

ECO Resources, Inc.

Board Meeting Packets

2003

**Board of Directors - Regular Meeting
San Simeon Community Services District
AGENDA
Wednesday, January 8, 2003 – 6:00 PM
Cavalier Banquet Room**

Note: All comments concerning any item on the agenda are to be directed to the Board Chairperson

1. 6:00 PM - CALL TO ORDER
 - 1.1 Roll Call
 - 1.2 Public Comment on Closed Session Items

2. ADJOURN TO CLOSED SESSION
 - 2.1 Personnel Issues – Government Code Section 54957: discussions regarding personnel issues including one (1) public employee, specifically, Superintendent of Water/Wastewater Treatment Plant.

3. RECONVENE IN OPEN SESSION (6:30 PM)
 - 3.1 Roll Call
 - 3.2 Pledge of Allegiance
 - 3.3 Report on Closed Session

4. PUBLIC COMMENT:
 - Any member of the public may address and ask questions of the Board relating to any matter within the Board's jurisdiction, provided the matter is not on the Board's agenda, or pending before the Board. Presentations are limited to three (3) minutes or otherwise at the discretion of the Chair.
 - 4.1 Sheriff's Report
 - 4.2 Public Comment

5. STAFF REPORTS
 - 5.1 Independent Auditor's Report – Fiscal Year 2001 - 02
 - 5.2 General Manager's Report
 - 5.3 Plant Superintendent's Report
 - 5.4 District Engineer's Report

6. ITEMS OF BUSINESS
 - 6.1 Approval of Minutes – December 11, 2002, 2002
 - 6.2 Approval of Warrants – December 1 through December 31, 2002
 - 6.3 Quarterly Investment Report

7. DISCUSSION/ACTION ITEMS
 - 7.1 Approval of Ordinance No. 97, an Ordinance Relating to Water Conservation
 - 7.2 Board Committees - Appointments
 - 7.3 Ordinance No. 66 - Review
 - 7.4 Board Committee - Reports
 - 7.5 Board Reports

8. BOARD/STAFF GENERAL DISCUSSIONS AND PROPOSED AGENDA ITEMS

9. ADJOURNMENT

San Simeon
Investment Report
As of September 30, 2002
(Unaudited)

ASSETS

September 30, 2002

Current Assets

Checking/Savings

1010- Petty Cash	\$	100.00
1022- General Checking	\$	2,889.77
1120- Cash In County Treasury	\$	1,529.53
1200- LAIF - Non Restricted Cash	\$	<u>1,091,743.17</u>

Total Checking/Savings

\$ 1,096,162.47

Other Current Assets

1201 Non Current Restricted Cash

1201.5 - Restricted Cash Reserves	
1202.0 - Contingent Liability Reserves	\$ 250,000.00
1210.0 - Customer Security Deposits	\$ 9,200.00
1212.0 - Connect Hookup Wait Deposits	<u>\$ 43,470.00</u>

Total 1201.5 Restricted Cash Reserves

\$ 302,670.00

Total 1201 Non Current Restricted Cash

\$ 302,670.00

Total Other Current Assets

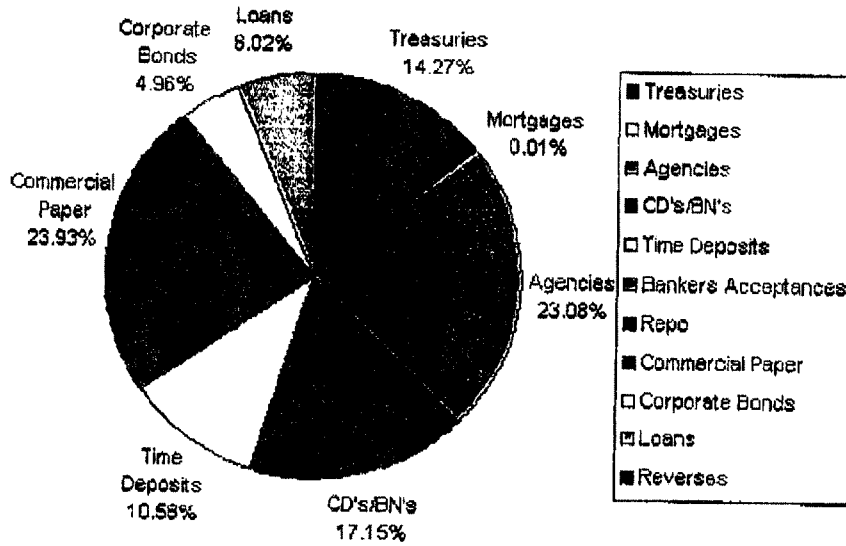
\$ 302,670.00

TOTAL ASSETS

\$ 1,398,832.47

Accounts Receivables are not reflected on the Investment Report
The District has the ability to meet the next 3 months cash flow requirements
Market Valuation is stated as of the 9/30/02 LAIF Statement
Investments are in compliance with current district policies

**Pooled Money Investment Account
Portfolio Composition
\$48.3 Billion
10/31/02**



[Adobe PDF version of LAIF Performance.](#)

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SAN SIMEON COMMUNITY SERVICES DISTRICT

SUPERINTENDENT'S REPORT FOR DECEMBER 2002

FLOW COMPARISON - Water				
DEC 2002 2,277,000 gallons	YTD 2002 33,250,000 gallons	MONTHLY USAGE COMPARISON: ANNUAL USAGE COMPARISON:	11% decrease 4% decrease	
DEC 2001 2,571,000 gallons	YTD 2001 34,770,000 gallons	GROSS WATER PRODUCTION: NET WATER PRODUCTION: MONTHLY RECOVERY RATE:	1,925,000 gallons 1,707,217 gallons 89%	
RAINFALL				
DEC 2002 6.10 inches	02-03 YTD 9.40 inches	MONTHLY COMPARISON: ANNUAL COMPARISON:	0.05 inches less 3.85 inches less	
DEC 2001 6.15 inches	01-02 YTD 13.25 inches			
WELL DEPTH COMPARISON				
DEC 2002 9.9 feet	NOV 2002 11.2 feet	DEC 2001 10.25 feet	MONTHLY COMPARISON: ANNUAL COMPARISON:	1.3 feet higher 0.4 feet higher
CHLORIDE COMPARISON				
DEC 2002 40 mg/l	NOV 2002 40 mg/l	DEC 2001 45 mg/l	MONTHLY COMPARISON: ANNUAL COMPARISON:	CONSTANT CONSTANT
FLOW COMPARISON - District Wastewater Treated				
DEC 2002 2,235,140 gallons	YTD 2002 25,035,010 gallons	MONTHLY USAGE COMPARISON: ANNUAL USAGE COMPARISON:	21% increase 7% decrease	
DEC 2001 1,852,530 gallons	YTD 2001 26,884,540 gallons			
FLOW COMPARISON - State Wastewater Treated				
DEC 2002 gallons	YTD 2002 3,373,647 gallons	MONTHLY USAGE COMPARISON: ANNUAL USAGE COMPARISON:	-100% increase 14% decrease	
DEC 2001 315,370 gallons	YTD 2001 3,933,441 gallons			
DISCHARGE REQUIREMENTS				
EFFLUENT BOD:	mg/l	EFFLUENT SUSPENDED SOLIDS:	mg/l	
INFLUENT BOD:	N/A mg/l	INFLUENT SUSPENDED SOLIDS:	N/A ml/l	
BIOSOLID DISPOSAL				
DECEMBER:	12000 gallons	YTD:	213000 gallons	

SAN SIMEON COMMUNITY SERVICES DISTRICT
SUPERINTENDENT'S REPORT FOR DECEMBER, 2002

COMMENTS:

There were 2 power outages in December. The 19th lasted 3 hours. On the 29th the power was out 5 hours – this could have been a real problem as there were a lot of people in town due to the holidays. Fortunately, the EQ tank was empty at the time. Had this not been the case, a generator would have been necessary.

Staff did have to start the generator in the well field during the power outage.

Also, during the December storms and high tides on the 20th, waves were breaking over the riprap at the west end of the plant and some came over the wall. Several of the boards of the fencing around the plant were knocked out and have been replaced.

An application has been submitted to PG&E for a rebate on the 60hp motor and VFD's.

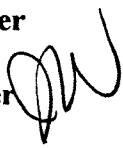
Received confirmation from Kevin Seifert that Quantum Consulting has ordered the 30hp motors. Once they are received, staff will require assistance with the installation. It is unclear at this time whether Mr. Seifert will be available to assist Mike with the installation.

Several other projects that had been ongoing and/or planned, cannot be completed by one person. The board may want to consider contracting for outside services in order to complete these tasks, including:

- Installation of the Safety Grating
- Water Meter Replacement
- Replacement of the EQ Pump Valve (the replacement has been received) OSHA prohibits any staff member from entering a confined space alone.
- Diffuser membranes for aeration tanks have been ordered but cannot be replaced for the same reason. The replacement of these membranes will assist in reducing energy consumption.

SAN SIMEON COMMUNITY SERVICES DISTRICT

111 Pico Avenue
San Simeon, California 93452
(805) 927-4778

DATE: January 8, 2003
TO: Board of Directors
VIA: Mark Bloodgood, District Manager
FROM: John L. Wallace, District Engineer 
SUBJECT: Engineer's Report - Project Status

SUMMARY OF ACTIVE PROJECTS:

1. Odor Control - Status
2. Air Piping Replacement - Completed
3. Avonne-Castillo Waterline Loop - On Hold; pending proposed FY 2002-03 CIP
4. Annual Road Improvements - On Hold; pending proposed FY 2002-03 CIP
5. Capital Improvement Project List/Descriptions and Estimated Costs FY 02/03 - Ongoing.
6. Pico Creek Wells - Flood proofing - Included in Proposed FY 2002-03 CIP.
7. Standby Power - Included in Facilities Plan
8. Wastewater Treatment Plant Rip-rap & Aeration Tank Expansion-Coastal Permit
9. State Revolving Fund Loan - Application made.
10. Facilities Plan: All Comments Due January 15, 2003
11. Proposition 50 Projects; Resolution of Support Submitted
12. Recycled Water Pipeline in San Simeon Avenue; Status of Investigation

DISCUSSION:

1. Odor Control;

The odor control chemical feed system continues to be used as originally installed, with chemical feed at the Hearst lift station when needed. Kennedy/Jenks Consultants has reviewed the odor control project and has included recommendations in the Final Facilities Plan in light of the future plans for the equalization basin. There have not been any new odor complaints recently at the treatment plant.

2. Air Line Replacement Project;

Superintendent Head has also been working with an energy company rebate specialists to see if an additional rebate is possible for the VFD equipment in addition to the blower motors.

3. Avonne - Castillo Waterline Loop;

The Board has decided to postpone solicitation for bids on this project and to proceed with the higher priority water line project (line to storage tank). The manager for the motel has been informed of the delay. Funding for the higher priority reservoir line project has been included in the Prop 50 funding request. It will be necessary to move ahead with this project in the near future in order to not delay its' construction for another year due to the conflicts with the Motel operations.

4. Annual Road Improvements (Avonne Avenue and Otter Way);
Approval of the CIP budget is needed to authorize this project for bid this Fiscal Year.

5. Capital Improvement Projects Priority List;
The current budget does not yet include adoption of the Proposed Fiscal Year 2002-2003 Capital Improvement Projects.

6. Pico Creek Wells;
Improvements are to be included in the Proposed FY 2002-03 Budget. Contact has been made with the Hearst Corporation to discuss setbacks and use of the upstream Hearst well in event that we experience high chlorides in the District's wells.

7. Emergency Standby Power;
Recommendations for standby power were made by Kennedy/Jenks Consultants as part of the Final Facilities Plan.

8. Wastewater Treatment Plant Rip-rap & Aeration Tank Expansion-Coastal Permit;
Staff prepared a County Land Use Coastal Development Permit Application (CDP) and submitted it to the County on September 24, 2002. The State Coastal Commission has reviewed the boundary exhibit illustrating the "mean high water mark" which differentiates County and State jurisdiction and the State does not agree and has asked for a separate Coastal Development Permit. Staff and District Counsel have met to review the most current California Coastal Commission response letter of November 27, 2002 and responded by December 13, 2002 (attached). At this time, no response has been received. Also, with the recent court decision regarding the makeup and appointment process of Coastal commissioners, it is uncertain as to the ability of the Coastal staff to approve a permit. New legislation will most likely be introduced in an emergency session of the legislature to address the constitutional term and appointment issues.

9. State Revolving Fund (SRF) Program;
Staff investigated potential loan funding for wastewater projects through the State Revolving Fund which provides loans at a low interest rate (approximately 2.5 to 3%). Because of the potential to construct several different improvements with SRF funds, a "general project" application was submitted as a "place holder" for the SWRCB to consider. As a result, San Simeon has been placed on the draft State-wide priority list for funding. A project application will be submitted in accordance with the final Facilities Plan recommendations and the Proposed FY 2002-03 Budget.

10. Facilities Plan;
John Jenks of Kennedy Jenks Consultants met with the Facilities Committee on November 7, 2002. Additional comments were discussed at the Facilities Committee Meeting on December 5th. All comments are now due back to Staff by January 15th and Mr. Jenks is scheduled to make a full presentation to the Board at the February 12th meeting.

11. Proposition 50 Projects;
As the Board knows, Prop. 50 has passed and will most likely make \$450,000 of funding available to this District for water/recycling and water tank/water line projects. Resolutions of support have been submitted to the state for inclusion in the state allocation process. The projects selected will need to be included in the District's capital improvement program for the current fiscal year in order to meet the time requirements of the proposition.

12. Recycled Water Line in San Simeon Avenue;

At the December 2002 Board meeting, staff was directed to move forward on a workplan to verify the feasibility of using the existing abandoned 4" water main in San Simeon Avenue for use as a recycled water distribution pipeline. Staff has completed the first phase of the work plan to identify constraints in regards to health separation and regulatory issues, and upon Board concurrence, will proceed with receiving bids for potholing and pipeline pressure testing. The first phase work plan consisted of reviewing as-built drawings for conflicts, and reviewing regulatory issues related to reuse of this abandoned pipeline.

Upon review of as-built drawings and Atlas maps of San Simeon Avenue and Hearst Drive, there are no major apparent conflicts that would preclude use of this 4" abandoned water main for recycled water use. However, a few items are of note:

There is one fire hydrant lateral, and one water service, that cross over this existing 4" AC main on the south side of San Simeon Avenue. These crossings may or may not meet vertical health separation criteria of 1-foot clearance from the recycled water main. Retrofit at these crossings may be required.

Also, the plugs installed in the abandonment of the old waterline will need to be exposed and pressure flanges or valves installed.

The investigation is continuing and a verbal update will be provided at the Board meeting on January 8th.

San Simeon Community Services District



111 Pico Avenue, San Simeon, California 93452
(805) 927-4778 Fax (805) 927-0399

Board of Directors
Carol Bailey-Wood, Loraine Mirabal-Boubion, Eric Schell, David Kiech, Terry Lambeth

Sent Via Facsimile (831) 427-4877 and Golden State Overnight Courier (Tracking No. 13507262364)

December 11, 2002

Mr. Sharif Traylor
California Coastal Commission
Central Coast District Office
725 Front Street, Suite 300
Santa Cruz, Ca 95060

Re: San Simeon CSD, Wastewater Protective Works- Rock RipRap
1985 Treatment Plant Expansion (CA CC Permit No.4-85-180)
Un-permitted Rock RipRap, V-3-01-028

Dear Mr. Traylor:

As you may recall, on October 16, 2002, the San Simeon Community Services District submitted a Coastal Land Use Permit to the County of San Luis Obispo for processing the above referenced project. Although your November 27, 2002 letter indicates that your staff is requesting a duplicate application, we have not received documentation of State jurisdiction in this matter and, therefore, do not believe a duplicate permit for State processing is warranted. As you know, the Commission's permit authority was delegated to the local government (San Luis Obispo County), when the Local Coastal Plan (LCP) for San Luis Obispo County was adopted by the Board of Supervisors in March 1988 and certified by the California Coastal Commission on February 25, 1988. Furthermore, our survey exhibit, previously furnished to your office, clearly illustrates that the mean high water elevation lies substantially seaward of the rock riprap and, therefore, falls under County jurisdiction. Pursuant to the Coastal Act, we understand the Commission's permit jurisdiction ends above mean high water elevation. If this is incorrect, please provide additional information for our review.

In response to the concern regarding the 1985 wastewater treatment plant expansion and Permit CDP-4-85-180, the District believes it has complied with all of the outstanding conditions in the following manner:

Permit Requirement #1- This requirement states that, "*Prior to transmittal of the Coastal Permit, the applicant shall submit evidence, to the Executive Director for his review and approval, that the San Simeon Acres Community Services District has accepted and agreed to maintain any outstanding access dedications in the San Simeon Acres area, as detailed in Finding No. 3 and as shown on Exhibit 1.*"

Mr. Sharif Traylor
California Coastal Commission
Aeration Tank Expansion and Rock RipRap
December 11, 2002
Page 2 of 2

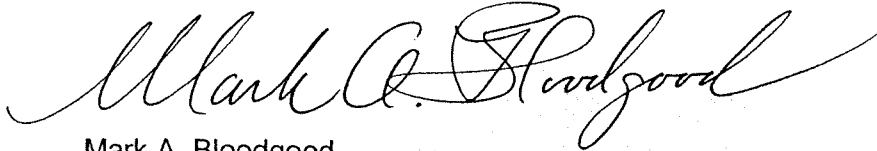
Response: The District does not currently have, nor has it ever had, any powers related to recreation and has never been authorized by **LAFCO** to do so. However, since the early 1990's the County of San Luis Obispo Parks Department has been in the process of accepting offers of dedication for public access ways along the coastline. The District recently contacted the County Parks Department regarding the status of accepted offers of dedication along the coastline in the San Simeon area. Apparently the County is in the process of creating a database of all the accepted offers and preliminary research indicates that all but one of the access ways shown on the above mentioned 1985 Exhibit 1 have been accepted by the County. The County Parks will not have a definitive account of these access ways until early next year.

Equally noteworthy is the fact that with the passage of Senate Bill 1962, the Coastal Accessway issues will be dealt with and, therefore, this matter should be resolved.

If you have any questions please contact John Wallace, District Engineer, at (805) 544-4011 or me at (805) 549-8658.

Sincerely,

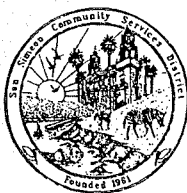
San Simeon Community Services District



Mark A. Bloodgood
District Manager

cc: Mr. Jonathan Bishop, Coastal Planner, California Coastal Commission
Mr. Randy Sabin, Supervisor, Code Enforcement, San Luis Obispo County
Nancy Cave, Enforcement Supervisor, California Coastal Commission
Steve Monowitz, Acting Permit Supervisor, California Coastal Commission
Mr. John L. Wallace, San Simeon Community Services District Engineer ✓

San Simeon Community Services District



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Board of Directors

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December 11, 2002

Mr. Sharif Traylor
California Coastal Commission
Central Coast District Office
725 Front Street, Suite 300
Santa Cruz, Ca 95060

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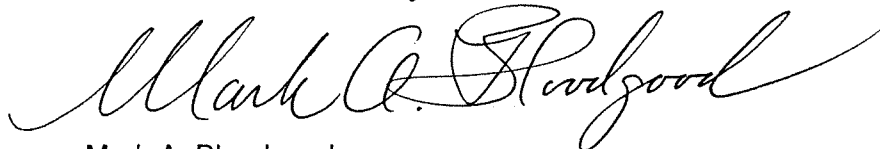
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Equally noteworthy is the fact that with the passage of Senate Bill 1962, the Coastal Accessway issues will be dealt with and, therefore, this matter should be resolved.

If you have any questions please contact John Wallace, District Engineer, at (805) 544-4011 or me at (805) 549-8658.

Sincerely,

San Simeon Community Services District



Mark A. Bloodgood
District Manager

cc: Mr. Jonathan Bishop, Coastal Planner, California Coastal Commission
Mr. Randy Sabin, Supervisor, Code Enforcement, San Luis Obispo County
Nancy Cave, Enforcement Supervisor, California Coastal Commission
Steve Monowitz, Acting Permit Supervisor, California Coastal Commission
Mr. John L. Wallace, San Simeon Community Services District Engineer ✓

**REGULAR BOARD OF DIRECTORS MEETING
SAN SIMEON COMMUNITY SERVICES DISTRICT**

Date: Wednesday, December 11, 2002

Location: Cavalier Banquet Room

MINUTES

1.0 CALL TO ORDER

The Board convened at 6:30 p.m.

1.1 Roll Call:

Directors Present: Carol Bailey-Wood, David Kiech, Terry Lambeth, Eric Schell and Loraine Mirabel-Boubion

Staff Present: District Managers Mark Bloodgood and Eileen Putnam, John Wallace, District Engineer and Christine Dietrich (For District Counsel Robert Schultz)

1.2 Pledge of Allegiance

1.3 Election of Officers:

Director Bailey-Wood opened the floor for nominations for Chairperson. Director Lambeth nominated David Kiech. Eric Schell nominated Carol Bailey-Wood. Director Mirabel-Boubion moved that nominations be closed. Voting was held, with Kiech, Lambeth and Mirabel-Boubion voting for Director Kiech and Bailey-Wood and Schell voting for Director Bailey-Wood. Director Kiech was elected Chairperson. Director Bailey-Wood then opened the floor for nominations for Vice Chairperson. Director Schell nominated Carol Bailey-Wood and Director Lambeth nominated Loraine Mirabel-Boubion. Voting was held, with Mirabel-Boubion, Kiech and Lambeth voting for Director Mirabel-Boubion and Bailey-Wood and Schell voting for Director Bailey-Wood. Director Mirabel-Boubion was elected Vice Chairperson. Director Bailey-Wood thanked her fellow Board members for their support during her two years as Chairperson.

2.0 PUBLIC COMMENT

2.1 Sheriff's Report:

Lt. Basti said there was not much to report. This is the Sheriff Department's fourth year of giving reports at the District board meetings. He thanked the members of the community for all their support and assistance.

2.2 Public Comment: There were no comments from members of the public.
There was no public comment.

3.0 STAFF REPORTS:

3.1 General Manager's Report

Mr. Bloodgood referred to recent reports that The Hearst Corp. appears to be nearing closure in its negotiations with the American Land Conservancy. Staff is monitoring this situation and remains in contact with representatives of both agencies. Kara Blakeslee, formerly with the Nature Conservancy but now working for the American Land Conservancy, would like to schedule a time to meet with the community, including residents, Chamber of Commerce and the Board of Directors. Staff will try to coordinate a suitable date.

The annual audit is nearing completion and staff is working with the auditor on the final entries, one of which includes designation of funds to be reserved for a water project. The Finance Committee will meet in order to give input regarding the appropriate dollar amount. They will bring their recommendations back to the Board.

As part of continued cost savings efforts currently being explored, staff continues to research sludge removal options. The firm MISCO is reviewing sections of the Facilities Plan, which relate to sludge

removal and will be forwarding their input and recommendations. MISCO reps are also making themselves available for a presentation, first to the Facilities Committee at their February meeting and, if warranted, to the Board of Directors at a later date. Staff has also contacted Aero-Mod directly to solicit their input. A brief discussion followed. MISCO is the west coast distributor for Aero-Mod, and will do the presentation at no cost to the District.

Finally, Mr. Bloodgood reported that Quantum Consulting had notified staff that grant funds are available to pay for the two (2) 30hp blower motors as part of an energy saving grant that the District qualified for. Ron Head had made the initial contact with Quantum and supplied them with the necessary information for the application.

3.2 Plant Superintendent's Report

Mr. Wallace reported that water usage for the month of November showed a slight decrease, and that the recovery rate was approximately 89%. Rainfall totals are still lower than average. The wells are currently at 11.45 and the chloride levels are still low. Staff finished installing new chains and flights for Clarifier #3. While #3 plant was off-line, staff replaced the diffuser membranes on the Aeration Tank. This will assist in lowering power consumption. San Luis Powerhouse serviced the stand-by generator in the well field. There was a power outage on 11/21, which lasted approximately 2.25 hours. The safety grating has been received from Harrington Industrial Plastics. Finally, D-Kal Construction submitted a proposal to lower the manhole on Castillo Drive - \$2,880.00. A discussion regarding the work necessary to lower the manhole followed. Mr. Wallace distributed photos of the manhole for the Board to review. Mr. Wallace recommended that the Board consider fixing the manhole either now or in the near future.

3.3 District Engineer's Report

Mr. Wallace referred to the General Manager's comment regarding the 30hp blower motors and reported that staff was also researching any other rebates applicable to the airline project. The ledger regarding capital improvement projects is being reviewed and revised by the Facilities Committee.

Recommendations will be submitted to the Board at a later date.

Staff prepared a County Land Use Coastal Development Permit application (CDP) and submitted it to the County on September 24, 2002. Staff has not received the 30-day response letter as requested by the Permit Streamlining Act, therefore, we consider this project to be accepted for processing. The Coastal Commission has reviewed the exhibits illustrating the "mean high watermark", which differentiates County and State jurisdiction. Coastal Commission does not agree with the data and has asked for a separate CDP. Staff and District Counsel have met to review the most recent letter from Coastal and will respond by December 13, 2002. Additionally, District Counsel is attending Coastal Commission hearings and will attempt to meet with Coastal staff regarding this issue.

Mr. Wallace stated that the Facilities Plan and State Revolving Fund Loan (SRF) are somewhat tied together. We have a general placeholder in the SRF Plan, which will provide low interest loans for a wastewater plant project. Mr. Bloodgood asked if the state budgetary woes would affect the SRF Funding. Mr. Wallace said it would not, since the SRF loans are funded by earlier bond propositions. As earlier loans are paid back, the interest goes into to pool to fund new loans.

4.0 ITEMS OF BUSINESS

4.1 Approval of Minutes – November 13, 2002

Director Mirabel-Boubion had only one correction to the minutes. Under Item 7.5 – Water Committee Report, she said that a letter of introduction to Hearst Corporation should have been included. A motion was made by Director Mirabel-Boubion and seconded by Director Schell to approve the minutes of November 13, 2002 with the correction. The motion passed unanimously.

4.2 Approval of Warrants – November 1, 2002 through November 30, 2002

Warrant No. 0211-006 – Fluid Solutions for a Service call on the VFD's was questioned. Staff indicated that the service call was not covered under warranty since the problem was not with the VFD's but rather

it was the blower motors. A motion was made by Director Mirabel-Boubion and seconded by Director Bailey-Wood to approve the warrants for November 1 through 30th in the amount of \$34,654.73. The motion passed unanimously.

5.0 DISCUSSION / ACTION ITEMS

5.1 Resolution 02-285 Expression of Appreciation for Robert McLaughlin's Service on the the San Simeon Community Services District Board of Directors

Mr. Bloodgood read the Resolution of Appreciation, a copy of which is attached to the official minutes. A motion was made by Director Mirabel-Boubion and seconded by Director Bailey-Wood, to approve Resolution 02-285, an Expression of Appreciation for Robert McLaughlin's Service on the Board of Directors. A roll call vote was held with Directors, Bailey-Wood, Lambeth, Schell, Mirabel-Boubion and Kiech all voting in the affirmative. Mr. McLaughlin thanked the Board. He also expressed his gratitude to the community and staff.

5.2 Resolution 02-286 Supporting the Allocation of Proposition 50 Funds for San Luis Obispo County

Ms. Putnam reported that the SLO County Coalition had completed its ranking of the various water projects. Because the Recycled Water Project was the Water Committee's first priority but might not fare well in the competitive project rankings by other agency staff, SSCSD representatives earmarked the "guaranteed allocation" of \$300,000 for that project. The Water Master Plan / Water Tank Replacement and Correction of Water Deficiencies Projects were put into the competitive round and scored 1st and 2nd in the final rankings. If the State does award the Prop 50 monies as proposed, these two projects would result in an additional \$350,000 for the District. Each project component required additional matching funds, which were discussed. The projects must be completed within the two (2) year time frame in order to qualify for the monies. Approval of a resolution supporting the allocation at both the District and County levels is the final step. All resolutions will be included in the package to be sent to the state legislators prior to the new session that begins in January. A motion was made by Director Mirabel-Boubion and seconded by Director Bailey-Wood, to approve Resolution No. 02-286, supporting the allocation of Proposition 50 monies for San Luis Obispo County. A roll call vote was held with Directors Bailey-Wood, Lambeth, Schell, Mirabel-Boubion and Kiech all voting in the affirmative.

5.3 District Fee Schedule for Processing Will Serve Letters

Ms. Putnam stated that the Board had recently approved two (2) conditional will serve letters for properties located within the District. While neither project proposes adding additional water fixtures, the administrative processes, including reviews and inspections, results in additional costs to the District. Such costs should be borne by the applicants. Staff and district counsel have reviewed current district policy and found that, while it could be interpreted as covering will serve letters, it is weak and needs to be updated. Specific procedures for the issuance of will serve letters need to be developed. The current fee of \$250 may not be adequate to cover administrative costs. Staff requested authorization to develop specific procedures for the issuance of will serve letters. Staff also recommended requiring a fee of \$1,000, with the first \$250 to be a processing fee and the balance to serve as a deposit towards the cost of plan checks, project reviews and inspections. The remaining balance, if any, would be refunded at the close of the project. If costs exceeded the deposit, then an additional deposit would be required before issuance of a final will-serve. The consensus of the Board was that staff should proceed and bring final recommendations back to the Board once it is completed.

5.4 Water Use Restrictions

Staff re-iterated that the November rains had helped to re-charge the wells, which are currently at 11.45 feet. While Pico Creek does have water in it, it is not running. Staff recommended that the Board maintain status quo for the time being, and not rescind the water restrictions until such time as Pico is running and the wells are fully charged. Discussion followed, with the board agreeing to wait another month before considering lifting the restrictions. In the meantime, Staff will continue not to enforce the

restrictions. This information will be given to the local press and a flyer will be included in the next billing, to update residents/property owners.

5.5 Evaluation of San Simeon Avenue Pipeline for Reclamation Purposes

The Facilities Committee directed staff to seek Board authorization to proceed with an investigation of the use of an abandoned 4" waterline on San Simeon Avenue for the purpose of conveying reclaimed wastewater to the CalTrans right-of-way. This line would also serve future reclaimed water projects. A discussion followed regarding investigating this possibility, including potential regulatory matters. If it appears early on that this is not a feasible option, the investigation will cease. Additionally, if the concept is a "no go" with the State, the investigation will be terminated. A motion was made by Director Lambeth and seconded by Director Bailey-Wood to authorize staff to proceed with the analysis and investigation of the abandoned waterline on San Simeon Avenue for the purposes of carrying reclaimed water to the CalTrans Right-of-Way and serving future reclaimed water projects. The motion also stipulated that the cost of this investigation/analysis was not to exceed \$5,000. The motion carried unanimously.

5.6 Facilities Plan Update

Mr. Bloodgood stated that the Facilities Committee had met with John Jenks, of Kennedy Jenks Consultants, on November 7th to review the final draft of the Facilities Plan. This meeting was aimed at getting final approval of the Jenks Report but concerns were raised about some of the nomenclature and equivalencies used and the final numbers reflected in the draft with respect to sludge handling. The deadline to receive final comments and concerns was set for January 15th. Mr. Jenks will then make a full presentation to the board at the February 12th meeting. Mr. Bloodgood stressed that the timeline must be adhered to so that potential funding sources for projects, most importantly the Proposition 50 monies, are not lost. Acceptance of the Facilities Plan does not preclude the Board from amending it, but the District must maintain its progress and initiate and complete projects in a timely, orderly fashion.

5.7 Board Committee Reports

Policy Committee: Next meeting is scheduled for December 16th at 9AM at the District Office. The committee is finishing the Personnel policy section.

Water Committee: Mr. O'Neill of Eco-Resource gave a presentation at the last water committee meeting. The next meeting will be held on February 5, 2003 at 4PM. The committee is looking at the possibility of recycling water. A recommendation has been made to combine the water and facilities committees in order to remove duplication since the goals are similar.

Budget Committee: Will try to get together next week to review the draft audit and make final determinations on specific accounts.

Facilities Committee: (Refer to Item 5.6) The committee will meet jointly with the Water Committee in February.

5.8 Board Reports

There were no Board Reports.

6.0 BOARD / STAFF GENERAL DISCUSSIONS AND PROPOSED AGENDA ITEMS

- Mr. Bloodgood reminded the Board that they had requested that Ordinance No. 66 be agendized for discussion at the January meeting.
- A reminder that the Board Member Training Seminar will be held in Templeton on January 11, 2003. Presently, Directors Kiech and Lambert, as well as Mr. Bloodgood, are registered to attend. Any other interested board members should notify the office of their interest as soon as possible.
- Director Lambeth stated that concerns were being raised again about inappropriate use of the District truck. Mr. Bloodgood stated that this had been addressed before, and he had personally investigated the allegations, including inspecting the truck log. This topic has been referred to the Policy Committee and the Board and Staff had urged the Committee and Mr. Schultz to make it a top priority. A brief discussion followed.

7.0 ADJOURNMENT

On a motion by Director Bailey-Wood and seconded by Director Lambeth, the meeting adjourned at 7:50PM.

SAN SIMEON COMMUNITY SERVICES DISTRICT
WARRANT REPORT
December 1 through December 31, 2002

<u>DATE</u>	<u>NUM</u>	<u>NAME</u>	<u>WARRANT#</u>	<u>MEMO</u>	<u>AMOUNT</u>
12/11/2002	4111	MID-STATE BANK	0212-001	PAYROLL TAXES FOR NOVEMBER 2002	\$ 2,217.88
12/11/2002	4112	EMPLOYMENT DEV. DEPT.	0212-002	PAYROLL TAXES FOR NOVEMBER 2002	\$ 526.19
12/11/2002	4113	PUBLIC EMP. RET. SYSTEM	0212-003	RETIREMENT FOR NOVEMBER 2002	\$ 1,478.32
12/11/2002	4114	PACIFIC BELL	0212-004	TELEPHONE	\$ 183.21
12/11/2002	4115	AT&T	0212-005	TELEPHONE	\$ 42.02
12/11/2002	4116	CA SPECIAL DISTRICT ASSOC.	0212-006	2003 MEMBERSHIP DUES	\$ 435.00
12/11/2002	4117	CREEK ENVIRONMENTAL LAB.	0212-007	TOTAL COLIFORM ANALYSIS	\$ 240.00
12/11/2002	4118	CAMBRIA AUTO PART	0212-008	GEAR OIL	\$ 15.87
12/11/2002	4119	CAMBRIA HARDWARE	0212-009	CLEANER, PLUMBING SUPPLIES, LEVEL, GLUE	\$ 469.49
12/11/2002	4120	CAMBRIA TIRE & AUTOMOTIVE	0212-010	GEAR OIL	\$ 17.16
12/11/2002	4121	FGL ENVIRONMENTAL	0212-011	INORGANIC ANALYSIS	\$ 61.00
12/11/2002	4122	GROENIGER & COMPANY	0212-012	2 METER BOXES	\$ 68.64
12/11/2002	4123	LA CHEMICAL	0212-013	CHEMCLOR & SODIUM BISULFITE	\$ 2,416.19
12/11/2002	4124	MISSION COUNTRY DISPOSAL	0212-014	RUBBISH	\$ 218.33
12/11/2002	4125	MISSION UNIFORM SERVICE	0212-015	TOWELS & COVERALLS	\$ 155.70
12/11/2002	4126	PASO ROBLES WELDING	0212-016	INFLUENT CHANNEL DIVIDER BOX	\$ 858.00
12/11/2002	4127	RMA COMPUTER SOLUTIONS	0212-017	WEBSITE UPDATES FOR DECEMBER 2002	\$ 25.00
12/11/2002	4128	SLO COUNTY ENVIRON. HEALTH	0212-018	CROSS CONNECTION	\$ 115.00
12/11/2002	4129	SCHULTZ TRANSPORTATION	0212-019	MONTHLY CONTAINER RENTAL	\$ 80.00
12/11/2002	4130	U.S. FILTER/ENVIREX	0212-020	CHAIN	\$ 122.93
12/11/2002	4131	U.S.A. BLUE BOOK	0212-021	EDI REPLACEMENT EPDM MEMBRANE	\$ 445.25
12/11/2002	4132	U.S.A. TRANSPORT	0212-022	SLUDGE DISPOSAL	\$ 1,066.95
12/11/2002	4133	VIKING OFFICE PRODUCTS	0212-023	PRINTER CARTRIDGE, TRASH BAGS, PENS...	\$ 98.27
12/11/2002	4134	W.W. GRAINGER, INC.	0212-024	EPOXY & TORQUE WRENCH	\$ 364.18
12/11/2002	4135	CROSBY & CINDRICH	0212-025	AUDITED FINANCIAL STATEMENTS	\$ 2,250.00
12/11/2002	4136	CRYSTAL SPRINGS WATER	0212-026	WATER DELIVERY	\$ 45.00
12/11/2002	4137	JOHN WALLACE & ASSOC.	0212-027	MAJOR PROJECTS FOR AUGUST 2002	\$ 2,628.97
12/11/2002	4138	JOHN WALLACE & ASSOC.	0212-028	MAJOR PROJECTS FOR SEPTEMBER 2002	\$ 1,577.16
12/11/2002	4139	JOHN WALLACE & ASSOC.	0212-029	MAJOR PROJECTS FOR OCTOBER 2002	\$ 1,460.38
12/11/2002	4140	MURAT OZGURTAS	0212-030	SEC. DEP. REFUND LESS FINAL BILL #1150	\$ 50.00
12/11/2002	4141	JOSH BROWN	0212-031	SEC. DEP. REFUND LESS FINAL BILL #1149	\$ 50.00
12/11/2002	4142	JAMES PROSTOVICH	0212-032	SEC. DEP. REFUND LESS FINAL BILL #1137	\$ 50.00
12/16/2002	4143	KIMBERLY ALLISON	0212-033	PAYROLL 12/1/02-12/15/02	\$ 421.53
12/16/2002	4144	MICHAEL HASSETT	0212-034	PAYROLL 12/1/02-12/15/02	\$ 1,269.19
12/16/2002	4145	RONALD HEAD	0212-035	PAYROLL 12/1/02-12/15/02	\$ 1,897.86
12/16/2002	4146	DAVID KIECH	0212-036	MONTHLY BOARD SERVICE FOR DECEMBER	\$ 75.00
12/16/2002	4147	TERRY LAMBETH	0212-037	MONTHLY BOARD SERVICE FOR DECEMBER	\$ 75.00
12/16/2002	4148	LORAIN MIRABAL-BOUBION	0212-038	MONTHLY BOARD SERVICE FOR DECEMBER	\$ 75.00
12/16/2002	4149	ERIC SCHELL	0212-039	MONTHLY BOARD SERVICE FOR DECEMBER	\$ 75.00
12/16/2002	4150	EDA, INC.	0212-040	GENERAL MGMT. SERVICES FOR OCTOBER	\$ 9,707.30
12/16/2002	4151	PG&E	0212-041	ELECTRICITY	\$ 8,777.32
12/17/2002	4152	ROBERT SCHULTZ	0212-042	LEGAL SERVICES FOR NOVEMBER 2002	\$ 1,500.00
12/26/2002	4153	PUBLIC EMP. RET. SYSTEM	0212-043	HEALTH INSURANCE FOR JANUARY 2003	\$ 989.36
12/26/2002	4154	JOHN WALLACE & ASSOC.	0212-044	DISTRICT ENGINEERING FOR OCTOBER 2002	\$ 2,626.45
12/26/2002	4155	CREEK ENVIRONMENTAL LAB.	0212-045	TOTAL COLIFORM ANALYSIS	\$ 100.00
12/26/2002	4156	HARRINGTON INDUST. PLASTICS	0212-046	GREEN MOLDED GRATE	\$ 3,399.17
12/26/2002	4157	LA CHEMICAL	0212-047	CHEMCLOR & SODIUM BISULFITE	\$ 920.89
12/26/2002	4158	RAUCH COMM. CONSULTANTS	0212-048	CONSULTING SUPPORT	\$ 806.00
12/26/2002	4159	SAN LUIS POWERHOUSE	0212-049	ANNUAL SERVICE ON EMER. GENERATOR	\$ 707.44
12/26/2002	4160	SAN LUIS SECURITY SYSTEMS	0212-050	ALARM FOR JAN., FEB. & MARCH 2003	\$ 81.00
12/26/2002	4161	W.W. GRAINGER, INC.	0212-051	STANDARD SOCKET	\$ 19.24
12/26/2002	4162	KENNETH BRADBURN	0212-052	SEC. DEP. REFUND LESS FINAL BILL #1091	\$ 50.00
12/30/2002	4163	CELLULAR ONE	0212-053	CELL PHONE	\$ 54.09
12/30/2002	4164	A BETTER BEEP	0212-054	PAGER	\$ 29.45
12/30/2002	4165	CRYSTAL SPRINGS WATER	0212-055	WATER DELIVERY	\$ 38.00
12/31/2002	4166	KIMBERLY ALLISON	0212-056	PAYROLL 12/16/02-12/31/02	\$ 627.54
12/31/2002	4167	RONALD HEAD	0212-057	PAYROLL 12/16/02-12/31/02	\$ 1,894.43
12/31/2002		TOTAL			\$ 56,068.35

SAN SIMEON COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 97
AN ORDINANCE RELATING TO WATER CONSERVATION

BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE SAN SIMEON COMMUNITY SERVICES DISTRICT ("SSCSD") as follows:

SECTION 1: That Ordinance 96 is hereby repealed.

SECTION 2: There is hereby re-established the SSCSD Comprehensive Water Conservation Plan.

A. DECLARATION OF POLICY.

It is hereby declared that, because of the conditions prevailing within the SSCSD boundaries, the general welfare requires that the water resources available to SSCSD be put to the maximum beneficial use to the extent to which they are capable, and that the waste or unreasonable use, or unreasonable method of use of water be prevented and the conservation of such water is to be extended with a view to the reasonable and beneficial use thereof in the interests of the people of the SSCSD and for the public welfare.

The current water situation within the SSCSD is as follows:

1. Present water supplies are limited;
2. The chloride constituent of the SSCSD water fluctuates to undesirable levels periodically;
3. Long-term water supply projects are in process but not readily available;
4. SSCSD needs to conserve its available supplies to provide water to its existing customers.

Based upon the water situation within the SSCSD, the Board finds that an emergency water situation exists necessitating the immediate re-implementation of comprehensive water conservation measures.

B. APPLICATION.

The provisions of this Ordinance shall apply to all persons, customers and property served by the SSCSD wherever situated. No customer of SSCSD, or any employee or invitee of any customer of the SSCSD, shall knowingly make, cause, use or permit the use of SSCSD water

for residential, commercial, industrial, agricultural, governmental or any other purpose in a manner contrary to any provision of this Ordinance, or in an amount in excess of that use permitted by the following conservation measures. The term "SSCSD water," as used herein, shall not include reclaimed wastewater.

C. MANDATORY COMPLIANCE - WATER EMERGENCY.

The following restrictions shall apply to all persons effective immediately:

(1) Use of water from fire hydrants shall be limited to fire fighting and/or other activities immediately necessary to maintain the health, safety and welfare of the SSCSD.

(2) All sales of SSCSD water outside of the SSCSD limits shall not be allowed.

D. PENALTY.

Any violation of any provision of this Ordinance shall constitute an infraction on the first offense and a misdemeanor for each subsequent violation. The violation of each provision, and each separate violation thereof, shall be deemed a separate offense, and shall be punished accordingly; provided, however, compliance may be further sought through injunctive relief in the Superior Court.

E. SEVERABILITY.

If any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances if for any reason is held to be unconstitutional, void or invalid, the invalidity of the remaining portions of this Ordinance shall not be affected thereby, it being the intent of the Board of Directors in adopting this Ordinance that no portion thereof, or provisions, or regulation contained herein, shall become inoperative, or fail by reason of any unconstitutionality of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

SECTION 3: This Ordinance shall take effect and be in force immediately after its passage.

SECTION 4: This Ordinance shall be posted for one (1) week in three (3) public places in the District.

This Ordinance was INTRODUCED, READ, PASSED and ADOPTED on this 8th day of January, 2003, on the following roll call vote, to-wit:

AYES:

NOES:

ABSENT:

Chairman, Board of Directors

ATTEST:

District Secretary

APPROVED AS TO FORM:

General Counsel

6-2 Committee Appointments: All committees shall be appointed by the Chairperson. Committee selection shall take place as often as the Chairperson deems necessary.

6-3 Special Committees: Special committees, that is committees appointed to meet for a special purpose, shall have the same rules as standing committees except that once the purpose for which the committee was formed has been achieved, the committee shall automatically be disbanded.

ARTICLE 7 Election of Officers

7-1 Time of Election: At the first Board meeting in the month of December of every year, the election of Chairperson and Vice Chairperson shall be held.

7-2 Order of Business: This election shall be the first order of business after the call to order and roll call.

7-3 Nominations: The call for nominations shall be opened by the Chairperson and nominations shall be received by voice. No nomination needs to be seconded.

7-4 Nominations Closed: Nominations shall be closed upon an approved motion.

7-5 Absent Candidate: An absent candidate may not be nominated and elected unless such candidate has submitted in writing his desire to serve.

7-6 Possession of Office: The officer elect takes possession of his office immediately.

7-7 Committee Appointments: Committee appointments shall be made, by the new Chairperson, during the first meeting in January after the election of the new Chairperson, and subject to the approval of the Board.

ARTICLE 8 Restriction on Rules

8-1 Policy: The rules contained herein shall govern the Board in all cases to which they are applicable, and in which they are not inconsistent with State or Federal laws or any other rules, regulations, resolutions, or ordinances of the District.

ARTICLE 6
Committees

6-1 Standing Committees: All standing committees, that is committees appointed for a session (a session being that period equal to the term of office of the Board Chairman), shall consist of two Board members and all must conform to the Brown Act.

- a. Budget Committee: Responsible for direct Board input to the budget process. Investigates and reports possible revenue sources. Passes on the preliminary budget and mid-year budget review prior to full Board action. Helps monitor the District's financial position.
- b. Finance Committee: Responsible for overseeing all billing and accounting procedures. Also oversees the deposits on hand and advises the Board of the best place to have its funds, at what rates and any risks involved. It reports all findings to the Board at regular meetings.
- c. Fresh Water Committee: Responsible for Board member interaction and input on the District's fresh water projects. Attend meetings with other agencies to help determine project feasibility and opportunity for joint projects. Takes particular interest in those budget items related to the water projects.
- d. Operations committee: Responsible for Board member interaction and input on matters assigned regarding the operation of the District not covered within an existing committee.
- e. Operations & Procedure Manual Committee: Responsible for keeping up with any changes, additions or deletions made to the District Operations Manual. Will also make reasonable effort insuring all directors, managers, legal counsels and District office copies of the manual are current.
- f. Roads Committee: Responsible for direct Board input into the road maintenance and construction standards. Advises on the need for ordinances re: parking/camping. Takes special interest into those budget items for road repairs and construction. Street lights are part of the Roads Committee responsibility.
- g. Waste Water Committee: Responsible for Board member interaction and input on the District's waste water projects and condition. Attend meetings with other agencies to help determine project feasibility. Takes particular interest in those budget items related to the water projects.

SAN SIMEON COMMUNITY SERVICE DISTRICT
111 Pico Avenue, San Simeon, CA 93452
(805) 927-4778

Date: January 8, 2003

To: Board of Directors

From: District Counsel

Subject: Review of San Simeon Community Service District's Ordinance 66.

INTRODUCTION:

This report requests that the Board of Directors discuss and decide on whether to amend certain portions of San Simeon Community Service District's Ordinance 66 relating to a moratorium on the issuance of water and sewer connections.

BACKGROUND:

In March 1988, the Board of Directors adopted Ordinance 66. Ordinance 66 states in pertinent part:

The District shall not allow water and sewer connections to serve any of the following:

1. Any new structure that will require new water or sewer service; or
2. Any expansion of an existing structure that will incorporate additional plumbing fixtures; or
3. Any expansion of an existing structure that will increase its potential for occupancy and demand for water or sewer.

Ordinance 66 was adopted because there existed, and still exist, a serious water quality and quantity problem and the granting of additional water and sewer connections would result in an immediate threat to public health and safety. The purpose of the moratorium set forth in Ordinance 66 is to allow the District to plan, finance, and construct the necessary infrastructure so that both new and existing development receive adequate levels of public services.

In a recent U.S. Supreme Court Decision, the Court upheld a moratorium adopted by the Tahoe Regional Planning Agency (TRPA) against a claim that the action amounted to an unconstitutional taking of property. As stated by U.S. Supreme Court Justice Stevens, "The consensus in the planning community appears to be," "that moratoria ... are an essential tool of successful development." As such, it is my legal opinion that Ordinance 66 would withstand any legal challenge.

DISCUSSION

Ordinance 66 has clearly been a success. The Ordinance has allowed the District to continue to supply water and sewer to the community without jeopardizing the health and safety of the community. Ordinance 66 is very simple and straightforward. However, in the past few years, there have been discussions regarding amending the Ordinance to clarify definitions and to allow for development that did not increase the demand for water or sewer. Attached hereto are various other jurisdictions that have adopted building moratoriums for your review and to help facilitate the discussion.

RECOMMENDATIONS

It is recommended that Board decide whether to direct District Counsel to amend Ordinance 66. Another option would be to refer the matter to the Water Committee to analyze along with its current review of the water conservation ordinance.

ORDINANCE NO. 66

**AN ORDINANCE OF THE SAN SIMEON ACRES
COMMUNITY SERVICES DISTRICT CONTINUING A MORATORIUM
ON THE ISSUANCE OF WATER AND SEWER CONNECTIONS WITHIN
THE BOUNDARIES OF THE DISTRICT**

BE IT ORDAINED by the Board of Directors of the San Simeon Acres Community Services District ("District") as follows:

SECTION I. FINDINGS.

The Board of Directors of the District does hereby find, determine, and declare as follows:

A. There currently exists a serious water quality and quantity problem within the boundaries of the District;

B. There currently exists a moratorium on new sewer and water connections within the District originally established by Ordinance No. 61 and extended by Ordinance No. 63 to April 1, 1988. The intent of the Board of Directors by this Ordinance is to keep in effect said moratorium after the April 1, 1988, expiration date of Ordinance No. 63;

C. The water quality and quantity problems of the District pose a current and immediate threat to the health and safety of the people within the District;

D. The granting of additional water and sewer connections within the District contrary to the provisions of this ordinance would result in an immediate threat to the public health and safety;

E. The District is diligently pursuing long term supplemental water supplies, but until the time when such supply is available, it is necessary to continue the existing moratorium.

SECTION II. MORATORIUM ON WATER AND SEWER CONNECTIONS.

Except as provided in Section IV of this Ordinance, the District shall shall not allow water and sewer connec-

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Dept.		Co.			
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Fax #		Fax #			

tions or service on properties located within the boundaries of the District to serve any of the following:

1. Any new structure that will require new water or sewer service; or
2. Any expansion of an existing structure that will incorporate additional plumbing fixtures; or
3. Any expansion of an existing structure that will increase its potential for occupancy and demand for water or sewer.

SECTION III. DURATION OF MORATORIUM.

The provisions of this Ordinance shall remain in effect until repealed. This ordinance supersedes Ordinance No. 63.

SECTION IV. VESTED RIGHT EXEMPTION. The prohibition on new sewer or water connections provided in Section II of this Ordinance shall be inapplicable to projects receiving a vested rights exemption pursuant to Section 4 of District Ordinance No. 65.

SECTION V. CONSTITUTIONALITY.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by a Court of competent jurisdiction, such decision shall not affect the validity or the constitutionality of the remaining portions of this Ordinance. The Board of Directors of the District hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION VI. EFFECTIVE DATE OF ORDINANCE.

This Ordinance shall be in full force immediately upon passage and within fifteen (15) days thereof shall be

published at least once in a newspaper of general circulation in the County of San Luis Obispo, California.

INTRODUCED, PASSED AND ADOPTED at a regular meeting of the Board of Directors held this 9th of March, 1988, on motion of Director Hoffman, seconded by Director Blankenship, and on the following roll call vote, to-wit:

AYES: Beal, Hoffman, Blankenship, Boniface, Price

NOES: None

ABSENT: None

Thomas A. Beal

President of the San Simeon Acres Community Services District and of the Board of Directors Thereof

ATTEST:

Shauna D. Head
Shauna D. Head, Secretary of the San Simeon Acres Community Services District and of the Board of Directors Thereof

APPROVED AS TO FORM:

Roger C. Lyon, Jr.
ROGER C. LYON, JR., Attorney for the San Simeon Acres Community Services District

23.04.430 - Availability of Water Supply and Sewage Disposal Services.

A land use permit for new development that requires water or disposal of sewage shall not be approved unless the applicable approval body determines that there is adequate water and sewage disposal capacity available to serve the proposed development, as provided by this section. Subsections a. and b. of this section give priority to infilling development within the urban service line over development proposed between the USL and URL. In communities with limited water and sewage disposal service capacities as defined by Resource Management System alert levels II or III:

- a. A land use permit for development to be located between an urban services line and urban reserve line shall not be approved unless the approval body first finds that the capacities of available water supply and sewage disposal services are sufficient to accommodate both existing development, and allowed development on presently-vacant parcels within the urban services line.
- b. Development outside the urban services line shall be approved only if it can be served by adequate on-site water and sewage disposal systems, except that development of a single-family dwelling on an existing parcel may connect to a community water system if such service exists adjacent to the subject parcel and lateral connection can be accomplished without trunk line extension.

23.04.432 - Development Requiring Water or Sewer Service Extensions.

To minimize conflicts between agricultural and urban land uses, development requiring new community water or sewage disposal service extensions beyond the urban services line shall not be approved.

23.04.440 Transfer of Development Credits - Cambria.

The purpose of this section is to implement portions of the Cambria/Lodge Hill Transfer of Development Credits Program (TDC) by providing a procedure to allow simple transfers within the Lodge Hill area of the community of Cambria. Consistent with applicable planning area programs and standards of the Land Use Element, the objective of this section is to reduce potential buildout in sensitive areas of Lodge Hill called "Special Project Areas." Through transfer of development credits, allowable building area (expressed in square footage) for lots within a special project area may be transferred to more suitable sites within Lodge Hill. A lot from which development credits have been transferred is "retired", and loses its building potential through recordation of permanent conservation easement or other document. A residence on a "receiver" lot may thus be developed with larger dwellings than would otherwise be allowed by planning area standards.

- a. **Where allowed.** Development credit transfers shall occur only on parcels located within the Lodge Hill area (east and west) as defined by Figure 3, Cambria Urban Area, Part II of the Land Use Element. Lots being retired for purposes of a transfer shall be located within a special project area as shown on Figure 3. In no case shall a development credit be transferred to a building site within a special project area from outside the area. Lots within a special project area may qualify for additional dwelling square footage only by retiring lot(s) within a special project area.
- b. **Permit requirement.** Minor Use Permit for the proposed dwelling and site receiving the additional allowed square footage. No permit requirement for the lot to be retired into open space.
- c. **Required findings.** The Planning Director or applicable appeal body shall not approve a Minor Use Permit for a residence to be constructed with additional square footage gained through TDC until the following findings have been made:
 - (1) Adequate instruments have been executed to assure that lot(s) to be retired will remain in permanent open space and that no development will occur; and
 - (2) The "receiver" site can accommodate the proposed scale and intensity of development without the need for a variance (23.01.045), exception to height limitations (23.04.124b) or modification to parking standards (23.04.162h); and
 - (3) The circumstances of the transfer are consistent with the purpose and intent of the applicable planning area programs and standards regarding transfer of development credits.

SAN LUIS OBISPO CO. LAW LIBRARY

19.10

CHAPTER 10: BUILDING PROHIBITION AREAS

<u>Sections:</u>	<u>Page:</u>
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19.10.030 - Temporary Building Halt Within the Community of Baywood Park and Los Osos and Adjoining Areas. The building official shall immediately cease the issuance of any building permit for the construction of any building requiring a new or enlarged sewage disposal system or sewage holding tank system within the community of Baywood Park and Los Osos and adjoining areas as shown on the "Prohibition Boundary Map" attached as Exhibit A to California Regional Water Quality Control Board Resolution 83-13, which is incorporated herein by reference as though fully set forth here. [Added 1989, Ord. 2433]

19.10.031 - Duration of Moratorium. The temporary building moratorium established by Section 19.10.030 shall be in full force and effect until such time as a sewage collection, treatment and disposal system is installed to serve all of the cited territory. [Added 1989, Ord. 2433]

19.10.032 - Exceptions: The building official may issue building permits for new construction that does not comply with the provisions of Section 19.10.030 only where the California Regional Water Quality Control Board, Central Coast Region, has, by resolution, granted an "Exemption from the Basin Plan Prohibition of Additional Individual Sewage Disposal Systems in the Community of Baywood Park and Los Osos", which specifically describes the project so exempted, its location and any conditions or restrictions associated with the approved exemption. Issuance of a building permit by the building official on the basis of such exemption shall not occur unless the approved plans for the project and the project site fully comply with all applicable provisions of the exemption.

[Added 1989, Ord. 2433]

California Regional Water Quality Control Board, Central Coast Region, has, by resolution, granted an "Exemption from the Basin Plan Prohibition of Additional Individual Sewage Disposal Systems in the Community of Baywood Park and Los Osos", which specifically describes the project so exempted, its location and any conditions or restrictions associated with the approved exemption. Issuance of a building permit by the building official on the basis of such exemption shall not occur unless the approved plans for the project and the project site fully comply with all applicable provisions of the exemption.

[Added 1989, Ord. 2433]

EXECUTIVE ORDER No. 2-02

THE CITY OF FREDERICK

EXECUTIVE ORDER DECLARING A CONTINUED MORATORIUM ON ANNEXATIONS IN THE CITY OF FREDERICK AND ON THE ISSUANCE OF BUILDING PERMITS AND SUBDIVISION PLAT RECORDATION EXCEPT AS PROVIDED FOR BY THE WATER ALLOCATION ORDINANCE OF 2002

WHEREAS, Water is a vital component of sustaining existing residential, commercial and industrial demands of the citizens and taxpayers of The City of Frederick, and an essential component of continued future growth of The City of Frederick; and

WHEREAS, The Annotated Code of Maryland, Environment Article, Section 9-512(b) prohibits the issuance of a building permit unless the water supply system is adequate to serve the proposed construction, and Section 9-512(d), requires that a subdivision plat may not be recorded unless the water facilities to serve the property will be completed in time and adequate to serve the proposed development; and

WHEREAS, The City of Frederick has been experiencing a serious drought and high growth rates resulting in water supply shortages on a city-wide basis, and

WHEREAS, On March 27, 2001, The City of Frederick announced an Executive Order implementing a moratorium on new development and annexations due to inadequate water resources; and

WHEREAS, The City of Frederick extended the terms of the Executive Order on August 15, 2001, and on February 8, 2002, and clarified the terms of the Executive Order on April 25, 2002; and

WHEREAS, On June 28, 2002, The City of Frederick entered in a Consent Order with the Maryland Department of the Environment, Water Management Administration, requiring the City to continue the moratorium on annexations within the City and, except as provided for by the Water Allocation Ordinance of 2002, to continue the moratorium on the issuance of building permits and subdivision plat recordation; and

WHEREAS, The terms of Executive Order 1-02, imposing restrictions on the recordation of subdivision plats and annexations and instituting new restrictions on the issuance of building permits was to remain in effect until the earliest of (1) approval of a water allocation ordinance, or (2) City legal acquisition of and actual physical diversion of supplemental sources of sufficient quantity and quality available for public consumption, or (3) improvements to the water system have been made so as to constitute adequate water supply for the City of Frederick; and

WHEREAS, The City of Frederick enacted the Water Allocation Ordinance, with an effective date of November 1, 2002, to address water allocation and consumption priorities in the City; and

WHEREAS, In compliance with the State Consent Order and Executive Order 1-02, The City of Frederick now desires to issue Executive Order 2-02 to continue the moratorium on the annexation of properties within The City of Frederick until long-term water supply sources are secured; and

WHEREAS, In compliance with the State Consent Order and Executive Order 1-02, The City of

Frederick also desires to issue Executive Order 2-02 with the intent of continuing the moratorium on the issuance of building permits and subdivision plat recordation within The City of Frederick except as provided for under the terms and conditions set forth in the Water Allocation Ordinance of 2002; now therefore by the power vested in me as the Mayor of The City of Frederick, it is hereby

ORDERED that:

1. No annexations will occur within the City of Frederick until long-term water supply sources are secured.
2. No additional building permits shall issue and no additional subdivisions plats shall be recorded within The City of Frederick, except as provided for by the Water Allocation Ordinance of 2002.
3. Exemptions previously requested before the Mayor and Board of Aldermen of The City of Frederick, shall be processed by the Water Service Committee in accordance with the Water Allocation Ordinance of 2002.
4. This Order shall take effect immediately. This Order shall remain in effect until long-term water supply sources are secure.
5. A copy of this Executive Order shall be mailed to the Maryland Department of the Environment, Water Management Administration, 1800 Washington Boulevard, Baltimore, Maryland, 21230.

Jennifer P. Dougherty, Mayor

Date

Approved for Legal Sufficiency

Heather Price Smith
Chief Legal Services Officer



Community Development Planning Division

Departmental Overview

Building

Building Inspections

Hours of Construction

General Building Permit Requirements

Adopted Codes

Planning

Planning/Property Information

Land Use Applications

Comprehensive Plan

Development Code

Planning Advisory Board

Land Use Development Moratorium

Land Use Development Moratorium

On August 16, 2000, the City Council renewed the City's moratorium on applications for land use development approvals and permits in the City. The moratorium covers the following types of "approvals and permits":

Subdivisions; short plats; site plan approvals; multi-family projects (apartments, townhouses, condominiums, mobile home parks, group residences); rezones; building permits; conditional use or special use permits; communication facilities; commercial construction in business and office zones; and shoreline substantial development permits.

The purpose of the moratorium is to allow time for the City to develop its Comprehensive Plan (the City's long range planning document) and development regulations. This current renewal of the moratorium will be in effect until February 16, 2001, unless earlier repealed.

Exemptions

The moratorium also identifies certain types of projects that are exempt from the moratorium. These projects are listed in Section 3 of the moratorium ordinance and are considered "categorically exempt." This means the moratorium does not apply to these types of projects and applications may be submitted to and processed administratively by City staff. There is no requirement to show a hardship for a project that qualifies as exempt. Permits and approvals (including variances) for the following types of projects are exempt:

Churches, synagogues, and temples (SIC Code 866); health service uses; educational service uses; park and recreational uses; day care facilities I and II (all as defined per ISDC 21A.06);

Tree Removal

additions or alterations to existing multi-family residential and commercial structures (when such additions or alterations do not result in the creation of new units), and replacement of pre-existing structures destroyed by fire or other unintentional casualty; government facilities and structures (including, but not limited to, streets, utilities, and surface water improvements); single family residences; signs; law enforcement, emergency medical, and disaster relief facilities, parking and storage; lot line adjustments; and any land use permitted by ISDC when all of the following conditions are met: (1) The property owner(s) applied for the right to connect to a public water supply before August 25, 1999; (2) The property owner(s) were granted the right to connect to a public water supply; and (3) The property owner(s) right to connect to a public water supply will expire during the moratorium.

Except, a project is not exempt if it includes any division of land!

If the project includes the division of land it can only be processed as a "Hardship Exception."

Hardship Exceptions

If, in an instance where a project does not qualify for a "categorical exemption," an individual may request the City Council except their application from the restraints of the moratorium. To do this, the Council must find that the moratorium has created an "unusual or unreasonable hardship" on the applicant. It is up to the individual to provide evidence of such a hardship. Each request is considered by the Council on its own merit. Requests for "Hardship Exceptions" may be filed with the Community Development Department at City Hall.

[Departmental Overview](#) | [Building](#)
[Parks/Recreation](#) | [Planning](#)

City of Sammamish 486 - 228th Avenue NE, Sammamish, WA 98074
Phone: 425-898-0660 Fax: 425-898-0669

ZONING ORDINANCE FOR THE CITY OF KENOSHA, WISCONSIN

SECTION 1.0
INTRODUCTION

1.01 AUTHORITY

This Ordinance is adopted under the authority granted by §§62.23(7), 62.231, 87.30, 114.136 and 144.26 of the Wisconsin Statutes and amendments thereto.

1.02 TITLE

This Ordinance shall be known as, referred to, and cited as the "ZONING ORDINANCE, CITY OF KENOSHA, WISCONSIN" and is hereinafter referred to as the "Ordinance".

1.03 PURPOSE

The purpose of this Ordinance is to promote the health, safety, morals, prosperity, aesthetics, and general welfare of the City of Kenosha, Wisconsin.

1.04 INTENT

It is the general intent of this Ordinance to:

- A. Lessen the hazard from fire, flooding, pollution, contamination, and other dangers;
- B. Stabilize and protect property values;
- C. Preserve and protect the natural and manmade aesthetic characteristics of the City of Kenosha;
- D. Prevent and control erosion, sedimentation, and other pollution of the surface and subsurface waters;
- E. Further the maintenance of safe and healthful water conditions;
- F. Prevent flood damage to persons and property and minimize expenditures for flood relief and flood control projects;
- G. Provide for and protect a variety of suitable business and manufacturing sites;
- H. Protect the traffic-carrying capacity of existing and proposed major streets and highways;

It is also the intent of this Ordinance to regulate and restrict the use of all buildings, structures, lands and waters; and to:

- I. Regulate lot coverage and the size, height and location of all buildings and structures so as to prevent overcrowding and to provide adequate sunlight, air, sanitation, and drainage;

J. Regulate population density and distribution so as to avoid sprawl or undue concentration and to facilitate the provision of adequate public service and utilities;

K. Regulate parking, loading, and traffic visibility so as to lessen congestion in and promote the safety and efficiency of streets and highways;

L. Implement those municipal, County, watershed, and regional Comprehensive Plans or components of such plans adopted by the City of Kenosha;

M. Provide for the administration and enforcement of this Ordinance; and to provide penalties for the violation of this Ordinance.

1.05 ABROGATION AND GREATER RESTRICTIONS

A. It is not intended by this Ordinance to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, other than as stated in §1.06 of this Ordinance, rules, regulations or permits previously adopted or issued pursuant to law. However, wherever this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.

B. The Common Council of the City may from time to time impose a moratorium on the issuance of Building Permits, Zoning Permits and approvals with respect to a defined land use under circumstances where a deficiency in the City regulatory scheme is noted and amendments of the Zoning Ordinance and/or Code of General Ordinances are required to address the noted deficiencies. A moratorium shall be imposed by Resolution and be in effect for no longer than twelve (12) months, but subject to such reasonable extension or extensions as may be necessary under the circumstances.

1.06 REPEAL

It is intended by this Ordinance to repeal the "COMPREHENSIVE ZONING PLAN OF THE CITY OF KENOSHA, WISCONSIN", as previously adopted, and create this Ordinance as titled in §1.02 of this Ordinance. All other Ordinances or parts of Ordinances of the City inconsistent or conflicting with this Ordinance, to the extent of the inconsistency only, are hereby repealed.

1.07 INTERPRETATION

In their interpretation and application, the provisions of this

ZONING ORDINANCE FOR THE CITY OF KENOSHA, WISCONSIN

Ordinance shall be held to be minimum requirements for the promotion of the health, safety, morals, prosperity, aesthetics and general welfare of the City of Kenosha. The provisions of this Ordinance shall be liberally construed in favor of the City and shall not be construed to be a limitation or repeal of any other power now possessed by the City of Kenosha.

1.08 SEVERABILITY

If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby. If any application of this Ordinance to a particular building structure, land or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be construed as applicable to any other building structure, land or water not specifically included in said judgment.

1.09 WARNING AND DISCLAIMER OF LIABILITY

A. **Flood Protection.** The degree of flood protection provided by this Ordinance is considered reasonable for regular purposes and is based on engineering experience and scientific methods of study. On rare occasions, larger floods may occur or the flood height may be increased by manmade or natural causes such as ice jams or bridge openings restricted by debris. This Ordinance does not guarantee that areas outside of the delineated floodplain or land uses permitted within the floodplain will be totally free from flooding and associated flood damages. This Ordinance does not create a liability on the part of or a cause of action against the City of Kenosha or any officer or employee thereof for any flood damages that may result from reliance thereon.

B. **Other.** This Ordinance is not intended to guarantee the health, safety, morals, or welfare of any person or the value or security of any land, water, building or structure or create a liability on the part of or a cause of action against the City of Kenosha or any officer or employee thereof for any damages that may result from reliance on this Ordinance.

1.10 JURISDICTION

The jurisdiction of this Ordinance shall include all lands and waters

within the corporate limits of the City of Kenosha, Wisconsin.

1.11 MUNICIPALITIES AND STATE AGENCIES REGULATED

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this Ordinance and obtain all necessary permits. State agencies are required to comply if §13.48(13), Wisconsin Statutes applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when §30.12(4)(a), Wisconsin Statutes applies.

**Sample "Moratorium" On New Connections During A Water Shortage
City of New Albion
New Albion County, California
Date**

The City Council of the City of New Albion does hereby resolve as follows:

The Municipal Code of the City of New Albion is hereby amended to read as follows:

XX-1 MORATORIUM ON SERVICE COMMITMENTS AND CONNECTIONS

1. When the City declares a water shortage emergency, the following regulations shall become effective immediately and shall continue in full force and effect to prohibit the following while it remains in full force and effect:
 - a. The City shall not issue oral or written commitments to provide new or expanded water service, including will-serve letters.
 - b. The City shall not sell meters for water service connections, despite the prior issuance of will-serve letters or other oral or written service commitments, unless building permits have been issued.
 - c. The City shall not provide new or expanded water service connections, despite the prior issuance of will-serve letters or other oral or written service commitments and meters, unless building permits have been issued.
 - d. The City shall not provide water for use on any new plantings installed after the declaration of a Water Shortage Emergency.
 - e. The City shall not annex territory located outside the City's service boundary.

2. The following uses are exempt from the moratorium and upon application to the City shall receive necessary water service commitments and connections to receive water from the City:
 - a. Uses, including but not limited to, commercial, industrial, single and multifamily residential, for which a building permit has been issued by the City on or before the declaration of a Water Shortage Emergency.
 - b. Uses, including but not limited to, commercial, industrial, single and multifamily residential, for which a retail meter had been purchased from the City before the declaration of a Water Shortage Emergency, as evidenced by a written receipt and for which a building permit has been issued and remains in full force and effect.
 - c. Publicly owned and operated facilities, including but not limited to schools, fire stations, police stations, and hospitals and other facilities as necessary to protect the public health, safety and welfare.

04-09-01

ORDINANCE NO. _____

AN ORDINANCE of the City of Vancouver, Washington, adopting a moratorium to prohibit for six months the establishment of certain new uses that may adversely impact the City's groundwater supply; setting a date for a public hearing on the moratorium; directing further development of a groundwater protection ordinance; providing for an immediate effective date; and declaring an emergency.

WHEREAS, current City regulations do not provide sufficient protection of the City's groundwater supply and public protection from certain noxious uses specified herein at Section 3 of this ordinance; and

WHEREAS, Council finds that the uses specified in Section 3 of this ordinance have a high potential of contamination of the City's potable water supply; and

WHEREAS, the uses specified at Section 3 of this ordinance may be incompatible with the production of safe, potable water particularly if the uses are established near existing water well facilities; and

WHEREAS, establishment of such uses without review and the opportunity to impose conditions to protect the groundwater supply may threaten the public, health, safety, and welfare; and

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WHEREAS, Council finds it necessary to develop a new or revised ordinance which will include proper and better criteria to regulate these facilities in response to concern about their potential impacts on the City water supply; and

WHEREAS, Washington State's permissive vested rights doctrine, which allows many land use applications to vest to land use regulations which are in effect early in the application process, could enable applications for the uses specified at Section 3 of this ordinance to vest in inadequate regulations while the City studies the changes needed in those regulations, undermining effective City planning for these facilities; and

WHEREAS, RCW 35.63.200 provides that: "A council or board that adopts a moratorium or interim zoning control, without a public hearing on the proposed moratorium or interim zoning control, shall hold a public hearing on the proposed moratorium or interim zoning control within at least sixty days of its adoption, whether or not the council or board received a recommendation on the matter from the [planning] commission. If the council or board does not adopt findings of fact justifying its action before this hearing, then the council or board shall do so immediately after this public hearing. A moratorium or interim zoning control adopted under this section may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. A moratorium or interim zoning control may be renewed for one or more six-month periods if a subsequent public hearing is held and findings of fact are made for each renewal;" and

WHEREAS, RCW 36.70A.390 provides that, "A county or city governing body that adopts a moratorium, interim zoning map, interim zoning ordinance, or interim official control

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without holding a public hearing on the proposed moratorium, shall hold a public hearing on the adopted moratorium, interim zoning map, interim zoning ordinance, or interim official control within at least sixty days of its adoption, whether or not the governing body shall do so immediately after public hearing. A moratorium, interim zoning map, interim zoning ordinance, or interim official control adopted under this section may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. A moratorium, interim zoning map, interim zoning ordinance, or interim official control may be renewed for one or more six-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal;” and

WHEREAS, moratoriums and interim zoning enacted under RCW 35.63.200 or RCW 36.70A.390 are methods by which local governments may preserve the status quo so that new plans and regulations will not be rendered moot by intervening development; and

WHEREAS, Division II of the Washington Court of Appeals upheld Clark County’s imposition of a moratorium under RCW 35.63.200 and 36.70A.390 to protect natural resources and natural resource lands in the case of *Matson v. Clark County Board of Commissioners*, 79 Wash. App. 641 (1995); and

WHEREAS, pursuant to WAC 197-11-880, the adoption of this resolution is exempt from the requirements of a threshold determination under the State Environmental Policy Act; and

WHEREAS, the City Council finds that the moratorium imposed by this ordinance is necessary for the protection of the public health, safety, property or peace; and

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WHEREAS, it is the intent of the City Council to pursue adoption of a groundwater protection ordinance to be completed no later than six months from the enactment of this moratorium; and

WHEREAS, moratorium on the establishment of the uses specified at Section 3 of this ordinance is necessary to enable the City Council to formulate a permanent policy for such uses to adequately protect the City's groundwater supply; and

WHEREAS, Policy 21 of the City's Comprehensive Plan provides that the City shall "[u]se all available means to maintain or enhance groundwater and surface water quality;" and

WHEREAS, the potential adverse impacts on the public health, safety and general welfare of the City, as discussed above, justify the declaration of an emergency,

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF VANCOUVER:

Section 1. Adoption of interim official control. A moratorium, as authorized by RCW 35.63.200 and 36.70A.390, is imposed for any establishment, expansion, or intensification of specified uses as set forth in Section 3 herein.

Section 2. Definitions.

2.1 Chemical Lagoons and Pits shall mean any earthen basin or uncovered concrete basin or depression containing hazardous materials.

2.2 Chrome plating shall mean the production of a thin surface coating of chromium upon another metal through the application of electroplating or electroless plating technology. Electroplating is an impressed electric current to deposit metal ions from a chromium solution (anode) onto the surface of the metal product (cathode). Electroless plating is the immersion of the metal piece into a chromatic solution to receive a surface coating by chemical displacement. Any storage of liquid chromatic solution for the supply of these processes shall also constitute chrome plating.

- 2.3 **Expansion** shall mean enlarging one or more buildings devoted to a specified use by more than 10% or adding or introducing a new use, process, or chemical to a specified use.
- 2.4 **Hazardous waste disposal site** shall mean any site used for the purpose of disposal of hazardous or dangerous materials as identified under 40 Code of Federal Regulations Chapter 1, parts 261 and 302 and/or Washington Administrative Code Section 173-303.
- 2.5 **Intensification** shall mean increasing the amount of hazardous material imported, stored, used, or disposed of by 10% or more or increasing the area within a facility devoted to a specified use.
- 2.6 **Landfill** shall mean an area of land or excavation in which wastes are placed for permanent disposal, and which is not a land application site (a site where wastes are applied to the land, such as sludge, gray water, or the like). Surface impoundments, injection wells, and/or waste piles are also defined as landfills.
- 2.7 **Outdoor Wood Preservative Treatment** shall mean any treatment, processing or storage of wood products containing wood preservatives including but not limited to pentachlorophenol, creosote, chromated copper arsenate, or other toxins, shall be prohibited outside of a fully enclosed building. Excepting therefrom, storage in commercial outlets which have best available storm water containment and toxic treatment facilities technology and do not also perform preservative treatment operations.
- 2.8 **Radioactive waste processing or disposal** shall mean any process which produces, modifies, or washes radioactive material or any site which receives for disposal radioactive material.
- 2.9 **Sewage Disposal Cesspool** shall mean any hole in the earth which receives raw sewage discharge, except wastewater facilities that have been engineered and approved by the state.
- 2.10 **Specified Use** shall mean a use specified in Section 3 herein.

Section 3. Applicability. The provisions of this ordinance shall apply to new, and expanding or intensifying existing facilities employing or proposing to employ the following uses:

- 3.1 Chrome Plating**
- 3.2 Outdoor Wood Preservative Treatment Facilities**
- 3.3 Chemical Lagoons and Pits**
- 3.4 Sewage Disposal Cesspools**
- 3.5 Hazardous Waste Disposal Sites**
- 3.6 Radioactive Waste Processing or Disposal Sites**
- 3.7 Municipal Waste Landfills**

Section 4. Duration. This interim control shall be in effect for six (6) months following the effective date of this ordinance.

Section 5. Direction to develop a groundwater protection ordinance. The City Council hereby directs the City Manager to further develop a groundwater protection ordinance to protect the City's groundwater from contamination caused by the uses specified in Section 3 herein. Nothing in this ordinance shall be construed as a limitation on the City Manager to present any other additional uses for regulation or prohibition under a proposed groundwater protection ordinance. The City Manager is encouraged to seek input from appropriate city staff, the development community and interested members of the general public. Through this ordinance, the City Council declares its intent to adopt a groundwater protection ordinance at some point prior to the expiration of this interim control.

Section 6. Public hearing required. As required by RCW 35.63.200 and 36.70A.390, within sixty (60) days of the passage of this ordinance the City Council, will hold a public

hearing on this interim control and consider the City Manager's progress report on developing a groundwater protection ordinance. The city clerk is directed to provide notice of such public hearing as required by law.

Section 6. Emergency declared – Immediate effect. For the reasons stated above, and to promote the objectives stated herein, the City Council finds that a public emergency exists, necessitating that this ordinance take effect immediately upon its passage in order to protect the public health, safety and general welfare.

Section 7. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder or the application of the provisions to other persons or circumstances is not affected.

Read first time:

Ayes: Councilmembers

Nays: Councilmembers

Absent: Councilmembers

Read second time:

PASSED by the following vote:

Ayes: Councilmembers

Nays: Councilmembers

Absent: Councilmembers

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SIGNED this _____ day of _____, 2001.

Royce E. Pollard, Mayor

Attest:

Sylvia G. Costich, Interim City Clerk

Approved as to form:

Ted H. Gathe, City Attorney

ORDINANCE - 8

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ORDINANCE NO. 02-04

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, EXTENDING THE MORATORIUM ON NON-RESIDENTIAL DEVELOPMENT; CLARIFYING PROHIBITED AND EXEMPTED NON-RESIDENTIAL DEVELOPMENT ACTIVITIES; VESTED RIGHTS DETERMINATIONS; APPEALS TO THE FLORIDA LAND AND WATER ADJUDICATORY COMMISSION; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF COMMUNITY AFFAIRS; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE UPON APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF COMMUNITY AFFAIRS.

WHEREAS, on June 11, 1998, Islamorada, Village of Islands, Florida (the "Village") adopted Ordinance No. 98-04 imposing a moratorium on the issuance of development orders and permits for non-residential development (the "Moratorium Ordinance"); and

WHEREAS, on February 11, 1999 and July 15, 1999, the Moratorium Ordinance was amended by Ordinance No. 99-02 and Ordinance 99-09 of the Village; and

WHEREAS, on February 24, 2000, the Moratorium Ordinance was amended by Ordinance No. 00-01 of the Village; and

WHEREAS, on January 11, 2001, the Moratorium Ordinance was further amended by Ordinance No. 00-12 of the Village, which extended the effective date of the Moratorium Ordinance; and

WHEREAS, the Moratorium Ordinance was adopted to provide the Village with an opportunity to study the needs of the community to adopt and implement comprehensive land development regulations for non-residential development and to ensure that additional non-residential development was not planned, initiated, constructed, expanded or modified during this adoption process; and

WHEREAS, the Village has conducted studies and adopted its Comprehensive Plan to address the issue related to non-residential development, but the Comprehensive Plan has not become effective pending an administrative challenge to the Plan.

WHEREAS, the Moratorium Ordinance provides for a limited number of exemptions, as well as an administrative waiver provision, to the prohibition against the issuance of Development Orders for non-residential development within the Village; and

WHEREAS, the planning, initiation, construction or modification of non-residential development during the formulation and implementation of comprehensive land development regulations for non-residential development will cause immediate harm to the health, safety and welfare of the residents of the Village.¹

NOW THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AS FOLLOWS:

Section 1. Moratorium Imposed. During the time that this Ordinance is in effect as specified herein, there shall be a moratorium within the Village on the issuance of Development Orders and Development Permits for non-residential development (collectively “Development Orders”), as those terms are defined in Chapters 163 and 380, Fla. Stat. Prohibited non-residential development shall include, but is not limited to, the approval or issuance of any comprehensive plan text or future land use map amendment, rezoning, plat or re-plat, conditional use approval, variance, building permit, or other Development Order permitting the initiation, construction, expansion or modification of existing or new non-residential development. The

^{1/} Pursuant to Section 6 of the Village Charter, Monroe County’s Comprehensive Plan and Land Development Regulations (as they existed on the date of the Village’s incorporation) serve as the transitional Comprehensive Plan and Land Development Regulations of the Village until amended or

term “non-residential development” includes, but is not limited to, non-conforming uses, marinas, new hotel rooms,² the creation or expansion of outdoor uses, and communication towers.³

Section 2. Exemptions to Moratorium. The following non-residential development is exempt from the moratorium imposed by Section 1 of this Ordinance:

- (1) Non-residential development that:
 - (a) Does not constitute a change in use from a current legal use to another legal use, or from a current illegal use to a legal use; or
 - (b) Does not result in an increase in the subject property’s:
 - i) Impervious area coverage; or
 - ii) Density; or
 - iii) Intensity based upon allowable floor area ratio or traffic impacts; or
 - (c) Does not result in an increase in the number of bathrooms in an existing transient unit; or
- (2) Signage that complies with the adopted sign regulations of the Village; or
- (3) The construction of containment walls around existing above ground fuel tanks and monitoring wells, or the relocation of existing fuel tanks as may be required by applicable federal or state regulations; or
- (4) Replacement of existing dock pilings or dolphin piles on an existing footprint.

replaced by the Village.

² / Pursuant to Policy 101.2.6 of the Transitional Village Comprehensive Plan there currently exists a moratorium that prohibits new transient units including hotel or motel units.

(5) Construction and installation of On-site Sewage Treatment Disposal Systems permitted by the Monroe County Health Department or Department of Environmental Protection; or

(6) The planning, initiation, construction, expansion or modification of Village municipal projects or facilities, whether the projects or facilities are owned or financed in whole or in part by the Village. The Village Council upon recommendation of the Director of Planning and Development Services (the "Director"), and upon the petition of any governmental agency, federally tax exempt non-profit educational, scientific, religious, social service, cultural or recreational organization (the "Organizations") may waive, in whole or in part, the prohibitions contained in this Ordinance for non-residential development projects or facilities of the Organizations that primarily serve the residents of the Village. The prohibitions contained in this Ordinance may only be waived where the specific non-residential development activity proposed by the Organization will not detrimentally affect the formulation and implementation of appropriate and effective non-residential land development regulations; or

(7) The planning, initiation, or construction of non-residential development that has received a final determination of vested rights pursuant to:

- (a) Section 2 of this Ordinance; or
- (b) The Village Comprehensive Plan; or
- (c) The Village land development regulations (the "LDRs"); or
- (d) A final order of a court of last resort; or

³ / Communication towers and wireless communication providers are not considered a public or private

(8) The installation of personal communication or wireless service provider communication antennas on existing communication towers, together with any accessory non-occupied equipment room or cabinet that is required to meet the service provider's needs in accordance with established federal regulations. Providing the addition does not increase the height or footprint of the existing communication tower; or

(9) The off-site redevelopment of existing transient units.

Except for the exemption contained in subsection (7), all non-residential development exempt from the provisions of this Ordinance shall conform to the requirements of the LDRs.

Section 3. Vested Rights. Nothing in this Ordinance shall be construed or applied to abrogate the vested right of a property owner to complete development where the property owner can demonstrate each of the following:

- (1) A governmental act of development approval obtained before the effective date of this Ordinance; and
- (2) Upon which the owner has detrimentally relied, in good faith, by making substantial expenditures; and
- (3) That it would be highly inequitable to deny the property owner the right to complete the development of the non-residential structure.

Any property owner claiming to have vested rights under this Section must have filed an application with the Village Council for a vested rights determination no later than November 26, 1998.

Section 4. **Appeals.** Appeals from final decisions by the Village Council concerning requests for waivers and vested rights determinations shall be by the filing of a notice of appeal with the Florida Land and Water Adjudicatory Commission pursuant to Section 380.05(6) and (11), Florida Statutes.

Section 5. **Exhaustion of Administrative Remedies.** No property owner claiming that this Ordinance as applied constitutes a temporary or permanent taking of private property, or an abrogation of vested rights, may pursue each claim unless he or she has first exhausted the administrative remedies provided in this Ordinance.

Section 6. **Supplement To Existing Moratoria.** This Ordinance shall supplement the provisions of the Village Comprehensive Plan and LDRs concerning building and zoning moratoria, solely as related to the subject matter of this Ordinance concerning and pertaining to non-residential development, to the fullest extent authorized by law. The moratorium established in Policy 101.2.6 of the Village Comprehensive Plan shall not apply to the transfer and subsequent off-site redevelopment of existing residential dwelling units, including transient units.

Section 7. **Term.** The moratorium imposed by this Ordinance is temporary and, unless dissolved earlier by the Village Council, shall automatically dissolve upon the adoption and effective date of new non-residential land development regulations of the Village, the formulation of which shall be expeditiously pursued. In no event, however, shall the moratorium imposed by this Ordinance extend beyond the December 31, 2002, unless extended by the Village Council in accordance with applicable State law.

Section 8. Approval by the State Department of Community Affairs. The provisions of this Ordinance constitute a “land development regulation” as State law defines that term. The Village Clerk is authorized to forward a copy of this Ordinance to the State Department of Community Affairs for approval pursuant to Sections 380.05(6) and (11), Florida Statutes.

Section 9. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 10. Effective Date. This Ordinance shall be effective immediately upon approval by the State Department of Community Affairs pursuant to Chapter 380, Florida Statutes. During the pendency of the State Department of Community Affairs review of this Ordinance, the provisions of Islamorada, Village of Islands Ordinance No. 00-12 shall remain in full force and effect.

The foregoing Ordinance was offered by Councilmember Mooney, who moved its adoption on first reading. This motion was seconded by Vice Mayor Levy, and upon being put to a vote, the vote was as follows:

Mayor Frank R. Kulisky	<u>YES</u>
Vice Mayor Ron Levy	<u>YES</u>
Councilman George Geisler	<u>YES</u>

Councilman Mark Gregg YES

Councilman James V. Mooney YES

The foregoing Ordinance was offered by Councilmember Geisler, who moved for its adoption.

This motion was seconded by Councilmember Gregg, and upon being put to a vote, the vote was as follows:

Mayor Frank R. Kulisky YES

Vice Mayor Ron Levy YES

Councilman George Geisler YES

Councilman Mark Gregg YES

Councilman James V. Mooney ABSENT

PASSED on first reading this 20th day of December, 2001.

PASSED AND ADOPTED on second reading this 10th day of January, 2002.

FRANK R. KULISKY, MAYOR

ATTEST:

VILLAGE CLERK

APPROVED AS TO LEGAL SUFFICIENCY:

VILLAGE ATTORNEY

436021\ordinance\moratorium on non-residential development-5th extension

Prior to the adoption of Ord 2001-12 on 07/12/2001, Section 12-010 read as follows.

1. Findings and Statement of Purpose

The Mayor and Council make the following findings and statement of purpose: Rapid development has occurred within the City over the past several years increasing demand and causing an excessive burden upon the infrastructure of the City, particularly with respect to waste water treatment and drainage concerns; there is a compelling need to upgrade the water and sewer treatment facilities; following the presentation of information by the City Public Works Department; the City Water Department and evidence presented by the City's engineers and following comments from representatives from Environmental Protection Division of the Department of Natural Resources; the Mayor and Council of the City find that all of the circumstances are such that a critical stage is approaching with respect to overburdening the existing infrastructure of the City and in order to plan therefore, and in order to prevent a shortage of facilities and so as not to place the City in a position where penalties are sought from the City for violation of any permits, in the interest of the public health, safety and welfare, the Mayor and Council find that restrictions on development pursuant to a realistic schedule which will coincide with planned improvements to the waste water treatment plant and in order to conform to the master plan previously adopted by the City, it is found as a matter of governmental interest and public concern, that an immediate measure is necessary in order to more fully plan and control growth within the City in order to protect the facilities of the City and its' citizens.

2 - Development/Growth Schedule/Moratorium

A moratorium is hereby imposed on the issuance of any additional water/sewer tap-in permits for any structure or project or development of any nature whatsoever except for single family residences. This moratorium shall be effective until a realistic schedule is developed or for a period not to exceed ninety-three (93) days while the Mayor and Council, City Manager and departments within the city investigate ways to control the increasing demands on the water/sewer treatment facility and to enact ordinances or to reject proposed ordinances dealing with ways to control the increasing demands on the water/sewer treatment facility.

Further, during the term hereof, the City Manager, the Mayor and Council, and all the departments of the City may investigate ways for improving the wastewater treatment facility and financing for improvements as may be deemed necessary and to assess the degree and nature of further demand on the water/sewer system.

3 - Procedure

The following procedures shall be put in place immediately. Under the Supreme Court case of Cannon v. Clayton County, 255 Ga. 63 (1985), the Supreme Court stated, "Where a landowner makes a substantial change in position by expenditures and reliance on the probability of the issuance of a building permit, based upon an existing zoning ordinance and the assurances of zoning officials, he acquires vested rights and is entitled to have the permit issued despite a change in the zoning ordinance which would otherwise preclude the issuance of a permit". Pursuant to this case, the City of Tybee Island recognizes that, unknown to the City, de facto vesting may have occurred. The following procedures are established to provide exemption from the moratorium where vesting has occurred:

- a) Written application, including verified supporting data, documents and facts, may be made requesting a review by the Mayor and Council at a scheduled meeting of any facts or circumstances which the applicant feels substantiates claims for vesting and the grant of an exemption;
- b) Within one week of the enactment of the moratorium, the City shall cause to issue an advertisement in the newspaper of local circulation to run once a week for two consecutive weeks providing notice to the public of the imposition of this moratorium and the opportunity

for review before the Mayor and Council.

4. Preamble/Findings of Fact

The preamble to this ordinance is hereby incorporated into this ordinance as if fully set out herein.

5. Variance

Where, by reason of unusual circumstances, the strict application of this ordinance would result in exceptional practical difficulty or undue hardship upon any owner of specific property, the Mayor and Council in passing upon an application for a variance shall have the power to vary or modify strict adherence to the terms hereof so as to relieve such difficulty or hardship; provided however, that such variance, modification or interpretation shall remain in harmony with the general purpose and intent of this ordinance so that the goals hereof can be achieved and substantial justice done. In granting any variance, the Mayor and Council may impose such reasonable and additional stipulations and conditions as will in its judgment thus fulfill the purposes of this ordinance.

6. Severability

The sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared invalid by the valid judgment or decree of any court of competent jurisdiction, such illegalities shall not effect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance.

7. Repealer

All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

8. Adoption/Effective Date

The adoption date of this ordinance is February 8th, 2001 and it shall become effective on that date.

9. Expiration

Unless renewed following additional hearings, this ordinance shall expire Ninety-three (93) days from the effective date hereof.

It is the intention of the governing body, and it is hereby ordained, that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Tybee Island, Georgia, and the sections of this ordinance may be renumbered to accomplish such intention.

Exhibit D

ORDINANCE NO. ____

AN INTERIM ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, ADDING CHAPTER 16.75 TO THE MONTEREY COUNTY CODE, IMPOSING CERTAIN LIMITATIONS OF LIMITED DURATION ON DEVELOPMENT IN THE NORTH MONTEREY COUNTY HYDROGEOLOGIC STUDY AREA THAT PROPOSES TO USE WATER, PENDING CONSIDERATION OF APPROPRIATE AMENDMENTS TO THE COUNTY GENERAL PLAN, AREA PLANS, COASTAL IMPLEMENTATION PLAN, AND/OR APPLICABLE ZONING ORDINANCES FOR THE IMPACT AREA AS DEFINED.

County Counsel Summary

This interim ordinance adds Chapter 16.75 to the Monterey County Code to limit development and prohibit the approval of any discretionary or ministerial application for any development project located in the North Monterey County Hydrogeologic Study Area that proposes to use water, with the exception of an application for an addition, remodel, or reconstruction of an existing residence, or construction of the first residence or commercial or industrial use on a vacant existing legal lot of record, provided that the commercial or industrial use requires no more than 0.4 acre-feet of water per year. This ordinance will not apply to any discretionary or ministerial application or application request for any development project located in the Study Area that proposes to use water which was made on or before August 9, 2000. This ordinance also prohibits the conversion of non-irrigated land to irrigated land for agricultural purposes. An applicant with a discretionary permit made on or before August 9, 2000 and subsequently approved may apply for a building permit for the approved use. This ordinance expires 18 months from its date of adoption unless extended by the Board of Supervisors.

The Board of Supervisors of the County of Monterey ordains as follows:

Chapter 16.75

NORTH MONTEREY COUNTY HYDROGEOLOGIC AREA DEVELOPMENT LIMITATIONS

SECTION 1. Chapter 16.75 is added to the Monterey County Code to read as follows:

Sections:

16.75.010	Findings and Declarations.
16.75.020	Purpose.
16.75.030	Applicability.
16.75.040	Definitions.
16.75.050	Regulations.
16.75.060	Exemptions.
16.75.070	Enforcement.
16.75.080	Severability.
16.75.090	Actions Held in Abeyance.
16.75.100	No Taking of Property Intended.
16.75.110	Effective Date.

16.75.010 FINDINGS AND DECLARATIONS.

- A. North Monterey County is experiencing severe overdraft conditions resulting in falling water levels

and seawater intrusion. The current water use is estimated to exceed the average recharge by more than 100 percent. The North Monterey County Hydrogeologic Study, Volume 1 (Water Resources), prepared in October 1995 by Fugro-West Inc., states that the area is in a state of overdraft, with a deficit of 11,700 acre-feet. Nitrate contamination levels are also increasing and have had a significant impact on domestic water supply in North County. These water constraints apply specifically to the North Monterey County Hydrogeologic Study Area.

B. The North County Area Plan and Land Use Plan recognize the existence of these problems and direct that studies be made to determine the safe-yield of the North Monterey County aquifers and that procedures thereafter be adopted to manage development in the area so as to minimize adverse effects on the aquifers and preserve them as viable sources of water for human consumption. The approval of any new development proposals that would use water, along with current agricultural practices, future urban development accommodated through subdivisions in the North County area, and potential conversion of land to agricultural use, would exacerbate the existing significant adverse cumulative impact to water quantity and quality in this area.

C. There is a current and immediate threat to the public health, safety, and welfare, and approval of new applications for land use permits and entitlements, located within the North Monterey County Hydrogeologic Study Area, that propose to use water while County staff, the Planning Commission, and the Board of Supervisors study and consider possible general and area plan, coastal implementation plan, or zoning ordinance amendments, would exacerbate the current threat to the public health, safety, and welfare.

D. The County is in the process of completing the Comprehensive Water Resources Management Plan for North County. This document is intended to identify long-term measures and short-term strategies that address water shortages in the North Monterey County Hydrogeologic Study Area. Upon completion of the Study, County staff will present various strategies to the Board of Supervisors, one of which will include possible amendments to the County's various land use regulations to address the poor quality and lack of water in this area. In order to avoid the grant of discretionary and ministerial permits that may be inconsistent with any contemplated amendments to the County's land use regulations, it is necessary for the County to adopt this interim ordinance.

16.75.020 PURPOSE.

It is the purpose and intent of this chapter to temporarily prohibit new water consumption in the North Monterey County Hydrogeologic Study Area to protect the health, safety, and welfare of existing water users. This temporary prohibition will allow the identification and adoption of alternatives and methods to achieve a long-term sustainable water supply for the Study Area.

16.75.030 APPLICABILITY.

A. Applicable to Study Area. The regulations set forth in this chapter shall apply to development that proposes to use water located in the North Monterey County Hydrogeologic Study Area, as shown on the map entitled "North Monterey County Hydrogeologic Study Area" attached hereto and made a part of this chapter.

B. Non-applicable. In adopting this urgency ordinance, the Board declares that it is its intent that the ordinance shall not apply to the following:

1. any application for an addition, remodel, or reconstruction of an existing residence, or a development permit for the first dwelling unit for a vacant existing lot of record;

2. any discretionary or ministerial application or application request for any development project located in the North Monterey County Hydrogeologic Study Area that proposes to use water which was made on or before August 9, 2000;

3. an applicant with a discretionary permit application made on or before August 9, 2000, and subsequently approved, may apply for a building permit for the approved use;

4. rebuilding of any structure destroyed by fire, explosion, act of God, or act of public enemy. Except for reconstruction of a dwelling unit, a structure may be rebuilt to a total floor area and volume not exceeding that of the structure destroyed; and

5. any application for new commercial or industrial development on a vacant existing legal lot of record that will not use in excess of 0.4 acre-feet of water per year.

6. Any application for a new or replacement well construction permit.

7. Any construction activity related to a use allowed by this chapter.

16.75.040 DEFINITIONS.

A. "Agriculture" means the art or science of cultivating the ground, harvesting of crops, rearing and management of livestock, tillage, husbandry, farming, horticulture, and forestry, the science and art of the production of plants and animals useful to man or woman, and wildlife management that uses water.

B. "Application Request" means that initial form provided by the Planning and Building Inspection Department to a prospective applicant for the purpose of assisting the planner in a future appointment to discuss the applicant's project. An application request submitted to the Planning and Building Inspection Department on or before August 9, 2000 is exempt.

C. "Development" means physical changes, on land, in or under water, to include:

1. Change in the density or intensity of use of land, including but not limited to:

a. Subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code);

b. Any other division of land, including lot splits; and,

c. Conditional certificates of compliance pursuant to the Subdivision Map Act.

2. Change in the intensity of use of water;

3. Expansion or construction of water wells, surface water diversions, except for replacement thereof;

4. Construction, reconstruction, demolition, of any facility, improvement, and/or structure, including, but not limited to any facility of any private, public, or municipal utility that uses water.

5. Any use of water for new agriculture, as defined.

D. "Discretionary Application" means an application for any permit that requires review and approval by a decision making body including but not limited to the Monterey County Zoning Administrator, Monterey County Planning Commission or the Board of Supervisors.

E. "Intensification of use of water" for the purposes of this chapter means an increased level of use of water for existing agricultural, commercial, industrial, or residential property over and above that in existence as of the effective date of this ordinance.

F. "Ministerial Application" means an application for any permit the issuance of which involves the application of fixed standards or objective measures, and does not involve the exercise of discretion or personal judgment, including but not limited to issuance of buildings permits, business licenses and/or approval of final subdivision maps, utility service connections and/or disconnections.

G. "Water Use" means any activity involving development of real property that requires the use of water.

16.75.050 REGULATIONS.

A. No application shall be approved for any discretionary or ministerial permit located in the North Monterey County Hydrogeologic Study Area that proposes to use water, except as specified in Sections 16.75.030 and 16.75.060 of this Chapter.

B. No person may convert unirrigated land to irrigated land for agricultural purposes.

16.75.060 EXEMPTIONS. This chapter shall not apply to the following:

A. Any application for an addition to, remodel of, or reconstruction of an existing residence, or a development permit for the first dwelling unit for a vacant existing lot of record.

B. Any discretionary or ministerial application or application request for any development project located in the North Monterey County Hydrogeologic Study Area that proposes to use water which was made on or before August 9, 2000.

C. A discretionary permit application for a structure or use made on or before August 9, 2000, and subsequently approved.

D. Rebuilding of any structure destroyed by fire, explosion, act of God, or act of public enemy. Except for reconstruction of a dwelling unit, a structure may be rebuilt to a total floor area and volume not exceeding that of the structure destroyed.

E. Any application for new commercial or industrial development on a vacant existing legal lot of record that will not use in excess of 0.4 acre-feet of water per year.

F. Any application for a new or replacement well construction permit.

G. Any construction activity related to a use allowed by this chapter.

16.75.070 ENFORCEMENT.

A. It shall be the duty of the Director of Planning and Building Inspection of the County of Monterey and all officers and employees of said County herein charged by law with the enforcement of this chapter, to enforce all provisions of this chapter.

B. Any building or structure set up, erected, constructed, altered, enlarged, converted, moved, or maintained, contrary to the provisions of this chapter, and/or any use of any land, building, or premises, established, conducted, operated, or maintained, contrary to the provisions of this chapter, shall be, and the same is hereby declared to be, a violation of this chapter and a public nuisance.

C. The County may summarily abate the public nuisance and the County Counsel or the District Attorney may bring civil suit, or other action, to enjoin or abate the nuisance. The remedies provided in this chapter shall be cumulative and not exclusive.

16.75.080 SEVERABILITY.

If any section, subsection, sentence, clause, or phrase of this chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this chapter. The Board of Supervisors hereby declares that it would have passed this chapter and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

16.75.090 ACTIONS HELD IN ABEYANCE.

Should any person, firm, or corporation violate the terms of this chapter, and any action is authorized either by the Board of Supervisors, County Counsel, or District Attorney, or is in fact filed by said agencies for said violation, no other action shall be taken on any application filed by or on behalf of said person, firm, or corporation, until the litigation has been resolved.

16.75.100 NO TAKING OF PROPERTY INTENDED.

Nothing in this chapter shall be interpreted to effect an unconstitutional taking of property of any person. If the Board of Supervisors determines, based on specific evidence in the administrative record, that the application of one or more of the provisions of this chapter to a proposed project would effect an unconstitutional taking of private property, the Board shall disregard such provision or provisions to the extent necessary to avoid such unconstitutional taking.

16.75.110 EFFECTIVE DATE.

This ordinance shall become effective retroactively to August 9, 2000, and shall expire 18 months from its date of adoption unless extended by the Board of Supervisors. No environmental review shall be required prior to the expiration or extension of this ordinance.

PASSED AND ADOPTED this 19th day of September, 2000, by the following vote:

AYES:

NOES:

ABSENT:

Chair, Monterey County Board of Supervisors

ATTEST:
SALLY R. REED
Clerk of the Board

By _____
Deputy

Approved as to Form
ADRIENNE M. GROVER
County Counsel

By _____
Deputy

**FINAL
ORDINANCE NO. 98**

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
AMENDING RESIDENTIAL WATER FIXTURE UNIT VALUES**

FINDINGS

1. The Water Management District is charged under the Monterey Peninsula Water Management District Law with the integrated management of the ground and surface water resources in the Monterey Peninsula area.
2. The Water Management District has general and specific power to ensure water is available for present beneficial uses as set forth in Sections 325 and 328 of the Monterey Peninsula Water Management District Law.
3. Existing rules of the Water Management District apportion a discrete increment of water demand for various water using residential fixtures. This apportionment, denominated as the “fixture unit methodology” is made on the basis of the theoretic capacity for water use that may occur through each residential fixture. It is recognized that actual water use may vary from the theoretic capacity for water use.
4. Existing Water Management District rules enable adjustment of the “standard” fixture unit methodology in several circumstances. For example, Rule 24 G enables deviation from the fixture unit methodology in any setting where “special circumstances” are found to exist. Other variations from the “standard” residential fixture unit methodology have been recognized for the addition of a second wash basin in a master bath, and for use of both a tub and separate shower in a master bath. The unique treatment of water using fixtures in a residential master bath is occasioned by the recognition that these extra water appliances are typically added to a master bath for the purpose of aesthetics or convenience, but these extra water appliances do not significantly cause additional water demand. This ordinance extends the “special circumstance” treatment afforded to water using fixtures in a residential master bath to the addition of a second bathroom in any existing residence.
5. The Water Management District is mindful that people, not fixtures, use water. The Water Management District finds that the addition of a second bath to an existing residence is primarily for the purpose of convenience. These added water appliances shall not

significantly cause additional water demand.

6. The additional of a bathroom by this ordinance shall trigger District Rule 144-B, Mandatory Retrofit Upon Expansion of Use.
7. This ordinance shall allow the addition of a single bathroom to a one bathroom single-family residential site that has or had no more than one dwelling unit as defined by the District Rules and Regulations.
8. A valid Water Use Credit for the permanent abandonment of a one bathroom single-family dwelling unit shall be regarded as an existing dwelling unit and shall allow the reconstruction of single-family dwelling unit with the addition of the water fixtures allowed by this ordinance.
9. This ordinance shall amend and republish Rule No. 24 C ("Residential Expansions") of the Rules and Regulations of the Water Management District.

NOW THEREFORE be it ordained as follows:

ORDINANCE

Section One: **Short Title**

This ordinance shall be known as the Bathroom Fixture Ordinance of the Monterey Peninsula Water Management District.

Section Two: **Purpose**

This ordinance revises, amends and republishes existing residential water use fixture criteria set forth in District Rule 24.

Section Three: **Amendment of Rule 24 C (Residential Expansions)**

District Rule 24 C shall be amended by deleting the portion set forth in strikeout type (~~strikeout~~) and adding the portion set forth in italicized and bold face type (***bold face italic***). In all other respects, the text of District Rule 24 shall be republished by this ordinance.

24 C. Residential Expansions

(1) Determination of Fixture Unit Component for Each Dwelling Unit

Each expansion/extension permit application for residential use will be assessed a connection charge for each added fixture unit in accord with Table No. 1 below. This table shall be revised periodically and approved by the Board. The revised tables so approved shall be published together with these Rules and Regulations. The applicant shall provide complete and final construction plans. The General Manager shall review the project and determine the fixture unit count to be used in the formula set forth in this rule. Fixtures which deviate from those categories listed on Table No. 1 shall be characterized by the General Manager as "other", and assigned a fixture unit value by the General Manager which has a positive correlation to the anticipated water use facilitated by that fixture.

Portable water fixtures shall be exempt from the connection charge and shall have no fixture unit value.

Special fixture unit accounting shall apply to any expansion application that proposes to add a second bathroom to an existing single-family dwelling unit on a single-family residential site that, prior to the application, has only one bathroom. This accounting protocol shall be limited, and shall apply only to the following water appliances if these are installed in a new second bathroom as an expansion of an existing single family dwelling unit: (a) a single water closet, and (b) a single standard tub, or single shower stall, or a single standard tub-shower combination, and (c) one or two wash basins. This special fixture unit accounting shall further apply on a pro rata basis to any expansion application that proposes to add one or more of the referenced water appliances to an existing second bathroom that lacks that same appliance within an existing single-family residential site that, prior to the application, has less than two full bathrooms. The special fixture unit accounting referenced above shall not apply to any multi-family dwelling or multi-family residential site. This special fixture unit accounting shall apply only to dwelling units that have a finalized building permit as of the effective date of this ordinance.

Under this second bathroom special accounting protocol, the General Manager shall not debit the municipal allocation for the installation of select water fixtures in the second bathroom addition or remodel. Connection charges shall nonetheless be collected for the addition of these fixture units to the second bathroom addition. No on-site, off-site or transfer of credit shall be granted for removal or retrofit of any fixture added pursuant to this second bathroom accounting protocol. The provisions of this special fixture unit accounting protocol shall take precedence and supersede any contrary provision of the Water Management District Rules and Regulations.

Section Four: Reporting

As a condition precedent to the issuance of any permit pursuant to this rule, each property owner shall authorize the District to access and use Cal-Am records relating to past, present and future water use on this site for a period of sixty (60) months from the date the permit is issued.

Section Five: Publication and Application

The provisions of this ordinance shall cause the republication and amendment of the permanent Rules and Regulations of the Monterey Peninsula Water Management District. Section titles and captions are provided for convenience and shall not be construed to limit the application of the text.

Section Six: Effective Date and Sunset

This ordinance shall take effect at 12:01 a.m. on the 30th day after it has been enacted on second reading. This Ordinance shall not have a sunset date. During each calendar year, the board shall review the District Rule enacted by this ordinance to determine whether or not amendment or revocation is warranted. Such action, however, shall require enactment of an implementing ordinance. A comprehensive review of the District Rules affected by this ordinance shall be held during calendar year 2006.

Section Seven: Severability

If any subdivision, paragraph, sentence, clause or phrase of this ordinance is, for any reason, held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect the validity or enforcement of the remaining portions of this ordinance, or of any other provisions of the Monterey Peninsula Water Management District Rules and Regulations. It is the District's express intent that each remaining portion would have been adopted irrespective of the fact that one or more subdivisions, paragraphs, sentences, clauses, or phrases be declared invalid or unenforceable.

On motion of Director Pendergrass, and second by Director Chesshire, the foregoing ordinance is adopted upon this 16th day of April, 2001, by the following vote:

AYES: Directors Chesshire, Pendergrass, Potter, Edwards, Lindstrom

NAYS: Directors Erickson and Henson

ABSENT: None

I, Darby W. Fuerst, Secretary to the Board of Directors of the Monterey Peninsula Water Management District, hereby certify the foregoing is a full, true and correct copy of an ordinance duly adopted on the 16th day of April, 2001.

Witness my hand and seal of the Board of Directors this 3rd day of May 2001.

Darby W. Fuerst, Secretary to the Board

U:\staff\Ordinance 98 Version 4
5/2/2001

**Town of Putnam Valley
Local Law ___-2002**

**A local law to establish a temporary moratorium in
regard to banning certain development
activity for a period of 180 days**

October 30, 2002

Be it enacted by the Town Board of the Town of Putnam Valley as follows:

1. Legislative Findings and Purpose:

WHEREAS, the Town has recently adopted several local laws concerning land use within the Town, including a local law regulating groundwater protection, a local law establishing an architectural review board, a local law expanding aquifer protection zones, senior citizen multifamily housing, and

WHEREAS, the Town is experiencing difficulties integrating and implementing the various legislation and Town personnel require time to develop procedures; to acquire training; and to establish appropriate staffing, and

WHEREAS, the Town has also been informed that it will be required to establish a Stormwater Management Plan in accordance with recently-announced Phase II Stormwater Regulations of the New York State Department of Environmental Conservation, and the Town Board desires to address this project in a meaningful way, and

WHEREAS, the Town Board has in the past addressed the possible re-zoning of the residential areas of the Town to provide for greater open space and reduce the pressure of development, and the Town Board desires to re-open those issues for discussion and consider changing the minimum lot area requirements within the R-1, R-2 and R-3 zones, and

WHEREAS, the Town has experienced a significant public health issue in the Lake Peekskill area of the Town, with most residents obtaining their potable water from groundwater wells, while also utilizing onsite septic disposal systems, with many of the lots being significantly substandard in size with the geology severely limiting the effectiveness of such systems, and

WHEREAS, the Town has entered into a Consent Order with the New York State Department of Health to address the feasibility of either complying with the New York State Safe Drinking Water standards and Surface Water Treatment Rule, and

WHEREAS, the Town has not yet finalized its evaluation whether to

maintain the seasonal water system; to shut it down altogether; or to embark upon construction of a year-round water system, and

WHEREAS, there are currently a number of development projects either proposed or in the process of seeking subdivision approval, as well as a substantial number of existing building lots which could support as-of-right construction of new homes, and

WHEREAS, the Town Board is concerned about the Town's ability to address these various issues confronting the Town, and seeks time to study the issues and possible solutions including but not limited to rezoning; new stormwater rules; implementation of new rules and regulations for issuance of building permits; water conservation rules; new staffing; training of personnel; amendment of existing laws; decisions on Lake Peekskill water and septic issues, or other measures and

WHEREAS, the Town desires to provide a brief respite to allow for a focused study of all of these issues, with a view toward the adoption of legislation to address the problems and concerns.

2. Restriction on Issuance of Building Permits for Lake Peekskill Area

Within the Lake Peekskill area, as defined to encompass the Lake Peekskill Improvement District, and for a period of 180 days from the effective date of this local law, no building permit shall be issued to allow for the construction of a new dwelling unit, individually or as part of a subdivision, nor shall any Building Permit be granted which would allow the enlargement by more than 10% of the existing living space of a dwelling unit.

3. Townwide Restriction on Planning and Zoning Boards

For a period of 180 days from the effective date of this local law, no applications for residential subdivision or site plan approval shall be advanced to the stage of preliminary approval, in whole or in part, nor shall applications for variances (whether area or use variance) be approved, in whole or in part, which would result in the construction of a new dwelling unit, or the enlargement by more than 20% of the existing living space of an existing dwelling unit.

4. Hardship Applications

Any person aggrieved by this moratorium law may file a hardship application for relief from such moratorium, which application shall be determined by the Town Board after public hearing and considering such factors as the Town Board may deem appropriate considering the purposes of the enactment of this law, including but not limited to: (1) nature and extent of financial hardship, (2) extent of proposed usage of water, (3) existence of suspected environmental problems within the vicinity of the applicant, (4) amount of removal of vegetation, (5) amount of traffic to be

generated, (6) the general magnitude of potential adverse environmental impacts, (7) potential stormwater generation, (8) whether the subject property has the potential for re-zoning, and (9) such other factors as may be significant relative to the individual property and circumstances. In reviewing an application for hardship relief the Town Board may consider the state of facts existing at the time of announcement of the proposed moratorium.

5. Penalties. Violations of this Local Law shall be punishable in the same manner as violations of the Town Code Chapter 165, Zoning Ordinance.

6. Supersession Statement

In accordance with the provisions of the Municipal Home Rule Law, this local law is intended to supersede, to the extent of any inconsistency, the provisions of Town Law Sections 274-a, 276, 276-a, 276-b, 276-c and 278 including but not limited to default approval as well as the provisions of Chapter 165 of the Town Code, insofar as such provisions permit the issuance of building permits for new residential construction, or allow for such application.

7. Effective Date.

This law shall take effect upon filing with the New York Secretary of State.

CLOSE THIS WINDOW

AN ORDINANCE ESTABLISHING A MORATORIUM FOR BUILDING AND STRUCTURE PERMITS WITHIN 100 FEET OF DANIELS ROAD; RELATING TO NOISE, TRAFFIC AND INDUCED DEVELOPMENT IMPACT ON DANIELS ROAD FROM U.S. 41 TO I-75; RELATING TO THE PROHIBITION OF STRUCTURES AND PARKING LOTS DURING THE MORATORIUM; PROVIDING FOR RELIEF; PROVIDING FOR SEVERANCE; PROVIDING FOR CONFLICT; PROVIDING FOR EFFECTIVE DATE.

WHEREAS, Daniels Road is a major connector between I-75 and south Lee County and is expected to carry a substantial number of vehicles per day in the Year 2,000; and,

WHEREAS, recognizing that noise levels and uncontrolled traffic patterns emanating from heavily traveled thoroughfares may have a detrimental effect upon the health and safety of citizens of Lee County traveling said roads and using structures abutting and located within 100 feet to said thoroughfare, the Board specifically finds that in order to protect the health and safety of the citizens of Lee County from such detrimental effects, it is necessary to further determine and establish a requisite setback adjacent to the Daniels Road right-of-way; and,

WHEREAS, there exists bona fide planning issues and problems with respect to noise, induced development, and traffic safety impacts upon said Daniels Road corridor and the adjacent properties; and,

WHEREAS, there is a need for a comprehensive analysis and study to determine the appropriate structure setbacks as they would relate to noise, air quality, open space, road access, traffic congestion, and safety issues within the areas immediately adjacent to said road; and

WHEREAS, the County has discussed and is proceeding to consider for adoption, a Building Ordinance setback of 100 feet on arterial roads to include Daniels Road, it is unreasonable to allow the issuance of building and development permits in said areas which may cause irreparable harm to be done by permitting development prior to the implementation of appropriate buffering setbacks; and

WHEREAS, it is determined to be in the public's health, safety and welfare to provide for a moratorium for a reasonable period to orderly review, study, and implementation of structural setbacks

within the Daniels Road corridor.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA:

SECTION 1. ORDINANCE DETERMINATION

The facts above are confirmed and enactment of this Ordinance is necessary for the protection of the public health, safety and welfare. The necessity for this Ordinance is predicated in part upon the reasonable necessity for and provision being made for a detailed, comprehensive analysis of the area in question, the probability of detriment to the subject area and the frustration of the purposes of prospective regulations by permitting development prior to the consideration and possible implementation of said new regulations and/or land use criteria.

SECTION 2. MORATORIUM ESTABLISHED

There is hereby declared to be established a moratorium on the issuance of any further building or development permits for structures, signs, buildings or parking lots of any type to be constructed, placed or located within 100 feet from the edge of the right-of-way of Daniels Road from U.S. 41 to Interstate 75 per the attached legal description of said right-of-way incorporated herein and made a part hereof.

This moratorium does not include building or development permits for required drainage and water retention ponds and landscaping to include buffering fences, walls and subdivision entrance signs.

SECTION 3. DURATION

This moratorium shall continue for not more than 90 days or unless sooner repealed by County Ordinance.

SECTION 4. RELIEF

Provision is hereby made for obtaining relief from this moratorium by an applicant submitting to the Board of County Commissioners or its designee a written statement demonstrating that untenable hardship shall inure to the applicant in the event that said applicant cannot obtain a building permit. The Board of County Commissioners or their designee shall promptly transmit the application for relief to the Lee County Division of Community Development which shall review the application and make a recommendation to the Board of County Commissioners. The Board of County

Commissioners may then determine whether untenable hardship exists and either deny the application or grant leave to apply for the appropriate permits pursuant to the requirements of the Lee County Comprehensive Plan and Zoning Ordinance and all other applicable Codes and Ordinances.

For the purposes of this Ordinance, untenable hardship is defined to mean a hardship unique to the property involved in the application and must be peculiar to that particular property, not general in character. Economic or self-imposed hardship shall not be grounds for relief.

SECTION 5. SEVERANCE

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion hereof.

SECTION 6. CONFLICT

All ordinances and parts of ordinances in conflict herewith shall be and the same are hereby superseded. If any part of this Ordinance conflicts with any other part, it shall be severed and the remainder shall have the full force and effect and be liberally construed.

SECTION 7. EFFECTIVE DATE

This ordinance takes effect immediately upon receipt of the official acknowledgement from the office of the Secretary of State of Florida that this ordinance has been filed with said office.

DONE and ADOPTED this 22nd day of May, 1985.

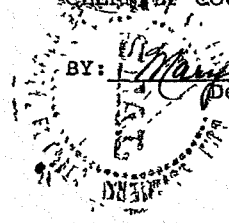
ATTEST:

CHARLIE GREEN,
CLERK OF COURTS

BY: Mary Comenhot
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: [Signature]
Chairman



James Greer

USE THIS FOR DECEMBER BOARD
FINAL
ORDINANCE NO. 92

AN ORDINANCE OF THE
BOARD OF DIRECTORS OF THE
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
ESTABLISHING AN EXPANDED WATER CONSERVATION AND
STANDBY WATER RATIONING PLAN

FINDINGS

1.. The Water Management District is charged under the Monterey Peninsula Water Management District Law with the integrated management of the ground and surface water resources in the Monterey Peninsula area.

2.. The Water Management District has general and specific power to cause and implement water conservation activities as set forth in Sections 325 and 328 of the Monterey Peninsula Water Management District Law.

3.. This Ordinance is enacted to respond to present and threatened water emergencies, as provided by Section 332 of the District Law. Water emergencies addressed by this ordinance are created by both legal and physical circumstances which constrain the amount of water that is available to serve water users in the Monterey Peninsula area.

4.. The District Board declared a water supply emergency in accord with Section 332 of the District Law upon implementation of Supply Option V of the Water Allocation Program Environmental Impact Report in 1990. This water supply emergency remains in effect.

5.. The Water Supply Emergency was substantiated in April 1991 upon adoption of Ordinance No. 54, Defining Phase I Water Use Rules. Ordinance No. 54 remains in effect except as amended by this ordinance.

6.. State Water Resources Control Board (SWRCB) Order No. WR 95-10, issued in July 1995, ruled that California-American Water Company (Cal-Am) did not have a legal right to take approximately 69 percent of the water historically supplied to Cal-Am users. The SWRCB has set specific goals to reduce Cal-Am's water diversions from the Carmel River Basin.

7.. Under SWRCB Order No. WR 95-10, Cal-Am has been ordered to reduce its historical diversion from the Carmel River Basin by 20 percent in Water Year 1997 and each subsequent water year.

8.. This ordinance shall be one part of the Monterey Peninsula Water Management District's Urban Water Management Plan.

9.. This ordinance is exempt from the California Environmental Quality Act (CEQA) under Water Code §10652. This ordinance is also exempt from the requirements of CEQA under the provisions of CEQA Guideline 15269 (c) and 15282 (w).

10.. The following District Rules shall be amended or deleted by this ordinance: Rule 11 (Definitions), Rule 92 (Rationing Variance), Rule 104 (Water Rationing), and Rule 106 (Regulation of Mobile Water Distribution Systems During a Water Supply Emergency).

11.. The following District Rules shall be added by this ordinance: Regulation XV Expanded Water Conservation and Standby Rationing Plan, Rule 160 (Rationing General Provisions), Rule 161 (Stage 1 Water Conservation), Rule 162 (Stage 2 Water Conservation), Rule 163 (Stage 3 Water Conservation), Rule 164 (Stage 4 Water Rationing), Rule 165 (Stage 5 Water Rationing), Rule 166 (Stage 6 Water Rationing), Rule 167 (Stage 7 Water Rationing), Rule 168 (Water Banks), Rule 169 (Water Rationing Variance), Rule 170 (Water User Survey), Rule 171 (Water Waste Fees), Rule 172 (Landscape Water Budgets), Rule 173 (Regulation of Mobile Water Distribution Systems During a Water Supply Emergency), Rule 174 (Regulation of Well Owners/Operators and Extractors), Rule 175 (Water Rationing Enforcement).

NOW THEREFORE be it ordained as follows:

ORDINANCE

Section 1: Short Title

This ordinance shall be known as the "Expanded Water Conservation and Standby Rationing Plan" of the Monterey Peninsula Water Management District. This ordinance shall add Regulation XV - Expanded Water Conservation and Standby Rationing Plan to the Rules and Regulations.

Section 2: Statement of Purpose

The Monterey Peninsula Water Management District enacts this Expanded Water Conservation and Standby Rationing Plan as legal authority to set standards and procedures pertaining to water use restrictions and water rationing requirements for the Monterey Peninsula during present and future water supply emergencies. This ordinance is intended to maintain Cal-Am's water production from the Carmel River below the limits set by the SWRCB in its Order No. WR 95-10, to respond to system-wide water storage shortages, and to respond to emergency situations that require immediate water use reductions. This ordinance responds to present and threatened water emergencies created by both legal and physical circumstances that constrain the amount of water available to serve water users in the Monterey Peninsula area. This ordinance establishes seven response levels to the water supply emergency to ensure consumptive use of water does not exceed anticipated water supplies available to the District. Upon the effective date of this ordinance, Stage 1 Water Conservation shall be implemented immediately. This ordinance shall modify the existing Rules and Regulations of the District.

Section 3: General Provisions

- 1.. All water users within the Monterey Peninsula Water Management District shall be subject to the District's water waste and non-essential water use prohibitions.
- 2.. Prohibitions against water waste and non-essential water use shall be enforced by the District and its designated agents in accordance with Rule 171 (Water Waste Fees).
- 3.. Stage 1 Water Conservation shall be implemented upon the effective date of this regulation.
- 4.. Stage 1 Water Conservation parallels Cal-Am's Phase IV Mandatory Water Conservation program that was designed to meet the Carmel Valley water production limits set by the SWRCB and approved by the Public Utilities Commission. Stages 1 through 3 Water Conservation are intended to achieve the Carmel Valley water production limits set by the State Board. Stage 4 Water Rationing through Stage 7 Water Rationing are intended to respond to limitations in supply caused by inadequate system inflow and storage.
- 5.. Stage 1 Water Conservation through Stage 3 Water Conservation shall apply to water users of the Cal-Am water distribution system where that system derives its source of supply from the Monterey Peninsula Water Resources System (MPWRS) for as long as Cal-Am is subject to water production goals and limitations enforced by the SWRCB.
- 6.. Stage 4 Water Rationing through Stage 7 Water Rationing may apply to all water distribution system users and water users within the Monterey Peninsula Water Resources System as a response to limited water supply. These stages shall also serve as responses to emergency situations where immediate reductions in water use are necessary to ensure public health, safety or welfare. This regulation authorizes the Board of Directors to, from time to time, determine by Resolution that any water distribution system or set of water users within the Monterey Peninsula Water Management District shall be subject to Stages 4 Water Rationing through Stage 7 Water Rationing as provided in this ordinance.
- 7.. As to water derived from the MPWRS, Cal-Am shall maintain unaccounted for water use in its MPWRS distribution system at or below seven (7) percent. Average losses of more than seven (7) percent during the most recent twelve month period shall be considered water waste. This limitation shall not affect any Cal-Am system east of, and including, the Ryan Ranch subunit.
- 8.. Cal-Am shall amend its Urban Water Management Plan to conform to the policies and procedures described in this ordinance. A copy of the plan and amendment shall be filed with the District within 180 days of the effective date of this ordinance. The plan shall comply with the California Water Code, Division 6, Part 2.6.
- 9.. Cal-Am shall prepare an analysis of the impacts of each of the actions and conditions described in this ordinance, inclusive, on the revenues and expenditures of Cal-Am, and proposed measures to overcome those impacts, such as the development of reserves and rate adjustments. A copy of the analysis shall be provided to the District.
- 10.. Cal-Am shall prepare a per-capita-based tariff rate design and submit this rate design to the California Public Utilities Commission for review and approval. A copy of the plan filed with the California Public Utilities Commission shall be provided to the District. This rate design shall include and be based on the following:
 - a.. An accurate survey of water users who are served by the Cal-Am water distribution system where that system derives water from the MPWRS;
 - a.. An assumed Cal-Am annual production value that does not exceed the amount of the water production goal set by the SWRCB;
 - a.. Unaccounted for water use that does not exceed an average of seven (7) percent of total Cal-Am production;
 - a.. A fair weighting to differentiate residential from non-residential water uses based upon historic water use by that sector;
 - a.. Factors to fairly differentiate small and large residential lots;
 - a.. A methodology which provides an equal amount of water for each permanent resident;

a.. A methodology which provides a fair quantity of water for each residential and non-residential use based upon current consumption factors and Best Management Practices.

a.. A mechanism to implement excessive use rates or accelerated rate increases during Stage 3 Water Conservation as a mechanism to discourage excessive water use.

b.. A statement regarding the confidentiality of information gathered pertaining to the number of residents on single-family and multi-family accounts.

11.. The provisions of paragraphs A through J, inclusive, of this Section shall be incorporated into the District Rules and Regulations as Rule 160 (Rationing General Provisions).

Section 4: Water Distribution Systems and Water Users Affected

A. Upon the effective date, this regulation shall apply to all water users within the Monterey Peninsula Water Management District. Stages 1 through 3 Water Conservation may thereafter be triggered under the provisions of this regulation for water users of the Cal-Am water distribution system where that water system derives water from the MPWRS.

B. All water distribution systems and water users deriving water from the MPWRS shall be subject to Stage 4 Water Rationing through Stage 7 Water Rationing of Regulation XV when those stages take effect due to water supply limitations caused by drought or emergency. Water distribution systems and water users outside the MPWRS shall be subject to this regulation only upon Resolution by the Board of Directors in response to physical or legal restrictions which effect sources of supply outside the MPWRS.

C. A list of water distribution systems within and without the MPWRS shall be maintained by the District.

Section 5: Definitions

A. Unless the context specifically indicates otherwise, the following words or phrases shall be given the definitions set forth below.

1.. Addition - "Addition" shall mean an expansion of usable square-footage in a building, or in a non-residential use the use of new area which causes an intensification of use as defined in Rule 11 (Definitions).

2.. Base Use - "Base Use" shall mean a reasonable amount of water anticipated to be used by a Cal-Am water user during Stages 1 through 3 Water Conservation. Base Use correlates to the base block rate established by Cal-Am for the individual customer.

3.. Best Management Practices (BMP) - "Best Management Practices" or "BMP" shall mean industry-specific water conservation practices, retrofits, equipment and facilities recognized by the District and approved by the Board of Directors.

4.. Cal-Am Unaccounted For Water Uses - "Cal-Am Unaccounted For Water Uses" shall mean the difference between what is recorded at the production meters and the consumption recorded through system meters or reported as estimates of reasonable uses. Unaccounted For Water Uses shall include system leakage.

Unaccounted for water is made up of the following: Unknown leakage, stolen water, unreported fire department usage, unreported street sweeping (and other municipal uses), unrecorded construction water, customer meters registering slow.

5.. CAWD/PBCSD Wastewater Reclamation Project - "CAWD/PBCSD Wastewater Reclamation Project" shall mean the wastewater reclamation project undertaken by the Carmel Area Wastewater District and the Pebble Beach Community Services District that supplies reclaimed water to the golf courses and certain open space areas within Pebble Beach.

6.. Commercial Use - "Commercial Use" shall mean water used in connection with commercial premises devoted primarily to, but not limited to offices, stores, markets, hotels, motels, and restaurants.

7.. Dedicated Irrigation Meter - "Dedicated Irrigation Meter" shall mean a water meter exclusively used to measure outdoor water consumption.

8.. Drip Irrigation - "Drip Irrigation" shall mean low pressure, low volume irrigation applied slowly, near or at ground level to minimize runoff and loss to evaporation.

9.. Equivalent Consumption Unit - "Equivalent Consumption Unit" or "ECU" shall mean a base water use multiplication factor assigned to every Cal-Am customer to provide a fair weighting of all customers as compared to the lowest level of water use by any customer. Each customer's ECU factor shall be assigned by Cal-Am.

10.. Evapotranspiration: "Evapotranspiration" or "ET" shall mean the loss of water from a vegetative surface through the combined processes of plant transpiration and soil evaporation. ET is equivalent to and frequently referred to as consumptive use.

11.. Even Numbered Property - "Even Numbered Property" shall mean all property with an official address ending in an even number. This definition shall also apply to properties located on the North or East side of the street in cities or other areas where no numbered street address is available. Landscaped areas associated with a building will use the number of that building as the address. Only one address shall be used for a landscaped area associated with one building or activity, even if the landscaped area is broken into many separate subareas.

12.. Excessive Use Rates - "Excessive Use Rates" shall mean a higher block water rate used by Cal-Am during Stage 3 Water Conservation as a mechanism to discourage excessive water use.

13.. Flow Restrictor - "Flow Restrictor" shall mean a device placed into the water distribution system by the distribution system operator, or put into the output of a private well, that restricts the volume of flow to the user.

14.. Golf Course - "Golf Course" shall mean an area of land designed for public or private recreational golf activities and which is zoned and approved by the local planning jurisdiction for that use.

15.. Hand Watering - "Hand Watering" shall mean the application of water for irrigation purposes through a hand-held hose and through a positive-action shut-off nozzle.

16.. Harvested Water - "Harvested Water" shall mean precipitation or irrigation runoff collected, stored and available for reuse for irrigation purposes.

17.. Industrial Use - "Industrial Use" shall mean water used at an industrial site where the water is used primarily in manufacturing or processing activities.

18.. Landscape Audit - "Landscape Audit" shall mean an action taken by a District-approved landscape irrigation auditor to determine reasonable outdoor water use.

19.. Landscape Irrigation Auditor - "Landscape Irrigation Auditor" shall mean a person approved by the Monterey Peninsula Water Management District to perform landscape water audits and assign water budgets.

20.. Landscape Water Budget - "Landscape Water Budget" shall mean a maximum annual water allowance in gallons per year, determined upon completion of a landscape water audit by a District-approved Landscape Irrigation Auditor. The Landscape Water Budget shall take into consideration the types of plants, soil condition, evapotranspiration rates and irrigation system.

21.. Large Livestock - "Large Livestock" shall mean animals such as cattle, horses, llamas, pack animals and other similar animals.

22.. Large Residential Water User - "Large Residential Water User" shall mean any residential user consuming an average of 32 units or more each month (23,936 gallons) or at least 384 units (287,232 gallons) in the year prior to establishment of a landscape water budget.

23.. Mixed Use Water User - "Mixed Use Water User" shall mean users of water for domestic or other uses from any water distribution system or private well where one water meter or connection or well provides both residential and nonresidential use.

24.. Mulch - "Mulch" shall mean any material such as leaves, bark, straw or other materials left loose and applied to the soil to reduce evaporation. Organic mulches include pine bark, compost, and wood chips. Inorganic mulches include rock, cobble, gravel, and synthetic water-holding soil additives.

25.. Multi-Family Dwelling - "Multi-Family Dwelling" shall mean a building designed for occupancy by two or more families living independently of each other.

26.. Multi-Family Residential Site - "Multi-Family Residential Site" shall mean a property with one or more multi-family dwellings, or a property containing more than one single-family dwelling.

27.. Non-Revenue Metered and Unmetered Use - "Non-Revenue Metered and Unmetered Use" shall include water used for water distribution system-owned and leased facilities, flushing when necessary for health or safety purposes, use for production including filter back-washing at two filter plants, rights-of-way, river bank irrigation, and Cal-Am well property irrigation. This definition shall also apply to estimated beneficial water use by fire departments and other municipal uses not prohibited under the definition of Water Waste or Non-Essential Water Use.

28.. Odd Numbered Property - "Odd Numbered Property" shall mean a property with an official address ending in an odd number. This definition shall also apply to properties located on the South or West side of the street in cities or other areas where no numbered street address is available. Landscaped areas associated with a building will use the number of that building as the address. Only one address shall be used for a landscaped area associated with one building or activity, even if the landscaped area is broken into many separate subareas.

29.. "Other" Use - "Other" Use shall mean water used for road sprinkling and temporary hydrant use as reported by Cal-Am as a customer classification.

30.. Permanent Resident - "Permanent Resident" shall mean a person who resides continuously in a dwelling unit for more than 30 days or a resident that can submit such other evidence to clearly and convincingly demonstrate permanent residency. Part-time residents (those individuals who periodically reside in a dwelling unit on a regular basis) shall be counted as a fractional permanent resident.

31.. Positive Action Shut-Off Nozzle - "Positive Action Shut-Off Nozzle" shall mean a device that completely shuts off the flow of water from a hose when released.

32.. Primary Residence - "Primary Residence" shall mean the main or principal dwelling unit inhabited by one or more persons.

33.. Public Authority Use - "Public Authority Use" shall mean water used by a public entity.

34.. Reclaimed Water - "Reclaimed Water" shall mean wastewater effluent that has been treated to the tertiary level, including disinfection. Reclaimed water is a form of recycled water.

35.. Recycled Water - "Recycled Water" shall mean water that originates from a subpotable source of supply such as wastewater treated to the tertiary level or captured rain water.

36.. Remodel - "Remodel" shall mean the rebuilding or rearrangement of an existing area that alters the water use capacity or modifies the water fixtures in a structure.

37.. Residential - "Residential" shall mean water used for household purposes, including water used on the premises for irrigating lawns, gardens and shrubbery, washing vehicles, and other similar and customary purposes pertaining to single and multi-family dwellings.

38.. Single-Family Dwelling - "Single-Family Dwelling" shall mean a building designed for occupancy by one family.

39.. Single-Family Residential Site - "Single-Family Residential Site" shall mean a property with one single-family dwelling. A separate guest house or auxiliary unit without a kitchen shall be included in this definition

40.. Short Term Residential Housing - "Short Term Residential Housing" shall mean one or more residential dwelling units on a property that are occupied by visitors, are operated as a business and for which a fee is charged to occupy the premises.

41.. Small Water Distribution System - "Small Water Distribution System" shall mean a water distribution system with less than 50 connections.

42.. Stage 1 Water Conservation - "Stage 1 Water Conservation" shall mean the first stage in the District's Expanded Water Conservation and Standby Rationing Plan that takes action to maintain Cal-Am water use in the MPWRS below regulatory constraints by increasing conservation activities and preparing for further stages of conservation and rationing.

43.. Stage 2 Water Conservation - "Stage 2 Water Conservation" shall mean the second stage in the District's Expanded Water Conservation and Standby Rationing Plan that takes action to maintain Cal-Am water use in the MPWRS below regulatory constraints by requiring landscape water budgets for large irrigators of over three acres, large residential users and users with dedicated landscape water meters.

44.. Stage 3 Water Conservation - "Stage 3 Water Conservation" shall mean the third stage in the District's Expanded Water Conservation and Standby Rationing Plan that takes action to maintain Cal-Am water use in the MPWRS below regulatory constraints and to respond to potential drought or emergencies by imposing higher water charges for excessive water use.

45.. Stage 4 Water Rationing - "Stage 4 Water Rationing" is defined as the fourth stage in the District's Expanded Water Conservation and Standby Rationing Plan that responds to a drought situation or emergency water supply shortage with a 15 percent reduction goal from system production limits for non-Cal-Am water users. Reductions are achieved by voluntary water use cutbacks in addition to excessive use rates imposed during Stage 3 Water Conservation.

46.. Stage 5 Water Rationing - "Stage 5 Water Rationing" shall mean the fifth stage in the District's Expanded Water Conservation and Standby Rationing Plan that responds to a drought situation with a 20 percent mandatory reduction achieved by requiring water use cutbacks by user category and by per-capita water rations and by enacting a moratorium on water permits that intensify water use.

47.. Stage 6 Water Rationing - "Stage 6 Water Rationing" shall mean the sixth stage in the District's Expanded Water Conservation and Standby Rationing Plan that responds to a severe drought situation with a 35 percent mandatory reduction achieved by requiring water use cutbacks by user category and by per-capita water rations and by enacting a moratorium on water permits that utilize public or private Water Use Credits and by restricting outdoor water use.

48.. Stage 7 Water Rationing - "Stage 7 Water Rationing" shall mean the seventh stage in the District's Expanded Water Conservation and Standby Rationing Plan that responds to a critical drought situation with a 50 percent mandatory reduction achieved by requiring water use cutbacks by user category and by per-capita water rations and by prohibiting all nonessential outdoor water use.

49.. Unmetered Water Use - "Unmetered Water Use" shall mean water use that is not measured through a mechanical device.

50.. Unrationed - "Unrationed" shall mean a time when there are no mandatory reductions in water use that apply to all water users within a distribution system.

51.. Urban Water Management Plan - "Urban Water Management Plan" shall mean a plan prepared pursuant to Division 6, Part 2.6, Chapter 3, of the California Water Code.

52.. User Category - "User Category" shall mean the classification of a water use in one of the following categories: Residential (single-family and multi-family), Commercial and Industrial, Public Authority, Golf Course, Other Use, Non-Revenue Metered Use, and Reclaimed Water Users.

53.. Visitor - "Visitor" shall mean an occasional occupant who resides in a dwelling unit for less than 30 days, but who is not a part-time resident according to the "permanent resident" definition.

54.. Water Unit - "Water Unit" shall mean an increment of water equal to 748 gallons.

55.. Water Rationing Contingency - "Water Rationing Contingency" shall mean a percentage of water production not allocated for rations.

56.. Water Bank - "Water Bank" shall mean an account managed by the District or its agent that tracks the difference in the amount of water used and the amount of each user's water ration during a calendar year.

57.. Water Distribution System Operator - "Water Distribution System Operator" shall mean the person or persons who assume through the District permit process legal responsibility for the proper performance of the requirements of a water distribution system permit holder as defined in the Rules and Regulations and/or in conditions attached to a permit.

58.. Water Supply Emergency - "Water Supply Emergency" shall mean a declaration that a water shortage emergency condition prevails within the area.

59.. Water User - "Water User" shall mean users of water for domestic or other uses from any water distribution system or private well.

60.. Xeriscape - "Xeriscape" shall mean the practice of conserving water and energy through creative landscaping using good landscape design, limiting lawn areas, irrigating efficiently, improving soils, using mulches, choosing low water use plants and employing other good landscape maintenance practices.

B. The words and phrases defined above in paragraph A of this Section shall further be set forth as defined terms within Rule 11 (Definitions) of the District's Rules and Regulations.

Section 6: Amendment to Rule 11 (Definitions)

The following modifications (in bold and strikeout) shall be made to Rule 11 (Definitions) of the District Rules and Regulations.

MONTEREY PENINSULA WATER RESOURCE SYSTEM - "Monterey Peninsula Water Resource System":

(a) shall refer to lands which overlie or are contiguous to (in whole or in part) water in the Carmel River (main stem and tributaries), ground water within the alluvial aquifer, and ground water within the Seaside Coastal Ground water Subbasin, as identified on MPMWD Boundary Map #1, as that may be amended from time to time; or

(b) shall mean the ground water and surface water supplies which serve Cal-Am, other water distribution systems, and private well owners within the District, including the surface water and groundwater resources of the Carmel Valley (both the Carmel River and the Carmel Valley aquifer) and the resources of the Seaside Coastal groundwater subbasin. The Monterey Peninsula Water Resources System shall exclude resources of the Seaside Inland groundwater subbasin, and the Carmel Valley upland formation.

(c) The District shall maintain a current list of Water Distribution Systems within the Monterey Peninsula Water Resource System.

NON-ESSENTIAL WATER USE - "Non-Essential Water Use" shall mean the indiscriminate or excessive dissipation of water which is unproductive, or does not reasonably sustain life or economic benefits. Non-essential water use includes but is not limited to the following:

1. Serving drinking water to any customer, unless expressly requested, by an restaurant, hotel, café, cafeteria or other public place where food is sold, served or offered for sale.
2. Operation of fountains, ponds, lakes or other ornamental use of potable water without recycling.
3. Unreasonable or excessive use of potable water for dust control or earth compaction without prior written approval of General Manager where non-potable water or other alternatives are available or satisfactory.
4. Use of unmetered fire hydrant water by individuals other than for fire suppression or utility system maintenance purposes, except upon prior approval of the General Manager.
5. Failure to meet MPWMD Regulation XIII, retrofit requirements for an existing business after having been given a reasonable amount of time to comply.
6. Draining and refilling of swimming pools or spas except (a) to prevent or correct structural damage or to comply with public health regulations, or (b) upon prior approval of the General Manager.

WATER WASTE - "Water Waste" shall mean the indiscriminate, unreasonable, or excessive running or dissipation of water. Water Waste shall include, but not be limited, to the following:

1. Waste caused by correctable leaks, breaks or malfunctions. This loss of potable water may be cited as water waste after a reasonable period of time has passed in which the leak or malfunction could have been corrected. Exceptions may be granted by the General Manager for corrections which are not feasible or practical.
2. Use of potable water for washing buildings, structures, driveways, patios, parking lots, tennis courts, or other hard surfaced areas, except in cases where health or safety are at risk.
3. Indiscriminate or excessive water use which allows excess to run to waste.
4. Use of potable water to irrigate turf, lawns, gardens or ornamental landscaping between 9:00 a.m. and 5:00 p.m. by means other than drip irrigation, or hand watering without quick acting positive shut-off nozzles. (Exceptions shall be made by the General Manager for professional gardeners where there is no ability to not water between 9:00 a.m. to 5:00 p.m.).
5. Individual private washing of cars with a hose except with the use of a positive action shut-off nozzle. Use of water for washing commercial aircraft, cars, buses, boats, trailers or other commercial vehicles at any time, except at commercial or fleet vehicle or boat washing facilities operated at a fixed location where equipment using water is properly maintained to avoid wasteful use.
6. Transportation of water from the Monterey Peninsula Water Resources System without prior written authorization from the MPWMD shall be deemed water waste. Emergency or health related situations are exempt from this provision in accordance with Rule 168 (Water Rationing Variance).

7. Operation of a commercial car wash without recycling at least 50 percent of the potable water used per cycle.
8. Use of water for more than minimal landscaping, as defined in the landscaping regulations of the jurisdiction or as described in Article 10.8 of the California Government Code.
9. Use of potable water for street cleaning.
10. Outdoor watering in violation of landscape irrigation restrictions required by Stage 1 Water Conservation.
11. Failure to maintain water use within a mandatory landscape water budget.
12. Misrepresentation of the number of persons permanently residing on a property where water is supplied by a water distribution system or by a private well.

The following activities shall not be cited as Water Waste:

- 1.. Flow resulting from fire fighting or essential inspection of fire hydrants;
- 2.. Water applied to abate spills of flammable or otherwise hazardous materials, where water application is the appropriate methodology;
- 3.. Water applied to prevent or abate health, safety, or accident hazards when alternate methods are not available;
- 4.. Storm run-off;
- 5.. Flow from fire training activities during Stage 1 Water Conservation through Stage 3 Water Conservation;
- 6.. Reasonable quantities of water applied as dust control as required by the Monterey Bay Unified Air Pollution Control Agency, except when prohibited by Regulation XV.

RESPONSIBLE PARTY - "Responsible Party" means the person or persons who assume through the Di

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NAPA AMENDING THE NAPA COUNTY CODE TO ESTABLISH FINDINGS AND PERMIT REQUIREMENTS FOR THE EXTRACTION AND USE OF PUMPED GROUNDWATER AS A WATER SOURCE ON AFFECTED PROPERTIES

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ORDINANCE NO. _____

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF NAPA AMENDING THE NAPA COUNTY CODE
TO ESTABLISH FINDINGS AND PERMIT REQUIREMENTS FOR
THE EXTRACTION AND USE OF PUMPED GROUNDWATER AS
A WATER SOURCE ON AFFECTED PROPERTIES.

The Board of Supervisors of the County of Napa ordains as follows:

SECTION ONE. The Board of Supervisors hereby finds and declares as follows:

(a) The groundwater basins of Napa County, including the North Napa Valley Basin, the Milliken-Sarco-Tulucay Groundwater Basin, the Carneros Basin, and the Pope Valley, Chiles Valley and Capell Valley Basins, have historically supplied the people of Napa County with significant water resources that are likely to increase in importance in the future.

(b) The groundwater basins of Napa County form significant water resources that must be managed in trust, and must be conserved so that they may be placed to the reasonable and beneficial use of all potential users, while avoiding the waste and unreasonable use of these resources.

(c) Napa County has a right and a duty to govern the management and extraction of resources within its jurisdiction in order to protect the health, safety and welfare of the citizens of Napa County. Conserving the water resources in the groundwater basins of Napa County to avoid overdrafts and maximize the long-term beneficial use of groundwater resources, best serves the health, safety and welfare of residents of Napa County. These objectives are of particular importance to the future productivity of Napa County agriculture, which presently and for the foreseeable future serves as the cornerstone of Napa County's economy.

(d) On December 3, 1996, the Board adopted Ordinance No. 1117, which determined that the processing of additional new applications for well drilling permits in areas designated as "open space" on the land use map of the Napa County General Plan created an immediate threat to the health, safety and welfare of Napa County residents. The Board concluded that issuing such new permits would authorize either the concentrated extraction of groundwater within limited areas, or the transfer and use of water on parcels other than the parcel where the well is located, or both. Doing so would result in significant extraction of groundwater and potentially detrimental effects on the limited groundwater supplies of Napa County.

(e) In adopting Ordinance No. 1117 on December 3, 1996, the Board also found that more than 150 unconditional certificates of compliance had been issued during the past several years and numerous lot line adjustments had been approved, with most of these certificates of compliance and lot line adjustments located within open space areas of the county where groundwater supplies are particularly limited.

(f) Passage of Ordinance No. 1117 on December 3, 1996, resulted in the Board imposing a 45-day moratorium pursuant to Government Code section 65858 upon the receipt, processing or approval of applications for well drilling permits that would authorize the drilling of multiple wells on adjacent parcels, or would authorize the drilling of single wells that are intended to service multiple parcels, pending the Board of Supervisors' development of adequate land use regulations regulating the extraction and use of groundwater resources in Napa County.

(g) Based upon a report to the Board dated January 3, 1997, by the Departments of Environmental Management, and Conservation, Development and Planning, the Board determined on January 21, 1997, that the circumstances described in the findings contained in Ordinance No. 1117 still existed. Noting that those departments were still working on regulations the Board could adopt to alleviate the conditions that prompted the adoption of Ordinance No. 1117, the Board on that same date adopted Ordinance No. 1119, which extended the terms of Ordinance No. 1117 until December 2, 1997. In approving this extension, the Board relied upon the authority of Government Code section 65858.

(h) Based upon a report to the Board dated November 20, 1997 by the Director of Conservation, Development and Planning, the Board determined on November 25, 1997, that the circumstances described in the findings contained in Ordinance No. 1117 and 1119 still existed. Noting that the departments of Environmental Management and Conservation,

Development and Planning were still working on regulations that the Board could adopt to alleviate the conditions that prompted the adoption of Ordinance No. 1117 and 1119, the Board on November 25, 1997, adopted Ordinance No. 1130, which extended the terms of Ordinance No. 1117 and 1119 until December 2, 1998. In approving this extension, the Board relied upon the authority of Government Code section 65858.

(i) The Board reaffirms its conclusion in Ordinances No. 1117, 1119 and 1130 that Napa County land use regulations at the present time continue to be unclear as to whether or not a use permit must be obtained either prior to drilling one or more wells for the purpose of extracting groundwater and transferring the water extracted to parcels other than the parcel on which the well is located, or prior to drilling multiple wells on adjacent parcels, whether or not under the same ownership.

(j) The Board reaffirms its conclusion in Ordinances No. 1117, 1119 and 1130 that groundwater supplies in Napa County are limited, particularly but not solely including those areas designated as open space on the land use map of Napa County. Areas of known water shortage which are designated as open space in the Napa County General Plan include, but are not limited to, the Pope Valley, Chiles Valley, Capell Valley, Carneros and Milliken-Sarco-Tulucaj groundwater basins. As a consequence, and in part to protect the groundwater supplies of the county to the maximum extent possible, Napa County through its Flood Control and Water Conservation District has spent significant time and money attempting to develop water supplies from sources outside of Napa County.

(k) The Board reaffirms its conclusion in Ordinances No. 1117, 1119 and 1130 that to protect the limited groundwater that exists in Napa County, particularly but not solely in those areas of the county designated as open space on the land use map of Napa County, the drilling of additional wells for the purposes identified above should not be allowed without first adopting regulations establishing permitting requirements, to ensure that such extraction will not be detrimental to the health, safety and welfare of the residents of Napa County.

(l) The Board finds that without immediate county action, long-term inadequacies in surface and groundwater supplies are likely to develop soon throughout Napa County. As the growing demand for water consumption in Napa County approaches existing available supply capabilities and limitations, supply shortages will likely be met by increased reliance on groundwater extraction. As the county's agricultural and rural uses continue to expand, the demand for water will also increase, resulting in potential elimination of any groundwater surplus in those areas of the county where a surplus presently exists. That change is likely to be far more pronounced in the reasonably foreseeable event that other increased demands are also satisfied by using groundwater. The Board concludes that although adequate groundwater reserves may still be present in certain portions of the county, an overdraft in groundwater reserves is likely to be present throughout the county, including the North Napa Valley Basin, within the next several years unless the Board adopts long-term plans and use requirements regulating the extraction and use of groundwater in Napa County.

(m) The Board finds that the public interest in both the conservation and the beneficial use of groundwater resources would be best served by the immediate adoption of groundwater use requirements, and that these requirements would also best serve the health, welfare and safety of those individuals residing within Napa County. Likewise, the Board finds that it would not serve these interests and would jeopardize the health, welfare and safety of those individuals residing within Napa County to avoid adopting such use requirements until scarce groundwater reserves have been depleted and conditions of overdraft become prevalent throughout the county.

(n) The Board finds that those areas depicted on Map "13-1" ("groundwater-deficient areas") are currently in a groundwater deficit, and that in those areas extraordinary measures are needed to avoid further overdrafts of the groundwater basins.

(o) The Board finds that adoption of the groundwater permitting requirements specified in this ordinance are necessary to ensure, to the maximum extent permissible by law, the sufficiency of groundwater supplies for agricultural uses in Napa County and the long-term viability of agriculture within Napa County;

(p) The Board shall hereafter refer to the present ordinance as the "Napa County Groundwater Conservation Ordinance."

SECTION TWO: The Board of Supervisors hereby finds and declares as follows with respect to the Napa County General Plan:

(a) The Napa County general plan includes the following provisions relating to the conservation and beneficial use of groundwater resources within Napa County:

(1) The general plan's goals include the mandates to "take advantage of natural capabilities and minimize conflict with the natural environment" (Goal 3) and to implement the plan to "[e]nsure the long-term protection and integrity of those areas identified in the general plan as agricultural, open space or undevelopable." (Goal 5) (Napa County General Plan ("general plan"), p. 2-16.)

(2) The general plan's "water supply protection" requirement in the land use element includes the county's obligation to "protect public and private water sources from contamination of overdrafts, and encourage groundwater recharge." (Policy 1.9; General plan, p. 2-19.)

(3) The land use element's "resource extraction" provision indicates that county standards "will emphasize environmental implications, such as ... removal of underground water by pumping." (Policy 1.11; General plan, p. 2-20.)

(4) The "water supply" provision of the land use element's agricultural policies provides that "the County will initiate studies to develop a comprehensive understanding of the potentials and deficiencies of surface and underground water supplies in Napa County." (Policy 3.14; General plan, p. 2-24.)

(5) The conservation and open space element of the general plan defines "watershed or groundwater recharge land" as "[l]and designated on the State or any regional or local Open Space Plan as open space land which is important to maintain the quantity and quality of water necessary to the people of the State or any part thereof..." and also establishes as a planning goal "[t]o improve the management and protection of the County's water resources." (General plan, pp. 8-17, 8-18.)

(6) The conservation policy protects "potential groundwater recharge areas from urban encroachment because of the potential need to replenish underground water table to prevent land subsidence or for other reasons." (General plan, p. 8-21.)

(b) The Board finds that this Napa County Groundwater Conservation Ordinance, establishing groundwater findings and use requirements, implements and is fully consistent with the Napa County General Plan, including the provisions identified in section TWO(a) of this ordinance.

SECTION THREE. The Board encourages the Napa County Flood Control and Water Conservation District to develop and adopt a coordinated groundwater management program in accordance with the Groundwater Management Act codified at Water Code section 10750, et seq., and other applicable laws.

SECTION FOUR. A new Chapter 13.15 is added to Division 1 of Title 13 of the Napa County Code to read in full as follows:

Chapter 13.15 GROUNDWATER CONSERVATION

Sections:

13.15.010 Title

13.15.020 Groundwater Permit Required

13.15.030 Classification of Applications

13.15.040 Agricultural Activities Exempt From Groundwater Permitting Requirements

13.15.050 Application for Exemption

13.15.060 Application For Groundwater Permit

13.15.070 Processing of Groundwater Permit Applications

13.15.080 Exceptions

13.15.090 Appeals

13.15.010 Title. This chapter implements the Napa County Groundwater Conservation Ordinance.

13.15.020 Groundwater Permit Required. No applications filed pursuant to division 1 of title 13 of this code for development of a new water system or improvement of an existing water system within Napa County that may use groundwater as a water source on the affected property shall be approved by any employee, department or body of Napa County until the applicant has obtained a groundwater permit if required by this chapter. Prior to the issuance of a building permit pursuant to chapter 15.08.040, or any other permit or administrative approval facilitating the development or use of any lot that may utilize a groundwater supply, this chapter must first be satisfied.

13.15.030. Classification of Applications. Applications described in section 13.15.020 shall be classified as follows for the purpose of determining whether a groundwater permit is required under this Chapter:

A. Applications exempt from groundwater permit requirement.

1. In the case of uses permitted without a use permit under any provision of this Code, applications to develop or improve an on-parcel water source, or an off-parcel water source serving a single contiguous parcel, are exempt from the requirement that a groundwater permit must be secured under this chapter, unless the water source :

- a. Is located on a parcel included within those "groundwater deficient areas" depicted on Map 13-1; or
- b. Is located on a parcel of less than one acre, where the development or improvement would serve that parcel only and public water is available.

2. Applications to develop or improve an on or off-parcel water source serving agriculture are also exempt from the requirement of a groundwater permit under this chapter to the extent provided in section 13.15.040.

3. The director of environmental management may declare a site-specific emergency exempting an application from the requirement of a groundwater permit under this chapter, based upon substantial evidence in the record that the applicant's water source is needed to serve an existing use that has lost its water supply.

B. Applications requiring groundwater permits where a use permit is not required. In the case of uses permitted without a use permit under any provision of this Code, applications to develop or improve an on or off-parcel groundwater source, unless exempt under subparagraph (A), shall not be approved unless the applicant has first obtained a groundwater permit under this chapter.

C. Applications requiring use permits. In the case of uses requiring the issuance of a use permit pursuant to any provision of this Code, applications to develop or improve an on or off-parcel groundwater source in conjunction with such a use are not required to obtain a groundwater permit under this chapter. Groundwater review of such applications shall occur in accordance with the county's procedures to obtain a use permit, including the requirement of groundwater findings under title 18 of this code.

13.15.040 Agricultural Activities Exempt From Groundwater Permitting Requirements.

A. Applications to develop or improve a water source serving agriculture, as defined in section 18.08.040 of this code, shall be exempt from the requirement of a groundwater permit under this chapter where the water would only serve the property where the water source is located, or contiguous property. For purposes of this section only, "contiguous property" refers to property in common ownership that is joined at more than one common point to the property where the water source is located, or connected in a pattern of parcels, each joined to another, that includes the property where the water source is located.

2.. Notwithstanding subparagraph (A), developments or improvements in water sources serving agriculture on any other properties, including adjacent property not qualifying as "contiguous" for purposes of this section, shall be subject to the same permitting criteria and standards identified in sections 13.15.030 and 13.15.070.

3.. Notwithstanding subparagraph (A), developments or improvements in water sources located on parcels included within those "groundwater-deficient areas" depicted on Map 13-1 shall be subject to those permitting criteria and standards identified in sections 13.15.030 and 13.15.070.

13.15.050 Application For Exemption. Each applicant seeking a determination that the development of a new water system or the improvement to an existing water system is exempt from the requirement of a groundwater permit under this chapter shall submit a statement to the director of the department of environmental management, using a form provided by the director, explaining the basis for the exemption. Where the applicant claims an agricultural exemption under section 13.15.040, the applicant shall provide sufficient information to enable the director to determine whether the water system would serve qualifying agriculture on the property where the water system is located, or on contiguous property as defined in section 13.15.040, or both. The director shall furnish a copy of any application for exemption to the department of public works to obtain its written comments on the application. The director shall also furnish a copy of any application for exemption to the director of the conservation, development and planning department for purposes of conducting the required environmental review.

13.15.060 Application for Groundwater Permit. Each applicant seeking to develop a new water system, or improve an existing water system, requiring a groundwater permit under this chapter shall submit a groundwater declaration to the director of the department of environmental management, using a form provided by the director. That declaration shall:

A. Identify any present uses of any existing water system, including whether and to what extent groundwater is used as a water source on the affected property;

B. State whether the proposed new water system or improvements to an existing water system would be likely to use groundwater as a water source on the property served by the system, and identify any water sources other than groundwater intended to be used;

new water system or improvement are intended to serve,
to be served by that new or improved water system;

improvement would significantly affect the impacted

The following procedures and standards shall govern the
limits or exemptions under this chapter:

The director shall review any applicant's groundwater declaration
in accordance with the requirements of this chapter and any other

When the environmental determination and written
report of the director finds that the application is exempt, no
public hearing shall be required. Where the director denies a request for exemption, the
director shall comply with section 13.15.060 of this code.

When the application is determined not to be exempt, the director or his
representative shall require the applicant to obtain their written
copy of the application to the director of the conservation,
and to comply with the required environmental review. The director or his
representative shall require the applicant to submit a I and III water availability analysis in accordance with
this analysis, the department of public works shall
conduct static water levels of neighboring wells prior to
issuance. The permittee shall submit its comments in the form of a written
management. That appraisal shall assess any drawdown of
groundwater and any adverse effects on reasonable and beneficial uses of
groundwater and any adverse changes to the physical environment.

Before approving a groundwater permit only after reviewing
all comments received regarding the application, including
the environmental determination and concluding, based
on the information or improvement would not significantly affect the
environment, the director may consider, but is not limited
to: degradation of water quality; adverse effects on
groundwater with surface water flows; or other adverse changes to

impose reasonable conditions on the permittee as needed to
protect health, safety and welfare.

If the applicant's groundwater declaration satisfies the groundwater
provisions of law, the director shall issue a tentative
permit. If the director determines that the application and
requirements of this chapter or any other applicable provisions of
groundwater permit.

After the tentative decision, the director shall give notice of its issuance,
including a public hearing is not requested, which date shall be the date
the tentative decision is mailed. The notice shall be given by

directly to the applicant seeking approval of a groundwater permit

and shall have jurisdiction over any portion of the groundwater basin

The permit shall be issued to the owners of all real property, including businesses,
on the latest equalized assessment roll, within 300 feet of the
groundwater. In lieu of utilizing the assessment roll, the
permittee may contain information more recent than the assessment

filed a written request therefor with the director of environmental
management within the period of time during the calendar year and shall apply for the balance of

the period identified in the notice during which a public hearing may
be held. If a public hearing has been requested and a public hearing
has not been held, the director shall give notice of the time, place and date
of the hearing and personally deliver or mail a notice of the time, place and date
of the hearing to the applicant and to the persons as the notice of the tentative decision was mailed or
delivered and not more than thirty calendar days prior to the date of the

any member of the public may attend and present oral testimony,
and the testimony shall be electronically recorded and the tapes thereof retained in the
office of the director during such time as they may be undergoing transcription for

After the public hearing, the director shall issue a final decision
to issue a groundwater permit. The director shall give notice of
the final decision to the applicant and to the persons who presented
testimony at the hearing.

Final decisions of the director of environmental management (or on appeal, the Board of Supervisors) are
final and shall be subject to the provisions of the Administrative
Quality Act (Pub. Res. Code, §21000, et seq.) except that
(1) of section 13.15.030 are deemed ministerial acts and are

not subject to the provisions of this chapter:

1. A denial of a groundwater permit by the director of environmental management (or on appeal, the
Board of Supervisors) where the director of environmental management
has determined that a denial would constitute an unconstitutional
and unreasonable use or waste of water.

2. A denial of a groundwater permit by the director of environmental management (or on appeal, the
Board of Supervisors) where the denial would be waived when applying them would
be in the best interests of the Governor or the Napa County Board of Supervisors.
3. A denial of a groundwater permit by the director of environmental management (or on appeal, the
Board of Supervisors) where the denial is expected occurrence, involving a clear and imminent danger,
such as damage to, life, health, property, or other essential public

4. A denial of a groundwater permit by the director of environmental management (or on appeal, the
Board of Supervisors) where the denial is made, following a request for hearing
and the provisions set forth in Chapter 2.88 of this code. Appeals of
the final decision within the period of time within which a hearing must be
held are not permitted.

5. A denial of a groundwater permit by the director of environmental management (or on appeal, the
Board of Supervisors) where the denial is made pursuant to Nos. 1117, 1119 and 1130 that in the absence of a
public hearing that might otherwise adversely and permanently affect
the use of groundwater being used as the water source,
the director shall address this problem and ensure that subdivision
requirements under Title 17 ("Subdivisions") of the Napa County Code by
the director to

6. A denial of a groundwater permit by the director of environmental management (or on appeal, the
Board of Supervisors) where the denial is required. Any subdivision application submitted under this
chapter, final maps, lot line adjustments and conditional
subdivision requires or anticipates the use of groundwater
and the issuance of a groundwater permit under chapter
13.15 or conditionally approved until that review has been

7. A denial of a groundwater permit by the director of environmental management (or on appeal, the
Board of Supervisors) where the denial is required. County Code ("Lack of Water or Sewer Services") is

8. A denial of a groundwater permit by the director of environmental management (or on appeal, the board, shall require that any
denial of a groundwater permit shall not be installed shall include within
the permit containing the following language in boldface capital

"No water supply is provided for any parcel located within this subdivision as of the date of recordation of this document. Prior to the issuance of a building permit or any other permit permitting development of any lot requiring a domestic water supply, the requirements of Division I of Title 13 of the Napa County Code, Chapters 13.04 through 13.12, commencing with Section 13.04.010, must first be satisfied. Where that permit requires or is anticipated to require a groundwater supply, the requirements of chapter 13.15 must also first be satisfied."

SECTION SEVEN. The Board reaffirms its finding in Ordinance No. 1119 that in the absence of a permanent regulatory solution addressing groundwater extractions that might otherwise adversely and permanently affect the water table, "the approval of additional subdivisions, use permits, variances, building permits, or other applicable entitlements for use which would be required in order to comply with those provisions of the Napa County Code relating to zoning, and more likely than not would result in groundwater being utilized as the water source, would result in a threat to the public health, safety or welfare." The Board amends title 18 of the Napa County Code ("Zoning") as follows:

(a) Subsection (F) of Section 18.04.010 is amended to read in full as follows:

F. Further, this board deems it necessary, for the purpose of promoting the health, safety and general welfare of the county, to revise the existing zoning ordinance, and in conjunction therewith substantially to revise the number, shape and area of zoning districts into which the unincorporated area of the county is divided, and substantially to revise the regulations pertaining to such zoning districts in accordance with the general plan and the following objectives:

1. To lessen congestion on roads and highways;
2. To protect necessary rights-of-way for streets and highways within the county against encroachment by permanent physical improvements, the existence of which would make unnecessarily difficult or impractical the retention or creation of thoroughfares adequate in alignment, dimension and vision clearance to serve public needs;
3. To secure safety from fire, flood, earthquake and other dangers;

ORDINANCE NO. 4083

AN INTERIM ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, ADDING CHAPTER 16.75 TO THE MONTEREY COUNTY CODE, IMPOSING CERTAIN LIMITATIONS OF LIMITED DURATION ON DEVELOPMENT IN THE NORTH MONTEREY COUNTY HYDROGEOLOGIC STUDY AREA THAT PROPOSES TO USE WATER, PENDING CONSIDERATION OF APPROPRIATE AMENDMENTS TO THE COUNTY GENERAL PLAN, AREA PLANS, COASTAL IMPLEMENTATION PLAN, AND/OR APPLICABLE ZONING ORDINANCES FOR THE IMPACT AREA AS DEFINED.

County Counsel Summary

This interim ordinance adds Chapter 16.75 to the Monterey County Code to limit development and prohibit the approval of any discretionary or ministerial application for any development project located in the North Monterey County Hydrogeologic Study Area that proposes to use water, with the exception of an application for an addition, remodel, or reconstruction of an existing residence, or construction of the first residence or commercial or industrial use on a vacant existing legal lot of record, provided that the commercial or industrial use requires no more than 0.4 acre-feet of water per year. This ordinance will not apply to any discretionary or ministerial application or application request for any development project located in the Study Area that proposes to use water, which was made on or before August 9, 2000. This ordinance also prohibits the conversion of non-irrigated land to irrigated land for agricultural purposes. An applicant with a discretionary permit made on or before August 9, 2000 and subsequently approved may apply for a building permit for the approved use. This ordinance expires 18 months after August 9, 2000, unless extended by the Board of Supervisors.

The Board of Supervisors of the County of Monterey ordains as follows:

Chapter 16.75

**NORTH MONTEREY COUNTY HYDROGEOLOGIC AREA DEVELOPMENT
LIMITATIONS**

SECTION 1. Chapter 16.75 is added to the Monterey County Code to read as follows:

Sections:

- 16.75.010 Findings and Declarations.
- 16.75.020 Purpose.
- 16.75.030 Applicability.
- 16.75.040 Definitions.
- 16.75.050 Regulations.
- 16.75.060 Exemptions.
- 16.75.070 Enforcement.
- 16.75.080 Severability.
- 16.75.090 Actions Held in Abeyance.
- 16.75.100 No Taking of Property Intended.
- 16.75.110 Effective Date.

16.75.010 FINDINGS AND DECLARATIONS.

A. North Monterey County is experiencing severe overdraft conditions resulting in falling water levels and seawater intrusion. The current water use is estimated to exceed the average recharge by more than 100 percent. The North Monterey County Hydrogeologic Study, Volume 1 (Water Resources), prepared in October 1995 by Fugro-West Inc., states that the area is in a state of overdraft, with a deficit of 11,700 acre-feet. Nitrate contamination levels are also increasing and have had a significant impact on domestic water supply in North County. These water constraints apply specifically to the North Monterey County Hydrogeologic Study Area.

B. The North County Area Plan and Land Use Plan recognize the existence of these problems and direct that studies be made to determine the safe-yield of the North Monterey County aquifers and that procedures thereafter be adopted to manage development in the area so as to minimize adverse effects on the aquifers and preserve them as viable sources of water for human consumption. The approval of any new development proposals that would use water, along with current agricultural practices, future urban development accommodated through subdivisions in the North County area, and potential conversion of land to agricultural use, would exacerbate the existing significant adverse cumulative impact to water quantity and quality in this area.

C. There is a current and immediate threat to the public health, safety, and welfare, and approval of new applications for land use permits and entitlements, located within the North Monterey County Hydrogeologic Study Area, that propose to use water while County staff, the Planning Commission, and the Board of Supervisors study and consider possible general and area plan, coastal implementation plan, or zoning ordinance amendments, would exacerbate the current threat to the public health, safety, and welfare.

D. The County is in the process of completing the Comprehensive Water Resources Management Plan for North County. This document is intended to identify long-term measures and short-term strategies that address water shortages in the North Monterey County Hydrogeologic Study Area. Upon completion of the Study, County staff will present various strategies to the Board of Supervisors, one of which will include possible amendments to the County's various land use regulations to address the poor quality and lack of water in this area. In order to avoid the grant of discretionary and ministerial permits that may be inconsistent with any contemplated amendments to the County's land use regulations, it is necessary for the County to adopt this interim ordinance.

16.75.020 PURPOSE.

It is the purpose and intent of this chapter to temporarily prohibit new water consumption in the North Monterey County Hydrogeologic Study Area to protect the health, safety, and welfare of existing water users. This temporary prohibition will allow the identification and adoption of alternatives and methods to achieve a long-term sustainable water supply for the Study Area.

16.75.030 APPLICABILITY.

A. Applicable to Study Area. The regulations set forth in this chapter shall apply to development that proposes to use water located in the North Monterey County Hydrogeologic

Study Area, as shown on the map entitled "North Monterey County Hydrogeologic Study Area" attached hereto and made a part of this chapter.

B. Non-applicable. In adopting this interim ordinance, the Board declares that it is its intent that the ordinance shall not apply to the following:

1. Any application for an addition, remodel, or reconstruction of an existing residence, or a development permit for the first dwelling unit for a vacant existing lot of record;
2. Any discretionary or ministerial application or application request for any development project located in the North Monterey County Hydrogeologic Study Area that proposes to use water, which was made on or before August 9, 2000;
3. An applicant with a discretionary permit application made on or before August 9, 2000, and subsequently approved, may apply for a building permit for the approved use;
4. Rebuilding of any structure destroyed by fire, explosion, act of God, or act of public enemy. Except for reconstruction of a dwelling unit, a structure may be rebuilt to a total floor area and volume not exceeding that of the structure destroyed; and
5. Any application for new commercial or industrial development on a vacant existing legal lot of record that will not use in excess of 0.4 acre-feet of water per year.
6. Any application for a new or replacement well construction permit.
7. Any construction activity related to a use allowed by this chapter.
8. Development in the community of Pajaro, consistent with the Pajaro Redevelopment Plan, may proceed. Action on projects that are inconsistent shall be considered by the Board of Supervisors.

16.75.040 DEFINITIONS.

A. "Agriculture" means the art or science of cultivating the ground, harvesting of crops, rearing and management of livestock, tillage, husbandry, farming, horticulture, and forestry, the science and art of the production of plants and animals useful to man or woman, and wildlife management that uses water.

B. "Application Request" means that initial form provided by the Planning and Building Inspection Department to a prospective applicant for the purpose of assisting the planner in a future appointment to discuss the applicant's project. An application request submitted to the Planning and Building Inspection Department on or before August 9, 2000 is exempt.

C. "Development" means physical changes, on land, in or under water, to include:

1. Change in the density or intensity of use of land, including but not limited to:
 - a. Subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code);
 - b. Any other division of land, including lot splits; and,

c. Conditional certificates of compliance pursuant to the Subdivision Map Act.

2. Change in the intensity of use of water;
3. Expansion or construction of water wells, surface water diversions, except for replacement thereof;

4. Construction, reconstruction, demolition, of any facility, improvement, and/or structure, including, but not limited to any facility of any private, public, or municipal utility that uses water. "Development" does not include the construction, reconstruction, or demolition of any pipeline, well, facility, improvement, and/or structure of any public water agency delivering public water supplies for the purposes of replacing or completing water services required to be delivered by that water agency or any other water purveyors."

5. Any use of water for new agriculture, as defined.

D. "Discretionary Application" means an application for any permit that requires review and approval by a decision making body including but not limited to the Monterey County Zoning Administrator, Monterey County Planning Commission or the Board of Supervisors.

E. "Intensification of use of water" for the purposes of this chapter means an increased level of use of water for existing agricultural, commercial, industrial, or residential property over and above that in existence as of the effective date of this ordinance.

F. "Ministerial Application" means an application for any permit the issuance of which involves the application of fixed standards or objective measures, and does not involve the exercise of discretion or personal judgment, including but not limited to issuance of buildings permits, business licenses and/or approval of final subdivision maps, utility service connections and/or disconnections.

G. "Water Use" means any activity involving development of real property that requires the use of water.

16.75.050 REGULATIONS.

A. No application shall be approved for any discretionary or ministerial permit located in the North Monterey County Hydrogeologic Study Area that proposes to use water, except as specified in Sections 16.75.030 and 16.75.060 of this Chapter.

B. No person may convert unirrigated land to irrigated land for agricultural purposes.

16.75.060 EXEMPTIONS. This chapter shall not apply to the following:

A. Any application for an addition to, remodel of, or reconstruction of an existing residence, or a development permit for the first dwelling unit for a vacant existing lot of record.

B. Any discretionary or ministerial application or application request for any development project located in the North Monterey County Hydrogeologic Study Area that proposes to use water, which was made on or before August 9, 2000.

C. A discretionary permit application for a structure or use made on or before August 9, 2000, and subsequently approved.

D. Rebuilding of any structure destroyed by fire, explosion, act of God, or act of public enemy. Except for reconstruction of a dwelling unit, a structure may be rebuilt to a total floor area and volume not exceeding that of the structure destroyed.

E. Any application for new commercial or industrial development on a vacant existing legal lot of record that will not use in excess of 0.4 acre-feet of water per year.

F. Any application for a new or replacement well construction permit.

G. Any construction activity related to a use allowed by this chapter.

H. Development in the community of Pajaro, consistent with the Pajaro Redevelopment Plan, may proceed. Action on projects that are inconsistent shall be considered by the Board of Supervisors.

16.75.070 ENFORCEMENT.

A. It shall be the duty of the Director of Planning and Building Inspection of the County of Monterey and all officers and employees of said County herein charged by law with the enforcement of this chapter, to enforce all provisions of this chapter.

B. Any building or structure set up, erected, constructed, altered, enlarged, converted, moved, or maintained, contrary to the provisions of this chapter, and/or any use of any land, building, or premises, established, conducted, operated, or maintained, contrary to the provisions of this chapter, shall be, and the same is hereby declared to be, a violation of this chapter and a public nuisance.

C. The County may summarily abate the public nuisance and the County Counsel or the District Attorney may bring civil suit, or other action, to enjoin or abate the nuisance. The remedies provided in this chapter shall be cumulative and not exclusive.

16.75.080 SEVERABILITY.

If any section, subsection, sentence, clause, or phrase of this chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this chapter. The Board of Supervisors hereby declares that it would have passed this chapter and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid; provided, however, that the Board would not have passed the regulations set forth in Section 16.75.050 without the exemptions set forth in Section 16.75.060.

16.75.090 ACTIONS HELD IN ABEYANCE.

Should any person, firm, or corporation violate the terms of this chapter, and any action is authorized either by the Board of Supervisors, County Counsel, or District Attorney, or is in fact filed by said agencies for said violation, no other action shall be taken on any application filed by or on behalf of said person, firm, or corporation, until the litigation has been resolved.

16.75.100 NO TAKING OF PROPERTY INTENDED.

Nothing in this chapter shall be interpreted to effect an unconstitutional taking of property of any person. If the Board of Supervisors determines, based on specific evidence in the administrative record, that the application of one or more of the provisions of this chapter to a proposed project would effect an unconstitutional taking of private property, the Board shall disregard such provision or provisions to the extent necessary to avoid such unconstitutional taking.

16.75.110 EFFECTIVE DATE.

This ordinance shall become effective on the 31st day after its date of adoption and applies retroactively to August 9, 2000. The Ordinance shall expire 18 months after August 9, 2000, unless extended by the Board of Supervisors. No environmental review shall be required prior to the expiration or extension of this ordinance.

PASSED AND ADOPTED this 26th day of September, 2000, by the following vote:

AYES: Calcagno, Johnsen, Pennycook, Potter, Salinas
NOES: None
ABSENT: None

Chair, Monterey County Board of Supervisors

ATTEST:
SALLY R. REED
Clerk of the Board

By _____
Deputy

Approved as to Form
ADRIENNE M. GROVER
County Counsel

By _____
Deputy

San Simeon Community Services District



111 Pico Avenue, San Simeon, California 93452
(805) 927-4778 Fax (805) 927-0399

Board of Directors
David Kiech, Loraine Mirabal-Boubion, Eric Schell, Carol Bailey-Wood, Terry Lambeth

NOTICE OF MEETING

DISTRICT POLICY ADVISORY COMMITTEE

Monday, January 13, 2003

9:00 A.M.

Cavalier Banquet Room
9415 Hearst Avenue
San Simeon, CA 93452

San Simeon Community Services District



111 Pico Avenue, San Simeon, California 93452
(805) 927-4778 Fax (805) 927-0399

Board of Directors

David Kiech, Loraine Mirabal-Boubion, Eric Schell, Carol Bailey-Wood, Terry Lambeth

NOTICE OF MEETING

DISTRICT POLICY ADVISORY COMMITTEE

Monday, January 27, 2003

9:00 A.M.

Cavalier Banquet Room
9415 Hearst Avenue
San Simeon, CA 93452