
2.0 RESPONSE TO COMMENTS

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Below are responses to comments received on the proposed project during the public review process. Two master responses have been prepared to respond to several comments received on water and 14 existing legal lots of record. Specific comment letters received have been addressed further below.

2.1 MASTER RESPONSES

Master Response 1: Water

Numerous comments were received regarding the findings of the “El Toro Ground Water Study” prepared for MCWRA by Geosyntec in 2007 and supplemented in 2010. This master response has been prepared to explain the relationship of the Geosyntec study to the proposed project; clarify the groundwater basin setting; clarify the watershed setting; provide an update on the decision issued by the Public Utilities Commission (Decision 11-09-001 regarding Case #10-08-022 filed August 31, 2010) regarding the Highway 68 Coalition complaint against California American Water Company; and to further clarify the proposed water system.

El Toro Groundwater Study

The *El Toro Groundwater Study* prepared by Geosyntec in 2007, which was supplemented in January 2010 with *Accompanying Documentation - Geologic Map and Cross-Sections from El Toro to Salinas Valley* (Geosyntec 2010), was reviewed and referenced within the DEIR, as stated on page 3.6-6. The report was reviewed and considered, despite this document not being available until the DEIR was in its final stages of completion. The *El Toro Groundwater Study* has been added to the list of referenced documents for the DEIR.

The primary objective of the Geosyntec study was to evaluate groundwater resource capacity in a portion of the Salinas Valley Groundwater Basin and to make recommendations regarding the extent of the B-8 zoning overlay, which with some exceptions, restricts development and/or intensification of land use where, due to various infrastructure constraints, the development or intensification is found to be detrimental to the health, safety and welfare (Monterey County Code Section 21.42.030). Although this report was prepared for MCWRA, it used a topography/watershed-based methodology to define its limits of study and did not take into account MCWRA’s Zone 2C boundaries or the recognized Corral de Tierra Area subbasin of the Salinas Valley Groundwater Basin. The relationship of the “Geosyntec Study Area” to the proposed project is illustrated in **Figure MR1-1**.

According to the Geosyntec study, the primary aquifer system of the study area is in overdraft; however, current and increasing rates of pumping could be sustained for decades in areas with large saturated thicknesses of the El Toro Primary Aquifer System because of the large volume of groundwater in storage. Expansion of the B-8 zoning was recommended for areas with negligible and poor potential for groundwater production.

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According to the Geosyntec study (Figure 7-1), the wells for the proposed project are located in an area noted as have good potential for groundwater production.

Water-bearing formations in the northeastern portion of the subbasin dip in a northeasterly direction toward the Salinas Valley as shown in **Figure MR1-2**. According to the supplemental geologic map and cross sections (MCWRA 2010), the Plio-Pleistocene Continental Deposits (QTc) (Paso Robles Formation) of the study area show that the hydraulic gradient under the El Toro Creek Valley/State Route 68 corridor is generally northeastward and contiguous with the Salinas Valley Groundwater Basin as shown in **Figure MR1-3**.

The Geosyntec study is relevant as it provides continuing information and research about local groundwater dynamics. The study area overlaps with a portion of the project site and demonstrates hydraulic connectivity between the larger Salinas Valley Groundwater Basin and the Corral de Tierra Area Subbasin. Section 3.6, Groundwater and Hydrogeology has been revised to clarify the relationship of the Geosyntec study with the proposed project as noted in Section 3.0, Amendments of this FEIR.

Clarifications Regarding the Groundwater Basin Setting

The project site lies within the Salinas Valley Groundwater Basin, which is divided into eight subbasins as shown in **Figure 3.6-1** (new figure) of the FEIR. The project site lies within two subbasins: the Corral de Tierra Area subbasin and 180/400-Foot Aquifer (Pressure) subbasin; however, wells that would serve the proposed project are located within the Corral de Tierra Area subbasin. These subbasins are defined and recognized by both MCWRA and California Department of Water Resources and are based on hydrogeologic features. These basins are not contiguous with the Geosyntec Study area referenced above, which is based on topographic and watershed features.

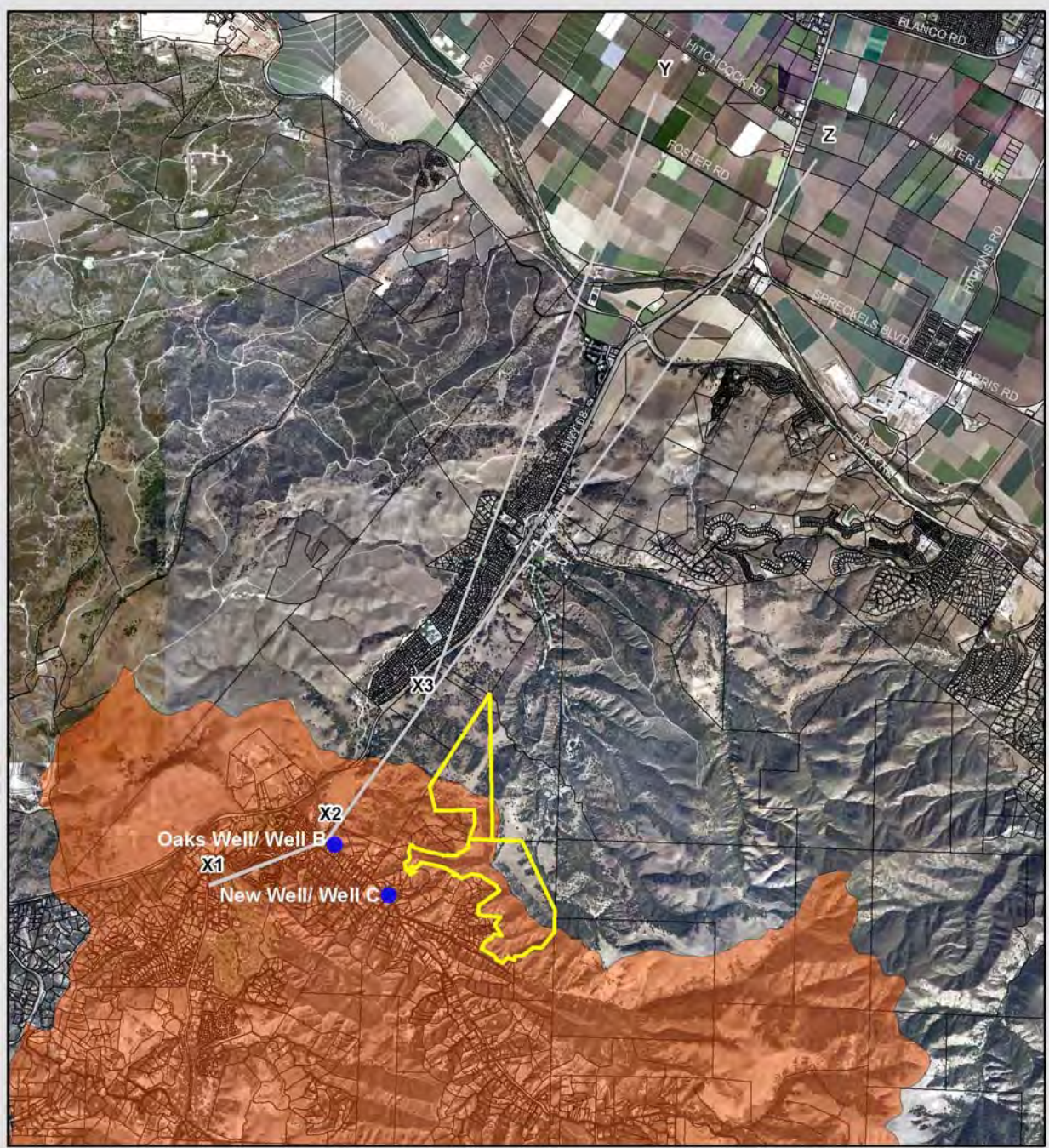
The Geosyntec Study area is divided into five subareas as shown in **Figure MR1-4**. The project site lies within two subareas: the El Toro Creek subarea and San Benancio Gulch subarea; however, the wells that would serve the proposed project are located within the San Benancio Gulch subarea as shown in **Figure 3.6-2** (renumbered and renamed figure) of the FEIR.

Portions of the San Benancio Gulch subarea are within the B-8 Zoning District. As described on page 3.6-5 of the DEIR, the purpose of the B-8 Zoning District is to restrict development and/or intensification of land use in areas where due to water supply, water quality, or other constraints, additional development and/or intensification of land use is found to be detrimental to the residents of the area, or the County as a whole. The project site, including the wells that would serve the proposed project, is not located within B-8 Zoning District as shown on **Figure 3.6-3** (renumbered) of the FEIR. As noted above the wells for the proposed project are located in an area that has good potential for groundwater production and is not recommended for expansion of the B-8 Zoning District. In addition, the project site and the wells that would serve the proposed project are located

within MCWRA Zone 2C also illustrated on **Figure 3.6-3** of the FEIR. The Environmental Setting of Section 3.6, Groundwater and Hydrogeology has been revised to clarify the groundwater basin setting as noted in Section 3.0, Amendments of this FEIR.

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Legend

- Harper Canyon Realty
- Well
- Geosyntec El Toro Area Study Area
- Geosyntec Adendum X Section
- M_CO.Parcels

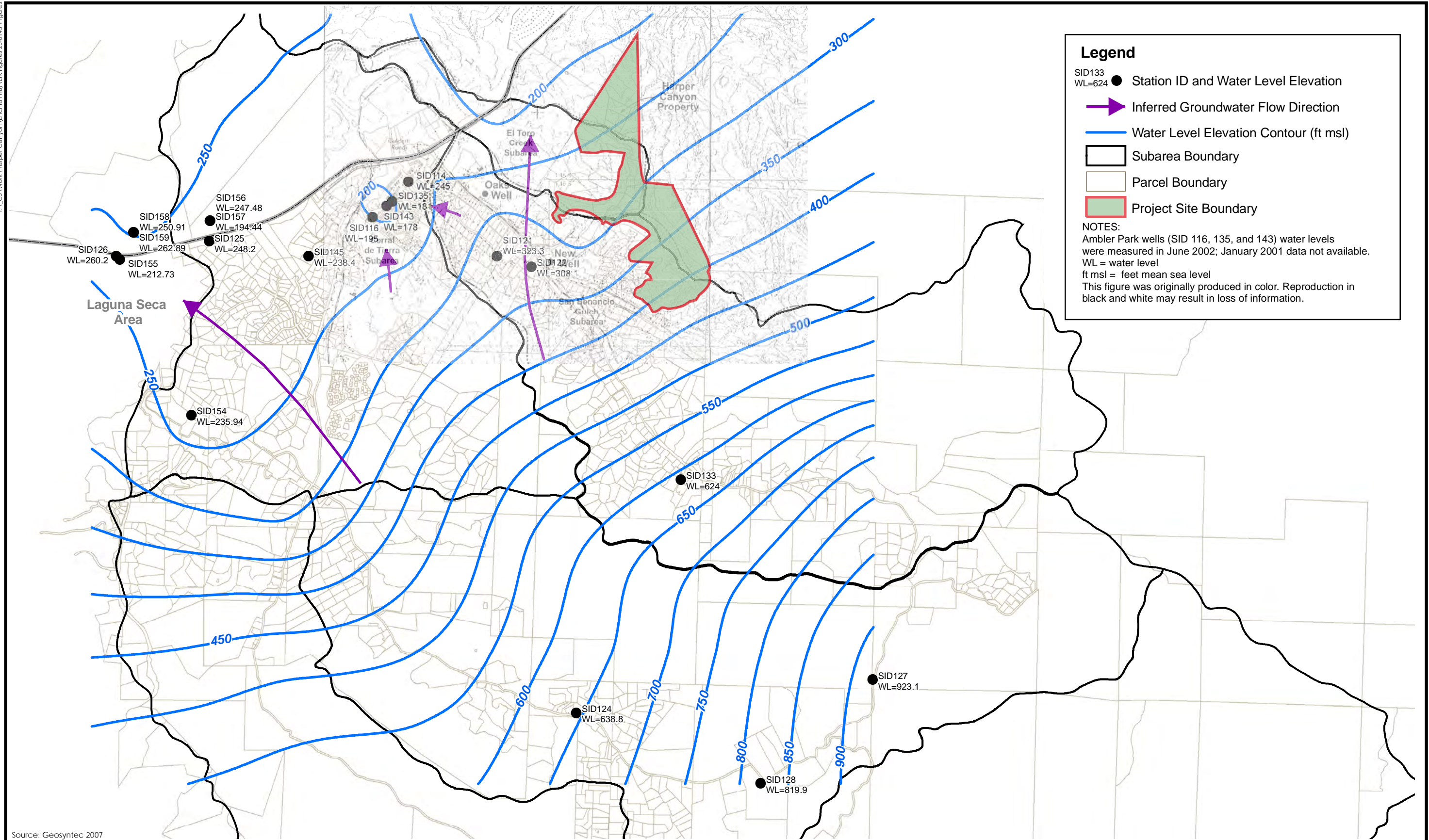
Source: MCWRA2011



Figure MR1-1
Geosyntec Study Area in Relationship to the Project Site

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Legend

- SID133
WL=624 ● Station ID and Water Level Elevation
- ➔ Inferred Groundwater Flow Direction
- Water Level Elevation Contour (ft msl)
- ▭ Subarea Boundary
- ▭ Parcel Boundary
- ▭ Project Site Boundary

NOTES:
 Ambler Park wells (SID 116, 135, and 143) water levels were measured in June 2002; January 2001 data not available.
 WL = water level
 ft msl = feet mean sea level
 This figure was originally produced in color. Reproduction in black and white may result in loss of information.

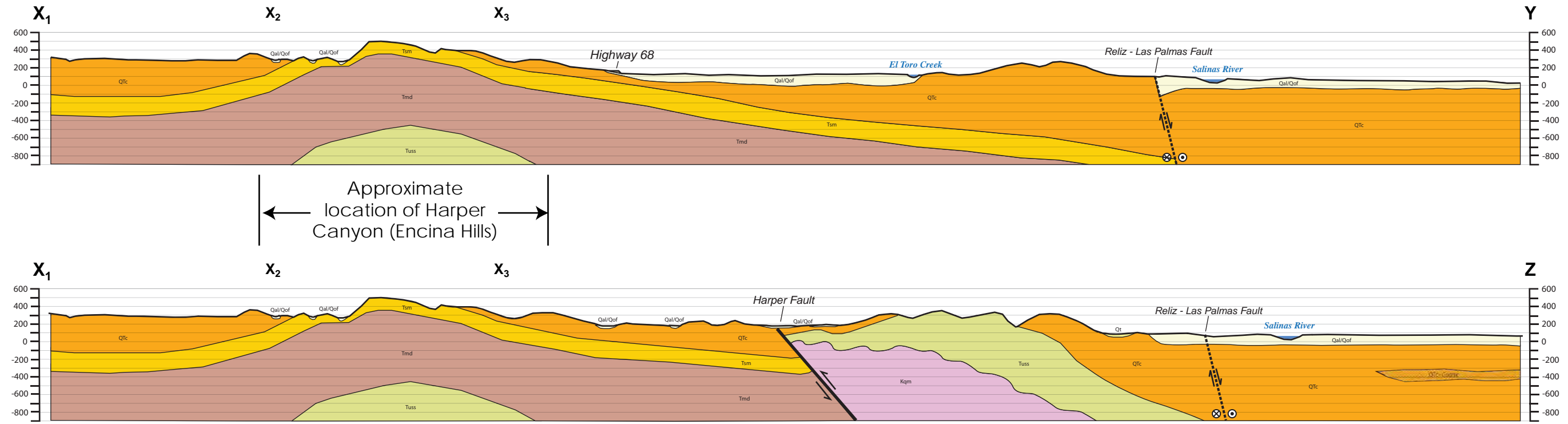
Source: Geosyntec 2007



Figure MR1-2
Geosyntec Study Area Groundwater Flow



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Approximate location of Harper Canyon (Encina Hills)

LEGEND

- Well from MCWRA database (see Table 1 for well ID)
- ▲ Well from Yates et al 2005
- 50 Estimated Groundwater Elevation Contour Based on Jan 2001 data and contour map (Geosyntec, 2007), MCWRA database, and Yates et. al (2005).

Well IDs for Supplemental Wells

- | | |
|------------------|-------------------|
| 1) 16S/02E-03A01 | 6) 15S/03E-18F01 |
| 2) 16S/02E-02D05 | 7) 15S/03E-18C02 |
| 3) 16S/02E-02D01 | 8) 15S/03E-18B01 |
| 4) 15S/02E-25C01 | 9) 15S/03E-08T50 |
| 5) 15S/03E-18M02 | 10) 15S/03E-17M01 |

NOTES:
 Geology adapted from Clark et al. 2000, Rosenberg, L.I. 2001, Yates et al. 2005, Kennedy Jenks, 2004
 Well locations are approximate.

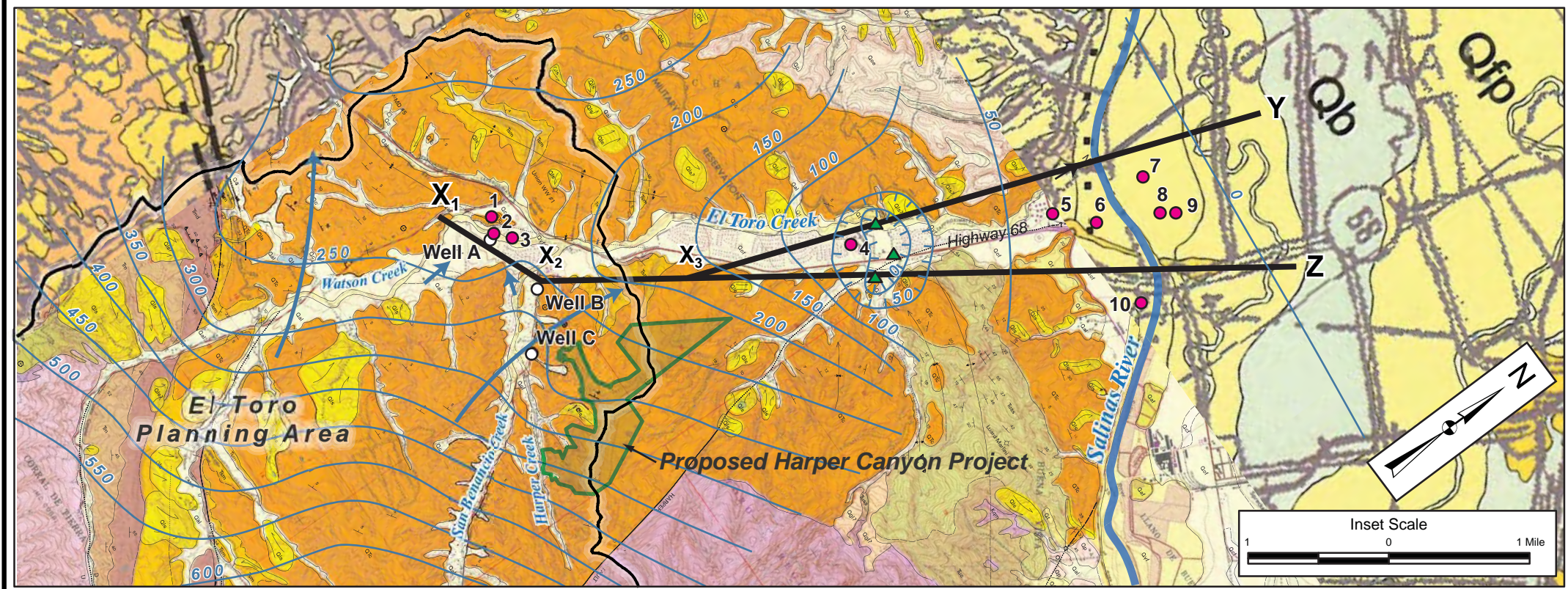
Cross-Sections Have 2X Vertical Exaggeration
 2,500 0 2,500 Feet

Geologic Map and Cross-Sections from El Toro to Salinas Valley

El Toro Groundwater Study
 Monterey County, CA



June 2010

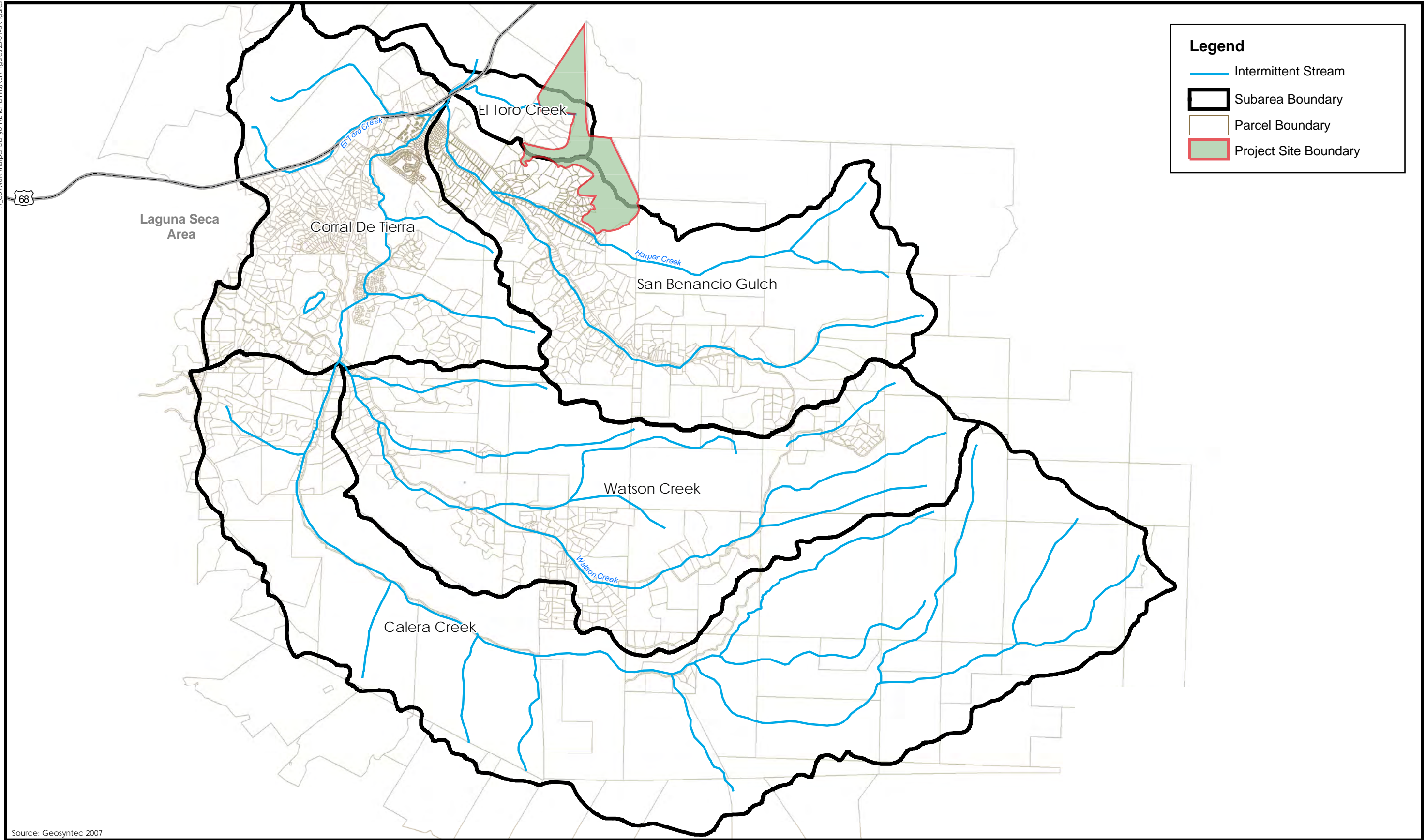


Source: Geosyntec Consultants, June 2010

Figure MR1-3
 Geosyntec Study Area Geologic Cross Sections



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Source: Geosyntec 2007

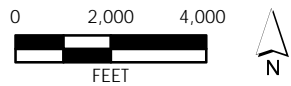


Figure MR1-4
Subareas of the Geosyntec Study Area

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Public Utilities Commission Decision 11-09-001

On August 31, 2010, the Highway 68 Coalition filed a complaint against California American Water Company (Cal-Am). On September 3, 1998, in Decision (D.) 98-09-038, the Public Utilities Commission (PUC) authorized Ambler Park Water Utility to sell its water system to California-American Water Company (Cal-Am). In that decision, the PUC stated: "CalAm is prohibited to intertie Ambler's water system to any other water system of CalAm." (D.09-09-038, 82 CPUC2d 61, 69 (Ordering Paragraph 9)). The main purpose of Ordering Paragraph 9 of D.98-09-038 was to address customers' concerns that Cal-Am would divert water supply from the Ambler Park service territory to Cal-Am's Monterey system, or impose Monterey system costs on Ambler customers.

The Highway 68 Coalition argued that Ordering Paragraph 9 of Decision 98-09-038 prohibited Cal-Am from annexing additional territory to the historic Ambler Park service territory that existed when Cal-Am acquired it. The Coalition contended, in other words, that Ordering Paragraph 9 effectively restricts Ambler Park (now owned by Cal-Am) to serving only customers within the historic service territory; therefore, is not allowed to serve the proposed project. The Highway 68 Coalition requested that the PUC vacate its approval of Cal-Am's advice letters 545 and 617 for the following reasons: they violate Ordering Paragraph 9 of Decision 98-09-038 by (in effect) creating an intertie between the Ambler Park water system and other Cal-Am systems; they violate Monterey County's B-8 zoning Ordinance; Cal-Am did not have Monterey County's authorization to install a water main from the Ambler Park treatment plant to the newly annexed areas; and that approval of the advice letters has substantial environmental impacts.

Cal-Am argued that Ordering Paragraph 9 is intended to prohibit water export from Ambler Park to other areas in the Monterey Peninsula, and does not prohibit use of the Ambler Park water treatment plant for new Ambler Park service territory customers. Cal-Am agreed that in its advice letters 545 and 617 (approved by the PUC on September 19, 2000, and February 17, 2005, respectively), it proposed to annex certain subdivisions, including the proposed project, into the Ambler Park service territory. However, the annexed subdivisions would be served from their own water sources. Specifically, Cal-Am planned to pump water from these sources for treatment at the Ambler Park water treatment plant (which has excess capacity), and to return the treated water to the subdivisions, without any net export of water from Ambler Park to the subdivisions. Therefore, no intertie would be created between Ambler Park and its Monterey or other Cal-Am water systems. Consequently, Cal-Am asserted, it is complying with Ordering Paragraph 9, and it asked that the complaint be dismissed.

Cal-Am also argued that prohibiting the shared use of the Ambler Park water treatment plant would create a difference in service between localities, which would violate PUC sections 453 and 1705, and would force Cal-Am to violate drinking water laws and General Order 103-A. Cal-Am asserted that it owes a duty to serve the annexed subdivisions, and that the PUC recognized the possibility of annexing territory in the

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original Ambler Park acquisition proceeding with the following directive: “Cal-Am will still have to seek approval of the Commission for expansion of its service through an Advice Letter.” (D.98-09-038, 82 CPUC2d at 66.) Cal-Am filed advice letters 545 and 617 under this directive.

The final decision concluded the following:

1. Decision 98-09-038 does not prohibit the shared use of the Ambler Park water treatment plant among areas of the Ambler Park service territory.
2. Cal-Am should be authorized to pump water from the territory annexed to the Ambler Park service territory for treatment at the Ambler Park water treatment plant and to supply water to the annexed territory.
3. Cal-Am must comply with applicable requirements of the Monterey County Resource Management Agency.
4. The Complainant bears the burden of proving that Ordering Paragraph 9 of D.98-09-038 prohibits the shared use of the Ambler Park Water Treatment Plant by customers in the Ambler Park service territory.
5. The Complainant has not shown by a preponderance of the evidence that Ordering Paragraph 9 of D.98-09-038 prohibits the shared use of the Ambler Park Water Treatment Plant by customers in the Ambler Park service territory.
6. This complaint should be dismissed, effective immediately.

It was ordered, effective September 8, 2011, that:

1. California-American Water Company is authorized to pump water from any territory duly annexed to its Ambler Park service territory after the effective date of Decision 98-09-038 for treatment at the Ambler Park water treatment plant and to supply water to the annexed territory, subject to any applicable requirements of the Monterey County Resource Management Agency
2. This complaint is dismissed.
3. Case 10-08-022 is closed.

Based on the PUC’s final decision and order, Cal-Am is not precluded from serving the proposed project or from treating the water pumped from the wells to serve the proposed project. Section 3.6, Groundwater and Hydrogeology of the DEIR has been modified to make minor clarifications regarding how groundwater will be treated, as noted in Section 3.0, Amendments of this FEIR.

Regardless of the decision, the County of Monterey has provided an option to treat the project’s water source at a new satellite water treatment plant located on the project site and within Zone 2C, which would eliminate the need to treat the project’s water source within the Ambler Park system.

Clarification of Proposed Water System

The proposed project would be served by two wells as noted on pages 3.6-5 and 3.9-11 of the DEIR. One well, the Oaks Well (Well B) would serve as the primary well and the New Well (Well C) would serve as a secondary well for both the proposed project and the previously approved Oaks subdivision. The Oaks well was originally going to supply the project without treatment, until the maximum contaminant levels for arsenic were made stricter. Due to the need to treat the water because it exceeded the federal and state MCL, it has been proposed that the Ambler Park treatment facility provide water to the Oaks subdivision, with the understanding that an equivalent quantity of water pumped from the Oaks well must be transferred after treatment and returned to the subdivision at a 1:1 ratio. The Oaks well has since been transferred to Cal-Am, and Cal-Am is applying to the California Department of Public Health (CDPH) to include the Oaks well in Cal-Am's system. The County Board of Supervisors has given preliminary direction to staff to negotiate a Memorandum of Understanding (MOU) between Cal-Am and the County of Monterey with regards to treating water pumped at the Oaks Well to meet drinking water standards. The MOU will define the terms by which Cal-Am would agree to pump water from the Oaks well in an amount exactly equal to the amount of water Cal-Am could supply to the nine lots of the Oaks subdivision from the treatment plant (taking into account treatment loss), so as to result in no net transfer of water from the B-8 zoning district.

The method of water treatment and delivery for the Oaks subdivision described above has also been proposed for the Harper Canyon (Encina Hills) subdivision. And, for similar reasons as the Oaks Well, water from the New Well would also require treatment to meet drinking water standards.

The County is considering two water treatment options for the proposed project: Option A) treatment through the existing Ambler Park facility as originally proposed; or Option B) a new satellite water system that would serve the proposed project and the previously approved Oaks subdivision only.

Under Treatment Facility Option A, the proposed project would be provided water from the Cal-Am Ambler treatment facility in exchange for an equivalent amount of water from the Oaks Well and New Well. Water pumped from the wells would be conveyed to the Ambler Park treatment facility to treat the water to meet drinking standards (refer to mitigation measure **MM 3.6-2a** on page 3.6-16 of the DEIR). A main extension agreement would be required to convey the New Well and new water infrastructure to the water purveyor (Cal Am) (refer to mitigation measure **MM 3.6-2a**). A MOU similar to the Oaks subdivision would be necessary for the proposed project for this treatment option. Although technically and legally feasible to deliver water in this manner, an equally viable option is to require the project to build a separate treatment facility outside of the B-8 zoning district to treat the water from the Oaks Well and New Well, with the developer responsible for the fair share cost of building this treatment plant.

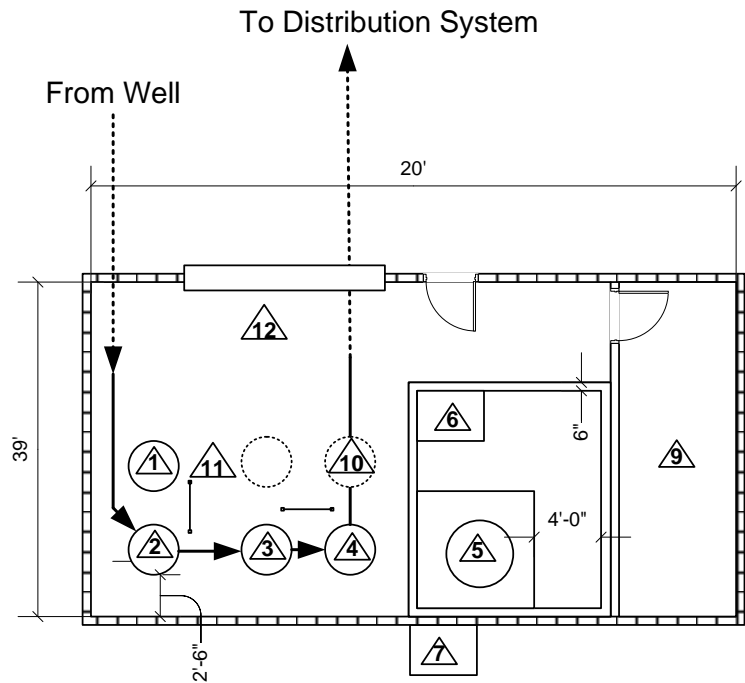
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As ordered by the PUC decision 11-09-001, Cal-Am is authorized to pump water from any territory duly annexed to its Ambler Park service territory after the effective date of Decision 98-09-038 for treatment at the Ambler Park water treatment plant and to supply water to the annexed territory, subject to any applicable requirements of the Monterey County Resource Management Agency (RMA). As noted on page 3.9-12 of the DEIR, once the water is treated it would be pumped to storage tanks proposed on the Remainder Parcel.

Under Treatment Facility Option B, a new treatment facility would be constructed on the project site within Zone 2C. The treatment facility would be similar to one of the treatment facilities shown in **Figures MR 1-5a-c** and enclosed in an appropriate structure to conceal its appearance. The final design will be based on which type of treatment is chosen. The enclosure would likely be designed to look like a barn or other rural building on the exterior. Maintenance schedules, servicing and disposal of accumulated constituents also differs by treatment method.

The design (type of treatment) and construction of the new treatment facility would be under the jurisdiction of Monterey County Health Department, Environmental Health Bureau. Mitigation measures have been clarified to address this treatment option. The significance conclusions of the EIR remain the same, as all impacts related to water quality remain less than significant (refer to mitigation measures **MM 3.6-2a** through **MM 3.6-2c**). The well and any new water treatment facility, if determined necessary, would then be transferred and operated by Cal-Am (refer to mitigation measures **MM 3.6-2b** and **MM 3.6-2c**). This treatment option would eliminate the need for the project to be served treated water from the Amber treatment plant, eliminate the physical involvement of water from the B-8 zone, and eliminate the need for continuous reporting to the County regarding the equal exchange of water served to the subdivision with water pumped from the wells.

Section 3.6, Groundwater and Hydrogeology of the DEIR has been modified to make minor clarifications as noted in Section 3.0, Amendments of this FEIR. The section also addresses this alternative treatment and delivery option.

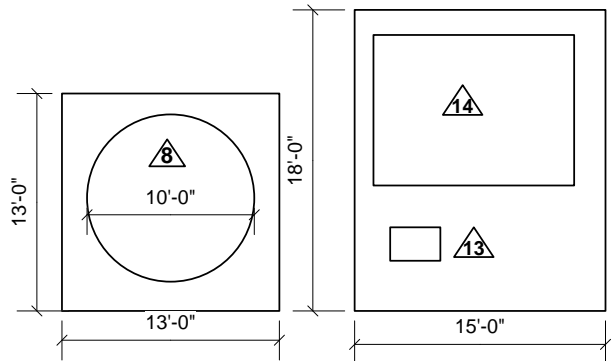


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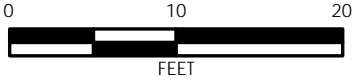
- ▲ Prefilter (Train No. 1)
- 2 Prefilter (Train No. 2)
- 3 Arsenic contactor (lead)
- 4 Arsenic contactor (lag)
- 5 Hypochlorite tank
- 6 Chemical metering pump
- 7 Bulk fill station
- 8 Backwash waste tank (can be located anywhere on site)
- 9 Electrical room (PLC and MCC)
- 10 Future area to expand arsenic contactors (lead-lag)
- 11 Valve manifold (feed, effluent, backwash, drain)
- 12 Garage door (coiling door)
- 13 Backwash recycle pump
- 14 Solids thickening / filter fabric

Notes:

- (1) Heights: Max. Bldg = 18 ft, Min. Bldg = 13 ft, BW Tank = 17 ft.
- (2) Treatment capacity = 50 gpm.
- (3) One filter or one contactor may be taken offline for maintenance while WTP stays online.
- (4) Backwash (BW) supply from distribution system. BW flowrate = 140 gpm.
- (5) BW waste storage tank holds 3 backwashes. Slow discharge back to sanitary sewer. 5,000 gallon discharge over 12 hr cycle equates to 7 gpm average discharge rate to sewer.
- (6) Hypochlorite storage tank = 400 gallons (4 mg/L dose, 190 days storage). Bulk delivery.
- (7) Post treatment (e.g., pH and/or alkalinity adjustment) assumed not needed.
- (8) All interconnecting piping will be located above concrete slab. Only feed water and treated water piping is shown. Chemical lines, backwash supply, backwash waste and utility water lines are not shown.

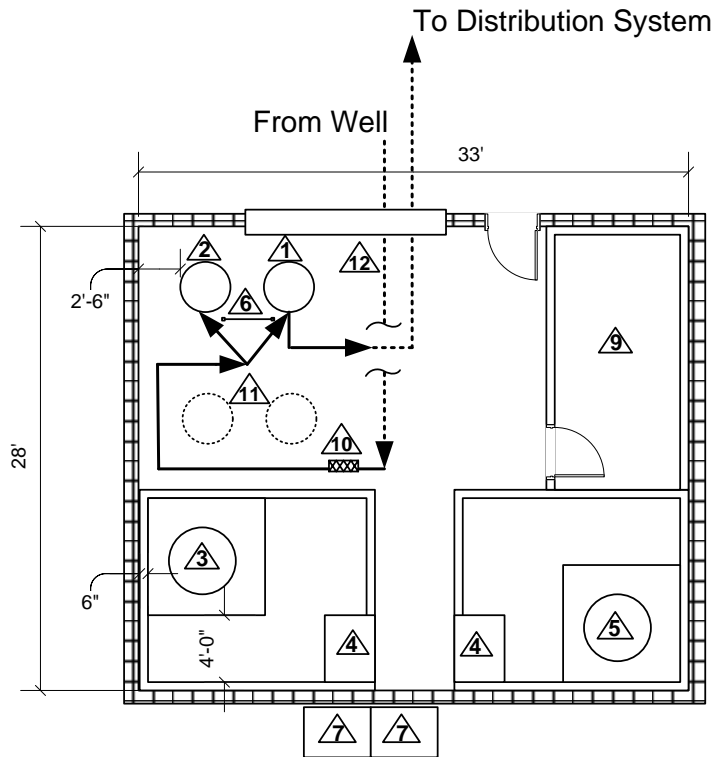


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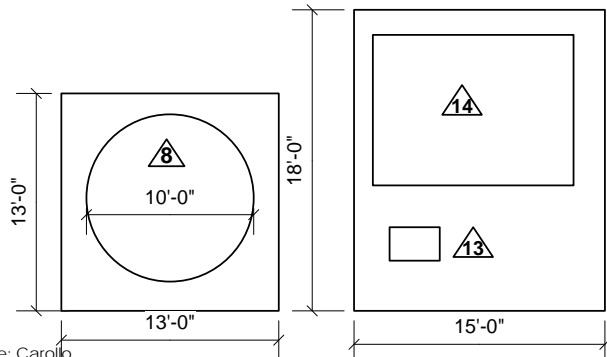
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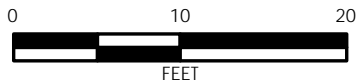


Legend	
	Filter (Train No. 1)
	Filter (Train No. 2)
	Ferric tank
	Chemical metering pump
	Hypochlorite tank
	Valve manifold (feed, effluent, backwash, drain)
	Bulk fill station
	Backwash waste tank (can be located anywhere on site)
	Electrical room (PLC and MCC)
	Static mixer
	Future area to expand filters
	Garage door (coiling door)
	Backwash recycle pump
	Solids thickening / filter fabric

- Notes:**
- (1) Heights: Max. Bldg = 18 ft, Min. Bldg = 13 ft, BW Tank = 17 ft.
 - (2) Treatment capacity = 50 gpm.
 - (3) One filter or one contactor may be taken offline for maintenance while WTP stays online.
 - (4) Backwash (BW) supply from distribution system. BW flowrate = 140 gpm.
 - (5) BW waste storage tank holds 3 backwashes. Slow discharge back to sanitary sewer. 5,000 gallon discharge over 6 hr cycle equates to 14 gpm average discharge rate to sewer.
 - (6) Hypochlorite storage tank = 400 gallons (4 mg/L dose, 190 days storage). Bulk delivery.
 - (7) Ferric storage tank = 400 gallons (15 mg/L dose, 216 day storage). Bulk delivery. Coagulant dose and contact time should be verified by bench or pilot-scale testing. This will determine final storage tank size and location of static mixer.
 - (8) Post treatment (e.g., pH and/or alkalinity adjustment) assumed not needed.
 - (9) All interconnecting piping will be located above concrete slab. Only feed water and treated water piping is shown. Chemical lines, backwash supply, backwash waste and utility water lines are not shown.

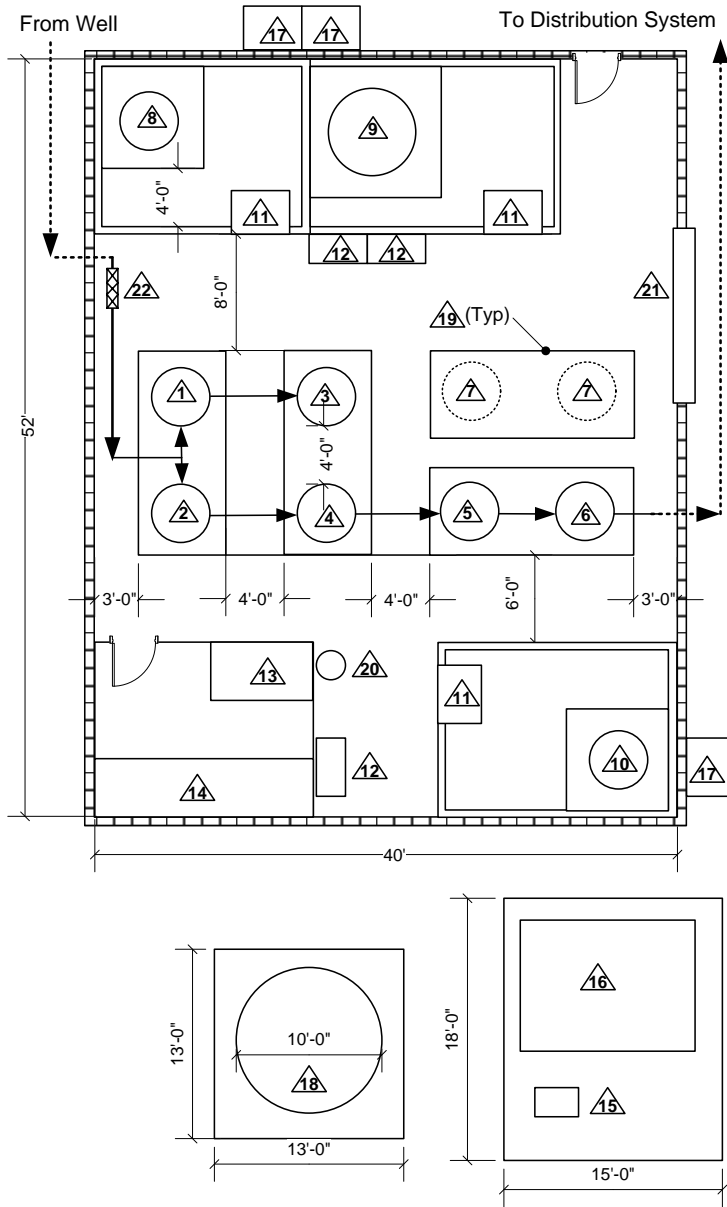


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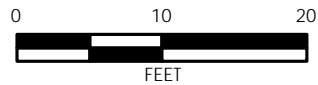
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Notes:

- (1) Heights: Max. Bldg = 18 ft, Min. Bldg = 13 ft, BW Tank = 17 ft.
- (2) Treatment capacity = 50 gpm.
- (3) One filter or one contactor may be taken offline for maintenance while WTP stays online.
- (4) Backwash (BW) supply from distribution system. BW flowrate = 140 gpm.
- (5) BW waste storage tank holds 3 backwashes. Slow discharge back to sanitary sewer. 5,000 gallon discharge over 12 hr cycle equates to 7 gpm average discharge rate to sewer.
- (6) Hypochlorite storage tank = 400 gallons (4 mg/L dose, 190 days storage). Bulk delivery.
- (7) Caustic soda tank = 800 gallons (100 mg/L dose, 85 days of storage). Bulk delivery. Only required if post treatment (to positive Langlier Index) is needed.
- (8) Sulfuric acid tank = 400 gallons (60 mg/L dose, 160 days of storage). Bulk delivery. May be required by some IX system suppliers (e.g., Siemens).
- (9) All interconnecting piping will be located above concrete slab. Only feed water and treated water piping is shown. Chemical lines, backwash supply, backwash waste and utility water lines are not shown.
- (10) Metsorb media (used in IX contactors) does not require pretreatment with GAC vessels. However, annual Metsorb media exchange costs are estimated at \$25,000 assuming 50% duty cycle of the well.
- (11) Metsorb and Siemens can remove arsenic and chromium using one type of media in the IX vessels.

Legend

- ▲ Prefilter (duty)
- 2 Prefilter (standby)
- 3 GAC contactor (duty)
- 4 GAC contractor (standby)
- 5 IX / Metsorb contactor (lead)
- 6 IX / Metsorb contactor (lag)
- 7 Space for future contactor
- 8 Hypochlorite tank
- 9 Caustic soda tank
- 10 Sulfuric acid tank
- 11 Chemical metering pump
- 12 Pump control panel
- 13 Programmable logic controller
- 14 Motor control center / electrical panel
- 15 Backwash recycle pump
- 16 Solids thickening / filter fabric
- 17 Bulk fill station
- 18 Backwash waste tank
- 19 Concrete anchor pad (vessels larger than 4-ft diameter).
- 20 Eyewash/shower station
- 21 Garage door (coiling door)
- 22 Chemical mixer



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MASTER RESPONSE 2: EXISTING LEGAL LOTS OF RECORD

Several comments were received regarding the 14 existing lots of record (“Broccoli lots or parcels”) that are located adjacent to the project site (see **Figure MR2-1**). These 14 lots of record are owned by the project applicant, and were recorded in their current configuration in 1993. Fifteen lots on this property existed prior to 1993, but were adjusted via a major lot line adjustment approved by the County Subdivision and Minor Subdivision Committee. The adjustment resulted in the 14 lots plus one large remainder lot. That remainder lot of 343 acres is the area now proposed for the Harper Canyon/Encina Hills subdivision. The approval of the 1993 lot line adjustment contained several conditions of approval, and the approval was subject to the environmental and planning review procedures per the County’s process in place at the time. A negative declaration was prepared, considered and approved as part of the Committee’s action.

The common theme of the comments received on the DEIR is that: 1) the 14 lots are assumed to be interdependent on the current (Harper Canyon) subdivision under review, and therefore the development of these lots should be analyzed in this EIR; and 2) that the 14 lots should be included in the cumulative analysis of the EIR. Both of these issues are addressed below.

First, the 15 legal lots of record exist already. As such, the lots could be developed at any time if the attached conditions of approval are met and once proposed development (home sites) satisfy the County review and permit process. At any time the property owner could improve and extend Meyer Road and provide utility extensions to the existing 14 lots consistent with the terms of their approval. The development of the Broccoli lots is not dependent upon the approval of the Harper Canyon/Encina Hills Subdivision nor dependent upon access easements, as all lots in question are held in single ownership. The 1993 lot line adjustment was approved with the understanding that the lots would be accessed by an improved Meyer Road. The California Environmental Quality Act (CEQA) does not require re-analysis of a previously approved project unless ordered by a court of law following a successful challenge of the approval, or substantial changes are made to the project prior to development that triggers such analysis. No such conditions exist, no changes are being considered with respect to the 14 existing lots, and no specific development is proposed on the lots at this time.

While these two groups of lots and the applications submitted for their creation are legally independent of one another, it can certainly be argued that investment in infrastructure for one subdivision – such as the improvement of roads and extension of utility lines – would very likely benefit the other. The economics of constructing roads and other service extensions to serve one subdivision could conceivably accelerate the buildout of the other or make the parcels more marketable. However, the Harper Canyon/Encina Hills Subdivision does not remove any existing barriers to development of the existing 14 lots, nor would the subdivision “induce” new growth since the 14 lots legally exist and could be developed with or without the creation of Harper Canyon’s 17 lots. With respect to the

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specific issue of water service for the 14 lots, these legal lots are located in Cal-Am's service area, and the lots pre-date the B-8 zoning restrictions.

Regarding the DEIR's approach to assessing cumulative effects, the existing 14 lots have been documented, recognized and included under background conditions as an "approved project" since the property owner could apply at any time for a building permit on those lots provided the property owner can meet conditions of approval and building requirements. Please see DEIR page 5-5, Table 5-1, Cumulative Projects which identifies the 14 lots of record. The existing 14 lots have been included in the analysis assumptions throughout the DEIR document and Chapter 5.0 Cumulative Impact Summary. The DEIR (and RDEIR dated December 2009) identified that the project's contribution to all cumulative effects were either effectively mitigated by the project's mitigation measures, or otherwise did not result in a cumulatively considerable environmental impact.

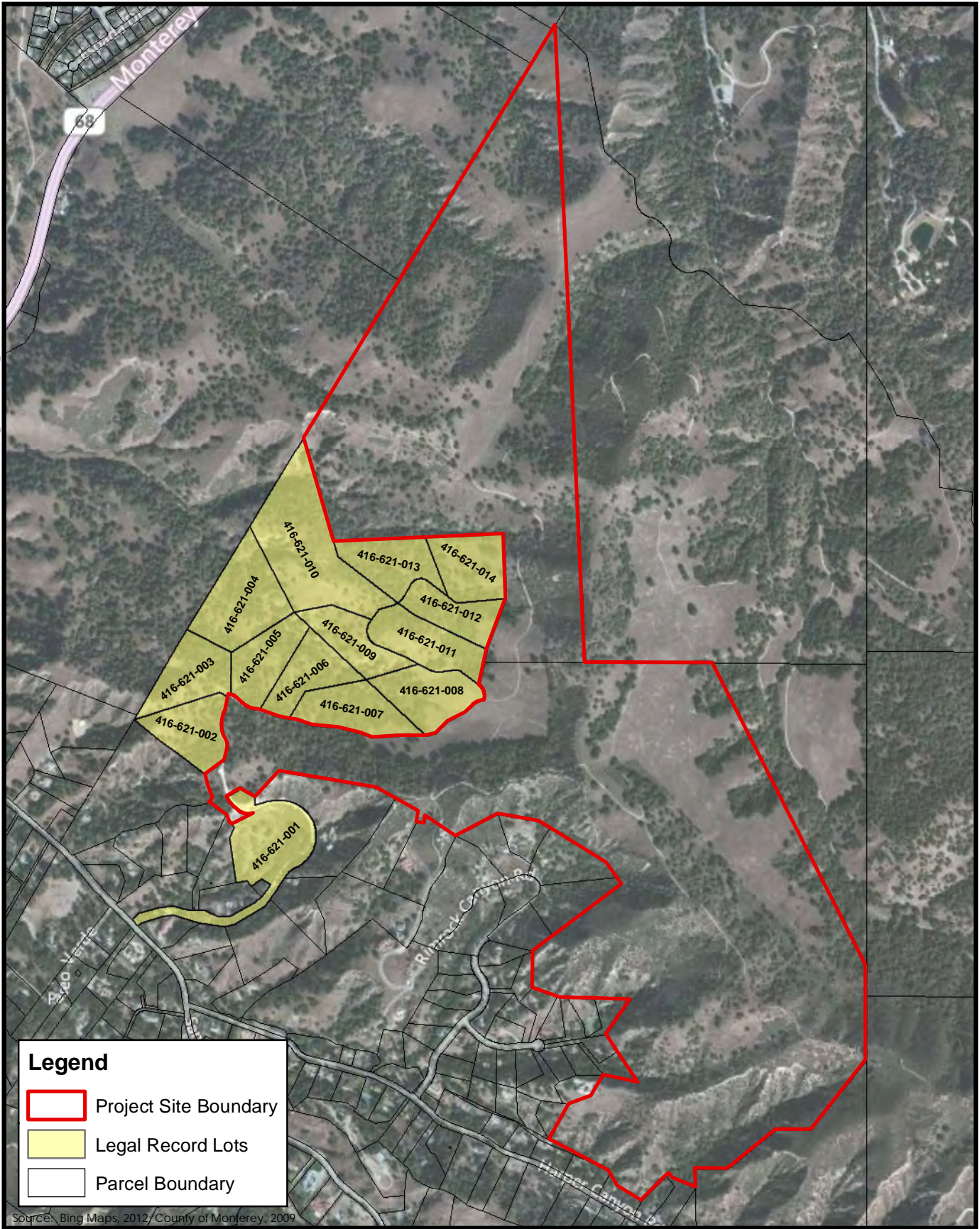


Figure MR2-1
14 Legal Lots of Record

2.0 RESPONSE TO COMMENTS

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2.2 RESPONSES TO SPECIFIC COMMENT LETTERS

Below are responses to specific comments letters received during the public review process for the proposed project.

Letter 1

—Original Message—

From: JPGARVIN@comcast.net [mailto:JPGARVIN@comcast.net]
Sent: Saturday, December 06, 2008 7:57 PM
To: Gillette, Melody x6056
Subject: DEIR report for Encina Hills subdivision

We residents of Rimrock Subdivision are being charged by Cal Am Water for the water needs of proposed subdivisions i.e. Encina Hills. This seems very unfair to us. If Cal Am is expanding, they should pay for the expansion as well as the developers of the new subdivisions. Why is it our responsibility?

1-1

Julie Garvin
15575 Weatherock Way, 93908

2.0 RESPONSE TO COMMENTS

RESPONSE TO LETTER #1 – JULIE GARVIN

Response to Comment 1-1

Commenter states that the residents of Rimrock Subdivision are being unfairly charged by Cal-Am Water for the water needs of proposed subdivision.

The proposed system of water delivery and treatment is discussed on page 2-17 of the DEIR, and analyzed in Sections 3.6 (Groundwater Resources and Hydrology) and 3.9 (Public Services and Utilities). These sections describe that quantity of water necessary to serve the project will be supplied to the project via two existing wells, to be owned and operated by Cal-Am and distributed through an expanded distribution system.

The EIR addresses the potential environmental impacts of approving and constructing the proposed subdivision only, and does not address existing or future rate structures set by water purveyors to provide service. The proposed project will be required to obtain all permits and agreements and pay for all system improvements necessary to serve the proposed subdivision. The Ambler Park water treatment facility was recently upgraded, and represents one treatment option. A second treatment option may include a stand alone treatment plant at the site, which would also be owned and operated by Cal-Am. Some water purveyors are increasing their rates to upgrade their water treatment systems to treat for naturally occurring arsenic in the water supply due to the Federal and State maximum contaminant level for arsenic being lowered from 50 parts per billion (ppb) to 10 ppb in 2006 and 2008, respectively.

Letter 2

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

From: Mike Thompson [mailto:mfthom@gmail.com]
Sent: Saturday, December 06, 2008 4:20 PM
To: Gillette, Melody x6056
Subject: Draft EIR for Harper Canyon (Encina Hills) Subdivision County File #PLN000696

Dear Ms Gillette,

Below are my comments on the subject draft EIR.

Water

Impact 3.6.1 of the DEIR concludes there will be a "less than significant impact" on long term groundwater resources. This is based in part on the "Project Specific Hydrogeology Report - Harper Canyon Realty LLC Subdivision" assertions that demand in the San Benancio Gulch subarea is less than the recharge rate. That hydrogeology report contracts the Geosyntec "El Toro Ground Water Study" prepared for county of Monterey in 2007. The Geosyntec report makes it very clear that the El Toro basin, including the San Benancio Gulch and the Paso Robles aquifer are in overdraft. The DEIR entirely ignores that Geosyntec study conclusion. That alone seems more than adequate reason to reject the DEIR as incomplete and deliberately misleading. If approved, the subdivision will accelerate the overdraft of the Paso Robles aquifer. In other words, the subdivision will obtain water by mining it. The DEIR should state that clearly.

2-1

The DEIR notes that water from the Oaks well and the New well have arsenic levels that exceed California Department of Health Services Maximum Contaminate Levels (MCLs). The Ambler Park water system also draws water from those same aquifers and it has the same elevated arsenic levels. Cal Am has implemented an expensive arsenic treatment facility for Ambler Park. And while the DEIR notes the need to treat water to reduce the arsenic levels, the DEIR does not address the impact of accelerated overdraft on future arsenic levels. Private wells that draw from the Paso Robles aquifer are at risk of drawing water with arsenic levels exceeding the MCL. Will the accelerated overdraft of water from the aquifer cause these arsenic levels to increase, thereby increasing health risks to residents who have private wells?

2-2

Sewer

The DEIR states that current usage at the CUS sewer facility is 220,000 gallons per day. However the Declaration from Ms Bacigalupi provides compelling evidence that the current usage is actually in excess of its 300,000 permit. The DEIR includes a letter from CUS asserting the number of hookups is 1,114. Ms Bacigalupi counted the hookups and found that there were 1306. The CUS assertions appear questionable, and given the CUS principles' history of deliberately submitting false drinking water reports to regulators, the DEIR should be considered incomplete until an independent party performs count of sewer hookups and compliance of the CUS facility with applicable regulations.

2-3

Sincerely,
Mike Thompson
24633 Rimrock Canyon Road
Salinas, CA
93908
(831) 656-7595

2.0 RESPONSE TO COMMENTS

RESPONSE TO LETTER #2 – MIKE THOMPSON

Response to Comment 2-1

Commenter states that the DEIR is incomplete and deliberately misleading because it fails to acknowledge the “El Toro Ground Water Study” prepared by Geosyntec in 2007, which concluded that the El Toro basin is in overdraft.

Please refer to Master Response 1: Water, which provides context for the Geosyntec study.

Response to Comment 2-2

Commenter states that the DEIR should address the effect of accelerated overdraft on future arsenic levels in private wells.

The proposed project will not accelerate the overdraft condition locally (see Master Response 1: Water.).

Arsenic occurs naturally in the environment in rocks and soil, water, air, plants and animals and is a by-product of some agricultural and industrial activities. Arsenic can enter drinking water through the ground or as runoff into surface water sources; however, higher levels of arsenic tend to be found more in ground water sources than in surface water sources (i.e., lakes and rivers) (EPA 2012). Per a review of 36 samples over a three to four period, arsenic levels in the vicinity of the project wells, ranged from 46 parts per billion (ppb) to negligible detected, with 21 samples exceeding the maximum contaminant level (MCL) of 10 ppb; however, concentrations typically remained relatively stable only shifting a few ppb and do not seem to shift between exceeding or not exceeding the MCL. (*Personal communication between Pamela Lapham, Associate Planner, PMC and Roger Van Horn, Monterey County Health Department, Environmental Health Bureau on September 27, 2012*). The need for expanded treatment of groundwater for arsenic is the result of the MCL being lowered from 50 ppb to 10 ppb, and not the result of an increase in the concentration of arsenic within the aquifers. All sources of groundwater must meet increasingly stringent Federal and State MCLs.

Although it is possible in some isolated areas, where geomorphic hot spots of naturally occurring arsenic occur within an aquifer, that lowering of groundwater levels can result in an increased concentration of arsenic levels within an aquifer, this is not likely the case in the project area based on data collected. Due to the relatively stable arsenic levels in the project area, arsenic levels that exceed the MCL are more likely due to existing naturally occurring arsenic levels exceeding the lowered MCL standards rather than an increased concentration of arsenic within the aquifers. Prior to the lowering of the standards, the arsenic levels noted by Monterey County Health Department would have not exceeded the standards. Most water purveyors/agencies have been forced to find reliable methods to treat naturally occurring arsenic within their water supplies to meet the new maximum

contaminate levels. Treatment occurs after pumping and typically does not address the source or arsenic concentrations below ground.

Response to Comment 2-3

Commenter challenges the California Utility Service's (CUS) documentation regarding the number of existing sewer hookups to the sewer system, and that an independent party should perform a count of sewer hookups and review compliance of the CUS facility with applicable regulations.

California Utility Service (CUS) is regulated by the Central Coast Regional Water Quality Control Board (RWQCB). As stated on page 3.9-4 of the DEIR, the RWQCB confirmed that California Utility Service has a valid permit to operate the facility and that the treatment they are providing is superior to what is noted on the permit. The remaining capacity of the wastewater treatment plant was calculated by Rene Fuog, Fuog Water Resources on behalf of CUS. Monterey County has to rely on the data provided by operators and regulators, who are required to provide accurate data to maintain their permits. According to the Monterey County Bureau of Environmental Health, both influent and effluent flows at the facility are currently metered to ensure adequate flow and capacity measurements. Furthermore, implementation of mitigation measure MM 3.9-4 requires preparation of a wastewater collection plan and calculations to demonstrate adequate capacity and is subject to review and approval by California Utility Service and the County of Monterey prior to filing the Final Subdivision Map. The RWQCB will also review and approve whether or not CUS has adequate capacity at the treatment plant. See also response to comment 8-2 which includes modifications to the mitigation measure that addresses the wastewater collection and treatment approach.

2.0 RESPONSE TO COMMENTS

Letter 3

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

From: Chris Flescher [mailto:cflescher@mclw.org]
Sent: Thursday, December 11, 2008 1:15 PM
To: Gillette, Melody x6056
Cc: Chris Fitz; chriscfitz@sbcglobal.net
Subject: DEIR - Encina Hills Subdivision (please confirm receipt of this email)

Post Office Box 1876, Salinas, CA 93902

Email: LandWatch@mclw.org

Website: www.landwatch.org

Telephone: 831-422-9390

FAX: 831-422-9391

December 10, 2008

Melody Gillette

County of Monterey Resource Management Agency - Planning Department

168 West Alisal, 2nd Floor

Salinas, CA 93901

Subject: DEIR for Encina Hills Subdivision

Dear Ms. Gillette:

LandWatch Monterey County has reviewed the DEIR for Encina Hills, which is the subdivision of 344 acres into 17 lots on 164 acres with one 180-acre remainder parcel. Lots would range from about 5 acres to over 23 acres. About 154 acres of the remainder parcel would be deeded to the Monterey County Parks Department to expand Toro Park. The project includes development on slopes greater than 30% and removal of 79 coast live oak trees. We have the following comments.

Aesthetics and Visual Resources

Letter 3 Continued

1. The DEIR (p. 3.1-9) states that three lots are potentially visible from SR 68, but that steep and rolling terrain adjacent to SR 68 provides a natural screen limiting visibility of the project from the highway. Apparently the three lots are visible from SR 68 and design review is identified as an existing measure that would assure that the project would not be visible from SR 68. Design review alone does not and would not assure that projects are not visible from public viewing places. The impacts on the viewshed would be significant and unavoidable. Alternative locations for these three lots should be identified given the extensive acreage being subdivided.

3-1

2. The DEIR (p. 3.1-10) states that nine lots would be visible from BLM Land on Fort Ord and concludes that because of design review, the project would not have a significant impact. As noted above, design review frequently cannot hide development from public viewing locations. The impacts on the viewshed should be found to be significant and unavoidable.

3-2

3. The DEIR (p. 3.1-15) states the proposed project would change the character of the site from undeveloped land comprised of annual grasslands, coast live oak woodland/savanna, coastal scrub and central maritime chaparral to rural residential development including buildings and roads. It concludes that with a mitigation measure requiring scenic easements for slopes in excess of 30 percent, the impact on visual resources would be less than significant. The DEIR (p. 3.8-8) indicates that 97 acres have slopes over 30%, with the remaining 247 acres under 30%. The EIR should address whether or not the remaining acres are within the viewshed and whether or not the project would have a significant adverse visual impact.

3-3

4. The DEIR (p. 3.1-18) states that cumulative development would continue to urbanize the area around Corral de Tierra/San Benancio Road, but concludes that design review and other policies in the County General Plan would prevent significant cumulative degradation of the visual character of the area. The DEIR does not identify the General Plan policies; it simply references policies that "emphasize preservation of the rural environment". The cumulative impact of the project on the visual character of the community cannot be avoided as identified in the DEIR, and the impact should be found to be significant and unavoidable.

3-4

Air Quality

5. Table 3.2.2 is incomplete. It shows that the 8-hour ozone standard is not applicable. Please review Table 3.2-5 which correctly identifies this standard and correct Table 3.2.2 showing that the NCCAB is nonattainment for this standard.

3-5

Letter 3 Continued

6. The AQMP was updated in 2008 and includes AMBAG's 2008 population forecasts. The information on p. 3.2-12 should be updated accordingly. **3-6**

7. The cumulative air quality impact on ozone levels (p. 3.2-22) should be revised using the population forecasts in the 2008 AQMP which are considerably lower than those in the 2004 AQMP. AMBAG should be contacted to provide the consistency determination per the District's CEQA Air Quality Guidelines. **3-7**

Groundwater Resources and Hydrogeology

8. A majority of the proposed residential units is located within the El Toro Creek subarea. (p. 3.6-2). Water would be procured from wells within the San Benancio Gulch subarea of the El Toro Groundwater Basin as identified in Figure 3.6-1. The Gulch subarea overlies the Paso Robles Aquifer and the Santa Margarita Aquifer. According to the 2007 El Toro Groundwater Study prepared for Monterey County Water Resources Agency (MCWRA), "...groundwater production potential is negligible in areas underlain by granitic or metamorphic basement rocks, such as the portion of the San Benancio Gulch subarea northeast of the Harper Fault and Calera Creek subarea south of the Chupines Fault." (P.ES-3).

The DEIR states (p. 3.66-6), "According to the MCWRA, this portion of the El Toro

Planning area, including the project site, receive benefits of sustained groundwater levels

attributed to the operation of both the Nacimiento and San Antonio Reservoirs and will receive benefits of the Salinas Valley Water project upon completion." The actual findings regarding this issue from the 2007 El Toro Groundwater Study are, "Portions of the northern margin of the El Toro Planning Area fall within Zone 2C of the Salinas Basin (Figure 1-1). Commitment for long-term water supply within Zone 2C is allocated through the implementation of the Salinas Valley Water Project, which includes benefits from the operations of Nacimineto and San Antonio Reservoirs". The DEIR fails to point out that only portions of the project site are located within the Salinas Groundwater Basin and that the wells for the project are located in the San Benancio Gulch Subarea. **3-8**

Further, the 2007 Study finds:

"Water level data compiled and reviewed for this study indicates that primary aquifer system in the El Toro Planning Area is in overdraft... If long term declines in groundwater levels and reliance on groundwater storage

Letter 3 Continued

are acceptable to the County, the B-8 zoning could be lifted in areas with large saturated thicknesses of the El Toro Primary Aquifer System where additional groundwater production is feasible for several decades. However, if County Policy does not allow overdraft conditions and mining of groundwater, the B-8 zoning should be expanded to cover the entire extent of the El Toro Primary Aquifer System."

**3-8
cont**

9. The DEIR states (p. 3.6-6) that the project would procure water from a special assessment zone established for the Salinas Valley Water Project. The water would be obtained from the Oaks Well and New Well, which the DEIR states are both located within Zone 2C. While the two wells may be located in the Salinas Valley Water Project Assessment Zone 2C, the wells nevertheless extract water from the El Toro Groundwater Basin which is in overdraft. Please explain fully why the project would not exacerbate overdraft conditions in the El Toro Groundwater Basin.

3-9

10. The DEIR concludes (p. 3.6-18) that the proposed project would reduce return flow to the El Toro Groundwater Basin by approximately 5.88 AFY but that this would be considered a minimal significant adverse impact according to the Monterey County Health Department. The potential cumulative impact should be addressed based on the 2007 findings in the in the El Toro Groundwater Study.

3-10

11. The DEIR states (p. 3.6-6), "Groundwater quality in the El Toro Groundwater Basin is considered fair to poor. The two principal aquifers, the Paso Robles Aquifer and the Santa Margarita Aquifer, have two different water quality characteristics. The Paso Robles Aquifer is of calcium-bicarbonate type while the Santa Margarita Aquifer is of sodium-chloride type." Figure ES-3 of the 2007 Study identifies numerous wells in the vicinity of the project wells that exceed both primary and secondary Maximum Contaminant Levels (MCLs). Water with levels exceeding MCLs do not meet national standards for drinking water safety. The DEIR states the project wells probably will exceed drinking water standards for arsenic and currently exceed secondary standards for total dissolved solids, electrical conductivity and manganese. The New Well also exceeds the secondary MCL for Chloride. Although mitigation measures are proposed to reduce impacts to less than significant, the challenges to assuring appropriate water quality for this project appear daunting.

3-11

Transportation and Circulation

12. The following tables compare the Existing LOS for road segments as identified in the DEIRs for the proposed project and for GPU5:

3-12

Roadway Segment on SR 68

Letter 3 Continued

Project DEIR
AM/PM Peak Hour
GPM5 DEIR (Based on Daily Capacity)

SR 218 to York Rd.
E/E (east- and westbound)
F

York Rd and Pasadera Dr
E/F (eastbound)
E/B (westbound)
F

Pasadera Dr and Laureles Grade
E/F (eastbound)
E/E (westbound)
F

Laureles Grade and Corral de Tierra Rd
E/F (eastbound)
E/B (westbound)
F

Corral de Tierra Rd. and San Benancio Rd.
E/F (eastbound)
F/F (westbound)
F

**3-12
cont**

Letter 3 Continued

Please explain why LOS for peak hour traffic as identified in the DEIR for the Encina Hills Subdivision is better than LOS based on daily capacity.

**3-12
cont**

13. The DEIR describes TAMC's Nexus Study for a Regional Impact Fee (p. 3.10-23). The discussion of the fees is significantly out-of-date and should be revised to reflect the fee program adopted in 2008.

3-13

Alternatives Analysis

14. CEQA requires consideration of alternatives that would mitigate significant impacts. The Environmentally Superior Alternative identified in the DEIR (Modified Subdivision Design B) would eliminate development on four residential units which are downslope from existing landslide deposits and scarp. Eliminating development of these lots would reduce disturbance of soil and exposure of people and structures to hazards and decrease project density. The DEIR finds the impacts on aesthetics and visual resources, air quality, biological resources, geology, groundwater resources, surface water hydrology, public services, transportation and noise would be less than the proposed project. This alternative is rejected because it does not meet all of the proposed project objectives.

3-14

The project's objective is to subdivide 344 acres into 17 lots; thus, by definition, an

alternative that reduces the number of lots would not meet the project's objectives. However, CEQA requires (§ CEQA Guidelines 151126.6) that alternatives that reduce impacts be evaluated "even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly.... Among the factors that may be used to eliminate alternatives... are (i) failure to meet most of the basic project objectives, (ii) infeasibility, or (iii) inability to avoid significant environmental impacts". The discussion regarding rejection of the Environmentally Superior Alternative should be revised to address the criteria identified above or the alternative should not be rejected.

Thank you for the opportunity to review the document.

Sincerely,

/S/ Chris Fitz

Chris Fitz, Executive Director

LandWatch Monterey County

2.0 RESPONSE TO COMMENTS

RESPONSE TO LETTER #3 – LANDWATCH

Response to Comment 3-1

Commenter states that design review alone for the three lots potentially visible from State Route 68 would not assure that these lots would not be visible from public viewing places and that alternative locations should be identified.

The standard for review with respect to visual impacts is not whether the project is visible from a common public viewing area, but whether there is a “substantial adverse visual impact”. The DEIR reviewed the project from the perspective of the degree to which project elements might be visible including distance from the viewing point, interruptions in the landscape that would naturally screen project elements and timeframe during which a project element might be seen e.g. a driver traveling at 45 miles through a common viewing area.

The “Design Control District” will be applicable to the entire area of the project site. Therefore, all 17 residential lots will be subject to the requirements of Section 21.44.010 of the *Monterey County Zoning Ordinance*. Section 21.44.010 of the *Monterey County Zoning Ordinance* applies specific design standards and additional design review prior to approval of new development, including regulation of the location, size, configuration, materials and colors of the proposed structures in order to guide development. The Design Review approval process ensures that the scenic quality of the project site and vicinity is not diminished with implementation of the proposed project per section 21.44.030 of the *Monterey County Zoning Ordinance* (Title 21). This includes review of elevations, color samples, topography, and landscaping. These design review requirements would ensure that the proposed project would not have a substantial adverse impact from a scenic vista or public viewing place. During this review process alternate building envelope locations may be recommended depending on the design of the proposed development. Furthermore, this review will ensure that the proposed project would not have a significant adverse impact on the scenic quality of the project site.

In response to comments regarding potential impacts to visual resources, mitigation measure **MM 3.1-2** has been modified to add a part (b) and (c) as follows:

MM 3.1-2b To further reduce the potential visibility of residential development from common viewing areas, Toro Park, BLM public lands and State Route 68, prior to recording the Final Subdivision Map, the project applicant shall designate building envelopes on each proposed lot to define the building area. The building envelopes shall be selected to minimize grading, avoid vistas that have a direct line of site to State Route 68 to the maximum extent feasible and preserve existing screening vegetation. These shall be subject to review and approval by the RMA-Planning Department.

- MM 3.1-2c** In order to preserve the visual character of the project site and surrounding area, the applicant shall prepare design standards that shall be recorded on the titles for all of the parcels. These shall apply to all site development, architectural design and landscape plans. These shall include the following elements:
- a) use of natural materials, simulated natural materials, texturing and/or coloring that will be used for all walkways, patios, and buildings.
 - b) Use of rolled curbs for areas where curbs may be required;
 - c) Substantial use of vegetative screening using a native drought tolerant plant palette to obscure off-site view;
 - d) Re-planting with native grasses and vegetation of any roadways serving the subdivision and individual parcels; and
 - e) A planting plan shall be submitted to the RMA-Planning Department for review and approval prior to the approval of grading plans for creation of subdivision roadways. A planting plan shall be submitted as part of the Design Review approval process for each residential lot.

Depending on the design of subsequent development on the project site, other zoning regulations associated with ridgeline development and slopes greater than 30 percent may be triggered. According to Section 21.66.010.D of the *Monterey County Zoning Ordinance*, a use permit for ridgeline development may be approved only if the development will not create a substantially adverse visual impact when viewed from a common public viewing area. In addition, implementation of mitigation measure MM 3.1-2 will require that all land exceeding slopes of 30 percent be designated as “scenic easements” in accordance with Policy 26.1.10 of the *Monterey County General Plan*, *except where roadways improvement have no other alternative*. The Final Subdivision Map shall identify the areas within a “scenic easement” and note that no development shall occur within the areas designated as “scenic easement.”

Accordingly, mitigation measure **MM 3.1-2** as revised, in combination with the design review process, and other zoning regulations, and the fact that development on the approximately 300 acre project site is limited and dispersed, would effectively address potentially significant visual impacts, as described on pages 3.1-10 through 3.1-17 of the DEIR to a level that is less than significant.

Response to Comment 3-2

Commenter is concerned that the design review alone will not hide development from public viewing places, such as BLM land on the former Fort Ord.

Portions of the project site may be visible from public land that the Bureau of Land Management (BLM) owns on the northern side of Route 68 on former Fort Ord lands. As discussed on page 3.1-10 of the DEIR, design review requirements will ensure that

2.0 RESPONSE TO COMMENTS

location, size, configuration, materials and colors of the structures will be taken into account prior to construction, which would ensure that the scenic quality of the project site and vicinity is not diminished with implementation of the proposed project per Section 21.44.030 of the *Monterey County Zoning Ordinance* (Title 21) as noted in response to comment #3-1. Project visibility is not itself a significant impact, and projects are not required to be invisible. In addition, given the rugged terrain and effort required to access the BLM public lands and trails, and the absence of a designated vista point, the more remote portions of these public lands are not considered a “common public viewing area” as recognized by the County, and as defined by Title 21. Visibility of development on specific lots as viewed from this location would be considered a less than significant impact with application of existing zoning regulations.

Response to Comment 3-3

Commenter cites MM 3.1-2, which places a scenic easement in areas of excess of 30% slope. Comments inquire if “remaining” acres are within the viewshed and if the project would have a significant adverse visual impact.

DEIR page 3.1-15 addresses impacts on individual scenic resources. Scenic resources include, but are not limited to, trees, rock outcroppings and historic buildings within a state scenic highway. The proposed project’s potential impact to the vistas, viewsheds and scenic corridors (including State Route 68, a state designated scenic highway) is addressed on page 3.1-9 of the DEIR under Impact 3.1-1. As stated on page 3.1-9 and shown in Figures 3.1-1A and 3.1-1B, the project site is located outside the area designated as “area of visual sensitivity” and the “critical viewshed”.

The project site encompasses approximately 344 acres. However, the 17 proposed residential lots are proposed on approximately 164 acres, with a 180 acre Remainder Parcel. Approximately 154 acres of the Remainder Parcel (as shown in **Exhibit A**) would be deeded to Monterey County Parks Department and no development is proposed on the remaining portion of the Remainder Parcel. According to the Slope Density Map prepared by Whitson Engineers in August 2011, of the 164 acres proposed for development, approximately 97 acres contain slopes in excess of 30%, which would be dedicated as scenic easements; approximately 40 acres have slopes ranging from 20 to 30%; and approximately 27 acres have slopes ranging from 0 to 20% slopes.

The third paragraph on page 3.5-1 of the DEIR has been modified to reflect these quantities.

The project site consists of terrain that is somewhat varied with rolling hills and ridges with intervening drainages. The project site contains approximately ~~976~~ acres of steep slopes in excess of 30 percent; 40 acres of softer slopes ranging from 20 to 30 percent; and ~~273~~ acres with slopes ranging from 0 to 20 percent. The

elevation of the project site varies approximately 700 feet, ranging from 330 feet in the northeastern portion of the project site to 1,020 feet in the southeastern portion.

According to Whitson Engineers, the slope conditions on the project site can support the development of a maximum of 47 units. However, other limitations (i.e. habitat) would further reduce the area available for development. Development of less than 67 acres (land with slopes equal or less than 30 percent) out of 344 acres is not considered to significantly affect the scenic and rural quality of the project vicinity.

Furthermore, the project site is located within a "Design Control District". The "Design Control District" will guide development on the project site while preserving the scenic qualities of the ridgeline area, views from State Route 68, and the scenic and rural quality of the project vicinity. Therefore, implementation of the proposed project would not have a substantial adverse impact on the scenic resources within the viewshed of State Route 68. The commenter is also referred to response to comment 3-1.

Response to Comment 3-4

Commenter states that on the cumulative degradation of visual character cannot be avoided and that the DEIR does not identify the applicable General Plan policies but instead, it references policies that emphasize preservation of the rural environment.

The existing visual character of the land within the vicinity of the project site is considered to be a rural community, which consists of schools, golf courses, rural residential development, a market, a church, etc. Policies in the *Monterey County General Plan* and *Toro Area Plan* that emphasize preservation of the rural environment, implemented over time, would address cumulative visual effects. Policies that would emphasize the preservation of the rural environment include 26.1.6.1, 26.1.7.1, 26.1.9.1, and 26.1.20.1. These policies are summarized on page 3.1-6 of the DEIR. Policy 26.1.6.1 requires that development in those areas of Toro identified as having high visual sensitivity be accompanied by landscaping and design review plans. Policy 26.1.7.1 states that the County shall encourage the use of optional design and improvement standards as described in Article VI of Title 19 of the County Code. Policy 26.1.9.1 states that development on ridgelines and hilltops or development protruding above ridgelines shall be prohibited. Policy 26.1.20.1 requires that lighting of outdoor areas shall be minimized and carefully controlled to preserve the quality of darkness. Implementation of these policies and the design review process would minimize the proposed project's individual impact on the visual character.

According to the Toro Area Plan EIR, buildout of concentrated development in the Toro Area Plan would result in an unavoidable visual impact. According to the Monterey County General Plan, the project site is designated for rural residential and low density development. The proposed project would meet the rural density requirement of a minimum of 5.1 acres per residential unit and the low density requirement of a minimum

2.0 RESPONSE TO COMMENTS

of one acre per residential unit. Therefore, the cumulative visual impact associated with implementation of the proposed project, in conjunction with the buildout of the *Toro Area Plan*, was also analyzed and disclosed as part of the *Toro Area Plan* environmental review process. Since implementation of the above policies, design review process and proposed mitigation measures would reduce the proposed project's individual contribution toward degrading the visual character of the area and would not increase the density of development as identified and previously analyzed as part of the General Plan, the proposed project's cumulative contribution toward the degradation of visual character would be considered less than significant.

Response to Comment 3-5

Commenter states that table 3.2-2 in the DEIR is incomplete. Commenter also suggests that tables 3.2-2 and 3.2-5, in the Air Quality section of the DEIR, contradict one another.

Comment acknowledged. The federal 1-hour standard for ozone was revoked in July 2005. In November 2006, ARB issued new designations to reflect the addition of an 8-hour average to the State AAQS for ozone. The NCAB was re-designated from nonattainment-transitional to nonattainment. None of these changes alter the significance conclusion of the DEIR.

Table 3.2-2 on page 3.2-4 of the DEIR has been amended as follows:

**TABLE 3.2-2
NCCAB ATTAINMENT STATUS DESIGNATIONS**

Pollutant	National Designation	State Designation
Ozone, 1 hour	Attainment <u>Maintenance</u> ¹	Nonattainment ² / Transitional
Ozone, 8 hour	Unclassified /Attainment	Not Applicable
PM10	Unclassified/ <u>Attainment</u>	Nonattainment
PM2.5	Unclassified/ <u>Attainment</u>	Attainment
Carbon Monoxide	Unclassified/Attainment	Unclassified /Attainment
Nitrogen Dioxide	Unclassified/Attainment	Attainment
Sulfur Dioxide	Unclassified	Attainment
Sulfates	Not Applicable	Attainment
Lead	Not Applicable	Attainment
Hydrogen Sulfide	Not Applicable	Unclassified
Visibility Reducing Particles	Not Applicable	Unclassified

Notes: 1. The federal 1-hour standard for ozone was revoked on July 15, 2005.

2. In November 2006, ARB issued new designations to reflect the addition of an 8-hour average to the State AAQS for ozone. The NCAB was re-designated from nonattainment-transitional to nonattainment.

Source: ARB ~~2005~~2008

Response to Comment 3-6

Commenter suggests that the discussion on page 3.2-12 of the DEIR should be updated to be consistent with the 2008 AQMP.

Comment acknowledged. None of the changes in the 2008 AQMP alter the significance conclusion of the DEIR. However, the following changes have been made to the DEIR to be consistent with the 2008 AQMP.

The third paragraph on page 3.2-12 of the DEIR has been amended as follows:

As required by the CCAA, the MBUAPCD adopted the 1991 Air Quality Management Plan (hereinafter referred to as AQMP) for the Monterey Bay Region. The 1991 AQMP addressed planning requirements to meet the ozone standard mandated by the CCAA and included measures to control emissions of VOC from stationary and mobile sources. Since the 1991 AQMP was adopted, control requirements have been reduced. The AQMP was most recently updated in ~~2004~~ 2008 to reflect these changes. The most recent 2004-2008 AQMP update concluded that the NCCAB ~~remains on the borderline between attainment and~~ is designated as nonattainment for state ozone and PM₁₀ AAQS in part due to variable meteorological conditions occurring from year to year, transport of air pollution from the San Francisco Bay Area, and locally generated emissions (MBUAPCD 2005). The 2008 AQMP update includes an air quality trend analysis that reflects the 1- and 8-hour standards as well as an updated emission inventory, which includes the latest information on stationary, area and mobile emission sources (MBUAPCD 2008). Emission forecasts contained in the AQMP are based, in part, on population forecasts adopted by the Association of Monterey Bay Area Governments (AMBAG). For population-related projects, consistency with the AQMP is assessed by comparing the projected population growth associated with the project to population forecasts adopted by AMBAG (MBUAPCD ~~2004~~2008). The 2008 AQMP also updates the description of the area's Transportation Control measures, as well as grant activity under AB 2766 and the Moyer mobile source emission reduction programs. Lastly, the 2008 AQMP proposes to evaluate any co-pollutant benefits in terms of reducing ozone precursors achieved under climate change bill AB32 (MBUAPCD, 2008).

In December 1995, the MBUAPCD also prepared the 1995 Report on Attainment of the California Fine Particulate Standard in the Monterey Bay Region. This report was most recently updated in 2005. The report found that existing control on sources of

2.0 RESPONSE TO COMMENTS

NO_x emissions, which serve as precursors to PM₁₀, may lead to attainment and maintenance of the State PM₁₀ standard through 2010 (MBUAPCD 2005).

The references on page 3.2-25 of the DEIR has been amended as follows:

References/Documentation

Association of Monterey Bay Area Governments (AMBAG). *Consistency Letter from Todd Muck, AICP, Senior Transportation Planner, to Pamela Lapham, Assistant Planner, PMC.* December 29, 2005.

Association of Monterey Bay Area Governments (AMBAG). *Consistency Letter from David Roemer, Associate Planner, to Pamela Lapham, Associate Planner, PMC.* March 6, 2009.

Bay Area Air Quality Management District. *Source Inventory of Bay Area Greenhouse Gas Emissions.* November 2006.

California Air Resources Board (ARB). *Ambient Air Quality Standards.* <http://www.arb.ca.gov/aqs/aaqs2.pdf>.

California Air Resources Board, California Climate Action Registry, ICLEI - Local Governments for Sustainability, and the Climate Registry; *Draft Local Government Operations Protocol.* June 2008.

California Air Resources Board, *Climate Change Proposed Scoping Plan: A Framework for Change,* October 2008.

California Environmental Protection Agency (CEPA) and California Air Resource Board (ARB). *Air Quality and Land Use Handbook: A Community Health Perspective.* April 2005.

Higgins Associates. *Harper Canyon/Encina Hills Subdivision Traffic Impact Analysis.* Higgins Associates. May 28, 2008.

Monterey Bay Unified Air Pollution Control District (MBUAPCD). *CEQA Air Quality Guidelines.* Adopted 1995 revised through ~~June 2004~~ February 2008.

Monterey Bay Unified Air Pollution Control District (MBUAPCD). *2004 Air Quality Management Plan, Fourth Revision to the 1991 Air Quality Management Plan for the Monterey Bay Region.* ~~September 2004~~ June 2008.

Monterey, County of. *Monterey County General Plan.* August 1982 with Amendments through November 5, 1996.

Monterey, County of. *Toro Area Plan*. September 1983 with Amendments through 1998.

United States Environmental Protection Agency (US EPA). *PM Standards Revision*. url: <http://www.epa.gov/pm/naaqsrev2006.html>. September 21, 2006.

Response to Comment 3-7

Commenter recommends that information regarding cumulative air quality impacts on ozone levels in the DEIR be revised using the population forecasts in the 2008 AQMP instead of the numbers found in the 2004 AQMP. Furthermore, the commenter suggests that AMBAG be contacted to provide the consistency determination per District's CEQA Air Quality Guidelines.

Comment acknowledged. The MBUAPCD revised their 2004 AQMP for the Monterey Bay Region in June 2008 based on population forecasts adopted by AMBAG in June 2008. The NOP for this EIR was prepared in July 2005, well before the completion and release of the DEIR in October 2008. As the population and housing projections are lower in the 2008 AQMP, the analysis in the DEIR regarding regional ozone levels associated with future growth can be considered conservative. On March 6, 2009 AMBAG provided an updated consistency determination for this project, concluding that the proposed project is consistent with the *Air Quality Management Plan for the Monterey Bay Regional (AQMP)* (See **Exhibit B** of the FEIR).

AMBAG's 2008 Population, Housing Unit, and Employment Forecasts estimate the County population to be 109,509 by 2010. Since the population increase associated with the proposed project combined with the updated population estimate for January 2009 would still be lower than the estimated population in 2010, the proposed project would be consistent with the 2008 regional forecast and the Air Quality Management Plan.

Response to Comment 3-8

Commenter states that the DEIR fails to point out that only portions of the project site are located within the Salinas Groundwater Basin and that the wells for the project are located in the San Benancio Gulch Subarea. Commenter also references the "El Toro Groundwater Study" findings regarding overdraft conditions and County options for addressing B-8 zoning in areas of productive groundwater.

Please see updated Section 3.6 included in this FEIR, which clarifies the existing setting with respect to the local groundwater basin. The project site and wells are within Zone 2C. Please see Master Response 1: Water.

2.0 RESPONSE TO COMMENTS

Response to Comment 3-9

Commenter requests explanation of why the Zone 2C project would not exacerbate overdraft conditions in the El Toro Groundwater Basin if the wells they are obtain water from are extracting water from the El Toro Groundwater Basin.

See Section 3.6 and Master Response 1: Water, which addresses this issue in further detail.

Response to Comment 3-10

Commenter states that the cumulative impact should be based on the findings of the El Toro Groundwater Study.

See Section 3.6 and Master Response 1: Water, which addresses this issue in detail.

Response to Comment 3-11

Commenter notes that challenges to assuring appropriate water quality for this project appear daunting.

Commenter is referred to Mitigation Measure MM 3.6-2a and MM 3.6-2b in the updated Section 3.6 included in this FEIR. The mitigation clarifies how groundwater contaminants shall be treated to meet standards.

The commenter has also indicated concerns regarding traffic impacts in the Toro Area. The County prepared a Recirculated DEIR in December 2009 that specifically addresses traffic. The Recirculated DEIR concludes that there will be significant unavoidable impacts with respect to traffic at several intersections and segments. The project applicant will also be responsible for paying cumulative traffic impact fees, which includes a project for widening a portion of State Route 68 to address regional traffic impacts.

Response to Comment 3-12

This is a traffic related comment addressing level of service (LOS) data. Please note that the traffic and circulation section (Section 3.10) of the DEIR was revised and recirculated in its entirety (RDEIR, December 2009). Any and all traffic-related comments received on the new traffic section are addressed within this Final EIR.

Response to Comment 3-13

This is a traffic related comment addressing TAMC's Nexus Study for a Regional Impact Fee. Please note that the traffic and circulation section (Section 3.10) of the DEIR was revised and recirculated in its entirety (RDEIR, December 2009). Any and all traffic-related comments received on the new traffic section are addressed within this Final EIR.

Response to Comment 3-14

Comment addresses purpose of an EIR's alternatives analysis, and specifically the "Modified Subdivision Design B" alternative to the project. Commenter suggests that discussion regarding rejection of alternatives be revised to address CEQA criteria.

CEQA Guidelines Section 15126.6(e)(2) requires that the environmentally superior alternative be identified. If the environmentally superior alternative is the "No Project" Alternative, the EIR shall also identify an environmentally superior alternative among other alternatives. As stated on page 4-11 of the DEIR, Alternative 3, "Modified Subdivision Design 'B'" represents the "environmentally superior" alternative because several potential impacts would be reduced relative to the proposed project. The DEIR goes on to state that "this alternative does not meet all of the proposed project objectives" and "would be **less consistent** with the proposed project objectives than the proposed project" but there is no discussion regarding rejection of this alternative. Therefore, the alternatives analysis satisfies its intended purpose to identify environmentally superior options. It is also important to note that, with the exception of significant and unavoidable traffic impacts along State Route 68, all identified impacts of the project (including geologic impacts) can be mitigated to a less than significant level with the application of mitigation measures.

Letter 4

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

From: David Erickson [mailto:swtools@sbcglobal.net]
Sent: Friday, December 12, 2008 3:07 PM
To: Gillette, Melody x6056
Subject: FW: Harper Canyon (Encina Hills) Subdivision comments

Melody,

this is my final set of comments regarding the Harper Canyon (Encina Hills) Draft EIR. Please acknowledge receipt.

1. The name of the subdivision is inconsistently referred to throughout the EIR as Harper Canyon or as Encina Hills or sometimes other names are used. Since one of the existing subdivisions that borders this (referred to at times in the document as "Kim Rock") is legally named the Harper Canyon Subdivision, it is very confusing, especially to residents of that subdivision, when impacts or services like water are discussed and the term Harper Canyon Subdivision is used. The EIR should be modified to use a consistent and unambiguous name (e.g. "Encina Hills" or "Harper Canyon - Encina Hills") for the new proposed subdivision.
2. The mitigation plan for impact 3.3-2 (loss of habitat for sensitive species) does not address habitat loss for sensitive animal species (only plants are considered in the mitigation plan).

However, the site is home to Coast Horned Lizards, which feed on the large native harvester ants. Currently Argentine ants are not found on the Encina Hills subdivision (they do not compete well with the native ants in dry undisturbed soil of the type in Encina Hills), but Argentine Ants follow new development and their spread is encouraged by the presence of water. The adjacent subdivisions have large populations of Argentine ants, mostly from irrigated landscaping. The Coast Horned lizard is currently a Federal Special Concern species (FSC) and a California Special Concern species (DFG-CSC). The storm collection pond mitigations should be revisited and another solution explored to solve the water runoff that does not include ponding, so as to protect the horned lizard habitat, and irrigated landscape should be minimized as a condition of development in the proposed subdivision.

Ref: University Of California - San Diego. "Proliferation Of Argentine Ants In California Linked To Decline In Coastal Horned Lizards." ScienceDaily 5 March 2002. 7 December 2008 <<http://www.sciencedaily.com/releases/2002/02/020227071151.htm>>.

The site is also home to California black legless lizards (I have found them on my property which is adjacent to the 180 acre Remainder Parcel), and although they are a California species of special concern whose range includes this part of California, no mention of them occurs in the EIR. This oversight needs to be corrected, and the site should be re-surveyed to understand the impacts on that species.

I can also confirm Coast-range Newts and California tiger salamanders, are present in the immediate vicinity of the Encina Hills Subdivision. I have seen them on my property, and although the Biological report mentions the nearest known population of Coast-range Newts as being at Hastings

4-1

4-2

Letter 4 Continued

Reserve in Carmel Valley, there is a community of both that breed in the vernal pools below Indian Springs, which is only 2-3 miles away. There are vernal pools in San Benancio canyon that are not known to the authors of the Biological study for the Draft EIR, and it is likely that the proposed water runoff holding ponds will become future breeding sites for these species since they are already in the area.

The biological report was done by a firm that is not local to Monterey County, and local herpetologists were not consulted. I am not a herpetologist, but I have been on collecting trips with Dr. Steven Ruth to Indian Springs, who is a local herpetologist and expert on the Santa Cruz Long Toed Salamander, so I have learned how to recognize both Coastal Newts and Tiger Salamanders.

3. The site selection criteria for the two proposed water tanks is not addressed in the Encina Hills EIR.

The same environmental impact mitigation criteria must be applied to the siting of the water tanks as was applied to road and homesite location in the Draft EIR. Currently, the Draft EIR has no reference to the water tank site selection criteria and shows no evidence that the analysis of the environmental impacts of the Encina Hills subdivision included the water tanks or water tank site preparation or access. The new water tanks require grading and new road construction; however, none of the mitigations for impacts in the EIR mention the water tank sites, grading, or access road construction. In particular, the locations shown on the subdivision maps in the EIR would seem not to meet the geologic report's recommendation that development be kept at a distance computed by running an imaginary plane at an angle of 2:1 (or 4:1) from the bottom of erosion gulleys or "features" (such as Rimrock Canyon!). Since the geologic report mentions only roads and homes when applying this rule, I have extrapolated the comments.

Note that Rimrock Canyon is an area of active erosion and landslides. The aerial photograph in the EIR shows a large landslide that occurred in 1998, over 75 feet in length and 30 feet wide, very close to one the proposed water tank location on the East rim of Rimrock Canyon, inside the 180 Acre Remainder Parcel. No development should be allowed that changes the drainage or soil characteristics along the top edge of the canyon. The two existing water tanks that are sited on the West rim of Rimrock Canyon are a continuing source of erosion down into the canyon, and there are near-vertical erosion gulleys leading down from those water tanks. Perhaps one of the mitigations to consider for Encina Hills subdivision is to repair the erosion damage from the existing water tanks.

The proposed water tank sites are also ridgeline development, and would have a large visual impact from any spot where Rimrock Canyon is visible. Again, this is a deficiency in the EIR, that the water tank sites were not considered for environmental impacts.

4. The list of public scenic vistas (for all of the Impacts in section 3.1) should be expanded to include Los Laureles Grade Road. The proposed Encina Hills subdivision is clearly visible from the top of Los Laureles Grade, and the subdivision grading and building may be quite visible and may be a scar on the slopes of Mt. Toro for many years, unless steps are taken to mitigate that impact.

4-2 cont

4-3

4-4

Letter 4 Continued

5. The 180 acre Remainder Parcel will be split into two parts according to the Draft EIR. However, none of the maps included with the Draft EIR show the split, and the access route into the Remainder Parcel is not discussed, except in conjunction with the proposed new water tank on the East rim of Rimrock Canyon.

As a result, I can only speculate, but some of the speculation leads to some obvious conclusions. Since it is possible that an easement will be created giving permanent access rights to the owners of the Remainder Parcel over the Encina Hills subdivision lands, and since one portion of the Remainder Parcel may become a site for future development, the EIR needs to clarify the plans for an access route to the Remainder Parcel and consider any environmental impacts if there are any.

4-5

6. The continued use and any improvement of the dirt road that skirts the edge of Rimrock Canyon needs to be limited and impacts carefully mitigated. The road currently comes within a few feet of the near-vertical canyon wall, so grading and traffic on that road has the possibility of cutting into the canyon rim or diverting water into the canyon, leading to erosion or landslides. Since continued and expanded use of this road is one of the activities proposed in the EIR, the geological study should be expanded to include it. Currently the geologic study addresses impacts and proposes mitigations only for the area described as lots 1-17.

4-6

-David Erickson

24533 Rimrock Canyon Rd.
Salinas, CA 93908
831 484-2296

> -----Original Message-----

> From: Gillette, Melody x6056 [<mailto:GilletteM@co.monterey.ca.us>]

> Sent: Tuesday, December 02, 2008 8:23 AM

> To: David Erickson

> Cc: Kinison Brown, Taven M, x5173

> Subject: RE: Harper Canyon (Encina Hills) Subdivision comments

>

>

> Thank you for your comments on Harper Canyon. An e-mail is acceptable,

> if it, like this e-mail, includes a mailing address. For your information, we do have your address on file as well.

>

> Please submit all your comments in one e-mail, confirm in that e-mail that your comments are complete and they will be included in their entirety in our public comment section and a reply submitted.

>

> If you have any further questions, please contact me. Thank you.

>

> Melody Gillette

> Senior Planner - Valley Planning

> (831) 796-6056

RESPONSE TO LETTER #4 – DAVID ERICKSON

Response to Comment 4-1

Commenter states that the name of the project is inconsistently referred to as Harper Canyon or as Encina Hills, which is confusing because there is another legally named Harper Canyon Subdivision (also known as Rim Rock). Commenter request that the EIR be modified to use a consistent and unambiguous name throughout.

The comment is appreciated and noted for the record. According to the Monterey County RMA Planning Department and project application, as submitted, the name of the project is “Harper Canyon (Encina Hills) Subdivision”. The DEIR makes the best effort to refer to the project as the “proposed project” throughout the document. Every page of the document notes in the footer that it is the Harper Canyon/Encina Hills Subdivision to clearly differentiate this project from the existing Harper Canyon Subdivision.

Response to Comment 4-2

Comments suggests potential presence of additional species, including Coast Horned Lizards, a Federal Special Concern Species; the California black legless lizards; Coast-range newts; and California tiger salamanders. Commenter recommends that ponding of storm water runoff and irrigated landscaping be minimized.

As noted on page 3.3-8 of the DEIR, several special-status animals have the potential to occur on the project site. However, Zander Associates, a qualified biology consulting firm with extensive experience in Monterey County and Fort Ord, determined that the project site provides limited potential habitat for some of these special status wildlife species. Zander Associates concurs that the project site may contain suitable habitat for the California tiger salamander (*Ambystoma californiense*), Coast-range newt (*Taricha torosa torosa*), and Coast horned lizard (*Phrynosoma coronatum*). However, the project site was not determined to have habitat suitable to support the California black legless lizard.

As noted on page 3.3-11 of the DEIR, Coast horned lizards were seen within the 180-acre “Remainder parcel,” and potentially suitable habitat for this animal exists in the chamise chaparral-dominated habitat and there is limited potential for drainages on the project site to serve as dispersal corridors for the Coast-range newt, if there are unknown populations breeding in permanent water bodies within one kilometer of the project site. No potential breeding habitat for California tiger salamanders was identified on the project site.

Implementation of mitigation measures MM 3.3-2b and MM 3.3-2c ensures protection and minimized disturbance of the native habitat, such as chamise chaparral, and active drainage channels on the project site. If encroachment of drainage channels is unavoidable, necessary permits and/or authorization (with additional mitigation) would be required.

2.0 RESPONSE TO COMMENTS

Monterey County Water Resources Agency requires a standard condition of approval that stormwater runoff be detained onsite and that irrigated landscaping be minimized. Furthermore, implementation of mitigation measure MM 3.3-2a requires the use of native species requiring minimal irrigation.

Response to Comment 4-3

Commenter states that the site selection criteria for the proposed water tanks is not addressed in the DEIR. Commenter further states that no development should be allowed that changes the drainage or soil characteristics along the top edge of Rim Rock Canyon and recommends that the proposed project repair the erosion damage from the existing water tanks.

The DEIR evaluates the project as it is proposed and no selection criteria for the water tanks was included in the submittal. The proposed water tanks are shown on Figure 2-5 of the DEIR and are included as part of the proposed project. On page 3.5-14 of the DEIR, the County's Erosion Control Ordinance (Section 16.12) requires submittal of an Erosion Control Plan indicating proposed methods for the control of runoff, erosion and sediment movement prior to permit issuance for building, grading or land clearing. Implementation of mitigation measure MM 3.5-1 on page 3.5-16 of the DEIR requires preparation of design level geotechnical reports for any improvement plans. In order to clarify that this requirement would be applicable to the construction of water tanks, the following revision has been made.

Mitigation measure MM 3.5-1 starting on page 3.5-16 of the DEIR has been revised as follows:

Mitigation Measure

MM 3.5-1

Prior to issuance of building permit(s)-approval, the Monterey County Building Services Department shall require that the project applicant consult with a qualified engineer to prepare design level geotechnical reports in accordance with the current edition of the California Building Code and the recommendations contained within the *Geologic and Geotechnical Feasibility Study* prepared by D&M Consulting Engineers in August 2001. Said reports shall be submitted for plan check with any improvement plans including earthwork, water tank construction/installation, or foundation construction. The *Geological and Geotechnical Feasibility Study* provides specific recommendations regarding site preparation and construction of foundations, retaining walls, utilities, sidewalks, roadways, subsurface drainage, and landscaping features based on the lot characteristics and proximity to the fault at the project site. In addition, *Geological*

and Geotechnical Feasibility Study provides specific recommendations regarding slope stability and energy dissipation measures, the recommended location of homesites on Lots #8, #9, #11, and Lots #13 through #16, and reconstruction of the steep slope near Lots #8 and #9. All slope stability and energy dissipation measures shall be incorporated into the site grading plans and constructed concurrent with grading activities.

During the course of construction, the project applicant shall contract with a qualified engineering geologist to be on site during all grading operations to make onsite remediation and recommendations as needed, and perform required tests, observations, and consultation as specified in the *Geological and Geotechnical Feasibility Study*. Prior to final inspection, the project applicant shall provide certification from a qualified professional that all development has been constructed in accordance with all applicable geologic and geotechnical reports.

Reported erosion damage from the existing water tanks is not associated with the proposed project.

Response to Comment 4-4

Commenter states that the list of public scenic vistas should be expanded to include Los Laureles Grade Road because the project may be visible from the top of this roadway.

Page 3.1-2 of the DEIR does identify Laureles Grade Road as a county-designated scenic roadway. Pages 3.1-7 and 3.1-8 of the DEIR also explain the criteria for visual assessment and the concept of viewer sensitivity, and the conditions under which views are considered important. Viewer sensitivity is based on a combination of factors including visibility, elevation, distance and the frequency and duration of the views, among others.

These factors were considered regarding Laureles Grade Road. Visibility of the project site from Laureles Grade Road would be limited due to distance (approximately 3.5 miles), the surrounding terrain and the speed at which viewers would be traveling on the roadway. Between Laureles Grade Road and the project site there are number mountain ridges that are densely covered in vegetation with scattered residential development. The proposed project is zoned within a "Design Control District", which regulates the location, size, configuration, materials and colors of structures and fences through a design approval process, which would further minimize visibility of the proposed development on the project site. In addition, mitigation measures MM 3.3-2b, MM 3.3-3a and MM 3.3-3b would minimize visibility of the proposed project by requiring rapid re-vegetation of denuded areas with native plants; preparation of a Final Forest management Plan that

2.0 RESPONSE TO COMMENTS

minimizes the removal of Coast live oak trees during the roadway and building site final design process and establishes conservation easements, trees that need pruning, areas that require keyed fills, etc.; and a monitoring and replacement program that would replace trees (greater than five inches in diameter at breast height) at a 3:1 ratio and monitor replacement trees for a minimum of seven years in accordance with Section 21.64.260 of the *Monterey County Zoning Ordinance* and Section 21083.4 of the *CEQA Guidelines*. Implementation of these mitigation measures and the design approval process, in addition to the distance, existing conditions and speed limit on the Laureles Grade Road would ensure that the proposed project would not result in a substantial adverse effect on the scenic vista as viewed from Laureles Grade Road. Therefore, proposed project would have a less than significant impact on scenic vistas from Laureles Grade Road.

The following clarifications to the setting within Section 3.1, Aesthetics, have been made to ensure that the discussion and context of Laureles Grade is included. However, none of these additions change the conclusions of the analysis:

The third paragraph on page 3.1-2 has been revised as follows:

Some of the most critical scenic areas within the planning area of the *Toro Area Plan* are the visually sensitive areas that are viewed by the thousands of motorists who travel the scenic corridors daily. According to the *Toro Area Plan*, there are two scenic roads in the planning area: State Route 68 is a State scenic highway and Laureles Grade Road is an officially designated County scenic route highway. The Monterey County Board of Supervisors has also designated Corral de Tierra Road, San Benancio Road, Corral del Cielo Road, and Underwood Road as County scenic routes. The project site is located approximately 2,000 feet southeast of State Route 68, between San Benancio Road and River Road. Laureles Grade Road is located approximately 3.5 miles west of the project site. San Benancio Road, a County designated scenic road, provides project site access to and from State Route 68. In addition, the project site is located adjacent to Toro Regional Park and approximately 3,500 feet from Fort Ord Public Lands that is under the jurisdiction of the Bureau of Land Management (BLM), which are considered public viewing areas in Monterey County.

The following paragraph has been added to the bottom of page 3.1-2 after the discussion of State Route 68:

Laureles Grade Road

Approximately 0.82 miles of Laureles Grade Road, between State Route 68 Carmel Valley Road, has been officially designated as a county scenic highway under California's Scenic Highway Programs. Laureles Grade Road is a regional transportation route that connects the State Route 68 to Carmel Valley and is located approximately 3.5 miles west of the project site. The speed limit on Laureles Grade Road is 45 miles per hour and it also provides access to several residential

developments. Rolling hills covered in oak woodlands dominant a majority of the State Route 68 side, or the northern portion, where as oak scrubland dominants the Carmel Valley side, or southern portion. Residential development along Laureles Grade Road is scattered with a high concentration on the northern portion of this roadway. The project site may be visible in the distance to those traveling northbound on Laureles Grade Road at higher elevations looking towards the northeast.

Response to Comment 4-5

Commenter states that the DEIR states that the 180-acre Remainder Parcel will be split into two parts but that there are no maps that show the split. Commenter further states that one portion of the Remainder Parcel may become a site for future development, the DEIR needs to clarify the plans for an access route to the remainder parcel and associated environmental impacts.

Approximately 154 acres of the Remainder Parcel will be deeded to Monterey County Parks Department. The final Subdivision Map will identify the area to be deeded.

There are currently no plans or proposal for development of the land on the Remainder Parcel, and therefore there are no proposals for access. If development is proposed on that parcel in the future it would require processing as a separate project application and be subject to subsequent environmental review.

Response to Comment 4-6

Commenter states that the continued use and any improvement of the dirt road that skirts the edge of Rimrock Canyon needs to be limited and impacts mitigated. Commenter further states that the geological study should be expanded to evaluate expanded use of this road.

Implementation of mitigation measure MM 3.5-1 requires preparation of a design level geotechnical reports for all improvements. In addition, during the course of construction, the project applicant shall contract with a qualified engineering geologist to be on site during all grading operations to make onsite remediation and recommendations as needed, and perform required tests, observations, and consultation as specified in the Geological and Geotechnical Feasibility Study. Prior to final inspection, the project applicant shall provide certification from a qualified professional that all development has been constructed in accordance with all applicable geologic and geotechnical reports.

Letter 5

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

From: schmiesw@wellsfargo.com [mailto:schmiesw@wellsfargo.com]

Sent: Friday, December 12, 2008 3:04 PM

To: Gillette, Melody x6056

Cc: alsennodak@sbcglobal.net

Subject: Encina Hills Subdivision

Melody,

I am writing to express my concern regarding the two new water tanks that are under consideration in connection with the Encina Hills Subdivision. My wife and I live at 24562 Rimrock Cyn Rd, directly below the ridge where the water tanks are proposed to be located. My concerns are two-fold:

- The EIR for the project does not address the impact to the area that these two new tanks will affect. Because of a mud slide that occurred several years ago that began very near where one of the tanks will be located, I am concerned that any disturbance of the ground in connection with this construction could create the danger of more mudslides.
- The new tanks will detract from the beautiful view of the hill ridge that we now enjoy. The existing tanks are hardly visible, but I am concerned that the new tanks will be an eye sore if located at the top of the hill ridge.

Has there been consideration given to placing the tanks on the other side of the ridge where the new development will occur, rather than placing them on our side where they will impact our development entirely, while leaving the Encina Hills development unimpacted?

Thank you for your consideration.
Steven Schmiess, Homeowner
484-6154

24562 Rimrock Cyn Rd, Salinas, CA 93908 (831)

5-1

RESPONSE TO LETTER #5 – STEVEN SCHMIESS

Response to Comment 5-1

Commenter states that the DEIR does not address the erosion/geologic and private view impacts associated with the two new water tanks.

Please see response to comment 4-3 regarding erosion/geologic impacts associated with the proposed water tanks. Private views are not protected in the same manner as public views. However, all aspect of the project, including tanks, are subject to County Ordinances regarding ridgeline development. The DEIR evaluated the tanks as proposed by the application.

Letter 6



**MONTEREY PENINSULA
WATER MANAGEMENT DISTRICT**

5 HARRIS COURT, BLDG. G
POST OFFICE BOX 85
MONTEREY, CA 93942-0085 • (831) 658-5600
FAX (831) 644-9560 • <http://www.mpwmd.dst.ca.us>

December 12, 2008

Ms. Melody Gillette
Senior Planner
Monterey County Planning Department
168 W. Alisal Street, Second Floor
Salinas, CA 93901

**Subject: Draft Environmental Impact Report (EIR) for the Harper Canyon (Encina Hills)
Subdivision
SCH# 2003071157; PLN 000696**

Dear Ms Gillette:

The Monterey Peninsula Water Management District (MPWMD) is hereby providing your office this review letter regarding the above-referenced project. This proposed project is located outside of the MPWMD boundary. However, the MPWMD's concern is that the EIR include an accurate representation of the hydrogeologic setting in the area. The project's proposed water supply is described as from the El Toro Groundwater Basin, within the area referred to in other technical documents as the El Toro Planning Area or El Toro Area. Because of the contiguous nature of the aquifers between the El Toro Area and the Laguna Seca Subarea of the Seaside Groundwater Basin, which is an area within the MPWMD boundary, the MPWMD believes that the EIR should contain an up-to-date understanding of hydrogeologic conditions based on available information. An up-to-date understanding of hydrogeologic conditions in the El Toro Area and Seaside Groundwater Basin, respectively, can be found in:

Geosyntec Consultants, 2007. *El Toro Groundwater Study, Monterey County, California*, prepared for Monterey County Water Resources Agency, July 2007.

Yates, Feeney, Rosenberg, 2005. *Seaside Groundwater Basin: Update on Water Resource Conditions*, prepared for MPWMD, April 14, 2005.

These documents should be reviewed and incorporated by reference into the EIR document. Please do not hesitate to contact me with any questions at 831.658.5640 or joe@mpwmd.dst.ca.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Oliver".

Joseph W. Oliver
Senior Hydrogeologist, PG, CHg

U:\Joe\wpjwells\2008\harpercanyon\comment_12dec08.doc

6-1

RESPONSE TO LETTER #6 – MONTEREY PENINSULA WATER MANAGEMENT DISTRICT (MPWMD)

Response to Comment 6-1

Commenter states they are concerned that the DEIR include an accurate representation of the hydrogeologic setting as described in the El Toro Groundwater Study prepared by Geosyntec in July 2007 and the Seaside Groundwater Basin: Update on Water Resources Conditions prepared by Yates, Feeney, Rosenberg in April 2005.

Comment noted. Please see updated Section 3.6, included in this FEIR, which clarifies the setting regarding groundwater basins. Please also see Master Response 1: Water. The proposed project is not located within the Seaside Groundwater Basin. A project specific *Hydrogeologic Report*, as well as, the *El Toro Groundwater Study*, were used to determine the hydrogeologic setting.

Letter 7

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

From: Lowell Webster [mailto:lwebster@redshift.com]
Sent: Friday, December 12, 2008 4:28 PM
To: Gillette, Melody x6056
Subject: Comments on the DEIR Harper Canyon (Encina Hills) Subdivision

Melody Gillette,
Monterey County
Resource Management Agency
Planning Department
RE: County File #PLN 000696
State Clearinghouse Number: 2003071157

To whom it may concern,

I would like to comment on the DEIR for the Harper Canyon (Encina Hills) Subdivision.

- 1) Water. The DEIR states that water from the Oaks well and the New well will not be mixed with Cal Am water from the B-8 zoning district. I believe that they are now being mixed as the existing Oaks subdivision has water but the Oaks well is not being used.
- 2) According to a Cal Am representative, the water from these wells will not be enough to support even the Oaks subdivision alone.
- 3) Wastewater. We believe that the number of residences used to calculate the current usage of 220,000 gallons per day is incorrect. We have counted over 1000 residences using the system which would result in the California Utilities Service already at maximum capacity.
- 4) The traffic problem is still significant to residents and will be made worse by the addition of this project. The problem is just being passed on so it is like kicking a can down the (congested) road.

7-1

7-2

7-3

Lowell Webster
107 San Benancio Rd
Salinas, CA 93908

Lowell Webster
lwebster@redshift.com

RESPONSE TO LETTER #7 – LOWELL WEBSTER

Response to Comment 7-1

Comments discuss the “mixing” of water between the “Oaks Well” and the “New Well”, and suggests that the Oaks subdivision is currently receiving water supplies from areas within the B-8 zoning district.

Please see the updated Section 3.6 included in this FEIR regarding the water treatment options stated in the mitigation measures. This section also acknowledges the existing practice of treating water from the Oaks well within the Ambler treatment plant. See also please see Master Response 1: Water for details regarding the source of water supply for the project.

Response to Comment 7-2

Commenter questions wastewater system capacity and the number of residences used to calculate the current usage/generation of wastewater.

Existing wastewater treatment plant capacity and the addition of project flows are discussed on pages 3.9-10 and 3.9-11 of the DEIR. Existing wastewater treatment plant operations and available capacity is based on the metered influent and effluent, not based on the number of customers. According to the Monterey County Bureau of Environmental Health, both influent and effluent flows at the California Utilities Service facility are currently metered to ensure that the capacity is not exceeded. In addition, this facility is regularly monitored by the Regional Water Quality Control Board. According to a letter received from Central Coast Regional Water Quality Control Board, California Utility Service currently has a valid permit to operate their treatment facility, which expires in 2017. If California Utility Service was already at capacity, their permit would not be valid if they accepted more connections and they would have to stop operations.

Implementation of mitigation measure MM 3.9-4 requires that the project applicant prepare and submit wastewater collection improvement plans and calculations prepared by a registered engineer that demonstrates adequate capacity. A standard condition of approval requires that the applicant provide certification to the Bureau of Environmental Health that California Utility Service can and will provide sewer service for the proposed property/project. Also see response to comment 8-2, which includes modifications to MM 3.9-4 and response to comment 18-1, 18-2 and 18-3.

Response to Comment 7-3

Commenter states that existing traffic problems are still significant to residents and will be made worse by the addition of this project.

General traffic comments are noted. The traffic section of the DEIR has also been revised in its entirety and recirculated for public review (RDEIR, December 2008). All traffic related comments on the new traffic section are responded to in this Final EIR.

Letter 8

MONTEREY COUNTY



DEPARTMENT OF HEALTH LEN FOSTER, Director

ADMINISTRATION
ANIMAL SERVICES
BEHAVIORAL HEALTH

CLINIC SERVICES
COMMUNITY HEALTH
EMERGENCY MEDICAL SERVICES

ENVIRONMENTAL HEALTH
OFFICE OF THE HEALTH OFFICER
PUBLIC GUARDIAN

December 8, 2008

Melody Gillette
Planning and Building

RE: Comments on Draft Environmental Impact Report (DEIR): Harper Canyon (Encina Hills) Subdivision, PLN000696

The Monterey County Health Department, Environmental Health Division (EHD) has completed its review of the DEIR for Harper Canyon (Encina Hills) Subdivision, comments are as follows:

After reviewing the DEIR document, EHD finds that most of the concerns and mitigation measures that this department has regarding Water Supply/Wastewater Disposal, Solid Waste Disposal and Noise have been addressed.

HYDROLOGY & WATER QUALITY 3.6 – All the concerns that EHD have are addressed and the appropriate mitigations specifically:

Impact 3.6-1, Water Demand and Recharge, clarifies that this project is in Zone 2-C and is part of the Salinas Valley Water Project. Mitigation Measures (MM) 3.6-2a through 3.6-2c, clarifies how water quality issues will be dealt with in an expectable manor. Water from the Oaks Subdivision well and the New well (Harper Canyon water supply) will be transferred to Cal Am water treatment facility at Ambler Park, treated then be redistributed to the development on a one for one bases. Also Cal Am will run the water system as a satellite system.

8-1

PUBLIC SERVICES AND UTILITIES 3.9 – All the concerns that EHD have are addressed and the appropriate mitigations specifically:

Impact 3.9-4, Increased Wastewater Flows, which may exceed the capacity of the existing California Utility treatment plant. MM 3.9-4 clarifies this subject and the requirements set forth by EHD. Also, in the Mitigation Measures, it states, "that applicant shall be required to enter into a water main extension agreement (this should read wastewater main) with California Utility Service". This needs to be corrected.

8-2

Impact 3.9-5, Potable Water Treatment and Distribution, this is clarified in MM 3.6-2a through 3.6-2c.

1270 Natividad Road, Room 301 B, Salinas, CA 93906 – Phone (831) 755-4507 FAX (831) 755-8929
<http://www.co.monterey.ca.us/health/EnvironmentalHealth/>

Letter 8 Continued

Impact 3.9-7, Solid Waste Disposal, states how and where solid waste will be handled. Due to the size and capacity of MRWMD, this is less than a significant impact.

8-2 cont

NOISE 3.11 – All concerns that EHD have for noise are addressed in this section and the mitigations are appropriate.

8-3

If you have any question please call me at 755-4763.

Sincerely,



Roger Van Horn, R.E.H.S.
Senior Environmental Specialist

Cc: Richard LeWarne, Assistant Director, Environmental Health
Mary Anne Dennis, Supervisor EHRs

1270 Natividad Road, Room 301 B, Salinas, CA 93906 – Phone (831) 755-4507 FAX (831) 755-8929
<http://www.co.monterey.ca.us/health/EnvironmentalHealth/>

2.0 RESPONSE TO COMMENTS

RESPONSE TO LETTER #8 – MONTEREY COUNTY HEALTH DEPARTMENT

Response to Comment 8-1

Commenter states that all concerns that the Environmental Health Department had with hydrology and water quality are addressed and appropriate mitigation measures have been applied.

Comment noted. No response necessary.

Response to Comment 8-2

Commenter states that all concerns that the Environmental Health Department had with public services and utilities are addressed and appropriate mitigation measures have been applied. However, the commenter notes that the water main extension agreement needs to be corrected to read “wastewater main.”

Comment noted. Mitigation Measure MM 3.9-4 on page 3.9-11 of the DEIR has been clarified as follows:

Mitigation Measure

MM 3.9-4 Prior to filing of the Final Subdivision Map, Monterey County ~~Division~~ Bureau of Environmental Health shall require that the project applicant prepare and submit for review and approval wastewater collection improvement plans and calculations prepared by a registered engineer that demonstrate adequate capacity. The wastewater collection improvement plans shall be subject to approval by California Utility Service, Monterey Bay Unified Air Pollution Control District, and the County of Monterey. Upon review of the design, the project applicant shall be required to enter into a wastewater main extension agreement with California Utility Service.

In addition, prior to approval of any building permits, the applicant shall verify that there is sufficient treatment capacity in the California Utilities Service, Inc. (CUS) wastewater treatment facility to address the wastewater needs of the proposed project. The project applicant shall submit proof to Monterey County that the existing wastewater treatment plant is meeting the current effluent limitations as required per Waste Discharge Requirement Order No. R3-2007-0008. If the CUS facility exceeds its permitted capacity, then the County of Monterey would not issue a building permit until such time as the CUS has attained a revised permit from the Regional Water Quality Control Board.

Response to Comment 8-3

Commenter states that all concerns that the Environmental Health Department had with noise are addressed and appropriate mitigation measures have been applied.

Comment noted. No response necessary.

Letter 9

Melody Gillette, Senior Planner
Monterey County Planning Department
168 W. Alisal, 2nd Floor
Salinas, Ca 93901

December 11, 2008

RE: HARPER CANYON/ENCINA HILLS DEIR

Ms. Gillette,

I am writing regarding the proposed Harper Canyon/Encina Hills subdivision. I have reviewed the DEIR, and I have some concerns about water use, which I would like to note here.

The San Benancio area is in a water overdraft situation, so much so, that the Board of Supervisors has declared a development moratorium over much of the area.

Additionally, our water supplier, Cal Am, has asked for large rate increases to cover their costs because they want to institute significant conservation measures and as well as meet legislated mandates to improve water quality (we have significantly high levels of arsenic in the water.)

I find it hard to believe that it is possible to say that the water to serve this new development will be coming from the Salinas Valley Water Project Zone 2C, when the "New Well" sits just a few feet from San Benancio Road, and in close proximity to the existing Cal Am (former Ambler Park) wells, in an area that is currently under the B-8 overlay development restrictions. To say that the water does not come from the same aquifers, or that it will not affect our existing water supply is ridiculous.

The Draft EIR states that because the water will be coming from the SVWP, that the increased demand will be a "less than significant impact." I completely disagree.

Instead, I would suggest that this new development meets the CEQA guidelines that this will create a significant impact, as it will:

"Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted; "

9-1

Letter 9 Continued

There are many reports of existing wells going dry in the area – I do not agree that the area is being sufficiently “recharged.” For example, when I lived further up the canyon, we had to replace our 100 foot deep well, with a well that was approximately 400 feet deep, as the original well had gone dry. I know many of our neighbors have experienced similar issues. I would be glad to supply you with the names and “stories” of these neighbors if you are interested.

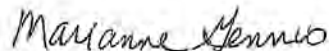
Further, when the “New Well” (as noted in the DEIR) was drilled a few years ago, we (the neighbors) were told that it was only going to be an “emergency” well, in case of severe water shortages in the area. Now it is earmarked to supply water for the new development? How did that happen?

I am not a professional, and I may not have all the terminology phrased correctly, but I do know that water is a significant issue in San Benancio Canyon. How can Monterey County declare a water emergency and place a moratorium on development on one hand, and then look at adding 31 (17 new lots added to the existing 14) new households to an already overburdened water system?

While I respect the rights of individual landowners to develop their property, this is a bad time to add to the water demand. Until our problems are addressed with REAL solutions, not just paper ones, we should not add to the water overdraft in San Benancio Canyon.

Thank you for giving me the opportunity to voice my concerns.

Sincerely,



Marianne Gennis
15480 Weatherock Way
Salinas, CA 93908
831.484.2703

9-1 cont

2.0 RESPONSE TO COMMENTS

RESPONSE TO LETTER #9 – MARIANNE GENNIS

Response to Comment 9-1

Comments address water rate increases, the Zone 2C aquifer area, groundwater/aquifer impacts of the project, local well performance, and use of the “new well”.

Please see response to comment 1-1 regarding rate increases. See Please see Master Response 1: Water regarding Zone 2C, groundwater supplies and impacts of the project and Master Response 2: Existing Legal Lots of Record.

Anecdotal information regarding local well performance is noted for the record.

Letter 10

Melody Gillette
Senior Planner
County of Monterey
Resources Management Agency
Planning Department

December 8, 2008

RE: Comments concerning the DEIR for;
Harper Canyon (Encina Hills) Subdivision EIR
File # PLN000696

I have three concerns about this project that I believe are not adequately addressed in the DEIR. They are as follows:

1. Ridge line development. Due the extreme negative impacts that ridge top development at this development would have on Toro Regional Park, stronger restrictions should be placed on each new parcel to better protect this resource. It appears that the current proposal would allow ridge top development through the use of a variance. I do not think that the burden to protect this resource should be placed on the backs of future users, but should be confirmed now.
2. The 180 acre remainder parcel has not been adequately described. It appears that approximately 25 acres will not be deeded to the Park, but may be developed later. Where are these 25 acres, how will they be accessed. The objective here is to preserve the view shed from Toro Regional Park.
3. Traffic on Harper Canyon Road. Harper Canyon road is used by the community as a residential street. We have no sidewalks or area to walk other than in the road. The road has many curves and no center line to divide traffic posted for 35 mph, very fast when you have walkers, joggers, bicyclist and cars all sharing the road. Adding more vehicle traffic to this situation would constitute a severe hardship on the community. I understand that the development may not be planning to access their parcels from Rim Rock, but I believe they are maintaining that right.

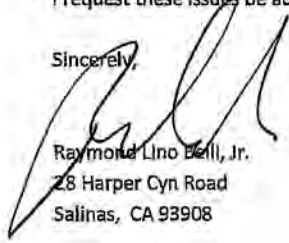
10-1

10-2

10-3

I request these issues be addressed in the Combined Development Permit.

Sincerely,



Raymond Lino Bell, Jr.
28 Harper Cyn Road
Salinas, CA 93908

2.0 RESPONSE TO COMMENTS

RESPONSE TO LETTER #10 – RAYMOND LINO BELLI, JR.

Response to Comment 10-1

Commenter is concerned about ridge line development and the impact that ridge top development would have on Toro Regional Park. Commenter suggests that stronger restrictions be placed on new parcel to better protect this resource.

Please refer to Impact 3.1-3 on page 3.1-16 of the DEIR. According to Section 21.66.010.D of the Monterey County Zoning Ordinance, a use permit for ridgeline development may be approved only if the development will not create a substantially adverse visual impact. A majority of the project site is located at lower elevation than Toro Regional Park and at a similar elevation as the BLM public land. Due to the siting of the residential units, the steep hillsides, and dense vegetation surrounding the project site, the proposed project would not create a silhouette or have an adverse impact when viewed from a common public view area, including Toro Regional Park. In addition, all areas that exceed 30 percent slopes shall be dedicated as “scenic easements”, except where there is no alternative for a roadway. Additionally, the Design Control District zoning would require specific design standards and would be subject to additional design review prior to development approval in order to assure protection of the viewshed. Because, there will be no adverse effect to the viewshed, stronger restrictions are not needed. The commenter is also referred to response to comment 3-1 for additional information on how the project visual impacts have been evaluated and modifications to mitigation measures that have been suggested in response to comments.

Response to Comment 10-2

Commenter states that the 180 acre remainder parcel has not been adequately described and that there is 25 acres that will not be deeded to the Park, but may be developed later. Commenter requests more information as to where these 25 acres are and how they will be accessed.

Comment noted. See response to comment 4-5.

Response to Comment 10-3

Commenter is concerned about traffic on Harper Canyon Road.

Comment noted. Since access to the project site is via Meyer Road the number of trips generated on Harper Canyon Road would be limited, if any. According to the Traffic Impact Analysis (RDEIR, December 2009) no acute or significant safety issues on Harper Canyon Road are anticipated due to the low number of trips generated by the project.

Letter 11

Richard O. Dampier
24 Mesa del Sol
Salinas, CA 93908

December 8, 2008

Ms. Melody Gillette, Senior Planner
Monterey County Planning Department
168 W. Alisal St. Second Floor,
Salinas, CA 93901

RE: "Encina Hills" Opposition

Dear Ms. Gillette:

I am taking this opportunity to write to you to express our opposition to the above "Encina Hills" project exemption to the Toro water restrictions. Not only my family, but my neighbors, find that the continued pandering of Monterey County officials to developers who "build and run" only to leave local residents with increasingly reduced quality of life and reduced property values is reprehensible.

We moved to this rural area because we prefer this type of lifestyle. Had we wanted to live in a sprawling subdivision, we could have chosen many other sites in cities in Monterey County. The increasing residential density and visual blight of such projects as Markham Ranch, Pattee Ranch, Las Palmas, Toro Sunshine, and Pasadera only diminish this sense of rural life. Additionally, these projects contribute to a spiraling decline in the quality of life for residents through increased vehicle traffic and a reduction in the quality and quantity of water supplies. Please do not conclude that I am a supporter of increased traffic lanes on local roadways to overcome issues of traffic congestion. Quite the contrary, I support leaving roadways as they are in an effort to frustrate developers who would diminish the quality of life in this area for their personal enrichment and then leave the area only to saddle local residents with another poorly planned development.

The effort to leverage a zoning loophole in the furtherance of this Encina Hills development and other developments is not in the spirit of the Toro water restrictions. Allowing continued hook ups and wells to tap into an already fragile water system only puts the water supplies for existing residents at risk. I implore the policy makers to reconsider such thinly veiled attempts to circumvent the spirit of preserving the current quality and quantity of water supplies, and put an end to the Encina Hills project and others like it. Thank you for your time.

Sincerely,


Richard O. Dampier

11-1

2.0 RESPONSE TO COMMENTS

RESPONSE TO LETTER #11 – RICHARD DAMPIER

Response to Comment 11-1

Commenter states that allowing to continue hook ups and wells to tap into an already fragile water system only puts the water supplies for existing residents at risk and expresses concerns regarding increased vehicle traffic.

Please see Master Response #1 and response to comment 2-1 regarding the water issue. The commenter has also indicated concerns regarding traffic impacts in the Toro Area. The County prepared a Recirculated DEIR in December 2009 that specifically addressed traffic. The Recirculated DEIR concludes that there will be significant unavoidable impacts with respect to traffic at several intersections and segments. The project applicant will be responsible for paying cumulative traffic impact fees, which include a project for widening a portion of State Route 68 to address regional traffic impacts. See response to comment #12.

Letter 12



Regional Transportation Planning Agency • Congestion Management Planning
Local Transportation Commission • Monterey County Service Authority for Freeways & Expressways

December 4, 2008

Ms. Laura M. Lawrence, R.E.H.S., Planning Services Manager
County of Monterey Resource Management Agency - Planning Department
Government Center
168 West Alisal Street, 2nd Floor
Salinas, California 93901

**SUBJECT: Comments on the Draft Environmental Impact Report for the
Harper Canyon (Encina Hills) Subdivision**

Dear Ms. Lawrence:

The Transportation Agency for Monterey County is the Regional Transportation Planning Agency and Congestion Management Agency for Monterey County. Transportation Agency staff has reviewed the proposed Draft Environmental Impact Report for the Harper Canyon (Encina Hills) Subdivision project.

The proposed project consists of the subdivision of 344 acres into 17 lots on 164 acres with one 180-acre remainder parcel located along the State Route 68 corridor of Monterey County between the cities of Monterey and Salinas with regional access to the site provided by San Benancio Road off State Route 68. Transportation Agency staff offers the following comments for your consideration:

Scope of Study & Project Specific Impacts

1. The document states that "the roadway system within the project vicinity stretches from the State Route 68 at State Route 218 intersection in the west to the State Route 68 at San Benancio Road intersection in the east" and that six intersections and five roadway segments were analyzed between those points in the traffic study. While the origin and destination for all trips related to this development will travel through the State Route 68 corridor, the limited nature of this scope does not take into account project-specific impacts to major facilities immediately outside the scope boundaries. It can be expected that trips from the proposed development will travel to Salinas and Marina via Reservation Road; Seaside, Sand City, and Del Rey Oaks via State Route 218 and General Jim Moore Boulevard; and Monterey via State Route 68, State Route 1, Fremont Boulevard, and Del Monte Boulevard. The document should be revised to analyze both project-specific and cumulative impacts at each of the aforementioned facilities and identify appropriate mitigation measures for any additional impacts found to be related to this development.

12-1

55-B Plaza Circle, Salinas, CA 93901-2902 • Tel: (831) 775-0903 • Fax: (831) 775-0897 • Website: www.tamcmonterey.org

Letter 12 Continued

Letter to Ms. Laura M. Lawrence, R.E.H.S.
December 4, 2008

Page 2

2. Impact 3.10-1 indicates that the proposed project will significantly impact four of the six studied intersections. The following improvements in the State Route 68 corridor were identified from the Regional Transportation Plan:

- a) Adding a second State Route 68 westbound left-turn lane at the Laureles Grade Road/State Route 68 intersection;
- b) Adding a fourth (north) Corral de Tierra Road leg and a second State Route 68 westbound left-turn lane at the Corral de Tierra Road/State Route 68 intersection; and
- c) Adding a second State Route 68 westbound left-turn lane at the San Benancio Road/State Route 68 intersection

12-2

No mitigation for these impacts are proposed under the assumption that the identified improvements are "fully-funded and in place under background traffic conditions", thus leaving the impacts "unavoidable." County staff has stated that while the improvement projects are moving forward to construction, they are not fully-funded. The Transportation Agency expects that this development will provide a fair-share contribution towards these improvements, and any others necessary, to fully mitigate its project-specific impacts.

Regional Roads & Highways

3. Impacts 3.10-2 and 3.10-7 identify significant impacts to segments of State Route 68 under both project-specific (3.10-2) and cumulative (3.10-7) conditions. Mitigation for these impacts is listed as the project applicant completing a Project Study Report on a 1.1 mile portion of the full Highway 68 Commuter Improvements project from the regional fee program, as well as payment of a proportionate share of construction costs. To mitigate cumulative impacts, the Transportation Agency considers payment of the Regional Development Impact Fee as sufficient mitigation of cumulative impacts to regional facilities. A credit against the regional fees would only be available to the project applicant in the event that the applicant contributes in excess of the regional fees due for the project towards the development of a Project Study Report for the full Highway 68 Commuter Improvements. A Project Study Report for only a portion of the Highway 68 project in the regional fee program would not be eligible for a credit.

12-3

Pedestrian, Bicycle & Transit Travel

4. The Transportation Agency supports accommodation of alternative forms of transportation (rail, bus transit, bicycle and pedestrian transportation), both through the design of transportation facilities, and through the design and orientation of land uses. The Transportation Agency supports that the document identifies the policies of the Toro Area Plan, which call for "improvements to Corral de Tierra and San Benancio Roads shall be designed to accommodate bicycles, horses, and people." To accommodate this policy, the development should contribute to the construction of planned bike facilities on Highway 68 and San Benancio Roads.

12-4

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Letter 12 Continued

Letter to Ms. Laurs M. Lawrence, R.E.H.S.
December 4, 2008

Page 3


5. In addition, site planning should place a premium on safe and accessible pedestrian access to the site from intersections and crosswalks, sidewalks, and bicycle facilities. The project site should also be designed with sidewalks that connect to external facilities, provide access to transit stops, and do not include the use of cul-de-sacs (as called for in Mitigation Measure 3.10-4) without a cut-through for pedestrian travel. As per Caltrans standards, bicycle lanes included in the development, constructed off-site as mitigation, or that lead into the project site at main entrance points should be constructed to the left of any right-hand turn lanes. 12-5

6. The Transportation Agency recommends that bicycle racks and lockers be installed and made publicly available in the development, which should be placed near public recreation facilities such as parks, trails, and open spaces areas. The development should also consider providing adequate lighting to improve safety and visibility. 12-6

7. As the document notes, the existing transit system through the Highway 68 corridor is limited. However, as part of the Monterey County 2007 General Plan Update, the environmentally-preferred growth alternative calls for a Transit-Oriented Development node to be placed in the corridor with dedicated transit lanes. While the development may only expect minimal transit ridership initially, our agency recommends that the development work closely with Monterey-Salinas Transit to ensure that the development will provide adequate access to any planned transit facilities as well as to the facilities that currently exist for Line 21. In addition, Monterey-Salinas Transit's *Designing for Transit* Guideline Manual should be used as a resource for accommodating any future transit access to the project site. 12-7

Thank you for the opportunity to review this document. If you have any questions, please contact Michael Zeller of my staff at (831) 775-0903.

Sincerely,



Debra L. Hale
Executive Director

CC: Dave Murray, California Department of Transportation (Caltrans) District 5
Paul Greenway, Monterey County Department of Public Works
Carl Sedoryk, Monterey-Salinas Transit
Nicholas Papadakis, AMBAG
Ed Kendig, Monterey Bay Unified Air Pollution Control District

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2.0 RESPONSE TO COMMENTS

RESPONSE TO LETTER #12 – TRANSPORTATION AGENCY FOR MONTEREY COUNTY

Response to Letter 12

Comments provided by TAMC in December 2008 have been reviewed and considered in the revised traffic section contained within the RDEIR. All impact statements and mitigation measures have been revised. Please note that the traffic and circulation section (Section 3.10) of the DEIR was revised and recirculated in its entirety (RDEIR, December 2009). Any and all traffic-related comments received on the new traffic section are addressed within this Final EIR. TAMC did not provide new comments on the RDEIR.

Letter 13

MICHAEL D. CLING
ATTORNEY AT LAW
313 MAIN STREET, SUITE D
SALINAS, CALIFORNIA 93901
TELEPHONE (831) 771-2040
FAX (831) 771-2050
EMAIL: mdc@michaclcling.com

December 12, 2008

Melody Gillette & Elisa Manuguerra, Project Planners
Monterey County Resource Management Agency
Planning Department
168 West Alisal Street, Second Floor
Salinas, CA 93901

Re: Comments on Harper Canyon (Encina Hills) Subdivision
Draft EIR (PLN000696; SCH#2003071157)

Dear Ms. Gillette and Ms. Manuguerra:

On behalf of the project applicant we appreciate the opportunity to provide written comments on the Draft Environmental Impact Report (EIR) for the above-referenced project. The two volumes that comprise the EIR are extensive and quite detailed. These documents characterize the project and analyze topical categories required to be addressed under the California Environmental Quality Act (CEQA).

We will present our comments on the Draft EIR by topical categories. We would respectfully request that changes accepted by the EIR authors be corrected where they may appear in other sections of the Final EIR (e.g. Table S-1). Our comments are as follows:

Project Description

The project description, Section 2.1 should include a sentence indicating that the owner filed an application for development on August 16, 2001 and that the County of Monterey deemed the development "complete" on November 22, 2002.

13-1

Section 2.3 should note that Meyer Road is owned in fee by the applicant from its intersection with San Benancio Road to the project entrance (add also to Page 2-17).

13-2

Section 2.5 should also note that the project applicant's objective results in a 75% reduction in potential density (17 lots as opposed to 67 lots) to maximize preservation of the property and to limit cumulative environmental impacts (biology, air quality, traffic, groundwater, etc.). The project design reduces average density to one dwelling unit per 19 acres (344/18, including remainder). Finally, the density reduction associated with the proposed

13-3

Letter 13 Continued

dedication of 154 acres to Toro Regional Park permanently insures elimination of future development potential, significantly limiting future cumulative impacts. This dedication amount to almost a 100% offset (154 acres park addition vs. 164 acres project site). This comment should be noted again for context in discussion of Impact 3.1-2, Page 3.1-15. The DEIR simply states that the project density is "less dense than one unit per 5.1 acres" when the density is actually one dwelling unit per 19 acres.

**13-3
cont**

Aesthetics and Visual Sensitivity

Discussion of MM 3.1-1 should reflect that the applicant's design proposes dedication of a portion of the Remainder Parcel (154 acres) to be added to Toro Regional Park. The purpose of the remainder parcel dedication is to eliminate future development potential of 30 lots with homes, many of which would be directly visible from Toro Park and would degrade the visual character of the back country portions of this County owned park.

13-4

MM 3.1-2. Delete reference to scenic easement on the remainder parcel as Subdivision Law does not allow imposition of conditions on remainder parcel.

13-5

Biology

Plants

MM 3.3-1a does not appear to be supported by the evidence and should be deleted. The EIR appendices contain a number of seasonally appropriate biological surveys that were conducted over a period of four years (March/April 2001, August 2001, and September 2005). These surveys confirm that: "(t)o date, all special status plant species located on the Harper Canyon/Encina Hills property are located outside of areas to be impacted by development and can therefore be avoided" (Zander Associates, 11/2005), EIR Figure 3.3-1 supports the Zander conclusion.

13-6

Discussion under Impacts 3.3-2 and 3.3.7 should recognize the mitigation purposely incorporated into the project design. Table 1 of the 7/2001 and 11/2005 biological reports indicate that most sensitive plant habitats are found on the remainder parcel, 154 acres of which will be dedicated to Toro Park. This includes habitat for the Monterey Ceanothus, Toro/Monterey Manzanita and the best stands of oak woodland. The balance of habitat (i.e. Gairdner's yampah) will be preserved through implementation of the 30% slope mitigation (MM 3.1-2).

13-7

MM 3.3-2a. Landscape plans are unnecessary on a road construction project – erosion control/revegetation plans are all that is needed. This mitigation should be applied to future residences.

13-8

Discussion of the Habitat Conservation Plan on Page 3.8-16 should note that there is no applicable HCP for this property.

13-9

Letter 13 Continued

Tree Removal

The EIR should provide additional alternatives in the text of MM 3.3-3b to offset proposed removal of 79 oak trees. California Senate Bill 1334, the California Oak Woodlands Act, specifically allows mitigation to include conservation of oak woodlands through the use of conservation easements to offset a significant effect on the environment [Public Resources Code §21083.4(b)(1)]. MM 3.3-3b should allow the conservation easement alternative, as permitted by state law.

13-10

Cultural Resources

Impact 3.4-2 refers to “loss of known and undiscovered resources...”. Two separate archaeological reports confirm that there are no cultural, archaeological, historical or paleontological resources known to exist on the site (EIR Appendix D). This impact should be reworded to refer to the “...loss of undiscovered cultural resources.”

13-11

Geology and Soils

MM 3.5-1 provides slope stability and energy dissipation recommendations for Lots 8, 9, 11 and 13 through 16 and a recommendation for slope reconstruction near Lots 8 and 9. Requirements for lots cited appear inconsistent with Section 6.0 (Preliminary Considerations and Mitigation Recommendations) of the *Geological and Geotechnical Feasibility Study* (D&M Consulting, August 2001, see DEIR Appendix E). The D&M Report does not require slope reconstruction for Lots 8 & 9 as the only alternative. The report states that: “(i)t may be feasible to leave the slope intact, install subsurface drainage and to protect the planned structures with a debris wall” (D&M, August 2001, Page 29). MM 3.5-1 should incorporate this alternative for Lots 8 & 9.

13-12

MM 3.5-3 identifies lots for liquefaction and lateral spreading. Per the D&M Report, the lots should only be 2, 9, 10, and 13-16 (D&M, August 2001, Page 29). Lots 8 and 11 and the phrase “including but not limited to” should be removed from this Mitigation Measure.

13-13

MM 3.5-3 – “certified engineer” should be replaced with “registered engineer”.

13-14

Groundwater Resources/Water Quality

MM 3.6-2b. Delete reference to owner of Oaks Subdivision as party to agreement. That system has been dedicated to Cal Am Water Company.

13-15

The El Toro Groundwater study cited on EIR Page 3.6.6 should be included in the “References/Documentation” section at the end of the chapter and in Chapter 7.0 “Preparers and References”.

13-16

EIR text on Page 3.6-16 should acknowledge that the existing Cal-Am filtration plant that will service the subdivision is specifically designed to meet drinking water quality MCL standards. The plant includes the capability for treating Arsenic.

13-17

Letter 13 Continued

Surface Hydrology and Water Quality

MM 3.7-2. Modify the fencing requirement for the detention basins by adding the following language at end of paragraph: “unless otherwise approved by the Water Resources Agency.” 13-18

MM 3.7-3. Grease/oil separators are not necessary for a road project and not really necessary for residences either. References to roof gutters, etc. should be applied only to future residences. Specify that only measures applicable to residential development should be required. 13-19

Land Use

Impact 3.8-3 indicates that the project will not “combine” with other similar projects to create a significant cumulative impact. The text should clearly indicate that this project was reviewed in context with all projects listed in EIR Table 5-1 (correct also Page 3.8-18, top of page). 13-20

EIR Text under Regional Transportation Plan (see Page 3.8-14, 6th line from bottom of paragraph) is inconsistent with MM 3.10-2. The text should be corrected to state that: (i)mplementation of the Mitigation Measure enclosed herein would require the project applicant to fund, initiate and complete a Caltrans Project Study Report for a 1.1 mile State Route 68 widening project” as opposed to construction of the segment. 13-21

Public Services

The EIR should note that California Highway Patrol substation has moved to 960 East Blanco Road, Salinas (Page 3.9-2). 13-22

Impact 3.9.3 states that demand for local and regional parkland is “minimal”. In contrast, EIR Page 3.1-3 indicates that the BLM trails at the Fort Ord Public Lands attract approximately 75,000 people per year. The Impact seems to underestimate the demand for regional park land. 13-23

In addition, the discussion under Impact 3.9.3 indicates that the total recreational dedication for the project that is required by the formula in the Monterey County Subdivision Ordinance is 0.185 acres. The EIR should note that the applicant’s proposed dedication to Toro Regional Park is 832 times greater than the amount required by County ordinance. 13-24

MM 3.9-4. “Water main” should be corrected to “sanitary sewer”. 13-25

Transportation/Circulation

Page 3.10-10 of the DEIR should note that there are two MST bus stops on Highway 68 at the San Benancio Road intersection (eastbound and westbound stops) 13-26

Letter 13 Continued

MM 3.10-2 requires that the project applicant fund, initiate and complete a Caltrans Project Study Report for a 1.1 mile State Route 68 widening project. The proportional cost to the applicant on implementing this Mitigation Measure well exceeds the identified potential project impacts to roadway segment LOS and intersection LOS (EIR Tables 3.10-5, 3.10-6, 3.10-8, 3.10-9, 3.10.10 & 3.10-11). The updated TAMC Regional Impact Fee Nexus Study includes the Highway 68 operational impacts. In addition, the TAMC study recognizes the Highway 68 improvement as a project with regional benefits and with new development paying proportional shares by regions.

13-27

The applicant submits that EIR text on Page 3.10-25 and MM 3.10-2 be adjusted to indicate that all funds spent by applicant to implement the Caltrans Project Study Report be applied as a credit to any TAMC developer impact fees that the project will be required to contribute. In addition, we request that any condition imposed on the project reflect a reimbursement agreement between the Applicant and the County of Monterey/TAMC to address any funding spent above and beyond the applicant's fair share for such regional improvement. (MM 3.10-2, EIR Page 3.10-25, & MM 3.10-7).

13-28

MM 3.10-4. "Certified engineer" should be replaced with "registered engineer".

13-29

MM 3.10-5a. "Qualified traffic engineer" should be replaced with "registered civil engineer".

13-30

MM 3.10-5b. Add the following language: "provided that adequate right-of-way exists."

13-31

Statement of Overriding Considerations

On behalf of the applicant, I also request that the EIR include a new Section to address a statement of overriding considerations. Our suggested description and analysis is as follows.

Section 6.4 Statement of Overriding Considerations

Significant and Unavoidable Impact

In determining whether to approve the project, CBQA requires a public agency to balance the benefits of a Project against its unavoidable environmental risks (14 C.C.R §15093). Implementation of the Mitigation Measures discussed in the Final EIR will avoid or substantially lessen the Project's significant impacts to a less than significant level, with the only exception being the potentially significant and unavoidable individual and cumulative transportation and circulation impacts to State Route 68. Significant and unavoidable impacts identified in the Final EIR are Intersection LOS and Roadway Segment LOS.

13-32

The County of Monterey acknowledges that significant and unavoidable impacts to intersections and roadway segments on State Route 68 cannot be mitigated to a level of insignificance through imposition of Conditions of Approval on this 17 lot subdivision. However, the EIR did identify a mitigation that would act as a catalyst for a local solution to a regional traffic situation through imposition of recommended MM 3.10-2. The Mitigation Measure

Letter 13 Continued

requires the applicant to fund, initiate and complete a CALTRANS Project Study Report for a 1.1 mile State Route 68 widening project. As identified in the EIR, implementation of Mitigation Measure 3.10-2 will mitigate the proposed project's contribution to State Route 68 improvements to the extent feasible.

Rationale for Finding Overriding Considerations for the Identified Significant and Unavoidable Impact

This significance determination is based solely on the potential for Project significant and unavoidable impacts to existing State Route 68 intersection LOS and roadway segment LOS. In making a finding of "overriding considerations", the County qualifies the finding of significant impact on transportation and circulation by the following factors:

- 1) Project Design. The EIR documents that the project applicant's objectives includes a subdivision design that voluntarily restricts the potential number of residential units to 17 lots as opposed to 67 lots allowed by the applicable zoning. The proposed design maximizes preservation of the property and reduces potential impacts that would likely be associated with a development application with higher lot counts (Page 4-2).
- 2) Project Density. The project applicant has voluntarily reduced potential residential density by 75%. With the proposed dedication to Toro Park, final land use density is approximately one unit to 19 acres, well below the General Plan land use density of LDR 5/1 units/acre.
- 3) Peak Hour Traffic. The project AM Peak and PM Peak hour traffic generation is only significant and unavoidable by adding trips to roadway segments and intersections already operating at LOS D or worse. In absolute terms, the additional traffic trips added by the project are de minimus. AM Peak traffic estimated to be generated by the project is one (1) trip eastbound and four (4) trips westbound. PM Peak traffic estimated to be generated by the project is four (4) trips eastbound and two (2) trips westbound. (EIR Tables 3.10-6 and 3.10-9)
- 4) Intersection LOS. The EIR has determined that the proposed project would not degrade the operations of any of the study intersections when compared to levels of service under background conditions. The EIR further states that, in fact, compared to background conditions, the worst increase in delay caused by the project is only 2.5 seconds (Page 3.10-19)
- 5) Mitigation. In recommending MM 3.10-2, the EIR requires the applicant to assume a much greater proportional share and take a much greater role to achieve a regional traffic solution when comparing proportional project impacts to cumulative regional impacts (EIR Tables 3.10-6, 3.10-9 and 3.10-11). The applicant will mitigate to the fullest extent feasible.
- 6) Project Benefits. The overall project is beneficial to traffic and circulation by reducing potential impacts to transportation and circulation. The proposed density reduction significantly reduces, potential traffic demands on State Route 68 and thus addressing long-term and cumulative impacts on roadway segment LOS.

13-32
cont

Letter 13 Continued

Project Benefits Outweigh Identified Significant Environmental Impacts of the Project

Having taken into account the above-identified environmental risk, the County can find that the benefits of the Project outweigh the environmental risks. The benefits of the project include:

Environmental Benefits

- Reduce overall land density by 75%.
- Eliminate future potential for 30 new lots with residences overlooking Toro Park that would potentially detract from the scenic vistas enjoyed by back country park users.
- Establish a permanent addition to Toro Regional Park of 154 acres; a contribution which is 832 times greater than what would be required under the Monterey County Subdivision Ordinance Section 19.12.010.
- Within the Toro Park addition, to set aside the most significant stands of oak woodlands, which furthers the objectives of the State of California and the County of Monterey, most particularly the Oak Woodlands Conservation Act (SB 1334).
- Within the Toro Park addition, sensitive biological habitats would be preserved in perpetuity.
- Extension of a sewer line would afford residents on lower Meyer Road the opportunity to connect to the proposed sewer system and discontinue use of septic tank systems, which would be a potential project benefit to localized groundwater quality.

Economic Benefits

- Approval of the 17 unit project will contribute funding required by TAMC to effect improvements to State Highway 68.
- Temporary construction jobs (infrastructure construction and single family residential Buildout) will benefit the local economy in terms of payroll and the purchase of materials and supplies.

Thank you for you consideration of these comments.

Sincerely,



Michael D. Cling

MDC/mmhb

13-32
cont

2.0 RESPONSE TO COMMENTS

RESPONSE TO LETTER #13 – MICHAEL CLING

Response to Comment 13-1

Commenter states that the project description should identify that the owner filed an application for development on August 16, 2001 and the project was deemed complete by Monterey County November 22, 2002.

Comment noted. Section 2.1 on page 2-1 of the DEIR has been revised as follows:

~~The~~ On August 16, 2001, the project applicant, Harper Canyon Realty, LLC (hereinafter "project applicant"), has submitted to the County of Monterey Resource Management Agency - Planning Department (hereinafter "County of Monterey") an application for a Combined Development Permit (PLN000696) for a Vesting Tentative Map in order to subdivide land pursuant to the Subdivision Map Act and the Monterey County Subdivision Ordinance (Title 19). The proposed project includes the subdivision of 344 acres into 17 lots on 164 acres with one 180-acre remainder parcel. The residential lots would have an average density of one dwelling unit per 9.64 acres within the subdivided area, as lots would range in size from 5.13 acres to 23.42 acres. Monterey County RMA Planning Department deemed the application complete on November 22, 2002.

Response to Comment 13-2

Commenter states that Section 2.3 should note that Meyer Road between San Benancio Road and the project site entrance is owned in fee by the project applicant.

Comment noted. Section 2.3 on page 2-1 of the DEIR has been revised as follows:

The project site is located in the Encina Hills area of the *Toro Area Plan* planning area, approximately 2,000 feet southeast off State Route 68 and east of San Benancio Road. Access to the project site is located off San Benancio Road onto the existing Meyer Road, which is owned in fee by the project applicant between San Benancio Road and the site access point. Meyer Road, Alta Lane and Sierra Lane would serve as the on-site circulation routes. The project site and vicinity are shown in **Figure 2-2, Vicinity Map.**

Response to Comment 13-3

Commenter states that Section 2.5 should note that the project applicant's objective would result in a 75% reduction in potential density (1 unit per 19 acres) in order to maximize preservation of the property and to limit cumulative environmental impacts. Commenter further states that the proposed project reduces the average density to one dwelling unit per 19 acres and dedication of 154 acres to Toro Regional Park permanently insure elimination of future development potential and request that this be added to Impact 3.1-2 discussion.

Comment noted. The requested revisions to the project applicant's objectives have been made as follows.

The second paragraph in Section 2.5 on page 2-13 of the DEIR has been revised as follows:

The objectives of the proposed project, as stated by the applicant, are as follows:

"The objective of the project applicant is to secure approval for a Combined Development Permit to create the Encina Hills residential subdivision consisting of 17 lots ranging in size between 5.1 acres and 24.3 acres, with a 180-acre remainder parcel. The project site consists of approximately 344 acres. With applicable zoning at 5.1 acres per unit (which would allow a total of 67 parcels at maximum development) the project applicant's objective, with its reduced density proposal is to maximize preservation of the property in its natural state in harmony with the limited residential development and limit cumulative environmental impacts. In furtherance of that objective, the applicant has previously committed to donate approximately 154 acres of the remainder parcel by deeding it to the County of Monterey as an expansion of the adjacent Toro Park."

As stated on page 2-1 of the DEIR, the average density of the proposed project is stated as one dwelling unit per 9.65 acres of subdivided area, which totals 164 acres. We concur with the project applicant that if the Remainder Parcel acreage is taken into account, the average density of the proposed project would be one dwelling unit per 20 acres. However, the project description and project application provided a proposed subdivision of only 164 acres, with a Remainder Parcel of 180 acres. We used proposed subdivision acreage to calculate the density in order to be conservative.

The EIR evaluates the potential significance of environmental impacts of the proposal against existing physical environmental conditions – specifically, the conditions as they exist at the time the Notice of Preparation (NOP) was published. The proposed project, no matter what the density, would have more of an impact on scenic resources than existing conditions. Specifically identifying what the density would be has no significant affect on the significance conclusion as long as it is consistent with or less than what is allowed per the General Plan and Zoning Ordinance.

Response to Comment 13-4

Commenter states that mitigation measure MM 3.1-1 should reflect that the applicant's design proposes dedication of a portion of the Remainder Parcel (154 acres) to be added to Toro Regional Park in order to eliminate future development potential of 30 lots with homes, many of which would be directly visible from Toro Regional Park and would degrade the visual character of back country portions of this regional park.

2.0 RESPONSE TO COMMENTS

Comment noted. The EIR evaluates the potential significance of environmental impacts of the proposal against existing physical environmental conditions – specifically, the conditions as they exist at the time the Notice of Preparation (NOP) is published. This is consistent with CEQA requirements (CEQA Guidelines 15125(a)) and forms the baseline physical conditions used throughout the environmental document.

Although the comment is correct that developing homes on 30 lots within the Remainder Parcel may potentially degrade the visual character of back country portions of Toro Regional Park, there is no evidence that that future development of those 30 lots would be allowed due to the constraints of the land and the potential impact to the visual character as viewed from Toro Regional Park and no development is proposed as part of this application. Therefore, no revision has been made to mitigation measure MM 3.3-1.

Response to Comment 13-5

Commenter states that the dedication of scenic easement on the Remainder Parcel is not allowed per the Subdivision Law and that the Subdivision Law does not allow conditions.

Since no development is proposed on the remainder parcel and it will be dedicated to Monterey County Parks Department, there is no need or requirement to place a scenic easement on slopes that are greater than 30 percent in this area. If development is proposed within the remainder parcel in the future, as part of some future action or application, the slope areas greater than 30 percent would be subject to the scenic easement dedication per Section 21.64.230 of the Monterey County Zoning Ordinance.

The second to last paragraph on page 3.1-15 of the DEIR has been revised as follows:

The portion of the project site that is to be subdivided includes approximately 97 acres of land that exceeds 30 percent slope and is subject to Policy 26.1.10 of the Monterey County General Plan. Policy 26.1.10 of the Monterey County General Plan prohibits development on slopes greater than 30 percent. Monterey County RMA Planning Department requires dedication of a scenic easement on slopes of 30 percent or greater. There is no nexus to exact scenic easements or conditions on the Remainder Parcel pursuant to the Subdivision Map Act. The following mitigation measure has been provided to ensure consistency with Policy 26.1.10 of the Monterey County General Plan and that the proposed project would have a **less than significant impact** on State Route 68 and the public viewshed.

The last paragraph on page 3.1-15 of the DEIR has been revised as follows:

Mitigation Measure

MM 3.1-2a

Prior to recording the Final Subdivision Map, Monterey County RMA Planning Department shall require that the project applicant designate all land that exceeds slopes of 30 percent

as “scenic easements” in accordance with Policy 26.1.10 of the *Monterey County General Plan*, except where roadway improvements have no other alternative. This includes land exceeding 30 percent slopes within the 17 residential lots ~~and the remainder parcel~~. The Final Subdivision Map shall identify the areas within a “scenic easement” and note that no development shall occur within the areas designated as “scenic easement.”

Response to Comment 13-6

Commenter states that there is no evidence supporting mitigation measure 3.3-1a and that it should be deleted.

As stated on page 3.3-18 of the DEIR, seven listed special status plant species included in the fall of 2005 plant survey were not included in the spring or summer surveys in 2001 because they had been listed as special status since the 2001 surveys were conducted. As noted on page 5 of the Biological Resources Assessment prepared by Zander Associates in November 2005 (Appendix C), surveys for these newly listed plant species should be conducted during the spring or summer to determine the absence or presence of those plants that are identifiable in the spring and/or summer. Therefore, implementation of mitigation measure MM 3.3-1a is necessary to ensure that these special status species are not present and if present provide mitigation measures to reduce the loss of individuals.

Response to Comment 13-7

Commenter states that Impacts 3.3-2 and 3.3-7 should recognize that the project was designed to protect the most sensitive plant habits (Monterey Ceanothus, Toro/Monterey Manzanita, oak woodland and Gairdner’s yampah) on the Remainder Parcel, which will be dedicated to Toro Regional Park or preserved through mitigation measure MM 3.1-2.

Commentary regarding design and species avoidance is noted for the record.

Response to Comment 13-8

Commenter states that mitigation measure MM 3.3-2a should be applicable only to future residential development, not on the road construction portion of the project.

All grading activities associated with road construction must be in compliance with Section 16.08.340 of the Monterey County Grading Ordinance, which requires implementation of erosion control methods. All disturbed surfaces resulting from grading operations shall be prepared and maintained to control erosion, which may consist of effective planting, such as rye grass, barley or some other fast germinating seed. Therefore, implementation of mitigation measure MM 3.3-2a is applicable to road construction. The mitigation measure does not require submittals other than what is required by Ordinance. Please also refer to response to comment 3-1 which includes modifications to MM 3.1-2 to provide further

2.0 RESPONSE TO COMMENTS

restrictions on road construction with respect to visibility and re-vegetation in response to comments with respect to visual impacts.

Response to Comment 13-9

Commenter states that page 3.8-16 should note that there is no applicable Habitat Conservation Plan for this area.

Comment noted. It is stated on page 3.3-28 of the DEIR that proposed project is not located within an area associated with an adopted Habitat Conservation Plan. It is not necessary to repeat this fact on page 3.8-16 of the DEIR.

Response to Comment 13-10

Commenter states that mitigation measure MM 3.3-3b should include alternatives, such as a conservation easement, that are allowed under California Senate Bill 1334, the California Oak Woodlands Act.

Mitigation measure MM 3.3-3b requires that a Final Forest Management Plan be prepared that includes a monitoring plan that accurately identifies the number and acreage of oak trees five inches in diameter at breast height to be removed during construction and the replacement of these oak trees on a 3:1 basis as a means of promoting 1:1 tree replacement in compliance with Section 21.64.260 of the *Monterey County Zoning Ordinance* and Section 21083.4 of the *CEQA Guidelines*. Section 21083.4 of the *CEQA Guidelines* addresses the requirements the California Oak Woodlands Act, which includes mitigation alternatives the County may consider, as noted on page 3.3-15 of the DEIR.

This State law provides that “as part of the determination made pursuant to Section 21080.1, a county shall determine whether a project within its jurisdiction may result in a conversion of oak woodlands that will have a significant effect on the environment. If a county determines that there may be a significant effect to oak woodlands, the county shall require one or more of the following oak woodlands mitigation alternatives to mitigate the significant effect of the conversion of oak woodlands:

- 1) *Conserve oak woodlands, through the use of conservation easements;*
- 2a) *Plant an appropriate number of trees, including maintaining planting and replacing dead or diseased trees.*
 - b) *The requirement to maintain trees pursuant to this paragraph terminates seven year after the trees are planted.*
 - c) *Mitigation pursuant to this paragraph shall not fulfill more than one-half of the mitigation requirement of the project.*
 - d) *The requirements improved pursuant to this paragraph also may be used to restore former oak woodlands.*

- 3) *Contribute funds to the Oak Woodlands Conservation Fund, as established under subdivision (a) of Section 1363 of the Fish and Game Code, for the purpose of purchasing oak woodlands conservation easements, as specified under paragraph (1) of subdivision (d) of that section and the guidelines and criteria of the Wildlife conservation Board. A project applicant that contributes funds under this paragraph shall not receive a grant from the Oak Woodlands Conservation Fund as part of the mitigation for the project.*
- 4) *Other mitigation measures developed by the county.”*

The law specifies that the county shall identify the appropriate mitigation. In this case, the DEIR requires a final FMP and replacement ratios consistent with the County Zoning Ordinance. Pursuant to direction from the Monterey County Board of Supervisors, the RMA-Planning Department is drafting an oak woodland conservation program. The program could include different ratios for replacement, payment of fees to mitigate for loss, and monitoring for compliance. At this time, however, this program has not been finalized and adopted. Mitigation measure MM 3.3-3b has been modified to require that the applicant also pay a fee into the Oak Woodlands Conservation Fund in an amount consistent with requirements established by the Fund administrators.

The follow text has been added to mitigation measure MM 3.3-3b on page 3.3-24 of the DEIR:

In addition, the owner/applicant shall contribute funds to the Oak Woodlands Conservation Fund, as established under subdivision (a) of Section 1363 of the Fish and Game Code, for the purpose of purchasing oak woodlands conservation easements, as specified under paragraph (1) of subdivision (d) of that section and the guidelines and criteria of the Wildlife Conservation Board. The owner/applicant shall not receive a grant from the Oak Woodlands Conservation Fund as part of the mitigation for the project. The amount of the contribution to the Oak Woodlands Conservation Fund shall be determined according to the procedures set forth in the Oak Woodland Impact Decision Matrix-2008 prepared by the UC Integrated Hardwood Range Management Program.

Response to Comment 13-11

Commenter states that Impact 3.4-2 should be revised to reflect “loss of undiscovered cultural resources” and exclude wording regarding “known” resources.

Impact 3.4-2 addresses the proposed project, in combination with cumulative development activity in the area. Although the proposed project has no known cultural resources on the project site as discussed in Impact 3.4-1, other development in the area may have an impact that would disturb or contribute to the loss of known cultural resources in the area, thus contributing to the cumulative loss of cultural resources.

2.0 RESPONSE TO COMMENTS

Response to Comment 13-12

Commenter states that mitigation measure MM 3.5-1 should include the alternative mitigation for Lots #8 and #9, which includes leaving the slope intact, installing subsurface drainage and protecting the planned structures with a debris wall as discussed in the Geological and Geotechnical Feasibility study prepared for the proposed project.

In order to reduce exposure to seismic ground shaking, mitigation measure MM 3.5-1 requires that the project applicant consult with a qualified engineer to prepare design level geotechnical reports in accordance with the current edition of the California Building Code and the recommendations contained within the *Geologic and Geotechnical Feasibility Study* prepared by D&M Consulting Engineers in August 2001. This mitigation measure briefly summarizes the recommendations provided in this Feasibility Study and are not meant to be all inclusive. It is not necessary to provide all of the recommendations within the mitigation measure because the DEIR is requiring a design level geotechnical report in accordance with the recommendations provided in Appendix E of the DEIR. Although it is true that the Feasibility Study identifies that leaving the slope intact with subsurface drainage and providing a debris wall may be an alternative option, the Feasibility Study also states that this option would require further evaluation. The design level geotechnical report would evaluate this alternative and provide site specific mitigation to reduce exposure to seismic ground shaking. The DEIR relies on the professional recommendations of the technical reports.

Response to Comment 13-13

Commenter states that mitigation measure MM 3.5-3 should be revised to remove Lots #8 and #11 and the phrase “including but not limited to” statement from the discussion.

Comment noted. Mitigation measure MM 3.5-3 primarily addresses hazards associated with lateral spreading and liquefaction, which requires a subsurface drainage system. However, potential impacts associated with slope failure and landsliding (Impact 3.5-1) also would be mitigated through installation of a subsurface drainage system. Instead of having two separate mitigation measures requiring a subsurface drainage system, all subsurface drainage system requirements are addressed in MM 3.5-3. According to the Feasibility Study, the potential for surficial sliding on Lots #11 and #13 through #16 can be reduced through installation of subsurface drains. In addition, due to the close proximity to the steeper slopes at Lots #8 and #9 and the unstable condition of the slope mitigation will likely require internal drainage with reconstruction of the slope. Therefore, applying MM 3.5-3 to Lots #8, #9, #11, and #13 through #16 would address Impact 3.5-1 as noted in the impact summary for Impact 3.5-1

Response to Comment 13-14

Commenter states that mitigation measure MM 3.5-3 should be revised to require a “registered engineer” instead of a “certified engineer”.

Comment noted. The third paragraph on page 3.5-21 of the DEIR has been revised as follows:

Mitigation Measure

MM 3.5-3 Prior to issuance of grading and building permits, ~~Monterey County Planning Department and Building Services Department shall require that~~ the project applicant shall contract with a ~~certified~~ registered engineer to design subsurface drainage system for review and approval by Monterey County Resource Management Agency – Director of Planning and the Director of Public Works where perched groundwater exists on the project site, including but not limited to Lots #2, #8, #9, #10, #11 and Lots #13 through #16. Subsurface drainage system shall be designed and installed in accordance with the recommendation provided in the *Geological and Geotechnical Feasibility Study* prepared by D&M Consulting Engineers in August 2001. These improvements shall be included in the final improvement plans for the proposed project and installed concurrent with site preparation and grading activities associated with future residential development. Prior to final inspection of grading permits for subdivision improvements, the project applicant shall submit certification prepared by a registered engineer verifying that the improvements were installed according to the findings and recommendations in the *Geological and Geotechnical Feasibility Study*.

Response to Comment 13-15

Commenter states that mitigation measure MM 3.6-2b should be revised to delete reference to owner of the Oaks Subdivision because the system has been dedicated to ~~Cal~~ Am Cal-Am Water Company.

Comment noted. Mitigation has been revised in the updated Section 3.6 included in this FEIR.

Response to Comment 13-16

Commenter states that the El Toro Groundwater study cited on page 3.6-6 should be included in the references.

Comment noted. Please see Master Response 1: Water.

2.0 RESPONSE TO COMMENTS

Response to Comment 13-17

Commenter states that text on page 3.6-16 should acknowledge that the existing Cal-Am filtration plant is specifically designed to meet drinking water quality MCL standards and includes the capability for treating arsenic.

Comment noted. Please see Master Response 1: Water, regarding the water treatment options available to the project. Either option, including treatment at the Cal-Am Ambler treatment facility, would effectively treat for arsenic removal.

Response to Comment 13-18

Commenter states that mitigation measure MM 3.7-2 should modify the fencing requirement for the detention basins by adding “unless otherwise approved by the Water Resources Agency”.

Comment noted. Monterey County Water Resources Agency’s standard condition of approval for Stormwater Detention (WR6) requires that all detention ponds be fenced for public safety.

Response to Comment 13-19

Commenter states that grease/oil separators required in mitigation measure MM 3.7-3 are not necessary for a road or residential project. References to roof gutters, etc. should be applied only to future residential development.

Comment noted. The third paragraph on page 3.7-13 of the DEIR has been revised as follows to reflect that current standards shall be applied:

Mitigation Measure

MM 3.7-3

In order to prevent the potential contamination of downstream waters from urban pollutants, Monterey County RMA Planning Department, Public Works Department and Water Resources Agency shall require that the storm drainage system design, required under mitigation measure **MM 3.7-2**, includes a Storm Water Pollution Prevention Plan (SWPPP) and Low Impact Development (LID) design techniques. Such techniques include but are not limited to the following components: grease/oil separators (where required by Public Works); sediment separation; vegetative filtering to open drainage conveyances and retention basins; and on-site percolation of as much run-off as feasible, including diversion of roof gutters to French drains or dispersion trenches, dispersion of road and driveway runoff to vegetative margins, or other similar methods LID design and pollution control techniques. Said

provisions shall be incorporated into the storm drain system plans submitted to the county for plan check prior to issuance of building or grading permits, whichever occurs first. A report shall be submitted prior to final inspection verifying that installation of the system occurred pursuant to said drainage system plan. In the event that the drainage system was not installed according to recommendations of plan, measures shall be recommended by a qualified drainage engineer or equal professional recommendations to ensure that the final installed system meets the recommendations of the approved drainage plan. All plans shall meet current Public Works and Building Department standards.

Response to Comment 13-20

Commenter states that Impact 3.8-3 should clearly indicate that the proposed project was reviewed in context with all projects listed in Table 5-1 of the DEIR.

Comment noted. As noted on page 5-3 of the DEIR, cumulative area projects evaluated, in addition to the proposed project are listed in **Table 5-1**. This clarification would have no effect on the environmental impact since all cumulative development would be subject to the County's development review process through which any potentially significant land use impacts would be analyzed.

Response to Comment 13-21

Commenter states that page 3.8-14 should be corrected to state that implementation of the mitigation measure would require the project applicant to fund, initiate and complete a Caltrans Project Study Report for the State Route 68 Commuter Improvements project, to be consistent with traffic mitigation.

Section 3.10 of the DEIR, Traffic and Circulation, was replaced in its entirety as part of the RDEIR (December 2009). Any references to that section in other locations of the EIR (such as this passage of Section 3.8) have therefore also been updated.

The second full paragraph on page 3.8-14 has been revised as follows:

As discussed in **Section 3.10, Transportation and Circulation** under project conditions and cumulative project conditions, traffic generated by the proposed project would contribute to the deficient levels of service along State Route 68.....
.....The proposed project list in the *Regional Impact Fee Nexus Study Update* includes a project referred to as the "State Route 68 Commuter Improvements," which would widen a 2.3 mile section of State Route 68 to four lanes from the existing four lane section (adjacent to Toro Park) to Corral de Tierra Road. The geometric design details of this improvement are not known at this time. The *Regional Impact Fee Nexus Study Update* has ~~not~~ been approved and but no

2.0 RESPONSE TO COMMENTS

funding is currently available for the implementation of the widening of State Route 68 to four lanes or for implementation of the South Fort Ord Bypass. Implementation of the mitigation measures in Section 3.10 enclosed herein would require the project applicant to ~~construct a~~ contribute their fair share towards the 1.1 mile portion of State Route 68 Commuter Improvements, as well as other regional improvement projects, through payment of the TAMC RDIF and pay regional traffic impact fees to the Transportation Agency of Monterey County (TAMC) in order to mitigate for cumulative impacts to roadway segments along State Route 68. Implementation of these mitigation measures would accelerate implementation of specific capacity improvements along Highway 68 consistent with TAMC's project priorities, and would address the project's cumulative impacts regionally. directly contribute to the improvements along the State Route 68 corridor, which would off set any traffic impact on roadway segments caused by increased trip volume associated with the proposed project. Therefore, the proposed project would be **consistent** with the RTP.

Response to Comment 13-22

Commenter states that the DEIR should note that the CHP substation has relocated to 960 East Blanco Road, Salinas.

Comment noted. The third paragraph on page 3.9-2 of the DEIR has been revised as follows:

California Highway Patrol

The California Highway Patrol has jurisdiction and law enforcement powers on all County roads and state highways. The California Highway Patrol is particularly concerned with enforcement of the vehicle code and other matters related to vehicle use such as traffic accidents. The California Highway Patrol services the Toro Area Plan planning area through its substation located at ~~19055 Portola Drive near~~ 960 East Blanco Road in the City of Salinas.

Response to Comment 13-23

Commenter states that Impact 3.9-3 seems to under estimate the demand for regional park land based on the page 3.1-3 stating that approximately 75,000 people visit BLM each year.

Comment noted. The County of Monterey standard for developed regional parkland is 0.7 acre per 1,000 people. The proposed project would increase the population by approximately 50 people. Based on the regional parkland standard the increase demand associated with the proposed project's increase in population would increase the need for regional parks would be 0.035 acres.

Response to Comment 13-24

Commenter states that the DEIR should note that the project applicant's dedication of parkland is 832 times greater than amount required.

Comment noted. This would have not effect on the environment; therefore, no revisions to the DEIR have been made.

Response to Comment 13-25

Commenter states that mitigation measure 3.9-4 should be corrected to read "Sanitary sewer".

Comment noted. See response to comment 8-2.

Response to Comment 13-26

Commenter states that page 3.10-10 should note that there are two MST bus stops on State Route 68 at the San Benancio Road intersection (1 eastbound and 1 westbound).

Point of fact is noted for the record. The traffic section has been replaced in its entirety as part of the RDEIR (December 2009).

Response to Comment 13-27

Commenter states that the proportional cost to the project applicant associated with mitigation measure MM 3.10-2 well exceeds the identified potential project impacts to roadway segment and intersection LOS.

Comment noted. The traffic section has been replaced in its entirety as part of the RDEIR (December 2009). All new comments on the RDEIR are addressed within this Final EIR.

Response to Comment 13-28

Comments address traffic mitigation measures of the DEIR.

Comment noted. The traffic section has been replaced in its entirety as part of the RDEIR (December 2009). All impact statements and mitigation measures have been revised. All new comments on the RDEIR are addressed within this Final EIR.

Response to Comment 13-29

Comments address traffic mitigation measures of the DEIR.

Comment noted. The traffic section has been replaced in its entirety as part of the RDEIR (December 2009). All impact statements and mitigation measures have been revised. All new comments on the RDEIR are addressed within this Final EIR.

2.0 RESPONSE TO COMMENTS

Response to Comment 13-30

Comments address traffic mitigation measures of the DEIR.

Comment noted. The traffic section has been replaced in its entirety as part of the RDEIR (December 2009). All impact statements and mitigation measures have been revised. All new comments on the RDEIR are addressed within this Final EIR.

Response to Comment 13-31

Comments address traffic mitigation measures of the DEIR.

Comment noted. The traffic section has been replaced in its entirety as part of the RDEIR (December 2009). All impact statements and mitigation measures have been revised. All new comments on the RDEIR are addressed within this Final EIR.

Response to Comment 13-32

Commenter states that a new section should be added to address a statement of overriding considerations.

Comment noted. Discussion regarding the statement of overriding conditions is not required per CEQA. A more appropriate location for this discussion would be the staff report for the proposed project.

Letter 14



97 San Benancio Canyon Rd
Salinas CA 93908
831.484.1908
nansus@aol.com

December 10, 2008

Ms. Melody Gillette, Senior Planner
Monterey County Planning Department
168 West Alisal Street, 2nd Floor
Salinas, California 93901

Regarding: DEIR Harper Canyon (Encina Hills) Subdivision (Co. File#PLN000696)

ATTENTION: Supvr.Dave Potter, Planning Commission Members: Juan Sanchez, Aurelio Salazar, Jr. (Chairman), Don Rochester, Cosme Padilla, Steve Pessagno, Jay Brown, Nancy Isakson, Mathew Ottone, Martha Diehl, Keith Vandevere, (Vice Chair)

Dear Ms.Gillette;

In response to your transmittal letter and a copy of the DEIR for the Encina Hills project, we in the Meyer Community Group, after reviewing the document have the following comments on the adequacy or inadequacy of the environmental impact report.

1. To begin with, as we pointed out in a letter dated 8/15/05 to Senior Planner, Paul Mugan (copy attached), the project description is inaccurate and misleading. As was shown at the Planning Commission Meeting of January 18, 2005, the 17 lot Encina Hills proposed subdivision is not a stand alone project, as it is adjacent to an additional 14 legal lots owned by the applicant which currently lacks road access. On the Vesting Tentative Map of Encina Hills prepared by Whitson Engineers, the 14 lots are shown and the road access to these lots is also shown as part of the the Encina Hills project. When this was specifically pointed out by use of a visual presentation to the Planning Commission on January 18, 2005; the Planning Commission decided that these lots were part of the overall project and were required be part of the DEIR. (Copy of map attached.) How did the DEIR get prepared with input from County Staff, without acknowledging the 14 additional legal lots, access roads; all of which are graphically shown on the Vesting

14-1

Letter 14 Continued

Tentative Map. We believe this DEIR is incomplete and does not meet the CEQA requirements as the 14 additional lots have not been reviewed as to their potential environmental impacts, as well as their cumulative and growth inducing impacts when considered with the 17 lot Encina Hills proposed subdivision. We in the Meyer Community Group find it unreasonable to believe these 14 lots were just overlooked, especially when they are outlined on the map, along with access roads, sewer and well designated locations. It is obvious to us these 14 lots are slated for development, and is piecemeal development under CEQA guidelines.

14-1 cont

AESTHETICS & VISUAL RESOURCES

Impact 3.1-1, 3.1-2, 3.1-4

Implementation of proposed project, including development on land that exceeds 30 percent slopes, would result in permanent alteration of site conditions that may damage scenic resources from Scenic Route 68, Fort Ord Public Land, Toro Regional Park., as well as introducing new light sources adversely affecting the visual resources of the area and resulting in a visual change within a rural setting. These are all considered Potentially Significant Impacts.....that are basically mitigated by design review and use of "scenic easement" designation. These appear to be unsatisfactory mitigation measures for loss of visual resources and a permanent alteration and urbanization of a rural area, without considering the cumulative impacts of 14 legal lots left out of the DEIR..

14-2

BIOLOGICAL RESOURCES

Impact 3.3-1, 3.3-2, 3.3-3, 3.3-4, 3.3-5, 3.3-6

These impacts are considered Potentially Significant or Significant. Implementation of the proposed project would result in construction of roads, buildings and other facilities that in turn result in loss of habitat of sensitive species, introduction of non-native species, permanent alteration of site conditions resulting in loss of sensitive and critical oak woodland habitat with the removal of 79 coast live oak trees from project site.

14-3

The impacts listed above are the results of reviewing the roads and the 17 proposed lots of Encina Hills and not including the additional adjacent 14 legal lots that were to be part of this DEIR. A very large segment of this project has not been reviewed with regard to its environmental impacts on the biological resources and other issues to be considered within the scope of this DEIR.

GEOLOGY & SOILS

To even begin to respond to this part of the DEIR, without the geology and soils review of the additional 14 lots, which lie directly down slope geographically below the 17 Encina Hills lots. Without environmental review of these lots, and with the knowledge that the soils are weak, compressible, highly errodable, on 30% steep slopes, in an area with a history of erosion and liquefaction, as well as a substantial increase in amount of

14-4

Letter 14 Continued

runoff, as the 14 lots are located beneath the road and the 17 lots; slope failure hazards such as landslides are potential consequences.

14-4 cont

HYDROLOGY/WATER QUALITY

Impact 3.6-1, 3.6-2, 3.6-3, 3.6-4

The DEIR considers these impacts less than significant. However, the proposed project would result in a long-term water demand increase of the El Toro Groundwater Basin, without even considering the 14 additional lots that have been left out of hydrology calculations. With the recent publication of the Monterey County Water Resources Agency scientific study of the Toro Area Groundwater Basin, indicating that the Toro area is in overdraft situation, how can this proposed development of 31 lots be considered "less than significant". Without considering the additional 14 lots, the hydrology analysis is incomplete.

14-5

LAND USE

The proposed project includes use permits for removal of 79 oak trees and development of roads on 30% plus slopes. Tree removal of this magnitude in an area of soil slippage, erosion and a history of landslides is inadequately mitigated with planting of one gallon oak trees on a 3 to 1 basis. It will be generations before the oak tree habitat will recover, if it ever does recover. There are reasons why the County of Monterey has ordinances against oak tree removal and building on 30% slopes. The result of these practices is degradation of the landscape, loss of scenic resources and critical woodland habitat.

14-6

PUBLIC SERVICES

The proposed project is inefficient land use that adversely impacts the County's abilities to provide desirable levels of public service. It does not provide affordable housing, it does generate physical impacts on natural resources, such as water availability and quality, continuing the chronic decline in ground water levels in the Toro basin. The alteration of site topography will increase surface runoff and alter existing drainage patterns, exposing property and persons to geological hazards, as well as increased probability of fire due to development in wildland areas. The site is considered a high fire zone by the County General Plan.

14-7

Impact 3.9-4

The DEIR considers "Potentially Significant" impact on wastewater flows. In a sworn declaration (copy attached) by Susan C. Bacigalupi, the data collected clearly shows the California Utility Service is **already exceeding capacity**. CUS submits in this DEIR their records of number of customers served, while the sworn declaration collected data by actually walking door to door and asking home/business owners for the information. There is a large discrepancy between the two. Which is accurate?

14-8

The sewer line has already been run to the "Oaks" 9 house subdivision. Does the addition of those houses result in CUS to exceed capacity or according to this DEIR the

14-9

Letter 14 Continued

addition of 17 homes might make CUS exceed capacity? Does that not indicate that the DEIR recognizes that the CUS is critically close to exceeding capacity? Where are the "waste water collection improvement plans" mentioned in the mitigation?

14-9 cont

Impact 3.9-5

There is conflicting information regarding whether there is "mixing" of Zone 2C water and B8 water. The DEIR says one thing, the Cal-Am workers say another.

Where will the water purification plant be located?

14-10

Unfortunately due to time constraints we are unable to investigate further. Hopefully the county will.

TRANSPORTATION AND CIRCULATION

Impact 3.11-1

The number of trips will be well over 200/day and the traffic noise on Meyer Rd will be significantly increased from basically no traffic noise to whatever noise is generated by 163-200 trips per day. What will be the speed limit? Will there be speed bumps?

14-11

SUMMARY

Due to the timing, once again, of this DEIR being presented during the Holiday season and having approximately 6 weeks to respond to a bulky document that took over 3 years to prepare, this letter and the supporting documents is all we can offer.

This is a piecemeal project. The DEIR does not even mention the additional 14 lot line adjustments in spite of the Vesting Tentative map showing the sewer lot, roads being constructed to access the area etc. The DEIR does mention the "Oaks" subdivision. There are no definitive plans for the remainder parcel.

When this project is complete, the 14 lot line adjustments will have road access, the remainder parcel from the "Oaks" will have road access, sewer and water will be available to all.

Given enough time and money, all things can be mitigated to:

1. Less than Significant
2. Unavoidable
3. Cumulative

This DEIR is an excellent example.

Letter 14 Continued

Meyer Community Group Contacts:

Susan C. Bacigalupi	Barbara Schweffel
97 San Benancio Rd	72 San Benancio Rd
Salinas CA 93908	Salinas CA 93908
831.484.1908	831.484.9192

Attachments:

Paul Muga Letter 08.15.05
Susan Bacigalupi Declaration January 11, 2005
Richard Rosenthal Letter January 11, 2005
Vesting Tentative Map

2.0 RESPONSE TO COMMENTS

RESPONSE TO LETTER #14 – THE MEYER COMMUNITY GROUP

Response to Comment 14-1

Comment questions the accuracy of the project description. In particular, commenter argues that the existing adjacent 14 lots of record should be analyzed as part of the Harper Canyon/Encina Hills Subdivision EIR regarding their potential environmental impacts.

As shown in Figure 2-5, the 14 existing lots of record located adjacent to the project site are not part of the project application. To clarify this point, **Figure 2-5, Vesting Tentative Map** has been updated and is attached as **Exhibit C**. Please see Master Response 2: Legal Lots of Record.

Response to Comment 14-2

Comments focus on cumulative aesthetic impacts associated with adjacent lots of record.

Please see Master Response 2: Legal Lots of Record and response to comment 3-1, which discusses the issue of how the County evaluates impacts to the viewshed and provides modifications to mitigation measures for further reducing potential visual impacts in response to comments received on this issue. The standard for review with respect to visual impacts is not whether the project is visible from a common public viewing place, but whether there is a “substantial adverse visual impact”. The DEIR reviews the project from the perspective of the degree to which Project elements might be visible including distance from the viewing point, interruptions in the landscape that would naturally screen Project elements and timeframe during which a Project element might be seen e.g. a driver traveling at 45 miles through a common viewing point. As discussed in Impact 3.1-1 on page 3.1-9 of the DEIR, the project site is located outside the area designated as “area of visual sensitivity” and the “critical viewshed”. However, the project site may be visible from public viewpoints along State Route 68, a state scenic highway; Toro Regional Park; and Fort Ord Public Land owned by the Bureau of Land Management (BLM). Implementation of mitigation measure MM 3.1-1 would ensure that the viewshed from Toro Regional Park would be protected by restricts development on Lot #1. In addition, the “Design Control” zoning district standards protect the public viewshed, neighborhood character, and assure the visual integrity of the development in scenic areas and is intended to guide development while preserving the scenic qualities of the ridgeline area, views from State Route 68, and the scenic and rural quality of the project vicinity.

The proposed project would be required to comply with Sections 21.44.010 and 21.44.030 of the *Monterey County Zoning Ordinance*, which apply specific design standards and additional design review prior to approval, including regulation of the location, size, configuration, materials and colors. Depending on the design of subsequent development on the project site, other zoning regulations associated with ridgeline development and slopes greater than 30 percent may be triggered. According to Section 21.66.010.D of the *Monterey County Zoning Ordinance*, a use permit for ridgeline development may be approved only if the development will not create a substantially

adverse visual impact when viewed from a common public viewing area. In addition, implementation of mitigation measure MM 3.1-2 will require that all land exceeding slopes of 30 percent be designated as “scenic easements” in accordance with Policy 26.1.10 of the *Monterey County General Plan*, except where roadway improvements have no other alternative. The Final Subdivision Map shall identify the areas within a “scenic easement” and note that no development shall occur within the areas designated as “scenic easement.” These regulatory performance standards and mitigation measures would ensure that the proposed project would not have a substantial adverse affect on a scenic vista as viewed from Toro Regional Park, State Route 68 and BLM land.

According to Appendix G of the CEQA Guidelines, scenic resources, include, but are not limited to, trees, rock outcroppings and historic buildings within a state scenic highway. Although the proposed project is not located within a state scenic highway corridor, the DEIR evaluates the impact proposed development would have on scenic resources due to the proximity of State Route 68, a state designated scenic route. As noted on page 3.1-15 of the DEIR, implementation of mitigation measure MM 3.3-3b and compliance with Section 21.64.260.C.1 of the *Monterey County Zoning Ordinance* would ensure that the tree removal associated with the proposed project would be minimized. Implementation of the mitigation measure MM 3.1-2 would ensure that all land that exceeds 30 percent slopes, except where roadway improvements have no other alternative, be designated as “scenic easements” in accordance with Policy 26.1.10 of the *Monterey County General Plan*. Implementation of these mitigation measures and compliance with the Monterey County Zoning Ordinance would ensure that there would be no substantial damage to scenic resources near State Route 68.

As discussed on page 3.1-17, implementation of mitigation measure MM 3.1-4 would minimize potential light and glare at the project site and on surrounding area by requiring preparation and approval of a detailed exterior lighting plan.

The project site is designated for rural residential land use. The proposed project includes development at a lesser density than allowed under the General Plan and the project applicant has committed to deeding approximately 154-acres of the 180-acre remainder parcel to the Monterey County Parks Department as an extension of the adjacent Toro Park. The proposed project would be required to be developed in accordance with Sections 21.44.010 and 21.44.030 of the *Monterey County Zoning Ordinance*, which would preserve the scenic qualities of the ridgeline area and the scenic and rural quality of the project vicinity. The 14 existing lots of record, as well as any other reasonably foreseeable development within the vicinity of the project site, would also be subject to policies in the *Monterey County General Plan* and *Toro Area Plan* that emphasize preservation of the rural environment, which would address the cumulative visual effects of proposed development within the vicinity of the project site.

2.0 RESPONSE TO COMMENTS

Response to Comment 14-3

Commenter re-iterates that the impacts to biological resources are not properly analyzed because the project description excludes the 14 existing lots of record located adjacent to the project site.

Comment noted. Please see Master Response 2: Legal Lots of Record and Impact 3.3-7 discussion on page 3.3-29 of the DEIR, which addresses the cumulative impacts on special status species and habitat. The 14 lots in question are not part of the project application.

Response to Comment 14-4

Commenter re-iterates that the impacts to geology and soils are not properly analyzed because the project description excludes the 14 existing lots of record located adjacent to the project site and that slope failure hazards such as landslides are potential consequences.

Comment noted. Please see Master Response 2: Legal Lots of Record and Impact 3.5-2 on page 3.5-17 of the DEIR which discusses the proposed project's risk of exposure to landslides. The 14 lots in question are not part of the project application.

Response to Comment 14-5

Commenter states that the proposed project would result in a long-term water demand increase of the El Toro Groundwater Basin without considering the 14 existing lots of record located adjacent to the project site.

Comment noted. Please refer to Master Response 1: Water, which discusses the hydrogeology of the project site and well locations. The wells are located in Zone 2C and receive benefits from the Salinas Valley Water Project. Please also refer to Master Response 2: Legal Lots of Record. The 14 lots in question are not part of the project application.

Response to Comment 14-6

Commenter states that the tree removal in an area of soil slippage, erosion and a history of landslides is inadequately mitigated with planting of one gallon oak trees on a 3 to 1 basis. Commenter further states that it will be generations before the oak tree habitat will recover if it ever does recover.

See response to comment 13-10. As noted on page 3.3-23 of DEIR, the proposed project includes a use permit for the removal of approximately 79 oak trees, which is less than one percent of the total trees located on the project site. Implementation of mitigation measures MM 3.3-3a, 3.3-3b and 3.3-3c would minimize oak tree removal, replant trees, ensure successful replanting of replacement trees and protect remaining trees. Implementation of these mitigation measures would minimize loss of oak woodland habitat and ensure that the removal of coast live oak trees is in accordance with Section 21.64.260 of the Monterey County Zoning Ordinance and Section 21083.4 of the CEQA Guidelines.

Response to Comment 14-7

Commenter states that the proposed project is inefficient land use that adversely impacts the County's abilities to provide desirable levels of public service. Commenter further states that the proposed project will increase the probability of fire due to development in wildland areas.

Evaluation of the environmental impacts to public services is based on whether or not the proposed project would increase the need for public services to a point that would require construction of new or expansion of existing facilities that would have a significant physical impact on the environment. As discussed in Section 3.9 of the DEIR, the proposed project will increase the demand on public services, such as police, fire, schools, and parks; however, this increase in demand would not warrant the construction of new or expansion of existing facilities.

As stated on page 6-4 of the DEIR, the project site is located in moderate to high wildland fire zone. The Salinas Rural Fire District requires that the all access roads on the project site be in compliance with the most current fire codes. According Salinas Rural Fire District, compliance with fire codes would eliminate exposure of residents or structure to a significant risk of loss from wildland fires. In addition, compliance with Section 18.56 of the *Monterey County Code Monterey County* (Ordinance 3600, 1992) would ensure that people or structures are not exposed to significant risk of loss, injury, or death associated with wildland fires. Furthermore, the analysis of the proposed project's impact on the Salinas Rural Fire District provided on page 3.9-8 of the DEIR identifies that the affect on fire protection service would be a less than significant impact. Therefore, the potential risk of exposing people or structures to loss, injury or death would be considered a less than significant impact.

As discussed on page 3.8-11 of the DEIR, according to County of Monterey Housing and Redevelopment Office, payment of the in-lieu fee equal to \$409,555.50 (\$160,610/inclusionary unit) shall satisfy compliance with the *Monterey County Inclusionary Housing Ordinance*. In-lieu fees are used to provide more affordable housing and/or buy down existing housing to make the units more affordable. Therefore, the proposed project would indirectly be providing affordable housing.

Response to Comment 14-8

Commenter states that the declaration by Susan C. Bacigalupi, shows that the California Utility Service is already exceeding capacity.

Comment noted. See response to comment 7-2 and comment letter 18.

Response to Comment 14-9

Commenter asks whether or not the capacity of wastewater treatment plant would be exceeded by the Oaks subdivision or the proposed project, isn't the wastewater treatment

2.0 RESPONSE TO COMMENTS

plant critically close to exceeding capacity and where are the wastewater collection improvement plans mentioned in the mitigation?

See response to comment 7-2 and comment letter 18. The wastewater treatment plant has adequate capacity to serve the proposed project; however, service is provided on a first come, first serve basis. The wastewater collection improvement plans required per mitigation measure 3.9-4 are required to be submitted for approval prior to filing of the Final Subdivision Map.

Response to Comment 14-10

Commenter states that there is conflicting information whether there is a “mixing” of Zone 2C water and B-8 water and asks where the water purification plant will be located.

Please see Master Response to Comment 1: Water, as well as the updated Section 3.6 included in this FEIR. See also response to comment 7-1 for more information on this subject.

Response to Comment 14-11

Commenter states the noise generated by the increased traffic on Meyer Road will increase and asks what the speed limit will be and if there will be any speed bumps.

As noted on page 3.11-10 of the DEIR, the increase in noise associated with increased trips on Meyer Road may increase noise levels by approximately 3 dB. However, this is not considered a significant increase in traffic noise. In addition, the topography and distance between the sensitive receptors to Meyer Road would decrease the traffic noise levels associated with the proposed project. Since Meyer Road is a private road, the speed limit is determined by the owner and is not enforceable by law enforcement. No speed bumps are proposed as part of the proposed project.

Letter 15

Gillette, Melody x6056

From: LC [lcarley11@yahoo.com]
Sent: Monday, December 08, 2008 6:40 PM
To: Gillette, Melody x6056
Subject: Comment on Draft EIR for Encina Hills (Harper Canyon)

The following are my comments and concerns regarding the draft EIR of Encina Hill Subdivision #PLN000696

First and foremost, my greatest objection to the Encina Hills (Harper Canyon) EIR is it's insinuation that groundwater is not an issue. There are two glaring flaws in the following summation.

Impact 3.6-1. Implementation of the proposed project would result in an increase demand of approximately 12.75 acre feet per year, which would result in a long-term water demand increase on the El Toro Groundwater Basin. However, given project's groundwater recharge capability and the fact that water would be procured through wells located within the Salinas Valley Water Project Assessment Zone 2C, this increase in demand would be considered a less than significant

15-1

The first, is that the El Toro Groundwater basin has sufficient capability to recharge itself. A recent study (Geosyntec El Toro groundwater study) suggests otherwise, clearly stating that the aquifers in question are in overdraft. A survey of Harper Canyon residence, whose private wells have dried up over time should provide addition evidence to the contrary of the EIR statements. The second flaw is the arbitrary and politically motivated classification of the wells as within Salinas Valley Water Project Zone 2C. There is no rational basis for this zoning and it is not germane to the honest appraisal of future water availability or quality. In my opinion, it would be completely irresponsible to accept the statement that groundwater supply is not an issue, much less a significant issue.

The question of sewer capacity has come up at prior planning commission meetings. Evidence was submitted which would question the validity of the assertions made by CUS sewer facility regarding their capacity, current number of hock-ups, and disposal of sludge. Given these discrepancies, it would be prudent to further investigate the sewage handling capabilities in an independent, impartial manner.

15-2

The presence of mountain lions were included in a list of wildlife in the regional setting, but not specifically address as a local concern. Mountain lions have been observed in the local vicinity. The EIR appears incomplete without investigating and outlining the extent to which the development is an active mountain lion habitat or corridor; and if it is, to what extent mountain lions would present danger to residents of this development, to residents of neighboring developments, to Toro Park visitors (if mountain lions are pushed into the park), or to the lions, themselves.

Regarding Impact 3.3-6 having to do with nesting raptors and migratory birds: It is suggested that surveying active nests within the vicinity of the construction area would be sufficient to mitigate the impact of nesting birds and raptors. However, there has been evidence of golden eagles nesting in the neighboring area. Given the extremely solitary nature of the golden eagle, their wide ranging territory, and their preference for quiet, a survey of the immediate vicinity of the construction area would appear as inadequate to mitigate the nesting disruption (and even potential habitat disruption) for this particular resident raptor and species of interest.

15-3

Impact 3.3-6. Implementation of the proposed project would result in temporary and direct disturbance to nesting raptors and migratory birds.

Potentially

Letter 15 Continued

Significant

MM 3.3-6. Surveys shall be conducted no more than 30 days prior to ground disturbance during the nesting seasons for local avian species (typically February 1st through August 31st). The Monterey County Planning Department shall require that the project applicant retain a qualified biologist to conduct a focused survey for active nests of raptors and migratory birds within and in the vicinity of the construction area. If active nests are located during preconstruction surveys, USFWS and/or CDFG (as appropriate) shall be notified regarding the status of the nests and agency recommendations regarding nest avoidance measures implemented. Furthermore, construction activities shall be restricted as necessary to avoid disturbance of the nest until it is abandoned or the biologist deems disturbance potential to be minimal. Restrictions may include establishment of exclusion zones (no ingress of personnel or equipment at a minimum radius of 100-feet around the nest) or alteration of the construction schedule. No action is necessary if construction will occur during the non-breeding season (between August 1st and November 1st).

15-3
cont

Thank you for considering my opinions.

Sincerely,
Laura Carley
Rimrock Estates
(831) 484-1228

RESPONSE TO LETTER #15 – LAURA CARLEY

Response to Comment 15-1

Commenter cites a recent study regarding El Toro groundwater done by Geosyntec that states that the aquifers in question are in overdraft. Commenter goes on to express their concern for the classification of the wells and the availability and quality of future water supply.

Comment noted. Please see Master Response to Comment 1: Water.

Response to Comment 15-2

Commenter is concerned about sewer capacity in regards to the project and requests that further investigation be done in regards to sewage handling capabilities.

Comment noted. See response to comment 2-3 and response to comment letter 18.

Response to Comment 15-3

Commenter is concerned that the proposed project would have a significant impact on nesting birds and raptors. Commenter also requests more information in regards to mountain lion's presence in and around the project site.

The proposed project was reviewed and evaluated three times by qualified biologists, Zander Associates. Implementation of mitigation measure MM 3.3-6 requires that surveys be conducted no more than 30 days prior to ground disturbance during the nesting seasons for local avian species (typically February 1st through August 31st). The Monterey County RMA Planning Department shall require that the project applicant retain a qualified biologist to conduct a focused survey for active nests of raptors and migratory birds within and in the vicinity of the construction area. If active nests are located during preconstruction surveys, USFWS and/or CDFW (as appropriate) shall be notified regarding the status of the nests and agency recommendations regarding nest avoidance measures implemented. Furthermore, construction activities shall be restricted as necessary to avoid disturbance of the nest until it is abandoned or the biologist deems disturbance potential to be minimal. Restrictions may include establishment of exclusion zones (no ingress of personnel or equipment at a minimum radius of 100-feet around the nest) or alteration of the construction schedule.

According to the U.S. Fish and Wildlife Service (USFWS) and California Natural Diversity Database, mountain lions are not listed as a special status wildlife species, although they are known to inhabit nearby rural areas of Monterey County.

Letter 16



MONTEREY BAY
 Unified Air Pollution Control District
 serving Monterey, San Benito, and Santa Cruz counties

AIR POLLUTION CONTROL OFFICER
 Douglas Coeën

24580 Silver Cloud Court • Monterey, California 93940 • 831/647-9411 • FAX 831/647-8501

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CHAIR:
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 Monterey Peninsula Cities

Ellen Prida
 Santa Cruz County

Via Mathee-McCluskey
 Monterey County

Sam Stormy
 Santa Cruz County Cities

George Worley
 South Monterey County Cities

December 19, 2008

Sent Electronically To:
CEOComments@co.monterey.ca.us
 Original Sent by First Class Mail

Ms. Melody Gillette, Senior Planner
 Monterey County Planning Department
 168 West Alisal Street, Second Floor
 Salinas, CA 93901

SUBJECT: DRAFT EIR FOR HARPER CANYON (PLN000696)

Based on the electronic files sent last week, the Air District submits the following comments for your consideration:

Consistency Determination for Seventeen SFDs
 Please request a formal consistency determination from AMBAG for the seventeen residences that would be accommodated by the project and include it in the Final EIR. **16-1**

Consistency Determination for the Additional Sewer Service to be Provided
 Please refer to Air District Rule 216, Permit Requirements for Wastewater and Sewage Treatment Facilities, which is attached for your reference. If plans for the project (uncertain from the documents sent for review) would entail an expansion or upgrade to existing facilities, please request a Rule 216 consistency determination from AMBAG. **16-2**

Access Roads to Residences
 The Air District suggests that the project require all access roads to properties be paved or covered with gravel. Unpaved dirt roads are a significant component of the PM₁₀ inventory in the North Central Coast Air Basin (NCCAB), which is designated non-attainment by the State for the PM₁₀ standard. **16-3**

Cumulative Traffic Impacts on Highway 68
 Given the existing traffic on Highway 68, current construction projects, and proposed projects (Laureles Grade Project, San Benancio Left-Turn Lane and Widening over Toro Creek, and the Villages at Laguna Seca proposed widening of York Road, the Air District suggests that the Lead Agency consider the potentially significant impacts of these projects and the proposed Harper Canyon Project construction traffic on "gridlock" and carbon monoxide "hot spots". **16-4**

Letter 16 Continued

<u>Permit for Sewer System Pump Stations</u>	Please contact Lance Ericksen, Manager of the Air District's Engineering Division, to discuss the three sewage pump stations that would serve the proposed project. (It is unclear from the Project Description whether these exist or would be new stations.)	16-5
<u>Attainment Status of the NCCAB</u>	The federal 1-hour ozone standard was revoked in June 2005. The NCCAB is designated attainment for the federal 8-hour ozone standard. The NCCAB is designated non-attainment for the State ozone standard.	16-6
<u>Toxic Air Contaminants</u>	The narrative on pages 3.2-5 and 3.2-6 should be updated to include the substantial regulatory action by the State during the last year, namely the Air Toxic Control Measures (ATCMs) promulgated by the California Air Resources Board.	16-7
<u>2008 Air Quality Management Plan</u>	The operative AQMP was adopted by the Air Board in August 2008.	16-8
<u>Section 3.2.3 Impacts and Mitigation Measures</u>	Paragraph 3 on page 3.2-15 concerning carbon monoxide should be revised to reflect that the 550 lbs/day standard applies to direct / stationary sources. The relevant standard for mobile sources is measured in Levels of Service (LOS) and can be found in the District's CEQA Air Quality Guidelines in Table 5-3 on page 5-6.	16-9
<u>Air Quality Mitigation Measure 3.2-1b. Page 3.2-20.</u>	The impacts of diesel emissions are project-specific and reflect the number, model year and horsepower of the specific equipment being operated, as well as the duration of operation and distance to the nearest receptor. Accordingly, the impacts should be estimated and feasible mitigation specified to determine significance. The list of measures specified on page 3.2-20 include some that are purely precatory, which would be difficult to enforce ("Limit the hours of operations and quantity of heavy duty equipment.", and "Limit the area under construction at any one time.") Others are not feasible ("Replace diesel-powered equipment with gasoline-powered equipment."). The Air District suggests that this section be revised. Please contact the District if you would like assistance.	16-10

Letter 16 Continued

Thank you for the opportunity to comment on the document.

Sincerely,

Jean Getchell
Supervising Planner
Planning and Air Monitoring Division

Attachment: Rule 216

cc: Lance Ericksen, Engineering Division

COMMENT LETTER #16- MONTEREY BAY UNIFIED AIR POLLUTION CONTROL DISTRICT (MBUAPCD)

Response to Comment 16-1

Commenter suggests that the Final EIR should include a formal consistency determination from AMBAG for the seventeen residences that would be accommodated by the project.

Formal consistency determination was received from AMBAG on December 29, 2005 and included in Appendix B of the DEIR. The proposed project's consistency with the 2008 Population, Housing Unit and Employment Forecasts and 2008 Air Quality Management Plan was confirmed by AMBAG on March 6, 2009.

Response to Comment 16-2

Commenter has attached Air District Rule 216, Permit Requirements for Wastewater and Sewage Treatment Facilities. Commenter is unsure if plans for the project would entail an expansion or upgrade to existing facilities, but if project does, it is suggested a Rule 216 consistency determination from AMBAG be requested.

Comment noted. There is adequate capacity at the existing facility to serve the proposed project as noted on page 3.9-10 of the DEIR.

Response to Comment 16-3

Commenter suggests that the project require all access roads to properties be paved or covered with gravel.

Comment noted. All access roads will be paved.

Response to Comment 16-4

Commenter suggests that the Lead Agency consider the potentially significant impacts of current projects along with the proposed Harper Canyon Project construction traffic on "gridlock" and carbon monoxide "hot spots."

As noted on page 3.2-15 of the DEIR carbon monoxide modeling was conducted by Ambient Air Quality and Noise Consulting and results were included in Appendix B. As discussed in Impact 3.2-4, implementation of the proposed project would result in an increase in carbon monoxide concentrations at land uses near roadways and intersections. The CO modeling was run using worst-case meteorological conditions for particulate matter peak-hour conditions for the Corral de Tierra/State Route 68 intersection and State Route 68, between State Route 218 and York Road. To ensure a conservative analysis, the emission factors used in the analysis were based on the highest modeled emission factors for speeds ranging from 35 to 60 miles per hour to account for potential decreases in speeds typically anticipated for segments that operate under unacceptable LOS. The

2.0 RESPONSE TO COMMENTS

predicted 1-hour and 8-hour CO concentrations at the Corral de Tierra/State Route 68 intersection and the State Route 68 roadway segment, between State Route 218 and York Road, would not exceed the State ambient air quality standards of 20 and 9.0 ppm, respectively. Therefore, implementation of the proposed project would not generate localized emissions of CO that would exceed the thresholds of significance for CO.

Response to Comment 16-5

Commenter requests clarification from the Project Description whether the three sewage pump stations already exist or if there would be new stations.

The proposed project includes three sewage pump stations as shown on Figure 2-5 of the DEIR. Implementation of mitigation measure MM 3.9-4 requires preparation of wastewater collection system improvement plans prior to filing the Final Subdivision Map. These plans would be subject to review and approval by California Utility Service and Monterey County. Per our discussion with Lance Ericksen of MBUAPCD, it is our understanding that if the sewage pump stations require back-up generators that are over 50 horsepower, would require a permit to be issued by Monterey Bay Unified Air Pollution Control District. To ensure compliance with this permit requirement mitigation measure MM 3.9-4 has been revised as noted in response to comment 8-2.

Response to Comment 16-6

Commenter states that the Federal 1-hour ozone standard was revoked in June 2005 and that the NCCAB is designated for attainment for the federal 8-hour ozone standard and non-attainment for the State ozone standard.

Comment noted. See response to comment 3-5.

Response to Comment 16-7

Commenter suggests that the narrative on pages 3.2-5 and 3.2-6 be updated to include the substantial regulatory action by the State during the last year, namely the Air Toxic Control Measures (ATCMs) promulgated by the California Air Resources Board.

The third paragraph on page 3.2-5 of the DEIR has been revised as follows:

The ARB identified particulate emissions from diesel-fueled engines (diesel-exhaust PM) as a TAC in August 1998. The ARB has since developed the Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles (2000) and the Risk Management Guidance for the Permitting of New Stationary Diesel-Fueled Engines (2000). Both documents were approved by the ARB on September 28, 2000. The ARB is developing regulations designed to reduce diesel particulate matter emissions from diesel-fueled engines and vehicles. The goal of each regulation is to make diesel engines as clean as possible by establishing

state-of-the-art technology requirements or emission standards to reduce diesel particulate matter emissions. These regulations will require substantial reductions in diesel-exhaust particulate matter beginning with the 2004 model year. More stringent standards will apply to engines starting in the 2007 model year. Off-road vehicles came under more stringent regulation beginning with the 2005 model year. In 2008, ARB adopted several regulations that help reduce TACs by doing the following: revising the credit accountability for small off-road engines and equipment and establishing new exhaust and evaporative emission standards for large spark-ignition engines with an engine displacement of less than or equal to one liter; amending the Transport Refrigeration Units (TRU) Airborne Toxic Control Measures to adjust compliance dates to better align with availability of verified diesel emission control strategies; requiring existing trucks/trailers doing business in California to be retrofitted with the best available "SmartWay Transport" and/or ARB approved technology that reduce GHG emissions; requiring on-road diesel vehicles to be upgraded to a cleaner engine or retrofit with an exhaust emission control device to achieve the significant emission reductions in order to reduce emissions of diesel particulate matter, oxides of nitrogen, and greenhouse gases; requiring all light duty vehicles to comply with the whole vehicle zero evaporative standards, established in 1998 as part of the Low Emission Vehicle II program, which would result in a minimum 30% emission reduction from current evaporative emissions; and requiring that automobile paint be reformulated to reflect the invisible solar wavelengths in order to keep the interior of vehicles cooler and reduce the need for air conditioner usage. Each set of regulations will serve to significantly reduce diesel particulate matter and NO_x emissions and long-term human health risks attributable to diesel-fueled vehicles and equipment.

Response to Comment 16-8

Commenter states that the operative AQMP was adopted by the Air Board in August 2008. All information should reflect the current AQMP.

Comment noted. See response to comments 3-5 and 3-6.

Response to Comment 16-9

Commenter suggests that paragraph 3 on page 3.2-15 concerning carbon monoxide be revised to reflect the 550 lbs/day standard for direct/stationary sources. Comments also clarify that the standard for mobile sources, measured in Levels of Service (LOS), can be found in the District's CEQA Air Quality Guidelines in Table 5-3 on page 5-6.

Comment noted. The last paragraph on page 3.2-13 of the DEIR has been revised as follows:

2.0 RESPONSE TO COMMENTS

- 3) Long-term Increases in Local Mobile Source CO Concentrations. Local mobile source Long-term increases in CO concentrations are a result of indirect and direct emissions. Indirect emissions are typically considered to include mobile sources that access the project site but generally emit off-site; direct emissions typically include sources that are emitted on-site (e.g., stationary sources, on-site mobile equipment). Operational impacts would be considered significant if: the project
- a. If the project would indirectly result in an intersection/road segment to degrade from LOS D or better to LOS E or F; OR the volume to capacity (V/C) ratio at an intersection/road segment operating at LOS E or F increases by 0.05 or more; OR the delay at an intersection operating at LOS E or F increases by 10 seconds or more; OR the reserve capacity at an unsignalized intersection operating at LOS E or F decreases by 50 percent or more. AND
 - b. If the project would directly result in development of stationary sources that would generate direct emissions of greater than 550 lbs/day of CO or if the project would contribute to local CO concentrations that exceed the State Ambient Air Quality Standard of 9.0 ppm for 8 hours or 20 ppm for 1 hour.

Response to Comment 16-10

Commenter suggests that the section for Air Quality Mitigation Measure 3.2-1b be revised, as diesel emissions are specific to the types of equipment used and the duration of their operation.

In response, the County concedes that it is difficult to estimate specific equipment needs, availability of equipment type at time of construction, and concentration/proximity of usage so far in advance of project construction and programming. This is particularly true for a project in a relatively rural location with large open space areas, and an extended construction schedule that will be based on the construction of individual home sites over time. Certain pieces of diesel-powered heavy equipment must be used for specific phases of construction, as there are no equipment alternatives to accomplish certain grading or earthmoving tasks. In this location, on a 164 acre project site in a sparsely populated area, the risk factors of diesel emission are considered low, as explained on page 3.2-17 of the DEIR.

The DEIR provides a conservative approach to the analysis by disclosing the potential risks of TACs and the nearest receptors to short-term, construction-related emissions. The mitigation is designed to simply ensure that project construction uses the best available control methods to reduce emissions to the greatest extent feasible, consistent with County and Air District policy. Mitigation measure MM 3.2-1b starting on page 3.2-17 of the DEIR has been revised as follows to provide additional specificity:

Mitigation Measure

MM 3.2-1b

During construction activities, Monterey County RMA Planning Department shall require that the project applicant implement best available control measures (BACM) to reduce toxic air contaminants, as recommended by the MBUAPCD and in accordance with Policy 20.2.5 of the *Monterey County General Plan*. BACM typically recommended by the MBUAPCD include, but are not limited to, the following:

- Limit the hours of operation consistent with related noise restrictions; and quantity of heavy duty equipment;
- Utilize gasoline-powered equipment whenever an equipment choice is available; Replace diesel-powered equipment with gasoline-powered equipment;
- Use PuriNOx emulsified diesel fuel in existing engines;
- ~~Modify engine with ARB verified retrofit;~~
- Repower and utilize heavy equipment with current standard diesel technology or CNG/LNG technology; and
- ~~Limit the area under construction at any one time~~
Demonstrate on construction documents how construction phasing and equipment programming will comply with County policies and BACMs identified by the Air District.

Implementation of MBUAPCD recommended best available control measures in accordance with Policy 20.2.5 of the *Monterey County General Plan* would reduce fugitive dust emissions and diesel-exhaust particulate matter emissions from construction activities. Fugitive dust emissions would be reduced by approximately 50 percent or more, depending on the activities conducted (MBUAPCD ~~2004~~2008). Use of diesel oxidation catalysts, particulate filters, and alternative fuels such as biodiesel, can reduce diesel-exhaust constituent emissions by approximately 90 percent, or more (MBUAPCD ~~2004~~2008). Therefore, short-term construction generated emissions associated with the proposed project would be reduced to a **less than significant** level.

Letter 17

Laura M. Lawrence, R.E.H.S., Planning Services Manager
County of Monterey Resource Management Agency-Planning Department
168 West Alisal, 2nd Floor
Salinas, CA 93901
Tel: 831-755-5148
Transmitted via fax: 831-757-9516

Ms. Melody Gillette
Ms. Elisa Manuguerra
Monterey County Project Planners

Re: Comments to D.E.I.R.
Harper Canyon (Encina Hills) Subdivision EIR
File Number: PLN000696
Location: North of San Benancio Road, East of Highway 68, Salinas
Planning Area: Toro Area
Assessor's Parcel Numbers: 416-611-001-000 and 416-611-002-000

December 12, 2008

Dear Ms. Lawrence, Ms. Gillette, and Ms. Manuguerra,

I am a 57 year resident of the Toro Area and am very familiar with the location and environmental issues associated with this proposed project. I am responding on behalf of the Highway 68 Coalition. Following are some of our biggest concerns regarding the above-mentioned EIR.

- 1) The largest concern is that this Draft Environmental Impact report does NOT reveal the 14 existing lots on the adjacent parcel also accessed via Meyer Road. These lots were the subjects of large lot line adjustments in the 1990's. The Toro Land Use Advisory Committee made a field trip to the site and the County of Monterey spent considerable time on these lot line adjustments on this property. Now a DEIR is prepared for 17 additional lots with a request for a vesting tentative map. The DEIR prepared goes through the motions of addressing the impacts of the 17 proposed parcels. Cumulative impacts regarding infrastructure and flora and fauna of 17 PLUS 14 are ignored but will be significant!
- 2) When California American Water Company purchased Ambler Water Service in the latter part of the 1990's for approximately \$387,000. The number of service connections was about 387 on the system. The sale was controversial and was subject to area public meetings held by the California Public Utilities Commission. These were followed by two administrative law judges with the California Public Utilities Commission holding hearings, making findings,

17-1

17-2

(1)

Letter 17 Continued

and conditioning the sale. The service connection residents in San Benancio and Corral de Tierra expressed numerous concerns and stories about water quality, water quantity and water pricing. As a result, the California Public Utilities Commission upheld a judge's recommendation that the Ambler Water Service NOT be allowed to be tied in with any other water system. I have to assume this was to assure the existing service connection residents that they would continue to have potable and adequate groundwater. Ambler Water Service draws water from wells located in Corral de Tierra near the Meadows of Corral de Tierra Subdivision.

17-2 cont

A big question is: under whose authority was a water main allowed to be run crossing San Benancio Road and going outside the B-8 boundary (which is San Benancio Road) and tied into the San Benancio Oaks Subdivision? Who authorized this?

A problem with this EIR is it explains that the proposed water for the 17-unit project will be tied into the system currently servicing the San Benancio Oaks Subdivision and be given to California American Water Company. This will compound the problem and contravenes the Public Utilities Commission direction.

- 3) Subsequent to, and as a result of the 1992 Loma Prieta Earthquake many individual well owners and small water system owners in the upper Harper Canyon area lost the use of their water wells. The ground rumbling and shifting stopped the flow of water. These were existing residents, many being long time homeowners in the area who were without water. They petitioned the County of Monterey and Cal-Am Water to run the water main up to the end of the existing Harper Canyon Road. They paid for this to be done and there wasn't one protest from anyone denying existing residents a potable water supply. Water availability in Harper Canyon has always been problematic. Existing residents water supply now originates in Corral de Tierra, from the wells Cal-Am owns and operates behind the Corral de Tierra Meadows Subdivision.

17-3

- 4) The reference document for this EIR does not use the most current data. The 2007 El Toro Groundwater Study prepared for the Monterey County Water Resources Agency is not used, nor referred to. This document tells us that historically the ground water level has been dropping approximately one foot per year for the past 50 years. It also tells us that the rate of drop has been increasing and has dropped approximately two feet per year since 1997. Although the EIR tells us that the proposed project or a large part of it is in Zone 2C of the Salinas Basin, the groundwater for the project will not be coming from the Salinas River but rather has plans to utilize El Toro Area groundwater. We all know that groundwater does NOT recognize political boundaries.

17-4

(2)

Letter 17 Continued

5) Question: Is the proposed water use quantity for 17 units of 12.75 acre feet consistent with water use for similar surrounding areas and lots of San Benancio, Corral de Tierra, Hidden Hills, York Road? You will remember when estimated water use for the residential areas of Bishop Ranch (now Pasadera) were seriously underestimated. The Laguna Seca Sub Basin (groundwater) is now in serious overdraft partly as a result of this. Existing residents are learning to pay more, lots more, for their water. That specific project also had a condition to monitor the yearly water used on the golf course there. Specifically who monitors this? Some of these conditions become burdensome to the County of Monterey, it's departments, and agencies, years after approval. Then it becomes a code enforcement issue, and often a legal issue.

17-5

6) The Harper Canyon/Encina Hills EIR references the year 2005 Regional Transportation Plan and its 14-year program. Is that 14-year program still in place after the failure of Measure A, the half cent sales tax measure on the 2006 ballot? The document should state that the Transportation Agency of Monterey County officially designated the two lane section of State Highway 68 as being Level of Service "F" in the year 1997. When a Highway reaches Level of Service F even one more average daily trip is a significant impact. Using CalTrans numbers of an average of ten trips per day per unit, 17 additional units will bring 170 additional average daily trips to State Highway 68, and right in the middle of it, midway between the Cities of Salinas and Monterey. Add the cumulative impact of the existing 14 lots (lot line adjustments) in Encina Hills and the number becomes 310 additional average daily trips on a Level of Service "F" Highway. The EIR also needs to address the cumulative traffic impacts of the build out of existing legal lots of record on the Highway 68 Corridor, including Monterra, Pasadera, Tehama, Hidden Hills, San Benancio Oaks, as well as adjacent former Fort Ord (utilizing it's 1997 Fort Ord Reuse Plan, but absent the Southwest Alternative Road that has been erased.)

17-6

7) The project plan to use the narrow private residential road, Meyer Road, for access to the 17 proposed lots plus the 14 existing lot line lots is problematic from several perspectives. San Benancio Road is a designated County Scenic Road. Meyer Road is near the crest of a hill climbing San Benancio. Area residents report much of the traffic coming downhill out of San Benancio Canyon travels far too fast, especially during peak commute hours and often after dark. Adding 310 average daily trips to this part of San Benancio Road ingress and egress, accelerating and decelerating, IS dangerous.

17-7

(3)

Letter 17 Continued

Thank you for the opportunity to comment on this EIR. We have attempted to define some of the biggest problems. Please include the entirety of our comments and our letter in the Final E.I.R.

Sincerely,



Mike Weaver
Co-Chair, and on behalf of The Highway 68 Coalition
Phone: 831-484-6659

(4)

2.0 RESPONSE TO COMMENTS

COMMENT LETTER #17- THE HIGHWAY 68 COALITION

Response to Comment 17-1

The comment states that the DEIR has not – but should – address cumulative effects from the adjacent 14 existing lots of record accessed via Meyer Road.

Comments regarding this issue are noted for the record and addressed in Master Response to Comment 2: Legal Lots of Record.

Response to Comment 17-2

The commenter states that the sale of the Ambler Water Service to Cal-Am was controversial and that the California Public Utilities Commission upheld a judge's recommendation that the Ambler Water Service not be allowed to be tied in with any other water system. The commenter also states that the Ambler Water Service draws water from wells located in Corral de Tierra near the Meadows of Corral de Tierra Subdivision.

Please see Master Response to Comment 1: Water, regarding water supply and treatment for the subdivision. See also updated Section 3.6 included in this FEIR.

Response to Comment 17-3

The commenter describes affected well conditions in Harper Canyon since the Loma Prieta earthquake, provision of a new water main following the earthquake, and problems with water supply in the area.

Comments are noted for the record. There are no specific environmental or analysis issues to address from this comment. The Loma Prieta earthquake occurred in 1989.

Response to Comment 17-4

The commenter states that the reference document does not contain the most current data and that the 2007 El Toro Groundwater Study prepared for the MCWRA is not used, nor referred to. Commenter states that the groundwater for the project will not be coming from the Salinas River but rather has plans to utilize El Toro Area groundwater.

See Master Response to Comment 1: Water, which provides greater specificity with respect to the hydrogeology of the project site and wells serving the project.

Response to Comment 17-5

The commenter asks if the proposed estimate of water use for the 17 units (12.75 AFY) is consistent with water use for similar surrounding areas.

As noted in the project specific Hydrogeology Report dated July 2003 and included in Appendix F, the proposed project was estimated to use approximately 0.33 AFY/residential unit. However, this demand rate was determined to be low when compared to water demand rates in the area, which ranged from 0.66 AFY/residential unit in the El Toro area to 0.75 AFY/residential unit for the San Carlos development. It was therefore determined with County staff that a water demand rate of 0.75 AFY/residential unit be used for the proposed project. The EIR uses the per unit rate of 0.75 AFY for analysis purposes, consistent with surrounding projects.

Response to Comment 17-6

The commenter asks if the 2005 Regional Transportation Plan and 14-year program are still in place after the failure of Measure A. Commenter further states that the document should state that TAMC officially designated State Route 68 as being LOS F in 1997. When LOS F is reached even one more average daily trip is a significant impact. Commenter states that the DEIR also needs to address the cumulative traffic impacts of the buildout of existing legal lots of record include Monterra, Pasadera, Tehama, Hidden Hills, San Benacio Oaks and the former Fort Ord.

See response to comment 3-13. TAMC's 2005 Regional Transportation Plan (RTP) was recently updated (February 2010). The 2010 RTP includes minor changes to TAMC's lists of financially constrained and financially unconstrained transportation projects. The project lists are maintained and regularly updated regardless of Measure A.

Section 3.10 of the DEIR (Traffic and Circulation) has been revised and replaced in its entirety (RDEIR, December 2009). All comments received on the new traffic section and RDEIR are responded to in this Final EIR.

Response to Comment 17-7

The comments address safety and traffic speeds along Meyer Road and San Benancio Road.

Comment noted. Section 3.10 of the DEIR (Traffic and Circulation) has been revised and replaced in its entirety (RDEIR, December 2009). All comments received on the new traffic section and RDEIR are responded to in this Final EIR.

The revised traffic section (RDEIR 3.10) addresses these issues raised in the comment, specifically within Impact 3.10-2, 3.10-3 and 3.10-4, and pages 3.10-32 through 3.10-34.

Letter 18



Linda Adams
Secretary for
Environmental
Protection

California Regional Water Quality Control Board

Central Coast Region



Arnold Schwarzenegger
Governor

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December 3, 2008

Taven Kinison Brown
County of Monterey Resource Management Agency
Planning Department
168 W. Alisal Street, 2nd Floor
Salinas, CA 93901

Mr. Brown:

**RE: PLN No. 000696 Subdivision Draft EIR, Harper Canyon / Encina Hills, County
SCH# 2003071157**

WASTEWATER

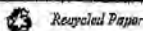
Thank you for the opportunity to review the Harper Canyon / Encina Hills draft EIR. The Central Coast Regional Water Quality Control Board (Water Board) is a responsible agency under the California Environmental Quality Act (CEQA). Water Board staff have reviewed available data for the California Utilities Service (CUS) wastewater treatment facility which indicates connection of the proposed development to the CUS facility is generally favorable. The CUS wastewater treatment plant is currently running at about 75% of its average daily design hydraulic capacity of 300,000 gallons per day (gpd) and an unspecified amount of disposal capacity is available within the existing spray field disposal areas (upwards of approximately 30% depending on weather conditions). The proposed Harper Canyon/Encina Hills subdivision will produce additional average daily flows of approximately 4,250 gpd (based on 250 gallons per day per household). This equates to an increase in hydraulic loading of about 1.4% of the average daily design capacity of the wastewater treatment plant. Based on review of the EIR, there appears to be no issues associated with increased hydraulic loading as long as the collection system is adequately sized to handle the proposed additional flows. The Water Board has no information regarding the hydraulic capacity of the collection system. Collection system capacity should be evaluated prior to implementation of the proposed project to avoid overflows and spills.

18-1

Although tie-in of the proposed development project to the CUS facility appears to be favorable from a treatment plant hydraulic loading standpoint, the Water Board has concerns regarding the wastewater treatment plant capacity. Waste Discharge Requirements Order No. R3-2007-0008 contains nitrate effluent limitations that the CUS facility is having difficulty achieving under normal operating conditions. Treatment performance becomes increasingly difficult to maintain under increased hydraulic loading conditions. Therefore, any additional flows to the wastewater treatment plant

18-2

California Environmental Protection Agency



Letter 18 Continued

Mr. Brown

2 of 4

December 3, 2008

may result in decreased effluent quality, particularly with regard to effluent biochemical oxygen demand (BOD) and total nitrogen loading. Nitrogen loading to and the buildup of nitrate within the Salinas Valley groundwater basin is an increasing problem.

As with many domestic or municipal wastewater treatment facilities, the CUS facility is also having difficulty meeting its effluent limitations for total dissolved solids, chloride, and sodium (salts). This is primarily an artifact of poor water supply quality [hard water] and the subsequent domestic use of self regenerating water softeners. The build up of salts within the Salinas Valley groundwater basin is a growing problem.

The Water Board is generally in favor of the connection of the proposed project to the CUS facility, as compared to other potential alternatives such as the development of another community wastewater treatment system or use of individual onsite septic systems, given the following issues are addressed as part of the project:

- 1) A wastewater treatment system evaluation is conducted to determine and implement appropriate upgrades to the CUS facility to improve the treatment system performance (i.e., BOD removal and nitrification/denitrification).
- 2) A collection system evaluation is conducted to determine if the existing collection system capacity is adequate to convey the proposed flows and whether upgrading the collection system is necessary.
- 3) A prohibition against the use of self-regenerating water softeners is established as a condition of project approval and institutional controls are put in place to maintain compliance as appropriate under current laws restricting such use.
- 4) The project is required to implement water conservation measures to the maximum extent practicable to minimize hydraulic loading to the treatment facility and facilitate the sustainable use of available water supplies.

STORMWATER

Water Board staff also understands that the project proposes the development of 17 lots on a 164-acre subdivision with one 180-acre remaining parcel. We recommend you require Low Impact Development (LID) design techniques for the proposed project. LID or equivalent methods are necessary to mitigate stormwater runoff pollution and stream erosion and sedimentation impacts that result from significantly increased downstream flows due to introduced impermeable surfaces.

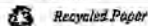
Your project may be subject to the NPDES Phase 2 Municipal Stormwater Permit (Permit). The Permit requires new development and redevelopment projects to reduce runoff volume and pollutant load to the Maximum Extent Practicable (MEP). In most cases, MEP standards are not met by conventional site layouts, construction methods, and storm water conveyance systems with "end of pipe" basins and treatment systems that do not address the changes in volume and rates of storm water runoff and urban

18-2
cont

18-3

18-4

California Environmental Protection Agency



Letter 18 Continued

Mr. Brown

3 of 4

December 3, 2008

pollutants (including thermal pollution). LID practices meet the MEP standard and are more effective at reducing pollutants in storm water runoff at a practicable cost.

LID is an alternative site design strategy that uses natural and engineered infiltration and storage techniques to control stormwater runoff where it is generated. The objective is to disperse LID devices uniformly across a site to minimize runoff. LID serves to preserve the hydrologic and environmental functions altered by conventional stormwater management. LID methods provide temporary retention areas, increase infiltration, allow for pollutant removal and control the release of stormwater into adjacent waterways (Anne Gullette, Whole Building Design Guide). For further reference please see:

<http://www.epa.gov/owow/nps/lid/>

or

<http://www.lowimpactdevelopment.org/>

Eight Common LID Practices Include:

1. Reduced and Disconnected Impervious Surfaces
2. Native Vegetation Preservation
3. Bioretention
4. Tree Boxes to Capture and Infiltrate Street Runoff
5. Vegetated Swales, Buffers, and Strips
6. Roof Leader Flows Directed to Planter Boxes and Other Vegetated Areas
7. Permeable Pavement
8. Soil Amendments to Increase Infiltration Rates

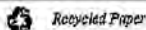
Water Board staff considers a project that meets the following descriptions (inclusive) to be a "Low Impact Development" project:

A. Runoff Volume Control. The pre-development stormwater runoff volume is maintained by a combination of minimizing the site disturbance, and providing distributed retention BMPs. Retention BMPs are structures that retain the excess (above pre-development project volumes) runoff resulting from the development for the design storm event (2-, 10-, and 25-year, 24-hour duration storm). Note that "retention" is required, as opposed to "detention"; retention may be achieved using infiltration methods, and capture-for-use methods.

B. Peak Runoff Rate Control. Low impact development practices maintain the pre-development peak runoff discharge rate. This is done by maintaining the pre-development time of concentration and then using retention and/or detention BMPs (e.g., rain gardens, open drainage systems, etc.) that are distributed throughout the site, to control runoff volume. If retention practices are not sufficient to control the peak runoff rate, detention practices may be added.

C. Flow Frequency Duration Control. Since low impact development emulates the pre-development hydrologic regime through both volume and peak runoff rate controls,

California Environmental Protection Agency



18-4
cont

Letter 18 Continued

Mr. Brown

4 of 4

December 3, 2008

the flow frequency and duration of post-development conditions must be identical (to the greatest extent possible) to those of pre-development conditions. Maintaining pre-development hydrologic conditions will minimize or eliminate potential impacts on downstream habitat due to erosion and sedimentation.

D. Existing Groundwater Conditions. Historic underground tank and chemical spill sites may exist in the vicinity of the proposed development. Although we generally prefer infiltration, LID infiltration practices implemented in proximity to subsurface discharges have the potential to exacerbate existing soil and groundwater contamination. LID techniques that infiltrate stormwater should not be used in locations that could result in increased mobilization of contaminants in soil and groundwater. The state-wide GeoTracker database provides the location and status of most of our groundwater cleanup sites in the vicinity of your proposed project. Additionally, the Department of Toxic Substances Control (DTSC) also has a database that identifies the location of cleanup sites under DTSC regulatory purview. To ensure that LID infiltration features or other components of this project do not exacerbate soil and groundwater contamination, please determine if cleanup sites are present in the vicinity of this proposed project using the GeoTracker and Envirostor databases at:

<https://geotracker.waterboards.ca.gov/>

and

<http://www.envirostor.dtsc.ca.gov/public/>

18-4 cont

Please consider these comments in the approval process for this project. If you have questions regarding wastewater, contact Matt Keeling at (805) 549-3685 or Jennifer Epp at (805) 594-6181 for questions regarding stormwater.

Sincerely,


for Roger W. Briggs
Executive Officer

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California Environmental Protection Agency



Recycled Paper

2.0 RESPONSE TO COMMENTS

COMMENT LETTER #18- CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

Response to Comment 18-1

The Regional Water Quality Control Board (RWQCB) states that the California Utility System (CUS) wastewater treatment plant (WWTP) is currently running at about 75% of its average daily design hydraulic capacity of 300,000 gallons per day (gpd) and disposal capacity is available within the existing spray field. The proposed project would increase the hydraulic load by approximately 1.4% of the average daily design capacity and that there appears to be no issues associated with increased hydraulic loading as long as the collection system is adequately sized. The RWQCB recommends that the collection system capacity be evaluated prior to implementation of the proposed project to avoid overflows and spills

Implementation of mitigation measure MM 3.9-4 requires that the applicant prepare and submit wastewater collection improvement plans and calculations to demonstrate adequate capacity. These plans are subject to review and approval by CUS and the County of Monterey and would ensure that the collection system has adequate capacity to prevent overflows and spills.

The County has modified mitigation measure MM 3.9-4 to further ensure that there is sufficient capacity as follows:

MM 3.9-4 Prior to filing of the Final Subdivision Map, Monterey County ~~Division~~ of Environmental Health Bureau shall require that the project applicant prepare and submit for review and approval wastewater collection improvement plans and calculations prepared by a registered engineer that demonstrate adequate capacity. The wastewater collection improvement plans shall be subject to approval by California Utility Service, Monterey Bay Unified Air Pollution Control District, and the County of Monterey. Upon review of the design, the project applicant shall be required to enter into a wastewater main extension agreement with California Utility Service.

In addition, prior to approval of any building permits, the applicant shall verify that there is sufficient treatment capacity in the California Utilities Service, Inc. (CUS) wastewater treatment facility to address the wastewater needs of the proposed project. The project applicant shall submit proof to Monterey County that the existing wastewater treatment plant is meeting the current effluent limitations as required per Waste Discharge Requirement Order No. R3-2007-0008. If the CUS facility exceeds its permitted capacity, then the County of Monterey would not issue a building permit until such time as the CUS has attained a revised permit from the Regional Water Quality Control Board.

Response to Comment 18-2

The RWQCB states that they have concerns regarding the WWTP effluent quality since CUS is having difficulty achieving require nitrate effluent limitations set by the Waste Discharge Requirements Order No. R3-2007-0008. Additional flow may result in decreased effluent quality.

Comment noted. Since the DEIR was prepared, the RWQCB has reviewed and reissued the permit for the CUS WWTP (R3-2007-0008). As part of the permit renewal process, new regulations and limitations regarding effluent were enacted.

California Utility Service has been modifying the existing WWTP process to meet these limitations, especially for nitrates. According to Tom Adcock, CUS, they are currently trying to reach the new nitrate limitations by altering the timing of anoxic state, which denitrifies the effluent, during the treatment process. If altering the existing facility treatment process does not allow them to meet the new nitrate limitations, CUS plans on implementing mechanical means to remove the excess nitrates. Implementation of a mechanical process would be funded through an increase in monthly fees to all users and possibly an increase to the “inclusionary” fee for new development requesting to be added to the facility, such as the proposed project. The RWQCB has been working with CUS to get their WWTP in compliance with the new regulations. None of the effluent violations have triggered any penalties they are continuing to work with the CUS towards meeting the new limitations. In order to ensure that the nitrate limitations are met prior to the proposed project increasing flow to the WWTP, mitigation measure MM 3.9-4 has been revised as noted in response to comment 8-2 and as noted in 18-1 above.

Response to Comment 18-3

The RWQCB is generally in favor of the connection of the proposed project to the CUS facility, as compared to other potential alternatives such as the development of another community wastewater treatment system or use of individual onsite septic systems provided the following issues are addressed as part of the proposed project:

- 1) A wastewater treatment system evaluation is conducted to determine and implement appropriate upgrades to the CUS facility improve the treatment system performance.*
- 2) A collection system evaluation is conducted to determine if the existing collection system capacity is adequate to convey the proposed flows and whether upgrading the collection system is necessary.*
- 3) A prohibition against the use of self-regenerating water softeners is established as a condition of the project approval and institutional controls are put in place to maintain compliance as appropriate under current laws restricting such use.*

2.0 RESPONSE TO COMMENTS

- 4) *The project is required to implement water conservation measures to the maximum existing practicable to minimize hydraulic loading to the treatment facility and facilitate the sustainable use of available water supplies.*

Comment noted. See response to comment 18-2. Implementation of mitigation measure MM 3.9-4 as revised would ensure that the CUS facility is in compliance with effluent limitations.

Salt, especially from sodium chloride water softeners, damages plants by restricting their root absorption. Existing state statutes governing residential water softeners are contained in the Sections 116775 through 1167953 of the California Health and Safety Code regulate the use of residential water softeners with respect to Senate Bill 1006 and Assembly Bill 334. Any newly installed residential self-regenerative water softener must have its regeneration activated by a demand control device that detects imminent exhaustion of the softening material (salt). As of January 2002, water softeners had to be certified by a third party to have a salt efficiency rating of 4,000 grains of hardness removed per pound of salt used. The proposed project would be subject to these regulations.

In addition, local agencies may regulate water softeners by ordinance to limit or prohibit the use of a water softener if an independent study that shows such regulation is a “necessary means” of achieving compliance with the water reclamation requirements or the master reclamation permit issued by a California regional water quality control board. California Utility Service is a private agency that cannot approve or enforce ordinances. Although Monterey County currently has no ordinance in place to limit or prohibit the use of a water softeners in areas connected to wastewater treatment plants, Monterey County Environmental Health Bureau strongly discourages the use of self-regenerating water softeners and restricts their use for projects with individual septic systems. The proposed project shall be conditioned to prohibit the use and/or installation of self-regenerating water softeners which would minimize contribution toward the build up salt within the Salinas Valley Groundwater Basin.

Standard conditions of approval require that the project is in compliance with Ordinance No. 3932, pertaining to mandatory water conservation regulations which would minimize hydraulic loading associated with the proposed project.

Response to Comment 18-4

The RWQCB recommends that Low Impact Development (LID) design techniques be implemented to mitigate stormwater runoff pollution and stream erosion and sedimentation impacts.

Implementation of mitigation measure MM 3.5-6 would require that the project applicant prepare a Storm Water Pollution Prevention Plan (SWPPP) in accordance with the NPDES Construction Activities general permit which would include an erosion control plan in accordance with Chapter 16.12 of *Monterey County Code* and construction-phase

housekeeping measures for control of contaminants. Implementation of mitigation measure MM 3.7-2 requires that a civil engineer prepared final drainage plan that limits storm water runoff generated by the development of impervious surfaces. Implementation of mitigation measure MM 3.7-3 requires that the storm drainage system design, required under mitigation measure MM 3.7-2, includes, but is not limited to the following components: grease/oil separators; sediment separation; vegetative filtering to open drainage conveyances and retention basins; and on-site percolation of as much run-off as feasible, including diversion of roof gutters to French drains or dispersion trenches, dispersion of road and driveway runoff to vegetative margins, or other similar methods.

These mitigation measures are consistent with the LID alternative site design techniques, which use natural and engineered infiltration and storage to filter stormwater runoff where it is generated. In addition see revisions made to mitigation measure MM 3.7-3 in response to comment 13-19.

Letter 19



ARNOLD SCHWARZENEGGER
GOVERNOR

STATE OF CALIFORNIA
GOVERNOR'S OFFICE of PLANNING AND RESEARCH
STATE CLEARINGHOUSE AND PLANNING UNIT



CYNTHIA BRYANT
DIRECTOR

December 9, 2008

Taven Kinison Brown
Monterey County Planning and Building Inspection
168 West Alisal Street, 2nd Floor
Salinas, CA 93901

Subject: Harper Canyon / Encina Hills Subdivision
SCE#: 2003071157

Dear Taven Kinison Brown:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. The review period closed on December 5, 2008, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

Please call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

Sincerely,

Terry Roberts
Director, State Clearinghouse

19-1

1400 10th Street P.O. Box 3044 Sacramento, California 95812-3044
(916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

Letter 19 Continued

Document Details Report State Clearinghouse Data Base

SCH# 2003071157
Project Title Harper Canyon / Encina Hills Subdivision
Lead Agency Monterey County

Type EIR Draft EIR

Description The project applicant, Harper Canyon Realty, LLC has submitted to the Co. of Monterey Resource Management Agency - Planning Department an application for a Combined Development Permit (PLN000696) for a Vesting Tentative Map in order to subdivide land pursuant to the Subdivision Map Act and the Monterey Co. Subdivision Ordinance (Title 19). The proposed project includes the subdivision of 344 acres into 17 lots on 164 acres with one 180 acre remainder parcel. The residential lots would have an average density of one dwelling unit per 9.64 acres within the subdivided area, as lots would range in size from 5.13 acres to 23.42 acres. Improved lots would be sold individually for the construction of homes. The proposed project also includes Use Permits for grading on slopes greater than 30 percent and for the removal of 79 Coast Live Oak trees. The project site includes a 180 acre remainder parcel. The project applicant has committed to donating approx. 154 acres of the remainder parcel by deeding the property to the Monterey Co. Parks Department as an expansion of the adjacent Toro Park pursuant to Section 66458(a)(2) of the Subdivision Map Act. No development is proposed on the remaining 26 acres of the remainder parcel at this time.

Lead Agency Contact

Name Taven Kinison Brown
Agency Monterey County Planning and Building Inspection
Phone 831-755-5025 **Fax**
email
Address 188 West Alisal Street, 2nd Floor
City Salinas **State** CA **Zip** 93901

Project Location

County Monterey
City Salinas
Region
Lat / Long 36° 34' 25.27" N / 121° 42' 18.86" W
Cross Streets San Bernardino Road, SR68
Parcel No. 416-B11-001-000 and 416-B11-002-000
Township **Range** **Section** **Base**

Proximity to:

Highways 88
Airports
Railways
Waterways El Toro Creek
Schools San Benancio Middle School
Land Use Z: Rural Density Residential/Design Control District/Low Density Residential; GP: Rural Density Residential/Low Density Residential

Project Issues Archaeologic-Historic; Geologic/Seismic; Noise; Public Services; Traffic/Circulation; Water Supply; Landuse; Aesthetic/Visual; Cumulative Effects; Drainage/Absorption; Sewer Capacity; Soil Erosion/Compaction/Grading; Air Quality; Flood Plain/Flooding; Schools/Universities; Solid Waste; Vegetation; Water Quality; Wetland/Riparian; Wildlife

Reviewing Agencies Resources Agency; Department of Conservation; Department of Fish and Game, Region 4; Cal Fire; Department of Parks and Recreation; Department of Water Resources; California Highway Patrol; Caltrans, District 5; Department of Housing and Community Development; Regional Water Quality Control Board, Region 3; Department of Toxic Substances Control; Native American Heritage

Note: Blanks in data fields result from insufficient information provided by lead agency.

Letter 19 Continued

Document Details Report State Clearinghouse Data Base

Commission

Date Received 10/21/2008 *Start of Review* 10/21/2008 *End of Review* 12/05/2008

Note: Blanks in data fields result from insufficient information provided by lead agency.

Letter 19 Continued



ARNOLD SCHWARZENEGGER
GOVERNOR

STATE OF CALIFORNIA
GOVERNOR'S OFFICE of PLANNING AND RESEARCH
STATE CLEARINGHOUSE AND PLANNING UNIT



CYNTHIA BRYANT
DIRECTOR

December 9, 2008

Taven Kinison Brown
Monterey County Planning and Building Inspection
168 West Alisal Street, 2nd Floor
Salinas, CA 93901

Subject: Harper Canyon / Encina Hills Subdivision
SCH#: 2003071157

Dear Taven Kinison Brown:

The enclosed comment (s) on your Draft EIR was (were) received by the State Clearinghouse after the end of the state review period, which closed on December 5, 2008. We are forwarding these comments to you because they provide information or raise issues that should be addressed in your final environmental document.

The California Environmental Quality Act does not require Lead Agencies to respond to late comments. However, we encourage you to incorporate these additional comments into your final environmental document and to consider them prior to taking final action on the proposed project.

Please contact the State Clearinghouse at (916) 445-0613 if you have any questions concerning the environmental review process. If you have a question regarding the above-named project, please refer to the ten-digit State Clearinghouse number (2003071157) when contacting this office.

Sincerely,

Terry Roberts
Senior Planner, State Clearinghouse

Enclosures
cc: Resources Agency

1400 10th Street P.O. Box 3044 Sacramento, California 95812-3044
(916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

2.0 RESPONSE TO COMMENTS

COMMENT LETTER #19- GOVERNOR'S OFFICE OF PLANNING AND RESEARCH

Response to Comment 19-1

Commenter acknowledges submittal of DEIR to selected state agencies and that no comments were received from those agencies prior to the review period end dated of December 5, 2008. Commenter further acknowledges that compliance with the State Clearinghouse review requirements for this DEIR have been met pursuant to CEQA.

Comment noted. No response necessary.

Letter 20

STATE OF CALIFORNIA

Arnold Schwarzenegger, Governor

NATIVE AMERICAN HERITAGE COMMISSION

815 CAPITOL MALL, ROOM 984
SACRAMENTO, CA 95814
(916) 683-4082
(916) 657-5390 - Fax



October 23, 2008



Taven Kinison Brown
County of Monterey Resource Management Agency
168 W. Alisal St., 2nd Floor
Salinas, CA 93901

RE: SCH#2008071167 Harper Canyon/Encina Hills Subdivision DEIR: Monterey County.

Dear Mr. Brown:

The Native American Heritage Commission (NAHC) has reviewed the Notice of Completion (NOC) referenced above. The California Environmental Quality Act (CEQA) states that any project that causes a substantial adverse change in the significance of an historical resource, which includes archeological resources, is a significant effect requiring the preparation of an EIR (CEQA Guidelines 15064(b)). To comply with this provision the lead agency is required to assess whether the project will have an adverse impact on historical resources within the area of project effect (APE), and if so to mitigate that effect. To adequately assess and mitigate project-related impacts to archeological resources, the NAHC recommends the following actions:

- ✓ Contact the appropriate regional archaeological information center for a record search. The record search will determine:
 - If a part or all of the area of project effect (APE) has been previously surveyed for cultural resources.
 - If any known cultural resources have already been recorded on or adjacent to the APE.
 - If the probability is low, moderate, or high that cultural resources are located in the APE.
 - If a survey is required to determine whether previously unrecorded cultural resources are present.
- ✓ If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure.
 - The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological information center.
- ✓ Contact the Native American Heritage Commission for:
 - A Sacred Lands File Check. USGS 7.5 minute quadrangle name, township, range and section required.
 - A list of appropriate Native American contacts for consultation concerning the project site and to assist in the mitigation measures. Native American Contacts List attached.
- ✓ Lack of surface evidence of archeological resources does not preclude their subsurface existence.
 - Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archeological resources, per California Environmental Quality Act (CEQA) §15064.5(f); in areas of identified archeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities.
 - Lead agencies should include in their mitigation plan provisions for the disposition of recovered artifacts, in consultation with culturally affiliated Native Americans.
 - Lead agencies should include provisions for discovery of Native American human remains in their mitigation plan. Health and Safety Code §7050.5, CEQA §15064.5(e), and Public Resources Code §5007.86 mandates the process to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery.

20-1

Sincerely,

Katy Sanchez
Katy Sanchez
Program Analyst

CC: State Clearinghouse

2.0 RESPONSE TO COMMENTS

COMMENT LETTER #20- NATIVE AMERICAN HERITAGE COMMISSION

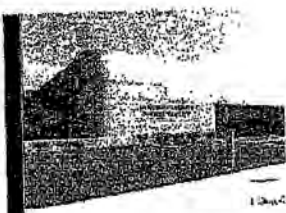
Response to Comment 20-1

Commenter recommends several actions be taken including: contacting the appropriate regional archaeological information center for a record search; if an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey; contact the Native American Heritage Commissions for a Sacred Lands file check and a list of appropriate Native American contact for consultation; lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archeological resources per CEQA Section 15064.5(f), provisions for the disposition of recovered artifacts, and provisions for discovery of Native American human remains per Health and Safety Code Section 7050.5, CEQA Section 15064.5(e) and Public Resources Code Section 5097.98.

Comment noted. As noted on page 3.4-1 of the DEIR, Archaeological Consulting prepared a Preliminary Cultural Resources Reconnaissance report in 1993 on behalf of the project applicant. This report was peer reviewed by John Nadolski, M.A., a cultural resource specialist with PMC in November 2005. Based on the peer review, an updated database search and a pedestrian survey were performed by PMC in May 2006. The Preliminary Cultural Resources Reconnaissance, peer review letter, and the updated archaeological and historical investigation prepared by PMC are included in Appendix D.

Implementation of mitigation measure MM 3.4-1 would reduce the potential project and cumulative impact to undiscovered cultural, archaeological, historical, and/or paleontological resources to a less than significant impact by halting operations in the event of a discovery and assessing the find in accordance with Section 7050.5 of the California Health and Safety Code.

Letter 21



OFFICE OF THE SHERIFF MONTEREY COUNTY, CALIFORNIA

December 9, 2008

Salinas Station
1414 Natividad Road
Salinas, CA 93906

Melody Gillette, Senior Planner
Monterey County Planning & Building Inspection Department
168 West Alisal Street, 2nd Floor
Salinas, CA 93901

Mr. Melody Gillette,

This office has thoroughly reviewed the Administrative Draft Environmental Impact Report for the **HARPER CANYON (ENCINA HILLS) SUBDIVISION PLN000696**.

Thank you for the opportunity to provide departmental input. The Sheriff's Office provides the following comments regarding the subject Draft EIR:

1. Page 3.9-1 PUBLIC SERVICES AND UTILITIES- Fire Protection Service and Police Protection Service, states implementation of the proposed project would result in increased demand on fire protection and police protection service. However, the increase in demand on police and fire services would be considered a **less than significant impact**. The Sheriff's Office concurs with this statement.

21-1

2. The Sheriff's Office is currently, and has in recent years, been operating above 75% of design capacity. The explanation- A reduction in personnel and funding necessary to maintain required operating levels. This office has an expectation of services funding from a portion of the property tax, pursuant to the Mello-Roos Community Facilities Act of 1982.

21-2

No further comments.

Sincerely,

David Crozier
Sheriff's Office
Crime Prevention Specialist

Mike Kanalakis, Sheriff - Coroner - Public Administrator's Office
(831) 755-3700 1414 Natividad Road, Salinas, CA 93906 www.co.monterey.ca.us/sheriff

2.0 RESPONSE TO COMMENTS

COMMENT LETTER #21- OFFICE OF THE SHERIFF – MONTEREY COUNTY

Response to Comment 21-1

Commenter states that they concur with the finding that the proposed project would have a less than significant impact on police and fire services.

Comment noted. No response necessary.

Response to Comment 21-2

Commenter states that the Sheriff's Office is currently, and has in recent years, been operating above 75% of design capacity due to a reduction in personnel and funding necessary to maintain required operating levels. They have an expectation of services funding from a portion of the property tax, pursuant to the Mello-Roos Community Facilities Act of 1982.

Comment noted. The proposed project would develop 17 residential units that would contribute towards funding through property tax.

Letter 22 (RDEIR)



MONTEREY BAY
Unified Air Pollution Control District
serving Monterey, San Benito, and Santa Cruz counties

Air Pollution Control Officer
Richard A. Stedman

24580 Silver Cloud Court • Monterey, California 93940 • 831/647-9411 • FAX 831/647-8501

DISTRICT BOARD MEMBERS

CHAIR:
Simon Salinas
Monterey County

VICE CHAIR:
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County Cities

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Monterey County

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County

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Monterey
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Ellen Pirie
Santa Cruz
County

Jane Parker
Monterey County

Reb Monaco
San Benito
County

Richard Ortiz
South Monterey
County Cities

Manuel Bersamin
Santa Cruz
County Cities

Sent Electronically to:
ceqacomment@co.monterey.ca.us
Original Sent by First Class Mail

February 1, 2010

Ms. Elisa Cavaliere, Associate Planner
County of Monterey Resource Management Agency
Planning Department
168 West Alisal Street, 2nd Floor
Salinas, CA 93901

SUBJECT: HARPER CANYON SUBDIVISION DEIR /
REVISED TRANSPORTATION AND CIRCULATION SECTIONS

Dear Ms. Cavaliere:

The Air District has no comments on the project.

Thank you for the opportunity to review the document.

Sincerely,

Jean Getchell
Supervising Planner
Planning and Air Monitoring Division

22-1

2.0 RESPONSE TO COMMENTS

2.3 RESPONSE TO INDIVIDUAL COMMENTS ON RDEIR

RESPONSE TO LETTER 22 – MONTEREY BAY UNIFIED AIR POLLUTION CONTROL DISTRICT

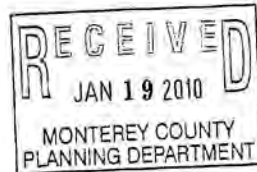
Response to Comment 22-1

The Air District has reviewed the revised traffic section within the RDEIR and has no comments at this time.

Letter 23 (RDEIR)

LandWatch
monterey county

Post Office Box 1876
Salinas, CA 93902-1876
Salinas Phone: 831-422-9390
Monterey Phone: 831-375-3752
Website: www.landwatch.org
Email: landwatch@mcclw.org
Fax: 831-422-9391



January 14, 2010

Taven Kinison Brown
168 West Alisal St., 2nd Floor
Salinas, CA 93901

Subject: Recirculated DEIR (RDEIR) for the Harper Canyon Subdivision

Dear Mr. Kinison Brown:

LandWatch Monterey County has reviewed the RDEIR and has the following comments:

1. Implementation of MM 3.10-1 requiring payment to complete the Caltrans Project Study Report for the 2.3 mile "State Route 68 Commuter Improvements" program is found to reduce the project's impacts to less than significant on State Route 68/Corral de Tierra intersection, State Route 68/San Benancio Road intersection and State Route 68 segment between Corral de Tierra and San Benancio Road. Please explain how funding a study would reduce impacts to less than significant. Also, please identify the schedule for constructing the Improvements program. 23-1
2. Mitigation Measure 3.10-6 requires the applicant to pay TAMC's Regional Development Impact Fees in effect at the time of building permit applications for future development on the project site. This measure is found to reduce the project's cumulative impacts to less than significant. Cumulative impacts would have significant adverse impacts on several intersections west of the "State Route 68 Commuter Improvements" program. There are no projects identified in TAMC's Strategic Expenditure Plan that address this segment of State Route 68. Please explain how funding contributions to projects that are not identified as potential projects in TAMC's plan and have no schedule or funding for construction would reduce cumulative impacts to less than significant. 23-2

Thank you for the opportunity to review the document.

Sincerely,

Amy L. White, Executive Director
LandWatch Monterey County

2.0 RESPONSE TO COMMENTS

Response to Letter 23 – Land Watch Monterey County

Response to Comment 23-1

Comment asks how the Highway 68 Commuter Improvements Project Study Report would mitigate project impacts.

The Harper Canyon/Encina Hills project contributes 17 PM peak hour trips to the Highway 68 corridor, which consists of several roadway segments and intersections that already operate at deficient LOS conditions. As described in mitigation measures MM 3.10-1 and MM 3.10-6, the applicant would be required to pay their proportionate fair share, as calculated by the County, towards the “State Route 68 Commuter Improvements” through payment of the TAMC Regional Development Impact Fee (RDIF) in effect at that time. Construction of the “State Route 68 Commuter Improvements” would widen a 2.3 mile section of State Route 68, which would shorten the travel time on State Route 68 in both directions; improve intersection operations at two locations from unacceptable to acceptable levels; reduce the length of the queue on westbound State Route 68 east of San Benancio Road during the weekday A.M. peak hour; improve safety along State Route 68; and eliminate the observed trend of drivers cutting through Toro Park Estates to re-enter State Route 68 at Torero Drive during the weekday A.M. peak hour. However, even with construction of the improvements the project will have significant and unavoidable impacts as noted under Impact 3.10-1.

Response to Comment 23-2

Comment asks how payment of regional transportation impact fees mitigate for cumulative impacts.

The comment is correct that the project would have impacts on several intersections and roadway segments west of the Highway 68 Commuter Improvement project. Those impacts are identified and disclosed on page 3.10-31 of the RDEIR as a direct implication of the project.

The treatment of cumulative impacts and application of regional mitigation works a little differently than project-specific impacts and project-level responsibility. Mitigation Measure 3.10-6, the payment of the TAMC Regional Development Impact Fee, is recognized by the County of Monterey, TAMC and Caltrans as the appropriate mechanism for mitigating cumulative, regional traffic throughout the regional roadway system in Monterey County. The regional roadway network is vast, and the projects contributing to trips and vehicle miles traveled (VTM) on that network originate from a very large geographic area. The payment of regional impact fees is a recognized and acceptable mitigation strategy under CEQA to address cumulative impacts, as those fees are applied to a wide range of projects and improvements over time. As noted above, several impacts along the Highway 68 corridor are recognized at the project level as remaining significant and unavoidable, since

the Highway 68 Commuter Improvements Project would not extend to these segments and intersections.

2.0 RESPONSE TO COMMENTS

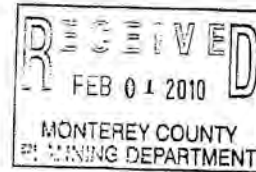
Letter 24 (RDEIR)

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY

ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF TRANSPORTATION

50 HIGUERA STREET
SAN LUIS OBISPO, CA 93401-5415
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January 28, 2010

MON-068-13.33
SCH# 2003071157

Taven Kinison Brown
Monterey County Planning Department
168 West Alisal, 2nd Floor
Salinas, CA 93901

Dear Mr. Brown:

COMMENTS TO HARPER CANYON/ENCINA HILL RECIRCULATED DRAFT EIR

The California Department of Transportation (Caltrans), District 5, Development Review, has reviewed the above referenced project and offers the following comments in response to your summary of impact.

Caltrans is glad to see the project being conditioned to mitigate their cumulative impacts by payment of the Transportation Agency for Monterey County Regional Impact Fee Program. There are, however, some technical errors which lead to erroneous conclusions in the traffic study as it relates to project-specific impacts. The following points summarize those problems.

1. Road Segment Analysis. The RDEIR failed to fully analyze roadway segments using Highway Capacity Manual (HCM) methodology. HCM is the correct method to accurately account for environmental conditions specific to this corridor and should be used consistently for analysis. Further, the RDEIR misrepresented the HCM. For example, Exhibit 6 Level of Service (LOS) values are based on average travel speed, found in Chapter 20 of the HCM, for a Class 1 Highway (HCM, 20-3). However, the HCM/LOS criterion is based on the "worst case" of two parameters, those being Percent Time-Spent-Following and Average Travel Speed. In order to claim HCM compliance, both criteria need to be met. The traffic analysis only partially complied with HCM methodology, allowing for "picking and choosing" of ideal designations. 24-1
2. LOS Volumes. Appendix K in the traffic study was utilized for the LOS volumes when it was only intended for planning purposes. Note #1 states: "The above threshold volumes for preliminary planning purposes only." Planning-level methodologies cannot be relied on for use in the actual traffic study findings since they only reflect ideal characteristics and not real-world scenarios. 24-2
3. Highway 68 Designation. Highway 68 was referred to as a highway, yet analyzed as an urban street. As seen in Appendix P, the traffic study analyzed Highway 68 with Trafficware Synchro arterial analysis software. The Traffic Signal Software - User guide subsection Arterial Level of Service Report states: "This report mirrors the reports used in the Arterials section of the HCM, 24-3

"Caltrans improves mobility across California"

Letter 24 Continued

Harper Canyon/Encina Hills RDEIR
January 28, 2010
Page 2

Chapter 15" URBAN STREETS (Synchro Studio, 15-20). Chapter 15, titled Urban Streets, of the HCM states "methodology provides the framework for the evaluation of urban streets" (HCM, 15-1). Analyzing the highway as an arterial manipulates the output, since lower speeds are acceptable on arterials. To be compliant with the current state-of-practice, it should be analyzed again using the correct methodology. Two references: "State Route 68 (Monterey-Salinas Highway) is a two-lane rural highway connecting State Route 1 in Monterey and SR 101 in Salinas." (RDEIR, Page 8). As seen in Appendix P; roadways are analyzed as arterial roads based on urban street methodology. (RDEIR, Appendix P).

24-3
cont

4. Peak-Hour & Heavy Vehicle Factor Inconsistency. The majority of peak-hour factors used for existing conditions fall far below .92, while all of the future peak-hour factors are set to .92 exactly. This approach depicts existing conditions as being much worse than future conditions, even with the same volumes. State-of-practice is to use consistent peak-hour factors so that a direct relationship between added trips and impacts can be readily established. Evidence of such confusion can be seen when comparing existing with background, where background conditions (existing plus approved) have increased trips and a better LOS when compared to existing conditions alone. An example of the inconsistencies is found in Intersection #6 where LOS is depicted as 'F' for the existing eastbound movement with 998 vehicles, then is shown as LOS 'D' for the same movement in background conditions with 1096 vehicles. Consistency must be exercised when applying peak-hour values, and heavy vehicle factors due to their considerable influence on the LOS of any given facility.

24-4

If you have any questions, or need further clarification on items discussed above, please don't hesitate to call me at (805) 542-4751.

Sincerely,



JOHN J. OLEJNIK
Associate Transportation Planner
District 5 Development Review Coordinator

cc: Mark McCumsey (D5)
Mike Zeller (TAMC)

"Caltrans improves mobility across California"

2.0 RESPONSE TO COMMENTS

RESPONSE TO LETTER 24 – CALIFORNIA DEPARTMENT OF TRANSPORTATION, DISTRICT 5

Response to Comment 24-1

Road Segment Analysis Methodology.

The traffic study was completed based upon specific provisions of the Highway Capacity Manual (HCM). The HCM states that “LOS is defined in terms of both percent time-spent-following and average travel speed” (HCM, 20-3). The HCM does not, however, refer to the “worst case” of the two parameters. HCM Chapter 20 also states that:

The operational analysis methodologies in this chapter do not address two-lane highways with signalized intersection. Isolated signalized intersection on two-lane highways can be evaluated with the methodology in Chapter 16, “Signalized Intersections”. Two-lane highways in urban and suburban areas with multiple signalized intersections at spacings of 2.0 miles or less can be evaluated with the methodology of Chapter 15, “Urban Streets”. (HCM, 20-1, Limitations of the Methodology)

State Route 68 is a two-lane highway with signalized intersections, and all of the segments analyzed in this study are less than 2.0 miles long. Therefore the highway was analyzed under this criteria, as most relevant to the conditions in the field.

HCM Chapter 15, Urban Streets, states:

If field data on travel times are available, this framework can be used to determine the street’s level of service (LOS). Also, the direct measurement of the travel speed along an urban street can provide an accurate estimate of LOS without using the computations presented in this chapter. (HCM, 15-1)

In discussing the limitations of the Urban Streets methodology, the HCM identifies a number of conditions that can occur between intersections. The HCM states “Because any one of these conditions might have a significant impact on the speed of through traffic, the analyst should modify the methodology to incorporate the effects as best as possible.” (HCM, 15-1)

Analyzing the study segments as urban streets (with the average travel speeds provided in the HCM Exhibit 15-1) would have yielded level of service results that were significantly better than what is actually perceived in the field. As stated in Section 1.4 of the traffic study, it could be argued that State Route 68 is a hybrid between a two-lane rural highway and a signalized arterial.

Due to the unique characteristics of State Route 68, and based on discussions with Monterey County staff regarding analysis assumptions, it was determined that an alternative method for analyzing the road segment operations would be appropriate in this case. The

alternative method, which is based on GPS and GIS-based technology, is described in Section 1.4 of the report. The County believes this is actually a superior method than 2-lane rural highway level of service calculations based on volumes.

In summary, the analysis was conducted in consultation with Monterey County staff based upon the actual conditions and operations of this unique facility. Methods were not selectively picked from the HCM to guide the mask the analysis conclusions in any way.

In preparing this Final EIR, it should be noted that County staff, Caltrans District 5, TAMC, the EIR traffic consultant and EIR consultant convened a conference call to discuss Caltrans' comments. Although State Route 68 is a unique facility, Caltrans prefers (with County concurrence) that this facility should be described and characterized as a "rural highway". This characterization of the facility for descriptive and analysis purposes does not affect any conclusions as presented in the RDEIR. Page 3.10-1 of the RDEIR describes State Route 68 as a two-lane rural highway, consistent with Caltrans' comments. With this clarification, Caltrans is satisfied with the conclusions of the analysis and is not requesting additional or revised analysis.

Response to Comment 24-2

LOS Volumes and Methodologies.

The planning level threshold volumes in Appendix K of the traffic study were only used for the 4-lane mitigated level of service analyses. These were used because the methodology described in section 1.4 of the report was not suitable for determining levels of service with the 4-laning of State Route 68. It is readily apparent and generally recognized that widening State Route 68 to 4 lanes will achieve acceptable levels of service.

Response to Comment 24-3

Highway 68 Designation and Analysis Methodology.

Please see Response to Comment 24-1. Due to the unique characteristics of State Route 68, the highway was evaluated as a hybrid between a two-lane highway and a signalized arterial. Although lower speeds are acceptable on arterials, the traffic study did not use the lower speeds to evaluate the levels of service. The levels of service were based on the higher speeds of a two-lane highway as shown in Exhibit 20-2 of the HCM (HCM, 20-3), which are also included on Exhibit 6 of the traffic study. The County and addressed this issue directly with Caltrans District 5, and understands that State Route 68 should be characterized as a rural highway.

Response to Comment 24-4

Peak Hour and Heavy Vehicle Factor Inconsistency.

2.0 RESPONSE TO COMMENTS

The peak hour factors used for existing conditions were obtained from the actual counts in the field. In fact, the peak hour factors used for existing conditions were extremely conservative, as they were applied for each individual approach instead of the intersection as a whole, which represents a worst-case condition that doesn't actually exist. The peak hour factors for future conditions cannot be measured in the field. The HCM states *"In the absence of field measurements of peak-hour factor (PHF), approximations can be used. For congested conditions, 0.92 is a reasonable approximation for PHF."* (HCM, 10-8)

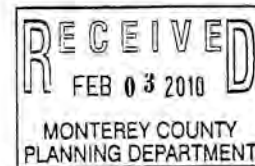
In response to this comment, a quick check was made to determine the difference in results if the existing overall intersection peak hour factor (0.91) was applied to Intersection #6 under existing AM and background + project AM conditions (i.e. the sample intersection cited in Comment 24-4). Using the same peak hour factor under these scenarios resulted in the same overall level of service as was reported in the traffic study (i.e., existing = E, background = F, background + project = F).

In addition, the delay on the eastbound approach was higher under existing conditions (50.5 seconds) than under background (45.7 seconds) and background + project (45.9 seconds) conditions, even though the same peak hour factor was applied to all three scenarios and the later scenarios had higher volumes. This is probably due to the reallocation of green time to the various movements as the traffic volumes increase or that the calculations use a weighted average to determine the average delay for all approaches.

For signalized intersections, the reported overall level of services is based on the average control delay per vehicle (in seconds per vehicle) for the entire intersection. The method used in the traffic study resulted in the proposed project increasing the delay at Intersection #6 by 2.1 seconds during the AM peak hour. After applying the existing overall peak hour factor of 0.91 to the background and background + project scenarios, the proposed project increases the delay at Intersection #6 by 2.0 seconds during the AM peak hour. The end result of changing the peak hour factors as discussed above would not change the conclusions of the traffic study.

Letter 25 (RDEIR)

Highway 68 Coalition
c/o 52 Corral de Tierra Rd
Salinas, CA 93908
Phone: 831-484-6659



Taven Kinison Brown, Planning Services Manager
County of Monterey Resource Management Agency-Planning Department
168 West Alisal, 2nd Floor
Salinas, CA 93901
Via fax: 831-757-9516, with hard copy to follow by U.S. Mail

Revised DEIR for the Harper Canyon (Encina Hills) Subdivision
County File #PLN000696
State Clearinghouse # 2003071157

PART 1 OF 2

February 1, 2010

Dear Mr. Kinison Brown

The Highway 68 Coalition has had the opportunity to review the above referenced document. We find significant problems with it. We wish to respond to some of the problems, via this letter and attach a previous submittal that has been modified. Please include the entirety of these in the final document along with substantive responses.

To begin, we find the dates selected for what is referred to as "Site Reconnaissance", that is, traffic counts to be faulty. The traffic counts were conducted between August 15, 2006 and August 29, 2006 (page 3.10-22). Three and one-half years ago. August is a poor month to take traffic counts in because:

1) School is out and the Washington Union School Districts three schools generate LOTS of parent traffic driving children to and from school. The school in lower San Benancio can be near gridlock during AM and PM peak hours, i.e., the beginning and ending of the school day. Additionally, Washington Union's schools are "magnet schools" whereby approximately 25% of the student population comes from outside of the District, necessitating them being driven to school. This is significant new information.

25-1

August 2006 was a poor time to get a representative traffic count because:

2) August 2006 saw a continuing shift of traffic from Salinas to the Monterey Peninsula OFF of Highway 68 and ONTO Imjin Road and the 12th Street Gate to Highway 1. This is through former Fort Ord. Although the development of the 1997 Fort Ord Reuse Plan has slowed down, leaving this alternative temporarily a less choke-free way to go, it

25-2

Letter 25 Continued

Page 2

won't last forever. Also the Fort Ord Reuse Authority (FOR A) reallocated developer impact fees in April 2005 with the monies to be spent "onsite", rather than "offsite" traffic mitigations that had been deemed necessary with the approval of the Plan. This is significant new information. FOR A sent less than \$300,000 as their forever total contribution to a Highway 68 County Account for mitigation for the build out of Fort Ord.

25-2 cont

3) The link to the approval of the 1997 Fort Ord reuse Plan was the Highway 68 South-West Alternative (aka Highway 68 Bypass) through former Fort Ord. The change, rather elimination, of the "game-plan" needs analysis in the RDEIR. This is significant new information. The South-West Alternative was the major traffic mitigation for approval of the 1997 FOR A Plan.

25-3

4) The Highway 68 Official Plan Lines (OPL) including the "Corral de Tierra Bypass" are not analyzed adequately in this document. This is significant information. The County has purchased some of the OPL. Some of it has been official traffic mitigation for previous subdivision and development approvals, on or adjacent to Highway 68.

25-4

5) The purported "significant new information" rationale explained on page 1-1 of this RDEIR is the adoption of the Regional Development Impact Fee by TAMC. This is the Transportation Agency for Monterey County. However, significant information is missing. For example the TAMC fee schedule for a Single-Family Residential Dwelling Unit in the Greater Salinas Area is \$2,640. (Fee Schedule by Land Use - with Phased Tier 3 Projects). This amount is woefully inadequate as evidenced by a simple phone call to our neighboring County of San Benito. Their fee schedule is \$23,900 per new Single Family Dwelling, in most places. (Rural areas are a bit less.) This fee amount has been in effect in neighboring San Benito County since June 11, 2001.

25-5

6) Page 3.10-2 Corral de Tierra Road
The RDEIR incorrectly lists the speed limit as 35 mph. The actual posted speed limit is 50 mph.

25-6

7) Page 3.10-2
The RDEIR states San Benancio Road's speed limit is 35 mph. The speed limit is only currently restricted near the Washington Union School. Speeding cars are a real problem coupled with parents parking alongside San Benancio Road to drop off, or wait to pick up schoolchildren. This traffic mess is ignored in this RDEIR, because the traffic counts were taken and analyzed for August 2006.

25-7

8) Page 3.10-2, Meyer Road
There is no explanation as to the history of this road or how a residential private road came to be owned by the proposed developer, Harper Canyon Realty LLC.

25-8

Letter 25 Continued

Page 3

9) Page 3.10-10, Widening State Route 68

Language needs to be changed to:

"Alternatively, a four lane freeway parallel to State Route 68 corridor was adopted as a major traffic mitigation for the 1997 Fort Ord Reuse Plan, and Official Plan Lines (OPL) for this were adopted and given to CalTrans."

Furthermore, the explanation that there is no funding source for this fails to explain both FOR A's April 2005 Reallocation of Developer Impact Fees (Fort Ord) and Monterey County failing to implement an adequate traffic impact fee twenty years ago. Further, it fails to mention Monterey county failing to implement traffic mitigations for developments like the 1,031 SFD Las Palmas Ranch Subdivision.

25-9

10) Page 3.10-10 State Route 68 Improvement Advisory Committee

The narrative fails to disclose that the Committee was formed as a direct result of a Condition of Approval for the Bishop Ranch (now Pasadera) Subdivision and Vesting Tentative Map. \$2 Million was to be collected as a traffic mitigation. How the \$2 Million was to be spent for improvements on existing Highway 68 was the purpose of the committee formation. The fact that \$2 Million was a "drop in the bucket" (the same bucket that was to be "a bailing bucket of help" per the developer's attorney) became apparent after many meetings at which point the Committee veered from its original purpose and individually voted on a selection of expensive remedies that were suggested by a CalTrans representative at the meeting. These selections were tabulated and a numbered list derived, a "wish list" of sorts. This Committee was formed of representatives of Homeowner's Associations along Highway 68, and a representative from the City of Monterey. However, not all Homeowner's Associations were included. For example there were no HOA Representatives from Corral de Tierra. Nor was there any "voting" representation of the hundreds of homes that do not belong to a Homeowner's Association along highway 68.

25-10

I attended these meetings as an audience member because the Highway 68 Coalition was denied membership. I do not recall discussion of widening a 2.3 mile section of State Route 68 between Toro Park and Corral de Tierra Road. There was some discussion of the Official Plan Lines that are ADJACENT to Highway 68 between Toro Park (Estates) and Corral de Tierra Road. This is called the Corral de Tierra Bypass and routes through traffic around the San Benancio and Corral de Tierra areas, so that the through traffic does not have to stop. Many, if not most of the HOA members were not aware of the Official Plan Lines.

11) Page 3.10-11 Regional Impact Fee Nexus Study Update

This section fails to identify the Corral de Tierra Bypass as it has been called since the OPL were adopted by Monterey County. The language is confusing, perhaps intentionally so.

25-11

12) Page 3.10-25 announces that both the San Benancio and Corral de Tierra intersections would operate at LOS C during both the AM and PM peak hours.

25-12

Letter 25 Continued

Page 4

a) When, in August?
b) With Fort Ord not built out?
c) Packing more cars into a wider intersection theoretically improves LOS INSIDE the intersection, if one is focusing on the intersection with a traffic methodology of Intersection LOS.

25-12 cont

13) Page 3.10-30 Mitigation Measure (MM 3.10-1)
It states, "the project applicant shall comply with ONE (emphasis mine) of the following actions to improve operations at intersections and roadway segments along State Route 68:"

a) The Highway 68 Coalition has already addressed the woeful inadequacy of the Regional Developer Impact Fees in Monterey County.
b) Furthermore the three options reference "impact" funds going towards completing a Project Study Report. A report does not mitigate anything.
c) Furthermore, the proposed mitigations are presumptuous as it "presumes" future approvals of projects along Highway 68 will pay for this projects impacts, i.e., future projects, whose Draft EIR's have not even been completed such as the Ferrini ranch and Corral de Tierra Village.

25-13

"State Route 68 Commuter Improvements" is a term misleading as it is a California State Highway, not a City Street.


14) Page 3.10-32 to Page 3.10-33
Widening Meyer road to 18 feet wide would present a hardship to current (and in many cases) long-term residents. Additionally, the narrative goes back and forth about the 35 mph posted speed on San Benancio. Please note that in January 2010 the Monterey County Board of Supervisors REDUCED the speed limit on San Benancio road to 45 mph. Sight distance standards would be problematic on San Benancio Road especially with the addition of 31 new SFD. A factor of 10 avg. daily trips per SFD means 310 new average daily trips on San Benancio Road, in and out of Meyer Road, which is just past the crest of a hill, on a designated County Scenic Road.

25-14

15) Page 3.10-34
Plans for sight distance improvement fail to analyze the fact it is a designated county scenic roadway. What would it look like? How would it impact the scenic roadway status?

25-15

Thank you for the opportunity to comment on this problematic RDEIR.


Mike Weaver
Chair, The Highway 68 Coalition

Letter 25 Continued

Highway 68 Coalition
c/o 52 Corral de Tierra Rd
Salinas, Ca 93908
831-484-6659

Taven Kinison Brown, Planning Services Manager
County of Monterey Resource management Agency-Planning Department
168 West Alisal, 2nd Floor
Salinas, CA 93901
Via fax: 831-757-9516, with hard copy to follow by U.S. Mail

PART 2 OF 2

FEBRUARY 1, 2010

Re: Comments to R.D.E.I.R./DEIR
Harper Canyon (Encina Hills) Subdivision EIR
File Number: PLN000696
Location: North of San Benancio Road, East of Highway 68, Salinas
Planning Area: Toro Area
Assessor's Parcel Numbers: 416-611-001-000 and 416-611-002-000

February 1, 2010

25-16 cont

Dear Mr. Kinison Brown,

I am a 58 year resident of the Toro Area and am very familiar with the location and environmental issues associated with this proposed project. I am responding on behalf of the Highway 68 Coalition, in a two-part response. Following are some of our biggest concerns regarding the above-mentioned DEIR.

- 1) The largest concern is that this Draft Environmental Impact report does NOT adequately reveal the 14 existing lots on the adjacent parcel also accessed via Meyer Road. These lots were the subjects of large lot line adjustments in the 1990's. The Toro Land Use Advisory Committee made a field trip to the site and the County of Monterey spent considerable time on these lot line adjustments on this property. Now a DEIR is prepared for 17 additional lots with a request for a vesting tentative map. The DEIR prepared goes through the motions of addressing the impacts of the 17 proposed parcels. Cumulative impacts regarding infrastructure and flora and fauna of 17 PLUS 14 are ignored but will be significant!
- 2) When California American Water Company purchased Ambler Water Service in the latter part of the 1990's for approximately \$387,000 The number of service connections was about 387 on the system.

Letter 25 Continued

Page 2

The sale was controversial and was subject to area public meetings held by the California Public Utilities Commission. These were followed by two administrative law judges with the California Public Utilities Commission holding hearings, making findings, and conditioning the sale. The service connection residents in San Benancio and Corral de Tierra expressed numerous concerns and stories about water quality, water quantity and water pricing. As a result, the California Public Utilities Commission upheld a judge's recommendation that the Ambler Water Service NOT be allowed to be tied in with any other water system. I have to assume this was to assure the existing service connection residents that they would continue to have potable and adequate groundwater. Ambler Water Service draws water from wells located in Corral de Tierra near the Meadows of Corral de Tierra Subdivision.

A big question is; under whose authority was a water main allowed to be run crossing San Benancio Road and going outside the B-8 boundary (which is San Benancio Road) and tied into the San Benancio Oaks Subdivision? Who authorized this?

A problem with this EIR is it explains that the proposed water for the 17-unit project will be tied into the system currently servicing the San Benancio Oaks Subdivision and be given to California American Water Company. This will compound the problem and contravenes the Public Utilities Commission direction. This would be compounding an existing mistake.

25-16 cont

- 3) Subsequent to, and as a result of the October 17, 1989 Loma Prieta Earthquake many individual well owners and small water system owners in the upper Harper Canyon area lost the use of their water wells. The ground rumbling and shifting stopped the flow of water. These were existing residents, many being long time homeowners in the area who were without water. They petitioned the County of Monterey and Cal-Am Water to run the water main up to the end of the existing Harper Canyon Road. They paid for this to be done and there wasn't one protest from anyone denying existing residents a potable water supply. Water availability in Harper Canyon has always been problematic. Existing residents water supply now originates in Corral de Tierra, from the wells Cal-Am owns and operates behind the Corral de Tierra Meadows Subdivision.
- 4) The reference document for this EIR does not use the most current data. The 2007 El Toro Groundwater Study prepared for the Monterey County Water Resources Agency is not used, nor referred to. This document tells us that historically the ground water level has been dropping approximately one foot per year for the past 50 years. It also tells us that the rate of drop has been increasing and has dropped approximately two feet per year since

Letter 25 Continued

Page 3

1997. Although the EIR tells us that the proposed project or a large part of it is in Zone 2C of the Salinas Basin, the groundwater for the project will not be coming from the Salinas River but rather has plans to utilize El Toro Area groundwater. We all know that groundwater does NOT recognize political boundaries.

- 5) Question: Is the proposed water use quantity for 17 units of 12.75 acre feet consistent with water use for similar surrounding areas and lots of San Benancio, Corral de Tierra, Hidden Hills, York Road? You will remember when estimated water use for the residential areas of Bishop Ranch (now Pasadera) were seriously underestimated. The Laguna Seca Sub Basin (groundwater) is now in serious overdraft partly as a result of this. Existing residents are learning to pay more, lots more, for their water. That specific project also had a condition to monitor the yearly water used on the golf course there. Specifically who monitors this? Some of these conditions become burdensome to the County of Monterey, it's departments, and agencies, years after approval. Then it becomes a code enforcement issue, and often a legal issue.
- 6) The Harper Canyon/Encina Hills DEIR references the year 2005 Regional Transportation Plan and its 14-year program. Is that 14-year program still in place after the failure of Measure A, the half cent sales tax measure on the 2006 ballot?

25-16 cont

IN ANY CASE:

The document should state that the Transportation Agency of Monterey County officially designated the two lane section of State Highway 68 as being Level of Service "F" in the year 1997.

When a Highway reaches Level of Service F even one more average daily trip is a significant impact. Using CalTrans numbers of an average of ten trips per day per unit, 17 additional units will bring 170 additional average daily trips to State Highway 68, and right in the middle of it, midway between the Cities of Salinas and Monterey. Add the cumulative impact of the existing 14 lots (lot line adjustments) in Encina Hills and the number becomes 310 additional average daily trips on a Level of Service "F" Highway.

The EIR also needs to address the cumulative traffic impacts of the build out of existing legal lots of record on the Highway 68 Corridor, including Monterra, Pasadera, Tehama, Hidden Hills, San Benancio Oaks, as well as adjacent former Fort Ord (utilizing it's 1997 Fort Ord Reuse Plan, but absent the Southwest Alternative Road that has been erased.)

- 7) The project plan to use the narrow private residential road, Meyer Road, for access to the 17 proposed lots plus the 14 existing lot line lots is problematic from several perspectives. San Benancio Road is a designated County Scenic

Letter 25 Continued

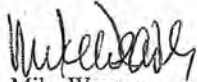
Page 4

Road. Meyer Road is near the crest of a hill climbing San Benancio. Area residents report much of the traffic coming downhill out of San Benancio Canyon travels far too fast, especially during peak commute hours and often after dark. Adding 310 average daily trips to this part of San Benancio Road ingress and egress, accelerating and decelerating, IS dangerous.

25-16 cont

Thank you for the opportunity to comment on this DEIR. We have attempted to define some of the biggest problems. Please include the entirety of our comments and our letter, both Parts 1 and 2, in the Final E.I.R.

Sincerely,



Mike Weaver
Chair, The Highway 68 Coalition
Phone: 831-484-6659

RESPONSE TO LETTER 25 – HIGHWAY 68 COALITION (PART I OF II)

Response to Comment 25-1

Appropriate Date of Traffic Counts

The traffic study identifies intersection levels of service for the State Route 68/San Benancio Road intersection operating at LOS E and F in the AM and PM peak hour, respectively. These existing levels of service at this representative intersection are identical to the levels of service observed for the Ferrini Ranch traffic study (currently in progress), where counts were taken over a longer period of time (February 9 through August 29, 2007). It is important to note that the traffic analysis for Harper Canyon identifies that the San Benancio/State Route 68 intersection, in the Background + Project scenario, will operate at LOS F in the AM and PM peak hour. Regardless of the traffic count dates and existing service levels, the EIR clearly discloses that this intersection currently operates at unacceptable levels (LOS E and F), and will continue to operate at unacceptable levels in the future with or without the project in any month of any given year.

Response to Comment 25-2

Date of Traffic Counts – Effect of Alternative Routes

As identified on pages 3.10-7 and 3.10-8 of the RDEIR, Tables 3.10-3 and 3.10-4, most roadway segments and intersections along the State Route 68 corridor currently operate below the acceptable LOS standard for this facility. The comment identifies a “continuing shift” in traffic patterns in 2006, where Imjin Parkway has become an alternative route to State Route 68 and thus State Route 68 has been relieved of some traffic. The comment is correct that redevelopment activity within the former Fort Ord has slowed, and several major projects have stalled. But those development conditions have remained static over the past several years and continue today. There is no evidence to suggest that 2006 counts are not representative of existing conditions. Assumptions for future conditions, including buildout of several projects within the former Fort Ord, are appropriately analyzed and contained in the cumulative analysis.

Response to Comment 25-3

Highway 68 Bypass

The comment suggests that the “elimination of the Highway 68 Bypass” should be analyzed within this RDEIR. The bypass project (identified and discussed on page 3.10-10 of the RDEIR as the “South Fort Ord Bypass”) is not a programmed, funded or reasonably foreseeable roadway project at this time, and there is no projected time horizon for its planning or implementation. For that reason, the analysis of the Harper Canyon/Encina Hills project did not assume the bypass within the traffic analysis or roadway network.

2.0 RESPONSE TO COMMENTS

Response to Comment 25-4

Highway 68 Official Plan Lines

The purpose of the RDEIR is to analyze the effect of the Harper Canyon/Encina Hills subdivision on the existing roadway network. Assumptions for future projects and improvements along the Highway 68 corridor are based upon the 2008 TAMC *Nexus Study for a Regional Development Impact Fee*. As identified on page 3.10-11 of the RDEIR, TAMC's regular Regional Transportation Plan updates continually evaluate and update project priorities based on changes in land use or shifts in transportation planning priorities within Monterey County. TAMC's 2010 RTP document (February 2010) does not list the "Corral de Tierra Bypass" on its lists of constrained (funded) or unconstrained (unfunded) projects.

Response to Comment 25-5

TAMC Regional Development Impact Fee

The comment discusses the amount, and adequacy, of the TAMC Redevelopment Development Impact Fee (RDIF). Projects in Monterey County are required to pay the RDIF in place at the time of obtaining building permits. The County does not establish the fee. Please see also the response to comment 23-1.

Response to Comment 25-6

Corral de Tierra Road – Posted Speed Limits

Clarification regarding posted speed limits are noted for the record.

Response to Comment 25-7

San Benancio Road and Safety Conditions

Comments regarding posted speed limits are noted for the record. Please see response to comment 25-1 regarding timing of traffic counts. Accident data was collected for San Benancio Road for the time period between January 2001 and March 2006 (RDEIR page 3.10-32) showing no unusually high rates. Standard County conditions for construction management also consider traffic management and safety near construction zones.

Response to Comment 25-8

Meyer Road Status

The EIR evaluates traffic flow to and from the project onto the roadway network, as proposed by the project application. Page 3.10-2 of the RDEIR identifies Meyer Road as a

private road owned by the applicant. Ownership of the road or ownership history is not an environmental issue evaluated by the EIR.

Response to Comment 25-9

Highway 68 Widening and Bypass

Please see response to Comment 25-3. The comment cites several historical plans and impact fee programs that are not the subject of this RDEIR.

Response to Comment 25-10

State Route 68 Improvement Advisory Committee Background

Comments regarding the formation and original purpose of the State Route 68 Improvement Advisory Committee are noted for the record.

Response to Comment 25-11

Regional Impact Fee Nexus Study Update/Corral De Tierra Bypass

Please see Response to Comment 25-4.

Response to Comment 25-12

Intersection Operations with Mitigation

Page 3.10-25 of the RDEIR (as well as page 3.10-31) identify that the Highway 68/Corral de Tierra Road and Highway 68/San Benancio Road intersections will operate at LOS C with implementation of Mitigation Measure 3.10-1 and construction of the State Route 68 Commuter Improvements project that the project will help fund. With this improvement in place, page 3.10-31 also identifies that the Highway 68 roadway segment between Corral de Tierra and San Benancio Road will also operate at acceptable levels as a result of increased capacity.

Response to Comment 25-13

Application of Mitigation Measure 3.10-1

With respect to Mitigation Measure 3.10-1, please see Response to Comment 23-1 and Amended Traffic section. The different funding options have been eliminated.. Also, the term "State Route 68 Commuter Improvements" is the term used by TAMC for this project, identified as a financially constrained (funded) project within their 2010 Regional Transportation Plan.

2.0 RESPONSE TO COMMENTS

Response to Comment 25-14

Meyer Road Widening and Sight Distance Issues

Safety hazards along Meyer Road are identified as a potentially significant impact of the project, as disclosed on page 3.10-32 of the RDEIR. Mitigation Measure 3.10-3 requires that the road be widened to 18 feet to meet the County standard for a cul-de-sac private road. The widening is intended to provide safer operations to existing and future residents, and to bring the road to up to current design requirements. Comments regarding changes in posted speed limits for San Benancio Road are noted for the record.

Regarding sight distance, this issue is identified as a potentially significant impact of the project on page 3.10-33 of the RDIER. For this reason, Mitigation Measures 3.10-4a and 3.10-4b are required, to improve existing sight distance to better serve existing and new residents.

Response to Comment 25-15

Effect of Sight Distance Improvements

Although the plans for sight distance improvements are not yet designed, San Benancio Road is identified in the October 2008 DEIR (Section 3.1) as a locally-designated scenic road. The status of the roadway is disclosed, as is the requirement for improvements in this location. A sight distance improvement plan is required to address trimming of vegetation and grading to improve sight distance. These plans (and associated encroachment permit) are required prior to approval of final improvement plans, and will include additional conditions as warranted. All plans require review and approval of the Public Works Department and Planning Department. Any relevant design control policies of the zoning ordinance or Toro Area Plan will apply. As the required improvements are isolated to the area in the immediate vicinity of the intersection, the status of the roadway as a county-designed scenic road will not change.

Response to Comment 25-16

For responses to Part II of the Highway 68 Coalition letter, please see responses to Letter 17.