

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT OFFICE
45 FREMONT ST, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5260
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W10

NORTH CENTRAL COAST DISTRICT DEPUTY DIRECTOR'S REPORT

For the

November Meeting of the California Coastal Commission

MEMORANDUM

Date: **October 31, 2011**

TO: Commissioners and Interested Parties

FROM: Charles Lester, Executive Director

SUBJECT: **Deputy Director's Report**

Following is a listing for the waivers, emergency permits, immaterial amendments and extensions issued by the North Central Coast District Office for the **November 2, 2011**, Coastal Commission hearing. Copies of the applicable items are attached for your review. Each item includes a listing of the applicants involved, a description of the proposed development, and a project location.

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

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

NO ITEMS TO REPORT THIS MONTH

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**Memorandum****October 31, 2011**

To: Commissioners and Interested Parties

FROM: Charles Lester, Executive Director
North Central Coast District

Re: ***Additional Information for Commission Meeting
Wednesday, November 2, 2011***

<u>Agenda Item</u>	<u>Applicant</u>	<u>Description</u>	<u>Page</u>
W11.5a	A-2-SON-11-037 Bodega Bay Public Utilities District	Correspondence, Leah S. Goldberg	1-19
		Correspondence, Margaret Briare	20
		Correspondence, Jean Laird	21
		Correspondence, Betty Burrridge	22-25
		Correspondence, Diane Hichwa	26
		Correspondence, Leah S. Goldberg	27-41

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Leah S. Goldberg
Attorney at Law
lgoldberg@meyersnave.com

W11.5a

MEMORANDUM

Via E-mail and Facsimile

DATE: October 26, 2011
TO: Commissioner Steve Kinsey
FROM: Leah S. Goldberg
COPY: Ruby Pap, California Coastal Commission
Ann Cheddar, Esq., California Coastal Commission
RE: Bodega Bay Concerned Citizens' Coastal Commission Appeal

As requested, the following is background material on the Bodega Bay Public Utility District ("BBPUD" or "District") Bay Flat Road Well Project ("Project").

The District obtains water from wells at three locations—Salmon Creek, the Roppolo well field and the Sand Dunes well field. No additional wells can be installed at Salmon Creek because the District cannot extract water during low flow periods in Salmon Creek.

On February 26, 2006, the California Department of Health Services (now the Department of Public Health ("DPH")) notified the BBPUD that the District could no longer meet its daily capacity through a combination of water sources and water storage facilities. Instead new regulations require that the maximum daily demand be met from water sources without reliance on water storage.

In response, in August 2007 the District prepared a Master Water Plan. The plan identified three projects that would bring the District into compliance with the new State regulations on water sources. Two out of three of these projects have been completed. 1) The District replaced a well at the Roppolo well field; 2) the District replaced a well at the Dunes well field. The third project enabling the District to comply with State water source requirements is the installation of another well.

In 2008, Todd Engineers prepared an assessment of the existing well fields and determined that the new well should be installed in the Sand Dunes well field because more water enters the groundwater basin than flows or is pumped out,

To: Commissioner Steve Kinsey
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even during drought years. The Salmon Creek well field is off limits for new wells at this time and a new well in the Roppolo well field would likely have too many adverse effects on environmentally sensitive areas. Because of the limitations on locating another well in the State Park, the report identified the approximate location for the new well in an already developed area. This is the contested Bay Flat Road well that is at issue in the Coastal Commission Appeal.

This District agreed with the Todd Engineering report because the well location was reasonably close to the existing water distribution lines (already existing in Bay Flat Road), the well site was easily accessible along already existing driveways and was located in a developed area. And equally important, at the time one of the homeowners agreed to house the well on her property.

The District subsequently prepared an Initial Study and Mitigated Negative Declaration ("MND") for the proposed well. A Notice of Intent to Adopt a MND was posted at the Project location, mailed to property owners within 300 feet of the project and circulated to the State Clearinghouse on June 19, 2008. No comments regarding the adequacy of the environmental document were received. The District subsequently adopted the MND and filed a Notice of Determination in August 2008.

The District discussed the need for a test well and evaluated whether a test well required a conditional user permit ("CUP") and a coastal development permit ("CDP"). Ultimately the District, in consultation with the County, decided to proceed conservatively and request a CUP and CDP for the test well that could be converted to a permanent well providing the well supplied adequate quantities of water.

The District submitted a coastal permit application (PLP09-0057) to the County of Sonoma's Permit and Resource Management Department ("PRMD") on June 9, 2009. On July 2, 2009, PRMD indicated the application was incomplete and inconsistent with the Local Coastal Plan because the proposed chlorination structure to disinfect water from the new well was located adjacent to a designated sanctuary-preservation area.

The District retained a biologist to identify wetland areas within 100 feet of Project components and directed the District Engineer to move the chlorination facility to an alternative location (from 1665 Bay Flat Road to 1707 Bay Flat Road) to avoid locating the chlorination structure within 100 feet of the adjacent rail pond or within 100 feet of the wetlands. New application materials were prepared to reflect this change and submitted to PRMD on April 7, 2010. Additional concerns were raised by PRMD and the adjacent property owners and responded to by the District. In summary, those concerns and related studies included:

1. Special status/endangered species

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- a. In March 2010, a WRA study concluded that there are no wetlands within 100 feet and no special status species present. Nesting bird and migratory butterfly mitigation was provided.
2. Impacts to wetlands north of the project site (between the residential area and the Dunes State Park)
 - a. In January 17, 2011, a WRA letter concludes no functioning wetland or riparian habitat is present in that area. The area contains some riparian habitat (60 feet to willow, 80 feet to bottom of slope) that is within the 100 foot setback. Waiver criteria for Appendix J and M of Coastal Plan was provided.
3. Impacts to rail pond (designated sanctuary-preservation area) from well pumping
 - a. Brelje & Race (B&R) prepared a total dissolved solids ("TDS") study in February 2010, to determine conditions in the rail pond. The study concluded that the rail pond and harbor are connected by an 18-inch culvert, water levels and salinity rise and fall with tide and that TDS measurements show a groundwater influence.
 - b. Todd Engineers assessed short- and long-term effects of pumping in a study in March 2010, that concluded that pumping the new well would not significantly impact the rail ponds on a short- or long-term basis and that ground water would continue to flow into the rail pond.
 - c. WRA reviewed the B&R and Todd studies to determine if the reduction of groundwater flow to rail ponds would impact biological resources and concluded that the reduction in flow would not significantly impact the rail ponds ecology as groundwater will continue to be discharged to the rail ponds and no significant variation of the current salinity variation between tides would occur.
4. Potential for ground subsidence/foundation issues
 - a. RGH (geotechnical engineers) reviewed the site and concluded that a safe foundation for the chlorination facility is achievable, October 2009.
 - b. In a July 13, 2010 memo, Todd Engineers indicated ground subsidence from pumping the proposed well is extremely unlikely with a conservative potential subsidence of 0.5 cm at 14 feet, 0.2 cm at 50 feet from the well.
5. Growth inducement
 - a. B&R produced a memo (August 18, 2010) describing that the Project is in response to new regulations. The District currently has adequate capacity to serve its build out population, but not in accordance with

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the new regulations. The memo further indicated that the District is obligated to provide service within its boundary and that growth is appropriately controlled by the County of Sonoma and the Coastal Commission, not the District.

With the above information, PRMD staff determined that Application PLP09-0057 was complete for processing on August 31, 2010.

Acting as a Responsible Agency under CEQA, PRMD staff completed the Subsequent MND on June 3, 2011, to address changes in the Project (i.e. the relocated chlorination structure) and subsequently issued a notice of intent to adopt the Subsequent MND. On July 12, 2011, the Sonoma County Board of Supervisors ("BOS") conducted the scheduled public hearing on the Subsequent MND. On a preliminary 3-1-1 straw vote, the BOS recommended certifying review and consideration of the information contained in the Subsequent MND, adopting the Subsequent MND, and approving the Project with additional conditions that were yet to be developed. The BOS directed County Counsel and PRMD staff to return to the BOS with a resolution reflecting the recommendations and concerns addressed by the BOS including a monitoring program to identify any impacts to the rail pond.

Then, in mid-July, the opponents to the Project then filed their appeal with the Coastal Commission, even before the monitoring program was presented to the Board of Supervisors for review consideration.

In the meantime, PRMD identified a deficiency in its notification procedures for the July 12 public hearing and scheduled an additional public hearing for September 27, 2011. PRMD worked with the District to develop a meaningful monitoring program to ensure that any impacts to the rail ponds were identified and remediated. That program was included in the Project's conditions of approval scheduled for the September 27, 2011 meeting. On September 27, 2011, the Project was approved by a 3-2 vote and included the new monitoring program.

On October 4, 2011, without any prompting or further requests from the appellant, Coastal Commission staff, who had held onto the prematurely filed appeal on behalf of the appellants, notified the County that an appeal had been "timely filed." BBPUD questions the Coastal Commission staff's actions and believes that the effect is that the Coastal Commission becomes an agent for the appellants in ensuring the timely filing of an appeal (that otherwise sought to appeal a non-appealable recommendation). The staff's actions serve to deprive the District of due process because the staff (as the agent for the appellants) are no longer neutral in reviewing the appeal and the County's actions.

To: Commissioner Steve Kinsey
From: Leah S. Goldberg
Re: Bodega Bay Concerned Citizens Coastal Commission Appeal
Date: October 26, 2011
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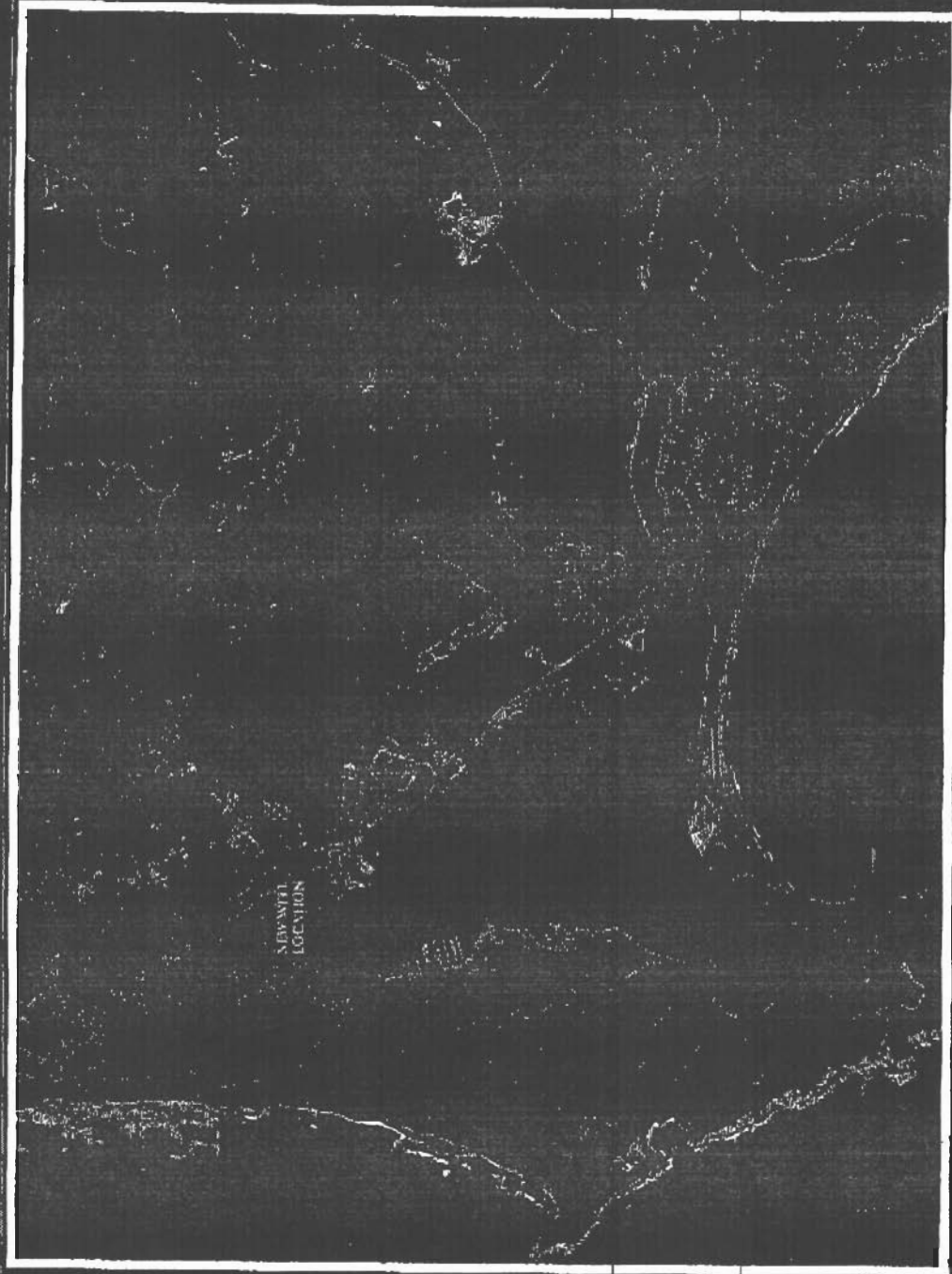
Attached to this memo, please find a PowerPoint that provides visual detail of the BBPUD Bay Flat Road Project. This PowerPoint was provided to the County Board of Supervisors and is part of the record.

1734750.2

Bodega Bay Public Utility District

Bay Flat Road Well

District Boundary



Existing Conditions

- Average day demand 220 gpd/RUE
- Service to 1833.44 RUEs
- Six (6) Wells
- Approximate water produced – 400,000 gallons per day
- Build-out \approx 2050 RUEs

New Regulations & Regulatory Limits on Production

- New CDPH rules require sufficient well production capacity to satisfy demands on the peak day of the year
- Peak production is computed assuming largest well out of service
- Well at Salmon Creek has been determined not to be a year round source, typically off when the peak demand occurs in the summer; not counted when computing peak capacity

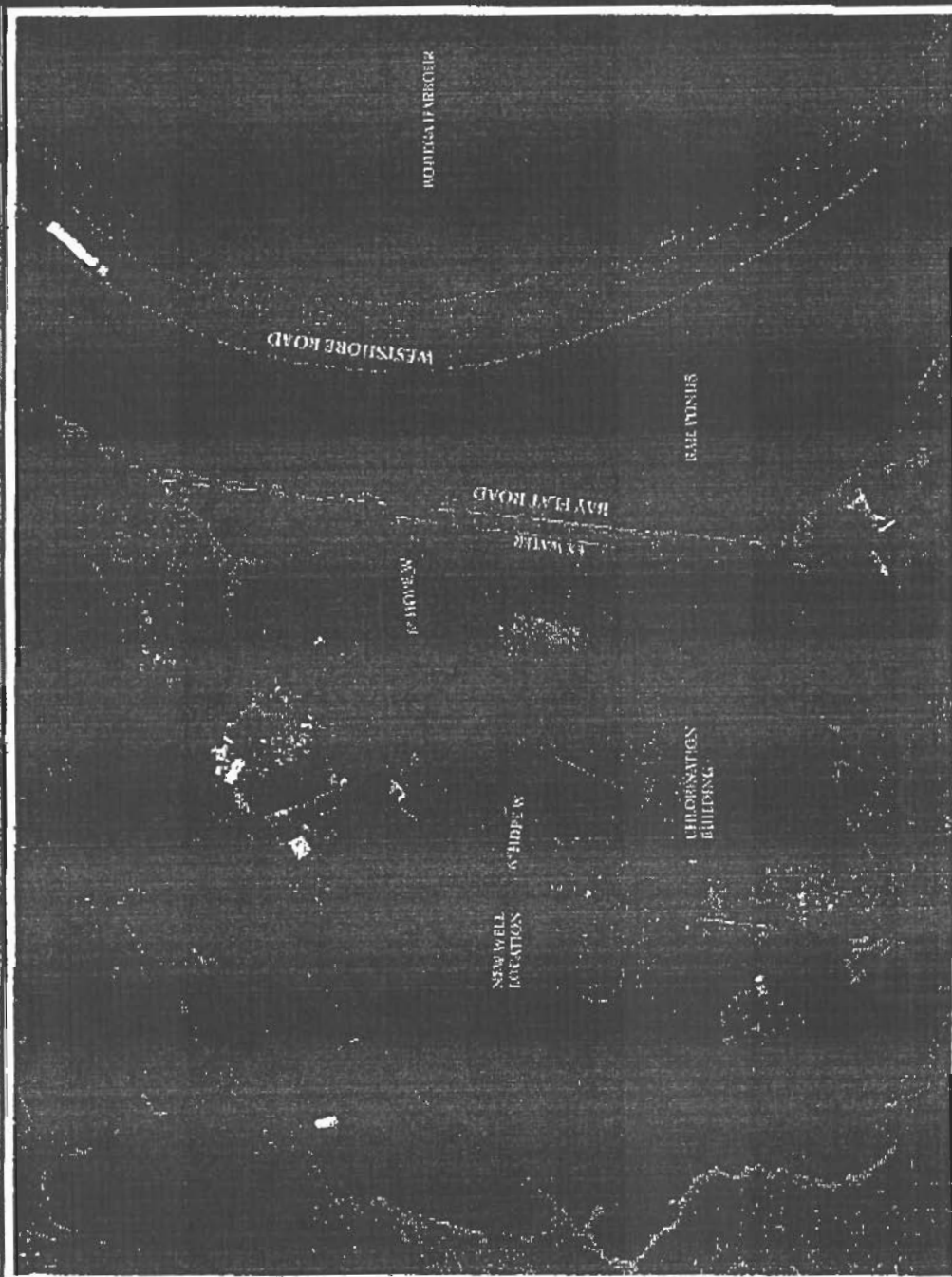
Peak Day Water Production and Demand - Today

➤ Existing Peak Day Production capacity with all wells running	655 gpm
➤ Existing Peak Day Demand	522 gpm
➤ Existing Peak Day Production allowed by State Regulators	480 gpm
➤ Required Production increase to meet State requirements	42 gpm

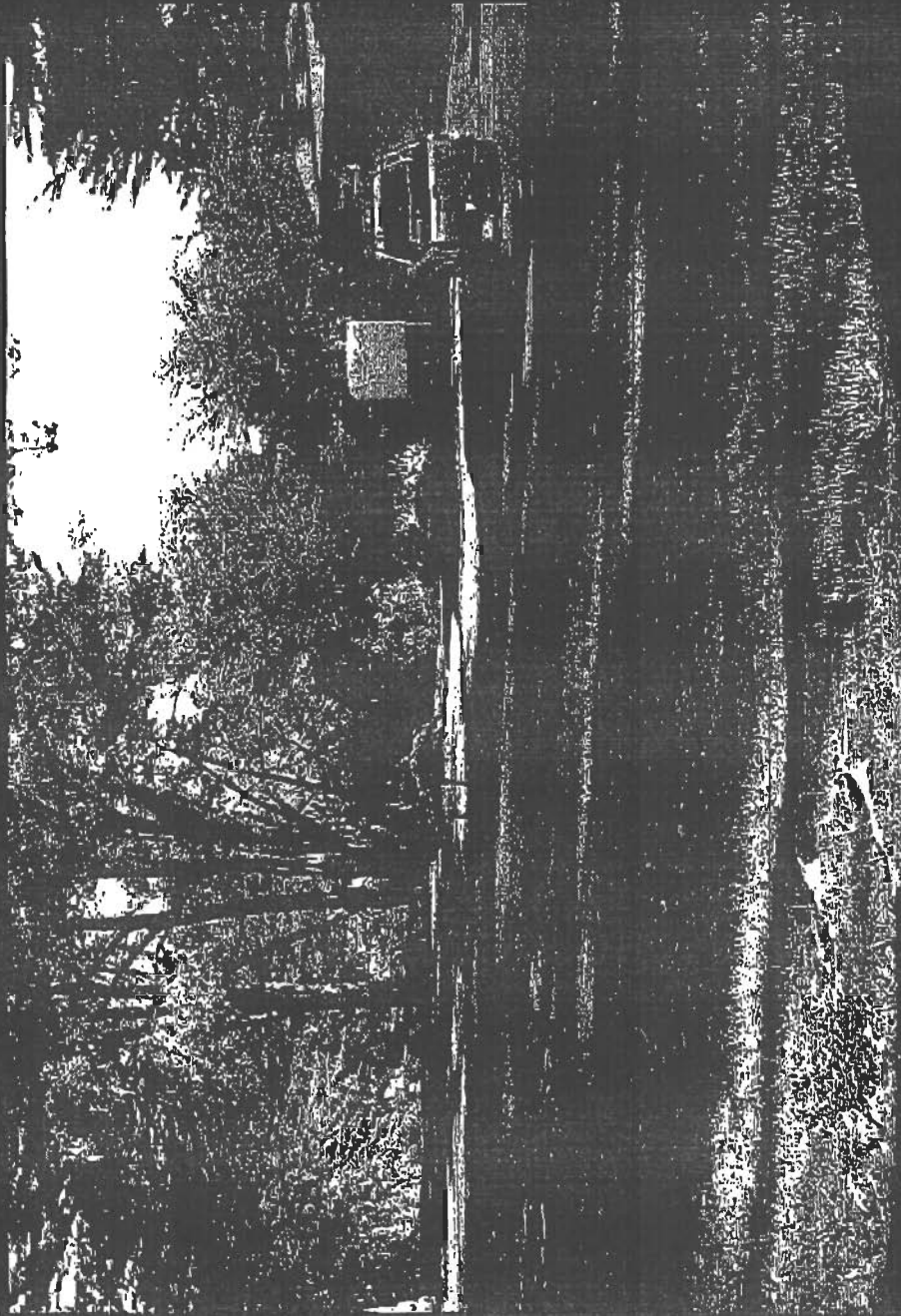
Peak Day Water Production and Demand Future Demands at Build-out

➤ Existing Peak Day Production capacity with all wells running	655 gpm
➤ Future Peak Day Production allowed by State Regulators with new Bay Flat Well installed	630 gpm
➤ Future Peak Day Demand at Build-out	592 gpm

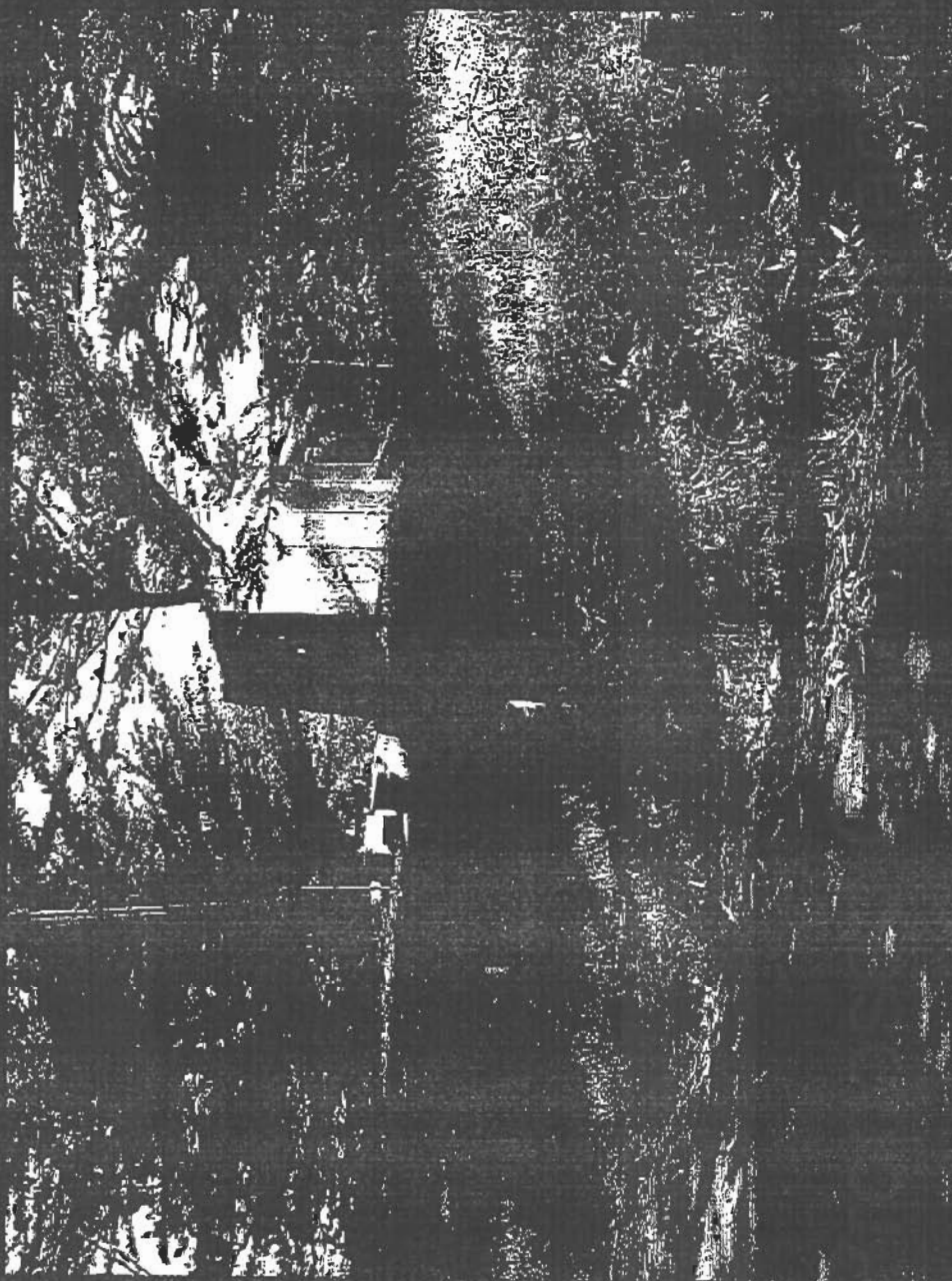
Project Location



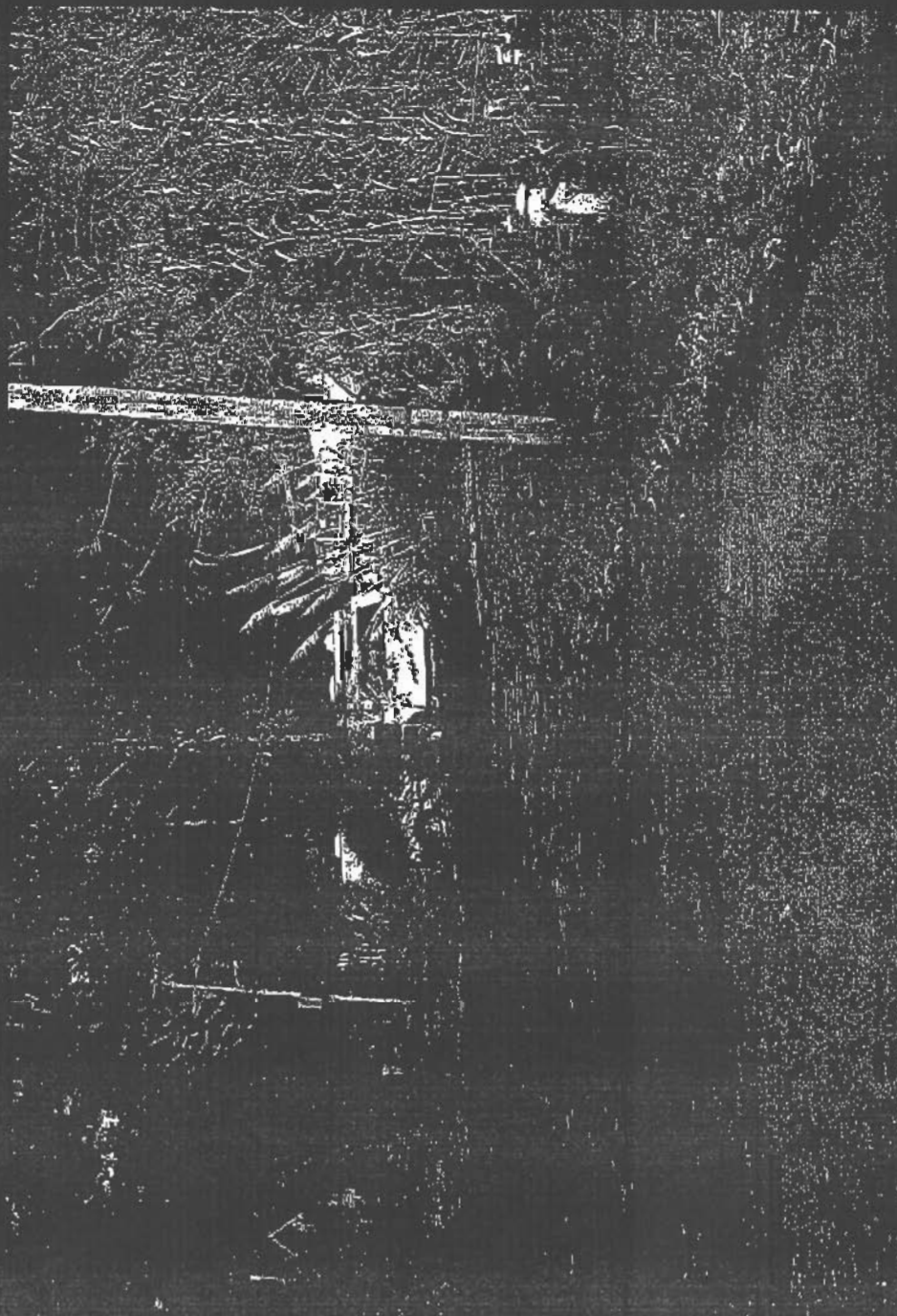
Proposed Well Site



Proposed Chlorination Facility Location



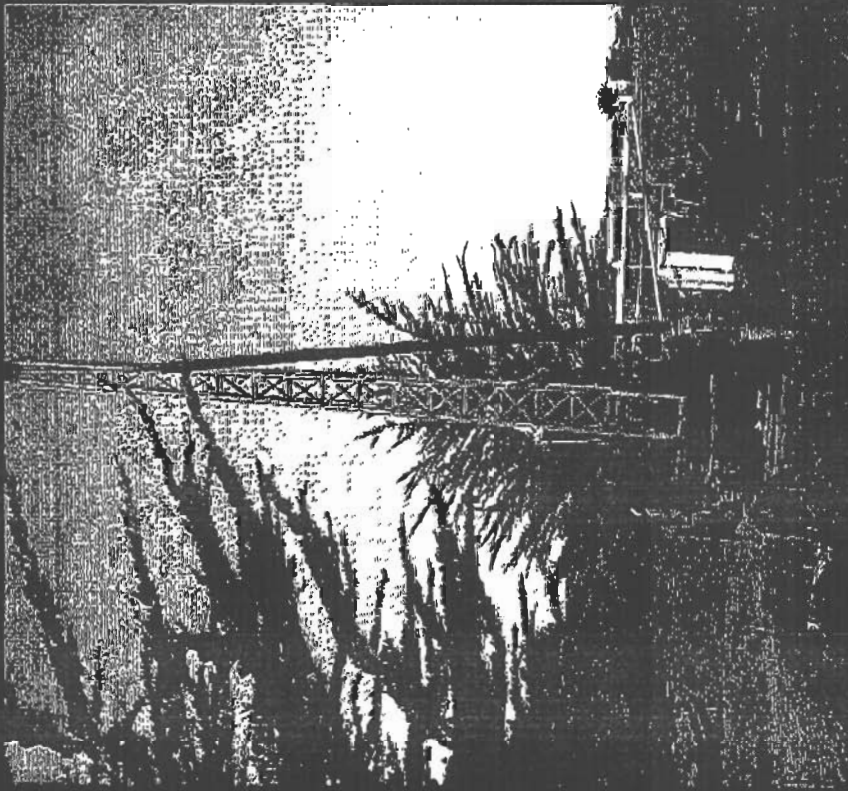
Intertie Location



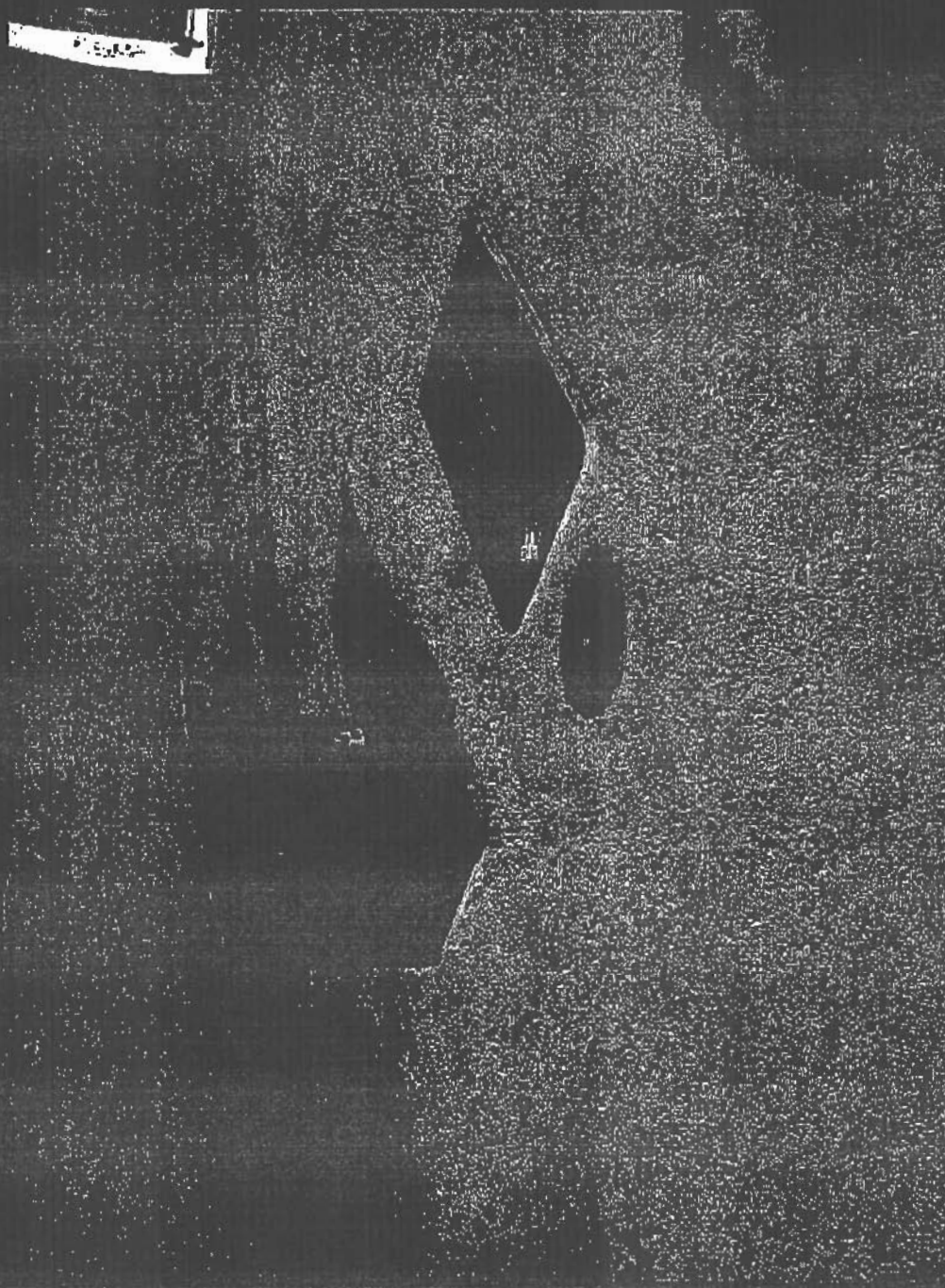
Driveway



Drilling Rig



Dunes Well



Rail Pond Interconnection

Rail Pond Inlet/Outlet

Harbour Inlet/Outlet



W11.5a

BODEGA BAY CONCERNED CITIZENS
P. O. Box 815
Bodega Bay, CA 94923

October 27, 2011

CALIFORNIA COASTAL COMMISSION
North Central Coast District Office
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

RECEIVED

OCT 27 2011

CALIFORNIA
COASTAL COMMISSION**ATTENTION: Ruby Pap, District Supervisor**

CC: Dr. Charles Lester, Executive Director
Jeffrey Staben

Coastal Permit No. A-2-Son-11-037

Once again, the Bodega Bay Concerned Citizens wish to thank you for your excellent review and staff report with regard to the Bay Flat Road Well project in Bodega Bay. Your analysis of the issues was superior and we fully appreciate your due diligence in the preparation of these documents.

Although we would like to attend the Substantial Issue hearing next week in Oceanside, it is outside of our travel possibilities to do so. Therefore, we ask that the Commissioners approve the findings of Substantial Issue and schedule a de novo hearing for a later date and closer location where our members can attend the proceedings and participate in them.

Thank you for your consideration.

Sincerely,

BODEGA BAY CONCERNED CITIZENS
BY:

Signature on File

W11.5a

ITEM NO: W11.5a

PERMIT NO. A-2-SOH-1
037

CALIF. COASTAL COMMISSION

HEARING NOV. 2

RECEIVED

OCT 27 2011

JEAN LAIRD

OPPOSES.

CALIFORNIA
COASTAL COMMISSION
NORTH CENTRAL COAST

BODEGA BAY PUBLIC UTILITIES DISTRICT'S
PLAN TO PUT A WELL + CHLORINATION FACILITY
SEEMS ILL CONCEIVED;

- 1) IT IS LOCATED IN A RESIDENTIAL AREA
- 2) WITHIN FEET OF AN ECOLOGICALLY
SENSITIVE RAIL POND - A MAJOR
TOURIST ATTRACTION FOR BIRDERS
- 3) IT WOULD BE LOCATED ON "THE
CRACK" - THE SAN ANDREAS FAULT
IS 1/2 MILE WIDE AND SEVERAL
MILES DEEP IN THIS SPOT.
- 4) MORE FRESH WATER FROM THIS SOURCE
WILL ENCOURAGE DEVELOPMENT
WHERE CURRENT ROADS ARE INADEQUATE
AND OTHER INFRASTRUCTURE LACKING.

PLEASE DENY THIS PERMIT,

Signature on File

PROPERTY OWNER

1785 WHALESHIP

BODEGA BAY, CA.

10-26-2011

Madrone Audubon Society

P. O. Box 1911

Santa Rosa CA 95402

October 25, 2011

W11.5a

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OCT 27 2011

CALIFORNIA
COASTAL COMMISSION

Item # W11.5a

Madrone Audubon Society,

Betty Burrridge, Research Chair.

Opposed to the Bodega Bay well drilling project.

Dear California Coastal Commissioners,

Madrone Audubon has serious concerns regarding the negative effect that the drilling of this well will have on wildlife on an Environmentally Sensitive Habitat Area (ESHA), a wetland known as The Rail Ponds, that lies below the drilling site. The fresh water now flowing into these ponds may be decreased if the well is drilled, according to a report by Todd Engineers to Brelje and Race, from 65 gpm to 45 gpm.

The Rail Ponds are part of the Bodega Bay Globally Important Bird Area so designated in 2001 by The American Bird Conservancy in association with The Nature Conservancy. (Please see enclosure #1.)

Water depth, salinity, vegetation all will be affected. The presence of The threatened Red-legged frog (Enclosure #2) was not acknowledged by the Biological Resource Assessment reports, and bird surveys were only done in August and December, leaving out spring and early summer residents, and even the Common Yellowthroat, a year round resident but difficult to find. No rails were found although Sora and Virginia Rails have been seen there in the past

year. Some years back the range of the Myrtle Race of the Yellow-rumped Warbler was redefined by Christmas Bird Counters at the the Rail Ponds, when hundreds of over-wintering 'Myrtles' were identified through careful and skilled Citizen Science.

There is also reliable hear-say evidence of Steelhead actively seeking entry into the ponds from Bodega Harbor to spawn as recently as 2009. (My father, Carl H. Ludemann, an avid fly fisherman, confirmed this information to me prior to his death.) Since then other Fly Fishers have personally acknowledged to me that there is a code of secrecy among others to preserve this information.

All this is in addition to Madrone Audubon's concerns about the danger to the ESHA and wildlife and vegetation, because of the location of the 80 square foot chlorination facility proposed directly on the Alquist-Priolo Earthquake Fault Zone.

In closing, please consider the inappropriateness of the location of the well and chlorination facility, and the need to protect the Rail Ponds.

Sincerely,



Signature on File

Betty Burridge, Research Chair

Important Bird Area Certificate of Designation
In Recognition of its Value to the Conservation of
Birds and Their Habitats,
Bodega Bay

Has Been Designated A Globally Important Bird Area
By American Bird Conservancy
In Association With The Nature Conservancy

Geoff. Fenwick

George Fenwick
President,

American Bird Conservancy



Robert Chipley

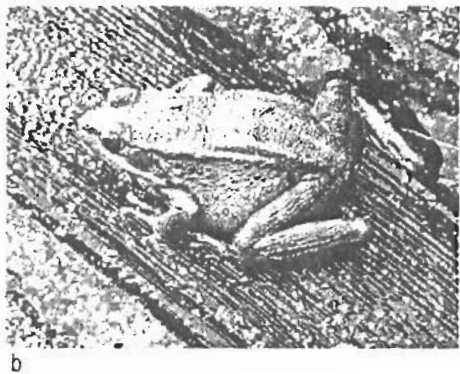
Robert Chipley
Director, IBCA Program,
American Bird Conservancy

Dated: October 1, 2001

Enal#2

CRLF at Bodega Marsh approximately 0.7 miles away with suitable dispersal corridors connecting the project site to this major population.

California red-legged frogs may occur within or near the project site, and may be directly, indirectly adversely affected by project construction and operation. This potential impact triggers Section 7 Endangered Species Act consultation with USFWS through any U.S. Army Corps of Engineers permit required for project construction. It also meets the "mandatory finding of significance" criterion for CEQA if it is not assessed and adequately mitigated.



(a) Occupied California red-legged frog freshwater marsh habitat at Bodega Marsh (west of Spud Point). The marsh supports water supply wells currently operated by BBPUD, indicating BBPUD knowledge of this habitat and potential source population. (b) Adult California red-legged frog observed in Bodega Marsh on January 25, 2011, on driftwood in old well casing. (c) Mature California red-legged frog in Bodega Marsh, March 4, 2011 (emerged from standing water with duckweed).

Tidewater goby (*Eucyclogobius newberryi*). The MND does not address potential for occurrence of this special-status species or impacts to it. WRA (2010, Appendix B, incorrectly asserts that the federally listed tidewater goby's "potential for occurrence" is "not present. Suitable aquatic habitat is not available or near the project area". The "rail

Peter R. Baye Ph.D.
Coastal Ecologist, Botanist
baye@earthlink.net
(415) 310-5109

Bodega Bay Flat Well MND comments
June 12, 2011

Letter to the California Coastal Commission

W11.5a

With regard to:

[W11.5a] Appeal No. A-2-SON-11-37 (Bodega Bay Public Utilities District, Sonoma Co.) Appeal by Bodega Bay Concerned Citizens from decision of County of Sonoma granting permit to Bodega Bay Public Utilities District for a 100 ft.-deep municipal water well, transmission piping, and 80 sq.ft. Chlorination facility, at 1677, 1681, 1685, 1705, 1707 Bay Flat Road, Bodega Bay, Sonoma County. (RP-SF)

Madrone Audubon Society submits that this project of well, pipelines and chlorination are sited far too close to the biological resource known as the Bodega Bay Rail Ponds which are environmentally sensitive habitat area and are identified as a Sanctuary Preservation Area in the certified LCP. The project will likely diminish the ponds and there is riparian woodland and freshwater marsh on the north side of the Rail Ponds which also would be reduced. These impacts will diminish habitat values; as water flow changes the vegetation itself will change.

Our Research Chair has submitted a separate letter addressing the Globally Important Bird Area status of Bodega Bay and that special status species exist there.

We ask the California Coastal Commission to find substantial issue with this project. It is inconsistent with the local certified LCP.

Respectfully submitted,

Diane Hichwa, Conservation Chair,

Madrone Audubon Society, PO Box 1911, Santa Rosa, CA 95402

Email: dhichwa@earthlink.net

Telephone: 707-785-1922 (Sea Ranch); 707-483-3130 (cell)

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Leah S. Goldberg
Attorney at Law
lgoldberg@meyersnave.com

W11.5

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RECEIVED

OCT 31 2011

CALIFORNIA
COASTAL COMMISSION
NORTH CENTRAL COAST

October 28, 2011

Via Facsimile and U.S. Mail

Mary K. Shallenberger, Chair
California Coastal Commission
P.O. Box 354
Clements, CA 95227-0354

Oppose
Agenda Item: W.11.5a
Application No.: A-2-SON-11-037

Re: Appeal of CDPH A-2-SON-1-11-037 Bodega Bay Public Utility District

Dear Chairwoman Shallenberger:

Our firm represents the Bodega Bay Public Utility District ("District") on Appeal No. A-2-SON-11-37 found at item 11.5 on the November 2, 2011 Coastal Commission Agenda. This letter is to request that you make a finding that no substantial issues exists in this appeal.

BACKGROUND¹

The District obtains water from wells at three locations in Bodega Bay—Salmon Creek, the Roppolo well field and the Sand Dunes well field. No additional wells can be installed at Salmon Creek because the District cannot extract water during low flow periods in Salmon Creek.

On February 26, 2006, the California Department of Health Services (now the Department of Public Health ("CDPH")) notified the District that it could no longer meet its daily capacity through a combination of water sources and water storage facilities. Instead new regulations require that the maximum daily demand be met from water sources without reliance on water storage.

In response, in August 2007 the District prepared a Master Water Plan. The plan identified three projects that would bring the District into compliance with the new State regulations on water sources. Two out of three of these projects have been completed. 1) The District replaced a well at the Roppolo well field; 2) the District replaced a well at the Dunes well field. The third project enabling the District to comply with State water source requirements is the installation of another well.

¹ Additional background can be found in the attached PowerPoint.

Mary K. Shallenberger
October 28, 2011
Page 2

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The District agreed with the Todd Engineering report because the well location was reasonably close to the existing water distribution lines (already existing in Bay Flat Road), the well site was easily accessible along already existing driveways and was located in a developed area. And equally important, at the time, one of the homeowners agreed to house the well on her property.

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October 28, 2011
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October 28, 2011
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Acting as a Responsible Agency under CEQA, PRMD staff completed the Subsequent MND on June 3, 2011, to address changes in the Project (i.e. the relocated chlorination structure) and subsequently issued a notice of intent to adopt the Subsequent MND. On July 12, 2011, the Sonoma County Board of Supervisors ("BOS") conducted the scheduled public hearing on the Subsequent MND. On a preliminary 3-1-1 straw vote, the BOS recommended certifying review and consideration of the information contained in the Subsequent MND, adopting the Subsequent MND, and approving the Project with additional conditions that were yet to be developed. The BOS directed County Counsel and PRMD staff to return to the BOS with a resolution reflecting the recommendations and concerns addressed by the BOS including a monitoring program to identify any impacts to the rail pond.

In mid-July, however, the opponents to the Project filed their appeal with the Coastal Commission, even before the monitoring program was presented to the BOS for review consideration.

In the meantime, PRMD identified a deficiency in its notification procedures for the July 12, 2011 public hearing and scheduled an additional public hearing for September 27, 2011. PRMD worked with the District to develop a meaningful monitoring program to ensure that any impacts to the rail ponds were identified and remediated. That program was included in the Project's conditions of approval scheduled for the September 27, 2011 meeting. On September 27, 2011, the Project was approved by a 3-2 vote and included the new monitoring program.

On October 4, 2011, without any prompting or further requests from the appellant, Coastal Commission staff, who had held onto the prematurely filed appeal on behalf of the appellants, notified the County that an appeal had been "timely filed." The Coastal Commission staff's actions raise concerns because it appears that the Coastal Commission was an agent for the appellants in ensuring the timely filing of an appeal (that otherwise sought to appeal a non-appealable recommendation). The staff's actions serve to deprive the District of due process because the staff (as the agent for the appellants) are no longer neutral in reviewing the appeal and the County's actions. Further, the appeal preceded development of the rail pond

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monitoring program and the District questions the validity of an appeal when the ultimate project is not yet known.

NO SUBSTANTIAL ISSUE

Contrary to the staff report issued in this matter, there is in fact, no substantial issue raised by this appeal. A substantial issue is defined as one that presents a 'significant question' as to conformity with the certified local coastal program.² As the court noted in *Hines v. Court of Appeal* ("*Hines*")³, the question of substantial issues has been guided by five factors:

"1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified [local coastal program] and with the public access policies of the Coastal Act;

"2. The extent and scope of the development as approved or denied by the local government;

"3. The significance of the coastal resources affected by the decision;

"4. The precedential value of the local government's decision for future interpretations of its [local coastal program]; and

"5. Whether the appeal raises only local issues, or those of regional or statewide significance."⁴

As discussed below, the Project conforms to the LCP and raises no significant questions relating to the conformance with the Sonoma County Local Coastal Program ("LCP").

A. Consistency With The Local Coastal Program.

Sonoma County's staff report (attached to the Coastal Commission Staff report) thoroughly analyzes this Project in relationship to the LCP and concludes that the installation of the well is consistent with the LCP. That conclusion is followed by 12 different findings showing consistency with every applicable area of the Local Coastal Program. (See Resolution #11-0532, dated 9/27/11, pp. 8-13.)

² (Cal. Code Regs., tit. 14, § 13115.)

³ 186 Cal. App. 4th 830 (2010)

⁴ *Id.* at 849.

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B. Development Is Limited To Installation Of A Groundwater Well, A Small Chlorination Shed And Associated Piping In An Already Developed Area.

The Project, as described above, consists of installation of a groundwater well, a small chlorination shed and associated piping—all of which will be installed in an **existing developed area**. The well will be installed in an existing residential subdivision immediately adjacent to a driveway in a yard containing non-native grasses. The piping will be below an existing paved driveway that already serves as a utility corridor for water and sewer. The chlorination shed will be located adjacent to an existing driveway in a previously disturbed area.

The well itself will not be pumping continuously. Its primary purpose is to allow the District to comply with CDPH requirements to be able to provide the daily maximum water use entirely from sources rather than water storage. This new well will not impact the growth in the area. The District can currently serve the existing demand and the anticipated buildout of new hook ups as identified in Sonoma County planning documents through its existing wells and water storage capacity. This well is only needed to comply with CDPH requirements on water sources. It is not growth inducing.

C. Coastal Resources Will Not Be Impacted By The New Well.

There is no evidence in the record that this Project will positively or negatively impact coastal resources. In fact, this Project will have no impact on coastal resources. The well and chlorination shed are both located more than 100 feet from any coastal wetlands. Several biologists, including Sonoma County's biologist, all made independent assessments that both the well and the chlorination structure are more than 100 feet from coastal wetlands. A portion of the piping that will convey the water from the well to the existing water main in Bay Flat Road will be within 100 feet from wetlands, but will be located under an existing roadway and will be alongside other utilities that already exist in the roadway. It is true that the existing subdivision wherein the well will be placed is located adjacent to a sanctuary preserve area, but the actual distances between coastal resources and this well remain compliant with the LCP requirements. Again, the Sonoma County staff report discusses this issue in exhaustive detail.

Equally as important, the studies prepared by various experts opine that given the size of the well and the amount of water that will be pumped, there is unlikely to be any adverse affects on coastal resources or the groundwater basin from this Project. On a practical matter, the District relies and will rely on the groundwater to serve the Bodega Bay community both now and in the future. Therefore, the District has more incentive than anyone to make sure that the aquifer is not overburdened and to prevent any salt water intrusion into the already limited water supply.

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D. The County's Decision To Issue A Conditional Use Permit And The Coastal Development Permit Are Consistent With The Local Coastal Program And Will Have No Adverse Precedential Value.

Issuance of the CUP and the CDP in this matter do not strain the County's interpretation of its LCP in any way. In fact, issuance of this CUP and CDP comply with good planning principals by placing the well in an already developed area and making use of the existing driveways and roadways rather than adding additional infrastructure in the native environment. If anything, the detailed planning, studies and consideration employed in citing this well should be a model for future projects.

E. This Appeal Is a Purely Local Matter.

While the appellants want the Commission and others to believe that this is a matter of national concern, the truth is that this is the quintessential local issue. This is the case of a local public agency trying to serve the needs of its constituency and provide necessary drinking water to homeowners in the area. Bodega Bay may be a national bird sanctuary, but the District's wells will not impact the birds. Constant groundwater monitoring in the area of the rail ponds and limitations on the timing of the construction will ensure that there are no impacts to the birds or to any other coastal resources.

We appreciate that there are citizens who keep an eye on activities in the Coastal Zone to make sure that our valuable coastal resources are not being impacted. In this case, a detailed and thorough process conducted by Sonoma County has served to ensure protection of the Coastal environment. But it is time to stop wasting public resources on this matter and to let the District come into compliance with equally important CDPH mandates. Therefore, we urge you to find no substantial issue in this case.

Should the Commission find substantial issue, however, the District respectfully requests that the Commission direct staff to hold the de novo hearing on the matter within the next six to eight months so that the District can come into compliance with CDPH requirements.

Thank you for your time and consideration.

Sincerely yours, , ,

Signature on File

 Leah S. Goldberg

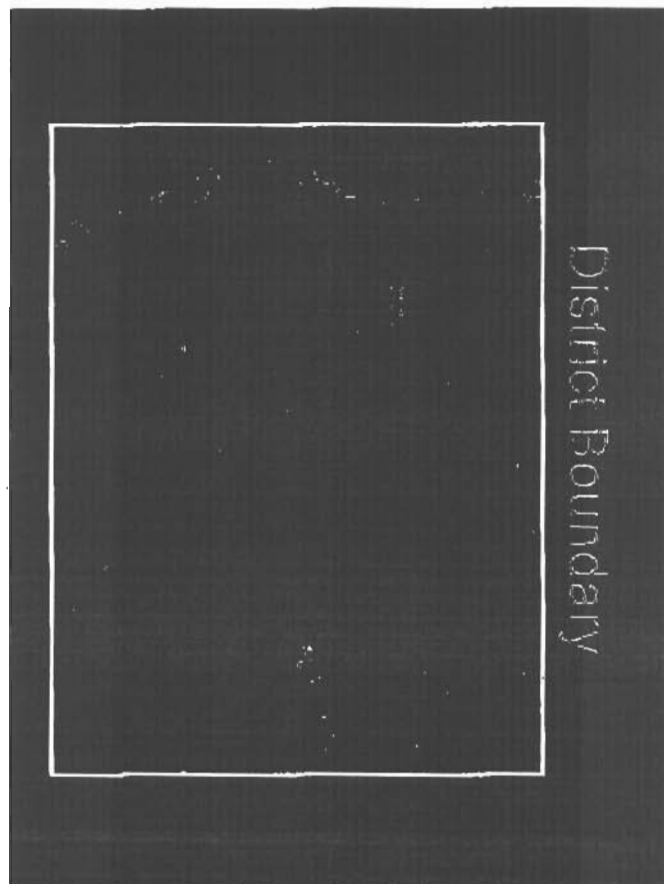
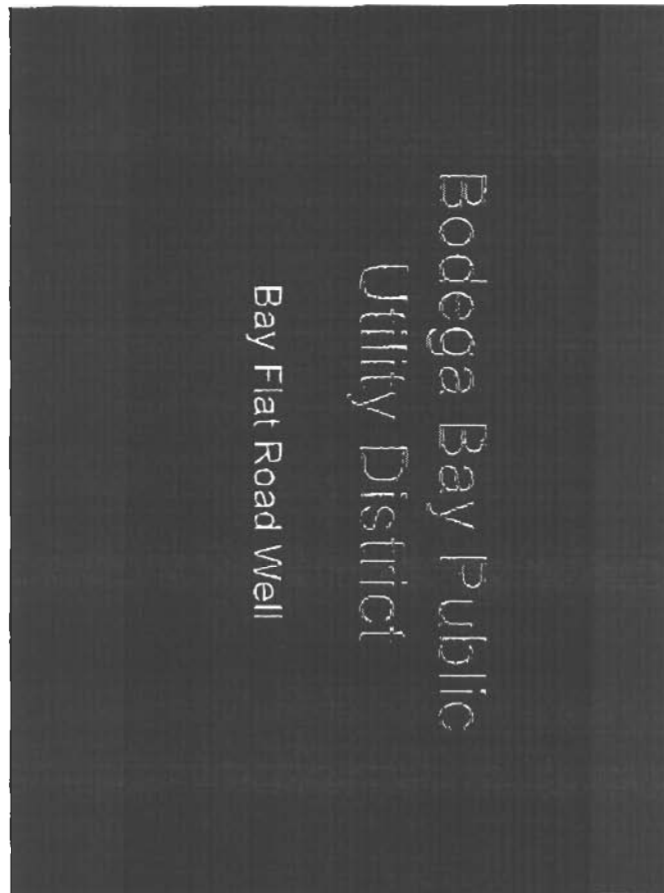
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Attachment

c: Ruby Pap, California Coastal Commission
Ann Cheddar, California Coastal Commission

1736955.1



Existing Conditions

- Average day demand 220 gpd/RUE
- Service to 1833.44 RUEs
- Six (6) Wells
- Approximate water produced – 400,000 gallons per day
- Build-out \approx 2050 RUEs

New Regulations & Regulatory Limits on Production

· New CDPH rules require sufficient well production capacity to satisfy demands on the peak day of the year

· Peak production is computed assuming largest well out of service

· Well at Salmon Creek has been determined not to be a year round source, typically off when the peak demand occurs in the summer; not counted when computing peak capacity

Peak Day Water Production and Demand - Today

Existing Peak Day Production capacity with all wells running	655 gpm
Existing Peak Day Demand	522 gpm
Existing Peak Day Production allowed by State Regulators	480 gpm
Required Production increase to meet State requirements	42 gpm

Peak Day Water Production and Demand - Future Demands at Build-out

Existing Peak Day Production capacity with all wells running	655 gpm
Future Peak Day Production allowed by State Regulators with new Bay Flat Well installed	630 gpm
Future Peak Day Demand at Build-out	592 gpm

