

## CALIFORNIA COASTAL COMMISSION

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

**Th7****CENTRAL COAST DISTRICT (SANTA CRUZ)  
DEPUTY DIRECTOR'S REPORT***For the****March Meeting of the California Coastal Commission*****MEMORANDUM**

March 12, 2009

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

There were no waivers, emergency permits, immaterial amendments or extensions issued by the Central Coast District Office for the March 12, 2009 Coastal Commission hearing.

This report contains additional correspondence and/or any additional staff memorandum concerning the items to be heard on today's agenda for the Central Coast Area.

**CALIFORNIA COASTAL COMMISSION**

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



March 11, 2009

To: Commissioners and Interested Parties

From: Charles Lester, Senior Deputy Director, Central Coast District

Re: Additional Information for Commission Meeting Thursday, March 12, 2009

<u>Agenda Item</u>	<u>Applicant</u>	<u>Description</u>	<u>Page</u>
Th9d, STC-MAJ-2-06 Part 1 (Arana Gulch)	City of Santa Cruz	LCP Withdrawal	1
Th9e, MCO-MAJ-2-07 Part 1 (Castroville Community Plan)	County of Monterey	LCP Withdrawal	2
Th9f, SCO-MAJ-2-06 Part 2 (Neighborhood Compatibility)	County of Santa Cruz	Correspondence	3
Th9g, SCO-MIN-1-08 Part 4 (Wells and Groundwater Protection)	County of Santa Cruz	Correspondence (DVD as a separate enclosure)	49
Th10a, A-3-SLO-01-040	Brett	Ex Parte Request to Postpone	127 129

Th 9d

**Diana Chapman**

---

**From:** Dan Carl  
**Sent:** Wednesday, March 04, 2009 2:04 PM  
**To:** Diana Chapman  
**Cc:** Susan Craig  
**Subject:** FW: Arana Gulch

**RECEIVED**

MAR 04 2009

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

-----Original Message-----

**From:** Ken Thomas [mailto:KThomas@ci.santa-cruz.ca.us]  
**Sent:** Wednesday, March 04, 2009 11:33 AM  
**To:** Susan Craig  
**Cc:** Dan Carl  
**Subject:** Arana Gulch  
**Importance:** Low

Dear Ms. Craig:

Please be advised that the City of Santa Cruz is withdrawing its application (No. STC-MAJ-2-06 Part 1 Arana Gulch) to amend the Local Coastal Program.

Sincerely,

**Ken Thomas**  
Principal Planner  
Planning and Community Development Department  
City of Santa Cruz  
(831) 420-5148

Th 9e

# MONTEREY COUNTY RESOURCE MANAGEMENT AGENCY



## REDEVELOPMENT AND HOUSING OFFICE

Jim Cook  
Director

188 West Alisal Street, 3<sup>rd</sup> Floor  
Salinas, CA 93901  
(831) 755-5390  
Fax: (831)755-5398  
www.co.monterey.ca.us

March 3, 2009

# RECEIVED

MAR 04 2009

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Ms. Katie Morange  
Mr. Dan Carl  
**CALIFORNIA COASTAL COMMISSION**  
**CENTRAL COAST DISTRICT OFFICE**  
725 Front Street, Suite 300  
Santa Cruz, CA 95060

**Re: CASTROVILLE COMMUNITY PLAN - LCP AMENDMENT**

On behalf of the County of Monterey, I respectfully request that the above referenced application be withdrawn from consideration. We intend to re-submit the application within 90 days with additional information that will address potential impacts and would request a local hearing location that would allow the Castroville community to participate.

Sincerely,

Jim Cook  
Redevelopment and Housing Director

cc: Carl Holm, Planning Department

Th 9f

# MZIRP, Inc.

**RECEIVED**

3281 FOND ROAD, SUITE 4 • MCFARLAND, CALIFORNIA 93250-9795  
TELEPHONE 661 / 792-3151

MAR 02 2009

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

February 24, 2009

California Coastal Commissioners  
c/o Susan Craig  
California Coastal Commission  
725 Front Street  
Santa Cruz, CA 95060

Re: March 2009 Agenda - Santa Cruz County LCP  
Amendment 2-06 (Neighborhood Compatibility)

Dear Coastal Commissioners:

Our family owned company, MZIRP, Inc., owns the property at 741 Las Olas Drive in Aptos. I am writing to ask that the CCC staff change the recommendations set forth in the staff report on "Net Site Area" that is on the March agenda for consideration for the CCC.

First, a little history on the "NSA" issue. As I understand it, a number of building restrictions apply based on a parcel's NSA. The smaller a parcel's NSA, the smaller the building, paved areas, and other improvements that will be allowed on the property. The Santa Cruz County Planning wanted to redefine NSA for parcels that are close to the beach so that NSA accurately reflected the portion of a parcel that could be built on. Property owners on the top of the bluff often owned a small "toe" area at the bottom of the bluff as well as the steep slope that connects the "toe" to the bluff top parcel.

Under prior County regulations, the bluff top owner could include both the small toe at the bottom of the bluff and the steeply sloped property between the bluff and the toe in the parcel's "NSA" and thereby build a very large bluff top house that complied with the technical requirements of the "NSA" restrictions but certainly did not comply with the spirit of what the County was trying to accomplish. The County then set out to amend its NSA definition so that bluff top owners could not include the extra unbuildable area (the toe and steep slope) in their parcel's NSA. The County's first attempt to do this was poorly written in that it excluded everything below the bluffs from "NSA"; thereby making all beachfront homes non-compliant (how can you build on a parcel that has an "NSA" of 0?)

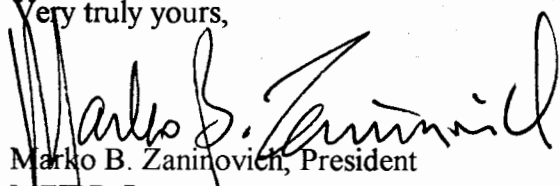
This problem was brought to the attention of the County staff and the new County NSA amendment was changed to only apply to bluff top parcels.

Page Two  
California Coastal Commissioners  
c/o Susan Craig  
February 24, 2009

I am writing to ask that the CCC take the same sensible approach as that taken by the County and have the CCC staff work with the County to adopt a regulation that only applies the new NSA rules to bluff top parcels. If at all possible, the County and Coastal Commission regulations should be the same to simplify things for the property owner.

Please contact me if I can be of any help to the CCC in working through this issue.

Very truly yours,



Marko B. Zaninovich, President  
MZIRP, Inc.

RECEIVED

Th 9f

California Coastal Commissioners  
c/o Susan Craig  
California Coastal Commission  
725 Front Street  
Santa Cruz, CA 95060

MAR 09 2009

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

RE: MARCH, 2009 AGENDA – Santa Cruz County LCP Amendment 2-06  
(Neighborhood Compatibility)

Dear Coastal Commissioners:

February 3, 2009

We own property at 797 Las Olas Drive, Aptos, CA which is located on the beach in the SeaCliff Beach Association community. I am writing to voice our opposition to the recommendations contained in the CCC Staff report related to the Net Site Area (NSA) issue on your 12/10 agenda.

An overwhelming number of existing requirements including FEMA regulations, County Coastal Permit requirements, and California Coastal Commission review, significantly restrict what can be built in these areas. We do NOT need more regulations to contend with on the beach homes!

Although we understand that concerns over the size of newer built bluff top homes, which are located on bluff top parcels with very little flat area, triggered the changes to the NSA at the County level. The County Board of Supervisors appropriately adopted the proposed NSA changes so that beach owners would not be unduly penalized or restricted unfairly. As you know, it is already extremely difficult to develop (new or remodel) properties on the beach.

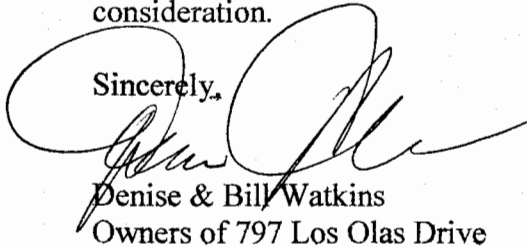
The CCC staff-proposed changes to the NSA definition would further restrict our properties such that very little could be built without variances. The elimination of all but a small area of land (between the revetment and street) from consideration of NSA and corresponding allowable Floor Area Ratio (FAR), would make most of our properties non-conforming, and negatively impact our ability to rebuild, maintain or reconstruct our existing homes. This would negatively impact their value without any mitigating compensation! The differences amongst parcels located on the top of the bluff, toe of the bluff, and beachfront are far too great to simply use a blanket approach such as the NSA definition to address complex design issues in coastal areas. We urge the Commission to reject the CCC staff proposed changes and take the following actions:

1. Remove the NSA amendment from consideration on Dec. 10, to be heard at a later date.
2. Approve Amendments #2 (lot coverage) and #3 (front yard setbacks) as submitted by the County
3. Direct CCC staff to work with the County to revise the NSA definition to apply only to bluff top parcels.

Existing regulations are adequately addressing neighborhood compatibility for beachfront parcels. Please do not use the efforts by the County to close a loophole on blufftop

development to unfairly restrict and penalize beach owners. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Denise & Bill Watkins", written over the word "Sincerely,".

Denise & Bill Watkins  
Owners of 797 Los Olas Drive

8040 Golden Eagle Way  
Pleasanton, CA 94588



# RECEIVED

MAR 09 2009

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

**Item Th9f**  
Ellen Mellon  
7617 Hazard Center Dr.  
San Diego, CA. 92108  
**Support**

Central Coast District Office  
725 Front St., Suite 300  
Santa Cruz, CA. 95060  
Susan Craig, Planner

Commissioners:

I am writing to ask you to support **Item Th9f** on the March 12 agenda. As a former resident of Santa Cruz County who worked closely with the county Planning Department to draft these proposed amendments I feel that this modified version is the best solution (at this time) to the issues of neighborhood compatibility and viewshed within the Urban Services Line of Santa Cruz County.

The minor changes recommended by staff to front yard averaging and lot coverage increase should strengthen these amendments. I agree with staff's recommendation to accept the county's language on the NSA amendment.

I feel it is imperative that these amendments be approved now in order to protect what is left of the Santa Cruz County coastline. The public viewshed is rapidly disappearing due to the onslaught of mega-houses being built on the coastal bluffs. Almost every other coastal county in California has ordinances in place to prevent this type of building on the bluffs. The time for Santa Cruz County to do the same is long overdue.

Respectfully,  
Ellen Mellon



Th 9f



**MorganMillerBlair**  
A LAW CORPORATION

1331 NORTH CALIFORNIA BOULEVARD, SUITE 200 WALNUT CREEK, CALIFORNIA 94596-4544  
925.937.3600 925.943.1106 FAX www.mmlaw.com

**DECEMBER 10, 2008, AGENDA ITEM W10G  
CENTRAL COAST DISTRICT:  
SANTA CRUZ COUNTY LCP AMENDMENT  
No. SCO-MAJ-2-06, (PART 2)**

**RECEIVED**

DEC 05 2008

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

**OPPOSED TO PROJECT**

TODD A. WILLIAMS  
(925) 979-3352  
twilliams@mmlaw.com

December 5, 2008

**VIA FACSIMILE ((831) 427-4877)**

Chairman Patrick Krucr and Coastal Commissioners  
California Coastal Commission  
c/o Central Coast District Office  
Dan Carl, District Manager  
Susan Craig, Coastal Planner  
725 Front Street, Suite 300  
Santa Cruz, CA 95060-4508

Re: Coastal Commission Meeting of May 9, 2008, Agenda Item 11.c.  
(Central Coast District: Santa Cruz County LCP Amendment No.  
SCO-MAJ-2-06, (Part 2) (Neighborhood Compatibility)  
Our File No. 10096-002

**Note: Please include this letter for the Commission's consideration as part of the administrative record for its December 5, 2008 meeting regarding this item.**

Dear Chairman Kruer and Coastal Commissioners:

We write this comment letter on behalf of Susan and Barry Porter (the "Porters"), in regard to the County of Santa Cruz's submittal to the Coastal Commission of its proposed Year 2006 Second Local Coastal Program amendment (SCO-MAJ-2-06 Part 2) regarding "Neighborhood Compatibility" (the "LCP Amendment") that is set on the Coastal Commission's December 10, 2008 agenda as Item W10g (Central Coast District).

**1. Summary of Objection to Proposed LCP Amendment.**

The Porters own property in Santa Cruz County within the Coastal Zone, and object to both the substance of the actions taken by the County in connection with the proposed LCP Amendment, as well as the process by which the County took those actions. In connection with the proposed LCP Amendment, the County has failed to proceed in the manner required by law,

MMB:10096-002:962252.1

Chairman Patrick Krucr and Coastal Commissioners  
California Coastal Commission  
c/o Central Coast District Office  
Dan Carl, District Manager  
Susan Craig, Coastal Planner  
December 5, 2008  
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has violated the California Environmental Quality Act (CEQA), and the State's Planning and Zoning Law. We respectfully ask that the Commission reject the proposed LCP Amendment and return the matter to the County for further proceedings.<sup>1</sup>

Coastal Commission staff has recommended that the proposed LCP Amendment be rejected, but a modified proposal be adopted. However, throughout its report, Commission staff notes that the best process is for the County to develop site- or area-specific planning tools to address concerns over neighborhood compatibility rather than apply ineffectual and inappropriate blanket rules to what are acknowledged to be diverse circumstances. Also, the proposed modifications introduce vague and undefined terms such as "community character" that create uncertainty for planners, owners and the public.

In addition, whereas the County's version of the LCP Amendment only covered areas inside the Urban Services Line, Commission Staff proposes to apply the new regulations throughout the County. As a result, communities that had never received any notice or input into the LCP amendment, such as Pajaro Dunes, would be suddenly affected.

As set forth below, and in other letters previously submitted,<sup>2</sup> the County failed to provide proper notice for the original LCP amendment leaving many interested stakeholders out of the process. In addition, there is no evidence that there is an urgent need for what even Commission staff acknowledges should be "interim" measures. Therefore, the best course of action is to reject the proposed LCP amendment and, rather than modify it, return it to the County so that it can restart the process and do so properly, including taking the recommendations of the Commission staff into account.

## **2. Background**

The LCP Amendment consists of amendments to three provisions of the County Zoning code for residential sites. These concern (1) changing the definition of "Net Site Area,"(2)

- 
- <sup>1</sup> The Porters have filed a petition for writ of mandate and complaint against the County in Santa Cruz County Superior Court (Case No. CV156075) challenging its approval of the ordinances that comprise the LCP Amendment. That case is currently stayed while the County seeks the Commission's certification of the LCP Amendment.
  - <sup>2</sup> This letter attaches, and incorporates by reference, letters sent to the Commission and County dated May 6, 2008, and July 3, 2007, as well as letters sent to the County dated May 14, 2007 and December 4, 2006, respectively attached hereto as Exhibits 1, 2, 3 and 4. These letters set out multiple reasons why the County's submittal is deficient and its actions are improper. We summarize these comments below.

Chairman Patrick Krueger and Coastal Commissioners  
California Coastal Commission  
c/o Central Coast District Office  
Dan Carl, District Manager  
Susan Craig, Coastal Planner  
December 5, 2008  
Page 3

increasing the "maximum lot coverage" on lots of 5,000 to 15,000 square feet from 30% to 40%, and (3) allowing "front-yard averaging." These amendments were originally adopted by the County by the passage of Resolution 388-2006 and Ordinance 4841 in December 2006, and first submitted to the Commission in January 2007.

Under the County Code, "Net Site Area" is used when calculating maximum allowable lot coverage and floor area ratio in consideration of development applications. With regard to the term's definition, the County initially amended Section 13.10.700-S of its Code to exclude from the definition on residentially-zoned land inside the Urban Services Line "coastal bluffs, beaches, and Monterey Bay submerged lands, including all the area from the top of a coastal bluff to the bayward property line, but not including coastal arroyos." In other words, a parcel's net site area would deduct such areas from the lot's total area to determine the allowable size of development.

However, soon after the passage of Ordinance 4841, the County withdrew the proposed LCP Amendment in response to widespread objections that the new definition caused thousands of existing homes to become non-conforming (in beach and bluff top areas) since, in many cases, residentially-zoned parcels had their "Net Site Area" drastically reduced, and in some cases reduced to zero. In response, the County held three additional meetings (March 27, 2007 before the Board, April 25, 2007 before the Planning Commission, and May 15, 2007 before the Board). On May 15, 2007, the Board of Supervisors adopted further revisions to the Net Site Area definition, passing Resolution 138-2007 and Ordinance 4874. Under the revised amendment (which is the version now before the Commission), "Net Site Area" has a different meaning depending on the property at issue. For so-called "coastal bluff top parcels," Net Site Area excludes the "coastal bluff" and "beaches," however, such land is counted for all parcels located at the "toe of a bluff" or "on the beachfront."<sup>3</sup> No definitions were included for these key terms (nor are any supplied in the Commission staff's proposed modifications). The maximum lot coverage and front-yard averaging amendments passed in December 2006 were not revised.<sup>4</sup>

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<sup>3</sup> Owners of "bluff top" property, many of whom were not provided notice when the County adopted the first changes in December 2006 or in March 2007 when the revisions were first proposed (in violation of County Code §§ 13.03.070 and 18.10.223), appeared at the May 15, 2007 meeting but were told that Board was only considering changes for beach and toe of bluff property owners. As a result, those who finally received required notice were nonetheless denied the opportunity to be meaningfully heard.

<sup>4</sup> Under the maximum lot provision, a home's footprint (assuming it was within FAR provisions) could increase from 30 percent to 40 percent of the lot's size. Under front-yard averaging, an owner could have a smaller front-yard setback than typically allowed under the County Code if the homes of their neighbors were similarly situated (i.e., out-of-compliance).

Chairman Patrick Krueger and Coastal Commissioners  
California Coastal Commission  
c/o Central Coast District Office  
Dan Carl, District Manager  
Susan Craig, Coastal Planner  
December 5, 2008  
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**3. The County's LCP Amendment Submittal Is Deficient.**

After the additional Net Site Area revisions, the County resubmitted the LCP Amendment to the Commission on June 21, 2007. On July 3, 2007, my office submitted a letter to the Commission's Central Coast District Office and the County, pointing out deficiencies in the County's submittal pursuant to 14 Cal. Code Regs section 13522. (See Exhibit 2.) **Notably, the County did not appear to provide any of the approximately 50 written comment letters from any of the three public hearings regarding Net Site Area that occurred in 2007.** In addition, the County had not provided any summary of the oral testimony from those meetings.

The Commission then wrote the County on October 5, 2007, requesting additional information (see Exhibit 5), including:

- a list of commenters, summaries of their comments and any County response;
- a discussion of the LCP Amendment's relationship to and effect on other sections of the certified LCP; and
- an analysis of potential significant adverse impacts on coastal resources from potentially allowable development.

The County's response, provided over five months later, consisted of a two-page letter. (See Exhibit 6.) Its one-paragraph discussion of potentially significant impacts contains speculative conclusions without any evidentiary support. It claims that the LCP Amendment will promote neighborhood compatibility without explaining how. For instance, the LCP Amendment potentially allows homes with a larger first floor to be built closer to a public street, but the County claims this will somehow promote unspecified public viewsheds. Similarly, it justifies the changes merely because some of the changes would revert the County Code to rules it previously contained, without explaining why these former rules were better than existing ones. As to the County's "summary" of public comment, the County offered a sentence, or less, of description of each speaker, leaving out virtually all substance, in favor of merely noting whether a speaker was for or against the revisions. No response to any of the comments was offered. Again, the County failed to provide any of the nearly 50 written comments it received in 2007 to the Commission staff.

We called this deficiency to the attention of the Coastal Commission in our May 6, 2008 letter, which was copied to the County (see Exhibit 1). On November 24, 2008, Santa Cruz County Counsel confirmed that there had been no additional correspondence or exchange of documents between the County and Commission staff in the intervening time, i.e. the public comments still have not been provided as required.

**4. The Proposed and Modified LCP Amendment Should Be Rejected.**

Unanswered questions coupled with the County's unsupported assertions merit the Commission's rejection of the LCP Amendment. Several commenters, including my office (see Exhibits 3 and 4) and several others, pointed out legal deficiencies in the County's actions and voiced other concerns relating to the Net Site Area revisions. Those comments were not provided to the Commission by the County. The proposed changes have the effect of counting certain types of property as part of the net site area for some property owners while *excluding* the same area for other owners. No rational policy justification was given for this discriminatory and unequal treatment.

Further, both the County's LCP Amendment and Commission staff's modified version:

- Offer no evaluation as to how many hundreds of parcels are affected by the proposed LCP Amendment, nor how many non-conforming structures are created as a result, nor the effect it will have on owners' ability to rebuild if their homes are destroyed. Staff's proposal expands the scope by applying the net site area changes throughout the County, whereas the County limited it to inside the Urban Services Line. Thus, potentially hundreds (no estimate is provided) of properties will become affected without any prior notice. *See* Pub. Res. Code § 30503 (during certification of LCP amendment proceedings, the public "shall be provided a maximum opportunities to participate").
- Offer no definition for the terms "coastal bluff-top parcel," "toe of a bluff" parcel, or "beachfront" parcel, nor explains how it will treat properties that include areas of more than one type leading to vague and uncertain application. Commission staff's proposed modifications also add new, undefined terms such as "community character," thereby infusing additional uncertainty and vagueness into future application of the regulations.
- Fail to address whether any other coastal jurisdictions have enacted similar laws and, if so, whether they have been effective.
- Fail to support the disparate treatment of affected parcels on any legitimate grounds.
- Fail to address the possibility that bluff top owners with beach property now have a greater incentive to subdivide thereby increasing coastal development.
- Fail to justify the County's reliance on inapplicable CEQA categorical and statutory exemptions, or consider the impact of the LCP Amendment (and

Countywide zoning changes) on lands outside of the coastal zone and beyond the Commission's jurisdiction.

- Fail to provide any evidence that the changes would actually promote "neighborhood compatibility" or explain how the County intends to define "neighborhood compatibility" in areas (proposed to be expanded by Commission staff's modifications) known for their eclectic character and irregular parcel configurations.

(See also Exhibits 3 and 4.)

In addition, the County has failed to justify why all affected property owners (such as bluff top owners) were not originally notified of the proposed changes when they were first adopted in December 2006 (contrary to County Code §§ 13.03.070 (concerning notice for proposed LCP amendments) and 18.10.223), and why, when those owners finally received notice in 2007, the Board refused to consider concerns regarding their property. Further, the County failed to evaluate how the proposed changes will impact its ability to meet its General Plan Housing Element projections (see e.g., Gov't Code §§ 65584 and 65863), since it may lessen the number of second units that may be constructed and may prohibit a now nonconforming multifamily unit from rebuilding if damaged or destroyed (contrary to Gov't Code §§ 65863.4 and 65852.25).

Also, Commission staff provides no evidence that it has satisfied its compliance with its certified regulatory program and has failed to demonstrate compliance with Public Resources Code section 21080.5(d)(2). See *Mountain Lion Foundation v. Fish & Game Com.* (1997) 16 Cal.4<sup>th</sup> 105, 132-137. It provides only a half-page conclusory recitation (see staff report at p. 15) of its alleged compliance. There is no substantial evidence supporting the assertion that there are no additional feasible alternatives or feasible mitigation measures that would lessen any significant adverse environmental effects, nor are the environmental impacts raised by commentors sufficiently addressed. The Commission staff report contains virtually no analysis of environmental effects and, as for mitigation, it readily admits that the County could, and should, create area-specific regulations and guidelines. Clearly, alternatives are readily available, thereby undermining staff's unsupported conclusions. In addition, Commission staff has not adequately responded to significant environmental concerns raised.

## **5. Conclusion**

The LCP Amendment is ill-conceived, ineffective, discriminatory and ultimately unnecessary. The County violated the notice provisions of its own code concerning LCP amendments, performed no environmental analysis on potential effects inside or outside of the Coastal Zone, and failed to comply with applicable state planning and zoning laws. The LCP



Chairman Patrick Kruer and Coastal Commissioners  
California Coastal Commission  
c/o Central Coast District Office  
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Amendment offers blanket rules for hundreds of parcels where site-specific inquiries (e.g., design review) are better suited to achieve compatibility goals.

Similarly, Commission staff's proposed modification of the LCP Amendment suffers from the same problems, expands the scope of application and introduces new undefined and vague terms. Even staff acknowledges that developing tools to address neighborhood compatibility and structure-massing concerns are "deserving of a public planning process that is better undertaken by the County than by the Commission through this LCP amendment request." (Staff Report at 12.) The Commission should respond by rejecting the County's LCP Amendment, and the proposed modifications, to allow the County to undertake such a process, this time providing proper notice to all stakeholders and address these issues in a more appropriate fashion.

Sincerely yours,

MORGAN MILLER BLAIR



TODD A. WILLIAMS

TAW:taw  
Attachments

cc: Christopher R. Cheleden, Santa Cruz Assistant County Counsel  
Susan and Barry Porter

**EXHIBIT 1**



**Morgan Miller Blair**  
A LAW CORPORATION

1331 NORTH CALIFORNIA BOULEVARD, SUITE 200 WALNUT CREEK, CALIFORNIA 94596-4544  
925.937.3600 925.943.1106 FAX www.mmblaw.com

**MAY 9, 2008, AGENDA ITEM 11C  
CENTRAL COAST DISTRICT:  
SANTA CRUZ COUNTY LCP AMENDMENT  
No. SCO-MAJ-2-06, (PART 2)**

TODD A. WILLIAMS  
(925) 979-3352  
twilliams@mmblaw.com

May 6, 2008

**VIA FACSIMILE ((831) 427-4877) AND FEDERAL EXPRESS**

Chairman Patrick Krueger and Coastal Commissioners  
California Coastal Commission  
c/o Central Coast District Office  
Dan Carl, District Manager  
Susan Craig, Coastal Planner  
725 Front Street, Suite 300  
Santa Cruz, CA 95060-4508

**Re: Coastal Commission Meeting of May 9, 2008, Agenda Item 11.c.  
(Central Coast District: Santa Cruz County LCP Amendment No.  
SCO-MAJ-2-06, (Part 2) (Neighborhood Compatibility)  
Our File No. 10096-002**

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**Note: Please include this letter for the Commission's consideration as part of the administrative record for its May 9, 2008 meeting regarding the above-listed item.**

Dear Chairman Krueger and Coastal Commissioners:

We write this comment letter on behalf of Susan and Barry Porter (the "Porters"), in regard to the County of Santa Cruz's submittal to the Coastal Commission of its proposed Year 2006 Second Local Coastal Program amendment (SCO-MAJ-2-06 Part 2) regarding "Neighborhood Compatibility" (the "LCP Amendment") that is set on the Coastal Commission's May 9, 2008 agenda as Item 11c (Central Coast District).

**Time Extension:** As an initial matter, the Porters do not object to the recommendation of Coastal Commission staff that the Commission approve a time extension for consideration of the LCP Amendment pursuant to Coastal Act section 30517. Staff should be given a further opportunity to analyze the proposed LCP Amendment, and the County still must fully comply with 14 Cal. Code Regs section 13522. In the event the Commission considers the merits of the LCP Amendment, the Porters submit this substantive comment letter with attached exhibits.

MMB:10096-002:902121.1

Chairman Patrick Krueger and Coastal Commissioners  
California Coastal Commission  
c/o Central Coast District Office  
Dan Carl, District Manager  
Susan Craig, Coastal Planner  
May 6, 2008  
Page 2

**1. Objection to Proposed LCP Amendment.**

The Porters own property in Santa Cruz County within the Coastal Zone, and object to both the substance of the actions taken by the County in connection with the proposed LCP Amendment, as well as the process by which the County took those actions. In connection with the proposed LCP Amendment, the County has failed to proceed in the manner required by law, has violated the California Environmental Quality Act (CEQA), and the State's Planning and Zoning Law. We respectfully ask that the Commission reject the proposed LCP Amendment and return the matter to the County for further proceedings.<sup>1</sup>

This letter attaches, and incorporates by reference, a letter sent to the Commission and County dated July 3, 2007, as well as letters sent to the County dated May 14, 2007 and December 4, 2006, attached hereto as Exhibits 1, 2 and 3. These letters set out multiple reasons why the County's submittal is deficient and its actions are improper. We summarize these comments below.

**Background:** The LCP Amendment consists of amendments to three provisions of the County Zoning code for residential sites. These concern (1) changing the definition of "Net Site Area," (2) increasing the "maximum lot coverage" on lots of 5,000 to 15,000 square feet from 30% to 40%, and (3) allowing "front-yard averaging." These amendments were originally adopted by the County by the passage of Resolution 388-2006 and Ordinance 4841 in December 2006, and first submitted to the Commission in January 2007.

Under the County Code, "Net Site Area" is used when calculating maximum allowable lot coverage and floor area ratio in consideration of development applications. With regard to the term's definition, the County initially amended Section 13.10.700-S of its Code to exclude from the definition (on residentially-zoned land inside the urban services line) "coastal bluffs, beaches, and Monterey Bay submerged lands, including all the area from the top of a coastal bluff to the bayward property line, but not including coastal arroyos." In other words, a parcel's net site area would deduct such areas from the lot's total area to determine the allowable size of development.

However, soon after the passage of Ordinance 4841, the County withdrew the proposed LCP Amendment in response to widespread objections that the new definition caused thousands of existing homes to become non-conforming since, in many cases, residentially-zoned parcels

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<sup>1</sup> The Porters have filed a petition for writ of mandate and complaint against the County in Santa Cruz County Superior Court (Case No. CV156075) challenging its approval of the ordinances that comprise the LCP Amendment. That case is currently stayed while the County seeks the Commission's certification of the LCP Amendment.

had their "Net Site Area" drastically reduced, and in some cases reduced to zero. In response, the County held three additional meetings (March 27, 2007 before the Board, April 25, 2007 before the Planning Commission, and May 15, 2007 before the Board). On May 15, 2007, the Board of Supervisors adopted further revisions to the Net Site Area definition, passing Resolution 138-2007 and Ordinance 4874. Under the revised amendment, "Net Site Area" has a different meaning depending on the property at issue. For so-called "coastal bluff top parcels," Net Site Area excludes the "coastal bluff" and "beaches," however, such land is counted for all parcels located at the "toe of a bluff" or "on the beachfront".<sup>2</sup> No definitions were included for these key terms. The maximum lot coverage and front-yard averaging amendments passed in December 2006 were not revised.<sup>3</sup>

**2. The County's LCP Amendment Submittal Is Deficient.**

After the additional Net Site Area revisions, the County resubmitted the LCP Amendment to the Commission on June 21, 2007. On July 3, 2007, my office submitted a letter to the Commission's Central Coast District Office and the County, pointing out deficiencies in the County's submittal pursuant to 14 Cal. Code Regs section 13522. (See Exhibit 1.) **Notably, the County did not appear to provide any of the approximately 50 written comment letters from any of the three public hearings regarding Net Site Area that occurred in 2007.** In addition, the County had not provided any summary of the oral testimony from those meetings.

The Commission then wrote the County on October 5, 2007, requesting additional information (see Exhibit 4), including:

- a list of commenters, summaries of their comments and any County response;
- a discussion of the LCP Amendment's relationship to and effect on other sections of the certified LCP; and

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<sup>2</sup> Owners of "bluff top" property, many of whom were not provided notice when the County adopted the first changes in December 2006 or in March 2007 when the revisions were first proposed (in violation of County Code §§ 13.03.070 and 18.10.223), appeared at the May 15, 2007 meeting but were told that Board was only considering changes for beach and toe of bluff property owners. As a result, those who finally received expanded notice were denied the opportunity to be meaningfully heard.

<sup>3</sup> Under the maximum lot provision, a home's footprint (assuming it was within FAR provisions) could increase from 30 percent to 40 percent of the lot's size. Under front-yard averaging, an owner could have a smaller front-yard setback than typically allowed under the County Code if the homes of their neighbors were similarly situated (i.e., out-of-compliance).

- an analysis of potential significant adverse impacts on coastal resources from potentially allowable development.

The County's response, provided over five months later, consisted of a two-page letter. (See Exhibit 5.) Its one-paragraph discussion of potentially significant impacts contains speculative conclusions without any evidentiary support. It claims that the LCP Amendment will promote neighborhood compatibility without explaining how. For instance, the LCP Amendment potentially allows homes with a larger first floor to be built closer to a public street, but the County claims this will somehow promote unspecified public viewsheds. Similarly, it justifies the changes merely because some of the changes would revert the County Code to rules it previously contained, without explaining why these former rules were better than existing ones. As to the County's "summary" of public comment, the County offered a sentence, or less, of description of each speaker, leaving out virtually all substance, in favor of merely noting whether a speaker was for or against the revisions. No response to any of the comments was offered. Again, the County failed to provide any of the nearly 50 written comments it received in 2007 to the Commission staff.

### 3. **The Proposed LCP Amendment Should Be Rejected.**

Unanswered questions coupled with the County's unsupported assertions merit the Commission's rejection of the LCP Amendment. Several commenters, including my office (see Exhibits 2 and 3) and several others, pointed out legal deficiencies in the County's actions and voiced other concerns relating to the Net Site Area revisions. Those comments were not provided to the Commission by the County. The proposed changes have the effect of counting certain types of property as part of the net site area for some property owners while *excluding* the same area for other owners. No rational policy justification was given for this discriminatory and unequal treatment. Nor has the County provided any explanation as to why no environmental analysis was done (other than its misplaced reliance on CEQA exemptions) regarding the changes. Further, the County's LCP Amendment submittal:

- Offers no evaluation as to how many hundreds of parcels are affected by the proposed LCP Amendment, nor how many non-conforming structures are created as a result, nor the effect it will have on owners' ability to rebuild if their homes are destroyed;
- Offers no definition for the terms "coastal bluff-top parcel," "toe of a bluff" parcel, or "beachfront" parcel, nor explains how it will treat properties that include areas of more than one type leading to vague and uncertain application;
- Fails to address whether any other coastal jurisdictions have enacted similar laws and, if so, whether they have been effective;

- Fails to support the disparate treatment of affected parcels on any legitimate grounds;
- Fails to address the possibility that bluff top owners with beach property now have a greater incentive to subdivide thereby increasing coastal development;
- Fails to justify the County's reliance on inapplicable CEQA categorical and statutory exemptions, nor consider the impact of the LCP Amendment (and Countywide zoning changes) on lands outside of the coastal zone and beyond the Commission's jurisdiction;
- Fails to explain why all affected property owners (such as bluff top owners) were not originally notified of the proposed changes when they were first adopted in December 2006 (contrary to County Code §§ 13.03.070 (concerning notice for proposed LCP amendments) and 18.10.223), and why, when those owners finally received notice in 2007, the Board refused to consider concerns regarding their property;
- Fails to evaluate how the proposed changes will impact the County's ability to meet its General Plan Housing Element projections (*see e.g.*, Gov't Code §§ 65584 and 65863), since it may lessen the number of second units that may be constructed and may prohibit a now nonconforming multifamily unit from rebuilding if damaged or destroyed (contrary to Gov't Code §§ 65863.4 and 65852.25); and
- Fails to provide any evidence that the changes would actually promote "neighborhood compatibility" or explain how the County intends to define "neighborhood compatibility" in an area known for its eclectic character and irregular parcel configuration.

(See also Exhibits 2 and 3.)

#### 4. **Conclusion.**

The LCP Amendment is ill-conceived, ineffective, discriminatory and ultimately unnecessary. The County violated the notice provisions of its own code concerning LCP amendments, performed no environmental analysis, and failed to comply with applicable state planning and zoning laws. The LCP Amendment offers blanket rules for hundreds of parcels where site-specific inquiries (e.g., design review) are better suited to achieve compatibility goals. Before Commission staff performs any detailed analysis of the proposed LCP Amendment, it is critical that the County provide all comment letters it received to the Commission, and that the

Chairman Patrick Kruer and Coastal Commissioners  
California Coastal Commission  
c/o Central Coast District Office  
Dan Carl, District Manager  
Susan Craig, Coastal Planner

May 6, 2008

Page 6

County otherwise comply with the Coastal Act regulations as required for the Commission's full consideration and analysis of the proposed LCP amendment.

Sincerely yours,

MORGAN MILLER BLAIR



TODD A. WILLIAMS

TAW:taw  
Attachments

cc: Christopher R. Cheledon, Santa Cruz Assistant County Counsel  
Susan and Barry Porter



**EXHIBIT 2**



1331 NORTH CALIFORNIA BOULEVARD, SUITE 200 WALNUT CREEK, CALIFORNIA 94596-4510  
925.937.0800 925.937.1100 fax www.mmlaw.com

TODD A. WILLIAMS  
(925) 979-3352  
twilliams@mmlaw.com

July 3, 2007

**VIA FACSIMILE AND FEDERAL EXPRESS**

California Coastal Commission  
Central Coast District Office  
c/o Susan Craig, Coastal Planner  
725 Front Street, Suite 300  
Santa Cruz, CA 95060-4508

County of Santa Cruz  
Planning Department  
c/o Glenda Hill, Principal Planner  
701 Ocean Street, 4th Floor  
Santa Cruz, CA 95060

Re: County of Santa Cruz: Year 2006 Second LCP Amendment  
Request (SCO-MAJ-2-06 Part 2)  
Our File No. 10096-002

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Dear Ms. Craig and Ms. Hill:

On June 28, 2007, my office received a copy of the County of Santa Cruz's submittal to the Coastal Commission dated June 21, 2007 concerning the County's submittal of further revisions to its proposed Year 2006 Second Local Coastal Program amendment (SCO-MAJ-2-06 Part 2) regarding "Neighborhood Compatibility."<sup>1</sup>

Assuming the 20-page packet we received was the same as what the County provided to the Commission, it appears that the submittal fails to comply with the pertinent provisions of California Code of Regulations and the Coastal Act governing LCP Amendment submittals.

The letter and attachments we received (consisting of Ms. Hill's letter, Resolution No. 138-2007, Ordinance No. 4874 and a May 15, 2007 Board of Supervisors staff report [attaching the same resolution and ordinance, as well as a Notice of Exemption dated April 12, 2007]) did not include any of the following items as required by 14 Cal. Code Regs. § 13552:

- a discussion of the amendment's relationship to and effect on other sections of the previously certified LCP;
- an analysis that meets the requirements of Section 13511 of the Regulations;

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<sup>1</sup> The County originally submitted its proposed LCP Amendment on December 15, 2006.

California Coastal Commission  
c/o Susan Craig  
County of Santa Cruz  
c/o Glenda Hill  
July 3, 2007  
Page 2

- a summary of the measures taken to ensure public and agency participation as mandated under the Coastal Act, including a list of hearing dates, sample notice, and a mailing list;
- evidence of noticing the amendment to each local government contiguous to the jurisdiction proposing the amendment;
- names and addresses of all hearing participants (written and verbal) and commenters;
- copies or summaries of significant comments received at the local hearing and any response to comments by the local government.

At the April 25, 2007 meeting of the Planning Commission and at the May 15, 2007 Board of Supervisors hearing regarding the further amendment to the definition of net site area, several commenters, including this office, pointed out legal deficiencies in the County's actions and voiced other concerns relating to the net-site area revisions which have the effect of counting certain types of property as part of the net site area for some property owners while *excluding* the same area for other owners. It is critical that these comment letters, and other materials, be provided to the Commission, and that the County otherwise comply with the Regulations as required for the Commission's full consideration and analysis of the proposed LCP amendment.

Please also consider this letter to be a formal request, on behalf of my clients Susan and Barry Porter, to the Commission that my office be notified of all actions or proposed actions the Commission takes or intends to take regarding this proposed LCP Amendment, including, but not limited to, any such action appearing on an agenda of a future Coastal Commission meeting.

If you have any questions, please do not hesitate to contact me and thank you for your attention to this matter.

Sincerely yours,

MORGAN MILLER BLAIR



TODD A. WILLIAMS

TAW:tl

cc: Christopher R. Cheledon, Santa Cruz Assistant County Counsel  
Charles Lester, Deputy Director, California Coastal Commission, Central Coast District  
Susan and Barry Porter

MMB:10096-002:794562.1

**EXHIBIT 3**



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925.937.3800 925.943.1106 fax www.mmblaw.com

TODD A. WILLIAMS  
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twilliams@mmblaw.com

May 14, 2007

VIA FACSIMILE

Board of Supervisors  
County of Santa Cruz  
701 Ocean St.  
Santa Cruz, CA 95060

Re: Santa Cruz County Board of Supervisors  
Public Hearing on May 15, 2007 to Consider Proposed  
Amendments to Net Site Area  
Agenda Item No. 64

PLEASE INCLUDE IN THE RECORD, AND DISTRIBUTE TO ALL SUPERVISORS

Dear Members of the Board:

We submit this letter on behalf of our clients Susan and Barry Porter, who own property in the County and within the Coastal Zone. We request that the Board take steps to rescind all of the net site area definition changes it approved in December, not only the most recently proposed amendments.

In the guise of promoting neighborhood compatibility, the Board originally passed amendments to the net-site area definition (Section 13.10.700-S) in December 2006. Now, six months later, it is purporting to "fix" unintended consequences of the original change. A closer examination demonstrates that many unintended consequences will remain even if the proposed amendments are adopted. In fact, new ones will be created. The new definition is discriminatory and unfair, it fails to comply with CEQA and was not done with proper notice.

The issue of neighborhood compatibility is handled far better through the design review process where the unique aspects of a particular home, parcel and neighborhood can be properly evaluated. The changes to the net site area definition are akin to using a blunt object to perform major surgery: the more repair attempted, the more damage done.

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## **1. Notice**

When the County first proposed and adopted changes to the Net Site Area definition in December 2006, it failed to provide the required actual notice to affected property owners as required by County Code Section 13.03.070(a)(1-3). Thus, hundreds of affected property owners in the Coastal zone were not notified of the proposed and adopted changes. This lack of notice gave rise in part to the objections of beach and toe of bluff property owners that have now proposed the additional amendments. However, there is no indication that notice pursuant to Section 13.03.070(a)(1-3) was provided when the Board considered and referred the net-site area definition back to the Planning Commission at its March 27, 2007 meeting, again depriving hundreds of affected property owners of notice of how the definition was going to be changed.

In this second round of amendments, County planning staff has stated that individual notice has been provided to all affected properties in compliance with Section 13.03.070(a)(1-3). However, when coastal bluff-top property owners appeared at the April 25 Planning Commission meeting, they were informed by the Commission that issues relating to their parcels could not be addressed as they were only considering changes affecting toe of the bluff and beach parcels. As a result, the improved notice is a sham since such owners are not being provided a meaningful opportunity to be heard.

## **2. The justifications for the net-site area definition are invalid.**

### **A. Neighborhood Compatibility**

The staff report indicates that a "major concern" relating to neighborhood compatibility is the counting of unusable land towards lot size, allowing larger houses on parcels with unusable areas. (Staff Report at p. 1) However, the proposed amendments allow the counting of the same unusable area for beach and toe of bluff parcels, while excluding such area for coastal bluff-top parcels. In fact, every property in the County other than coastal bluff-top parcels is allowed to count such areas as net-site area. No valid reason has been put forth to support why coastal bluff-top parcels should be discriminated against in this matter.

The staff report also purports to establish what the "context" is for neighborhood compatibility for coastal bluff-top parcels and beach and toe of bluff parcels (see Staff Report at p. 2). There is no reference why these context distinctions are appropriate or how they were established. These statements appear to be derived from the recent neighborhood compatibility design guidelines staff presented to the Board at its March 27th meeting. These guidelines are not enforceable and should not be cited as regulating what constitutes the proper "context."

At the March 27th meeting, staff informed the Board that the guidelines were simply a way of showing how staff would apply existing regulations and need not be adopted by the Board. However, design guidelines are specifically mentioned in the County Code.

Section 13.11.076 requires that the Planning Commission recommend, and the Board adopt, a "design review standards and guidelines manual" by resolution. Section 13.11.076 states:

The Board of Supervisors, upon consideration of the Planning Commission's recommendation, may adopt, by resolution a "Design Review Standards and Guidelines Manual" setting forth standards and guidelines for the use of persons planning future developments subject to site, architectural, and landscape design plan approval. The purpose of the manual shall be to assist the public, the community, applicants, designers, architects, landscape architects, engineers, staff and the recommending and decision-making bodies in applying and evaluating conformance with the requirements of this Chapter. Review and revision of the Design Standards and Guidelines shall be conducted periodically in order to consider any changing aesthetic and environmental concerns of the community. (Ord. 4286, 12/14/93)

Thus, if these are "design guidelines" as staff has stated, they need to be reviewed by the Planning Commission and be adopted by resolution by the Board before they can be applied and used as a foundation for determining the context of neighborhood compatibility.

#### **B. Geologic Hazards**

Staff attempts to justify the disparate treatment of these parcels on geologic grounds. However, Section 13.10.700-D of the County Code already prohibits development on certain types of land (e.g. steep slopes, creek areas, landslides, etc.), and Geologic Hazards regulations require certain setbacks from coastal bluffs. There is no evidence in the record that any of the amendments to the net-site area definition for coastal bluff properties is necessary due to geologic hazards. Further, there is no justification given for why all unusable and undevelopable land should be counted for beach and toe of bluff parcels.

#### **3. The terms used in the net site area definition are undefined.**

The amendments now attempt to make distinctions between three types of parcels: a "coastal bluff-top parcel," "parcels located at the toe of a bluff" and parcels "on the beachfront." However, none of these terms is defined in the definition, or elsewhere in the Code. This lack of a definition makes them vague and unworkable. What happens to parcels that may contain property with more than one of these types of land? The ordinance as written seems to presume that all parcels affected by this ordinance each contain only one type of property. What happens if a parcel were to contain both "bluff-top" and "toe of bluff" areas, for example? This has not been defined anywhere, leading to uncertain application.

**4. Many "unintended consequences" remain, and new ones are being created.**

**A. The definition will impermissibly make many currently conforming uses non-conforming.**

The alleged reason for the proposed amendments is to avoid many beach and toe of bluff homes from losing net site area thereby becoming nonconforming structures requiring a variance to rebuild or expand. The same reasoning should be applied to coastal bluff-top parcels.

Several owners of condominium units on coastal bluff-top parcels<sup>1</sup> spoke at the Planning Commission and stated that the new net site area definition would result in their buildings becoming nonconforming, potentially limiting their ability to rebuild or renovate without a variance. Government Code sections 65863.4 and 65852.25 limit a local agency's ability to prohibit multifamily dwellings from being rebuilt. The staff report contains no explanation as to whether the County has complied with these provisions.

In addition, owners of small homes on coastal bluff-top parcels also testified to the Planning Commission that the new definition would make their homes -- many of which are decades old -- nonconforming, and noted the negative impact the new definition will have on their property values, ability to make improvements and rebuild in case of a fire or natural disaster.

**B. No analysis has been performed regarding the County's ability to comply with Government Code section 65863.**

Government Code section 65863 prohibits counties from taking any action reducing the residential density of any parcel to a "lower residential density" than that used in its housing element inventory unless the County makes written findings based on substantial evidence that the reduction is consistent with the adopted general plan, including the housing element, and the remaining sites identified in the housing element are adequate to accommodate the jurisdiction's share of the regional housing need pursuant to Section 65584.

No such findings have been made and there is no substantial evidence supporting such findings. In addition, it does not appear that any analysis has been done whatsoever on the effect the net-site area definition will have on a homeowner's ability to add a second unit, and what effect this will have on the County's ability to meet its required goals for the General Plan's Housing Element which included a presumed number of second units within the urban services line as part of the housing element residential projections. The net site area definition is contrary

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<sup>1</sup> Many such owners testified that they were previously unaware of the changes and had received notice for the first time in connection with the new amendments.



to goals and policies of the General Plan which require the promotion of opportunities for the construction of second units (see, e.g., Housing Element Policy 1.1).

**C. The net site area amendments will encourage coastal bluff-top parcel owners with beach or toe of bluff property to subdivide leading to additional development.**

The change in the net-site area definition for coastal bluff-top properties means that such parcels will no longer be able to count the coastal bluff and beach areas as part of their net site area. However, were such areas their own parcel, then all of that land would be counted as net-site area. Thus, such coastal bluff property owners now have an incentive to subdivide their parcels so that the beach and toe of bluff areas can be developed. Such a change may have the consequence of more development along the beach and greater environmental impacts.

**5. The net-site area definition is poor policy.**

The original amendments to net-site area, and the proposed amendments, will result in the County singling out and discriminating against coastal bluff-top parcels. No other type of property in the County (even those with large amounts of undevelopable land) is having its net site area reduced. The Code already contains many provisions limiting the size and location of a home on a coastal bluff-top parcel. The net-site area amendments do nothing to ensure or promote neighborhood compatibility. The County has not pointed to any other jurisdictions that have adopted such an approach, nor provided any rational basis for the changes to the definition.

Further, the County has provided no valid policy reasons behind counting one type of property for one owner, but excluding the same property for another owner as would occur under the proposed amendments. The staff report provides no support for the statement that homes on Coastal bluff-top parcels can "dwarf the inland houses in size and ... be incompatible with the neighborhood." In many such neighborhoods, there is a mix of larger and smaller homes on both sides of streets separating inland and bluff-top parcels.

For these reasons, and those stated above, the changes to the net site area definition represent an unfair, and poorly-crafted policy that the County should not endorse.

**6. CEQA**

CEQA provides categorical exemptions for classes of projects that generally are considered not to have potential impacts on the environment. The County has determined that the proposed amendments are eligible for a Class 5 and Class 8 categorical exemptions, which exempt certain actions for minor alterations in land use limitations, and by regulatory agencies for the protection of the environment. However, the draft resolution and the draft notice of exemption do not contain any findings to support the Section 15305 exemption. Class 8 consists of the following:

actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. Construction activities and relaxation of standards allowing environmental degradation are not included in this exemption.

**CEQA Guidelines Section 15308.**

the draft Notice of Exemption states that "[t]he proposed amendments will reduce impacts on environmentally sensitive areas (such as coastal bluff-top and beachfront parcels)." However, the proposed amendments would make it *easier* to develop on beachfront parcels, and, as noted above, may encourage the subdivision of parcels to facilitate additional development. Also, to the extent the purpose of proposed amendments is related to the issue of compatibility of new home design with the surrounding neighborhood, that purpose, on its face, does not qualify for a Class 8 exemption. Further, nothing in the draft resolution explains or supports the use of these exemptions.

Although CEQA authorizes categorical exemptions, the exemptions are subject to several exceptions, including activities that may have a significant effect on the environment. CEQA Guidelines Section 15300.2(c) provides that "[a] categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances."

The proposed changes on coastal bluff-top parcels will have a significant environmental impact since the changes will result in reduced area for development which may be inconsistent with development contemplated under the General Plan. This displacement of development may cause development to occur in other areas that were not contemplated for development in the General Plan and further, may push development outside the County which may as a consequence result in adverse physical impacts on agricultural resources, biology, transportation and noise.

In order to begin to understand how the proposed changes may or may not result in environmental impacts, it is important to understand what lands will be affected by the changes. Even if it is difficult to identify each parcel that may be affected, at a minimum "areas" should be identified so it can be determined if these lands were identified for possible development in the General Plan. Also, this type of information is critical in determining how much potential development may be displaced in the County as a result of the proposed changes. Once this information is generated, the direct and indirect environmental impacts of the proposed changes can be analyzed.

The County, and not the Coastal Commission, is in a far better position to conduct such an analysis since the impacts may occur outside of the Coastal Zone. For this reason, the County's reliance on the statutory exemption under Section 15265 of the State's CEQA

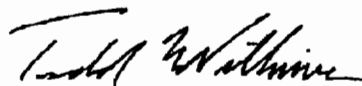
Guidelines is improper and the County should not send any proposed amendments to the net site area definition to the Commission until it conducts a proper environmental analysis.

Regardless of the intentions behind the change to the net site area definition, it is simply the wrong vehicle for the desired outcome with too many unintended consequences. While the proposed amendments may avoid harming one group of property owners, another group remains unfairly and disproportionately affected by what remains a poorly considered definition rife with negative consequences.

We respectfully request that the Board take steps to rescind all of the net site area definition changes it approved in December, not only the most recently proposed amendments.

Very truly yours,

MORGAN MILLER BLAIR



TODD A. WILLIAMS

TAW:tw

cc: Susan and Barry Porter  
Patricia Curtin  
Cris Carrigan

**EXHIBIT 4**



**MorganMillerBlair**  
A LAW CORPORATION

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December 4, 2006

VIA FACSIMILE

Christopher R. Cheleden  
Assistant County Counsel  
County of Santa Cruz  
701 Ocean St #505  
Santa Cruz, CA 95060

Re: Santa Cruz County Board of Supervisors  
Public Hearing on December 5 to Consider Proposed  
Amendments to County Code Chapter 13.10

Dear Mr. Cheleden:

The purpose of this letter is to ask for clarification on the County's determination that the proposed amendments to various sections of the County's Code regarding neighborhood compatibility are exempt from review under the California Environmental Quality Act (CEQA). Based upon our review of the proposed amendments, it is not clear that they are eligible for a Class 8 categorical exemption from CEQA.

On November 8, 2006, the County Planning Commission adopted a resolution recommending approval of the above-referenced item to the Board of Supervisors. Generally speaking, the proposed amendments would make three changes to the County's land use regulations: 1) revise the definition of "net site area" for residential properties; 2) increase the maximum lot coverage allowed on lots of 5,000 to 15,000 square feet from 30 percent to 40 percent; and 3) amend the site regulations to allow front yard averaging. The Planning Department reviewed the proposed amendments and determined that they are exempt from CEQA. The Board is now scheduled to consider the item at its regularly scheduled public hearing on December 5, 2006.

CEQA provides categorical exemptions for classes of projects that generally are considered not to have potential impacts on the environment. The County has determined that the proposed amendments are eligible for a Class 8 categorical exemption, which exempts

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certain actions by regulatory agencies for the protection of the environment. In particular, Class 8 consists of the following:

actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. Construction activities and relaxation of standards allowing environmental degradation are not included in this exemption.

CEQA Guidelines Section 15308.

In its Notice of Exemption, the County determined that "[t]he proposed amendments will reduce developments impacts on environmentally sensitive areas." However, the Planning Commission's staff report indicates that the purpose of the County's decision to pursue the proposed amendments is "related to the issue of compatibility of new home design with the surrounding neighborhood." We believe this purpose, on its face, does not qualify for a Class 8 exemption.

Although CEQA authorizes categorical exemptions, the exemptions are subject to several exceptions, including activities that may have a significant effect on the environment. CEQA Guidelines Section 15300.2(c) provides that "[a] categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances."

We are concerned that the proposed changes will have a significant environmental impact since the affect of the changes will result in reduced area for development which may be inconsisent with development contemplated under the General Plan. This displacement of development may cause development to occur in other areas that were not contemplated for development in the General Plan and further, may push development outside the County which may as a consequence result in adverse physical impacts on agricultural resources, biology, transportation and noise.

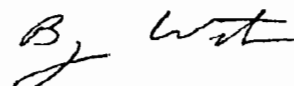
In order to begin to understand how the proposed changes may or may not result in environmental impacts, it is important to understand what lands will be affected by the changes. Even if it is difficult to identify each parcel that may be affected, at a minimum "areas" should be identified so it can be determined if these lands were identified for possible development in the General Plan. Also, this type of information is critical in determining how much potential development may be displaced in the County as a result of the proposed changes. Once this information is generated, the direct and indirect environmental impacts of the proposed changes can be analyzed.

Christopher R. Chelciden  
December 4, 2006  
Page 3

We hope this information is helpful in providing the CEQA analysis for the proposed changes.

Very truly yours,

MORGAN MILLER BLAIR



BRYAN W. WENTER

BWW:lg

cc: Cove Britton (via email)  
Patricia Curtin

MMB:10096-001:710934.1

**EXHIBIT 5**



**CALIFORNIA COASTAL COMMISSION**

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



October 5, 2007

Glenda Hill  
Santa Cruz County Planning Department  
701 Ocean Street, 4<sup>th</sup> Floor  
Santa Cruz, CA 95060

**Subject: LCP Amendment Requests – Additional Necessary Information**

Dear Ms. Hill,

As we recently discussed, the California Code of Regulations requires that specific information be submitted as part of each LCP amendment request. We appreciate the organized manner in which the County submits its LCP amendment requests. However, in addition to the information the County regularly provides as part of its LCP amendment submittals, we also require the following information to ensure compliance with the California Code of Regulations:

1. To meet the requirements of California Code of Regulations (CCR) Section 13552, please submit a discussion of the amendment's relationship to and affect on other sections of the certified LCP, including the public access component. If the proposed amendment is to the Land Use Plan only, please provide an indication of which certified zoning provision(s) it carries out; if the amendment involves a zoning change only, please provide an indication of which certified land use plan provision(s) it carries out.
2. A list of interested persons who spoke at the various hearings regarding the proposed amendments. The regulations also require that a mailing address be provided for each of these individuals, if available. My understanding, after discussing this issue with you, is that the County does not require speakers to provide their address at the hearing. In light of this fact, please continue to provide a list of interested persons who spoke at the various hearings, with or without addresses. In addition, please provide a copy or summary of significant comments received from these persons or others and any County response to such comments.
3. To meet the requirements of CCR 13511, please submit an analysis of potential significant adverse impacts on coastal resources from potentially allowable development for each proposed LCP amendment.

Please provide the above information for the following LCP amendment submittals:

- **Timber Harvesting in Agricultural Zones (SCO-MAJ-1-07 Part 2)** (Please also let me know when this item was heard last by the Board of Supervisors – per our recent phone discussion, I believe it was heard a few months before the amendment was submitted.)

Glenda Hill  
Santa Cruz County Planning Department  
LCP Amendment Submittals Status Letter  
October 5, 2007  
Page 2

- **Neighborhood Compatibility (SCO-MAJ-2-06 Part 2)** (Once we receive the above information, this amendment will be filed.)
- **Density Bonus Regulations (SCO-MAJ-1-06 Part 3)** (Once we receive the above information, this amendment will be filed.)
- **Second Units on Agricultural Land (SCO-MAJ-3-03)** (In addition to the above, I believe there is additional information that Dan Carl had previously requested regarding this amendment that also needs to be submitted before the amendment can be filed. Please let me know if you feel this is incorrect.)
- **Small Family Daycare/Miscellaneous (SCO-MAJ-2-05 Part B)** (For this amendment, we only need #2 above, if applicable, i.e. if any interested persons spoke at the hearing.)

I would like to schedule the Rural Road Standards amendment (SCO-MAJ-1-07 Part 3) for the November 2007 Commission hearing. Upon further review of the amendment materials, I found some inconsistencies with the submitted signed zoning ordinance, strikethrough/underline document, and the County staff reports (missing pages). I have spoken with Sarah Neuse about these issues and she has said she will have corrections to me soon.

Regarding the Large Family Childcare in Non-Residential Zones amendment (SCO-MAJ-1-06 Part 2), this amendment was approved by the Commission with modifications on May 9, 2007. The Commission's regulations provide that the Commission's action of certification with the suggested modifications shall expire six months from the date of the Commission's action, or on November 9, 2007. To avoid this expiration, the Board of Supervisors needs to take action on the modifications by November 9, 2007 as described in our letter of May 10, 2007. Please let me know if the County intends to adopt the modifications prior to the November 9<sup>th</sup> deadline.

Thank you for all your help. Please do not hesitate to contact me at (831) 427-4891 if you should have any questions regarding the above amendment requests.

Sincerely,

  
Susan Craig  
Coastal Planner  
Central Coast District Office

**EXHIBIT 6**



# COUNTY OF SANTA CRUZ

## PLANNING DEPARTMENT

701 OCEAN STREET, 4<sup>TH</sup> FLOOR, SANTA CRUZ, CA 95060  
(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123  
TOM BURNS, PLANNING DIRECTOR

March 12, 2008

Susan Craig, Coastal Planner  
California Coastal Commission  
Central Coast District Office  
725 Front Street, Suite 300  
Santa Cruz, CA 95060

**SUBJECT: Year 2006 – Second LCP Amendment Request (SCO-MAJ-2-06 Part 2)**

Dear Ms. Craig:

This letter serves as a response to your letter requesting additional information for the pending ordinance revisions concerning Neighborhood Compatibility. You requested three additional categories of information. As a reminder, the Board of Supervisors adopted Ordinance No. 4841 and, subsequently, revisited the definition of "Net Site Area" and adopted revised language in Ordinance 4874.

**1. List of Interested Persons Who Spoke at the Hearings**

Attached are the lists of persons who spoke at two public hearings and one meeting. The Board of Supervisors, at their March 27, 2007 meeting, considered whether to direct Planning staff to process the ordinance revisions that eventually became Ordinance No. 4874. This was a Consent item that was moved to the Regular agenda. While this was not a public hearing on the ordinance, the Board did allow public comment. I am including a list of the persons who commented at that meeting.

**2. Ordinance Amendment's Relationship to and Affect on Other Sections of the LCP**

The proposed regulations in Ordinance Nos. 4841 and 4874 are comprised of three areas of revisions:

1. An increase in the maximum allowed lot coverage from 30 to 40% for residential parcels 5,000 to 15,000 square feet in size;
2. The allowance for the averaging of adjacent front yards to establishing minimum front yards for residential parcels, subject to certain restrictions;
3. An amendment to the definition of "Net Site Area" for parcels within the Urban Services Line that excludes coastal bluffs and Monterey Bay submerged lands.

These ordinance amendments affect site standards for properties currently zoned for residential use and does not authorize new uses nor amend the number of residential units allowed.

None of the proposed revisions will affect public access to the beach. The increase in allowable lot coverage will encourage first-story development and may, therefore, result in fewer two-story residential buildings thereby further protecting public viewsheds.

The impetus of these amendments is providing regulatory tools to encourage and achieve neighborhood compatibility. In addition, the proposed amendments will contribute to furthering Santa Cruz County Section 13.20.130—Design criteria for coastal zone developments—which reads as follows:

Visual Compatibility. All new development shall be sited, designed and landscaped to be visually compatible and integrated with the character of surrounding neighborhoods or areas.

### 3. Analysis of Potential Significant Adverse Impacts on Coastal Resources

As discussed in No. 2 above, the proposed revisions affect residential site regulations only. The foreseeable impacts of these revisions are:

- a. A proposed house located on a block with reduced front yard setbacks will be allowed to follow the existing pattern of development. Front yard averaging was permitted for more than twenty years and resulted in many established neighborhoods with reduced front yards. No garages or carports will be allowed to have reduced setbacks thereby continuing to provide adequate on-site parking and sight distance. Only first-story components of the house may have a reduced setback thereby protecting light and air.
- b. For certain sized parcels, an increase in maximum lot coverage will allow for larger first-story components and smaller or no second stories. This will allow new homes to be in character with existing neighborhoods (the maximum lot coverage was 45% for more than 20 years) and also reduce second stories that may impact public viewsheds.
- c. Stop the current practice of counting the area on a coastal bluff or submerged ocean areas in the size of the lot for calculating maximum lot coverage and floor area ratio for coastal blufftop properties. This practice has resulted, in some cases, in homes that are markedly larger than those in the neighborhood that do not include coastal bluffs thereby appearing incompatible with the neighborhood character. In addition, if the lot fronts on a scenic road, the larger home may compromise public viewsheds.

The amendments do not authorize additional uses, density, or larger homes and, therefore, staff cannot identify any potentially significant adverse impacts to coastal resources from these proposed ordinance amendments.

I hope this letter has fully addressed your questions. Please feel free to contact me at 454-3216 or by e-mail if you have any further questions.

Sincerely,



Glenda Hill, AICP  
Principal Planner

**Attachments:**

1. **Persons who spoke at the March 27, 2007 Board of Supervisors meeting**
2. **Persons who spoke at the April 25, 2007 Planning Commission public hearing**
3. **Persons who spoke at the May 15, 2007 Board of Supervisors public hearing**

Persons Who Spoke at March 27, 2007  
Board of Supervisors Meeting

**Hugh Carter—President, Architects Association of Santa Cruz County:** concerned about impact on small lots on top of coastal bluff and the house size that would be allowed.

**Ellen Mellon:** supports changes to beach regulations.

**Keith Adams—President, Santa Cruz County Coastal Property Owners Association:** wants top of bluff property regulations revisited. Ordinance will result in houses that are too small.

**Cove Britton—Architect:** want ordinance process to be transparent. Wants additional noticing to property owners.

**Rose Marie McNair—real estate broker:** concerned about last minute ordinance language changes.

**Kevin Goodwin—blufftop property owner:** concerned about creation of nonconforming structures on blufftops.

**Mike Guth:** supports having the Planning Commission hear proposed revisions. Believes it is appropriate to delete submerged ocean lands from net site area.

**Roger Kuhn—Attorney:** supports proposed revisions.

**Ed Mally:** concerned about property values.

**Sara Clarenbach—Attorney representing beach toe of bluff property owners:** supports proposed revisions.

Persons Who Spoke at April 25, 2007  
Planning Commission Public Hearing

Steve Graves—representing 100 property owners on the beach: supports ordinance amendments. They are consistent with the Geologic Hazards regulations.

Steve Hanley—representing 27 condo owners on a coastal blufftop: concerned about reconstruction of existing houses.

Keith Adams—President, Santa Cruz County Coastal Property Owners Association: supports ordinance amendments but does not support the ordinance changes for blufftop properties. Concerned about nonconformity.

William Rigby: supports ordinance amendments.

Burt Fiorichini—blufftop owner: does not support. Concerned about reconstruction after a fire.

George Powers—blufftop owner: does not support. He has a small lot and a small house. Believes he could not reconstruct his house to its present size.

Lisa Sprinkle: supports ordinance amendments. It will help current problems with neighborhood compatibility.

Bill Geisreiter—blufftop owner: concerned about reconstruction for blufftop properties.

Howard Levitz—blufftop owner: also concerned about reconstruction for blufftop properties.

Cove Britton—Architect: believes this is an unfair ordinance as it treats owners on blufftops differently than toe of bluff property owners. Inappropriate to create a law that relies on variances.

Jennifer Renout, Boulder Creek: worried about private property takings.

Poulton Glum: does not support ordinance amendments.

Jim Sheehan: supports ordinance amendments. It closes an existing loophole.

Curt Lanz: concerned about the stigma of nonconforming status for blufftop properties.

Gordon Stewart, Boulder Creek: does not support ordinance amendments. Existing houses should be grandfathered.

Harry Blanchard: does not want blufftop properties regulated.



**Jeannie Soderman: concerned about Agenda 21 and Smart Growth.**

**Sara Clarenbach—Attorney representing 100 owners on beach: supports ordinance amendments.**

Persons Who Spoke at May 15, 2007  
Board of Supervisors Public Hearing

Steve Graves—representing 100 toe of bluff and beach property owners: supports ordinance amendments. Bluff top properties are different than toe of bluff and beach properties and should be regulated differently.

Ms. Riketello: supports ordinance amendments.

Dave Mally: supports ordinance amendments

Britt Hazelton: unfair to blufftop properties. Toe of bluff should be treated the same as blufftop. Concerned about health safety due to erosion.

JeffrieAnn Tatum—Pot Belly Beach Association: supports ordinance amendments.

Claire Marie McLaughlin: believes blufftop rules are a taking.

Betty Cost—represents Beach Drive and Beach Island owners: supports ordinance amendments. Beach and toe of bluff lands can be developed while blufftop properties have FEMA setbacks.

Dawn Embree: supports ordinance amendments.

Keith Adams—President, Santa Cruz County Coastal Property Owners Association: supports the ordinance amendments but wants blufftop regulations changed to not deduct areas from net site area. Wants ability to reconstruct nonconforming blufftop homes (if not damaged by bluff failure.)

Ron Powers, also speaking on behalf of the above Association: believes blufftop properties may have little or no net site area. Wants regulations allowing existing houses to be reconstructed.

Cove Britton—Architect: believes proposed ordinance is unfair.

Rose Marie McNair—real estate broker: concerned about implications of nonconformity as a result of ordinance on property owners and others.

Ellen Mellon: supports ordinance amendments. Will help protect neighborhood compatibility from oversized homes.

Steve Hanley: concerned about possible inability to reconstruct. Homes should be grandfathered.

Sara Clarenbach—Attorney representing about 100 property owners: supports ordinance amendments. There is a difference between blufftop and toe of bluff and beach properties.

RECEIVED

MAR 04 2009

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Th9g

Douglas Deitch  
Monterey Bay Conservancy  
501 Mission Street, Suite 1  
Santa Cruz, California, 95060  
March 3, 2009  
(831) 429-4009

California Coastal Commission  
Central Coast District Office  
725 Front Street, Suite 300  
Santa Cruz, California, 95060

Re: "Minor Amendment Determination for Santa Cruz County Local Coastal Program Amendment Number 1-08 Part 4 (Wells and Groundwater Protection) prepared February 19, 2009 (for March 12, 2009 Hearing)

Dear Commissioners,

In 1998, the late Marc Reisner, author of Cadillac Desert, The American West and It's Disappearing Water speaking here at a farmer's forum in Watsonville, characterized Pajaro's 15,000 acre foot yearly water resource loss (**Exhibit B-3**) (from 200% overdraft to grow 25% of this country's berries (**Exhibit E-2**)) to salt water intrusion as "the worst in the world." By comparison, the entire Salinas Valley, with almost 10 times the production, loses *only* 9,000-13,000 a/f/yr (**Exhibit B-12**), despite the biggest reclamation facility in the country in Castroville. Sadly and unfortunately since that date, Mr. Reisner has passed on. However, the water resource loss he described that day has persisted continuously, unabated, and unaddressed.

I respectfully submit that the eleven year long gross and intentional negligence by our Board of Supervisors (BOS) of completely neglecting "supervising" our ground water supply for us either as they might have under their "State Constitutional Police Powers" (**Exhibit B-5**), or as they are currently required to (and have been continuously since 1998 under the Local Coastal Plan and Gary Patton's County Well Ordinance (**Exhibit A-5**) has caused the worst human caused environmental, social, and economic catastrophe in the history of our Monterey Bay Region through our permanently and massively lost/expropriated groundwater resource which unconscionably and unsustainably continues unabated to this moment.

**Requested Action#1**

As is substantiated and explained below, **I am requesting** that the above referenced "Well Ordinance" amendment by adding additional discretionary/subjective finding 4., specifically this additional provision "4." relating only to "Declaration of Ground Water Emergency", be pulled from your agenda for March 12, 2009 with no action taken and that my allegations contained herein and this situation be further investigated and more fully researched and reported to you by Commission staff.

**Requested Action#2**

Concurrently, **I am further requesting** that the Commission consider initiating enforcement procedures against the County of Santa Cruz for intentional violation of and noncompliance

with the County of Santa Cruz' Approved Coastal Plan through intentional violation and noncompliance with the requirements of the County Well Ordinance continuously since June of 1998.

Since this date the BOS has been statutorily required to declare a ground water emergency to protect our water supply, which they have, intentionally and with due notice, purposefully refused to do (**Exhibit C**). Most recently, in August of 2008, the BOS again refused to declare an emergency, this time even circulating the new, yet to be approved amended Well Ordinance (which is the subject of the March 12, 2009 meeting) as the applicable law (**Exhibit B-5**). Despite notice to the BOS of this error and inaccurate testimony and opinions by South County elected public officials based on the incorrectly circulated law, the mistake was just ignored by the BOS. (**Exhibit B-2**)

As explained in **Exhibit A**, this is not a minor nonsubstantive change in the Coastal Plan. Essentially, your approval of this change materially changes the duty under the ordinance and Coastal Plan and will further serve as a ratification, validation, and "pardon" for the past 11 years of intentional BOS Coastal Plan violation and 11 year long 165,000 acre foot permanent resource loss to salt water intrusion (and counting!) through intentional neglect by our BOS of their duty to declare an emergency and address the problem. Over 80 new Santa Cruz desal plants, each now projected to cost \$100 million each before operations and maintenance, would have to be built to replace this water supply. We would have to build over seven plants each year just to keep up.

In June, 1998, Supervisor (now Superior Court Judge) Jeff Almquist, based on the recently released 1998 County Water Resources Management Report, agendized and voted (with fellow attorney/Supervisor Beautz) for a ground water emergency. (**Exhibit C**). Supervisors Wormhoudt (**Exhibit F-1**), Belgard, and Symons voted no. The BOS position to this date has been consistently the same. The BOS position is that although the 3 factual objective findings required by the ordinance have been continuously met, the BOS is not required to act and has not acted. "Shall" doesn't mean "shall" to the BOS since 1998. The law's author, Gary Patton, and I have a different opinion. (**Exhibit C-6, A-3**)

I have, almost 2 years ago, distributed to all Commission Members at the request of Executive Director Peter Douglas (as per Asst. Director Charles Lester) a copy of a DVD entitled "Our Inconvenient Truth-Monterey Bay Regional Groundwater Emergency & Solution", a one on one 1 hour SC Community Television show I did precisely on point which specifically deals with this entire issue, including the proposed Coastal Plan Amendments. I am redistributing copies to all Commission Members and Central Coast Region staff members who I understand have not viewed it. I implore you to please review this DVD.

At one point in the DVD, I refer to "cessation of all ag well pumping in the 8000 coastal distribution area" (which purportedly doubles the ground water basin sustainable yield from 24k/a/f/yr to 49k/a/f/yr.-please see **Exhibit D-6** ) as the critical "fact/assumption" of the Pajaro Basin solution. That is because this gain in yield comprises the vast majority of the Pajaro balance solution...a huge 25,000 acre foot gain, doubling local basin sustainable yield!

I now have a more contemporary term to describe how the Pajaro Basin Management Plan is designed to "work". The new term is a "Water/Berry Ponzi Scheme". (**Exhibit D-1**) The above claim that the Pajaro basin, which is now 88% below sea level, can double it's sustainable yield by merely relocating it's pumping in the basin is, on it's face, as ridiculous and unrealistic as any Bernie Madoff ever made to any of his investors.

Except here, we have already massively deficit spent and overdrafted our ground waters 200% yearly, 90% ag for decades for berries for tenant agribusinesses like Driscoll's, Dole, and CalGiant to export, thereby massively expropriating our water supply. There will be no pipeline or imported water nor will there be any smoke and mirrors created doubling of our basin's sustainable yield. That's how Ponzi Schemes work. Except we can't print up any more water and all of our Monterey Regional water is only from local, primarily groundwater.

The University of California, through its berry royalty which is, at \$5 million yearly, UC's fifth biggest revenue generator, fits into the problem, as well as the solution. This is pointed out in the DVD, which, apparently UC Regent's Chair Blum and President Yudof so kindly saw fit to review, and very courteously respond through their Chief of Staff (**Exhibit-E**). I will be keeping UC posted on this matter and their very potentially positive role, and I hope to make a presentation to the Regents. The Coastal Commission, as well.

I hope you will review the DVD and my submitted materials, too. I apologize for their length. The problem and understanding it is not uncomplex. Unfortunately, this was not recently the case two months ago with the Land Trust of Santa Cruz and Coastal Conservancy staff, from top to bottom, who ill advisedly recommended continued ag well pumping and berry production to "save the Watsonville Wetlands" (**Exhibit D-10**) in the recent funding approval w/o pumping restrictions for \$16,000,000+ from the Coastal Conservancy.

The SC Land Trust has already borrowed funds from Peninsula Open Space Trust to buy this land and have already rented it out for more berrying and water mining (**Exhibit D-14**). They work remarkably fast and efficiently to get their berry rental monies to pay themselves on more of our deficit spent water. However not nearly as fast and efficiently as Driscolls, CalGiant, and Dole do on their rented fields,....of course, that's not surprising since they all have their own private jets paid for by our deficit spent ground waters, don't they? I am now in the process of making formal "Request For Reconsideration" of this decision to the Coastal Conservancy. (**Exhibit D-11**)

I will be present at the March 12, 2009 meeting to speak briefly and be present to respond to any inquires or expand on any areas mentioned in my submitted materials and DVD.

For the last 15 years I have been, I suppose, the Harry Markopolas of the "Water/Berry Ponzi Scheme" here with lawsuits, Grand Jury Complaints, full page Sentinel pages, and trying to run on water for political office (**Exhibit F**). The Coastal Commission is certainly the equivalent to the "SEC" in terms of protecting, regulating, and preserving our coastal resources. Please help us preserve what's left of our vitally important and unconscionably abused Pajaro Basin coastal groundwater resource and help us follow the law here. We very seriously need it.

Respectfully submitted,

  
Douglas Deitch  
ED/MBC

Cc  
UC Regents, Santa Cruz County, Monterey County  
City of Watsonville, California Coastal Conservancy

## CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
(831) 427-4863; fax (831) 427-4877  
www.coastal.ca.gov

February 19, 2009

**IMPORTANT PUBLIC HEARING NOTICE****Local Coastal Program Amendments****RECEIVED**

FEB 27 2009

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA**HEARING DATE AND LOCATION:**

**DATE:** Thursday, March 12, 2009  
**TIME:** Meeting begins at 9:00 a.m.  
**PLACE:** Portola Hotel and Spa at Monterey Bay  
Two Portola Plaza  
Monterey, CA 93940  
**PHONE:** (831) 588-4112 {This phone number will only be in service during the meeting.}

**AGENDA ITEM(S):**

**Th9a. City of Capitola LCP Amendment No. CAP-MAJ-1-07 (Capitola Village Parking).** Public hearing and action on request by the City of Capitola to clarify parking provisions associated with the City's shuttle system, and to allow a valet parking program in Capitola Village. (SC-SC)

**Th9b. City of Carmel LCP Amendment No. CML-MAJ-1-09 (Trevvett Court Specific Plan).** Public hearing and action on request by the City of Carmel to add the Trevvett Court Specific Plan to the certified LCP, and thus allow the development of a 14-unit affordable housing project (for low and very-low income seniors) on the 8,000 square foot Trevvett Court site (along Dolores Street between 4<sup>th</sup> and 5<sup>th</sup> Avenues) pursuant to the Specific Plan. (MW-SC)

**Th9c. City of Monterey LCP Amendment No. MTC-MAJ-1-07 Part 1 (Macabee Beach Redesignation).** Public hearing and action on request by the City of Monterey to redesignate a 6,000 square foot portion of Macabee Beach from Visitor-Serving Commercial to Public Use Area. (SC-SC)

**Th9d. City of Santa Cruz LCP Amendment No. STC-MAJ-2-06 Part 1 (Arana Gulch).** Public hearing and action on request by the City of Santa Cruz City to redesignate the Arana Gulch property from Community Facilities and Residential Use to Natural Area/Parks, to rezone the property from Residential and Community Commercial to Parks, and to amend LCP text to provide consistency with the amended land use and zoning designations. (SC-SC)

**Th9e. Monterey County LCP Amendment No. MCO-MAJ-2-07 Part 1 (Castroville Community Plan).** Public hearing and action on request by Monterey County to amend the certified LCP to incorporate the Castroville Community Plan, which would include the redesignation of approximately 300 acres of agricultural land to non-agricultural uses and the revision of agriculture and water supply policies to allow for development of those areas of Castroville located in the North Monterey County coastal zone. (KM-SC)

**Th9f. Santa Cruz County LCP Amendment No. SCO-MAJ-2-06 Part 2 (Neighborhood Compatibility).** Public hearing and action on request by Santa Cruz County: 1) to increase maximum lot coverage from 30% to 40% for residential parcels between 5,000 and 15,000 sq. ft.; 2) to allow averaging of adjacent front yards to establish minimum front yard setbacks for residential parcels; and 3) to modify the definition of "Net Site Area" within the Urban Services Line to exclude coastal bluffs and Monterey Bay submerged lands. (SC-SC)

**Th9g. Santa Cruz County LCP Amendment No. SCO-MIN-1-08 Part 4 (Wells and Groundwater Protection).** Concurrence with the Executive Director's determination that the request by Santa Cruz County to modify the LCP's well ordinance to increase protection of groundwater is minor. (SC-SC)

Douglas Deitch  
Monterey Bay Conservancy  
501 Mission Street, Suite 1  
Santa Cruz, California, 95060  
February 25, 2009  
(831) 429-4009

**RECEIVED**

FEB 27 2009

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Susan Craig  
Dan Carl  
Charles Lester  
California Coastal Commission  
Central Coast District Office  
725 Front Street, Suite 300  
Santa Cruz, California, 95060  
Hand Delivered 1:30 PM 2/25/08

Re: Material Error in description of "Minor Amendment Determination for Santa Cruz County Local Coastal Program Amendment Number 1-08 Part 4 (Wells and Groundwater Protection) prepared February 19, 2009 (for March 12, 2009 Hearing)

Dear Dan, Susan, and Charles,

I have just received by mail and reviewed the above referenced document. On page 2, (in "9"), you have described the "word modification" (technically, an amendment by additional language) of the Well Ordinance, as it relates to "declaration of a groundwater emergency" materially incorrectly.

You have described this "modification"/amendment as "providing the Board of Supervisors greater discretion to declare a groundwater emergency..."

This is a material error. Can you please correct this? Under the current Well Ordinance enacted in 1987 and continuously since (attached as Exhibit A), there is and has been no discretion by the Board of Supervisors on whether or not to declare a groundwater emergency.

The duty and legal obligation under the language of Gary Patton's Well Ordinance to declare a groundwater emergency by the Santa Cruz County Board of Supervisors (BOS) has been a nondiscretionary though unperformed ministerial duty under our local laws continuously since 1998. This fact is indicated in John Ricker's staff report specifically (Exhibit B), the "Environmental Review Initial Study" (Exhibit C), "NEGATIVE DECLARATION AND NOTICE OF DETERMINATION" (Exhibit D), etc.

The BOS has just been purposefully and intentionally ignoring it. That is the main point in my DVD, "Our Inconvenient Truth" and the two lawsuits and two Grand Jury Complaints I have tendered on this matter to unsuccessfully prod them along.

**HEARING PROCEDURES:**

These items have been scheduled for public hearing and vote. People wishing to testify on these matters may appear at the hearing or may present their concerns by letter to the Commission on or before the hearing date. The Coastal Commission is not equipped to receive comments on any official business by electronic mail. Any information relating to official business should be sent to the appropriate Commission office using U.S. Mail or courier service.

**SUBMISSION OF WRITTEN MATERIALS:**

If you wish to submit written materials for review by the Commission, please observe the following suggestions:

- We request that you submit your materials to the Commission staff no later than the Friday before the hearing (staff will then distribute your materials to the Commission).
- Mark the agenda number of your item, the application number, your name and your position in favor or opposition to the project on the upper right hand corner of the first page of your submission. If you do not know the agenda number, contact the Commission office at the number noted below.
- If you wish, you may obtain a current list of Commissioners' names and addresses from any of the Commission's offices and mail the materials directly to the Commissioners. A list of the Commissioners is also available on the Commission's website. If you wish to submit materials directly to Commissioners, we request that you mail the materials so that the Commissioners receive the materials no later than Thursday of the week before the Commission meeting. Please mail the same materials to all Commissioners, alternates for Commissioners, and the three non-voting members of the Commission with a copy to the Commission staff at the appropriate Commission office.
- You are requested to summarize the reasons for your position in no more than two or three pages, if possible. You may attach as many exhibits as you feel are necessary.

**Please note:** While you are not prohibited from doing so, you are discouraged from submitting written materials to the Commission on the day of the hearing, unless they are visual aids, as it is more difficult for the Commission to carefully consider late materials. The Commission requests that if you submit written copies of comments to the Commission on the day of the hearing, that you provide 20 copies.

**ALLOTTED TIME FOR TESTIMONY:**

Oral testimony may be limited to 5 minutes or less for each speaker depending on the number of persons wishing to be heard.

No one can predict how quickly the Commission will complete agenda items or how many will be postponed to a later date. The Commission begins each session at the time listed and considers each item in order, except in extraordinary circumstances. Staff at the appropriate Commission office can give you more information prior to the hearing date.

Questions regarding the staff report or the hearing should be directed to the Commission's Santa Cruz office at 725 Front Street, Suite 300, Santa Cruz, CA 95060, (831) 427-4863. To review a staff report or for more meeting information check the Commission Website at: [www.coastal.ca.gov/mtgcurr.html](http://www.coastal.ca.gov/mtgcurr.html)



# EXHIBIT A

AS of 13

ORDINANCE NO. 3806

AN ORDINANCE REPEALING EXISTING CHAPTER 7.70 RELATING TO WATER WELLS AND ADDING NEW CHAPTER 7.70 RELATING TO WATER WELLS

## SECTION I

Chapter 7.70 of the Santa Cruz County Code is hereby repealed.

## SECTION II

Title 7 of the Santa Cruz County Code is hereby amended by adding Chapter 7.70 thereto, said new Chapter to read:

### CHAPTER 7.70

#### Sections:

- 7.70.010 Purpose of Provisions.
- 7.70.020 Definitions.
- 7.70.030 Permit—Required—Issuance.
- 7.70.040 Permit—Expiration
- 7.70.050 Permit—Suspension or Revocation.
- 7.70.060 Licensed Contractor Required.
- 7.70.070 State Reporting.
- 7.70.080 Inspections.
- 7.70.090 Technical Standards.
- 7.70.100 Special Groundwater Protection.
- 7.70.110 Pajaro Groundwater Protection Zone.
- 7.70.120 Soquel Creek Service Area Restrictions.
- 7.70.130 Groundwater Emergencies.
- 7.70.140 Abatement—Investigation.
- 7.70.150 Abatement Generally.
- 7.70.160 Nuisance—Abatement of Safety Hazard.
- 7.70.170 Variances.
- 7.70.180 Amendments.

#### 7.70.010 Purpose of Provisions.

It is the purpose of this chapter to provide for the construction, repair, and reconstruction of all wells, including cathodic protection wells, test wells and monitoring wells, to the end that the groundwater of this county will not be polluted or contaminated and that water obtained from such wells will be suitable for the purpose for which used and will not jeopardize the health, safety or welfare of the people of this county. It is also the purpose of this chapter to provide for the destruction of abandoned wells, monitoring wells, test wells, and cathodic protection wells found to be public nuisances, or when otherwise appropriate, to the end that all such wells will not cause pollution or contamination of groundwater or otherwise jeopardize the health, safety or welfare of the people of this county. It is also the purpose of this chapter to implement policies of the County General Plan and the Local Coastal Program Land Use Plan.

As I informed Susan Craig, this same lack of following the law by our BOS was just again demonstrated in the BOS's recent public hearing to consider a groundwater emergency late last year in 2008. The BOS circulated the yet to be approved by the Coastal Commission (and the subject of your March hearing) "new ordinance" as the applicable law, with the "new language" and "new BOS discretion" contained in the new language. Testimony by Dale Skillicorn, Watsonville City Councilman, specifically opposed declaration of an emergency because, he contended, "adequate progress" was being made. The BOS agreed....four to one.

Under the California State Constitution's "police powers", the BOS of any particular county always has the discretionary powers relative to a "groundwater emergency" whether there is a "Well Ordinance" or not.

The codified nondiscretionary ministerial duty created by Gary Patton's 1987 Well Ordinance, and it's proposed significant amendment by Santa Cruz County, which would very materially change the nature of this duty to a discretionary option (already provided by the state constitution) should be accurately described by you so the Commission and Executive Director can make the proper determinations on process and proper consideration based on the actual weight and import of what duty is being changed and how. Please correct this so it is clear. (EXHIBIT E)

Thank you,



Douglas Deitch  
ED/MBC

- a. Declaration. A declaration of a groundwater emergency shall be made by the Board of Supervisors only after a public hearing. Such an emergency shall be declared by resolution of the Board after the public hearing to consider all relevant information such as, but not limited to, the most current groundwater study, recommendations of water purveyors and the Water Advisory Commission and only after the following findings can be made:
  - 1. The designated area is experiencing a groundwater overdraft exceeding the long-term average annual recharge of groundwater resource;
  - 2. The creation of new wells or the expansion of existing wells will significantly increase the demand on the affected aquifer and thereby increase the overdraft; and
  - 3. The continuation of the overdraft will result in further depletion and degradation of the water resource that can lead to, but is not limited to, impairment of the aquifer or allowing the ingress of low-quality or saline waters.
  
- b. Immediate Measure to Alleviate. In areas where a groundwater emergency is declared, the Board of Supervisors shall take action to establish water conservation measures, to limit construction of new wells, to regulate pumping from or expansion of existing wells, and in order to prevent further depletion and degradation of the affected aquifer. In taking these actions, the Board shall give consideration to the seasonal needs of agriculture including, but not limited to, the following factors.
  - 1. Agriculture's need to repair, maintain and replace existing wells serving existing agricultural use acreage;
  - 2. Well construction for agricultural use to serve existing agricultural acreage when new parcels are created due to change in legal ownership, split parcels or parcels created by change in zoning laws or other governmental regulations; and
  - 3. The different water requirements of agricultural crops.
  
- c. Long-term Measures to Alleviate. The Board shall initiate actions such as, but not limited to, joint power agreements with other agencies with the goal of finding permanent solutions to the groundwater problem.
  
- d. Duration. A groundwater emergency and the measures enacted to alleviate the emergency shall remain in effect until rescinded as established in Subsection F of this Section.
  
- e. Annual Review. The establishment of a groundwater emergency and all actions to alleviate the emergency shall be reviewed by the Board of Supervisors within one year of the date of enactment of the measures at a public hearing to decide whether the declaration of emergency shall remain in effect.

- 2. There is need for careful monitoring and management of the groundwater basin; and
  - 3. Careful management is greatly facilitated by restricting the number of new wells and requiring that new development be supplied by Soquel Creek County Water District, a public agency empowered to carry out monitoring and management efforts; and
  - 4. Construction of new wells within the water district service area increases the potential public health hazard of cross-connection between public and private water systems;
  - 5. Current County General Plan policies require that new development within the urban services line be served by a public water system.
- b. Well Construction Within the Soquel Creek County Water District Service Area. The construction of new wells shall be prohibited on parcels that are both within the area designated as the "Soquel-Aptos groundwater basin" (as adopted by separate Board Resolution 233-81) and within two hundred feet of a water distribution line of the Soquel Creek County Water District.
  - c. New Well Construction—Exceptions. The following new well construction shall not be subject to the prohibition of this section:
    - 1. Replacement of existing wells;
    - 2. Construction of a well for agricultural use, monitoring and observation purposes, or cathodic protection; and
    - 3. Well construction on parcels which cannot be served by the Soquel Creek County Water District, as determined by the Environmental Health Director based on a written statement from the District clearly demonstrating their inability to provide service.
    - 4. Construction of a well by any public water purveyor.

7.70.130 Groundwater Emergencies

A groundwater emergency shall be declared in areas demonstrated to be experiencing a groundwater overdraft exceeding the safe yield in order to prevent further depletion and degradation of water resources where such degradation threatens the public health, safety and welfare of the community. The emergency shall have no effect on drilling of monitoring or cathodic protection wells.

- f. Rescinding. A groundwater emergency shall be rescinded by resolution of the Board of Supervisors after a public hearing when one of the following findings are made:
  1. Alternative water sources which compensate for the existing overdraft and supply the affected area are developed;
  2. A groundwater management program is implemented which will allow for additional development without contribution to groundwater overdraft; or
  3. The Board of Supervisors determines that new information is available which indicates that the technical data upon which the original findings were based is no longer valid.

7.70.140 Abatement--Investigation.

The Health Officer may, upon reasonable cause to believe that an abandoned well, a cathodic protection well, or any other well may potentially either contaminate or pollute groundwater, investigate the situation to determine whether such potential threat to groundwater quality or present nuisance does, in fact exist. The Health Officer shall have the power, upon presenting identification to any person apparently in control of the premises to enter upon any such premises between the hours of 8:00 a.m. and 6:00 p.m., to discover or inspect any thing or condition which may indicate such a nuisance or threat to groundwater quality. The Health Officer may examine such premises, things or conditions, take such samples and make such tests as needed and take other steps reasonably necessary for the proper investigation and determination of whether a nuisance or threat to groundwater quality exists.

7.70.150 Abatement Generally.

Whenever the Health Officer determines that an abandoned well, a cathodic protection well, or any other well is presently polluting or contaminating groundwater or poses a substantial threat to groundwater quality or is otherwise not in compliance with the provisions of this Chapter, the Health Officer may abate the well as a nuisance in accordance with the provisions of Chapter 1.14 of this Code.

7.70.160 Nuisance--Abatement of Safety Hazard.

This chapter shall not affect the right of the county to abate as a public nuisance pursuant to Article 9, Chapter 1, Division 1, Title 5, of the Government Code (commencing with Section 50230) any abandoned well, or cathodic protection well, or other well which presents a safety hazard.

7.70.170 Variances.

The Health Officer shall have the power to allow minor variances from the standards referred to in Section 7.70.090 so as to prevent unnecessary hardship or injustice and at the same time accomplish the general purpose and intent of the standards and the resource protection policies of the County's General Plan and the Local Coastal Program Land Use Plan. In no case may a variance be granted that constitutes a special privilege.

7.70.180 Amendments

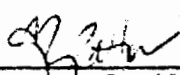
Any revision to this chapter which applies to the coastal zone shall be reviewed by the Executive Director of the California Coastal Commission to determine whether it constitutes an amendment to the Local Coastal Program. When an ordinance revision constitutes an amendment to the Local Coastal Program, such revision shall be processed pursuant to the hearing and notification provisions of Chapter 13.03 of the Santa Cruz County Code, and shall be subject to approval by the California Coastal Commission.

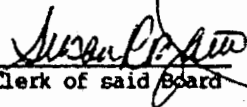
SECTION III

This ordinance shall take effect upon certification by the State Coastal Commission, or after 30 days, whichever is greater.

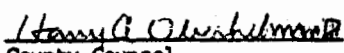
PASSED AND ADOPTED this 6th day of January, 1987, by the Board of Supervisors of the County of Santa Cruz by the following vote:

AYES: SUPERVISORS Forbus, Levy, Mehl, Cucchiara, Patton  
NOES: SUPERVISORS None  
ABSENT: SUPERVISORS None

  
\_\_\_\_\_  
Chairperson of said Board

ATTEST:   
\_\_\_\_\_  
Clerk of said Board

APPROVED AS TO FORM:

  
\_\_\_\_\_  
County Counsel

CC:

County Counsel  
Planning  
Environmental Health  
Health Services Agency



HEALTH SERVICES AGENCY  
ADMINISTRATION

*c, please*  
**ta Cruz**

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**HEALTH SERVICES AGENCY**

P.O. BOX 962, 1080 EMELINE AVENUE  
SANTA CRUZ, CA 95061  
(831) 454-4000 Fax: (831) 454-4770

December 21, 2007

AGENDA: January 8, 2008

BOARD OF SUPERVISORS  
County of Santa Cruz  
701 Ocean Street  
Santa Cruz, CA 95060

**SUBJECT: AMENDMENT OF COUNTY CODE CHAPTER 7.70, WATER WELLS**

Dear Members of the Board:

On December 11, 2007, your Board gave conceptual approval to proposed amendments to the Well Ordinance found in Chapter 7.70 of the County Code and directed that the ordinance be returned for final consideration on January 8, 2008 (Attachment 1, Exhibit A). The proposed changes are described in the November 26, 2007 letter from the Health Services Agency Administrator (Attachment 3). Because this is a Local Coastal Program amendment, an additional noticed public hearing is also required. The proposed amendments also provide for your Board to adopt by resolution the water efficiency measures to be applied to wells serving larger uses (Attachment 2).

The proposed amendments were reviewed by the Environmental Coordinator on April 9, 2007. A negative declaration without mitigations was issued on April 11, 2007 (Attachment 4). The review period ended on May 16, 2007. The Planning Commission considered the ordinance and recommended approval on July 25, 2007. Commissioners recommended approval of the ordinance with one further change to provide that the water use efficiency measures be established by resolution of your Board. The Planning Commission Resolution is attached as Attachment 5.

**Recommendation**

It is therefore RECOMMENDED that your Board:

1. Hold a public hearing on the proposed ordinance amending Chapter 7.70 of the Santa Cruz County Code entitled Water Wells (Attachment 1, Exhibit A); and
2. Approve the resolution adopting the amendments to Chapter 7.70 and adopting the negative declaration (Attachment 1); and
3. Adopt the attached resolution (Attachment 2) establishing water use efficiency measures to be required as a condition of permit approval for wells serving larger uses.

be required in lieu of environmental review for individual well permits. Originally staff had proposed that these measures be established by policy of the Health Officer in order to be able to be easily updated to take advantage of new water efficiency technologies as they become available. The Planning Commission recommended that these measures be established by resolution of your Board and that they be updated on an annual basis. Proposed water use efficiency measures are included as Attachment 3, and will be returned to your Board for adoption with the final adoption of the ordinance. A draft of these measures were reviewed by both the Planning Commission and the Water Advisory Commission.

Provisions and Procedures for Environmental Review and Groundwater Management –

Environmental review for individual wells has been a potentially cumbersome process and poses potential conflicts with California water law. Related to this, wording in other parts of the ordinance has been modified to make it more clear that well permits are ministerial permits to ensure that wells are constructed in a safe fashion. This approach is similar to building permits. Environmental review, which would address water use, would still be required for any discretionary land use approvals required. Subsequent to Planning Commission review, staff has added recommended wording that would maintain the requirement for environmental review for wells serving water systems that are under the jurisdiction of the State Department of Public Health. These systems serve more than 200 connections and are mostly public agencies that would be responsible for conducting the environmental review process.

Criteria for Declaring a Groundwater Emergency – Section 7.70.130 currently requires the Board of Supervisors to declare a groundwater emergency if a basin is in overdraft, regardless of whether the overdraft condition is already being addressed. Wording is proposed which provides the Board of Supervisors with discretion in the declaration of an emergency and allows the Board to not declare an emergency if adequate actions are already being taken to address the overdraft condition.

Miscellaneous Wording Changes – There are numerous areas throughout the ordinance where minor wording changes are made for clarification of purpose or procedures.

Environmental Review, Planning Commission Review, and Comments Received

The proposed ordinance and policy amendments have been reviewed by the Well Ordinance Technical Advisory Group, the Water Advisory Commission, the Soquel Creek Water District, City of Santa Cruz Water Department, and other water agency representatives. Most of the comments received from those groups have been addressed. However, a number of comments were received urging that further restrictions on allowed water use be imposed as a condition of new well permits. While the ordinance includes provisions requiring efficiency of water use, staff believes that the permitting of wells is primarily intended to ensure the protection of water quality with regard to the potential impact of individual wells. Management of water resources needs to be done at the basin wide level, utilizing measures that involve all affected users. These are well beyond the scope of the well ordinance, which only addresses a limited number of wells at the time of construction. Another commenter, Mr. Doug Deitch, has commented that the declaration of a groundwater emergency should continue to be mandatory in the event of demonstrated overdraft. However, it is not clear what the benefit of that would be, if the responsible agencies recognize the problem and are taking constructive steps necessary to address the overdraft.

EXHIBIT 4

The proposed amendments were reviewed by the Environmental Coordinator on April 9, 2007. A negative declaration without mitigations was issued on April 11, 2007 (Attachment 4). The review period ended on May 16, 2007.



EXHIBIT

**NEGATIVE DECLARATION AND NOTICE OF DETERMINATION**

**Application Number: Countywide**

**John Ricker, for Santa Cruz County, Environmental Health Services**

Amend County Code Chapter 7.70, Water Wells, to: 1) allow the Board of Supervisors to waive the requirement for a County well permit if another agency provides comparable oversight; 2) require that wells may only be constructed on an existing legal lot of record; 3) allow construction of a replacement well less than 100 feet from a septic system if there is no other alternative and the well is constructed in a manner to prevent contamination; 4) require evaluation by an appropriately qualified professional when a new well is proposed to be located in proximity to a hazardous materials facility or site of known soil or groundwater contamination; 5) provide for development of additional procedures specific to construction and destruction of monitoring wells; 6) provide more explicit requirements for the destruction of abandoned wells; 7) expand the requirement that wells must utilize deeper seals and can only draw from one aquifer zone throughout the Pajaro groundwater basin or any other areas where poor groundwater quality may exist; 8) require basic water quality testing whenever a new or replacement well is constructed; 9) require water use efficiency measures for wells serving more than 4 residential connections or serve nonresidential uses that consume more than 2 acre-feet per year, in lieu of requiring environmental review for individual well permits; 10) modify wording to provide the Board of Supervisors with discretion in the declaration of a groundwater emergency, depending on whether adequate actions are being taken to address the overdraft condition, and, 11) other minor editorial corrections and clarifications. The project's location is Countywide in the Santa Cruz County, California.

**John Ricker, Staff Planner**

**APN: Countywide**

**Zone District: Countywide**

**ACTION: Negative Declaration**

**REVIEW PERIOD ENDS: May 16, 2007**

**This project will be considered at a public hearing by the Planning Commission. The time, date and location have not been set. When scheduling does occur, these items will be included in all public hearing notices for the project.**

**Findings:**

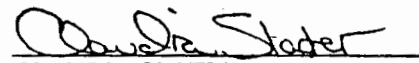
This project, if conditioned to comply with required mitigation measures or conditions shown below, will not have significant effect on the environment. The expected environmental impacts of the project are documented in the Initial Study on this project attached to the original of this notice on file with the Planning Department, County of Santa Cruz, 701 Ocean Street, Santa Cruz, California.

**Required Mitigation Measures or Conditions:**

None  
 Are Attached

Review Period Ends May 16, 2007

Date Approved By Environmental Coordinator July 18, 2007

  
CLAUDIA SLATER  
Environmental Coordinator  
(831) 454-5175

If this project is approved, complete and file this notice with the Clerk of the Board:

**NOTICE OF DETERMINATION**

The Final Approval of This Project was Granted by \_\_\_\_\_

on \_\_\_\_\_. No EIR was prepared under CEQA.

50

**THE PROJECT WAS DETERMINED TO NOT HAVE SIGNIFICANT EFFECT ON THE ENVIRONMENT.**



**Environmental Review  
Initial Study**

Application Number: **Countywide**

Date.; April 9, 2007

Staff Planner: John Ricker, Environmental Health Services

**I. OVERVIEW AND ENVIRONMENTAL DETERMINATION**

**APPLICANT:** County of Santa Cruz

**APN:** Countywide

**OWNER:** N/A

**SUPERVISORAL DISTRICT:** Countywide

**LOCATION:** Countywide

**SUMMARY PROJECT DESCRIPTION:**

Amend County Code Chapter 7.70, Water Wells, to: 1) allow the Board of Supervisors to waive the requirement for a County well permit if another agency provides comparable oversight; 2) require that wells may only be constructed on an existing legal lot of record; 3) allow construction of a replacement well less than 100 feet from a septic system if there is no other alternative and the well is constructed in a manner to prevent contamination; 4) require evaluation by an appropriately qualified professional when a new well is proposed to be located in proximity to a hazardous materials facility or site of known soil or groundwater contamination; 5) provide for development of additional procedures specific to construction and destruction of monitoring wells; 6) provide more explicit requirements for the destruction of abandoned wells; 7) expand the requirement that wells must utilize deeper seals and can only draw from one aquifer zone throughout the Pajaro groundwater basin or any other areas where poor groundwater quality may exist; 8) require basic water quality testing whenever a new or replacement well is constructed; 9) require water use efficiency measures for wells serving more than 4 residential connections or serve nonresidential uses that consume more than 2 acre-feet per year, in lieu of requiring environmental review for individual well permits; 10) modify wording to provide the Board of Supervisors with discretion in the declaration of a groundwater emergency, depending on whether adequate actions are being taken to address the overdraft condition; and, 11) other minor editorial corrections and clarifications.

**ALL OF THE FOLLOWING POTENTIAL ENVIRONMENTAL IMPACTS ARE EVALUATED IN THIS INITIAL STUDY. CATEGORIES THAT ARE MARKED HAVE BEEN ANALYZED IN GREATER DETAIL BASED ON PROJECT SPECIFIC INFORMATION.**

Geology/Soils

Noise

Hydrology/Water Supply/Water Quality

Air Quality

**CBD BOSMAIL** *My COMMENT - EXHIBIT*

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**From:** CBD BOSMAIL  
**Sent:** Thursday, January 03, 2008 2:48 PM  
**To:** CBD BOSMAIL  
**Subject:** Agenda Comments

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**Meeting Date :** 1/8/2008

**Item Number :** 50

**Name :** Douglas Deitch

**Email :** ddeitch@pogonip.org

**Address :** 3540 Porter Gulch Road  
Aptos, Ca., 95003

**Phone :** 831-476-7662

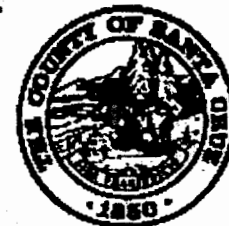
**Comments :**

The proposed Well Ordinance amendments will have a significant effect on the environment (as has your last ten years of intentional nonobservance of your duty under the Well ordinance to declare a county wide groundwater emergency and protect our water supply).

Consequently, under CEQA, an environmental impact report is required. Please performed legally, morally, and environmentally sufficient review before proceeding further. Dr. Fisher of UCSC has already briefed you on the severity of the problem, damage done, and incredibly long timeline to see any possible correction.

At some point I hope you will come to the realization that the law applies to you as well and you will finally follow it...that's what your oath of office was all about.

**COUNTY OF SANTA CRUZ**  
**STATE OF CALIFORNIA**



AT THE BOARD OF SUPERVISORS MEETING

On the Date of August 19, 2008

REGULAR AGENDA            Item No. 30

Public hearing held to consider adoption of a resolution declaring a groundwater emergency in the Pajaro groundwater basin;

closed public hearing;

Upon the motion of Supervisor Campos, duly Seconded by Supervisor Stone, with Supervisor Pirie voting no, the Board directed County staff to meet with the Pajaro Valley Water Management Agency to identify criteria set forth in the County staff report on the potential groundwater emergency in the Pajaro Basin, dated July 30, 2008, that can be accomplished within six months time and report back to the Board with those criteria in four weeks, with the additional direction that the report also include the Pajaro Valley Water Management Agency's Proposition 218 election timeline for future financing of basin management

cc:

- County Administrative Office
- County Counsel
- Planning Director
- HSA Administration
- Water Resources Division/EH
- Water Advisory Commission
- PVWMA
- City of Watsonville
- Monterey County Water Resources Agency

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State of California, County of Santa Cruz-ss.

*I, Susan A. Mauriello, Ex-officio Clerk of the Board of Supervisors of the County of Santa Cruz, State of California, do hereby certify that the foregoing is a true and correct copy of the order made and entered in the Minutes of said Board of Supervisors. In witness thereof I have hereunto set my hand and affixed tthe seal of said Board of Supervisors.*

by \_\_\_\_\_, Deputy Clerk ON August 21, 2008

"I simply could not imagine the farmers market being anywhere but downtown," says Brokaw. "I really don't know how I'd survive without it." Dettle says he's been working closely with market vendors, and while no replacement site has been finalized, he's confident the market will remain downtown.

Meanwhile, approval of the design phase of the parking garage will go before the City Council sometime in September, Dettle says. Beckmann said he and the rest of the CVD are ready to fight every step of the way.

### Had This Been an Actual Emergency...

"Luck, be a lady tonight," goes the desperate entreaty of the gamblers in the old Broadway Chestnut Guys and Dolls.

And luck was indeed ladylike last Tuesday night to South County's largest water provider, the PALARO VALLEY WATER MANAGEMENT AGENCY, as it temporarily escaped the clutches of a county BOARD OF SUPERVISORS threatening to rein it in with a tough declaration of groundwater emergency. At the end of the night, the supes voted not to lower the boom—for now.

Luck is something the PVWMA seems to have in spades. In the last two years alone it's survived the sudden departure of its chief administrator, three losing court battles, orders to repay millions in overbilled fees, a battle between coastal and inland growers and more than one ruckus on its own board. In fact, it's not only survived each brush with disaster, it's emerged enjoying even greater public support.

That support made itself clearly known at the classy new Watsonville City Council chambers on Aug. 19, where dozens of speakers stepped forward to defend the agency's ability to solve the area's overdrafting and saltwater intrusion problems. Those who testified let the Board of Supes know that while they understood its reasoning, they didn't like the formula one bit.

At the outset of the meeting, the board was considering imposing a mandatory 17 percent to 20 percent reduction in water use, a moratorium on all new subdivisions and developments except those that reduce other buildings' water

board speaks with forked tongue," claimed one speaker. "The county wants to impose more affordable housing," the speaker noted (actually, it's a state mandate). Nevertheless, several others commented on "the contradiction between this declaration and the memorandum of understanding" regarding some 200 new affordable units planned for the controversial 65-acre Atkinson Lane parcel.

Next the officials testified. DAVE CAVANAUGH of the Farm Bureau: "A declaration [of groundwater emergency] would just muddy the water." Longtime Councilmember DALE SKILLICORN: "A declaration requires a finding that adequate measures are not being taken. Well, they are!" And a passionate Watsonville mayor KIMBERLY PETERSEN: "I urge you to leave the control of the water to locals."

Water board head DENNIS OSMER didn't offer to speak, but Supervisor TONY CAMPOS called him up, Osmer listed the agency's recent successes.

"We've held three water forums with no bloodshed!" he exclaimed. Plus, he recounted, the PVWMA is paying back past overcharged fees on time, has landed \$50 million in grants, has nabbed over \$400,000 from the state, has cut staff positions, has a large water recycling facility almost done, has actually earned compliments from the farm bureau for the first time "in 15 years—maybe 20" and has just appointed its ever-energetic superintendent, Mary Bannister, as interim manager. As for the rest, Osmer declared, "We don't have a water problem; we have a people problem."

That promptly set off Supervisor ELLEN PIRIE, who declared, "I'm sorry, but you do have a water problem," citing copious evidence of former inaction and increasing saltwater intrusion.

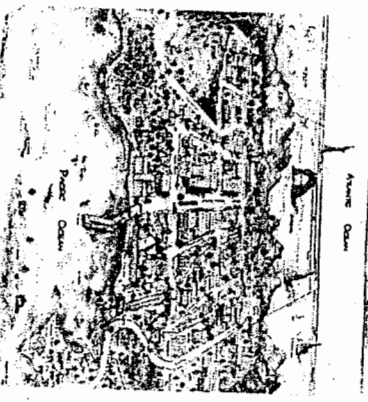
That, in turn, motivated Supervisor Campos to defend Osmer and ask for more time, which prompted Pirie to retort that time was way over being up.

Ultimately, however, board members proved reluctant to stomp too heavily on a struggling fellow local institution. "We ought to be very careful about dictating to other agencies," noted Supervisor MARK STONE, in what might be the

Will luck remain a lady through March? Stay tuned.

## PLANET CRUZ

The View from Santa Cruz, California



### National East Coast Bias Rectified

NIZ has had it with the national power structures Atlantic Seaboarcentrism. Turn on the radio, there's NPR's Steve Inskeep yapping from a booth in Washington. Pick up the paper and half the opinion page originated in the offices of *The New York Times*. The nation's powerbrokers are Ivy League alums. Bagels have sent donuts packing. It ain't fair!

But the brilliant minds at Planet Cruz have struck one for the West Coast, turning the East Coast establishments' own atomic weapon of regional chauvinism against it.

*Planet Cruz: The View From Santa Cruz, California* flips the iconic Saul Steinberg *New Yorker* cover onto its better side and shows Santa Cruz landmarks in glorious detail, with the rest of the nation compressed, hastily sketched afterthought. The poster, drawn by artist KIRBY SCUDDER with a beneficence by *Planet Cruz Comedy Hour* radio show host RICHARD STOCKTON, goes on sale Sept. 12 at a *Planet Cruz* pre-season party at Graphix downtown.

"When I look at our poster, I can see all these things that are on it, and I get this warm feeling that I'm in Santa Cruz," says Stockton. "Metro Santa Cruz is on it, KPIC is on it, the tree sitters are on it! We got really into it. We even put the marijuana fields on it." What you won't see are chain stores. "We were actually offered money to put a chain on there, and

SEASON PARTY AND POSTER RELEASE is Friday, Sept. 12, at 5pm at Graphix, 1129 Pacific Ave., Santa Cruz.

### Prioritied for Hillary

Don't get her wrong—being at the DEMOCRATIC NATIONAL CONVENTION is a thrill for PAT BAKALIAN of Santa Cruz, who's in Denver this week as a Hillary Clinton delegate. She saw Sen. Ted Kennedy speak on Monday ("I really got choked up over that one") and will be at a "private" meeting with Hillary and her 1,600 or so delegates on Wednesday. That's heady stuff for a political junkie.

But this convention is also a little unsettling, she says. Bakalian plans to cast her vote for Clinton, and because of it she feels a little like an outcast.

"A lot [of Hillary delegates] are switching over [to Obama]," she explains. "I'm not ready; the convention's not over. If we all switched over, it would be more like a coronation."

Perhaps not surprisingly for a supporter of a vanquished candidate, Bakalian detects exclusivity and one-sidedness at this year's convention. At the 2000 convention in Los Angeles, she says, you could buy T-shirts and buttons not just for Al Gore but for his rival in the primary, Bill Bradley.

"Here, it's all Obama," she says. "I can't buy a Hillary button out there anywhere. And I have a Hillary button on, you know, and I had someone ask me if I'm gonna vote for McCain. And I say, 'Why would you think I'm going to vote for McCain?' She said, 'Well, there are some really angry people who are going to vote for McCain.' I said, 'I resent that.'"

Asked why she's participating in a petition drive to ensure that Clinton's name is placed in nomination—since rendered moot by an agreement between the Obama and Clinton camps—Bakalian says it's because of the historic nature of the campaign.

"It's the first time a woman has ever won the presidential primary," she answers, tipping her hand. (Bakalian is not a fan of the caucus system, which she says is profoundly undemocratic. Obama did exceedingly well in the caucuses, while Clinton excelled in the primaries.) "To not recognize that 18 million people voted for her... And she literally won all the big major states. It would be, in some people's words that I've heard, a deal-breaker for them."



# County of Santa Cruz

**HEALTH SERVICES AGENCY  
ADMINISTRATION**

## **HEALTH SERVICES AGENCY**

P.O. BOX 962, 1080 EMELINE AVENUE  
SANTA CRUZ, CA 95061  
(831) 454-4000 FAX: (831) 454-4770

July 30, 2008

August 19, 2008 Agenda

Board of Supervisors  
County of Santa Cruz  
701 Ocean Street  
Santa Cruz, CA 95060

### **SUBJECT: Potential Groundwater Emergency in the Pajaro Basin**

Dear Members of the Board:

On June 10, 2008, your Board scheduled a public hearing for August 19, 2008, to consider declaring a groundwater emergency within the boundaries of the Pajaro Valley Water Management Agency. This action took place after several meetings in which your Board considered the present financial difficulties of the Pajaro Valley Water Management Agency, which have undermined that Agency's ability to address the severe groundwater overdraft taking place in the Pajaro Groundwater Basin. This report presents the information to support a declaration of groundwater emergency and lays out actions the County can take to address that emergency.

#### **Background**

The Pajaro groundwater basin is experiencing significant overdraft, which was first identified in 1953. The sustainable yield under the current pumping distribution is estimated to be about 20,000-50,000 acre-feet per year (afy). Annual pumping is approximately 60,000-70,000 afy resulting in an overdraft of 20,000-40,000 afy. The overdraft has resulted in lowering of water levels below sea level under 68-88% of the basin during long dry periods, with significant seawater intrusion over two miles from the coast amounting to a cumulative freshwater loss of 15,000 acre-feet each year.

The Pajaro Valley Water Management Agency (PVWMA) was created in 1984 to take necessary steps to secure additional water supplies and manage water use in the basin in order to bring use into balance and stop the overdraft. PVWMA adopted an updated Basin Management Plan in 2002, and has implemented a number of actions to address the situation:

1. Water conservation programs for municipal and agricultural use.
2. Metering of all large water users, with fees charged to all water users based on water use.
3. Development of a local water supply project to use runoff from Harkins Slough.
4. Construction of the Coastal Distribution System to supply water to coastal areas and eliminate pumping in those areas subject to seawater intrusion.
5. Participation with the City of Watsonville in the construction of a wastewater recycling facility at the City of Watsonville Wastewater Treatment plant (scheduled for completion in December 2008).



6. Update of the groundwater model to better assess the sustainable yield from the basin (scheduled for completion in December 2008).
7. Development of watershed management programs that would include water resources monitoring, water metering, nitrate management, wells management, and recharge area protection.
8. Coordination with surrounding agencies to develop and implement an Integrated Regional Water Management Plan for the Pajaro River Watershed.
9. Negotiation with inland water agencies to acquire supplemental supplies that could be delivered to the Pajaro Valley after construction of an import pipeline.

In 2001, the cost of the basin management efforts was estimated to be \$131 million, at an annualized cost of \$14 million (2001 dollars). The cost has certainly increased based on the increased construction costs and the more limited availability of water for import. PVWMA has been seeking to finance these efforts through a combination of state and federal grants and local funding. Local funding has been provided through a water augmentation charge paid by all users of water in the basin, and a delivery charge paid by those users who receive delivered water through the coastal distribution system. In 2003 and 2004, the augmentation charge was increased from \$80/af to \$160/af, which was deemed to be the amount needed to implement the basin management efforts. However, in 2007, the California Supreme Court issued a new interpretation of Proposition 218, which led to a determination that those increases were invalid because they were not conducted pursuant to procedures required by the Court's interpretation of Proposition 218. On October 3, 2007, the PVWMA Board acted to rescind the increases, leaving the augmentation charges at \$80/af, half of the amount necessary to implement the Basin Management Plan and at a level inadequate to maintain even current programs. Additionally, the Agency is required to pay back \$1.1 million in fees already collected.

On October 2, 2007, in response to the critical loss of funding, your Board approved Supervisor Pirie's recommendation to request a presentation from PVWMA and direct Environmental Health staff to provide a report regarding actions the County could take to help address the groundwater overdraft in the Pajaro Basin. PVWMA presented a report on October 16, 2007 and on November 20, 2007, your Board considered various actions the County could take. Before choosing a course of action, your Board requested a further report from PVWMA with additional analysis by the County Water Resources Division Director.

The requested report from PVWMA was made available on March 31 and provided to your Board as part of the April 15 agenda item. The report addressed many County concerns, but also left future actions undetermined pending a resolution of more immediate concerns. At that time, PVWMA sought to achieve short term stability by reducing staff, reorganizing the budget, increasing community outreach and accountability, and developing the capability to pay back the funds that were improperly collected as soon as possible. The Agency believed it was important to reestablish a strong base from which to begin the process of working with the community to reestablish funding mechanisms for implementation of the Basin Management Plan. Since April, the Agency has increased efforts to address the long term issues. The 2008-09 budget includes allocation of funds for repayment, operation of recycled water and coastal distribution facilities, water conservation, basin management, and a process for reestablishment of rates. The 2008-09 budget indicates that the Agency is beginning to again take forward steps to address the basin overdraft.

However, PVWMA has also been sued by the Pajaro-Sunny Mesa Community Services District in an effort to force PVWMA to rescind the remaining water augmentation fees that were put into place prior to Proposition 218. If these fees are rescinded, PVWMA would essentially have insufficient funds to function or meet its present financial obligations. PVWMA intends to

consider its options relative to this suit at its August 13, 2008 meeting.

**County Authority**



The County has powers to protect, manage, and regulate groundwater under its general police powers and the powers of the County Flood Control and Water Conservation District. Exercise of these powers throughout the basin would require a joint powers agreement with Watsonville City and Monterey County. The County has very limited authority within the City of Watsonville and would need to seek the City's agreement and cooperation for any efforts that would include the City or its residents. There are also financial limits to the County's exercise of power: the County would also be bound by the requirements of Proposition 218 in the establishment of fees to finance groundwater management activities beyond those which could be accommodated in the present County budget. Recent budget reductions have had an impact on staff workloads and it would be challenging to take on significantly more work.

The County also has authority over well construction and development approval in unincorporated areas of the Pajaro Valley. Section 7.70.130 of the County Code in the well ordinance includes provisions for declaration of a groundwater emergency in areas subject to groundwater overdraft. After holding a public hearing the Board of Supervisors may adopt a declaration of groundwater emergency, which must include short-term measures to address the emergency as well as long-term measures to ultimately alleviate the emergency condition.

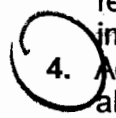
The County has supported and encouraged PVWMA efforts to better manage the Pajaro groundwater basin and control the overdraft. If it can secure adequate financing, PVWMA continues to be the most appropriate agency to manage the basin, with its clear legislative mandate and most of the infrastructure already in place to do the work that needs to be done. However, because there is presently no financial mechanism in place to address the serious groundwater overdraft, your Board has agreed that it is appropriate for the Board to consider declaring a groundwater emergency in the Pajaro Groundwater Basin. Such a declaration would include various actions to reduce current water use for all classes of users and provide impetus for water users and basin stakeholders to develop the technical and financial programs needed to bring the basin into balance.

**Proposed Declaration of Emergency**



Section 7.70.130 provides that the Board of Supervisors shall declare a groundwater emergency "in areas demonstrated to be experiencing a groundwater overdraft exceeding the safe yield in order to prevent further depletion and degradation of water resources where such degradation threatens the public health, safety and welfare of the community and where the Board of Supervisors finds that adequate measures are not already being taken to alleviate the overdraft situation." Such a declaration can only be made after holding a public hearing and considering relevant information including recommendations of water purveyors and the Water Advisory Commission, and only if the following findings can be made:

1. The designated area is experiencing a groundwater overdraft exceeding the long-term average annual recharge of groundwater resource; and,
2. The creation of new wells or the expansion of existing wells will significantly increase the demand on the affected aquifer and thereby increase the overdraft; and
3. The continuation of the overdraft will result in further depletion and degradation of the water resource that can lead to, but is not limited to, impairment of the aquifer or allowing the ingress of low-quality or saline waters; and,
4. Adequate measures are not being taken by water users and other responsible agencies to alleviate the overdraft situation.





Section 7.70.130.B provides that the declaration of groundwater emergency shall include immediate measures to alleviate the emergency, including: water conservation measures, and provisions to limit construction of new wells, and regulate pumping from or expansion of existing wells in order to prevent further depletion and degradation of the affected aquifer. A declaration of groundwater emergency shall also provide for long term measures to develop permanent solutions to the groundwater problem. Once a groundwater emergency has been declared, the Board shall review progress toward alleviating the emergency at an annual public hearing, and shall rescind a groundwater emergency after a public hearing when it can be determined that alternative water sources are available, an effective groundwater management program is implemented, or new information becomes available which indicates that the technical data upon which the original findings were based is no longer valid.

Staff has prepared a draft resolution declaring a groundwater emergency (Attachment 1). Given the wide range of actions that the County could take and the desirability of responding to public testimony from the hearing, staff has not yet prepared specific implementing ordinances. However, if your Board determines to declare a groundwater emergency, staff recommends that the following actions be taken as a part of such declaration:

1. Establish a goal and supporting programs so that all users pumping groundwater from the Pajaro Groundwater Basin are urged to immediately take actions to reduce their water use by at least 20%. This amount of reduction is consistent with recent state-wide targets and with local water conservation targets.
2. Urge the City of Watsonville to adopt a resolution declaring a water supply emergency and establishing Level Two water use reductions (17-20% reduction). Staff will prepare a letter for the Board Chair to transmit to the Mayor.
3. Add a new section of the county code to promote water conservation and prohibit wasteful use of water throughout the unincorporated areas of the County, with an emphasis in the Pajaro Groundwater Basin.
4. Adopt an ordinance requiring preparation and submittal of an annual agricultural water conservation plan by individual agricultural users to document and promote the use of water conservation measures, and encourage the Monterey County Water Resources Agency to require such plans within the portion of the Pajaro Basin under their jurisdiction. Such plans are already required on an annual basis of all users in Monterey County in the overdrafted zones of the Salinas groundwater basin. As an alternative, staff could work with agricultural users to develop other mechanisms to provide for more efficient agricultural water use.
5. Establish a temporary moratorium on new subdivisions and building permits for new homes within the unincorporated areas of Santa Cruz County overlying the Pajaro Basin until a water demand offset (WDO) program can be developed which will require developers to implement water conservation measures to reduce water use from existing development to the extent that there would be no net increase in water use from the basin. This would be similar to the water demand offset (WDO) program administered by the Soquel Creek Water District.
6. Establish a moratorium on wells serving new residential or agricultural uses unless the user submits a water conservation plan that demonstrates maximum practicable water efficiency.
7. Direct the County Water Resources Division Director to work with the Pajaro Valley Water Management Agency, the City of Watsonville, the Farm Bureau, Monterey County Water Resources Agency, and other affected agencies, water users and land owners to promote the development of technical measures and financing methods to bring water use in the Pajaro Groundwater Basin into balance with safe yield and sustainable supplies.
8. After one year, review the status of basin management efforts and if there is not significant improvement, consider initiating an adjudication of groundwater rights whereby the courts

- either impose reduced water use by all users to stay within the basin's sustainable yield or impose a physical and financial solution to provide supplemental water.
- 9. If the Pajaro Valley Water Management Agency loses the financial ability to perform its duties, consider seeking new special legislation or entering into a joint powers agreement with the City of Watsonville and Monterey County to assume management of the Pajaro Basin.
- 10. Support efforts to fallow agricultural land to reduce overall water use, particularly in areas subject to flooding, with high natural resource value, and/or with marginal agricultural value.

Staff is recommending that the proposed declaration of groundwater emergency apply within the Pajaro Groundwater Basin, as delineated by the established boundaries of the PWMA. There has been some suggestion that the declaration include areas to the west in the jurisdiction of Central Water District and the Soquel Creek Water District, given that some groundwater flows from those areas into the Pajaro Basin. However, those agencies are already actively implementing a comprehensive groundwater management plan that is intended to manage those areas within their sustainable yield. Adverse impacts in the western portions of the Aromas sands formation are very likely a result of excessive pumping in the Pajaro basin.

**Related Efforts and Agency Comments**

In evaluating the status of groundwater management in the Pajaro Basin, staff has consulted with various involved agencies and entities. Their related activities, concerns and comments can be summarized as follows:

County Water Advisory Commission – The County Water Advisory Commission discussed this matter at its April, May, and June meetings. The Commission endorsed the staff recommendation to consider declaring a groundwater emergency and recommended that the public hearing be held in South County.

Pajaro Valley Water Management Agency – Staff has consulted closely with staff and the Ad Hoc Executive Committee of PVWMA. The PVWMA Board considered the staff recommendation on May 28 and voted unanimously to encourage the Board of Supervisors to hold a public hearing to consider declaring a groundwater emergency. The Agency will be further considering the matter at its August 13 meeting.

City of Watsonville – The City of Watsonville implements a number of water conservation programs including an effective toilet rebate replacement program. City staff have indicated willingness to consider declaring a stage 2 water supply emergency, which would implement additional restrictions and conservation measures. The City recently adopted a higher water rate for higher levels of water use in order to encourage greater efficiency. The City's ultimate goal is to put in place measures that allow it to grow without any increase in groundwater use.

Monterey County Water Resources Agency – This agency supports the efforts of PVWMA to manage the Pajaro groundwater basin. Beyond that, they do not anticipate a need for their agency to get more involved.

Soquel Creek Water District – The SqCWD Board of Directors considered the March 25 report from PVWMA to the County at their May 6 meeting and transmitted a letter in which they supported the efforts of PVWMA, requested extension of the Coastal Distribution System further north toward La Selva Beach.

Santa Cruz County Farm Bureau - The Farm Bureau believes that PVWMA should continue to

be the lead agency responsible for groundwater management. Although most Pajaro Valley growers already utilize relatively efficient irrigation practices, at least some growers have indicated that they could further reduce water use, particularly if parallel reductions were implemented for urban water users. Technical assistance for improved irrigation efficiency can be provided by the Resource Conservation District of Santa Cruz County, UC Cooperative Extension, and PVWMA.

It is, therefore, RECOMMENDED that your Board:

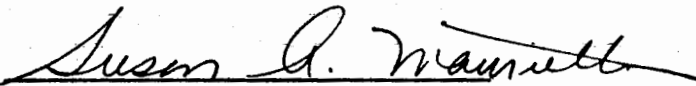
1. Hold a public hearing to consider declaring a groundwater emergency within the boundaries of the Pajaro Valley Water Management Agency;
2. Adopt the resolution declaring a groundwater emergency;
3. Direct the Water Resources Division Director to prepare ordinances and related measures necessary to implement the declaration of groundwater emergency, including the actions described in this report.

Sincerely,



Rama Khalsa, Ph.D.  
Health Services Agency Director

RECOMMENDED:



SUSAN A. MAURIELLO  
County Administrative Officer

Attachments: Resolution

- cc: County Administrative Office  
 County Counsel  
 Planning Director  
 HSA Administration  
 Water Resources Division/EH  
 Water Advisory Commission  
 PVWMA  
 City of Watsonville  
 Monterey County Water Resources Agency

**CBD BOSMAIL**

B4 06-16

**From:** CBD BOSMAIL  
**Sent:** Friday, August 15, 2008 8:08 AM  
**To:** CBD BOSMAIL  
**Subject:** Agenda Comments

**Meeting Date :** 8/19/2008

**Item Number :** 30

**Name :** Douglas Deitch-Monterey Bay Conservancy

**Email :** ddeitch@pogonip.org

**Address :** 3540 Porter Gulch Road  
Aptos

**Phone :** 831-476-7662

**Comments :**

Dear Supervisors,

(Please attach at the end of this email and incorporate by reference my 3 page pdf email submitted 5/16/08 as agenda comments to Item# 31 on your 5/20/08 agenda, as I will be referencing them).

The declaration of groundwater emergency, as we all realize, does not solve this very grave decades old problem. Your recognition of this problem, at least ten years and billions of dollars of our lost/expropriated water resources late, can be a beginning.

The joint cooperation required between Santa Cruz and Monterey Counties and the City of Watsonville to effectively address this dilemma can and should be the start of a new regional state created agency incorporating and merging the jurisdictional areas of PVWMA, Soquel Creek, and Central Water Districts, minimally. Santa Cruz (SCMU), which possesses this region's largest storage facility, Loch Lomond, and huge financial and environmental ALBATROSS almost around it's neck with it's desal attempt, is also a very prime candidate for a regional agency and solution.

Central and Soquel Creek Districts share the basin with PVWMA and these districts' no longer needed existence and counterproductive balkanizing affect, redundant administrative costs, lack of educationally and experientially qualified leadership, apparent conflicts of interest favoring agbusiness and the farm bureau, dismally poor track record of accomplishment of anything, etc., indicate that these agencies (PVWMA, Central, and SqCWD) be terminated and merged into one regional agency which can coordinate sustainable management of the Aromas Red Sands, and perhaps more. This can never be achieved otherwise.

[http://207.111.238.178/Aptos\\_Times96.htm](http://207.111.238.178/Aptos_Times96.htm)

We hear and know how important "local control" of our water is. The current legislation under PVWMA makes this an impossibility by providing agbusiness control and slant of PVWMA to primarily corp multi national TENANT agbiz through it's terms and the Farm Bureaus' ridiculous power of appointment/nomination of 3 of 7 board members.

This has allowed a 25 year "FIELD DAY" for these interests to "GO TO TOWN" and STEAL! our groundwater supply which our children and grandchildren (if you have them, and I DO!) WILL NEED BIGTIME! Please read and familiarize yourselves with the PVWMA and SqCWD. They are dinosaurs.

In today's California and world water reality, this act and agency and it's mission has been antiquated and should be ended. Same with SqCWD and Central

74

We can achieve balanced ground water basins here. But we cannot do this and continue to grow 25% of this country's berries. We must somehow reel in the berry industry here to a sustainable level of production...sustainable carrying capacity here indicates reduction must be at least 25%...8000 of 32,000 acres....about the same amount of acreage as has been converted from orchard to berries.

There are too many inaccuracies and incomplete information in your staff report for me to itemize here. eg. The current sustainable yield of the basin is 24k/af/yr.

<http://pogonip.org/WaterDocs/PVWMATechnicalMemorandum.pdf>

[http://www.register-pajaronian.com/fe\\_view\\_article.php?story\\_id=3879&page\\_id=72&heading=0](http://www.register-pajaronian.com/fe_view_article.php?story_id=3879&page_id=72&heading=0)

[http://207.111.238.178/BetweenFurrows\\_96.pdf](http://207.111.238.178/BetweenFurrows_96.pdf)

<http://pogonip.org/WaterDocs/SantaCruzWaterSolutionWeb.pdf>

Please review my websites at

[begentlewiththeearth.com](http://begentlewiththeearth.com)

[begentlewiththeearth.org](http://begentlewiththeearth.org)

[begentlewiththeearth.net](http://begentlewiththeearth.net)

for accurate and detailed information and history.

However, as always, I would be more than pleased to make a complete and comprehensive presentation you on exactly we can and should go about doing this. This is what I am interested in doing. Not suing people or being supervisor.

Please call on me.

Respectfully,

Douglas Deitch

ED/Monterey Bay Conservancy

# San Andreas Mutual Water Company

P.O.Box 326, Aptos, CA 95001-0326



19-August-2008

Santa Cruz County Supervisors

Re: Public Hearing on Declaration of a Ground Water Emergency in the Pajaro Valley

The Board of SAMWAC would like to impress upon the County Supervisors the seriousness of the overdraft situation in the Pajaro Valley and strongly urge them to declare a ground water emergency.

We would also like to urge the Supervisors to inject themselves into this problem to the fullest extent allowed by law. The community residents and Pajaro Valley growers are depending upon the County to drastically change the direction of the past many years and establish a sustainable solution that everyone can buy into.

While SAMWAC did participate in legal action against PVWMA, we are fully supportive of their mission. We felt that spending massive amounts of taxpayer money on water diversion and importation would not be financially supported by the community. We would like to maintain the agricultural environment of the Pajaro Valley and will support PVWMA on a mission that makes economic sense.

Board of Directors - San Andreas Mutual Water Company

Gerald Fehr, President  
Ann Stemler, Secretary  
Dwight Lynn, Member at Large

Sandra Hoppe, Vice President  
Owen Sharp, Treasurer

# Water Management Challenges in the Salinas Valley

BY MICHAEL CAHN, UC WATER RESOURCES AND IRRIGATION ADVISOR

MONTEREY, SAN BENITO AND SANTA CRUZ COUNTIES

**A**griculture in the Salinas Valley is highly productive, not only due to an ideal climate and fertile soils, but also because of its water resources. Unlike other regions that rely on water imports, the Salinas Valley has remained self-reliant in supplying water for agricultural, environmental, and urban uses. The fortunate combination of adequate rainfall, a large catchment area in the surrounding hills and mountains, and a large capacity to store water in the underground aquifers has sustained a plentiful water supply in the Salinas Valley. In addition to ground water storage, Monterey County established the Nacimiento and San Antonio reservoirs at the southern end of the valley in 1957 and 1961 to provide flood control during the rainy season and to potentially store up to 713,000 acre-feet of surface water.

The water resources of the Salinas Valley must be protected to meet current and future needs. Addressing the interests of agricultural, environmental, and urban users is a complicated process. Fortunately, the Salinas Valley has a track record of pro-actively managing water resources by involving the public, government agencies, industries, and environmental advocacy groups. Despite sometimes-conflicting viewpoints, a common theme of agreement has been that local solutions are the best solutions. This has been shown in the community's approach to managing seawater intrusion near the coast, addressing nitrate contamination in

the underlying aquifers, and developing plans to protect the quality of surface waters.

### Slowing Sea Water Intrusion

Maintaining ground water levels is especially critical near the coast to prevent seawater from intruding into the aquifers. Depending on the weather, which affects water-use of crops and urban landscapes 450,000 to 600,000 acre-feet of water are annually pumped in the Salinas Valley. Over pumping of wells has caused sea water to enter into the upper and middle aquifers along the coast, leaving farmers without a useable water source. The Monterey County Water Resources Agency (MCWRA) estimates that the seawater contamination of the aquifer reduces ground water supplies by 9,000 to 13,000 acre-feet per year.

Several measures have been taken to slow the front of saline water moving into the aquifer and to provide coastal growers with an alternative water source. In 1998 Monterey County added a tertiary treatment facility to the regional waste-water treatment plant, and began producing recycled water for irrigation of 12,000 acres of coastal farmland. Known as the Castroville Seawater Intrusion Project (CSIP), this water recycling facility is currently the largest in the United States used for the production of fresh fruits and vegetables. The supplemental use of recycled water reduces the amount of ground water pumping along the coast by nearly 13,000 acre-feet per year.

However, even with CSIP, sea water has continued to intrude into the aquifer. To strengthen efforts to halt sea water intrusion, Monterey County landowners recently voted to initiate the Salinas Valley Water Project (SVWP). This project will modify the spillway of the Nacimiento dam so that additional water can be stored in the reservoir and an inflatable dam will be constructed at the northern end of the Salinas River to divert surface water released from the reservoir to farms along the coast. The diversion dam will be deflated to allow for fish migration. The combination of substituting surface and recycled water for ground water will minimize pumping along the coast, and hopefully slow or halt further intrusion of seawater into the Salinas aquifers.

### Preventing Nitrate Contamination of Ground Water

In addition to protecting water resources for agricultural use, there is also a great need to protect water supplies for urban and environmental uses. A highly productive agricultural region, such as the Salinas Valley, uses large inputs of fertilizers that have led to the leaching of nitrate into the groundwater. Nitrate may not impair agricultural uses of the water, but this contamination limits the use of water for human consumption as well as for environmental uses. The MCWRA identified 34 shallow wells in the Salinas Valley that have nitrate levels three times greater than the 45 parts per million federal drinking water standard.



"EXHIBIT C"

C1 of 7

BOARD OF SUPERVISORS



COUNTY OF SANTA CRUZ

GOVERNMENTAL CENTER

701 OCEAN STREET SANTA CRUZ, CALIFORNIA 95060-4069  
(408) 424-2200 ATTS 994-2200 FAX (408) 424-2282 TDD (408) 424-2123

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FIRST DISTRICT

WALTER J. SYMONS  
SECOND DISTRICT

MARDI WORMHOUDT  
THIRD DISTRICT

RAY BILGARD  
FOURTH DISTRICT

JEFF ALMOUST  
FIFTH DISTRICT

AGENDA 6/16/98

June 12, 1998

BOARD OF SUPERVISORS  
County of Santa Cruz  
701 Ocean Street  
Santa Cruz, CA 95060

RE: SETTING PUBLIC HEARING TO CONSIDER DECLARATION  
OF GROUNDWATER EMERGENCY IN THE PAJARO VALLEY

Dear Members of the Board:

There has been considerable public discussion about the status of the groundwater resources in the Pajaro Valley. On June 2, 1998, the voters in the Pajaro Valley Water Management Agency's (PVWMA) jurisdiction adopted Measure D which mandates, for a period of 10 years, that the PVWMA shall postpone design or construction of a pipeline to import water into the Pajaro Valley, imposed a 10 year moratorium on the purchase by the PVWMA of water from any source outside of its boundaries, and also mandated a reduction in the augmentation fees charged to water users in the Pajaro Valley, fees which are used as a means of supporting projects to improve or develop water resources.

There seems to be little doubt that the water resources available to the PVWMA and its users are in a state of overdraft. Last week, in considering Item 53 on our Board agenda related to creation of positions in the County government to help focus the development of County water policies, we also accepted a document entitled "An Evaluation of Water Resources Monitoring and Management Efforts in Santa Cruz County." The summary of that document, made a part of the agenda item as Attachment 6, in the section entitled "Issues Specific to South County/Pajaro," made the following factual findings:

- \*2. Annual pumpage in the Pajaro Basin is 68,000 acre-foot/year. The safe yield of the basin is cited in the Basin Management Plan as 31,000 acre-foot/year. Overdraft is approximately half of demand. The PVWMA is planning to develop an additional 28,000 acre-foot/year to meet demands through the year 2040.

61.1



- "3. The rate of seawater intrusion ranges from 10,000 to 15,000 acre-feet/year. This volume of annual seawater intrusion is greater than water use in mid-County, San Lorenzo Valley and Scotts Valley.
- "4. This area is the most significant water supply imbalance in the County. The State has threatened adjudication. Mechanisms to address the problem are in the planning stages but are not presently in place. There exists a lack of local consensus on problem solutions."

Similar findings have been made by the Pajaro Valley Water Management Agency and its consultants. In a document entitled "Water Supply Project Summary Report" dated May 19, 1998, prepared by the firm of Montgomery Watson, consultants to the Water Management Agency, it is stated as follows:

"The primary water supply for the Pajaro Valley is water pumped from the underlying groundwater aquifer. This aquifer is recharged by rainfall on the adjacent mountains and from recharge through the Pajaro River and creeks that flow across the coastal valley. The water needs of this coastal valley have exceeded the natural recharge of the underlying aquifer. The result is that, based on the long-term average, the amount of groundwater pumped from the basin has exceeded the amount of water that has recharged to the basin during the same period of time. This condition, when the rate of pumping exceeds the rate of recharge, is referred to as overdraft. The overdraft conditions in the Pajaro Valley have resulted in a general, long term decline in groundwater elevations....

"The long-term decline in groundwater levels has resulted in seawater intruding into the groundwater aquifer...Seawater intrusion results in a lowering of groundwater quality. Seawater contains chlorides at concentrations of approximately 19,000 parts per million (ppm). The California State drinking water standard for chlorides is 250 ppm, and it is generally recognized that high levels of chlorides (approximately 100 ppm for strawberries) can be detrimental to agricultural crops. Continued intrusion of seawater into the groundwater aquifer will result in greater portion of the aquifer not being suitable for municipal or agricultural use." (Montgomery Watson, ES-1)

The Water Supply Project report concludes that there is an existing deficit of approximately 18,000 acre-feet/year and a future deficit of 28,000 acre-feet/year, indicating a critical need for the development of additional water supplies either

through conservation or capture of new resources. The study concludes that up to 5,000 acre-feet/year could be developed through diversion and capture of local surface water supplies and up to 9,000 acre-feet/year could be saved through adoption of conservation measures. This still leaves a substantial shortfall, particularly with regard to estimated future water needs in the Pajaro Valley.

Proponents of the pipeline project believe that this is the best solution to make up this difference, but the PVWMA was barred by the voters on June 2 from pursuing that project. This leaves a substantial unresolved problem and a situation in which the Pajaro Valley Water Management Agency has had its options substantially constrained by the voters in the Pajaro Valley.

Our County ordinances on water wells contain provisions governing the process by which we may declare a groundwater emergency.

The ordinance, Section 7.70.130, provides, in pertinent part, as follows:

**"A groundwater emergency shall be declared in areas demonstrated to be experiencing a groundwater overdraft exceeding the safe yield in order to prevent further depletion and degradation of water resources where such degradation threatens the public health, safety and welfare of the community...."**

- A. Declaration. A declaration of a groundwater emergency shall be made by the Board of Supervisors only after a public hearing. Such an emergency shall be declared by resolution of the Board after the public hearing to consider all relevant information such as, but not limited to, the most current groundwater study, recommendations of water purveyors and the Water Advisory Commission, and only after the following findings can be made:
  1. The designated area is experiencing a groundwater overdraft exceeding the long-term average annual recharge of groundwater resources;
  2. The creation of new wells or the expansion of existing wells will significantly increase the demand on the affected aquifer and thereby increase the overdraft; and
  3. The continuation of the overdraft will result in further depletion and degradation of the water resources that can lead to, but is not limited to, impairment of the aquifer or allowing the ingress of low quality or saline waters." (emphasis added)

The ordinance goes on to describe the types of conservation and remedial measures that the Board of Supervisors is entitled to establish, requires us to take into account and give special consideration to the seasonal needs of agriculture, empowers the Board to enter into joint powers agreements with other agencies in order to promote the goal of finding permanent solutions to the groundwater problem, requires the Board to provide for at least an annual review of any declaration that is adopted, and provides procedures for rescinding the declaration of emergency.

I have received some input from representatives of the Farm Bureau, farmers, and elected officials in Watsonville that they would like to be given a further opportunity to work on local solutions to this problem. A local solution, if one can be achieved, would be preferable to a set of responses to this crisis mandated by the County, but to date, there is little evidence that a local consensus has formed in support of any solution that will not still leave the problem substantially unresolved. We heard testimony at our Board meeting last week from the Chairman of the FVWMA, Mr. Dutra, that he felt the declaration of a groundwater emergency was a good idea. We are in the process of considering budget supplements to permit us to create new water policy positions in the County which, if enacted, will probably require most of the summer in order to accomplish creation and filling of the positions.

With these thoughts in mind, I would recommend that the Board consider setting a public hearing on the evening of September 22, 1998, for the purpose of considering the declaration of a groundwater emergency in the Pajaro Valley area served by the Pajaro Valley Water Management Agency and request interested parties to provide us with the data we will need to guide us. It appears to me that all the prerequisites to this declaration can be factually met at this time, but this additional time will allow local officials, the agriculture community, and Water Management Agency representatives to evaluate the consequences of the passage of Measure D on June 2, give consideration to new ways of looking at this problem that may result in development of a stronger local consensus as to appropriate responses, and allow the County to be in a better position to act should no effective direction develop locally.

Accordingly, I recommend that the Board act to:

1. Set a public hearing on the evening of September 22, 1998, to consider adoption of a declaration of a groundwater emergency in the jurisdiction of the Pajaro Valley Water Management Agency.
2. Request County Counsel to prepare an opinion for the Board of Supervisors describing any limits on our authority to so act given the fact that part of the


C5011

BOARD OF SUPERVISORS  
June 12, 1998  
Page 5

service area is outside County boundaries, as well as to inform the Board on the nature and extent of the remedies that are available to us under this ordinance or related ordinances or statutes; and

- 3. Request the County Administrative Officer to solicit from interested agencies, including, without limitation, the Pajaro Valley Water Management Agency, the Farm Bureau, the City of Watsonville, Monterey and San Benito Counties and any countywide water agencies in either of said counties, the Water Advisory Commission, and the Directors of Planning, Health Services and Public Works, their input on both the necessity of such a declaration and the responses that the County should undertake to address the situation.

Sincerely,



JEFF ARQUIST, Supervisor  
Fifth District

JA:ted

cc: Pajaro Valley Water Management Agency  
Santa Cruz County Farm Bureau  
Planning Department  
Water Advisory Commission  
Watsonville City Council

1011A5

Re: Hi Gary.... a question for you, please?.....What does "shall" me...

**Subject:** Re: Hi Gary.... a question for you, please?.....What does "shall" mean in your Well Ordinance?.. Request to Agendize Public Hearing For Declaration of Ground Water Emergency]  
**From:** Gary Patton <gapatton@pcl.org>  
**Date:** Fri, 10 Nov 2006 20:59:58 -0800  
**To:** Douglas Deitch <ddeitch@got.net>

Doug:

Just getting to this; sorry to be tardy. I do NOT feel comfortable about being "imported" into the Oral Communications period. In terms of the legal question, "shall" means "shall" to me; however, I do think the ordinance (as I have just quickly reviewed it) does require the Board to make a set of determinations, and to that extent they retain the discretion to make a decision whether the facts are one way or another. The way to see just how mandatory "shall" is in the context of the facts is to submit documentation of the facts, tracking the ordinance directly, and then make the request that the mandatory language be followed. If the Board does nothing or decides that it has discretion, despite the facts, then a Court can review both the facts and the law, and will either decide that (1) the facts aren't proven to make the "shall" mean shall; or, that the facts ARE proven, but the "shall" language is in fact only "directory," not mandatory; or (3) that the facts are proven according to the ordinance, and that there is a mandatory duty, which the Board has failed to carry out, in which case the Court will direct appropriate action. Do note, of course, that the Board retains the discretion to amend the ordinance, which will make it difficult to convince a court that it should direct the County to do something that the County is only mandated to do because of an ordinance that it can change at any time.

In sum, our system of government (except where the people act directly) is really one of "representative" government, and the representatives we elect really do have a great deal of leeway; if they don't do the right thing (as the majority of the people see it) the remedy is "political," i.e., elect other representatives, or recall the ones that aren't doing what the majority wants.

Sorry I don't have a clearer and easy answer for you.

**Gary A. Patton, Executive Director**  
Planning and Conservation League  
1107 9th Street, Suite 360  
Sacramento, CA 95814  
Telephone: 916-313-4520  
Email: gapatton@pcl.org  
Website: www.pcl.org

On 11/9/06 11:07 AM, "Douglas Deitch" <ddeitch@got.net> wrote:

Hi Gary,

I have an idea.....(uh oh!)

I know you are swamped (me too!!!), but.....

I am getting ready to sue the Board of Supervisors again over your Well Ordinance.

As you know (having written the ordinance), the ordinance uses the word "shall". (see below)

The Board of Supervisors "shall declare a ground water emergency...."

Mark Stone has told me in a board meeting that "shall" is defined in county codes to allow the Board discretion...shall doesn't mean shall.

C7 of 7

BOARD OF SUPERVISORS

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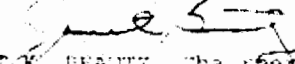
June 19, 1998

Douglas Deitch  
Pogonip Foundation  
501 Mission Street  
Santa Cruz, CA 95060

Dear Mr. Deitch:

Thank you for your letter dated June 17, 1998, requesting that the Board set a public hearing to consider a declaration of the existence of a countywide groundwater emergency. I believe that Board members clearly understood that you felt that this matter should be considered on a countywide basis--not just with regard to the Pajaro Valley Water Management Agency. Despite this fact, there were not three votes for the recommendation of Supervisor Almquist to hold a public hearing related to the PVWMA, nor was any motion made to hold a hearing to discuss this matter on a countywide basis. However, I have provided a copy of your letter to each member of the Board for their individual consideration.

Sincerely,

  
JANET K. BEAUTZ, Chairperson  
Board of Supervisors

LKB:ted

cc: Clerk of the Board  
Members, Board of Supervisors  
Planning Department

102436

 PAST PRESENT FUTURE? 

11/06/14

EXHIBIT D - WATER/BERRY

PONZI SCHEME EXPLAINED

Subject: [Fwd: Re: Coastal Ag Pumping]  
From: Douglas Deitch <ddeitch@got.net>  
Date: Tue, 24 Feb 2009 11:32:28 -0800  
To: ellen.pirie@co.santa-cruz.ca.us, Neal Coonerty <nealcoonerty@hotmail.com>, mark.stone@co.santa-cruz.ca.us, "J." <wallacejnichols@mac.com>, john@friendsofjohnleopold.com, Ddeitch <ddeitch@pogonip.org>

John,  
Thank you for your response.  
I do not agree with your conclusion that

"it is premature to say that the BMP currently requires cessation of pumping on individual parcels in the coastal areas."

based on the following reasoning:

The link below is a PVWMA technical memo on basin sustainable yield which contends that the current yield of the PVWMA basin will drastically (and I contend absurdly/unrealistically) increase from it's current 24/k/a/f/yr to 49/a/f/yr when coastal ag well pumping is stopped on ag lands (around 8k acres of 32,000 total?) on ocean side of Highway I.  
<http://pogonip.org/WaterDocs/PVWMATechnicalMemorandum.pdf>

Coincidentally (?) (please ask Mary Bannister about this, or maybe she could reply to all recipients of this email with her explanation/) this 25k/a/f/yr is equal to the amount of water which is unmentioned/unaccounted for in PVWMA's ppt presentation (attached) prepared by Mary Bannister (?)/PVWMA and trotted around to all water agencies, LAFCO, BOS, etc. to explain PVWMA's BMP in 2005.

I call this pulling a 25k/a/f/yr "water rabbit" out of a hat with smoke and mirrors.

This is the essence of PVWMA's BMP since 1993, as evidenced by the below linked 1993 PVWMA BMP selection:  
<http://pogonip.org/WaterDocs/EnvironmentalImpact.pdf>

That why I characterize what's going on as at least two decade successful "Water/Berry Ponzi Scheme"....

We have consistently deficit spent our ground water supply @ 200% overdraft @ 15k/a/f/yr resource loss/expropriation by 90% berry use per year for 20years?... based on the promise of high (or even balanced) future water supplies and "returns" based on the "tech silver bullets" of import, desal, recharge/injection, recycling/reclamation and, ..... most "tech" significantly of all @ 25k/a/f/yr of new local supply....provided by....

Smoke and mirrors, or stopping ag well pumping on ag lands by the coast and sustainably pumping twice water (ie49k/a/f/yr) as much sustainably inland w/ no further saltwater intrusion????

Please COME ON.....and this is expected to be sustained from a ground water basin that is almost entirely below sea level now?!?!?

Also, please appreciate also that the "import" silver bullet (only expected to, on average, have provided 13.4 a/f/yr) has been eliminated from the equation of needed new supply in reducing the 45k/a/f/yr current overdraft.

Furthermore, it must be appreciated that the hydrological beneficial effect of "stopping ag well pumping" on these particular parcels being acquired by the Land Trust is two fold :

1. Stopping ag well pumping on these particular parcels, which WILL be required at some point, one way or another..... John, you even recommended as staff to BOS that a ground water emergency being considered since 1998 be declared in this specific area a few months back, right? (with pumping restrictions being one of the remedies, correct?)... will necessarily have a beneficial

affect on the saltwater intrusion problem, unquantified at this moment, perhaps, but certainly far less than a doubling, we can be sure.

2. If no ag well pumping occurs, no berries will be grown. For every acre that no berries are grown on, we will save and conserve an additional 3 acre feet per acre, times the number of acres not continued being cultivated, the further reduce the 45,000acre foot yearly overdraft. This is actually the only water benefit we will be able to count on FOR SURE to reduce our massive overdraft....PUMP LESS!

This is why ag well pumping must be stopped as soon as is possible on as many of these acres as is possible!

The Tie Property is in play now and the funds used for it's acquisition will be most appropriately, efficiently, and effectively used in this manner to protect our water and wetlands by not continuing to grow berries or any other crop requiring well water.

John, to refresh your recollection, perhaps it would benefit you to reread your comment from the below linked front page Sentinel article from 1998?

<http://begentlewiththeearth.com/>

It's a pity that our responsible decisions makers are not fully using their critical thinking abilities to perceive just how ridiculously and absurdly unrealistic and unattainable the water supply balance equation of PVWMA and SqCWD, that shares this supply, is.

I guess that's why it's appropriate to call this a "Water/Berry Ponzi Scheme" which has drained, to a large extent, the balance in our PVWMA and SqCWD Water Bank.

Respectfully,  
Doug  
ED/MBC

John Ricker wrote:

Doug,

I am responding to your phone message regarding ag well pumping in coastal areas of the Pajaro Groundwater Basin

As I see it, the 2003 Basin Management Plan (BMP) calls for a cessation of coastal pumping as soon as supplemental water is made available to those areas. You are correct that the county and others questioned whether or not the sustainable Basin yield would really increase as much as projected if coastal pumping is stopped. That is one of the reasons PVWMA is updating the groundwater model upon which that determination was based.

Much of this is now up in the air. The agency does not currently have a funding source for a supplemental supply as called for in the BMP, and the availability of supplemental water is challenging. The groundwater model is being substantially revised and should give us better insight and confidence in what the sustainable basin yield is and would be with reduced coastal pumping. The Basin Management Plan will need to be reviewed and revised to reflect new figures on sustainable yield, new funding mechanisms, and availability of supplemental water. If supplemental water can not be realistically or economically provided, then the revised BMP will need to provide for reduced pumping in the basin, with a likely emphasis in the coastal areas. Until this work is done, I believe it is premature to say that the BMP currently requires cessation of pumping on individual parcels in the coastal areas. John



John Ricker  
Water Resources Division Director  
Santa Cruz County Environmental Health Services  
831-454-2750  
Fax: 831-454-3128

<b>Re: Coastal Ag Pumping.eml</b>	<b>Content-Type:</b> message/rfc822 <b>Content-Encoding:</b> 7bit
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**PAJARO VALLEY  
WATER MANAGEMENT AGENCY**

**Technical Memoranda for Subtasks  
6.1 and 6.2**

- Technical Memorandum 1.1
- Technical Memorandum 1.2
- Technical Memorandum 2.2
- Technical Memorandum 2.3
- Technical Memorandum 3
- Technical Memorandum 4

September 15, 2000

*Doug,*

*I think this is the document you are looking for. Please call if you have questions or need further info.*

*Thank you*

---

**TASK:** Technical Memorandum 4 for Subtask 6.1

**SUBJECT:** Baseline Conditions and Basin Sustainable Yield Analysis

**SUBMITTED BY:** David Lindow / Montgomery Watson

**PREPARED BY:** S. Ali Taghavi / AT Associates  
Chris Smith / Montgomery Watson

**REVIEWED BY:** Lyndel Melton / RMC

**DATE:** May 31, 2000

---

*N.B. - see last page  
# 9 remain*

### **Introduction**

The Pajaro Valley Water Management Agency (PVWMA) is in the process of refining and analyzing the potential alternative water supply scenarios to alleviate the long-standing groundwater overdraft and seawater intrusion problems in the Pajaro Valley. As part of this process, it is critical to have a clear understanding and knowledge of what the magnitude of the overdraft and seawater intrusion rates are for the present state of the groundwater basin. Additionally, it is important to understand and define the sustainable yield of the Basin, as the future water supply alternatives will depend on the sustainable yield from the local groundwater basin.

As documented in numerous groundwater studies conducted over the past several years, the Pajaro Valley groundwater basin is in an overdraft condition. In addition, the rate of seawater intrusion to the groundwater basin has been increasing over the same period. In general, a combination of both overdraft condition and seawater intrusion has limited the source of local fresh water supply to sustain the long-term agricultural and urban economy of the Valley.

The Pajaro Valley Integrated Ground and Surface water Model (PVIGSM) has been developed to assist in:

- Gaining knowledge on the historical conditions of the groundwater basin,
- Evaluate the present state of the groundwater basin,
- Estimate the sustainable yield of the basin, and

levels, although not as fast as in Scenario A. Figure 14(c) shows that the reduction in coastal groundwater pumping would not impact the stream recharge conditions significantly. In Scenario B, the groundwater system would still benefit from approximately the same recharge rate as in the Baseline Conditions.

Based on the suggestion in the 1993 Pajaro Valley Basin Management Plan (BMP) for the economic viability of any alternative water supply scenario, the 1000 AF/yr threshold for seawater intrusion is also analyzed under this coastal pumping reduction case. Figure 14(a) shows that a 70 percent reduction in groundwater pumping would result in approximately 1000 AF/yr seawater intrusion. That is, the groundwater pumping should be maintained at approximately 55 TAF/yr to meet the 1,000 AF/yr seawater intrusion threshold. Based on Figure 14(b), this reduction in groundwater pumping would still have positive impact on the rate of change in groundwater storage. Figure 14(c) shows that the stream recharge conditions would not be impacted significantly.

Figure 17 shows the impact of coastal pumping reductions on regional average groundwater levels, over time. Figure 18 shows the impact of coastal groundwater pumping reduction on the rate of seawater intrusion, over time.

## Summary and Conclusions

The PVI GSM was used to analyze the present conditions of the integrated groundwater and surface water system in the Pajaro Valley, and to develop estimates of the scale and magnitude of the overdraft and seawater intrusion. In addition, two scenarios were developed to evaluate the level of pumping reduction that would be required to stop seawater intrusion. The resulting sustainable yield of the groundwater basin for the two scenarios was developed.

The present conditions of the basin are analyzed under the "Baseline Condition". The Baseline Conditions assume current levels of land and water use and irrigation practices continue for next several decades. The impact of this level of water use and groundwater pumping is evaluated during a 68-year hydrologic cycle.

Results of the Baseline Condition analysis shows that in the long-term, a total of 59 TAF/yr enters the groundwater basin in the PVWMA area. During the same period, groundwater pumping from the basin in the PVWMA area is estimated to be 69 TAF/yr. Since the long-term groundwater pumping exceeds total recharge into the basin, the groundwater basin is would be in overdraft condition by approximately 10 TAF/yr. The long-term average annual rate of seawater intrusion is estimated as 10 TAF/yr. This rate will fluctuate during the wet and dry hydrologic cycles, ranging between 8 to 14 TAF/yr.

In order to alleviate the basin from overdraft conditions and stop seawater intrusion, two pumping reduction scenarios were considered. Scenario A considered a basin-wide pumping reduction and Scenario B assumed that the pumping reduction would take place in the coastal areas west of Highway 1.

Under the basin-wide pumping reduction scenario, it is concluded that a 45 percent reduction in pumping would reduce the rate of seawater intrusion to about 1,000 AF/yr, and a 65 percent

reduction would nearly stop the seawater intrusion. That is the sustained groundwater pumping in the basin should be 38 TAF/yr and 24 TAF/yr for the 1,000 AF/yr and 0 AF/yr thresholds for seawater intrusion, respectively. Under the basin-wide groundwater pumping reduction scenarios, the change in groundwater storage will become positive and the stream recharge to groundwater will be reduced, resulting in increasing streamflows and stream outflows to the Bay.

PRESENT  
SUSTAINING  
Yield =  
24K AF  
w/ 0  
intrusion



Under the coastal pumping reduction scenario, it is concluded that a 65 percent reduction in the coastal groundwater pumping would reduce the rate of seawater intrusion to about 1,000 AF/yr, and an 83 percent reduction in coastal groundwater pumping would nearly stop the seawater intrusion. That is the sustained groundwater pumping in the basin should be approximately 55 TAF/yr and 49 TAF/yr for the 1,000 AF/yr and 0 AF/yr seawater intrusion thresholds, respectively. Under the coastal groundwater pumping reduction scenarios, the change in groundwater storage will become positive, however, the stream recharge to groundwater will not be impacted significantly.

w/ no  
coastal  
pumping  
yield of  
to  
49 K/A  
w/ 0  
intrusion

EXTRA COPY



EIR Associates

October, 1993

# Final Program Environmental Impact Report

## Basin Management Plan

State Clearing House No.: 9302-3035

**VOLUME 1: Revised Draft EIR**



**Pajaro Valley Water Management Agency**

executing the BMP. The No Project Alternative is defined as no remedial action. That is to say, no plans, policies, programs, or projects would be undertaken by the PVWMA or any other body or individual in the Basin. Ground water would continue to be the source of water for agricultural irrigation, industrial and commercial use, and domestic residential use. Ground water use would increase to meet higher future water demand. The Basin's overdraft condition would worsen. Seawater intrusion would continue to advance underneath the coastal lands at the current rate of 10,000 acre-feet per year or higher. Irrigation with ground water would continue along the coast area until the salt content in the soils built up to the point where agricultural crops could not grow. Domestic wells along the coast would also become unusable as the sodium content increased. No substitute water supplies would become available other than purchasing bottled water.



1.2.4 Demand Management Only Alternative = following

Section 10.2.4, Demand Management Only Alternative, of the BMP contains a more detailed discussion. This alternative would use only demand management measures to achieve the Agency's water management objectives: to balance water use and supply in the Basin and progressively decrease seawater intrusion. The Basin would be brought into balance through mandatory basin-wide pumping controls only, for residential, agricultural, and industrial users. Ground water modelling has indicated that it would be necessary to reduce ground water use by 60 percent from current levels. All users in the Basin would receive only 40 percent of their current needs by the year 2040. Since municipal and industrial uses comprise 23 percent of current use, the major reduction would fall on agricultural users. In effect, this would reduce agricultural operations by 40 to 60 percent and halt or reduce current levels of municipal and industrial development (refer to the following socioeconomics discussion). This Alternative represents the most probable scenario if the State Water Resources Control Board were to intervene. State intervention would occur as a result of the PVWMA's failure to implement a BMP, which is in essence what would occur under this Alternative. The State by statutory adjudication would institute someone to regulate and oversee the appropriation of water in the Basin, resulting in stringent pumping controls.



There are however, other ways the Demand Management Alternative could be formulated which would involve the acquisition of land or water rights to meet overdraft reduction goals. The BMP considered a demand management element which involved the acquisition of land to meet overdraft reduction goals. The retirement of 6,500 acres of coastal area land from irrigated agriculture could allow long-term sustainable pumping of 50,000 AF/Yr. This water could be shared by the remaining

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# Douglas Deitch: Pumping must stop on wetlands

Posted: 01/04/2009 01:30:22 AM PST

Congratulations to Santa Cruz County Land Trust on the Watsonville wetlands deal ... 486 acres bought for you with public/eco funds to save Watsonville's wetlands. One major problem, though, are your plans to continue growing berries and pumping ag wells on this land.

To best protect our wetlands and address our massive yearly water overdraft, the Pajaro Basin Management Plan BMP requires a different plan. This property is located in the most critical area where, according to the BMP since 1993, all ag well pumping must be ceased to stop further saltwater intrusion and no other water is available to continue responsible and sustainable production. None of our elected officials, UC academics, or any other environmental leaders/organizations from Gary Patton on down are aware of this.

The saltwater intrusion caused by continued pumping here has been for decades, and still is, catastrophic to our regional groundwater. In any event, land contiguous or proximate to our invaluable and dwindling wetlands should not be cultivated at all. It can only harm these hyper-sensitive and rare habitats. Renting and farming this land for funding to "restore wetlands" and this nonprofits' executives' and employees' salaries? is a curious contradiction and amounts to very poor vision and stewardship for this property and our community.

I have been trying to relate this general message to Terry Corwin and the Land Trust Board for well over the last two years, with no response from

them. Yet I'm still hoping! I've unsuccessfully been trying to convey this same message from the BMP to you, my neighbors and my community for the last 15 years, one quarter of my life, as well.

This land growing berries yearly might cost us almost as much water as two of our new now and counting \$100 million desal plants before O&M can produce in a year operating 24/7... and we are in a drought and still as of yet 10-year undeclared countywide water emergency.

Most importantly, the major part of our and Pajaro's BMP regional water solution equation here requires no ag well pumping on these lands and an additional 7,000 acres minimally. I would strongly recommend that any nonprofit or state grant funding must be contingent on following this land and

complete and permanent cessation of all further ag well pumping to best conserve our water supply and wetlands. This can be a very significant start to our water solution.

After all, when our water supply and environment is finally completely played out by our local Berry/Water Ponzi Scheme that's running here, we won't be able to print up any more.

Douglas Deitch is the executive director of the Monterey Bay Conservancy.

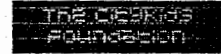
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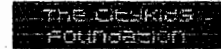


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CityKids uses the arts to engage and train young people to create positive and powerful solutions to issues impacting their lives. Young people learn to improve their own educational status, become agents for social change, take action in community projects, and carry positive messages to their peers. And they have a great time doing it.





D110714

**Subject:** Request For Reconsideration of "Watsonville Slough Acquisitions" Funding Approval  
**From:** Douglas Deitch <ddeitch@got.net>  
**Date:** Thu, 19 Feb 2009 13:12:21 -0800  
**To:** sschuchat@scc.ca.gov, tnevins@scc.ca.gov, tmuzik@dfg.ca.gov, Charles Lester <clester@coastal.ca.gov>, lsmith@tnc.org, Ddeitch <ddeitch@pogonip.org>

Sam,  
(Please forward to all (including DVD copy) California State Coastal Conservancy Board Members and other relevant parties, at your discretion). I will be at your meeting February 26 in Oakland to tender a Public Comment. I would prefer, of course, for this to be agendized and for a representative, preferably Ms. Corwin, to be requested to attend, as well as Ms. Terry Nevins and Ms. Laura Ingraham, from the Coastal Conservancy, Ms Terry Muzik from Fish and Game, and Ms. Laura Smith from the Nature Conservancy, the staff persons involved in this properties' review.)  
THANK YOU,  
DOUG

February 19, 2009

California State Coastal Conservancy  
(Nature Conservancy  
US Fish and Wildlife Service  
California State Coastal Commission)

Dear Board Members,

At your November, 2008 meeting, you approved funding for the 486 acre Watsonville Slough Acquisitions  
<[http://www.scc.ca.gov/webmaster/ftp/pdf/sccbb/0811bb/0811Board05 Watsonville Slough Acquisitions.pdf](http://www.scc.ca.gov/webmaster/ftp/pdf/sccbb/0811bb/0811Board05%20Watsonville%20Slough%20Acquisitions.pdf)>  
in the amount of \$6,000,000. Additional funding by the Nature Conservancy and Wildlife Conservation Board has been approved in the total amount of \$16,180,000 for the acquisition of these parcels free and clear with ownership and management of this property by the project applicant, The Land Trust of Santa Cruz County.

For the reasons outlined below, I am respectfully requesting that you please reconsider this decision and minimally modify it due to possibly intentional and purposeful inaccurate and incomplete staff reports and due diligence done in connection with the application and it's proposed continuation of berry production and, consequently, agricultural well pumping on these parcels.

Earlier today, I have forwarded you emails through Sam Schuchat at the Coastal Conservancy for the purpose of documenting the history, since 2006, of my attempts/efforts to meet with Terry Corwin at the Land Trust of Santa Cruz to advise and to confer with them on the unadvisability of their plans and "direction" to preserve our farmlands, wetlands, and water supplies-watersheds-habitats, etc., in the Pajaro Valley.

The DVD's "Our Inconvenient Truth", that I have provided to you for your review was also supplied to the Land Trust twice in early 2007, along with requests to meet with them and discuss their plans "to preserve farmlands" with ag easements and other strategies that were oblivious to our local ground water overuse and salt water intrusion catastrophe caused by growing 25% of this country's berries here in Pajaro Valley.

My contention is that the SC Land Trust purposefully ignored/"stonewalled" me for 2 years so they could present their plan to continue ag well pumping on the Watsonville wetlands properties to derive revenues for themselves...at the expense of our water supply and the massive further salt water intrusion resource loss caused by their continued pumping.

I further contend that the omission by the Land Trust of SC in their application to you (and others) for funding for this project of the vital and necessary information relative to cessation

of continued ag well pumping and the requirements of the Pajaro Basin Management Plan that I provided them with was purposeful and intentional. The facts indicate that the Land Trust wants and wanted to continue to pump ag wells and grow berries so the land can be rented and substantial revenues derived for the Land Trust's operations. The nondisclosure of this information to you has occasioned action by the Coastal Conservancy for funding which is actually counter to the purposes for which this funding was requested by the Land Trust and is by law intended. The Land Trust and their Board and President in it's entirety refuses to communicate with me on this matter and/or reconsider their approach.

Specifically, for example, on page 7.), the project, as currently approved and configured, is inconsistent, not "consistent with the Conservancy's enabling legislation as it will provide for" not improved, but rather, further and continued unconscionably and chronically degraded "water quality for the lower Pajaro River and Monterey Bay" through, according to the late Marc Reisner, author of Cadillac Desert, speaking here in Pajaro in 1998, "the worst salt intrusion resource loss in the world" caused by berry overproduction here which continues to this moment.

The additional claims of consistency with Goal6 Objective 6E, Objective 7A (page 7.), claims of "urgency", resolution of more than one issue are likewise specious and unsubstantiated.

I request and write from a position of specific successful and insightful experiences for well over 15 years in this area on these specific water and critical habitat issues.

I am very aware of and laud the fact that "the Conservancy also provided funds for the construction of the Wetland Educational Resource Center, located on the Pajaro Valley High School Campus, directly across from the proposed acquisitions."

This center and program and it's importance to the approval and high school's successful existence at this site was initially conceived by me in my capacity Co-Chair of the Curriculum Development Committee [http://dougforsupervisor.com/new\\_high\\_school.htm](http://dougforsupervisor.com/new_high_school.htm) for the new high school, which I was an ardent supporter and Committee member of in 2000, when the high school was approved by the Coastal Commission....despite the equally ardent opposition of groups like, surprisingly, Wetlands Watch! How things change!

My past successful collaboration with Fish and Game in 1992-1995 in acquisition of 43 acre Willoughby Ranch [http://207.111.238.178/new\\_page\\_10.htm](http://207.111.238.178/new_page_10.htm) w/ Jim Sorro (Video <http://poqonip.org/video.html>) also greatly heightened my appreciation of the habitat and well as critical water management values of various uses for these properties....and what constituted their highest and best use.

I think, from my experience, I have some very good suggestions for you to consider. I hope you will provide me the opportunity to do so.

Respectfully submitted,  
Douglas Deitch  
Executive Director  
Monterey Bay Conservancy  
501 Mission Street, Suite 1  
Santa Cruz, California, 95060  
831-429-4009  
[www.be Gentlewiththeearth.com](http://www.be Gentlewiththeearth.com) <http://www.be Gentlewiththeearth.com>

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**LAND  
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OF SANTA CRUZ  
COUNTY

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Santa Cruz, CA 95060  
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Terry Corwin

February 23, 2009

Douglas Bosco  
Chair  
California State Coastal Conservancy  
1330 Broadway  
13th floor  
Oakland CA 94612  
FAX: 510 286-0470

Re: Watsonville Sloughs

Dear Chairman Bosco:

I am writing to express the deep appreciation of the Land Trust of Santa Cruz County for the grants approved at your November meeting to assist with the acquisition of property in the Watsonville Sloughs. The Land Trust's ownership will establish a permanent role in restoring the sensitive watershed and wetlands of the sloughs, improving their habitat values and water quality, while maintaining agricultural cultivation so important to the local economy and the nation's need for food production.

The opportunity to work actively as a member of the region's agricultural community is particularly important to the Land Trust as the Pajaro Valley continues to seek solutions to the overdraft of its aquifer. We anticipate that restoration projects on site will improve water quality in the sloughs, decrease water use and run-off and increase recharge of the groundwater on-site with significant long-term benefit to the health of the watershed. As a landowner committed to the critical importance of conservation benefits, balancing habitat and water quality needs with agricultural productivity, the Land Trust will have the unique opportunity to contribute to solutions for the water supply challenges that have faced this region, like so much of our arid state, for more than fifty years.

With the Conservancy's support, we look forward to engagement in the Pajaro Valley in the near and long term, particularly as the historical challenges are affected and aggravated by climate change.

Sincerely,

*Terry Corwin*

Terry Corwin

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### PENINSULA OPEN SPACE TRUST ACQUIRES 95 ACRES OF WATSONVILLE SLOUGH

User Rating: 0 / 0  
Poor      Best

Written by --  
Sunday, 15 February 2009 00:00



Partnership with Land Trust of Santa Cruz County and Nature Conservancy Rescues Land Protection Campaign in Wake of State Bond-Funding Freeze



**PALO ALTO** — Peninsula Open Space Trust (POST) is partnering with the Land Trust of Santa Cruz County (LTSCC) and The Nature Conservancy to protect 95 acres of wetland habitat and agricultural land at the heart of the Watsonville Sloughs, Santa Cruz County's largest freshwater wetland. POST stepped in to acquire the property at the request of LTSCC, whose state funding for the project was frozen as a result of the budget impasse in Sacramento.

Using its land acquisition fund, POST took title to the land, known formerly as the Cheung Ranch, on January 9 for \$3.1 million. The amount paid includes a \$1.5 million grant to POST from The Nature Conservancy expressly for this project. This grant was made possible by a Conservancy fund previously established by the David and Lucile Packard Foundation to protect high-priority habitats on California's Central Coast.

The property, located west of Highway 1 in Watsonville, includes important wildlife habitats adjacent to some of the most valuable and fertile organic farmland in California. The site's wetlands help maintain water quality and provide habitats for an array of native birds and amphibians.

On December 19, conservation organizations in California were notified that a bond funding from state agencies for their projects had been suspended as of December 17. This halted all previously designated spending from these restricted bond funds. Projects throughout California designed to create and maintain local parks and protect open space, agricultural land, watershed land and wildlife habitat were all affected.

After unsuccessfully pursuing other remedies, officials from LTSCC contacted POST on January 5 to see if the Palo Alto-based land trust could help with the acquisition, which had to close in three days. POST, working closely with LTSC and Monterey-based representatives of The Nature Conservancy, mobilized to complete the \$3.1 million purchase in less than a week. In the event that stat

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1111 Franklin Street, 12<sup>th</sup> Floor  
Oakland, CA 94607-5200  
(510) 987-9220  
FAX: (510) 987-9224

February 19, 2009

Douglas Deitch  
Monterey Bay Conservancy  
501 Mission Street  
Santa Cruz, CA 95060

Dear Mr. Deitch:

On behalf of Chairman Blum, this acknowledges receipt of your letter and CD mailed February 17. Your correspondence will be reported to the Board in the next report of communications. It is my understanding that President Yudof also received your items.

We appreciate your concern and for taking the time to write.

Sincerely,

A handwritten signature in black ink, appearing to be "Diane M. Griffiths", written over a horizontal line.

Diane M. Griffiths  
Secretary and Chief of Staff to The Regents

E2043

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### UC president calls reaction to E. coli outbreak 'a hysteria'

Tom Ragan - Sentinel staff writer  
Article Launched: 03/24/2007 3:00:00 AM PDT

WATSONVILLE — UC President Robert Dynes vowed Friday to look into the possibility of bringing more research scientists to the fields of the Central Coast, where E. coli outbreaks last year are changing the future of farming and the concept of food safety.

On his second day in the area, Dynes learned a little bit more about the powerful strawberry industry here, in which the university has played a crucial role.

A former physicist, Dynes said the solutions to preventing food-borne illness ultimately will lie with better agricultural practices and sound science.

"There's a hysteria and everybody is blaming everybody else," he said. "Sound science is what we need, and right now everybody is confused as to how the strain is being transmitted.

"What's happening is growers and ranchers are look at the circumstances and are coming up with their best guesses on how to prevent it"


Federal and state health officials have traced the source of contamination to four ranches, including Mission Organics in San Benito County, and Wickstrom Ranch just outside Aromas, but Dynes said there is still much to learn about how the unusually potent strain, O157:H7, is transferred from a field of spinach to the grocery stores.

As part of the tour, Dynes listened to those who have felt the adverse effects of E. coli firsthand: local growers and cattle ranchers under increasing pressure to protect their produce.

Those in the livestock industry — between 2 and 3 percent of the cattle are known to carry the strain — have suddenly found themselves having to set their cattle operations back 800 feet from farmland.

Growers are considering building fences to keep wildlife out as the cry for answers among buyers and retailers increases with every new report of E. coli contamination, which, in turn, is affecting their bottom line.

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But Friday's visit wasn't all gloom and doom. Dynes learned plenty about the strawberry industry at the Watsonville-based UC Davis Strawberry Research Center, where many of the country's varieties of strawberries are created.

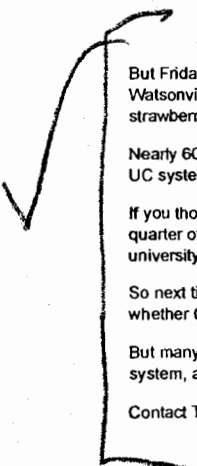
Nearly 60 percent of the world's strawberries come from strawberry breeding and licensing laboratories in the UC system, which has succeeded in creating 33 varieties in California since the late 1970s.

If you thought that the strawberry industry was big in the Pajaro Valley, responsible for providing at least a quarter of the country's strawberries, consider this: the UC System made \$5 million in royalties last year, the university's fifth largest revenue generator.

So next time you eat a strawberry, bear in mind that here are subtle differences in tastes in each variety, whether Camarosa, Diamante, Ventana, Albion or Seascape.

But many of them would not have been bred or cross bred had it not been for the pomologists in the UC system, according to Pam Kan-Rice, a spokeswoman for the UC system.

Contact Tom Ragan at [tragan@santacruzsentinel.com](mailto:tragan@santacruzsentinel.com)





5)05)

# Letters to the Editor

## From Doug Deitch

Dear Editors,

Let's do the numbers.

According to UC President Dynes during his visit here a few weeks back, the UC Strawberry "Pomology" Research Facility in Watsonville provides 60% of the technology and strains for our \$500 million local Pajaro production here, reportedly one-fourth of our country's total, and more elsewhere.

President Dynes proudly reports that UC yearly earns \$5 million royalties from this, its fifth-biggest revenue generator. However, our local costs include 90 percent of our yearly salt water intrusion water resource loss of \$300 million (the equivalent of 7.5 new SC Desal plants operating 24/7 at \$40 million a pop ... or \$270 million) which is effectively "exported" and appropriated from our local groundwater supplies in berry product by multinational corporations who sell and ship it worldwide.

Our local massive saltwater intrusion resource loss of 15,000 acre/feet approximates this year's total San Lorenzo River flow of 16,700 a/f. Additionally, our community must bear the costs attributable to helping support the extremely low-income 20,000 undocumented workers and other documented farmworkers and their families who reportedly reside in our county to maintain this production. Though UCSC and the UC systems talk "sustainability," is this \$5 million a year maybe the reason that there is only UCSC and UC silence and nonresponse to our local, massive, and utterly unsustainable annual saltwater intrusion resource loss, the worst in the world according to the late Mark Reisner, author of Cadillac Desert, caused by the 90 percent user ... our local berry overproduction?

Please see [gentlewiththeearth.org](http://gentlewiththeearth.org) for the rest of the story!

Doug Deitch  
Executive Director  
Monterey Bay Conservancy  
501 Mission Street  
Santa Cruz, Ca., 95060  
[ddeitch@pogonip.org](mailto:ddeitch@pogonip.org)

2007-05-10

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### Negligence in PV water troubles basis of suit

DAN WHITE - Sentinel staff writer  
Article Launched: 05/21/2000 3:00:00 AM PDT

SANTA CRUZ — Doug Deitch, an unsuccessful candidate in this year's Board of Supervisors race, is suing the board, saying it has been negligent in its handling of the Pajaro Valley's water troubles.

Deitch, a property manager, made water issues the center of his supervisorial campaigns in 1996 and again this year, losing both times by a wide margin.

Deitch's lawyer, Alexander Henson of Carmel, said the suit is an attempt to force the supervisors to declare a ground-water emergency in the Pajaro Valley, which has long wrestled with problems like water overdraft and sea water creeping into the underground supply of fresh water.

Supervisors considered declaring a ground-water emergency last year, which would have enabled the county to take over water-management duties from the Pajaro Valley Water Management Agency. Ultimately, the supervisors opted against the idea in part because of concerns over their legal jurisdiction.

Supervisor Mardi Wormhoudt said Friday that the lawsuit, filed in Santa Cruz County Superior Court, strikes her as a publicity stunt.


"I appreciate Mr. Deitch's concern about water overdraft in South County," she said. "But if he thinks that it is going to be solved by his filing a lawsuit against the Board of Supervisors, I wouldn't want to rely on him to water my garden."

"What he thinks will be accomplished by this, other than publicity for himself, I really don't know," she said.


The Pajaro Valley Water Management Agency has argued that the supervisors doesn't have authority over it because the agency was created by the state Legislature in 1984.

Deitch's suit was filed May 12. Henson said the county board has until early June to respond.

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In recent years, the board has been divided on the idea of a ground-water emergency.

Wormhoudt said the county does need to keep working on the issue, "but that doesn't mean I think we need to step in and take over the job of elected members of water districts."

The Pajaro Valley water agency estimates that Pajaro Valley farmers and residents pump out approximately 69,000 acre feet of water per year. An acre foot equals 326,000 gallons of water, enough water for about four households in a year.

In comparison, rainfall and other sources recharge the water tables only 31,000 acre feet per year, according to the agency. But these figures are the subject of some debate in the valley and vary considerably from year to year.

Henson said the board has resisted the idea of declaring an area-wide emergency in spite of the serious and escalating problem.

Deitch contends he, and others in the county, have suffered "irreparable injury" from the overdraft and supply troubles. He is seeking no monetary recourse, except for court costs.

Henson said the court system is not an unusual forum to settle this kind of concern.

"This is what I do all the time," said Henson, noting that he has filed suits against several counties, including Sonoma and Mendocino, to force them to upgrade "deficient" general plans.



72 of 13

Santa Cruz, CA 95060  
(831) 429-4009  
www.pajaro.org  
Fed. Reg. # 8442973

# County of Santa Cruz

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April 11, 2000

Douglas Deitch  
3540 Porter Gulch Road  
Aptos, CA 95003

Dear Mr. Deitch:

*Doug*

Thank you for your letter dated April 6, 2000, requesting that the Board reconsider the action taken at our February 15, 2000, meeting with regard to Item 61, a progress report on ongoing activities to mitigate overdraft in the Pajaro Valley. It is my personal belief that the action taken by the Board at that time was appropriate and, accordingly, I am respectfully declining your request to bring the matter back before the Board. However, I have circulated a copy of your letter to each Supervisor for their individual consideration.

Sincerely,

*Mardi*

MARDI WORMHOUDT, Chair  
Board of Supervisors

MW:ted

cc: Clerk of the Board  
Planning Department

1977A6



# County of Santa Cruz

## OFFICE OF THE COUNTY COUNSEL

701 OCEAN STREET, SUITE 505, SANTA CRUZ, CA 95060-4068  
(831) 454-2040 FAX: (831) 454-2115

SAMUEL TORRES, JR., COUNTY COUNSEL

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Marie Costa	Ellen Aldridge
Jane M. Scott	Kim Baskett

October 27, 2000

Alexander T. Henson, Esq.  
27880 Dorris Dr., Suite 120  
Carmel, CA 93923

**Re: Deitch v. Santa Cruz County Board of Supervisors  
Santa Cruz County Superior Court Case No. CV 138377**

Dear Mr. Henson:

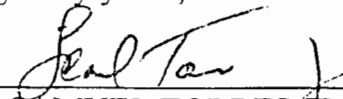
This note summarizes our short conversation on Thursday, October 26, 2000. At that time you informed me that the County was required to respond, and that our previous agreement had been terminated.

I noted my current staffing shortages and you graciously consented to my providing you in letter form the basis of our demurrer.

You agreed to defer my initiation of the meet and confer process until after November 10, 2000. By that date my office will provide you our general legal obligations to your complaint. If, after you have had a chance to review our position, and we cannot come to an agreement, then we can discuss the options for a briefing schedule with a hearing date in early January. Should you have any questions please feel free to contact me.

Thank you for your professional courtesy.

Very truly yours,

  
 \_\_\_\_\_  
 SAMUEL TORRES JR.  
 County Counsel

ST/caw

cc: Kim Baskett

F4 of 13

AND JURY



COUNTY OF SANTA CRUZ

GOVERNMENTAL CENTER

P.O. BOX 542 701 OCEAN STREET  
SANTA CRUZ, CALIFORNIA 95061  
(408) 454-2099

September 20, 1999

Douglas Deitch  
3540 Porter Gulch Road  
Aptos CA 95003

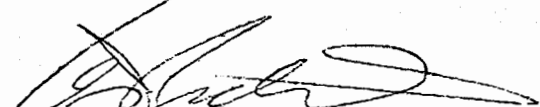
Dear Mr. Deitch:

The Santa Cruz Civil Grand Jury is in receipt of your complaint dated September 3, 1999, and assigned case #SD99-104.

We will advise you of the disposition of this complaint.

Thank you for bringing this matter to our attention.

Sincerely yours,

  
Al Richard, Foreperson

75 6 + 1)



# County of Santa Cruz

## GRAND JURY

701 Ocean Street, Room 318-1  
Santa Cruz, California 95060  
(831) 454-2099

August 28, 2003

Mr. Douglas Deitch  
3540 Porter Gulch  
Aptos, CA 95003

Reference: Request for Grand Jury Action  
Complaint cc- 03-001  
RE: County Board of Supervisors

Dear Mr. Deitch,

This is to acknowledge receipt of your complaint referenced above. Your request will be considered by the Santa Cruz County Grand Jury. Should you have additional information, please forward it for inclusion with the complaint file.

Law and policy prohibit the Grand Jury from disclosing any aspect of an inquiry. Recommendations, if any, may be contained in the Grand Jury Final Report.

Be assured that your identity will be known only to the Grand Jury. We are sworn to secrecy to ensure confidentiality of your identity and any information you may supply to us.

Sincerely,

Otis Johnson, Foreperson  
2003-04 Santa Cruz County Grand Jury

cc: Grand Jury File  
CC Committee

**FILED**  
DEC 11 2006  
ALEX CALVO, CLERK  
BY DEBORAH ROJAS  
DEPUTY, SANTA CRUZ COUNTY

1 DOUGLAS DEITCH  
3540 PORTER GULCH ROAD  
2 APTOS, CA 95003  
831-476-7662  
3 IN PROPRIA PERSONA  
4  
5  
6  
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8 SUPERIOR COURT OF CALIFORNIA  
9 COUNTY OF SANTA CRUZ

OV 155917

10 DOUGLAS DEITCH, ) Case No.:  
11 )  
12 ) Petitioner, )  
13 ) and )  
14 ) SANTA CRUZ COUNTY BOARD OF )  
15 ) SUPERVISORS, )  
16 ) Respondent )

17  
18 Comes now Petitioner to allege as follows:

19 I.

20 Petitioner Douglas Deitch is a resident and taxpayer in the County of  
21 Santa Cruz. To exhaust administrative remedies and to secure from the  
22 Respondent Board of Supervisors the performance of their ministerial duty  
23 which they have failed to perform as set out below, Petitioner Deitch has  
24 appeared before the Respondent Board of Supervisors on numerous times over  
25 the last eight years and in written letter and by email, requested  
agendization and action on the county-wide groundwater emergency matter under

1 Title 7 Santa Cruz County Ordinance, Section 7.70.130. Petitioner Deitch has  
2 additionally previously filed suit on this matter, (see CV13887), which  
3 Respondent claims is now barred by the statute of limitations.

4 The Petitioner brings this action on behalf of himself, of who resides  
5 in the immediate vicinity of the water supply which is being over-drafted and  
6 depleted as hereinafter alleged. Petitioner is beneficially interested in  
7 the faithful performance by Respondent of its official duties concerning the  
8 protection and preservation of the environment in Santa Cruz County.

9 Petitioner is aggrieved and has suffered irreparable injury from the actions  
10 complained of herein in that there is no adequate remedy at law to make up  
11 for the failure of the Respondent to agendize this matter, to hold a public  
12 hearing, and to declare a water emergency as required by the local county  
13 ordinance.

14 II.

15 Respondent Santa Cruz County Board of Supervisors is that body which  
16 directly governs Santa Cruz County and has ultimate responsibility for the  
17 enforcement of all county ordinances including Title 7, Section 7.70.130.

18 III.

19 Pursuant to Title 7 Santa Cruz County Ordinance, Section 7.70.130 the  
20 Respondent Board of Supervisors has a ministerial duty of declare a  
21 groundwater emergency upon presentation of evidence that the areas to be  
22 designated are experiencing a groundwater overdraft exceeding the long-term  
23 average annual recharge of groundwater resources, and has been so  
24 continuously since at least 1988 (please see [www.begentlewiththeearth.org](http://www.begentlewiththeearth.org),  
25 com. or net.) when the Board of Supervisors first reviewed and approved the  
first comprehensive county-wide Water Resources Management Report, that the

1 creation of new wells or the expansion of existing wells in the designated  
 2 area will significantly increase the demand on the affected aquifer and  
 3 thereby increase overdraft; and that the continuation of the overdraft will  
 4 result in further depletion and degradation of the water resource that can  
 5 lead to impairment of the aquifer or allowing the ingress of low quality or  
 6 saline waters. In fact, since 1998, the County Report has indicated that  
 7 water resource loss has been 15,000 acre feet per year to salt water  
 8 intrusion. The Respondent Board further has a ministerial duty pursuant to  
 9 Section 7.70.130(B) to establish water conservation measures, to limit new  
 10 wells and to regulate pumping from existing wells in order to prevent further  
 11 degradation or depletion of the affected aquifer.

IV.

12  
 13 At a duly noticed public hearing held on February 15, 2000, and  
 14 numerous times before this date and thereafter, the Respondent took testimony  
 15 concerning whether the conditions requiring the declaration of a groundwater  
 16 emergency as defined in Section 7.70.130 existed in the Pajaro River Valley  
 17 groundwater basin. There was and is substantial uncontradicted evidence that  
 18 the conditions set out in Section 7.70.130 requiring the declaration of a  
 19 groundwater emergency do still today exist in the county groundwater basins,  
 20 and have continuously since April 1998. Notwithstanding such evidence and  
 21 the lack of any substantial evidence to show the conditions warranting the  
 22 declaration of a groundwater emergency did not exist, the Respondent refuses  
 23 to perform its ministerial duty to declare such a groundwater emergency.

Wherefore Petitioner prays as follows:

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- 1. For alternative and peremptory writs of mandate compelling Respondent to perform its ministerial duty to declare a groundwater emergency in all county groundwater basins;
- 2. For costs of suit including reasonable attorneys fees pursuant to Code of Civil Procedure Section 1021.5;
- 3. For such other further relief as the Court deems just and reasonable.

4.

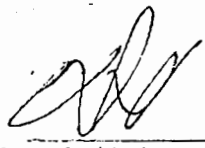
Date 12/11/2006

  
 \_\_\_\_\_  
 Douglas Deitch Petitioner

VERIFICATION

I Douglas Deitch declare under penalty of perjury of the laws of the state of California that all the information the stated herein is true and correct to the best of my knowledge.

Date 12/11/2006

  
 \_\_\_\_\_  
 Douglas Deitch Petitioner



# Farmers back Ellen Pirie in supervisor's race

Posted: Thursday, Apr 3rd, 2008

BY: ROGER SIDEMAN

REGISTER PAJARONIAW

It took just a couple hours for Santa Cruz County agriculture leaders to render a verdict for whom they want to win the June race for Second District Supervisor: Ellen Pirie.



Doug Deitch, a candidate for county supervisor, speaks before agriculture leaders Wednesday in Watsonville.

Pirie, who has held the position for seven years, earned the endorsement of the Santa Cruz County Farm Bureau after squaring off with two challengers Wednesday at a campaign forum sponsored by the agency.

Candidates seeking to replace Pirie are water activist and property manager Doug Deitch and Pajaro Valley High School music director Dan Young.

Since farm bureau leaders unanimously supported Pirie, their endorsement was announced almost immediately, with no need for debate.

"Although we don't agree on every issue, Ellen has been a great friend of farming and one of our few voices on the board," said Watsonville nursery owner David Cavanaugh. "The farm bureau believes she knows the issues and involves us in the process as issues come up."

The Second District is the county's most diverse, running from touristy Capitola through upscale Aptos, Rio del Mar and La Selva Beach, and into a portion of Watsonville.

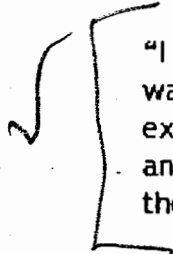
As far as farming goes, ag leaders described Young, who has never held office, as an unknown entity; Deitch is a one-issue candidate whose sole campaign platform is "anti-agriculture," they said.

Deitch believes that farmers are overusing groundwater. He called for taking 8,000 acres of Pajaro Valley agricultural land out of production and preserving it as open space. The plan would cost 5,000 people their jobs and an estimated \$150 million in lost revenue, he said.

At Wednesday's forum, held at the Golden Ricksha restaurant, each time Deitch was asked a question on issues ranging from road repairs to the apple moth infestation, he would switch the subject to groundwater overdraft.

A similar platform did not land him too much support in past supervisor races in 1996 or 2000. He earned about 11 percent of the vote in 1996.

But Deitch said he is hardly discouraged by the farm bureau's endorsement of Pirie.



"I congratulate Ellen and I assume this endorsement indicates that the agriculture community wants to continue to use 90 percent of our water for ag production at 200 percent overdraft, expropriating \$400 million of our groundwater annually as they've done for the last 10 years, and continue to pay nothing for it," Deitch said. "I hope for the future of the community that the voters want something done differently."

Young takes a hard-line stance against growth and development. As the county faces more and more pressure to rezone land currently devoted to agriculture, some farmers said they liked his desire to preserve agriculture and keep the City of Watsonville's growth in check.

Cavanaugh said he liked Pirie's record, despite occasional disagreements with farmers over issues like funding for fire protection, road repairs and the current moratorium on roadside herbicide spraying.

"She regularly sends her aides to listen in on meetings of the bureau's legislative committee," he said. "I don't remember (Supervisor) Tony Campos ever sending someone."

Pirie has raised \$20,858 for her campaign so far, according to the county elections office. Deitch and Young have not reported contributions. Deitch said his campaign is self-financed.

In addition to the farm bureau's endorsement, Pirie earned the Democratic Women's Club endorsement last week.

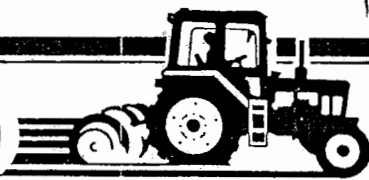
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\*Photo by Tarmo Hannula\*

(Published in 4/3/08 edition)

Print Close Window

# Between the FURROWS



SANTA CRUZ COUNTY FARM BUREAU

## Election Focuses on Farming

By Jamie Marks, Editor

THIS month's primary election for state, national and local offices has drawn a large number of candidates. At the county level, three supervisors' seats are being contended, with incumbents in the First (Live Oak) and Second (Aptos) Districts facing several challengers. The Fifth District seat (San Lorenzo Valley) will go to a newcomer.

The Santa Cruz County Farm Bureau posed the following two questions to all of the supervisory candidates; their response follows:

1. *What do you feel is agriculture's biggest contribution to the county, and how would you work to maintain and enhance agriculture in Santa Cruz County?*

2. *How should the county solve conflicts, which arise at times, between agriculture and the urban population?*

### Second District (Aptos-La Selva)

Walt Symons, incumbent:

1. "Agriculture's biggest contribution is that it is the number one industry in the county.

It employs some 7,000 people directly and indirectly. The county produces more strawberries, fresh fruits and vegetables than any place in the United States. What I would do and intend to do and what needs to be done is that cities and the county must create ways to encourage the economic growth of agriculture and stop the flight of processing and frozen-food plants by positively dealing with their economic interests."

2. "The major conflict is not necessarily methyl bromide, because that will filter out to its own level of acceptance. The major conflict is the attempt by cities and individuals to develop prime ag land. In this county, only 7.5 percent of prime ag land is in farming. To continually deplete that land will adversely impact the ability of farmers to continue to farm."

Paul Elerick, retired IBM manager:

1. "Agriculture provides the jobs in the field and frozen-food industry for thousands of people in South County. In order to keep it going, the county ought to get behind the various water

Continued on Page 8

**In This Issue**

Criteria for electing a good supervisor ...  
Page 2

Ecological Farm meeting sows some ideas ...  
Page 10

## Second District Candidates



Walt Symons



Paul Elerick



Lowell Hurst



Doug Deitch

# Supervisor Contenders Discuss Ag

From Page 1

agencies and continue to see that the water is fresh. The issue of saltwater intrusion I continue to be concerned about. The county ought to see that the proposed projects to control it, like a diversionary dam, pipeline for imported water and recharge, can happen. They're in a position to remove roadblocks."

2. "The conflicts between what the ag people need to be competitive are incompatible with neighborhoods. Methyl bromide, I believe, is a problem, and it should have been faced long before now. On the other hand, I can't see wiping out the strawberry industry without some kind of reasonable plan to help people survive. There's got to be another way. Supervisors are going to be accused of holding firm on rezoning ag land, but there is a conflict in the use of ag land for non-ag use, such as industrial uses. I believe the county needs to hold firm (on rezoning ag land) as long as they can, but not rigidly. There are some things that people have to be willing to compromise on."

Lowell Hurst, City Councilman, Teacher:

1. "The major contribution to the

county is in its economic, dynamic growth and job creation, and revenue generation. It's the jobs that are created by the agricultural industry that help create the economy throughout the county. In addition to the production factors of hundreds of crops, it's the packaging and transportation and sales jobs and law jobs, banking and financing jobs that are created because of ag's production."

2. "We have to make sure that farmers have a right to farm. That means limiting the bureaucracy and some of the governmental controls on agriculture. It doesn't mean we scrap the environmental laws or we allow farmers to be bad neighbors, but we need to review how we treat agriculture as a business. Agriculture needs adequate housing for its workers, it needs the infrastructure in terms of roads, and it needs the land to do processing and shipping from. It also needs an adequate water supply, but we have to make sure farmers are using water effectively and that the aquifer is maintained for the future."

Doug Deitch, Property Manager:

1. "The biggest contribution of agriculture is it's the second biggest revenue production activity after tourism. Its contribution is through its revenue

production through self-sustainable and water-responsible activities. It's very important to me that all agricultural activity in Santa Cruz be self-sustaining and water responsible. By providing a supervisorial function that will work with farm activity, we can work toward that objective. I want people to call me and feel that I'm accessible."

2. "(Conflicts) have to be reviewed on a case-by-case basis. There are problems with the use of methyl bromide, versus problems of the location of substandard housing in inappropriate areas. I know that the Farm Bureau wants to change the location of farmworker housing. There should be appropriate land zoned for ag housing, and I would assume that would be located in an urban area."

## First District (Live Oak-Summit)

Jan Beautz, Incumbent, attorney:

1. "Agriculture's biggest contribution is it's one of the top two industries in the county, the other being tourism. Obviously it's a really important financial base for the community. It think it's important for our country, too, not just for our little area, to produce food. We can take pride in how much food is grown in this county. As to what the supervisors can do, I think it's

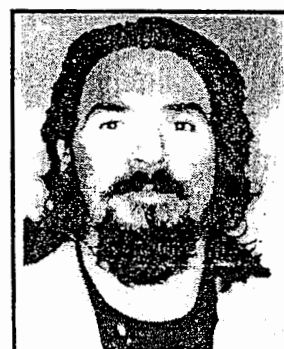
## First District Candidates



Jan Beautz



Carolyn Busenhardt



Michael Duffy

Th 99

Douglas Deitch  
Monterey Bay Conservancy  
501 Mission Street, Suite 1  
Santa Cruz, California, 95060  
February 25, 2009  
(831) 429-4009

**RECEIVED**

FEB 25 2009

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Susan Craig  
Dan Carl  
Charles Lester  
California Coastal Commission  
Central Coast District Office  
725 Front Street, Suite 300  
Santa Cruz, California, 95060  
Hand Delivered 1:30 PM 2/25/08

Re: Material Error in description of "Minor Amendment Determination for Santa Cruz County Local Coastal Program Amendment Number 1-08 Part 4 (Wells and Groundwater Protection) prepared February 19, 2009 (for March 12, 2009 Hearing)

Dear Dan, Susan, and Charles,

I have just received by mail and reviewed the above referenced document. On page 2, (in "9"), you have described the "word modification" (technically, an amendment by additional language) of the Well Ordinance, as it relates to "declaration of a groundwater emergency" materially incorrectly.

You have described this "modification"/amendment as "providing the Board of Supervisors greater discretion to declare a groundwater emergency..."

This is a material error. Can you please correct this? Under the current Well Ordinance enacted in 1987 and continuously since (attached as Exhibit A), there is and has been no discretion by the Board of Supervisors on whether or not to declare a groundwater emergency.

The duty and legal obligation under the language of Gary Patton's Well Ordinance to declare a groundwater emergency by the Santa Cruz County Board of Supervisors (BOS) has been a nondiscretionary though unperformed ministerial duty under our local laws continuously since 1998. This fact is indicated in John Ricker's staff report specifically (Exhibit B), the "Environmental Review Initial Study" (Exhibit C), "NEGATIVE DECLARATION AND NOTICE OF DETERMINATION" (Exhibit D), etc.

The BOS has just been purposefully and intentionally ignoring it. That is the main point in my DVD, "Our Inconvenient Truth" and the two lawsuits and two Grand Jury Complaints I have tendered on this matter to unsuccessfully prod them along.

①

As I informed Susan Craig, this same lack of following the law by our BOS was just again demonstrated in the BOS's recent public hearing to consider a groundwater emergency late last year in 2008. The BOS circulated the yet to be approved by the Coastal Commission (and the subject of your March hearing) "new ordinance" as the applicable law, with the "new language" and "new BOS discretion" contained in the new language. Testimony by Dale Skillicorn, Watsonville City Councilman, specifically opposed declaration of an emergency because, he contended, "adequate progress" was being made. The BOS agreed....four to one.

Under the California State Constitution's "police powers", the BOS of any particular county always has the discretionary powers relative to a "groundwater emergency" whether there is a "Well Ordinance" or not.

The codified nondiscretionary ministerial duty created by Gary Patton's 1987 Well Ordinance, and it's proposed significant amendment by Santa Cruz County, which would very materially change the nature of this duty to a discretionary option (already provided by the state constitution) should be accurately described by you so the Commission and Executive Director can make the proper determinations on process and proper consideration based on the actual weight and import of what duty is being changed and how. Please correct this so it is clear. (EXHIBIT E)

Thank you,



Douglas Deitch  
ED/MBC

# EXHIBIT A

## ORDINANCE NO. 1806

AN ORDINANCE REPEALING EXISTING CHAPTER 7.70 RELATING TO WATER WELLS AND ADDING NEW CHAPTER 7.70 RELATING TO WATER WELLS

### SECTION I

Chapter 7.70 of the Santa Cruz County Code is hereby repealed.

### SECTION II

Title 7 of the Santa Cruz County Code is hereby amended by adding Chapter 7.70 thereto, said new Chapter to read:

### CHAPTER 7.70

#### Sections:

- 7.70.010 Purpose of Provisions.
- 7.70.020 Definitions.
- 7.70.030 Permit—Required—Issuance.
- 7.70.040 Permit—Expiration
- 7.70.050 Permit—Suspension or Revocation.
- 7.70.060 Licensed Contractor Required.
- 7.70.070 State Reporting.
- 7.70.080 Inspections.
- 7.70.090 Technical Standards.
- 7.70.100 Special Groundwater Protection.
- 7.70.110 Pajaro Groundwater Protection Zone.
- 7.70.120 Soquel Creek Service Area Restrictions.
- 7.70.130 Groundwater Emergencies.
- 7.70.140 Abatement—Investigation.
- 7.70.150 Abatement Generally.
- 7.70.160 Nuisance—Abatement of Safety Hazard.
- 7.70.170 Variances.
- 7.70.180 Amendments.

#### 7.70.010 Purpose of Provisions.

It is the purpose of this chapter to provide for the construction, repair, and reconstruction of all wells, including cathodic protection wells, test wells and monitoring wells, to the end that the groundwater of this county will not be polluted or contaminated and that water obtained from such wells will be suitable for the purpose for which used and will not jeopardize the health, safety or welfare of the people of this county. It is also the purpose of this chapter to provide for the destruction of abandoned wells, monitoring wells, test wells, and cathodic protection wells found to be public nuisances, or when otherwise appropriate, to the end that all such wells will not cause pollution or contamination of groundwater or otherwise jeopardize the health, safety or welfare of the people of this county. It is also the purpose of this chapter to implement policies of the County General Plan and the Local Coastal Program Land Use Plan.

2. There is need for careful monitoring and management of the groundwater basin; and
  3. Careful management is greatly facilitated by restricting the number of new wells and requiring that new development be supplied by Soquel Creek County Water District, a public agency empowered to carry out monitoring and management efforts; and
  4. Construction of new wells within the water district service area increases the potential public health hazard of cross-connection between public and private water systems;
  5. Current County General Plan policies require that new development within the urban services line be served by a public water system.
- b. Well Construction Within the Soquel Creek County Water District Service Area. The construction of new wells shall be prohibited on parcels that are both within the area designated as the "Soquel-Aptos groundwater basin" (as adopted by separate Board Resolution 233-81) and within two hundred feet of a water distribution line of the Soquel Creek County Water District.
- c. New Well Construction--Exceptions. The following new well construction shall not be subject to the prohibition of this section:
1. Replacement of existing wells;
  2. Construction of a well for agricultural use, monitoring and observation purposes, or cathodic protection; and
  3. Well construction on parcels which cannot be served by the Soquel Creek County Water District, as determined by the Environmental Health Director based on a written statement from the District clearly demonstrating their inability to provide service.
  4. Construction of a well by any public water purveyor.

#### 7.70.130 Groundwater Emergencies

A groundwater emergency shall be declared in areas demonstrated to be experiencing a groundwater overdraft exceeding the safe yield in order to prevent further depletion and degradation of water resources where such degradation threatens the public health, safety and welfare of the community. The emergency shall have no effect on drilling of monitoring or cathodic protection wells.



- a. **Declaration.** A declaration of a groundwater emergency shall be made by the Board of Supervisors only after a public hearing. Such an emergency shall be declared by resolution of the Board after the public hearing to consider all relevant information such as, but not limited to, the most current groundwater study, recommendations of water purveyors and the Water Advisory Commission and only after the following findings can be made:
1. The designated area is experiencing a groundwater overdraft exceeding the long-term average annual recharge of groundwater resource;
  2. The creation of new wells or the expansion of existing wells will significantly increase the demand on the affected aquifer and thereby increase the overdraft; and
  3. The continuation of the overdraft will result in further depletion and degradation of the water resource that can lead to, but is not limited to, impairment of the aquifer or allowing the ingress of low-quality or saline waters.
- b. **Immediate Measure to Alleviate.** In areas where a groundwater emergency is declared, the Board of Supervisors shall take action to establish water conservation measures, to limit construction of new wells, to regulate pumping from or expansion of existing wells, and in order to prevent further depletion and degradation of the affected aquifer. In taking these actions, the Board shall give consideration to the seasonal needs of agriculture including, but not limited to, the following factors.
1. Agriculture's need to repair, maintain and replace existing wells serving existing agricultural use acreage;
  2. Well construction for agricultural use to serve existing agricultural acreage when new parcels are created due to change in legal ownership, split parcels or parcels created by change in zoning laws or other governmental regulations; and
  3. The different water requirements of agricultural crops.
- c. **Long-term Measures to Alleviate.** The Board shall initiate actions such as, but not limited to, joint power agreements with other agencies with the goal of finding permanent solutions to the groundwater problem.
- d. **Duration.** A groundwater emergency and the measures enacted to alleviate the emergency shall remain in effect until rescinded as established in Subsection F of this Section.
- e. **Annual Review.** The establishment of a groundwater emergency and all actions to alleviate the emergency shall be reviewed by the Board of Supervisors within one year of the date of enactment of the measures at a public hearing to decide whether the declaration of emergency shall remain in effect.

- f. **Rescinding.** A groundwater emergency shall be rescinded by resolution of the Board of Supervisors after a public hearing when one of the following findings are made:
1. Alternative water sources which compensate for the existing overdraft and supply the affected area are developed;
  2. A groundwater management program is implemented which will allow for additional development without contribution to groundwater overdraft; or
  3. The Board of Supervisors determines that new information is available which indicates that the technical data upon which the original findings were based is no longer valid.

**7.70.140 Abatement--Investigation.**

The Health Officer may, upon reasonable cause to believe that an abandoned well, a cathodic protection well, or any other well may potentially either contaminate or pollute groundwater, investigate the situation to determine whether such potential threat to groundwater quality or present nuisance does, in fact exist. The Health Officer shall have the power, upon presenting identification to any person apparently in control of the premises to enter upon any such premises between the hours of 8:00 a.m. and 6:00 p.m., to discover or inspect any thing or condition which may indicate such a nuisance or threat to groundwater quality. The Health Officer may examine such premises, things or conditions, take such samples and make such tests as needed and take other steps reasonably necessary for the proper investigation and determination of whether a nuisance or threat to groundwater quality exists.

**7.70.150 Abatement Generally.**

Whenever the Health Officer determines that an abandoned well, a cathodic protection well, or any other well is presently polluting or contaminating groundwater or poses a substantial threat to groundwater quality or is otherwise not in compliance with the provisions of this Chapter, the Health Officer may abate the well as a nuisance in accordance with the provisions of Chapter 1.14 of this Code.

**7.70.160 Nuisance--Abatement of Safety Hazard.**

This chapter shall not affect the right of the county to abate as a public nuisance pursuant to Article 9, Chapter 1, Division 1, Title 5, of the Government Code (commencing with Section 50230) any abandoned well, or cathodic protection well, or other well which presents a safety hazard.

**7.70.170 Variances.**

The Health Officer shall have the power to allow minor variances from the standards referred to in Section 7.70.090 so as to prevent unnecessary hardship or injustice and at the same time accomplish the general purpose and intent of the standards and the resource protection policies of the County's General Plan and the Local Coastal Program Land Use Plan. In no case may a variance be granted that constitutes a special privilege.

**7.70.180 Amendments**

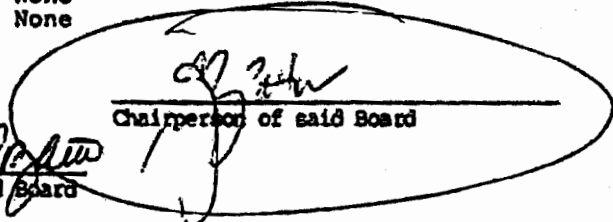
Any revision to this chapter which applies to the coastal zone shall be reviewed by the Executive Director of the California Coastal Commission to determine whether it constitutes an amendment to the Local Coastal Program. When an ordinance revision constitutes an amendment to the Local Coastal Program, such revision shall be processed pursuant to the hearing and notification provisions of Chapter 13.03 of the Santa Cruz County Code, and shall be subject to approval by the California Coastal Commission.

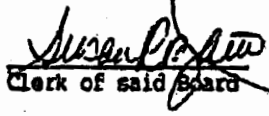
**SECTION III**

This ordinance shall take effect upon certification by the State Coastal Commission, or after 30 days, whichever is greater.

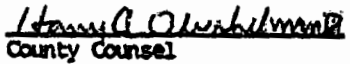
PASSED AND ADOPTED this 6th day of January, 1987, by the Board of Supervisors of the County of Santa Cruz by the following vote:

AYES: SUPERVISORS Forbus, Levy, Mchl, Cucchiara, Patton  
NOES: SUPERVISORS None  
ABSENT: SUPERVISORS None

  
Chairperson of said Board

ATTEST:   
Clerk of said Board

APPROVED AS TO FORM:

  
County Counsel

CC:

County Counsel  
Planning  
Environmental Health  
Health Services Agency







HEALTH SERVICES AGENCY  
ADMINISTRATION

EXHIBIT B  
(see next page, please) 0331  
**County of Santa Cruz**

**HEALTH SERVICES AGENCY**

P.O. BOX 982, 1080 EMELINE AVENUE  
SANTA CRUZ, CA 95061  
(831) 454-4000 Fax: (831) 454-4770

December 21, 2007

AGENDA: January 8, 2008

BOARD OF SUPERVISORS  
County of Santa Cruz  
701 Ocean Street  
Santa Cruz, CA 95060

**SUBJECT: AMENDMENT OF COUNTY CODE CHAPTER 7.70, WATER WELLS**

Dear Members of the Board:

On December 11, 2007, your Board gave conceptual approval to proposed amendments to the Well Ordinance found in Chapter 7.70 of the County Code and directed that the ordinance be returned for final consideration on January 8, 2008 (Attachment 1, Exhibit A). The proposed changes are described in the November 26, 2007 letter from the Health Services Agency Administrator (Attachment 3). Because this is a Local Coastal Program amendment, an additional noticed public hearing is also required. The proposed amendments also provide for your Board to adopt by resolution the water efficiency measures to be applied to wells serving larger uses (Attachment 2).

The proposed amendments were reviewed by the Environmental Coordinator on April 9, 2007. A negative declaration without mitigations was issued on April 11, 2007 (Attachment 4). The review period ended on May 16, 2007. The Planning Commission considered the ordinance and recommended approval on July 25, 2007. Commissioners recommended approval of the ordinance with one further change to provide that the water use efficiency measures be established by resolution of your Board. The Planning Commission Resolution is attached as Attachment 5.

**Summary**

It is therefore **RECOMMENDED** that your Board:

1. Hold a public hearing on the proposed ordinance amending Chapter 7.70 of the Santa Cruz County Code entitled Water Wells (Attachment 1, Exhibit A); and
2. Approve the resolution adopting the amendments to Chapter 7.70 and adopting the negative declaration (Attachment 1); and
3. Adopt the attached resolution (Attachment 2) establishing water use efficiency measures to be required as a condition of permit approval for wells serving larger uses.

0353

be required in lieu of environmental review for individual well permits. Originally staff had proposed that these measures be established by policy of the Health Officer in order to be able to be easily updated to take advantage of new water efficiency technologies as they become available. The Planning Commission recommended that these measures be established by resolution of your Board and that they be updated on an annual basis. Proposed water use efficiency measures are included as Attachment 3, and will be returned to your Board for adoption with the final adoption of the ordinance. A draft of these measures were reviewed by both the Planning Commission and the Water Advisory Commission.

#### Provisions and Procedures for Environmental Review and Groundwater Management –

Environmental review for individual wells has been a potentially cumbersome process and poses potential conflicts with California water law. Related to this, wording in other parts of the ordinance has been modified to make it more clear that well permits are ministerial permits to ensure that wells are constructed in a safe fashion. This approach is similar to building permits. Environmental review, which would address water use, would still be required for any discretionary land use approvals required. Subsequent to Planning Commission review, staff has added recommended wording that would maintain the requirement for environmental review for wells serving water systems that are under the jurisdiction of the State Department of Public Health. These systems serve more than 200 connections and are mostly public agencies that would be responsible for conducting the environmental review process.

Criteria for Declaring a Groundwater Emergency – Section 7.70.130 currently requires the Board of Supervisors to declare a groundwater emergency if a basin is in overdraft, regardless of whether the overdraft condition is already being addressed. Wording is proposed which provides the Board of Supervisors with discretion in the declaration of an emergency and allows the Board to not declare an emergency if adequate actions are already being taken to address the overdraft condition.

Miscellaneous Wording Changes – There are numerous areas throughout the ordinance where minor wording changes are made for clarification of purpose or procedures.

#### Environmental Review, Planning Commission Review, and Comments Received

The proposed ordinance and policy amendments have been reviewed by the Well Ordinance Technical Advisory Group, the Water Advisory Commission, the Soquel Creek Water District, City of Santa Cruz Water Department, and other water agency representatives. Most of the comments received from those groups have been addressed. However, a number of comments were received urging that further restrictions on allowed water use be imposed as a condition of new well permits. While the ordinance includes provisions requiring efficiency of water use, staff believes that the permitting of wells is primarily intended to ensure the protection of water quality with regard to the potential impact of individual wells. Management of water resources needs to be done at the basin wide level, utilizing measures that involve all affected users. These are well beyond the scope of the well ordinance, which only addresses a limited number of wells at the time of construction. Another commenter, Mr. Doug Deitch, has commented that the declaration of a groundwater emergency should continue to be mandatory in the event of demonstrated overdraft. However, it is not clear what the benefit of that would be, if the responsible agencies recognize the problem and are taking constructive steps necessary to address the overdraft.

The proposed amendments were reviewed by the Environmental Coordinator on April 9, 2007. A negative declaration without mitigations was issued on April 11, 2007 (Attachment 4). The review period ended on May 16, 2007.

50

9

EXHIBIT e

0357



## Environmental Review Initial Study

Application Number: **Countywide**

Date.; April 9, 2007

Staff Planner: John Ricker, Environmental Health Services

### I. OVERVIEW AND ENVIRONMENTAL DETERMINATION

APPLICANT: County of Santa Cruz

APN: Countywide

OWNER: N/A

SUPERVISORAL DISTRICT: Countywide

LOCATION: Countywide

#### SUMMARY PROJECT DESCRIPTION:

Amend County Code Chapter 7.70, Water Wells, to: 1) allow the Board of Supervisors to waive the requirement for a County well permit if another agency provides comparable oversight; 2) require that wells may only be constructed on an existing legal lot of record; 3) allow construction of a replacement well less than 100 feet from a septic system if there is no other alternative and the well is constructed in a manner to prevent contamination; 4) require evaluation by an appropriately qualified professional when a new well is proposed to be located in proximity to a hazardous materials facility or site of known soil or groundwater contamination; 5) provide for development of additional procedures specific to construction and destruction of monitoring wells; 6) provide more explicit requirements for the destruction of abandoned wells; 7) expand the requirement that wells must utilize deeper seals and can only draw from one aquifer zone throughout the Pajaro groundwater basin or any other areas where poor groundwater quality may exist; 8) require basic water quality testing whenever a new or replacement well is constructed; 9) require water use efficiency measures for wells serving more than 4 residential connections or serve nonresidential uses that consume more than 2 acre-feet per year, in lieu of requiring environmental review for individual well permits; 10) modify wording to provide the Board of Supervisors with discretion in the declaration of a groundwater emergency, depending on whether adequate actions are being taken to address the overdraft condition; and, 11) other minor editorial corrections and clarifications.

**ALL OF THE FOLLOWING POTENTIAL ENVIRONMENTAL IMPACTS ARE EVALUATED IN THIS INITIAL STUDY. CATEGORIES THAT ARE MARKED HAVE BEEN ANALYZED IN GREATER DETAIL BASED ON PROJECT SPECIFIC INFORMATION.**

 Geology/Soils

 Noise

 Hydrology/Water Supply/Water Quality

 Air Quality

*EXHIBIT D*

(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123

TOM BURNS, PLANNING DIRECTOR

**NEGATIVE DECLARATION AND NOTICE OF DETERMINATION**

**Application Number: Countywide**

**John Ricker, for Santa Cruz County, Environmental Health Services**

Amend County Code Chapter 7.70, Water Wells, to: 1) allow the Board of Supervisors to waive the requirement for a County well permit if another agency provides comparable oversight; 2) require that wells may only be constructed on an existing legal lot of record; 3) allow construction of a replacement well less than 100 feet from a septic system if there is no other alternative and the well is constructed in a manner to prevent contamination; 4) require evaluation by an appropriately qualified professional when a new well is proposed to be located in proximity to a hazardous materials facility or site of known soil or groundwater contamination; 5) provide for development of additional procedures specific to construction and destruction of monitoring wells; 6) provide more explicit requirements for the destruction of abandoned wells; 7) expand the requirement that wells must utilize deeper seals and can only draw from one aquifer zone throughout the Pajaro groundwater basin or any other areas where poor groundwater quality may exist; 8) require basic water quality testing whenever a new or replacement well is constructed; 9) require water use efficiency measures for wells serving more than 4 residential connections or serve nonresidential uses that consume more than 2 acre-feet per year, in lieu of requiring environmental review for individual well permits; 10) modify wording to provide the Board of Supervisors with discretion in the declaration of a groundwater emergency, depending on whether adequate actions are being taken to address the overdraft condition; and, 11) other minor editorial corrections and clarifications. The project's location is Countywide in the Santa Cruz County, California.

**APN: Countywide**

**John Ricker, Staff Planner**

**Zone District: Countywide**

**ACTION: Negative Declaration**

**REVIEW PERIOD ENDS: May 16, 2007**

**This project will be considered at a public hearing by the Planning Commission. The time, date and location have not been set. When scheduling does occur, these items will be included in all public hearing notices for the project.**

Findings:

This project, if conditioned to comply with required mitigation measures or conditions shown below, will not have significant effect on the environment. The expected environmental impacts of the project are documented in the Initial Study on this project attached to the original of this notice on file with the Planning Department, County of Santa Cruz, 701 Ocean Street, Santa Cruz, California.

Required Mitigation Measures or Conditions:

- None
- Are Attached

Review Period Ends May 16, 2007

Date Approved By Environmental Coordinator July 18, 2007

*Claudia Slater*  
 \_\_\_\_\_  
 CLAUDIA SLATER  
 Environmental Coordinator  
 (831) 454-5175

If this project is approved, complete and file this notice with the Clerk of the Board:

NOTICE OF DETERMINATION

The Final Approval of This Project was Granted by \_\_\_\_\_

on \_\_\_\_\_ No EIR was prepared under CEQA.

50

THE PROJECT WAS DETERMINED TO NOT HAVE SIGNIFICANT EFFECT ON THE ENVIRONMENT.

11

**CBD BOSMAIL**

*MY COMMENT - EXHIBIT E*

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**From:** CBD BOSMAIL  
**Sent:** Thursday, January 03, 2008 2:48 PM  
**To:** CBD BOSMAIL  
**Subject:** Agenda Comments

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**Meeting Date :** 1/8/2008**Item Number :** 50**Name :** Douglas Deitch**Email :** ddeitch@pogonip.org**Address :** 3540 Porter Gulch Road  
Aptos, Ca., 95003**Phone :** 831-476-7662**Comments :**

The proposed Well Ordinance amendments will have a significant effect on the environment (as has your last ten years of intentional nonobservance of your duty under the Well ordinance to declare a county wide groundwater emergency and protect our water supply).

Consequently, under CEQA, an environmental impact report is required. Please performed legally, morally, and environmentally sufficient review before proceeding further. Dr. Fisher of UCSC has already briefed you on the severity of the problem, damage done, and incredibly long timeline to see any possible correction.

At some point I hope you will come to the realization that the law applies to you as well and you will finally follow it...that's what your oath of office was all about.



**FORM FOR DISCLOSURE  
OF EX PARTE  
COMMUNICATION**

**RECEIVED**

MAR 09 2009

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Date and time of communication: 3/5/09, 3:45 pm  
(For messages sent to a Commissioner by mail or facsimile or received as a telephone or other message, date and time of receipt should be indicated.)

Location of communication: via e-mail  
(For communications sent by mail or facsimile, or received as a telephone or other message, indicate the means of transmission.)


Person(s) initiating communication: John Belsher

Person(s) receiving communication: Bonnie Neely

Name or description of project: Agenda Item Th10a - Brett Appeal, San Luis Obispo County

Detailed substantive description of content of communication:  
(If communication included written material, attach a copy of the complete text of the written material.)

See attached e-mail.

  
Signature of Commissioner

Date: March 5, 2009

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceedings and provide the Executive Director with a copy of any written material that was part of the communication.

Coastal Commission Fax: 415 904-5400.

Th10a

**Hampton, Nancy**

**From:** Neely, Bonnie  
**Sent:** Thursday, March 05, 2009 10:59 PM  
**To:** Hampton, Nancy  
**Subject:** FW: Coastal Commission hearing re Brett

**RECEIVED**

MAR 09 2009

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

An Ex parte.

-----Original Message-----

**From:** John Belsher [mailto:john@belsherandbecker.com]  
**Sent:** Thu 3/5/2009 3:45 PM  
**To:** Neely, Bonnie  
**Cc:**  
**Subject:** Coastal Commission hearing re Brett

Bonnie: I have a client with an appeal before the Commission this coming Thursday, "Brett". This is regarding a large, 25-foot high revetment the Bretts built with native rock pursuant to a County permit in 2001. The Commission staff mailed out a report we got this past Monday asking the Bretts to remove the revetment and install a poured seawall, which could cost upwards of \$1 million. We need some time to digest this highly technical 50-page report so we want to ask for a continuance of one month. I am hoping that since the appeal has been pending for many years this will not be a problem. I also would like to know if a letter to you formally requesting the continuance would be appropriate. We have already used our automatic extension when this came up over a year ago, again on short notice so this continuance would be discretionary. I have a call in to Katcho and I am fairly sure he will support a continuance. I really appreciate any assistance or direction you can provide. Please feel free to call anytime.

John Belsher  
805-550-5848 cell

Th10a

**BELSHER & BECKER**

ATTORNEYS AT LAW

412 MARSH STREET

SAN LUIS OBISPO, CALIFORNIA 93401

TELEPHONE (805) 542-9900

FAX (805) 542-9949

E-MAIL slolaw@belsherandbecker.com

JOHN W. BELSHER  
HOWARD MARK B. BECKER  
STEVEN P. ROBERTS  
GREGORY A. CONNELL**RECEIVED**

MAR 09 2009

March 6, 2009

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

VIA E MAIL

Bonnie.Neely@co.humboldt.ca.usChairperson Bonnie Neely  
Board of Supervisors  
825 Fifth Street, Room 111  
Eureka, CA 95501**RE: LaVon Brett Revetment; Appeal A-3-SLO-01-040**  
(Thursday, March 12, 2009 Central Coast Agenda)

Dear Chairperson Neely:

This letter requests a continuance of one month for consideration of the referenced item. The appeal by Coastal Commissioners Potter and Wan concerns a rock revetment Mr. and Mrs. Brett built in Cayucos with native rock, pursuant to an emergency permit and minor use permit the County permit issued in 2001. The appeal has been pending for a number of years owing to the complex geologic matters involved. The conditions are stable so there is no apparent emergency. Per its usual practice, the Commission staff mailed out a report last week which my client and I received this past Monday asking the Bretts to remove the revetment and install a poured seawall, which could cost upwards of \$1 million. We need some time to digest this highly technical 50-page report. We have already used the one automatic extension afforded applicants. Therefore we are requesting this continuance as a matter of discretion of the Commission.

Your consideration of this request is greatly appreciated.

Sincerely,

**BELSHER & BECKER**
  
John W. Belsher

JWB/ab

cc: LaVon Brett  
George Brett  
Supervisor Katcho Achadjian (via fax)  
Jonathan Bishop (via fax)

P:\John's Files\Brett, George\Coastal Commission - Neely 03 06 09.wpd