

## CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT OFFICE  
45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
(415) 904-5260 FAX (415) 904-5400

**Th8**

# NORTH CENTRAL COAST DISTRICT DEPUTY DIRECTOR'S REPORT

*For the*

## *February Meeting of the California Coastal Commission*

**MEMORANDUM**

Date: February 5, 2009

**TO:** Commissioners and Interested Parties  
**FROM:** Charles Lester, North Central Coast District Deputy Director  
**SUBJECT:** *Deputy Director's Report*

Following is a listing for the waivers, emergency permits, immaterial amendments and extensions issued by the North Central Coast District Office for the February 5, 2009 Coastal Commission hearing. Copies of the applicable items are attached for your review. Each item includes a listing of the applicants involved, a description of the proposed development, and a project location.

Pursuant to the Commission's direction and adopted procedures, appropriate notice materials were sent to all applicants for posting at the project site. Additionally, these items have been posted at the District office and are available for public review and comment.

This report may also contain additional correspondence and/or any additional staff memorandum concerning the items to be heard on today's agenda for the North Central Coast District.

***DE MINIMIS WAIVERS***

1. 2-08-022-W North Coast County Water District, Attn: Kevin O'Connell (Pacifica, San Mateo County)

**TOTAL OF 1 ITEM**

## DETAIL OF ATTACHED MATERIALS

### REPORT OF DE MINIMIS WAIVERS

The Executive Director has determined that the following developments do not require a coastal development permit pursuant to Section 30624.7 of the California Coastal Act of 1976.

<i>Applicant</i>	<i>Project Description</i>	<i>Project Location</i>
<b>2-08-022-W</b> North Coast County Water District, Attn: Kevin O'Connell	Installation of a new recycled water pipeline and associated facilities to provide recycled water in the City of Pacifica. The project will provide treated water from the District's Calera Creek Water Recycling Plant (CCWRP) to irrigation sites within the City. The project includes construction of a new pump station at the CCWRP, installation of 17,000 linear feet of pipeline, and construction of a 400,000-gallon recycled water storage tank.	Pacifica (San Mateo County)

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**NOTICE OF COASTAL DEVELOPMENT PERMIT WAIVER**

DATE: January 22, 2009  
TO: North Coast County Water District, Attn: Kevin O'Connell  
FROM: Peter M. Douglas, Executive Director  
SUBJECT: Waiver of Coastal Development Permit Requirement:  
**Waiver De Minimis Number 2-08-022-W**

Based on project plans and information submitted by the applicant(s) named below regarding the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit, pursuant to Title 14, Section 13238 of the California Code of Regulations.

APPLICANT: North Coast County Water District, Attn: Kevin O'Connell

LOCATION: Pacifica (San Mateo County) (APN(s) 018-150-100, 018-028-180)

DESCRIPTION: Installation of a new recycled water pipeline and associated facilities to provide recycled water in the City of Pacifica. The project will provide treated water from the District's Calera Creek Water Recycling Plant (CCWRP) to irrigation sites within the City. The project includes construction of a new pump station at the CCWRP, installation of 17,000 linear feet of pipeline, and construction of a 400,000-gallon recycled water storage tank.

RATIONALE: Proposed development involves no significant impacts on coastal resources or public access to the shoreline.

IMPORTANT: This waiver is not valid unless the site has been posted AND until the waiver has been reported to the Coastal Commission. This waiver is proposed to be reported to the Commission at the meeting of Thursday, February 5, 2009, in Huntington Beach. If four Commissioners object to this waiver, a coastal development permit will be required.

Persons wishing to object to or having questions regarding the issuance of a coastal permit waiver for this project should contact the Commission office at the above address or phone number prior to the Commission meeting date.

Sincerely,  
PETER M. DOUGLAS  
Executive Director

  
By: RUBY PAP  
District Supervisor

cc: Local Planning Dept.  
Lee Miles Bradford

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FAX (415) 904-5400

**Memorandum****February 2, 2009****To:** Commissioners and Interested Parties**FROM:** Charles Lester, Deputy Director  
North Central Coast District**Re:** **Additional Information for Commission Meeting Thursday,  
February 5, 2009**

<u><b>Agenda Item</b></u>	<u><b>Applicant</b></u>	<u><b>Description</b></u>	<u><b>Page</b></u>
<b>Th 11a</b>	<b>A-2-SMc-07-001 (STERLING, San Mateo Co.)</b>	<b>Correspondence, David Byers</b>	<b>1-4</b>

**McCracken & Byers LLP**

1920 LESLIE STREET  
SAN MATEO, CALIFORNIA 94403-1325  
TEL: (650) 377-4890  
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MICHAEL D. McCracken  
DAVID J. BYERS

TODD A. AANENSON

OF COUNSEL  
PATRICK M. K. RICHARDSON  
PARALEGAL  
JILL BRIGGS

January 30, 2009

**RECEIVED**

JAN 30 2009

CALIFORNIA  
COASTAL COMMISSION

**Hand Delivered**

Ms. Tiffany Tauber  
Program Analyst  
North Central Coast District Office  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105-2219

Re: Dan and Denise Sterling; Appeal No. A.2-SMC-07-001

Please distribute this letter to the California Coastal Commission for the February 5, 2009  
Hearing on Permit No. A-2-SMC-07-001.

Thank you.

Sincerely,

McCracken & Byers LLP

Signature on file

DAVID J. BYERS LLP

DJB:mlam

RECEIVED

JAN 30 2009

CALIFORNIA  
COASTAL COMMISSION

**McCracken & Byers LLP**

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January 30, 2009

**HAND-DELIVERED**

Bonnie Neely, Chair  
Dr. William A. Burke, Vice Chair  
Steve Blank  
Sara Wan  
Steven Kram  
Mary K. Shallenberger  
Patrick Kruer  
Mike Reilly  
Dave Potter  
Khatchik Achadjian  
Larry Clark  
Ben Hucso  
California Coastal Commission  
North Central Coast District Office  
45 Fremont Street, Ste. 2000  
San Francisco, CA 94105-2219

Re: Dan and Denise Sterling; Appeal No. A-2-SMC-07-001

Dear Honorable Commissioners:

This office represents Dan and Denise Sterling who simply want to build a home on the property they have owned for 12 years for them and their four children.

They have been processing an application under the California Coastal Act for such a residence for 10 years. This office did not originally represent the Sterlings, but began to represent them in 2005, and secured unanimous approval by the County of San Mateo Board of Supervisors for one family home on 143 acres on December 12, 2006. The Sterlings were not applying for any subdivision on their property at this time, but their property is large enough to be subdivided under the existing PAD Ordinance under the Local Coastal Program approved by the Coastal Commission in 1980. While no neighbors opposed the project, the Coastal Commission appealed this matter to itself and conducted a "substantial issue" hearing on

February 15, 2007. Even though I, my clients and their four children flew from San Francisco to San Diego at great expense and had requested to be heard on the substantial issue determination, Coastal Commission staff did not permit us to speak. Having personally represented California government agencies for 29 years that always allow citizens to be heard, I was astounded that we were not allowed to address the Coastal Commission on such a significant right, that of parents trying to build a home for their four children on their property. This was a clear violation of my clients' due process. We have never waived objections to that violation. When the government is going to vote on a matter regarding your property right to build your home consistent with the established Local Coastal Plan, the applicant is entitled to speak.

Since this time, I have tried extensively to cooperate with the Coastal Commission staff, giving them all information they would need to recommend approval of this project. Those submittals on or about October 29, 2007, May 29, 2008, and September 10, 2009, and any other submittals by the Sterlings' Planner Kerry Burke along with my letters of February 7, 2007 (2), October 17, 2008, November 20, 2008 and December 30, 2008 and the entire 68 page Coastal Commission Staff Report of January 31, 2007 constitute part of the Administrative Record. During my representation, I have always told the Coastal Commission staff that the Sterlings will not agree to the imposition of an agricultural easement, eliminating further allowable subdivision of the property merely for obtaining a coastal development permit to build a single home. This is not authorized under the County of San Mateo's Local Coastal Program, which allows an agricultural easement only in cases of subdivision. San Mateo County Local Coastal Program Policy 5.16 : "As a condition of approval of a Master Land Division Plan..." Moreover, the requisite showing under *Nollan v. California Coastal Commission*, (1987) 483 US 825 cannot be met in this matter. The Sterlings will not agree to this condition, and believe that the action of the Coastal Commission staff in delaying the review of my client's application in an effort to secure an illegal condition is very, very unfair. The previous submittals by the applicant demonstrate the Coastal Commission Staff Report discussion of the agricultural use of this parcel is incorrect. The discussion is conjecture and not evidence and while lengthy possesses no validity. The discussion in the Staff Report ignores the agricultural facts regarding the parcel. The only ag use of the site from time immemorial is the random grazing of cows, i.e. animal grass mowers. The Staff Report calls the Sterling home a "seaside estate", Staff Report p. 46. Really? The proposed home is over 1/2 mile from the ocean, hidden in trees with hundreds of other homes between it and the Pacific. Finally, it is unclear why the imposition of the ag easement is being limited to San Mateo County.

The Sterlings will ask the Coastal Commission to approve their project without conditions 2, 4, 10, and 11. Conditions 2 and 4, Staff Report pp. 6-9 relate to the ag easement. Condition 10 requires the removal of the home that the Sterlings have been living in for 12 years. The County of San Mateo allowed it to be converted to farm labor or affordable housing. If ag

use is paramount, why remove potential farm labor housing? County Condition, Staff Report Exhibit 13 p. 7. Condition 11 states that "Extension of Public Services to the parcel is prohibited". There is no reason why telephone, internet, cable TV, and PG&E should be connected to a house located 300' from neighboring residences.

We will be available at the hearing and hope that this time we will be permitted to address the Coastal Commission. We request approval of the permit without the above listed conditions.

Sincerely,

McCRACKEN & BYERS LLP

Signature on file

DAVID J. BYERS, ESQ.

DJB/jb

cc: Dan and Denise Sterling  
Kerry Burke  
Tiffany Tauber