgrass can live in both fresh or saline water, moderate salinity is necessary for growth and reproduction. In fact, ideal conditions for seed setting are when salinity is below that of seawater (The Morro Group and Tenera, 1990). Reduction of salinity requires freshwater inflow.

At Chorro Flats, just upstream of the creek delta, seasonal declines in the water level in the wells of 28 - 36 feet occurred during several drought years in the late 1980s and early 1990s. In the fall, water levels have been as low as 17 feet below sea level. Waterlevels upstream typically do not decline to such low levels. The hydrograph for city well 11 indicated that from 1985 to 1992, the decline was about eight feet excepting 1988 when a decline of about 15 feet was recorded (Jones and Stokes Associates 1993). Large seasonal declines such as those detected just upstream of the creek delta can result in seawater intrusion which can adversely affect the habitat and water quality.

d. Conclusion

Since the Filer decision in 1977, the Commission has consistently expressed concern about the potential impacts of groundwater on the riparian and wetland habitats of Morro and Chorro Creeks. Morro and Chorro Creeks are both small streams that have their headwaters in the Santa Lucia range 10 to 15 miles from their mouths. Chorro Creek empties into the estuary of

Morro Bay, while Morro Creek empties directly into the Pacific Ocean about one-half mile north of the estuary. Similar to other small, coastal streams of San Luis Obispo County, Morro and Chorro Creeks contain relatively small aquifers. As with San Simeon, Santa Rosa and Pico Creeks located approximately 25 to 30 miles north of Morro Bay, groundwater appears to be withdrawn from the underflow of Morro and Chorro Creeks, although as mentioned on page 20, there is a dispute about whether there is a hydrologic connection between the aquifer and the stream flows in the case of Chorro Creek.

In 1995, the State Water Resources Control Board granted the City of Morro Bay permits to extract 1142.5 afy of water from the Chorro Basin and 581 afy from the Morro Basin for a total of 1723.5 afy. According to conditions placed on the permit, extraction from Chorro Creek must stop when surface flows drop below 1.4 cubic feet per second (cfs) in the vicinity of the wells near Canet Road. The 1.4cfs requirement was imposed based on field estimation by the Department of Fish and Game of the minimum flow needed to maintain the habitat. There are no similar restrictions on Morro Creek withdrawals. The City petitioned the SWRCB to reconsider the pumping restriction when flows fall to 1.4 cfs, but the SWRCB refused to reconsider its decision. The City then filed a lawsuit against the SWRCB, contending among other things that the SWRCB ignored information from the 1985 EIR for the City's appropriative rights applications. The EIR produced information that indicated that a clay layer separated the aquifer into which the City's wells were drilled from the stream flow, thus limiting if not eliminating any effects pumping would have on stream flow. The City has not pursued the lawsuit beyond preliminary stages and has no specific timetable for moving forward with the lawsuit. The City intends to have additional geologic/hydrologic studies done, probably this fall, to further investigate the issue of an impermeable clay layer separating surface flow from subterranean flow and how the City's pumping is affected by that.

With respect to Morro Creek, the SWRCB found that a clay layer separated the aquifer from Morro Creek and that there would be no effect on the creek flow from City pumping. The SWRCB stated:

No evidence was presented by the parties to refute the City's conclusion that the clay layer will protect surface flows of Morro Creek from depletion effects due to pumping the Kaiser well field. Therefore, the SWRCB finds that the City's extraction of water from the subterranean stream of Morro Creek will not result in any significant depletion of the surface flow of Morro Creek.

More important, no minimum stream flows have been recommended for Morro Creek. According to Department of Fish and Game biologists, while fish and wildlife habitat could be restored, most of the habitat is upstream of the City's wells and agricultural extraction has had such an adverse effect on the habitat that restoration would not be likely. Further, as mentioned above, there appears to be a clay layer separating the subterranean flow from the surface flow; therefore the City's pumping of its Morro Creek wells probably does not adversely affect the habitat.

Morro Creek, though, has experienced seawater intrusion in the past. The SWRCB found that no monitoring and water quality standards were needed "Because there are no intervening diverters of record on Morro Creek between the Kaiser well field and the ocean, and because the City will need to control seawater intrusion to protect its own wells. . . ."

Since the SWRCB allocated the withdrawals from Morro and Chorro Creeks in 1995, a more complete understanding of the hydrological function of these types of small aquifers has developed. As discussed at length in the recently adopted Findings on the North Coast Area Plan Update (San Luis Obispo County Local Coastal Plan Amendment No. 1-97), water availability from these small, coastal streams varies considerably from year to year based on the amount and timing of rainfall (Water supply discussion, pages 44-65, SLO LCP Amendment No. 1-97). The need to retain quantifiable amounts of water in the aquifer in order to maintain riparian habitat and to avoid damage to the geologic structure of the aquifer is also better understood. Thus the extractions permitted by the SWRCB in 1995 should not be viewed as either the amount of water which would be reliably available every year or the amount of water which can be withdrawn consistent with protection of riparian/wetland habitat and the structure of the aquifer. For this reason, the study and monitoring contemplated in the Water Management Plan is necessary as are Suggested Modifications (d), (e), and (f) to the LUP which require that both existing and future ground water extractions shall not be undertaken unless adequate protection for riparian and wetland habitats are ensured. Staff notes that if habitat water requirements are met, it is virtually impossible to damage the structure of the aquifer. In other words, overdrafting will adversely affect habitat values before it damages geologic structures. Thus a modification to protect habitat will also result in the protection of the structure of the aquifer if the aquifer and the surface flow are hydrologically connected. If they are not, then the modification provides that the City will not have to conduct instream flow studies.

Similar to the Commission's recent findings concerning instream flows and riparian habitats along the North Coast of San Luis Obispo County (see SLO County LCP Amendment 1-97), continuing uncertainty and potential impacts due to groundwater withdrawals, as well as new information concerning sensitive habitats dictate that the Morro Bay LCP maintain its policies that assure protection of biological productivity and the water quality of coastal streams. Accordingly, to be found consistent with sections 30231 and 30240, new Policy 3.04 should be included in the updated LCP as follows:

Policy 3.04 Use of existing groundwater water sources and methods of obtaining additional water supplies shall ensure protection of riparian and wetland habitats, and avoid saltwater intrusion or other damage to aquifers. Extractions of water from groundwater basins that are hydrologically connected to surface flows of Chorro Creek shall not exceed the amounts determined by an instream-flow methodology study to be the minimum necessary for maintaining riparian and wetland habitats.

Since there have been no studies conclusively determining the minimum flow required to maintain Chorro Creek habitats, an instream flow incremental methodology (IFIM) study needs to be conducted for each creek if in fact there is a hydrologic connection between subterranean flow and surface flow. **The issue of connectivity has created much controversy. Adding to this is the inconsistency between past studies trying to determine if there is a hydrological connection between the creek and the underlying aquifer. Because a conclusive study of the issue could have far reaching effects and will be relied upon by the Commission in making decisions regarding the City's water supply and the health of the habitats of Chorro Creek and the Morro Bay Estuary, it is necessary that the Commission review and approve the proposed methodologies for the connectivity study and the IFIM study, should the latter be necessary.** To maintain consistency with Coastal

Act Sections 30231 and 30240, suggested new policy 3.05 should be added to the LUP, as follows:

Policy 3.05 The City shall prepare a study by January 1, 2001, which determines whether the aquifer near Chorro Creek that supplies municipal water is hydrologically connected to surface flows in the creek. **Prior to commencing the hydrological connectivity study, the City shall submit a copy of the proposed study methodology for review and approval by the Commission.** If the study determines that a hydrological connection exists, an Instream Flow Incremental Methodology (IFIM) study shall be prepared by June 30, 2002, as directed by Policy 3.04. **Prior to commencing the IFIM study, the City shall submit a copy of the proposed study methodology for review and approval by the Commission.** The results of the study to determine if a hydrological connection exists shall be incorporated into the LCP by amendment within one year of its completion, except that if there is a hydrological connection, that study and the IFIM study shall be incorporated into the LCP by amendment within one year of completion of the IFIM study.

The City currently relies on State Water for all of its supply. The City's Water Management Plan lists water sources, in order of priority, as conservation, reclamation, groundwater, State Water, desalination, and Lake Nacimiento. In reality, however, the City's priorities, based on actual utilization, are conservation, State Water, groundwater, and desalination. No single water source can supply all of the City's demand. Currently, State Water deliveries are subject to fairly wide fluctuations. Desalination is limited by the capacity of the plant. Groundwater extractions in the Chorro basin is subject to the SWRCB permit, which could result in cessation of pumping for perhaps five months per year, depending on rainfall amounts and patterns. The City needs to be as self-reliant as possible in producing water while ensuring protection for environmentally sensitive habitat areas. This can most appropriately be done through conservation, which should always be the first priority, and reclamation. If the City develops a reclamation facility, it should either recharge the Chorro basin such that minimum flows for habitat requirements are met, even with pumping, or produce potable water that can be added directly to the City's water system. Reclamation of wastewater can reduce the amount effluent discharged into the ocean and can be utilized to improve groundwater quantity and quality. To maintain consistency with Coastal Act Sections 30231 and 30240, the LUP should be modified to list the water supply options by priority that are most likely to result in a dependable water supply and to protect environmentally sensitive habitats. Accordingly, new policy 3.06 should be added to the LUP, as follows:

Policy 3.06 To preserve the habitat of Chorro Creek and to ensure a reliable water supply, the City's water supply options, in order of priority, are:

1. Conservation
2. Reclamation (if reclaimed water is needed to allow greater periods of groundwater extraction from Chorro wells, relevant only if aquifer and surface flows are hydrologically connected)
3. State Water
4. Groundwater (at extraction levels consistent with protection of the aquifer and, if relevant, riparian and wetland habitat of Chorro Creek.)

- 5. Desalination
- 6. Lake Nacimiento

With these three modifications, the City's amendment will be consistent with Coastal Act Sections 30231 and 30240.

3. Agriculture

Coastal Act Section 30241 addresses protection of agricultural land.

Section 30241.

The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through all of the following:

- (e) *By assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality.*

Morro Bay's pumping of its Chorro basin wells would not result in any assessment costs to agricultural users. Water quality and quantity could be degraded by overdrafting. With the suggested modifications, the City will be required to conduct its groundwater extractions so that pumping will not reduce the minimum flow necessary for maintenance of the habitat downstream of the City's wells. This will ensure that water quality will not be adversely affected by the City's pumping. Additionally, Morro Bay's wells are downstream of agricultural wells in the Chorro basin and will not adversely affect water supplies to agricultural land in the basin. Similarly, the Morro Creek wells are downstream of all agricultural users and so will not have any adverse impacts on agriculture. For these reasons the proposed amendment, as modified, is consistent with Coastal Act Section 30241.

4. Miscellaneous Policy Deletions and Updates

Policy 3.03

The existing policy to be deleted encourages the City to develop a specific, comprehensive, long-range water plan that will implement water management policies that will provide water service consistent with sound resource planning. New water and sewer services to previously unsubdivided areas are not to be approved until a Water Management Plan has been developed, adopted, and submitted for Commission review and approval as a subsequent amendment to the LUP. As discussed above, the City's water management plan was certified by the Commission in 1995. As a result, this policy is no longer mandatory. The water management plan and this amendment submittal, as modified by the Commission, provide a specific, long-range, comprehensive water plan. Therefore, the proposed deletion of Policy 3.03 is consistent with Coastal Act Section 30254.

Policy 3.05

The existing policy to be deleted directs the City to adopt a five-year Capital Improvement Program for maintenance, improvements, and extensions of water and sanitary sewer facilities.

This policy was necessary when the City's water and sewer infrastructure was in poor shape. This is no longer the case now and Policy 3.05 is not needed. Therefore its deletion is consistent with Coastal Act Section 30254

Policy 3.06

The existing policy to be deleted directs the City to provide wastewater treatment facilities to accommodate a population of 12,195, which the policy says was determined to be the build-out figure in Coastal Development Permit (CDP) 406-01 (CDP 406-01 permitted further expansion of the wastewater treatment facilities to 2.4 mgd). Staff has researched CDP 406-01 and has not found a condition or other requirement stating that the City's buildout population is 12,195. The City has indicated no desire to limit the population to a figure less than 12,195. The suggested modification to proposed policy 3.01 requires the City to approve future growth in conjunction with water and sewage treatment availability, without referencing any particular population. Since CDP 406-01 does not set any population limit, and the population cap of 12,200 in Measure F has never been certified, nor is it a part of this submittal, deletion of Policy 3.06 is consistent with Coastal Act Section 30254.

Policy 3.07

The existing policy to be deleted requires water-saving devices in new developments. The Implementation Plan already requires this. It is not necessary for the Land Use Plan to list water conserving fixtures, particularly since only three are listed out of an unknown number of fixtures, and since there may be more efficient water conserving fixtures. Further, building and plumbing codes incorporate the requirement for water conserving fixtures. Therefore, the proposed new policy is consistent with Coastal Act Section 30254.

New Policy 3.03

This new policy states that "all new development shall incorporate water conservation fixtures as set by the City Council." This proposed new policy more or less fits in the place of existing policy 3.07, which mentions that water saving devices may include, but are not limited to, three specific water conservation fixtures. However, it is not necessary for the Land Use Plan to list water conserving fixtures, particularly since only three are listed out of an unknown number of fixtures, and since there may be more efficient water conserving fixtures. Further, building and plumbing codes incorporate the requirement for water conserving fixtures. Therefore, the proposed new policy is consistent with Coastal Act Section 30254.

C. IMPLEMENTATION PLAN AMENDMENTS: ISSUES AND ANALYSIS

The Implementation Plan is proposed to be modified by revising Chapter 13.20, *Allocation of Water Resources*.

1. Definitions

Revisions include adding 17 definitions to the definitions section: accommodation; affordable housing; coastal dependent development or use; coastal related development; commercial fishing (uses); development; infill development; legally permitted buildings, uses or occupancies; lower cost accommodations; retrofit program; receiving site; source site; water equivalency award; water equivalency bank; water equivalency credit; water equivalency transfer; and very-low, low, moderate income. Some of these are in the text of the existing Chapter 13.20, some are new. These changes facilitate implementation of the LCP and are consistent with Coastal Act Sections 30250, 30254, 30240 and 30231.

2. Retrofit Program

Since 1985, with amendment A3 to coastal development permit 4-81-309, the City has had a program that allows water equivalency units to be earned through the retrofitting of plumbing fixtures in existing structures. Project proponents are required to save twice as much water as their project would use. Since the City now has a certified water management plan and has developed two additional water sources, the retrofit program to earn water equivalencies has been deemed by the City to be no longer necessary. As proposed, the changes to Chapter 13.20 provide for the termination of the retrofit program.

~~*In light of the new state water supply, and as discussed above in finding 1, there is sufficient At this time, because of the continuing uncertainty over the issue of connectivity and because of issues surrounding water delivery by and dependence on the State Water Project and its impacts on marine resources, the removal of the retrofit requirement cannot be justified. However, it may be that there are other measures that will conserve at least as much water as does the retrofit program. To justify removal of the retrofit system, the City needs to evaluate alternatives to that system and show that one or more such alternatives are available and will be implemented by the City concurrently with deletion of the retrofit system. justification for removal of the retrofit requirement at this time. However, given the remaining uncertainty about long term supplies, it would be prudent to revisit the retrofit issue in a year, and reinstate it if such an action is warranted by further evaluation.*~~ The implementation program should be amended, therefore, as follows:

Retrofit Program" means a water conservation method as **originally** contained in Coastal Development Permit No. 4-81-309A3, which replaces existing plumbing fixtures with low-flow fixtures and applying the water equivalency units saved towards a new Project located on another parcel (Off-Site Retrofit), or to apply the water equivalency units saved as a credit to the site retrofitted (On-Site Retrofit). ~~*The retrofit program to earn water equivalency units shall terminate with the certification of this amendment and the ability of the city to serve projects with the water resources identified in the Water Management Plan.*~~ By January 30, 2000, the City is scheduled to submit a Water Management review report to the Executive Director. At the same time, the City shall also submit a separate report to the Executive Director for review and approval evaluating ~~*whether retrofitting should be reimposed in light of the existing water supply situation, alternatives to on- and off-site retrofitting programs that will provide the same level of water conservation as is currently being accomplished.*~~

As modified, the retrofit policy is consistent with the LUP policies, including the certified Water Management Plan as modified to account for supply uncertainties, and potential impacts to ESHA.

3. Public Works Director Rather Than Planning Commission to Award Water Equivalencies

Currently, the Planning Commission allocates water equivalencies to projects. Through the revised Chapter 13.20, the City proposes to transfer that authority to the Public Works Director.

The awarding of water equivalency units currently requires the Planning Commission to make the following three findings:

1. The project is consistent with city planning regulations; all applicable local discretionary permits shall be approved prior to a project's being eligible to receive equivalencies;
2. There are enough water equivalency units available to be allocated to the specific type of use for which application has been made;
3. A water equivalency unit allocation to the proposed project is consistent with the water equivalency program adopted for the year.

If authority to award water equivalencies is transferred to the Public Works Director, the first finding requirement would be eliminated. The Public Works Director would still have to make the second and third findings.

According to the City, the proposed change in authority to award water equivalencies would require that the awarding of the equivalencies take place following the building permit plan check process. At a minimum, to reach the building permit plan check stage, an applicant would have to have project plans drawn up and submit them to the city with a completed application, and pay the applicable fees (which could be several thousand dollars). Depending on the particular project, application for a coastal development permit and/or a conditional use permit could also be necessary. If a discretionary permit were needed, the City's procedure, as spelled out in section 14.04 of the Municipal Code, is to not process a building permit application until after all discretionary permits are obtained. Thus, even though the Public Works Director would not have to make the finding that the Planning Commission does now about discretionary permits, effectively no water equivalencies could be awarded until after all discretionary permits have been approved, because of the City's sequential permit-processing procedure.

Therefore, for the reasons given above and as proposed, the transfer of authority from the Planning Commission to the Public Works Director to award water equivalencies is consistent with the LUP as amended and modified.

4. Transfer of Water Equivalencies and Time Limit on Use

Currently, water equivalencies are awarded to a specific project on a specific parcel and cannot be transferred from that parcel; if the project is not constructed and the permit expires, the award of water equivalencies is void. The amendment would allow water equivalencies to be transferred from one parcel to another, with one restriction. Water equivalencies could not be transferred from a parcel with a visitor-serving project to a parcel with a non-visitor-serving project, but equivalencies could be transferred from a non-visitor-serving parcel to a visitor-serving parcel.

Currently Section 13.20.110 governs the life of awarded water equivalency unit and limits them to "...the period in which all applicable (related) discretionary and/or ministerial or administrative approvals are valid." Extensions of such approvals "...shall automatically extend the water equivalency award to the new expiration date." If the permit(s) expire then so do(es) the allocation of water equivalency units and "...new allocations must be obtained for new or reactivated projects on a property." Proposed Section 13.20.120 would allow awarded

equivalency units to "...continue to be credited to the site of the proposed project until...the equivalencies are transferred...or...the water allocation program is terminated."

The City anticipates transfer of water equivalencies to occur infrequently and most likely in those cases where a project proponent cannot go forward with the project because of financial hardship, death, etc. Rather than have the equivalencies expire with permit expiration, and have the project proponent lose the equivalencies, this would allow the project proponent to recoup some of their losses. According to the City:

It is not foreseen that there will be many of these types of instances, as the water equivalency award will take place following the building permit plancheck process. Once the building permit has been issued, the Uniform Building Codes regulate the validity of the permit, expiration, and extension opportunities. Few project proponents will go to the expense of processing permit applications for a project they do not intend to inaugurate, but there are those cases where personal and economic hardships occur, and the City wished to remain flexible...In addition, there are those projects where applicants have purchased, often at substantial expense, water equivalencies through the Off-Site Retrofit Program, and may not, due to economic or personal hardship, proceed with the project.

Given the relative scarcity of water in Morro Bay, speculation in water equivalencies could occur. Proposed subsection 13.20.090G.4.a limits the number of water equivalencies one project proponent may be awarded between January 1st and September 30th to no more than 25 percent of the number of available water equivalency units in any category. From October 1st through December 31, one-quarter of the total number of equivalencies plus all left-over equivalencies from previous quarters of that year are made available to projects. According to the City, "the intent of this award period is to allow high priority uses to capture needed equivalencies for the total units which remain available within the calendar year." The reason for the limitation in the first three quarters of the year is to prevent "...one project proponent from collecting water equivalency units to the exclusion of other project proponents filed subsequently." There is no limitation on the number of equivalencies that a project proponent may purchase or hold. Since selling, purchasing, and transferring already awarded water equivalencies does not reduce the number of ~~equivalencies available~~ through the allocation system, there is no need for a limitation on the number of equivalencies that one project proponent may purchase. Neither is there any need to limit the number of equivalencies a project proponent may hold. Similarly, allowing already awarded water equivalency units to remain on a site indefinitely does not reduce the number of available equivalency units and there is therefore no reason to not allow this change.

Therefore, for the foregoing reasons and as proposed, the amendment to allow water equivalencies to remain indefinitely on a site and/or to be transferred, is consistent with the LUP, as amended and modified.

5. Allocation Clarification

Water equivalencies are currently awarded according to the following four priority categories and percentages:

Commercial A	41.0%
Commercial B	7.7%
Industrial	8.5%
Residential	42.8%

The City is proposing to adjust the percentages as follows:

Commercial A	28.7%
Commercial B	20.0%
Industrial	8.5%
Residential	42.8%

The changes involve only the two commercial categories. This is because there is duplication of land use types within those two categories. In 1985 the Commission approved splitting the single commercial category into two commercial categories with corresponding percentages (the total commercial percentage remained the same). The following are the categories, percentages, and land uses as they were revised:

Commercial A, 41%

1. commercial fishing
2. coastal dependent development
3. coastal related development
4. public, quasi-public, and institutional uses
5. visitor accommodations: campgrounds and other low cost
6. other visitor-serving uses
 - a. lower cost
 - b. general rate
7. other commercial and office uses

Commercial B, 7.7%

1. visitor serving except visitor accommodations
 - a. lower cost
2. other commercial and office use

Category A has a higher percentage of water equivalency units available although non-visitor-serving uses can qualify for category A water. Both visitor-serving land uses and non-visitor-serving land uses are contained in both commercial categories A and B. Category A lists visitor serving commercial and other commercial and office uses, while Category B lists visitor-serving, except visitor accommodations, and other commercial and office uses.

The City's proposal would result in two commercial categories with percentages and land uses as follows.

Commercial A, 28.7%

1. commercial fishing/agriculture
2. coastal-dependent
3. coastal related
4. public, quasi-public and institutional uses
5. visitor accommodations
 - a. campgrounds and other lower cost
 - b. general rate
6. other visitor-serving commercial, including recreational and restaurant uses

Commercial B, 20.0%

Other non-coastal dependent or non-coastal related commercial and office uses, including retail

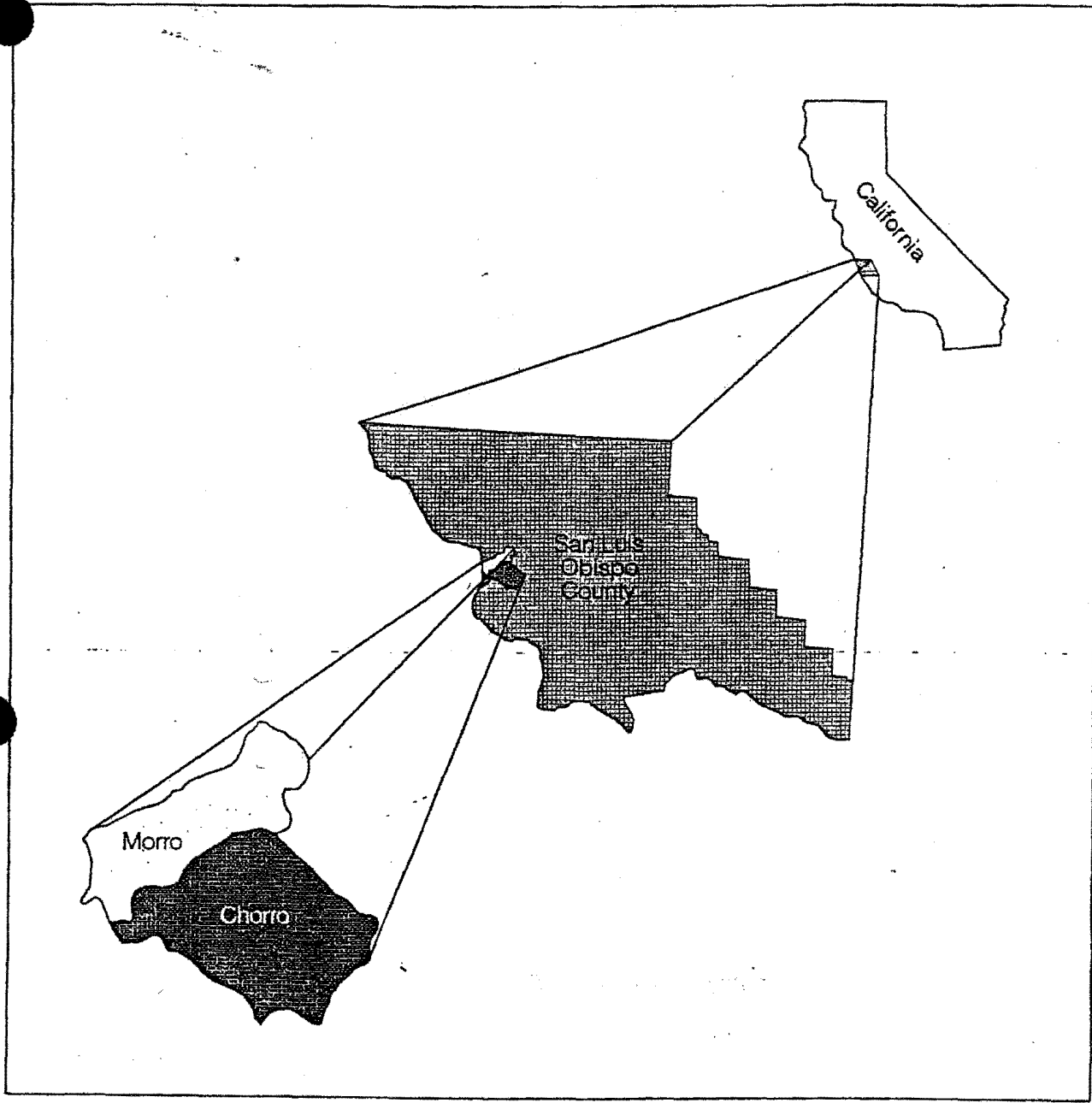
The proposed revision provides for coastal priorities in Category A, and non-coastal priorities in category B, with a corresponding adjustment in the percentages available within each category. The modification will reflect historical percentages and will provide for coastal priorities; therefore the proposed modification is consistent with the Land Use Plan as amended.

6. Measure I

Measure I has never been certified as part of the LCP. It is included in this submittal as section 13.20.130, Limitations on the Allocation of Water (Measure I). Under Measure I, no more than one-half of the savings from retrofitting can be allocated to a new use. Furthermore, the City cannot allocate water to a new use based on water savings derived from: a project performed by the City or on City managed property; a project that had previously earned water saving credits; replacement of City water pipes; and mandated projects or measures (such as forced rationing of water use or compulsory retrofitting of private property).

D. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The Coastal Commission's review and development process for LCPs and LCP amendments has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA. Therefore, local governments are not required to undertake environmental analysis on LCP amendments, although the Commission can and does utilize any environmental information the local government has developed. CEQA requires that alternatives to the proposed action be reviewed and considered for their potential effect on the environment and that the least damaging feasible alternative be chosen as the alternative to undertake. The Commission's suggested modifications are the result of consideration of alternatives. Approval of the amendment, as modified, will not have significant environmental effects for which feasible mitigation measures have not been employed consistent with the California Environmental Quality Act.



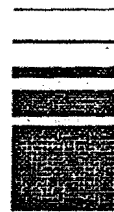
Watershed Areas

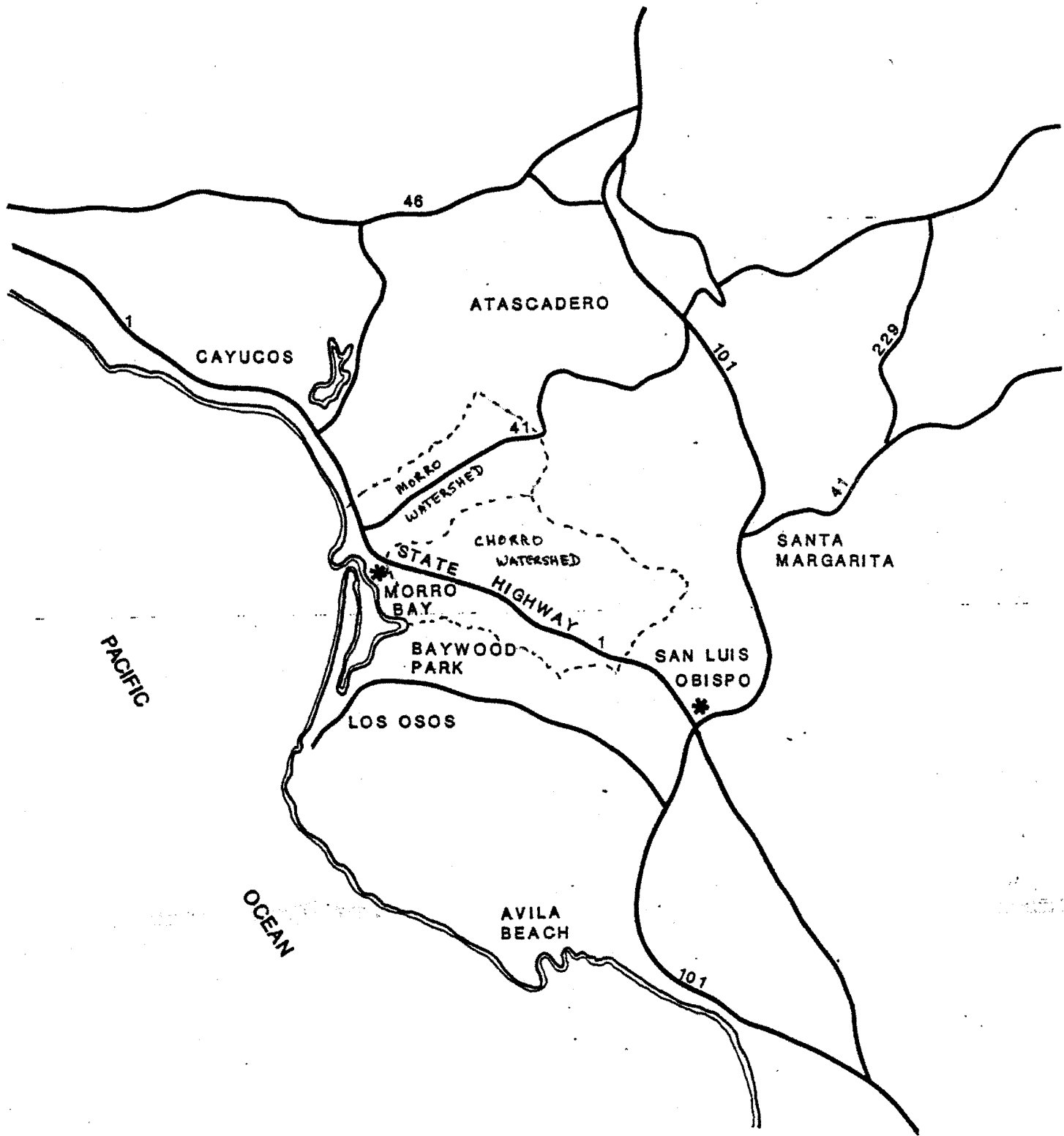
City of Morro Bay

Water Management Plan

Cleath & Associates
 March 4, 1994

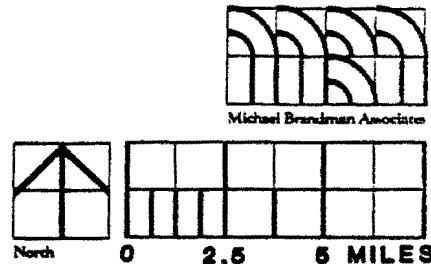
Ex1
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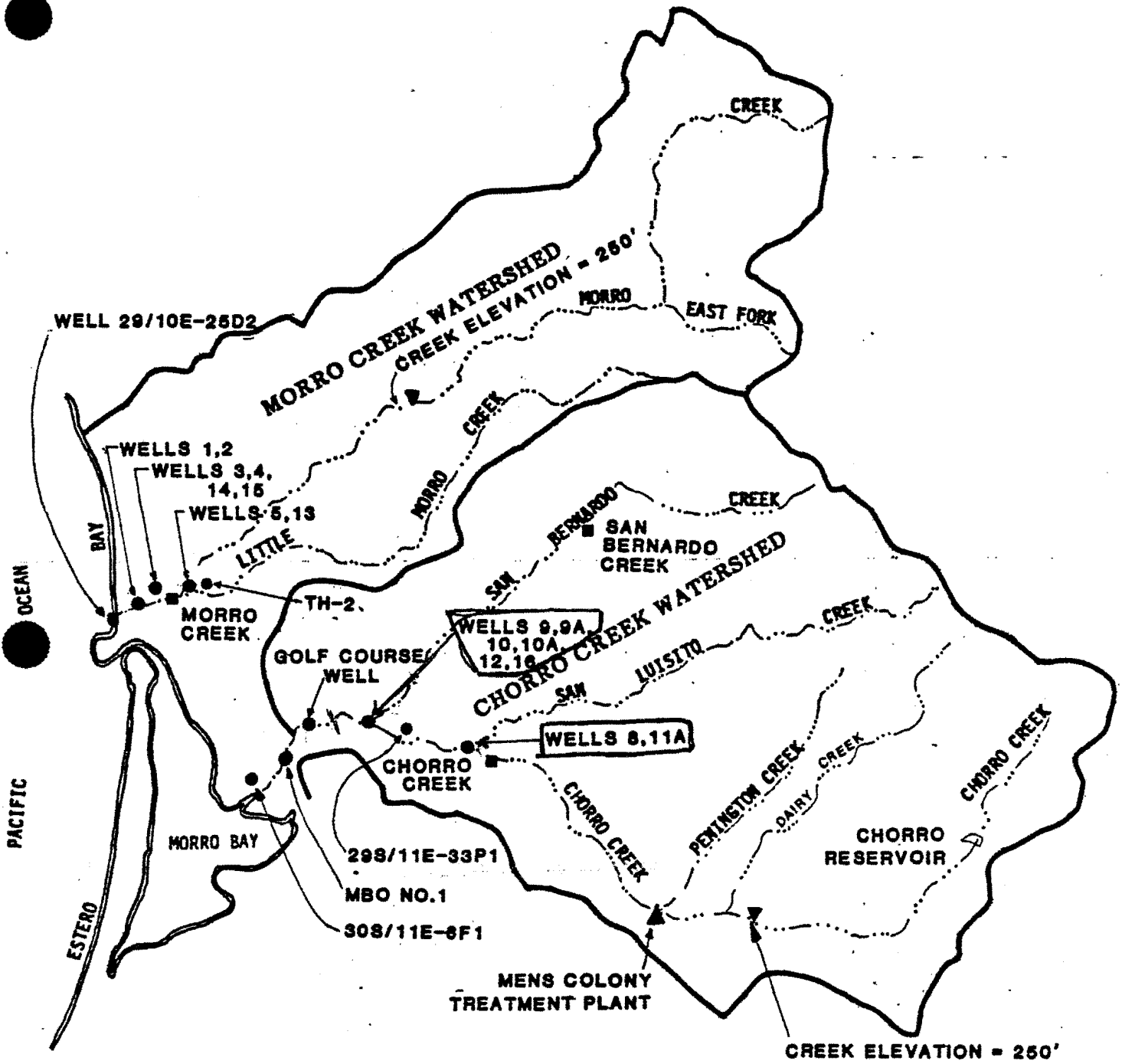






Ex 1, p 2
MRB LCRA 1-97

Regional Location
APPROPRIATIVE WATER RIGHTS
CITY OF MORRO BAY





LEGEND

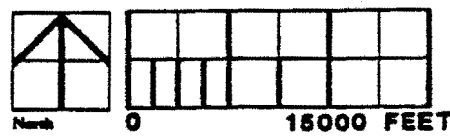
-  WATERSHED BOUNDARY
-  CREEKS
-  STREAM GAGE
-  CITY WELL NUMBERS

SOURCE: CONVERSE CONSULTANTS

Ex 1,3
MRB LCPA 1-97



**Morro/Chorro Creek Watersheds
APPROPRIATIVE WATER RIGHTS
CITY OF MORRO BAY**



RESOLUTION NO. 32-97

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY,
ANNOUNCING FINDINGS AND APPROVAL OF AMENDMENTS TO
CHAPTER V OF THE LOCAL COASTAL PLAN, AND
PORTIONS OF CHAPTER II OF THE GENERAL PLAN
TO IMPLEMENT THE 1995 CERTIFIED WATER MANAGEMENT PLAN

THE CITY COUNCIL

City of Morro Bay, California

CASE NO. LCP/GPA 01-96

Section 1.

WHEREAS, on November 12, 1996 the City Council authorized staff to initiate amendments to the Local Coastal Plan and Morro Bay Municipal Code Chapter 13.20 for submittal to the Coastal Commission to certify changes and modifications to the water allocation program to implement the Water Management Plan; and

WHEREAS, the Planning Commission of the City of Morro Bay, on May 5, 1997 by adoption of Resolution No. 01-97, after duly noticed **Public Hearings**, made recommendations to the City Council for approval of amendments to Chapter V of the Coastal Land Use Plan and portions of Chapter II of the General Plan; and

WHEREAS, on the 12th day of May, 1997 the City Council held a duly noticed **Public Hearing** to consider the proposed amendments, including the Planning Commission findings and recommendation contained in Resolution No. 01-97; and

WHEREAS, the City Council accepts the determination of the Public Works Director, as contained in the status report dated March 1997 presented to the Public Works Advisory Board on March 12, 1997, that potable water continues to be a limited resource in the community of Morro Bay as defined by the Coastal Act, Public Resources Code Section 30254; and

WHEREAS, the Environmental Coordinator determined that the California Coastal Commission is the lead Agency for Local Coastal Plan amendments for the purposes of the California Environmental Quality Act; and

WHEREAS, following the public hearing and consideration of the testimony of all persons, both written and oral, the City Council approved the amendments based on the following findings:

Ex 2

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Section 2.

1. The amendments are consistent with the intent of the State Coastal Act; and
2. The amendments are consistent with the City's certified Coastal Land Use Plan and General Plan; and
3. The amendments are consistent with the certified Water Management Plan; and
4. The amendments are exempt from the California Environmental Quality Act pursuant to Government Code Sections 15250 and 15251.
5. The amendments are not detrimental to the health, safety, morals, comfort and general welfare of persons residing or working in the city and are intended to improve the desirability of investment or occupation in the city.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay as follows:


1. That the above recitations are true and correct and constitute findings of the Council in this matter; and
2. That the Council does hereby approve the Coastal Land Use Plan and General Plan amendments attached hereto as Exhibit A and B and made a part of this resolution by reference; and
3. That this resolution adopting the Coastal Land Use Plan and General Plan amendment shall be transmitted to the California Coastal Commission with the request that the Coastal Commission certify the amendments are part of the city's Local Coastal Program; and
4. That the City Council of the City of Morro Bay hereby finds that these Local Coastal Program amendments are in compliance with the intent, objectives and policies of the California Coastal Act, and that the City will carry out the Local Coastal Program, including these amendments in a manner fully consistent with California Coastal Act and all of its provisions; and
5. That these amendments will take effect immediately upon certification.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Morro Bay, on the 12th day of May, 1997, by the following vote:

AYES: Anderson, Elliott, Peters, Novak

NOES: Peirce

ABSENT: None



CATHY NOVAK, Mayor

ATTEST:



BRIDGETT BAUER, City Clerk

Attachments:

Exhibit A: Revised LCP Chapter V.

Exhibit B: Revisions to portions of General Plan Chapter II.

Ex2, p3

MRA LCPA 1-97

AMENDMENTS TO
LOCAL COASTAL PLAN

City Council Resolution No. 32-97
Attachment A

Upon adoption by the City Council and approval by the Coastal Commission, the following chapter will replace the existing Chapter V. PUBLIC WORKS AND LOCATING AND PLANNING NEW DEVELOPMENT. The revisions to this chapter are based on the 1995 Water Management Plan.

**Chapter V. PUBLIC WORKS WATER AND WASTEWATER FACILITIES AND
ALLOCATING THESE RESOURCES TO NEW DEVELOPMENT**

A. INTRODUCTION

This chapter describes the city's public works water and wastewater facilities and allocating those services to new development. These two topics are discussed together because, in the case of the City of Morro Bay, they interrelate. The City's management of its water facilities, imported water sources, desalinated water, and wastewater treatment will determine how future growth will be accommodated. In 1984, the citizens of the community enacted Measure F, a voter initiative that set the maximum population for the City at 12,200 and requires voter approval to increase the population above this limit.

The major constraint to new development has been the limited availability of water sources. The City's ability to allocate water to development from 1982 through 1996 came through water conservation measures which did not place an increased demand on the City's ground water sources. Prior to certification of the Local Coastal Program Land Use Plan, the California Coastal Commission approved the allocation of water equivalency units to development through conservation measures, that included the water pipe replacement program and the off-site retrofit program. Both programs were described by the Coastal Commission as interim measures to provide for some development while the City prepared a Water Management Plan.

Determining the long term water sources for the city has been a topic of debate for many years. On February 14, 1995 the City adopted Resolution 08-95 approving the City's Water Management Plan. With the passage of Measure G, a voter initiative that mandated the City pursue State Water through the Coastal Aqueduct as an imported source of water, the City was able to formulate the long term water management plan. The Water Management Plan provides for a combination of water resources achieved through conservation, reclamation, ground water, imported water and desalination.

The sources identified in the Water Management Plan will be distributed to new development through the priorities and processes identified here and in Morro Bay Municipal Code Chapter 13.20.

E-2, p4

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B. RESOURCE INVENTORY AND CONSTRAINTS

An important factor in determining the type, location and intensity of land uses within the community is the capability of the city's water and sewage systems to accommodate those uses. The Coastal Act requires that new development be closely correlated with existing and planned service capacity. The adopted Water Management Plan is intended to provide guidance to the City Council and staff, the Public Works Advisory Board and Planning Commission, and city residents, to assist them in selecting a reliable and cost-effective solution to their long-term water supply needs.

1. Water Resources

The city's management of its water facilities and wastewater treatment will determine how future growth will be accommodated. The Coastal Act gives priority to coastal dependent industrial uses, agriculture and recreation and visitor-serving facilities for public services where existing or planned public works facilities can accommodate only a limited amount of new development. (Public Resources Code Section 30254)

The City has two sources of water available for allocation to new development, "banked" water accumulated under its previous Water Allocation Model as approved by the Coastal Commission by the issuance of Coastal Development Permit 04-81-309A3, and new sources of water available to serve new development identified in the adopted and certified Water Management Plan. The City's Water Allocation Program is identified in Morro Bay Municipal Code Chapter 13.20.

Discussion of the City of Morro Bay's water resources and supply are contained in the *Analysis and Recommendations for a Water Management Plan for the City of Morro Bay* as prepared by Boyle Engineering Corporation (1995). Copies of the report are available at City Hall and the city's public library.

2. Waste water resources

a. Wastewater Facilities

Existing wastewater treatment facilities are shared jointly by the unincorporated community of Cayucos and the City of Morro Bay, 35 and 65 percent, respectively. Each community operates its own individual wastewater collection system.

The Wastewater Treatment Plant provides advanced primary treatment to the effluent which is discharged through a 5,000 foot ocean outfall. The plant currently discharges an average of 1.5 million gallons per day (mgd). The City's wastewater collection system is at capacity in certain portions of the community pursuant to the Wastewater Master Plan.

The total design capacity of the existing Wastewater Treatment Plant is 2.09 million gallons per day (mgd); therefore, Morro Bay's share (65 percent) is 1.36 mgd. When the treatment plant was designed in 1984, the capacity was based upon meeting the then current quality standards.

b. Wastewater Demand

In response to drought conditions and water conservation measures over the past decade, individual wastewater flow rates in the community have varied. In 1975 domestic and commercial wastewater use was an estimated 93 gallons per capita per day (gpcd). This was projected to increase to 110 gpcd by 1999.

D. POLICIES FOR PUBLIC WORKS WATER FACILITIES AND ALLOCATING THESE RESOURCES TO NEW DEVELOPMENT

The City Council, in 1992 initiated the review and analysis of the Water Management Plan. The Plan was first adopted in February 1994. With modifications, the Coastal Commission certified the Water Management Plan as an amendment to the city's Local Coastal Plan in January, 1995. The City Council accepted the Coastal Commission's modifications in February, 1995.

The Coastal Act includes policies requiring growth to occur in an orderly, well-planned fashion. Specifically, the Act states that new development shall:

1. Be located in or near existing developed areas;
2. Protect coastal resources; and
3. Give priority to coastal-dependent uses.

Resources to serve future growth in the city will be administered through Morro Bay Municipal Code Chapter 13.20, consistent with Measure F and Coastal Act Priorities. Water sources which will be allocated to new development are those identified in The Water Management Plan, incorporated herein by reference, and the city's "Bank" of accumulated water equivalency units. Policies, 3.01, 3.02, and 3.03, insure consistency with the Water Management Plan, the Coastal Act, and Measure F.

Policy 3.01: Water resources will be allocated to new development yearly by the City Council. So long as existing public works facilities for the provision of water can only accommodate a limited amount of new development, water resources shall be allocated in such a manner so as to not preclude service to coastal dependent land uses, 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. (LU-79.1)

Ex2, p6 MRB LCPA 1-97

Policy 3.02: The City has adopted, and the Coastal Commission has certified a Water Management Plan. The city shall review the Water Management Plan at least once every five years to ensure that water sources are adequate and to reflect any changes in climatic, hydrological, technological or political conditions that could affect the city's long-term water supply, negatively or positively. As part of the five year review, the city shall prepare a report and submit a copy to the Executive Director of the California Coastal Commission for review. The policies and programs of the Water Management Plan are incorporated herein by reference. The Water Management Plan may be amended from time to time at the discretion of the City council. (LU-79.2)

Policy 3.03: All new development shall incorporate water conservation fixtures as set by the City Council. (LU-84.1)

(Note: In discussing units of measure for water and sewer capacity, the following conversion factors are provided to assist in understanding the data:

- 1 cubic foot is equal to 7.48 gallons
- 1 acre foot is equal to 325,828.8 gallons
- 1 acre foot is equal to 43,560 cubic feet)

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Ex2, p7

MRB LCPA 1-97

ORDINANCE NO. 456

AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
ANNOUNCING FINDINGS AND ADOPTING AMENDMENTS TO
CHAPTER 13.20 OF THE MORRO BAY MUNICIPAL CODE
TO IMPLEMENT THE 1995 CERTIFIED WATER MANAGEMENT PLAN

THE CITY COUNCIL

City of Morro Bay, California

SECTION 1:

WHEREAS, the Planning Commission of the City of Morro Bay, on May 5, 1997 by adoption of Resolution No. 01-97, after duly noticed **Public Hearings**, made recommendations to the City Council for approval of amendments to Chapter 13.20 of the Morro Bay Municipal Code to implement the City's certified Water Management Plan through the adoption of regulations for the allocation of these resources to new development; and

WHEREAS, on the 12th day of May, 1997, the City Council did hold a duly noticed **Public Hearing**, to consider the amendments to Chapter 13.20 of the Morro Bay Municipal Code, including the recommended of the Planning Commission; and

WHEREAS, the Environmental Coordinator determined that the California Coastal Commission is the lead Agency for Local Coastal Plan Amendments for the purposes of the California Environmental Quality Act; and

WHEREAS, following the hearing, and consideration of the testimony of all persons, both written and oral, the City Council approved the amendments based upon the following findings:

1. The amendments are intended to implement Water Management Plan, consistent with the policies of the Local Coastal Plan - Chapter V, Public Works Water and Wastewater Facilities and Allocating these Resources to New Development, as well as portions of the General Plan - Chapter II, Land Use, Open Space and Conservation Element; and
2. The amendments are intended to improve the desirability of investment or occupation in the city by proceeding with the implementation of the certified Water Management Plan by allocating available water resources in accordance with the new provisions contained in revised Morro Bay Municipal Code Chapter 13.20, Allocation of Water Resources, as attached and referenced herein; and
3. The amendments are consistent with the intent of the State Coastal Act; and
4. The amendments were published and made available for public review in accordance with Section 13515 of the California Code of Regulations.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Morro Bay, California, as follows:

SECTION 2: Morro Bay Municipal Code Chapter 13.20, Building Limitation, is hereby repealed.

Exhibit 2
P8

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SECTION 3: Morro Bay Municipal Code Chapter 13.20, Allocation of Water Resources, is hereby adopted as shown in Attachment 1, included herein by reference and made a part of this ordinance.

SECTION 4: To implement the amendments adopted herein the City Council of the City of Morro bay, California, hereby directs as follows:

1. This Ordinance adopting the Municipal Code amendments shall be transmitted promptly to the California Coastal Commission with the request that the Commission certify the amendments; and
2. The City of Morro Bay hereby finds that the Local Coastal Program Implementation Program Amendments (repealed and replaced MBMC Chapter 13.20) are in compliance with the intent, objectives, and policies of the California Coastal Act and that the City will carry out the Local Coastal Program, including these amendments in a manner fully consistent with the California Coastal Act and all its provisions; and
3. These amendments shall take effect immediately upon certification by the California Coastal Commission.

INTRODUCED at a regular meeting of the City Council of Morro Bay, held on the 12th day of May, 1997, by motion of Councilmember Peters, and seconded by Councilmember Anderson.

PASSED, AND ADOPTED, on the 27th day of May, 1997 by the following vote:

AYES: Anderson, Elliott, Peirce, Peters, Novak

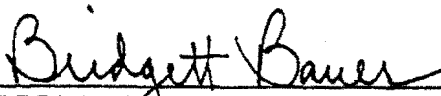
NOES: None

ABSENT: None



CATHY NOVAK, Mayor

ATTEST:



BRIDGETT BAUER, City Clerk

APPROVED AS TO FORM:

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DAVID R. HUNT, City Attorney

CITY OF MORRO BAY
ORDINANCE NO. 456

ATTACHMENT 1
(Adopted May 27, 1997)

CHAPTER 13.20

ALLOCATION OF WATER RESOURCES

Sections:

- 13.20.010 Intent and findings.
 - 13.20.020 Definitions.
 - 13.20.030 Responsibilities of the public works director.
 - 13.20.040 Responsibilities of the public works advisory board.
 - 13.20.050 Responsibilities of the planning commission.
 - 13.20.060 Responsibilities of the city council.
 - 13.20.070 Submission of annual report by the public works director.
 - 13.20.080 Projects defined which do not need an award of water equivalency units.
 - 13.20.090 Projects defined which do need an award of water equivalency units.
 - 13.20.100 Transferability of water equivalency units.
 - 13.20.110 Water equivalency table.
 - 13.20.120 Time limit for using water equivalency units.
 - 13.20.130 Limitations on allocations of water.
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- 13.20.010 Intent and findings.

A. The intent of this chapter is to regulate the addition of new water users to the city's water system, whether new construction, expansions or new occupancies, to ensure that demand for water shall not exceed available supply and that the pace of allocating the available water supply to new users is reasonable and orderly.

B. The city of Morro Bay presently has a limited amount of water resources; this fact is not only recognized by the city but also by the state of California in various actions of the California Coastal Commission limiting new development within the city limits. New water users must be regulated, accordingly, to ensure that demand does not exceed supply and that the pace of development using available water is orderly and reasonable.

C. The regulations established by Ordinance 266 (Measure F) and this chapter may effectively limit the number of housing units which may be constructed on an annual basis, but such limitation is necessary to protect the public health, safety and welfare. If water use exceeded supply and adequate water were not available to users, there could result in increased fire hazard, adverse impacts on commerce, industry and recreation, and the public health, safety and welfare would generally be jeopardized.

D. "Development that occurs in an orderly fashion" means development which can be served by public utilities, including but not limited to water resources and delivery systems;

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which encourages infill development; and, which helps to implement the policies and priorities articulated in the city general plan and local coastal program.

E. Similarly, the public health, safety and welfare is promoted by regulating the pace of new development so that it occurs in an orderly fashion. Such development helps preserve the community's character, enhances the attractiveness of the city, better implements adopted plans, policies and priorities for the physical growth of the city, and tends toward a more efficient use of available resources including but not necessarily limited to water and water delivery systems.

13.20.020 Definitions.

The following definitions shall be used for interpreting this chapter:

- A. "ACCOMMODATION" means commercial transient lodging, i.e. motel, hotel, campgrounds and Bed & Breakfast establishments.
- B. "AFFORDABLE HOUSING" means housing affordable to persons and families with moderate, low and very low incomes as defined by the State of California.
- C. "COASTAL DEPENDENT DEVELOPMENT OR USE" means any development or use which requires a site on, or adjacent to, the sea to be able to function.
- D. "COASTAL RELATED DEVELOPMENT" means any use that is dependent on a coastal-dependent development or use.
- E. "COMMERCIAL FISHING (USES)" means uses directly in support, or in the performance of commercial fishing activities.
- F. "DEVELOPMENT" is defined pursuant to Public Resources Code Section 30106 as identified in Morro Bay Municipal Code Section 17.12.199 (definitions)
- G. "INFILL DEVELOPMENT" means development of areas within the Urban/Rural Boundary.
- H. "LEGALLY PERMITTED BUILDINGS, USES OR OCCUPANCIES" means any building, use or occupancy for which any required use permit, building permit or business license had been secured and validated, or any legal nonconforming use.
- J. "LOWER COST ACCOMMODATIONS" means commercial transient occupancy for which the operating definition for "lower costs accommodations" shall be based upon the most recent information from the Motel Association. The subgroup priority of "Lower Cost" Visitor Services reflects the objectives of Coastal Act implementation to allow coastal access and enjoyment by persons and families with modest incomes. The differentiation between "Lower Cost" and "General Rate" will be based on a comparison with like services. If the distinction cannot

easily be ascertained by the Planning and Building Director, the matter shall be referred to the Planning Commission. The Commission shall then consider all testimony and render its opinion.

K. "PROJECT" means new construction, additions to existing facilities, changes or intensification of use or occupancies in an existing facility, or demolition and replacement of existing facilities.

L. "RETROFIT PROGRAM" means a water conservation method as contained in Coastal Development Permit No. 04-81-309A3, which replaces existing plumbing fixtures with low-flow fixtures and applying the water equivalency units saved towards a new Project located on another parcel (Off-Site Retrofit), or to apply the water equivalency units saved as a credit to the site retrofitted (On-Site Retrofit).

The retrofit program to earn water equivalency units shall terminate with the certification of this amendment and the ability of the city to serve projects with the water resources identified in the Water Management Plan.

M. "RECEIVING SITE" means the site where water equivalency units are to be transferred to.

N. "SOURCE SITE" means the site where water equivalency units are to be transferred from.

O. "WATER ALLOCATION PROGRAM" means a program adopted each year by the City Council that establishes the total number of water equivalency units to be allocated for the coming year, and the method of awarding and administering water equivalency units through the year.

P. "WATER EQUIVALENCY AWARD" means the water equivalency units assigned to a project from the sources identified in the Water Management Plan.

Q. "WATER EQUIVALENCY BANK" means 1/2 of water equivalency units accrued through the Off-Site Retrofit Program, and held (banked) by the City to be awarded at the discretion of the City Council.

R. "WATER EQUIVALENCY CREDIT" means water equivalency units established on a site through the methods contained in 13.20.080 of this section.

S. "WATER EQUIVALENCY TABLE" means a table that indicates the average annual water use of different land uses that is used in calculating how many water equivalency units a proposed project needs.

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T. "WATER EQUIVALENCY TRANSFER" means the transfer of a water equivalency unit from a source site to a receiver site.

U. "WATER EQUIVALENCY UNIT" means a unit of measure for water use. Since 1977, one water equivalency unit has been considered as equal to ten thousand seven hundred eighty (10,780) cubic feet of water per year, rounded to the nearest hundreds for cubic feet and hundredths for water equivalencies, which was determined to be the average amount used by a single-family residence in one year.

Water equivalency units are established to assist the city in regulating the addition of new water users to the city's limited water system.

V. "VERY-LOW, LOW, MODERATE INCOME" - For the purpose of this section, moderate, low and very low income persons shall be defined as set forth in California Health and Safety Code Sections 50079.5 and 50105.

(Historical Note: Under Measure F reference to the definition of in-fill as set forth in Resolution No. 26-84, is modified pursuant to its own terms and revised by Resolution No. 23-95).

13.20.030 Responsibilities of the public works director.

The public works director is charged with:

- A. Submitting an annual report to the public works advisory board, the planning commission, and subsequently to the city council pursuant to Section 13.20.070;
- B. Calculating the water equivalency units required by individual projects upon the submittal of a building permit or where no permit is required, prior to occupancy;
- C. Monitoring the water allocation program during each year;
- D. Annually updating the water equivalency table and recommend adjusting the water use rates based on significant changes of water consumption by land use type;
- E. Developing operating procedures for the administration of the water allocation program; such procedures shall be included in the annual report presented to the public works advisory board, the planning commission, and city council.
- F. Awarding of the water equivalency units established for the year to projects, in accordance with the approved water allocation program.

13.20.040 Responsibilities of the public works advisory board

The public works advisory board is charged with reviewing the public works director's annual report, including the operating procedures and recommending an annual water allocation program to the city council.

13.20.050 Responsibilities of the planning commission

The planning commission may review the public works director's annual report, the public works advisory board's recommendation, the operating procedures, amendments to this chapter, and make recommendations on the annual water allocation program to the city council.

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13.20.060 Responsibilities of the city council.

The city council is charged with adopting, by January 15th of each year, a water allocation program for that calendar year, consistent with Ordinance 266 (Measure F). In each such program it shall set by resolution: 1) the number of water equivalency units available for residential and commercial development; and 2) the mix of single family and multi-family units.

13.20.070 Submission of annual report by the public works director

A. In December of each year the public works director shall submit a report to the public works advisory board, the planning commission, and city council outlining: 1) the number of uses receiving water equivalencies; 2) the number of water equivalencies distributed; 3) the total number of water equivalency units banked by the City; 4) the director's recommendation for the water allocation program for the following calendar year; 5) the city's current water availability and the continued need for the allocation program to insure coastal priorities are met; and 6) recommendations for updating the water equivalency table contained in Section 13.20.110. As part of the report, the public works director shall estimate the amount of water equivalency units available to award to new development for the coming calendar year, and provide the council with recommendations for and the results of the implementation of water conservation measures.

B. The public works advisory board and the planning commission shall consider this report and forward it to the city council with its recommendations. The city council shall thereafter hold a public hearing and shall take action to adopt a water allocation program for the following calendar year.

13.20.080 Projects defined which do not need an award of water equivalency units.

The following types of projects shall not be required to obtain an award of water equivalencies units:

A. Projects which involve the demolition of a building where the number of water equivalencies required by the new use is less than or equal to those credited to the demolished building(s). Water equivalency units credited to demolished buildings shall be limited to the highest number of water equivalency units credited to legally permitted uses which have existed in the building since January 1, 1977, based upon the most current water equivalency table contained in Section 13.20.110 of this code, and any accrued water equivalency savings achieved through the on-site retrofit program.

B. Projects which involve the replacement of a use or occupancy where the number of water equivalency units required by the new use or occupancy is less than or equal to those credited to the site. Water equivalency units credited to the site shall be limited to the highest number of water equivalency units credited to the legally permitted, nontemporary uses, which have existed in the building since January 1, 1977, based upon the most current water equivalency table contained in Section 13.20.110 of this code, and any accrued water equivalency savings achieved through the on-site retrofit program.

C. Projects which are located on a "receiver" site where the transfer of water equivalency units is equal to the amount required by 13.20.110. Projects which are located on a "receiver" site where water equivalencies are being transferred to, where such equivalencies are equal to the amount required by the project.

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D. Additions or expansions to residential uses, motels, hotels, campground or other uses for which equivalencies are based on number of units so long as such additions or expansion does not involve an increase in number of residential, motel, hotel, or campground units.

E. Family day care homes, as defined in Section 17.12.272 of this code.

13.20.090 Projects which do need an award of water equivalency units.

A. No project as defined in this chapter shall be permitted unless it is first reviewed by the public works director to ascertain whether it will increase likely water usage. Any building demolished, or use or occupancy discontinued, prior to January 1, 1977 shall not be credited with water equivalency units. The director shall use the "water equivalency table" contained in Section 13.20.110 for determining water equivalencies for various uses. If a particular use is not listed on the table, the director shall estimate equivalencies for that use. Generally, the water usage records of a sample of like uses already operating in the city shall be used if available. The time frame for the sampling should be at least seven years of use if available. Any other relevant information may be used in making a reasonable estimate. The director's decisions regarding estimates of water usage may be appealed to the planning commission, and subsequently to the city council. If a proposed project, as defined in this chapter, is found to require water equivalencies, it shall not be approved for construction, or in cases of changes to, or the expansion or intensification of, existing uses, the occupancy shall not be approved until and unless the required water equivalencies have been awarded in accordance with subsection C of this section, except as provided in section 13.20.080.

B. If a project needs to obtain water equivalencies pursuant to this chapter, the project proponent shall make application for the water equivalency units as outlined in the current water equivalency award procedures.

C. The public works director shall award the required water equivalency units to the proposed project based upon the following findings:

1. There are enough water equivalency units available to be awarded to the specific type of use for which application has been made;
2. A water equivalency award to the proposed project is consistent with the water allocation program adopted for the year.

D. City Bank of Water Equivalency Units

The half of the water equivalency units which were earned as part of the Off-Site Retrofit Program from 1991 to the expiration of the program with the adoption of Ordinance 456 shall be held by the City in reserve, as a "bank" of water equivalency units. The public works director shall include an update of the status of this bank in his annual report on the water equivalency program. The Council, however, may choose at any time to use this bank to serve only affordable housing and coastal dependent uses, consistent with Ordinance 266 (Measure F) and Chapter 13.20.130 (Measure D).

E. Priority for Affordable Housing Projects.

1. In any given year at the time water allocations are authorized by the city council, priority shall be given for multi-family developments which provide a minimum of fifty percent of housing which will be guaranteed to be affordable to persons and families with moderate, low and very low incomes: provided, however:

a. That not more than fifty percent of the multi-family units allocated each year by the city council pursuant to Ordinance 266 (Measure F) shall be so prioritized;

b. Developments which provide a minimum of fifty percent of affordable housing including a minimum of twenty-five percent affordable to low and very low income families shall have a priority over projects for affordable housing which do not provide units for low and very low income families;

c. Developments which provide one hundred percent affordable housing shall have a priority over projects which provide fifty percent affordable housing.

2. An applicant desiring low income housing priority shall submit to the planning and building department a written request for such priority listing the applicant/owner, the address and legal description of the project property, and agreements as approved by the city attorney, restricting the sale and/or occupancy of the affordable units in the project to moderate, low or very low income persons for a period of thirty years after completion of the housing project. Upon receipt of this information and agreements, the applicant's property will be eligible for priority in the allocation period for which they apply. If there are not enough water equivalencies within the period the applicant makes application, the project shall be given priority in a subsequent period.

3. If a project due to be awarded water fails to qualify and/or submit agreements as required in this section prior to the award of water, or voluntarily withdraws, the project shall be removed as a priority within that period.

4. The city, at its option, may contract with a nonprofit housing agency to provide for administration of various aspects of agreements and other procedures to ensure the effectiveness of this program to provide long-term low income housing. Costs for such services shall be borne by the applicant/developer.

5. The city shall encourage the use of banked water for affordable housing projects.

F. In each calendar year, the Planning and Building Director shall insure that the number of building permits issued to residential and non-residential projects do not exceed the limit set by Ordinance No. 266 (Measure F).

G. The water allocation program shall be administered as follows:

1. Allocation Periods

a. From January 1st to September 30th of each calendar year 3/4ths of the water equivalencies allocated by the City Council shall be made available to projects. The priorities and percentages of water equivalency units to be awarded shall be as follows:

- | | | |
|------|-----------------|-------|
| i. | Commercial "A": | 28.7% |
| ii. | Commercial "B": | 20.0% |
| iii. | Industrial: | 8.5% |
| iv. | Residential: | 42.8% |

b. From October 1st to December 31st of each calendar year 1/4 of the total number of water allocated by the City Council plus all left-over water equivalencies in that year shall be made available to projects. The intent of this award period is to allow high priority uses to capture needed equivalencies from the total units which remain available within the calendar year. Since projections of actual demand cannot be made with certainty, due to the ups and downs of the market place, this scheme allows a yearly adjustment while addressing Coastal Act priorities. The water equivalency units shall be awarded as follows:

- i. No percentage assignment by land use.
- ii. Water equivalency units awarded according to priority order noted in G-1 of this section, for approved projects.
- iii. In November of each year, the unallocated multi-family units shall be made available to single family residential applicants.

2. Priority Categories

a. Commercial "A":

- Commercial fishing \Agriculture
- Coastal Dependent
- Coastal Related
- Public, quasi-public and institutional uses
- Visitor accommodations:
 - campgrounds and other lower cost
 - general rate
- Other visitor-serving commercial, including recreational and restaurant uses

b. Commercial "B":

- Other non-coastal dependent or non-coastal related commercial and office uses, including retail

c. Industrial

- Coastal dependent/related
- General Industrial uses.

d. Residential

- Multi-family density, low/moderate income
- Single-family density, low/moderate income
- Market rate/higher income single or multi-family density:

3. Mixed Use Projects - Commercial/Residential

If projects involve mixed uses, that is non-residential uses (e.g.: commercial or industrial) with residential ones, the following shall be used to place such projects in the allocation priority list:

a. For mixed uses with only one residence (e.g.: accessory apartment, manager's quarters or security residence) the entire project, including that one residence, shall be considered in the appropriate non-residential category.

b. Mixed use projects with more than one residence, the residential portion of the project shall be considered in the multi family category. The non-residential portion of the project shall be placed in the appropriate commercial category and shall "wait" separately for water equivalency award. In such cases, if feasible, a phasing program may be approved whereby the residential and non-residential portions are built separately, as each obtains its necessary water allocation.

4. Water equivalency awards limitations

a. To avoid one project proponent from collecting water equivalency units to the exclusion of other project proponents filed subsequently, from January 1st to September 30th of each calendar year, no one project proponent may be awarded more than 25% of the number of available water equivalency units in any category.

b. Coastal dependent projects, affordable housing projects, and affordable visitor serving accommodation projects shall be exempt from this provision.

13.20.100 Transferability of water equivalency units.

A. A water equivalency unit shall be awarded only to a specific project in a specific location. Minor amendments to projects which do not change the type or intensity of use may be approved without loss of equivalencies so long as the project and site do not change.

B. A water equivalency unit that has been allocated to a specific project, or credited to a specific site may be transferred to another project or property subject to the following standards:

1. A property owner may transfer water equivalencies from any source site to a receiving site, regardless of the base zoning district or use.

2. A transfer of water equivalency units shall not be considered an award of water and is not subject to water or sewer development fees.

3. In cases where the structure(s) on the source site is not demolished, a minimum amount of water equivalency units must be retained on the site for the occupancy of the structure. For calculating the amount of water equivalencies to be retained, the planning and building director shall use the list of uses allowed in the zoning district where the source site is located, and the water equivalency required for the minimum use listed, based on the Water Equivalency Table. Prior to the transfer of water equivalency units, the city shall ensure that the use which represents the transferred water equivalency units has ceased to operate.

4. Water equivalency units credited to sites with coastal dependent uses or projects may only transfer water equivalencies to other coastal dependent uses. Said transfer shall be approved

by the City Council. This provision shall not restrict the transfer of water equivalency units from non-coastal dependent uses to coastal dependent uses.

5. Applicants shall process the transfer of water equivalency units through the planning and building department.

C. A project proponent must be the record owner, or have the consent of the record owner of a property in order to be eligible to transfer or receive credit of water equivalency units.

13.20.110 Water equivalency table.

The water equivalency table shown in this section indicates the average annual water use of different land uses and building types relative to one (1) water equivalency unit (the 1977 annual average use of a single-family dwelling). The water equivalency table shall be followed when calculating the water equivalency units needed by individual projects or to be credited to existing or discontinued land uses as set forth in Section 13.20.080. When calculating water equivalency units for a project with a mixture of uses, the square foot area devoted to each use shall be calculated based on the equivalency factor in the water equivalency table. The water equivalency table shall be reviewed in accordance with Section 13.20.070 and modified to reflect changes in water use.

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WATER EQUIVALENCY TABLE
 Revised March 1997

Land Use	Average Cubic Feet Per Year Per Unit Factor	Water Use Rate Usage Equated to Water Equivalency Per Unit Factor	Unit Factor Per 1000 sq.ft./ or Unit/ or Site**
<u>Automotive Services</u>			
Auto Garage (no gas)	1,800	.17	sq.ft.
Service Sta. W/mini mkt	9,900	.92	sq.ft.
Service Sta. W/o mkt	7,200	.67	sq.ft.
<u>Banks & Financial Inst.</u>			
Banks & Savings & Loan	4,200	.39	sq.ft.
<u>Bldg. Mats & Lumber Yard</u>			
Lumber Yard	16,700	1.55	Site
Plant Nurseries	2,300	.21	Sales Area sq. Ft. (Indoor & outdoor)
<u>Eating & Drinking Places</u>			
Bars	7,400	.69	sq.ft. or
Restaurants	22,200	2.06	sq.ft. or
24 Hour Restaurant	39,300	3.65	sq.ft.
Fast Food (Take-Out)	41,700	3.80	sq.ft.
Pizza (Take-Out Only)	3,200	.30	sq.ft.
Deli, Coffee Shop	4,600	.43	sq.ft.
Bakeries/Ice Cream	4,600	.43	sq.ft.
<u>Food Stores</u>			
Supermarkets (over 10,000 sq.ft.)	2,200	.20	sq.ft.
Mini-Markets	4,100	.38	sq.ft.
Liquor Stores	2,700	.25	sq.ft.

Land Use	Average Cubic Feet Per Year Per Unit Factor	Water Use Rate Usage Equated to Water Equivalency Per Unit Factor	Unit Factor Per 1000 sq.ft./ or Unit/ or Site**
<u>Health Services</u>			
Medical Dr. Offices			
Misc. Medical (Chiropractor Optometrist)	2,800	.26	sq.ft.
Mixed Medical	4,900	.45	sq.ft.
Veterinarians	9,500	.88	sq.ft.
<u>Hotels, Motels & RV Parks</u>			
Hotels/Motels with Managers unit	5,400	.50	unit
Hotels/Motels without Managers unit	5,200	.48	unit
RV Parks with utility hook-ups		.46	space
RV Parks without utility hook-ups		.10	space
<u>Industrial/Storage</u>			
Industrial Laundry	85,400	7.92	sq.ft.
Light Industrial	1,000	.09	sq.ft.
Storage/Mini-storage	500	.05	sq.ft.
Upholstery Shops	3,000	.28	sq.ft.
<u>Institutions & Organizations</u>			
Churches	300	.03	sq.ft.
Fraternal Organizations	2,500	.23	sq.ft.
Yacht Club	11,500	1.05	sq.ft.

Average Water Use Rate Unit Factor

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Land Use	Cubic Feet Per Year Per Unit Factor	Usage Equated to Water Equivalency Per Unit Factor	Per 1000 sq.ft./ or Unit/ or Site**
<u>Marine Oriented</u>			
Marine Service/Supply	4,100	.38	sq.ft.
Seafood Processors			
w/saltwater use	33,600	3.13	sq.ft.
w/o saltwater use	47,800	4.43	sq.ft.
<u>Offices (Non-medical)</u>			
Offices - General	1,600	.15	sq.ft.
including complexes & real estate			
<u>Personal Services</u>			
Barber/Beautician	8,000	.74	sq.ft.
Car Washes (Self-Serve)	17,000	1.61	bay
Car Wash - tunnel type	75,244	6.98	sq.ft.
Dry Cleaners (Off-Site)	10,800	1.00	sq.ft.
Laundromats	102,800	9.54	sq.ft.
Mortuaries	10,000	.93	sq.ft.
<u>Residential</u>			
Single-family Home	10,780	1.00	unit
Duplex Unit	8,400	.78	unit
Condominium Unit	6,900	.65	unit
Apartment Unit	5,800	.54	unit
(including secondary unit)			
Trailer/Mobile Home	6,500	.46	unit
One-bedroom and Studio	4,900	.45	unit
Apartment Unit, 600 sq.ft. or less for elderly/handicapped only			
<u>Retail - General</u>			
Misc. Similar Retail	1,600	.15	sq.ft.
	Average Cubic Feet	Water Use Rate Usage Equated to	Unit Factor Per 1000 sq.ft./

Land Use	Per Year Per Unit Factor	Water Equivalency Per Unit Factor	or Unit/ or Site**
<u>Retail - Other than General</u>			
Farm & Feed Supply	800	.07	sq.ft.
Pet Stores	4,100	.38	sq.ft.
<u>Social Services</u>			
Day Care Facilities (except family day care)	15,500	1.44	sq.ft.
<u>Misc. Uses</u>			
Theater	100	.01	seat
Printer/Newspaper	2,400	.22	sq.ft.

*UNIT FACTOR is defined as follows

Per 1,000 square feet: Generally, the square foot ratio refers to the gross building area, unless other wise indicated

Per Unit: Unit refers to each individual residential unit or motel room.

Per Site: The site refers to the gross area to be occupied by the land use, including buildings, parking areas and landscaping.

(Note: In discussing units of measure for water and sewer capacity, the following conversion factors are provided to assist in understanding the data:

- 1 cubic foot is equal to 7.48 gallons
- 1 acre foot is equal to 325,828.8 gallons
- 1 acre foot is equal to 43,560 cubic feet)

13.20.120 Time limit for using water equivalency units.

If water equivalency units have been awarded to a project by the public works director, that award shall continue to be credited to the site of the proposed project until such time as:

1. the equivalencies are transferred pursuant to 13.20.100; or
2. the water allocation program is terminated.

13.20.130 Limitations on the Allocation of Water (Measure I)

A. The city shall not allocate water to new use on the basis of:

1. Any project performed by the city or on city-managed property;
2. Any water savings that was not derived from, or accomplished by, a specific city-approved and city-contracted project;
3. Any project, or part thereof, that has previously earned water savings credit for allocation. Thus, a toilet facility, whose retrofit had earned allotment credit, shall not become a factor in a subsequent retrofit by another fixture replacement;
4. Past, present or future replacement of the city water pipes;
5. An excess of fifty percent of that water saved from any projects. No more than one half of the savings from a project shall be so allocated;
6. An increase in the amount originally contracted for allocation from a project; or
7. Mandated projects, measures or procedures, including compulsory retrofitting of private property and forced rationing of water use.

B. The word "project," as used in this section, shall denote any measure, act, process or procedure by which the consumption of potable city water may be assumed, or expected, to decrease and thereby legally permit the allocation of city water to new use.

C. Any water allotment to nonprofit public facilities which are supported by public funds shall be exempt from subdivisions 1, 2 and 3 subsection A of this section.

public services. The Water Equivalency Ordinance should be amended to reflect the following priorities:

- (1) Commercial fishing/agriculture
- (2) Coastal dependent industries
- (3) Recreation/visitor-serving uses
- (4) Commercial
- (5) Industrial
- (6) Residential Development
 - (a) Infill areas
 - (b) Areas contiguous to existing development
 - (c) Others

These land uses will be allocated a number of equivalencies consistent to their existing levels of demand. Those equivalencies not utilized in one year may be transferred to other uses in the subsequent year.

D. PUBLIC WORKS AND LOCATING AND PLANNING NEW DEVELOPMENT:
GENERAL POLICIES

Policy 3.01. The City of Morro Bay shall approve future growth in conjunction with water and sewage treatment availability. Development shall be approved for actual construction and/or implementation only if the City finds that sewer and water services are available to serve the proposed use. The City shall allocate water and sewer services to development within the Coastal Zone based on Coastal Development Permit No. 4-81-309 as approved by the Coastal Commission. The amount of water and sewer services to be allocated to new development shall be limited to the amounts of recovered water due to the water pipe replacement program approved in Permit No. 4-81-309; except that additional wastewater treatment service may be provided based on plant capacity. If the City develops additional sources of water and/or improves its water management so that additional water is demonstrably recovered, the City may submit a revised water allocation program as a subsequent amendment for Coastal Commission review and approval. Until a water management program which provides additional water for allocation is approved and amended into the LUP, the allocation program for future developments shall be as described in the findings and exhibits adopted by the Coastal Commission for Permit 4-81-309 which specifically includes the "Water Recovery Allocation Model and percentage allocation system".

Methods of obtaining additional water resources shall protect the biological productivity of coastal water.

Ex 3

MRO LPA 1-97

Policy 3.02. In any system the City of Morro Bay uses for water allocation, the City shall insure the following uses receive priority for available water and wastewater treatment facilities:

Commercial Fishing
Coastal-Dependent Land Uses
Coastal-Related Land Uses
Essential Public Services and Basic Industries
Public Recreation
Commercial Recreation
Visitor-Serving Land Uses
Residential and other Commercial and Industrial Land Uses

Residential land uses shall be allocated water based on the following order of varying residential parcels:

- (1) presently subdivided parcels within existing developed areas
- (2) presently subdivided parcels contiguous to developed areas or unsubdivided parcels within existing developed areas
- (3) unsubdivided parcels contiguous to developed areas
- (4) unsubdivided parcels isolated from either presently developed or subdivided areas

Policy 3.03. The City may develop a specific, comprehensive, long-range water plan which will implement water management policies that will provide water service consistent with sound resource planning. New water and sewer services to previously unsubdivided areas shall not be approved until a Water Management Plan has been developed, adopted, and submitted for Coastal Commission review and approval as a subsequent amendment to the LUP.

Policy 3.04. Chapter 3 Coastal Act policies shall be the basis for reviewing the adequacy of any Water Management Plan. A Water Management Plan shall ensure at a minimum, the following:

1. An adequate water supply for coastal-dependent activities such as commercial fishing, oyster farming, fish and shellfish processing, recreational boating and fishing and industrial energy development.
2. Continued protection of the Morro Bay wetland areas with assurances that the wetlands shall continue to be seasonally flushed of accumulated salts from sediments.

Ex 3, p 2

MRO LCPA 1-97

3. An adequate groundsurface water supply to protect the biological productivity of coastal waters including riparian stream corridors upon which the anadromous fishery depends for viability.

4. Sufficient water for agricultural operations in the Morro and Chorro Valleys.

Once a Water Management Plan has been incorporated into the LUP, the approved elements of the plan shall be implemented with each project approval accompanied by findings that the resources listed above have been protected consistent with Chapter 3 policies contained in the Coastal Act. Upon implementation of the Water Management Plan, new subdivision in previously undeveloped areas may be permitted.

Policy 3.05. The City of Morro Bay shall adopt a five-year Capital Improvement Program which specifies maintenance, improvements, and extensions of water and sanitary sewer facilities, including recommendations of the Water Management Plan.

Policy 3.06. The City will continue a program of providing wastewater treatment facilities to accommodate the ultimate build-out population of 12,195, determined to be the build-out figure in Coastal Development Permit No. 406-01, which permitted further expansion of the wastewater treatment facilities to 2.4 mgd.

Policy 3.07. Water-saving devices shall be required in new developments. These devices may include, but are not limited to the following:

(1) faucets with faucet aerators to help reduce the flow of water to 2 gallons per minute, or less;

(2) water restrictions on shower heads to restrict water to 3 gallons per minute, or less;

(3) water conservation toilets to restrict each flush to 3 gallons or less.

Efforts to conserve or reduce water consumption through the implementation of water-saving techniques shall be recognized by the City when determining priority of water use allotments.

Ex3, p 3 MRB LCPA 1-97

MEASURE F

*Certified
partially*

ORDINANCE NO. 266

AN ORDINANCE ESTABLISHING A GROWTH MANAGEMENT PROCEDURE WHICH WILL ALLOW FAIR DISTRIBUTION OF OUR SCARCE WATER RESOURCES AND PROTECT THE SMALL TOWN CHARACTER AND SURROUNDING OPEN SPACE OF THE CITY

Be it ordained by the people of the City of Morro Bay as follows:

SECTION 1. Both the Coastal Commission certified Land Use Plan and the Morro Bay city council-adopted Water Management Plan allow for a city residential population to grow from present 9600 to 12,200 by the year 2000 IF ADDITIONAL WATER RESOURCES OF ADEQUATE QUALITY AND QUANTITY ARE MADE AVAILABLE THROUGH IMPLEMENTATION OF THE WATER MANAGEMENT PLAN. In order to insure even and balanced growth during the 16 year period from January 1, 1985 through December 31, 2000, building permits will be limited to a number permitting an annual increase in population which would achieve the 12,200 person goal by the year 2000. No further residential building will be permitted after a population of 12,200 has been reached unless an increase has been approved by a majority vote at a regular or special election.

SECTION 2. If water and wastewater treatment capacities become available allowing for a population increase beyond 12,200, the growth management procedures of this ordinance may be altered ONLY BY A MAJORITY VOTE OF THE PEOPLE AT A REGULAR OR SPECIAL ELECTION.

SECTION 3. Residential building permits in 1985 will be limited to 70 residential units. The city council, with advice of the planning commission, will determine by January 15 of each calendar year thereafter the mix of multi-unit and single family residential units for that calendar year. The 70 unit ceiling may be increased or decreased by a factor not exceeding 10 percent if necessary to achieve the allotted annual population growth target. The determination of the mix will be based on a study of the historical building permit pattern for the decade prior to 1977 and the years since 1982, plus an estimate of population increase of the previous year. Final adjustment of the building permit limit in each year will be made by the city council after a public hearing.

SECTION 4. In any calendar year the commercial and industrial building permits issued shall not require more than 130% of the water allocated to residential units that year.

SECTION 5. Residential building permit approval will follow Coastal Act priorities for water allocation required by Coastal Development Permit 4-81-309A or as revised after the Coastal Commission review scheduled for December 1984. These priorities shall be reviewed again when the pipe replacement program is completed and necessary amendments submitted to the Coastal Commission.

SECTION 6. For purposes of awarding building permits, only those development proposals which meet the definition of infill now in use for water allocations may be approved. This definition was approved by city council resolution No. 26-84 on March 12, 1984.

Ex 4 MRB LCPR 1-97

SECTION 7. Land Use Plan policies 6.01 through 6.08 have been designed to preserve open space and agricultural land within the city limits. These policies and the zoning ordinances which now implement them may be amended or repealed ONLY BY A MAJORITY VOTE OF THE PEOPLE AT A REGULAR OR SPECIAL ELECTION held after final approval of an amendment or repeal by the city council and prior to submission to the Coastal Commission.

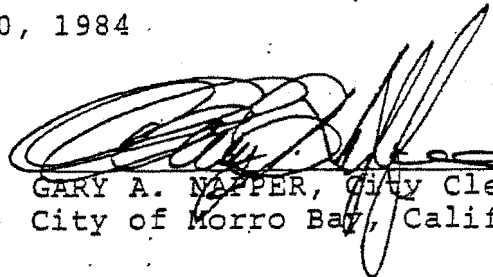
SECTION 8. Nonprofit public facilities (e.g. public buildings, libraries, senior centers, etc.) supported in whole or in part by public funds are exempted from the permit limitations in sections 3 and 4.

SECTION 9. Severance. If any portion of this ordinance is held invalid for any reason by a decision of a court of competent jurisdiction, such portion shall be deemed a separate, distinct and severable portion thereof and such decision shall not affect the validity of the remaining portions.

SECTION 10. This ordinance shall supersede all other ordinances in conflict herewith.

I, GARY A. NAPPER, City Clerk of the City of Morro Bay, do hereby certify that the foregoing is a true and correct copy of an ordinance adopted by a majority vote of the electors voting in the general municipal election held in the City of Morro Bay on the 6th day of November, 1984.

Dated: November 30, 1984



GARY A. NAPPER, City Clerk
City of Morro Bay, California

Ex4, p2 MRO LCPAI-97

INITIATIVE PETITION TO ENACT CITY ORDINANCE
TO REFORM WATER ALLOCATION POLICIES

THE PEOPLE OF THE CITY OF MORRO BAY DO ORDAIN AS FOLLOWS:

Section 1. The City shall not allocate water to new use on the basis of:

- (a) any project performed by the City or on City managed property.
- (b) any water savings that was not derived from, or accomplished by, a specific, City approved and contracted project.
- (c) any project, or part thereof, that has previously earned water savings credit for allocation. Thus, a toilet facility, whose retrofit had earned allotment credit, shall not become a factor in a subsequent retrofit credit by another fixture replacement.
- (d) past, present or future replacement of the City water pipes.
- (e) an excess of fifty percent (50%) of that water saved from any project. No more than one half of the savings from a project shall be so allocated.
- (f) an increase in the amount originally contracted for allocation from a project.
- (g) mandated projects, measures or procedures, including compulsory retrofitting of private property and forced rationing of water use.

The word 'project', as used in this Section 1, shall denote any measure, act, process or procedure by which the consumption of potable City water may be assumed or expected to decrease and thereby legally permit the allocation of City water to new use.

Any water allotment to non profit public facilities which are supported by public funds shall be exempt from Section 1a, b and c.

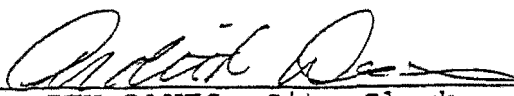
Section 2. If any provision of this ordinance is adjudged invalid by a court of competent jurisdiction, such provision shall be deemed separate, distinct and severable and such adjudication shall not affect the remaining provisions of the ordinance.

Section 3. This ordinance shall supersede all other ordinances, land use policies, guidelines and operating procedures in conflict therewith.

CERTIFICATION

I Ardith Davis, City Clerk of the City of Morro Bay, do hereby certify that the foregoing is a true and correct copy of an ordinance adopted by a majority vote of the electors voting in a general municipal election held in the City of Morro Bay on the 6th day of November, 1990.

Dated: January 14, 1991


ARDITH DAVIS, City Clerk
City of Morro Bay, California

Ex 5 MRB CPA 1-97

City of Morro Bay



PUBLIC WORKS DEPARTMENT • 695 HARBOR STREET, MORRO BAY, CALIFORNIA 93442 • 805-772-6261

May 20, 1998

California Coastal Commission
Central Coast Area Office
725 Front Street, Suite 300
Santa Cruz, Ca. 95060

Attention: Steve Guiney, Coastal Program Analyst

Subject: Local Coastal Program Major Amendment 1-97; Water Allocation Implementation Plan

Dear Steve,

First allow me to thank you for meeting with us on this matter at your office on May 8. Person-to-person contact is, to me, more conducive to broader understanding.

The primary purposes of this correspondence are to formalize our responses to your inquiries on this matter and to transmit the follow-up information we discussed. There are three areas which the Commission indicated needed additional information and clarification: Policy 3.04 criteria and language, wastewater reclamation status and retrofit and related water conservation measures.

POLICY 3.04: Our recommendation to the Commission was to amend the proposed Policy to reflect the conditions of the "final determination of the State Water Resources Control Board" for the City's groundwater appropriative rights permits. The reasons for this request were twofold, to provide for consistency in requirements between the LCP policy and the State Board permits and further to provide a quantitative measure of compliance. This view is summarized in my April 6, 1998 correspondence to you.

Without concurrence on a definition of "safe yield" the Policy as recommended by your agency is qualitative and I know of no means, therefore, to determine adequacy of protection of riparian and wetland habitats on a proactive basis. As was stated, the participation of numerous parties in the State Board permitting process, including the Department of Fish & Game, RWQCB, National Estuary Program, Bay Foundation, Coastal Commission and other interested individuals and groups provide satisfactory evidence that appropriate long-term environmental protection will be assured.

The State legislature vests the SWRCB with the power and authority to manage the water resources of the state. Action by the Coastal Commission on the same issues as those decided by

Ex 6
MAB LCPA 1-97

Coastal Commission
Water Allocation Response
May 20, 1998
Page 2 of 3

the SWRCB would be unfair and potentially in excess of the Commission's jurisdiction, particularly as the Commission participated as a protestant in the SWRCB proceedings and withdrew its protest more than ten years ago. We respectfully request the Commission defer to the SWRCB on this matter.

WASTEWATER RECLAMATION STATUS: At our meeting I provided you a copy of the Wastewater Reclamation Feasibility Study, Phase 1. The Phase 2 Study, also grant funded by the HUD Community Block Grant program, will soon be underway with delivery of a public review draft scheduled for early-fall of this year. This is intended to be the final phase of study and bring us to the point of preparation of an environmental document (presumably an EIR/EIS).

For reference, please refer to the certified Water Management Plan, Program number 5 which reads: "Even with the delivery of State Water, use of reclaimed water is the City's second highest priority and remains a productive source of potential conservation for both large and small scale projects, respectively, and as result, *should be pursued when funded by a potential user, required as part of a wastewater plant upgrade or permit condition or when it is shown as cost effective for City use.* Staff is further directed to pursue small scale projects as *both* internal and external funding sources are made available" (Italics added).

This section not only contemplates State Water deliveries before pursuit of reclamation but rather also shows this community is pursuing reclamation proactively ahead of what the Management Plan delineates.

We seek the support of the Commission as we seek to implement wastewater reclamation. This will entail active participation in our efforts to acquire the critically-needed grant funding for this important program. Without full grant funding, the community cannot afford to implement reclamation in the foreseeable future.

RETROFIT AND RELATED WATER CONSERVATION MEASURES: Per our discussion, the term "retrofit" and the water-conserving benefits derived therefrom were, according to records available, effectively invented by the City of Morro Bay and approved by the Commission. Since its inception, the merits of the program have proved themselves and the program has been implemented by many other communities. The program is of such significant national innovation that the Rocky Mountain Institute, a nonpartisan, independent, research and educational foundation, has published articles about its success.

The citizens of Morro Bay live water conservation. For your edification, please refer to the attached graphic representation of water usage in the community in the "post-drought era" and how it compares to consumption throughout the State of California.

Note that with variations of commercial and industrial levels in the various regions it is very difficult to adequately make comparisons based upon "gross" water usage by all users but that comparison of residential usage can be predicted to more accurately reflect patterns of comparable consumption.

As the attachments clearly show, the citizens of this community conserve water to a substantially higher level than any area in the State, including those regions seemingly more climatically conducive to lower per capita consumption (i.e., the North Coast with lower average

EXG, P2

~~ADZ~~

MRB LCPA 1-97

Coastal Commission
Water Allocation Response
May 20, 1998
Page 3 of 3

temperature and higher rainfall). Morro Bay's residential per capita usage is 12% lower than the lowest region in the State and 66% of that in our local geographic area.

The idea that the citizens of Morro Bay aren't somehow doing enough to conserve water cannot be supported by evidence.

The policy issue identified by the Commission is whether the retrofit program should be continued as a mandatory requirement for development. It is our recommendation that it not.


Retrofit can be reasonably determined to constitute a diminishing resource. New construction, renovations and sale of homes require water-saving fixture installation and the number of retrofit "candidates" is approaching zero. For calendar year 1998 a total of 907 residential units will be retrofitted to satisfy the new residential permits awaiting issuance. This is in addition to the 3,152 previously retrofitted as of December of 1997. According to City records, as few as 1,100 residential units may then be remaining and of that total an unknown number have already installed low-flow fixtures on their own, either by individual choice or through sale of property. As the number of candidates decreases, there can be reasonably expected to be increasing value of remaining candidate stock as a commodity. This has been evidenced in current and prior years with retrofit "packages" for sale at prices the market will bear.

There is no proposal to eliminate either the mandatory retrofit-upon-sale ordinance or to do anything but encourage remaining retrofit candidates to voluntarily participate.

Retrofit as a mandatory program for development has served the community well for more than a decade, so much so that it is rapidly reaching the end of its functional life. The LCP Amendment, as proposed by the City, looks beyond retrofit.

I hope this correspondence answers the Commission's questions and sheds light on the lengthy and complex processes we have traveled to reach this point in time. Should you have any questions, please contact me at this office.

Sincerely,



William T. Boucher
Director of Public Works

attach.

cc: City Manager
City Attorney
Interim Director, Planning & Building Department

wtb:fbill\water\permits\coast\4

Ex 6, p 3
MRB LCPA 1-97

City of Morro Bay Water Consumption

Region	All Uses (gpcd)	Residential (gpcd)
North Coast	263	84
San Francisco	193	106
Central Coast	189	113
South Coast	211	124
Sacramento River	301	166
San Joaquin River	309	170
Tulare Lake	301	202
North Lahontan	421	194
South Lahontan	278	175
Colorado River	579	342
Statewide Weighted Average	232	134
Morro Bay Avg. 1995-97	111.8	74.7

Ex G, P 4
MRB LCPA 1-97

Source: DWR, Urban Water Use in California, Bulletin 166-4

City of Morro Bay Water Consumption

Ex 6, p 5
MRB LCFA 1-97

Year	Population (see note)	All Uses in acre feet	Gallons per capita gpcd	Residential Consumption in acre feet	Residential Per Capita gpcd
1985	9747	1410.7	129.2		
1986	9881	1329.5	120.1		
1987	9819	1396.7	127.0		
1988	9975	1386.1	123.7		
1989	10133	1343.0	118.3		
1990	9664	1248.6	115.4		
1991	9806	1008.1	91.8		
1992	9736	1068.3	97.7		
1993	9979	1177.8	105.4		
1994	10071	1194.2	105.9		
1995	9518	1173.1	110.0	792.1	74.3
1996	9687	1202.4	110.5	781.9	72.1
1997	9696	1247.3	114.9	845.0	77.8

Notes: Population figures are from US Census and Ca. Dept. of Finance estimates.
Residential consumption equals single and multi-family, condo, rest homes and mobile homes.

Morro Bay Beautiful RECEIVED

A non profit City beautification foundation
P.O. BOX 88, MORRO BAY CALIFORNIA 93443

JUN 0 1 1998

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

May 28, 1998

David Hunt
Morro Bay City Attorney
% Hunt and Associates
738 Higuera Suite H
San Luis Obispo, California

Dear Mr. Hunt:

I received your letter dated May 11, 1998 today, which letter suggest I answer by June 22,, 1998. I would presume the delay in receipt was caused by your using an incorrect address for me, one which I have never had.

I don't mind responding to your call for a position statement, even though I do not know how you are going to use it and even though I recognize you as an arm of the City. I feel it is appropriate to set the record straight to officials of the City, in spite of listening to their arrogant ridicule of our actions at public meetings. Let me clearly say, it is our intent to defer, not stop, action on further development on new lots added to the city's inventory until the Coastal Commission is convinced the City has achieved reliable water resources to meet all of the needs of the City. At each of the hearings and appeal hearings, we have respectfully requested the Planning Commission and the Council delay their approvals until after the Coastal Commission acts on the Water Management Plan now pending before it. At each hearing they have summarily refused our request.

The testimony given to the Commission by City Officials was riddled with coached language and according to our sources, gross inaccuracies. The City officials need to truthfully line out for public consumption, how they were going to remove the impairments which have surfaced since the adoption of the Water Management Plan and how they will fully comply with their own LCP, water conservation ordinances, tract conditions and Water Management Plan to the satisfaction of the Coastal Commission (rather than playing political football with the ordinances and policies in their focused effort to get development started on the Cloisters). If they were to do that, then it would be our position that each owner of a legal residential lot should have the right to expect a building permit.

Ex6, p6

NRB LCPA 1-97

Page two
May 27, 1998
David Hunt response

We summarized the list of impairments which reduce the adequacy of the Morro Bay water supply and presented them in a letter to the Commission staff. The allegations we made resulted from our investigation after talking with first hand sources outside the immediate City family. It is important to note, these matters came after the Water Management Plan was adopted. The consequences associated with each of these matters further reduces the reliability of the City's assured water supply. It directly bears upon the ability of the City to declare they have met the Local Coastal Plan policies and Coastal Act. This is what we have asked the Coastal Commission to look into before they change the LCP and Water Ordinances and thereby lift the requirements for development requests.

The City wants to eliminate all of the carefully conceived restrictions to development, the very basic elements of the City's plan which protects the City's meager water supply. We are convinced it comes from the Council's insatiable urge to push development in the Cloister subdivision, as requested by the developer. There is much more here at stake than that, like the interests of the citizens of Morro Bay.

This whole scenario amounts to a matter of the City administering its water program in a responsible manner and telling the truth to the citizens of Morro Bay.

Respectfully submitted,

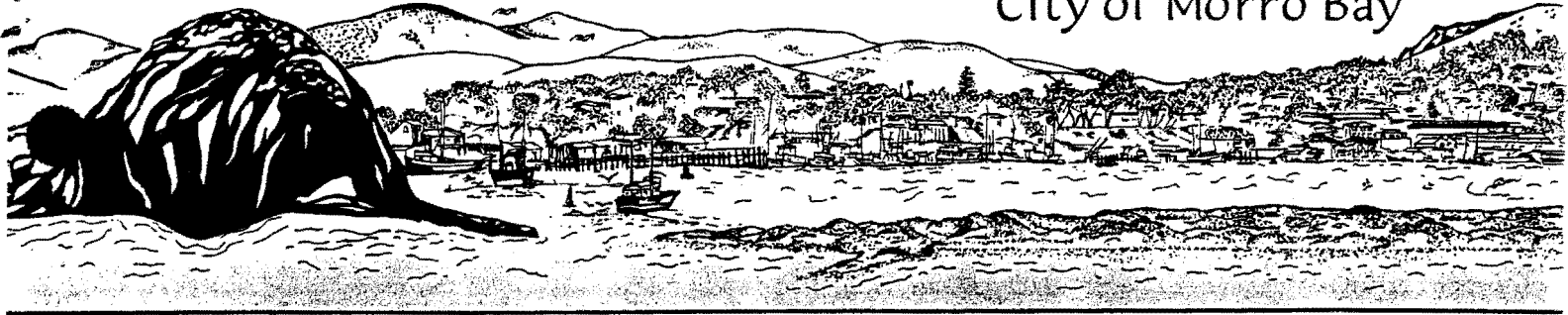


Ned Rogoway, AICP
Vice President,
Morro Bay Beautiful Foundation

cc: Warren Dorn, President
D.J. Funk
Bernie Melvin
California Coastal Commission ✓

EXG, p7
MRB LCPA 1-97

City of Morro Bay



PLANNING & BUILDING DEPARTMENT • 595 HARBOR STREET, MORRO BAY, CALIFORNIA 93442 • 805-772-6210

June 5, 1998

Sent by FAX (408) 427-4877

Charles Lester, District Manager
California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060

SUBJECT: Local Coastal Program Major Amendment 1-97; Water Allocation Implementation Plan

Dear Mr. Lester:

The City of Morro Bay requests the above Major Amendment 1-97 be continued to the Coastal Commission meeting in November 1998.

The reason for this request is that the City staff has not had an adequate opportunity to review and respond to the new recommendations that are contained in the staff report dated May 21, 1998. This staff report was available for City review on June 1, 1998 and contained recommendations that vary substantially from the recommendations of the previous staff report.

The modified and added policies, as well as new regulations for the implementation Plan (Morro Bay Municipal Code Chapter 13.20) need further review and discussion as they do not, at this time, accomplish what City staff had expected based on the meeting we attended at your offices in Santa Cruz on May 8, 1998.

City staff respectfully requests this continuance to provide a second opportunity to discuss our concerns with you and your staff, and conclude this process in manner the serves both the State's and the City's mutual interests.

We look forward to meeting with you to resolve the outstanding issues so that we can return to the Coastal Commission with the highest level of consensus possible.

Sincerely,

SHAUNA NAUMAN
Interim Director

cc: Bill Boucher, Public Works Director
Dave J. Cole, City Manager

RECEIVED

JUN 08 1998

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

EX 6, PS
MRB LCPA 1-97

