

**CALIFORNIA COASTAL COMMISSION**

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**Th20c**

**A-6-ENC-24-0051 (Toll West Coast LLC Single-Family Residences)**

**December 12, 2024**

**CORRESPONDENCE**



# Batiquitos Lagoon Foundation

*Preserve, Protect, and Enhance*

December 6<sup>th</sup>, 2024

Stephanie Leach  
Coastal Planner,  
San Diego Coast District  
**California Coastal Commission 7575**  
Metropolitan Drive,  
Suite 103 San Diego, CA 92108

**Ref: CCC, Th20c Appeal Number A-6-ENC-24-0051**  
**Subject: Amendment Request, Substantial Issue Determination**

**Applicant: Toll Brothers West LLC**

**Location:** 2004-2094 Pearl St. (formerly , 510, 512 & 514 La Costa Avenue, Encinitas, California 92024 (APN Nos. 216-030-10, -45, -46)

Ms. Leach,

With reference to the above Appeal Number and the Batiquitos Lagoon Foundation (BLF) CCC Staff Report File Review November 27, 2024 whereby the BLF is concerned about the omission of several issues and a biased statement of an impossible condition occurring within the lagoon. Whereby the Applicant is not complying and is in violation of the Clean Water Act , 40 CFR Part 131.6 from the Staff report as published dated 11-27-24. The BLF respectfully requests that this statement of fact be corrected and included in an amendment to the referenced Staff Report.

Further, let it be known that on-Site grading was taking place in the “Wet Season” which is contrary to Encinitas Municipal Code towards grading restrictions. Further, since grading was taking place and no concrete pads for residences had been installed to protect any of the on-Site hazardous wastes. The referenced back to back 500 year storms saturated the Site with several feet of stormwater. In essence the plan to protect the Hazardous Wastes, i.e., Organochlorine Pesticides was not in place. The storm event inundated the complete 14 acre site and contributed to the Coastal Bluff Collapse. The consequences of this storm event was flooding the site and draining the contaminated 1) surface water, 2) water table and, 3) groundwater into Batiquitos Lagoon.

The BLF conducted a scheduled Water and Sediment sampling of the lagoon on February 29<sup>th</sup>, 2024, unaware of the Coastal Bluff Collapse at the “Weston Property, aka Toll Bros., LLC Site.

No government agency notified the BLF of the Bluff Collapse, most certainly not did Toll Bros.

It was not until August 2024 did the BLF become aware of the Bluff Collapse by a resident who was impacted by the mud flow onto their property.

The Certified Lab Analysis detected OCPs in the lagoon. The Costal Bluff Collapse explains the reason for the presence of the OCP's.

The Commissioners are asked to review the attached Exhibits specifically the pages of the 2-29-2024 Lab Analysis Data Reports pages 303 to 317 whereby sample locations BL-8, BL-9 and BL-10 indicate the reportable Levels of OCP's in the Lagoon, namely 4, 4' DDT, 4, 4' DDE.

The Staff Report says the presence of OCP's is not possible. But here is the evidence, the lagoon is contaminated and mitigation is required.

The Batiquitos Lagoon is a sensitive ecosystem and water body, classified as a CWA 303(d) impaired water body. OCPs are listed as one of the contaminants of concern. Accordingly, utmost efforts shall be made to minimize and reduce additional contaminants entering the lagoon ecosystem. A stormwater management system utilizing best management practices (BMPs) shall be designed and implemented to accommodate future surface water runoff at the Site. BMPs shall follow the SD RWQCB Basin methodology of screening potential surface water contaminants, and Total Maximum Daily Loading (TMDL) analysis guideline as described in the Clean Water Act, 40 CFR Part 131.6.

In conclusion the BLF strongly requests that engineering due diligence and the best management practices (BMPs) be applied to provide the environmental protection from the surrounding community that Batiquitos Lagoon deserves. Additionally, Toll Bros. LLC as a minimum to ensure a level of Health Risk to the lagoon shall install Groundwater Monitoring Wells.

Sincerely,

Chris Ross . by D Hill.

Chris Ross,  
President Batiquitos Lagoon Foundation

CC David Hill, Board Member and Chair, Water Quality Monitoring Program



Outlook

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**FW: APPEAL NO. A-6-ENC-24-0051**

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**From** SanDiegoCoast@Coastal <SanDiegoCoast@coastal.ca.gov>  
**Date** Wed 12/4/2024 9:30 AM  
**To** Leach, Stephanie@Coastal <stephanie.leach@coastal.ca.gov>

Hi Steph,

Please see the public comment below.

Thank you,

Adriana Palato  
Management Services Technician  
California Coastal Commission  
7575 Metropolitan Drive #103  
San Diego, CA 92108

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

**From:** Dolores Welty <dwelty2076@earthlink.net>  
**Sent:** Wednesday, December 4, 2024 9:27 AM  
**To:** SanDiegoCoast@Coastal <SanDiegoCoast@coastal.ca.gov>  
**Cc:** David Hill <DHill@trcsolutions.com>  
**Subject:** Fw: APPEAL NO. A-6-ENC-24-0051

-----Forwarded Message-----

**From:** Dolores Welty  
**Sent:** Dec 3, 2024 12:02 PM  
**To:** Dolores Welty  
**Subject:** APPEAL NO. A-6-ENC-24-0051

December 3, 2024

**TO:** CALIFORNIA COASTAL COMMISSION  
**RE:** ITEM 20 c  
Thursday, December 13, 2024  
Appeal No. A-6-ENC-24-0051  
TOLL WEST COAST LLC, ENCINITAS

FROM: Dolores Welty, Secretary  
Save Out Bluffs  
2076 Sheridan Road,  
Encinitas, CA 92024

Dear Commissioners:  
Thank you for this opportunity to comment.

The facts of Bluff Collapse and resulting soil and pesticide runoff into the Batiquitos Lagoon is a problem yet to be resolved.

We join this appeal to request that construction be stopped on this property until repairs to the bluff have been made and approved.

We also ask for immediate repair and better protection of the bluff and lagoon before the January rains begin.

This bluff collapse was a result of planning failure and carelessness. The problem is basic to the CDP

According to the Conditions of Approval, (See Attachment A1, A2 and A3: "Exhibit "B", Resolution Number PC 2022-11, and Exhibit B SCA 5 COASTAL POLLUTION PREVENTION PLAN i, iv, and x") Toll West Coast may have performed as required, but if so, the standard BMP's were not sufficient for the 10 feet of fill. After grading and raising bluff top pads 12, 13, 14 and 15 by 10 feet of fill, the land lay open and uncovered without sand bags or hay bales according to the neighbors.

Pads 12, 13, 14 and 15, are set aside for single family homes to be built in the future. They are no longer part of the development which is now just 42 homes. Nevertheless, these pads were raised 10 feet above the natural lot line even though no immediate construction is planned and pads 13 and 14 are on the bluff edge. (See map, Attachment B)

When the rains of January 22 and 23, 2024, occurred, the soils on these pads became soaked and poured west toward the existing homes on Sheridan Road. An unsuccessful attempt was made to surround them. They broke through, Reaching the 6 foot high brick wall of 2087 Sheridan Road, the mud poured over the wall into the garage, onto the driveway, and around the back of the house, laying down a 6 to 12 inch layer of mud on the owner's vegetation in the area of her yard fronting the lagoon.(See Attachments C, D, and E)

At the same time, the heavy mud flow was digging a trench beside and under the brick wall, (See Attachments F1 and F2), pouring down the trench to the Lagoon and blowing out the bluff from top to bottom. It is calculated that 1687 Cubic Yards of soil were lost.

A mud delta formed in the Lagoon which has since been washed away. The flow also uncovered a water pipe in the trench, which it undermined and broke.

The increase in pesticide deposits measured by The Batiquitos Lagoon Foundation is most likely due to the bluff collapse and the probability that pesticide contaminated soil flowed into the lagoon from the deep trench dug by the mud flows and bluff collapse described above.

The gardener at 2087 Sheridan Road discovered the mess when he arrived on Tuesday and reported it. Clean-up started immediately at 2087. The mud was removed, the Koi fish rescued and their pool cleaned

But the trench remains a cavity, and the Northeast corner of the brick fence at 2087 dangles over a deep hole which extends west under the neighbor's property. A large tree on the east of the bluff collapse has also been undermined by the bluff collapse. This is dangerous to the stability of the bluff. (See Attachments G1, G2, and G3)

This cavity needs to be repaired, but so far only cosmetic changes have been made. Plastic tarps now lie over the trench, which runs the full depth of the bluff. The bluff face is also covered with plastic tarps visible from I-5 South. But the bluff is not well protected from future damage. (See Attachment H)

The soils of the lagoon are fragile and neither grading nor fill was allowed on bluff-fronting lots by the county. Four county-built houses already front the lagoon along Sheridan Road, none of which are on graded or filled pads. Those builders, planners and architects honored the existing terrain. The homes are all on individually owned and maintained sewage pumps.

It was not necessary to re-contour pads 12, 13, 14 and 15 for sewage flow. These pads sloped gently west and north. Single home sewage pumps would easily connect to the development sewage line.

We ask that pads 12, 13, 14, and 15 be returned to their original contours and that until new construction begins on these pads, that the pads be covered and that erosion deterrence measures be taken immediately and inspections of these measures take place prior to predicted rains.

We also wish to point out that bulldozing, grading and compacting of soils on these lots caused the two adjacent houses on Sheridan Road to quake and shake, Water in the brand new swimming pool sloshed back and forth. This is another proof of the fragility of our bluffs.

The cause of the bluff collapse has been falsely attributed to a 500-year-rain as well as to outflow from the ancient agricultural pipe. It is not possible for flow from the pipe to throw mud over an adjacent six foot brick wall, and the rain for January 22 and 23 was barely over 2 inches. That is not a 500 year event. (See Attachments J1 and J2)

We ask that in the future the Coastal Commission (as well as the City of Encinitas) refuse to allow cut and fill grading on bluff-fronting lots. Better solutions are available. In the meantime, please halt work on the approved 42 houses until bluff repair is complete.

We thank you for your prompt attention to this matter.

Sincerely yours,  
Dolores Welty,  
Secretary, Save Our Bluffs  
Office: 760-942-9897  
Cell: 760-310-7247

Attachments added: 13

These will be mailed to [Materials@coastal.ca.gov](mailto:Materials@coastal.ca.gov)

TH 200 WELTY  
12-12-2024  
ATTACHMENT A1

TH 200 WELTY

**EXHIBIT "B"**  
**Resolution No. PC 2022-11**  
**Case No. MULTI-005412-2022; SUB-004952-2021 and SUBC-005413-2022**

Applicant: Toll Brothers  
Location: 510, 512 & 514 La Costa Avenue

**SC1 SPECIFIC CONDITIONS:**

SC3 Approval of the Tentative Map and all associated permits will expire on June 2, 2025, at 5 p.m., three years after the approval of this project, unless the conditions have been met or an extension of time has been approved pursuant to the Municipal Code.

SC5 This project is conditionally approved as set forth on the application and project drawings stamped received by the City of Encinitas on March 1, 2022, said project drawings consisting of 24 sheets total, including 13 civil sheets (Title Sheet, Preliminary Lot Layout, Grading Plans, Details & Sections, Slope Analysis, DMA Exhibit, Striping & Improvement Exhibit, Tree Survey Exhibit) and 11 landscape sheets (consisting of Title Sheet, Landscape Concept Plans, Existing Tree Exhibit, Irrigation and Water Management, and Irrigation plans) all designated as approved by the Planning Commission on June 2, 2022, and shall not be altered without express authorization by the Development Services Department.

SCA The following conditions shall be completed and/or fulfilled to the satisfaction of the Development Services Department:

**1. Revised Final Plans.**



**PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit for the review and written approval of the Executive Director, revised final project plans in substantial conformance with the plans prepared by Pasco Laret Suiter & Associates, revised 2/26/18, stamped approved by the City of Encinitas, except that they shall be modified to reflect the following:

- i. Lots 43 and 45 shall be identified on the plan as affordable lots dedicated for very-low-income (VLI) households.
- ii. The other two affordable lots dedicated for very-low-income (VLI) households on Lots 2 and 4 shall be relocated away from La Costa Avenue to Lots 18 and 30 located in the community interior. Lot lines shall be adjusted accordingly to size the lot such that the future units will be affordable for very-low-income households.
- iii. No pedestrian or vehicular gates are permitted at the entrance to the proposed development at the La Costa Avenue/Seabreeze Court intersection. All publicly and privately maintained streets, roads, and public parking areas identified on the revised plans shall be for public purposes including, but not limited to, pedestrian, bicycle, and vehicular access. All

TH 20C WELTY  
CCC 12-12-2024  
Attachment A2

iv. Low-flow efficient irrigation systems shall be ut... irrigation systems shall be designed with: drip lines, where feasible; check valves at low points to reduce excess drainage; automatic controllers; rainy weather shut off controls; and, if rotor heads are used, minimal head coverage overlap.

b. The permittee shall undertake the development in accordance with the approved final landscape plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.



5) **Construction Pollution Prevention Plan (CPPP). PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the permittee shall submit for the review and approval of the Executive Director, two (2) sets of a CPPP prepared and signed by a licensed engineer that, at a minimum, includes the following:

Best Management Practices (BMPs) designed to prevent spillage and runoff of construction-related materials, sediment, or contaminants associated with construction activity shall be implemented prior to the on-set of such activity. Selected BMPs shall be maintained in a functional condition throughout the duration of project. Such measure shall include:



i) No demolition or construction materials, equipment, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain or tidal erosion and dispersion;

ii. Any and all debris resulting from demolition or construction activities, and any remaining construction material, shall be removed from the project site within 24 hours of completion of the project;

iii. Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters or storm drains;



iv) Erosion control/sedimentation BMPs shall be used to control dust and sedimentation impacts to coastal waters during construction. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into coastal waters; and

v. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.

vi. The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;

vii. Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a Coastal

Th 20c WELTY  
ccc 12-12-2024  
ATTACHMENT A3

Development Permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required;

viii. All construction materials stockpiled on site shall be covered and enclosed on all sides to ensure that the materials are not discharged to a storm drain inlet or receiving waters;

ix. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. If thinners, petroleum products or solvents must be used on site, they shall be properly recycled or disposed after use and not be discharged into storm drains, sewers, receiving waters or onto the unpaved ground.



x. The discharge of any hazardous materials into any receiving waters shall be prohibited;

xi. Spill discharge and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction material. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The designated area shall be equipped with spill control materials and located to minimize the risk of spills reaching receiving waters, storm drains, sewers or unpaved ground;

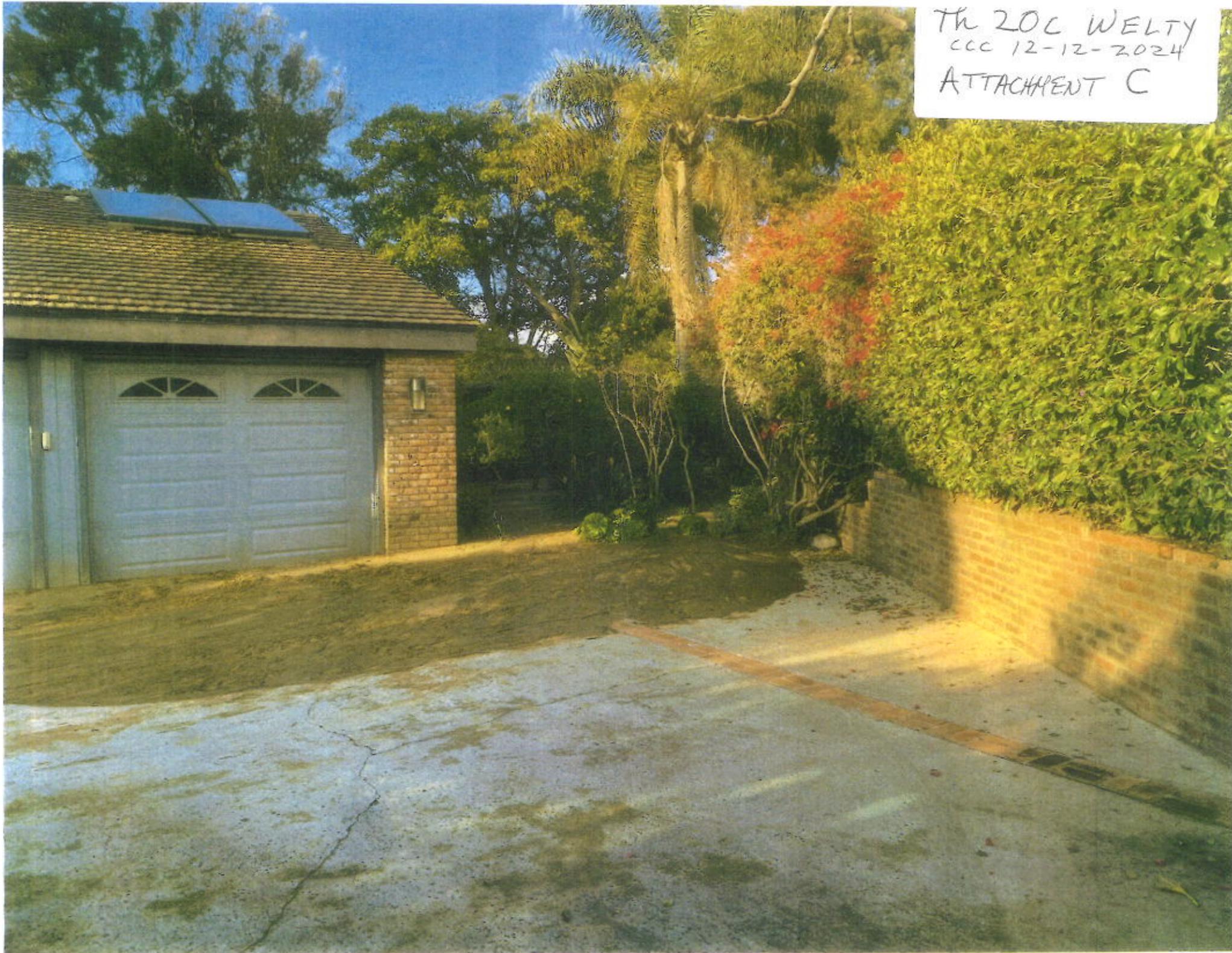
xii. BMPs and Good Housekeeping Practices (GHPs) designed to prevent spillage and runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity; and

xiii. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

b. **DEH Closure Request and Letter for Burial of Pesticide-Contaminated Soil.** Upon the completion of grading and soils remediation, and prior to the City's issuance of the building permit for site improvements, the applicant shall submit to the Executive Director's review the remediation summary report and closure request provided to the San Diego County Department of Environmental Health (DEH). When available, a copy of the "Closure Letter" issued by the San Diego County DEH shall also be submitted to the Executive Director.



TR 20C WELTY  
CCC 12-12-2024  
ATTACHMENT C



M 20C WELTY  
CC 12-12-2024  
ATTACHMENT D



Th 20C WELTY  
CLC 12-12-2024  
ATTACHMENT E



TH 20 C WELTY  
DEC 12-12-2024  
ATTACHMENT F1



This home  
is south of  
2087

TH 20C WELTY  
CCC 12-12-2024  
ATTACHMENT F2



TR 20 C WELTY  
CC 12-12-2024  
ATTACHMENT G 1



TR 20C WELTY  
CCC 12-12-2024  
ATTACHMENT G2



TH 20C WELTY  
CCC 12-12-2024  
ATTACHMENT G3

Cornerstone  
Brick Wall



TR 20C WELTY  
CCC 12-12-2024  
ATTACHMENT H



IN 200 WELTY  
CCC 12-12-2024  
ATTACHMENT J1

Precip

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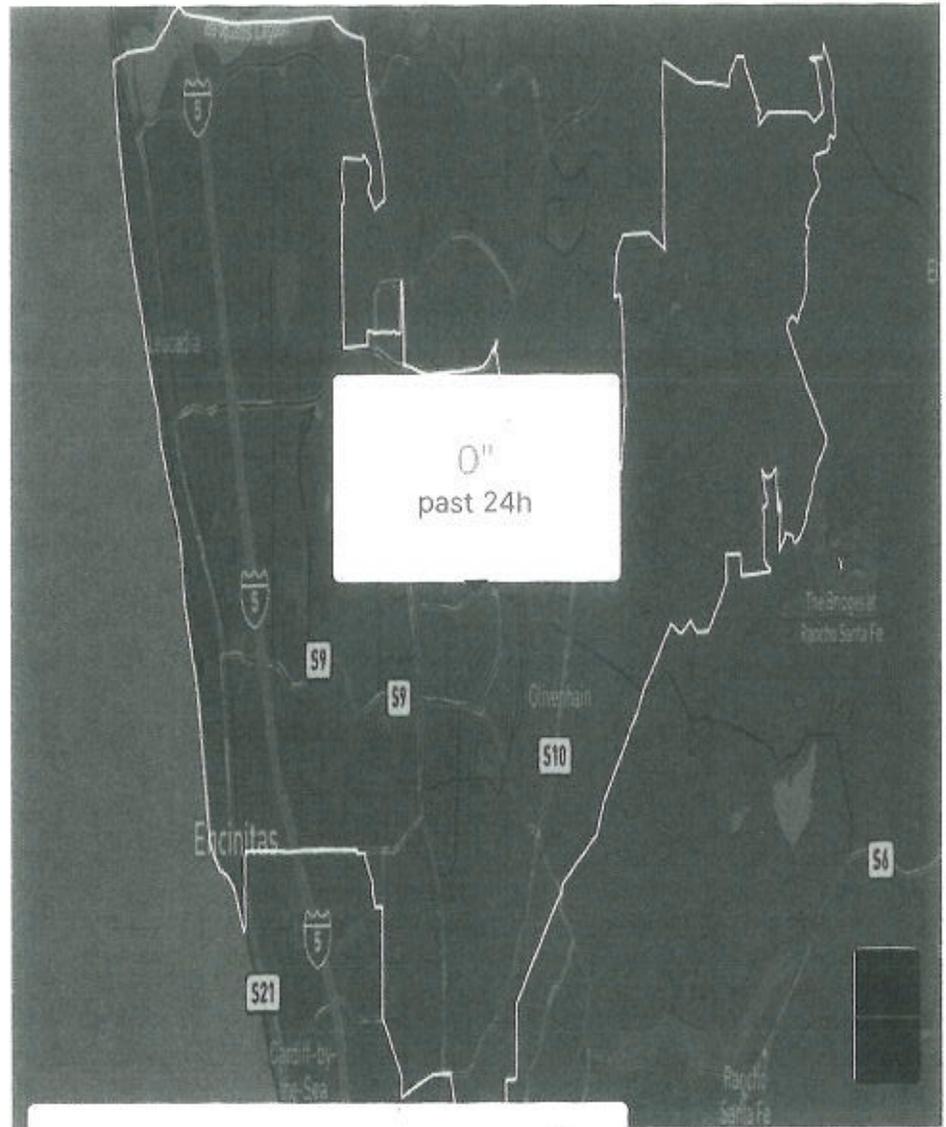
# 24 Hour Rainfall Totals for 92024 (Encinitas, CA)

See how much it rained

Past 24 Hour Map

## Interactive Rainfall Map (past 24 hours)

Past Year Totals



Less

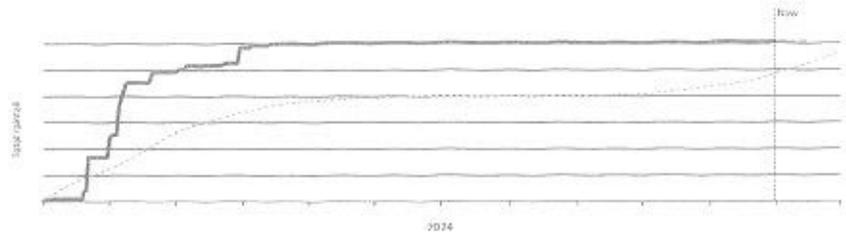
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# Rainfall Totals vs Normals (30 Year Average)

TH 20C WELTY  
CC 12-12-2024  
ATTACHMENT J2



— Observed    - - Forecast    ··· 30yr average

Month	30-year average	This year (2024)	Difference
January	2.37"	3.33"	+41%
February	2.74"	6.50"	+100%
March	1.61"	1.85"	+15%
April	0.88"	0.32"	-63%
May	0.28"	0.05"	-83%
June	0.05"	0"	-100%
July	0.07"	0"	-100%
August	0.04"	0"	-100%
September	0.13"	0"	-100%
October	0.54"	0"	-100%
November	0.96"	0.05"	-95%

Past 24 Hour Map

Past Year Totals

