MONTEREY COUNTY

RESOURCE MANAGEMENT AGENCY

Benny J. Young, Director Carl P. Holm, AICP, Deputy Director

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168 W. Alisal Street, 2nd Floor Salinas, CA 93901 http://www.co.monterey.ca.us/rma

September 20, 2013

TO:

Jacqueline R. Onciano, Zoning Administrator

FROM:

Luis Osorio, Senior Planner

RE:

California Water Service Application

File No. PLN110595

Attached is the revised Resolution for Approval of the project. The Resolution has been updated to reflect the changes required by the Zoning Administrator at the September 12, 2013 hearing. Also, recommended Conditions of Approval have been updated as follows: Condition No. 1 has been updated to include language added to the resolution of approval; Condition No. 2 has been updated to reflect the correct number of conditions; Condition No. 12 has been corrected to include the correct name of the applicant; and Condition Nos. 14 and 15 have been added as recommended by the Public Works Department on September 12th.

Before the Zoning Administrator in and for the County of Monterey, State of California

In the matter of the application of:

California Water Services Company (PLN110595) RESOLUTION NO.

Resolution by the Monterey County Zoning Administrator:

- 1) Adopting a Negative Declaration; and
- 2) Approving a Use Permit and Design Approval to allow the following: (a) Demolition of all existing facilities and equipment on the subject site including the destruction of the two groundwater wells per County requirements, removal of six 8,000-gallon plastic water storage tanks and associated piping and pumping equipment and concrete foundations; and (b) Rebuilding Reconstruction and Expansion of the water storage facility including construction of two above ground, welded steel water storage tanks 150,000 and 170,000 gallons in size respectively (one each on the two existing lots), with concrete ringwall foundations and associated piping and grading (approximately 220 cubic yards of cut and 5 cubic yards of fill); construction of a six-foot high solid wood fence along the perimeter of the property, a three-foot high concrete retaining wall located generally between the two tanks, an asphalt drainage apron around the tanks and a 20-foot wide driveway on Pine Canyon Road; installation of a hydro pneumatic tank; and removal of four protected (six inches or greater in diameter) and eight non protected (less than six inches in diameter) Coast Live Oak trees. [PLN110595 – California Water Service Company, located between the intersection of Mesa Road and Pine Canyon Road, Toro Area Plan (APN: 415-031-003-000 and 415-031-004-000)]

The California Water Service Company application (PLN110595) came on for public hearing before the Monterey County Zoning Administrator on February 28, 2013 September 12, 2013 and September 26, 2013. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Zoning Administrator finds and decides as follows:

FINDINGS

1. FINDING:

CONSISTENCY – The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.

EVIDENCE:

- a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:
 - the 2010 Monterey County General Plan;
 - Toro Area Plan;
 - Monterey County Zoning Ordinance (Title 21);

No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.

- b) The properties are located at the intersection of Mesa Road and Pine Canyon Road (Assessor's Parcel Numbers 415-031-003-000 and 415-031-004-000) Toro Area Plan. The parcels are zoned "LDR/B-6-D" (Low Density Residential with the Site Plan and Design Control Overlay Districts). The regulations of the Low Density Residential Zoning District allow construction of water system facilities, including water storage tanks such as the ones proposed, subject to review and approval of a Use Permit. Approval of the subject use permit makes the project consistent these regulations. In addition, the subject project is consistent with the Development Standards of the Low Density Residential Zoning District.
- c) The subject site is designated Low Density Residential, One Acre per Unit (LDR/1) in the 2010 General Plan. The proposed water tanks and ancillary facilities are part of a water system which provides potable water to the residential uses within the system's area of service. The project is consistent with Policy LU-2.34.a of the General Plan which states that "Low density residential areas are appropriate for residential (1-5 acres/unit) recreational, public and quasi public and agricultural activities that are incidental and subordinate to the residential use."
- d) The proposed project, as conditioned, is consistent with the provisions of the "D" or Design Control Overlay District. The purpose of this District is to provide regulations for the location, size, configuration, materials and colors of structures and fences in those areas of the County where the design review of structures is appropriate to assure the protection of the public viewshed, neighborhood character, and to assure the visual integrity of development without imposing undue restrictions on private property. The project site consists of two parcels one of which is already developed with facilities ancillary to the Buena Vista Water System. Facilities for the provision of potable water, including water tanks, are part of residential neighborhoods as they are needed utilities. Impacts from water tanks such as the proposed are addressed through the application of standard conditions regarding landscaping, colors and lighting. The colors of the tanks would blend

- well with the condition of the site and surrounding areas. Additional landscape buffering and non obtrusive lighting are required as conditions of project approval.
- e) Development of the project would result in the generation of stormwater runoff. The stormwater would be collected through on-site catch basins and directed to off-site, on-street stormwater collection facilities. The review of the application by the Water Resources Agency does not indicate that these facilities are insufficient to accommodate the stormwater. The Water Resources Agency has stated through its review of the project, that a drainage plan is not required. A grading permit would be required which would contain standard erosion control measures during and after grading. No other impacts from the grading on stormwater drainage have been identified by the Water Resources Agency or other agencies that would require additional conditions. There are no streams or natural drainage areas on the site.
- f) The project planner conducted a site inspection on November 14, 2012 and January 25, 2013 to verify that the project on the subject parcel conforms to the plans listed above.
- The proposed project was considered at a public hearing by Acting Zoning Administrator Laura Lawrence on February 28, 2013 whereby the Acting Zoning Administrator continued the public hearing and requested that an environmental document be prepared for the project and that the project be reviewed by the Toro Land Use Advisory Committee (LUAC). Staff prepared an Initial Study and circulated a Draft Negative Declaration for public review as required by the Public Resources Code. The project was reviewed by the LUAC as reflected in Finding h) below. The project was considered and acted upon by Zoning Administrator Jacqueline Onciano on September 12, 2013.
- The project was referred to the Toro Land Use Advisory Committee (LUAC) for review. Based on the LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 08-338, this application did warrant referral to the LUAC because the application requires review of a discretionary permit that raises significant land use issues. On April 8, 2013, the LUAC conducted a site visit, and considered and approved recommended approval of the project (5 ayes, 4 noes) with recommendation that the height of the tanks do not exceed the allowable Toro visually sensitive height limit and that the proposed fence be constructed of wood or redwood, not chain link. The project meets the allowable height and a solid wood fence has substituted the originally proposed chain link fence.
- h)i) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA Planning Department for the proposed development found in Project File PLN110595.

2. **FINDING:**

VISUAL RESOURCES – The proposed project would be consistent with the provisions of Policy T-3.1 of the Toro Area Plan which require

that within areas designated as "visually sensitive" in the Toro Scenic Highway Corridors and Visual Sensitivity Map, landscaping or new development may be permitted if development is located and designed in such a manner that will enhance the scenic value of the area.

EVIDENCE:

a)

- The subject site consists of two separate lots located at the intersection of Mesa Road and Pine Canyon Road within an area designated as "visually sensitive" in the Toro Scenic Highway Corridors and Visual Sensitivity Map. The site is buffered by sizeable Coast Live Oak trees on both street sides. One of the parcels is already developed with facilities (including water tanks) similar to the proposed project in terms of bulk. The second tank would be located on a vacant parcel. The tank would be similar in bulk to a residential dwelling that could be developed on the property, and its visibility would be similar to that of a dwelling. The tank would be painted in a "Tan" color that blends well with the natural state and visual character of the site. An originally proposed chain-link fence along the site boundary would be substituted with a wooden fence, which would blend better with the character of the neighborhood and would diminish the visibility of the tanks. A condition of approval is required to provide substantial additional landscape buffering which, along with existing natural vegetation, would reduce the visibility of both tanks from the public viewing areas (streets). Therefore, the project would not result in significant visual impact on the visual resources of the site or surroundings and would be consistent with the provisions of the policy.
- b) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN110595.

3. **FINDING:**

TREE REMOVAL - The proposed project is consistent with the provisions of Policy T-3.7 of the Toro Area Plan which states that the removal of healthy, native oak trees in the Toro Planning Area shall be discouraged. The project is also consistent with the provisions of Chapter 21. 64.260 (Preservation of Oak and Other Protected Trees) of the Zoning Ordinance.

EVIDENCE:

- a) The original project proposal included the removal of four Coast Live Oak trees greater than six inches in diameter as well as the removal of eight Coast Live Oaks less than six inches in diameter. Through the review of the application staff recommended and the Zoning Administrator required that minor adjustments be made to the Site Plan to avoid the removal of one of the larger trees proposed for removal (Tree No. 15 on the Site Plan). Planting of replacement trees is required as a condition of project approval.
- b) Through the review of the application, in consultation with the project Arborist, it was determined that the replanting on the site of the eight oak trees less than six inches in diameter is a preferable option than their removal consistent with the provisions of Policy T-3.7 of the Toro Area

Plan. The replanting is also consistent with the provisions of Section 21.64.260 D 4 of the Zoning Ordinance which requires potential relocation/replanting of trees as a consideration of project approval. A condition of approval (Condition No. 10) has been applied to the project which requires the preparation of a tree replanting plan to identify replanting locations and monitoring actions to assure the long-term survivability of the replanted trees.

c) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN110595.

4. FINDING:

SITE SUITABILITY – The site is physically suitable for the use proposed.

EVIDENCE:

- The project has been reviewed for site suitability by the following departments and agencies: RMA Planning Department, Monterey County Regional Fire Protection District, Public Works, Environmental Health Bureau, and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated into the project design and will also be implemented as conditions of approval.
- b) The following reports have been prepared for the project:
 - "Geotechnical Investigation" (LIB120382) prepared by Cotton, Shires and Associates, Inc., Los Gatos, CA, May, 2012.
 - "Biological Assessment Station 70 Rebuild, Proposed Tanks 4 and 5, Pine Canyon Road, Monterey County" (LIB120381) prepared by Bryan Mori Biological Consulting Services, Watsonville, CA, June 26, 2012.
 - "Arborist Report" (LIB120380) prepared by Kielty Arborist Services, San Mateo, CA, May 7, 2012.

The above-mentioned technical reports by outside consultants indicated that there are no physical or environmental constraints that would indicate that the site is not suitable for the use proposed. County staff has independently reviewed these reports and concurs with their conclusions.

- c) Staff conducted a site inspection on November 14, 2012 and January 25, 2013 to verify that the site is suitable for this use.
- d) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA Planning Department for the proposed development found in Project File PLN110595.

5. FINDING:

HEALTH AND SAFETY - The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to

property and improvements in the neighborhood or to the general welfare of the County.

EVIDENCE:

- a) The project was reviewed by the RMA Planning Department, Monterey County Regional Fire Protection District, Public Works, Environmental Health Bureau, and Water Resources Agency. The respective agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
- b) The proposed project is related to an existing utility (water distribution system) approved and regulated by the State of California Department of Public Health (CDPH). Water for the project is provided by the California Water Service Company and will be used to provide a more reliable potable water source for properties already receiving this service and added capacity for fire suppression in the area. The proposed project does not include any changes in the amount of water use or number of water connections, which are already approved and regulated by the CDPH under existing permits for the utility. As confirmed by public testimony presented by the applicant's engineer, Ms. Rekha Ippagunta, at the public hearing on September 12, 2013:
 - i. The proposed project is designed to meet current CDPH standards for fire demand, operational demand and emergency storage capacity for properties within the service area of the system per California Fire Code and American Water Works Association and industry standards;

Also, as confirmed by the applicant's District Manager, Mr. Mike Jones:

- ii. the "inter-tie" of the Buena Vista Water System to the Indian Springs Water System, also operated by the applicant, was constructed to provide emergency back-up water supply for the Buena Vista System and vice versa; and
- regardless of the construction of the "inter-tie" the water systems will continue to operate as autonomous, stand-alone systems; and
- iv. water to be stored in the proposed tanks will be used to provide water to the Buena Vista Water System.

Staff from the Environmental Health Bureau has contacted the CDPH—regarding—the—proposed—project;—per—e-mail communication from the CDPH dated 10/31/2012, "the storage tanks—have—to—meet—the—requirements—of—the—California Waterworks Standards—in Title 22 of the California Code of Regulations" and the applicant "will—need—to—apply for an amendment—to—their—water—system—permit." A condition—of approval—has been applied to the project (Condition No. 12) which requires the applicant to provide evidence of compliance with California Waterworks Standards for the construction of

the tanks and compliance with CEQA environmental review requirements for any permit amendments required by the CDPH.

- c) Staff from the Environmental Health Bureau has contacted the CDPH regarding the proposed project; per e-mail communication from the CDPH dated 10/31/2012, "the storage tanks have to meet the requirements of the California Waterworks Standards in Title 22 of the California Code of Regulations" and the applicant "will need to apply for an amendment to their water system permit." A condition of approval has been applied to the project (Condition No. 12) which requires the applicant to provide evidence of compliance with California Waterworks Standards for the construction of the tanks and compliance with CEQA environmental review requirements for any permit amendments required by the CDPH.
- e)d) Staff conducted a site inspection on November 14, 2012 and January 25, 2013 to verify that the site is suitable for this use.
- The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA Planning Department for the proposed development found in Project File PLN110595.

6. **FINDING:**

CEQA (NEGATIVE DECLARATION) - On the basis of the whole record before the Monterey County Zoning Administrator, there is no substantial evidence that the proposed project as designed, conditioned and mitigated, will have a significant effect on the environment. The Negative Declaration reflects the independent judgment and analysis of the County.

EVIDENCE:

- a) Public Resources Code Section 21080.d and California Environmental Quality Act (CEQA) Guidelines Section 15064.a.1 require environmental review if there is substantial evidence that the project may have a significant effect on the environment.
- b) The Monterey County Planning Department prepared an Initial Study pursuant to CEQA. The Initial Study is on file in the offices of the Planning Department and is hereby incorporated by reference (PLN110595). The Initial Study provides substantial evidence based upon the record as a whole, that the project would not have a significant effect on the environment. Staff accordingly prepared a Negative Declaration.
- c) The Draft Negative Declaration ("ND") for PLN110595 was prepared in accordance with CEQA and circulated for public review, including to the State Clearinghouse and the California Department of Public Health, from June 14, 2013 through July 16, 2013 (SCH#: 2013-061030).
- d) All project changes required to avoid significant effects on the environment have been incorporated into the project and/or are made conditions of approval. A Condition Compliance and Mitigation Monitoring and/or Reporting Plan has been prepared in accordance with Monterey County regulations, designed to ensure compliance during

- project implementation, and is hereby incorporated herein by reference. The applicant must enter into an "Agreement to Implement a Mitigation Monitoring and/or Reporting Plan as a condition of project approval.
- The proposed project includes the reconstruction and expansion of existing water storage facilities which are part of a water distribution system regulated by the State of California Department of Public Health. The proposed project would provide water storage capacity to meet current CDPH standards for fire demand, operational demand and emergency storage capacity for properties within the approved service area of the Buena Vista Water System; and would not provide water for other water systems in the area, except on an emergency basis, that are also owned and operated by the project applicant. The water supply for the water distribution system is regulated and has been approved by the State. Per the provisions of Section 1.9 of General Order 103-A of the California Public Utilities Commission (Cited as Reference No. 12 to the Initial Study), the County is "preempted from regulating water production, storage, treatment, transmission, distribution, or other facilities constructed or installed by water or wastewater utilities subject to the Commission's jurisdiction." Therefore, the water use of the water system, including the availability of water to fill the tanks, has not been eonsidered in the Initial Study or as part of the project because the County is preempted from doing so under the provisions of General Order 103-A.
- f) The water supply for the water distribution system is regulated and has been approved by the State. Per the provisions of Section 1.9 of General Order 103-A of the California Public Utilities Commission (Cited as Reference No. 12 to the Initial Study), the County is "preempted from regulating water production, storage, treatment, transmission, distribution, or other facilities constructed or installed by water or wastewater utilities subject to the Commission's jurisdiction." Therefore, the water use of the water system, including the availability of water to fill the tanks, has not been considered in the Initial Study or as part of the project because the County is preempted from doing so under the provisions of General Order 103-A.
- Issues that were analyzed in the Negative Declaration include: aesthetics, biological resources, hydrology/water quality, land use/planning. The analysis of these issues in the Negative Declaration is summarized as follows:
 - i) Aesthetics: The site is located in an area designated as "visually sensitive" in the Toro Scenic Highway Corridors and Visual Sensitivity Map; this visually sensitive area encompasses a large portion of the Toro Area Plan and was designated with the intent of protecting the visual character and remaining visual assets within it. The area is residential in nature. While the proposed water tanks are not residential per se, they are a part of needed water provision facilities for residential areas. One of the parcels is already

developed with facilities (water tanks) similar to the proposed project in terms of bulk. Development of one of the proposed water tanks on this parcel would not result in additional significant visual impacts compared to the existing development (baseline). The second tank would be located on a vacant parcel. While this tank does not constitute residential development, it would be similar in bulk to a residential dwelling that could be developed on the property and its visibility would be similar to that of a dwelling. The tanks would be painted in a "Tan" color that blends well with the natural state and visual character of the site. The wooden fence will be placed along the site boundaries diminishing the visibility of the tanks. A condition of approval is required to provide substantial additional landscape buffering which, along with existing natural vegetation, would reduce the visibility of both tanks from the public viewing areas (streets). Therefore, the project would not result in significant visual impact on the visual resources of the site or surroundings.

- ii) Biological Resources: The project includes the removal of four (4) Coast Live Oaks exceeding six inches in diameter including one 24-inch diameter Oak and the removal of an additional number of Coast Live Oak trees less than six inches in diameter. Policy T-3.7 of the Toro Area Plan discourages the removal of healthy, native oak trees. The arborist report was prepared analyzing all 23 trees on the properties. Of the 23 trees, 17 were Coastal Live Oaks. The project proposes to remove 12 Coast Live Oak trees which are a protected tree species and a number of non-protected trees. Of the 12 Oaks proposed for removal, four are six inches or larger in diameter and eight are less than six inches in diameter. A minor adjustments has been made to the Site Plan to avoid the removal of one of the larger trees proposed for removal; this would result in the removal of only three Oak trees larger than six inches in diameter. Planting of replacement of the other trees larger than six inches in diameter is required as a condition of project approval. In addition, in consultation with the project Arborist, staff determined that the replanting on the site of the eight oak trees less than six inches in diameter is a preferable option than their removal consistent with the provisions of Policy T-3.7 of the Toro Area Plan. A condition of approval will be applied to the project requiring the preparation of a tree relocation and replacement plan to identify replanting locations and monitoring actions to assure the long-term survivability of the relocated trees. With the recommended conditions only tree protected Oak trees would be removed all which are in poor condition. Therefore, the impacts from the removal would be less than significant.
- iii) Hydrology and Water Quality: The proposed water tanks are part of the Buena Vista Water System. The system is a public

community water system regulated by the California Department of Public Health (CDPH). Development of the project would include approximately 220 cubic yards of excavation and approximately 5 cubic yard of engineered fill to level the site for the installation of the water tanks. Most of the excavation would take place on the vacant parcel. Development of the project would result in the generation of additional stormwater runoff. The stormwater would be collected through on-site catch basins and directed to off-site, on-street stormwater collection facilities. The Initial Study (Section 9, p.28) identified that a storm drainage plan would be required as a condition of project approval to be reviewed and approved by the Water Resources Agency. However, the Water Resources Agency has determined that the project does not require such drainage plan. A grading permit would be required which would contain standard erosion control measures during and after grading. No other impacts from the grading on stormwater drainage have been identified by the Water Resources Agency or other agencies that would require additional conditions.

- g)h) Evidence that has been received and considered includes: the application, technical studies/reports (see Finding 2/Site Suitability), staff reports that reflect the County's independent judgment, and information and testimony presented during public hearings. These documents are on file in the RMA-Planning Department (PLN110595) and are hereby incorporated herein by reference.
- Staff analysis contained in the Initial Study and the record as a whole indicate the project could result in changes to the resources listed in Section 753.5(d) of the California Department of Fish and Game (CDFG) regulations. All land development projects that are subject to environmental review are subject to a State filing fee plus the County recording fee, unless the Department of Fish and Game determines that the project will have no effect on fish and wildlife resources.
 - The site supports Coastal Live Oaks, a species native to Monterey County. Therefore, the project will be required to pay the State fee plus a fee payable to the Monterey County Clerk/Recorder for processing said fee and posting the Notice of Determination (NOD).
- i)j) The County has considered the comments received during the public review period and they do not alter the conclusions in the Initial Study and Negative Declaration.
- The Monterey County Planning Department, located at 168 W. Alisal, 2nd Floor, Salinas, California, 93901, is the custodian of documents and other materials that constitute the record of proceedings upon which the decision to adopt the negative declaration is based.

7. **FINDING:**

NO VIOLATIONS - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance. No violations exist on the property.

EVIDENCE:

- a) Staff reviewed Monterey County RMA Planning Department and Building Services Department records and is not aware of any violations existing on subject property.
- b) Staff conducted a site inspection on November 14, 2012 and January 25, 2013 and researched County records to assess if any violation exists on the subject property.
- c) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN110595.
- 8. **FINDING:**

APPEALABILITY - The decision on this project may be appealed to the Planning Commission/Board of Supervisors.

EVIDENCE:

a) Section 21.80.040 (B) of the Monterey County Zoning Ordinance states that the Planning Commission is the Appeal Authority to consider appeals from the discretionary actions of the Zoning Administrator.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Zoning Administrator does hereby:

- 1. Adopt a Negative Declaration; and
- 2. Approve a Use Permit and Design Approval to allow the following: (a) Demolition of all existing facilities and equipment including the destruction of the two groundwater wells per County requirements, removal of the existing plastic water storage tanks and associated piping pumping equipment and concrete foundations; and (b) Rebuilding Reconstruction and expansion of the water storage facility including construction of two above ground, welded steel water storage tanks 150,000 and 170,000 gallons in size respectively (one each on the two existing lots), with concrete ringwall foundations and associated piping and grading (approximately 220 cubic yards of cut and 5 cubic yards of fill); construction of a six-foot high solid wood fence along the perimeter of the property (a chain-link fence was originally proposed), a three-foot high concrete retaining wall located generally between the two tanks, an asphalt drainage apron around the tanks and a 20-foot wide driveway on Pine Canyon Road; installation of a hydro pneumatic tank; and removal of four protected and eight non protected Coast Live Oak trees, subject to the attached conditions, all being attached hereto and incorporated herein by reference.

PASSED AND ADOPTED this 1226th day of September 2013.

Jacqueline Onciano, Zoning Administrator
COPY OF THIS DECISION MAILED TO APPLICANT ON
THIS APPLICATION IS APPEALABLE TO THE PLANNING COMMISSION.
IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE SECRETARY OF THE PLANNING COMMISSION WITH THE APPROPRIATE FILING FEE ON OR BEFORE

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from the Monterey County Planning Department and Building Services Department office in Salinas.

2. This permit expires 3 years after the above date of granting thereof unless construction or use is started within this period.

Monterey County Planning Department

DRAFT Condition of Approval Implementation Plan/Mitigation Monitoring Reporting Plan

PLN110595

1. PD001 - SPECIFIC USES ONLY

Responsible Department:

Planning Department

Condition/Mitigation Monitoring Measure: This project (PLN110595) consists of a Use Permit and Design Approval to allow the following: 1) Demolition of all existing facilities on the subject site and equipment including the destruction of the two groundwater wells per County requirements, removal of six, 8,000 gallon plastic water storage tanks and associated piping pumping equipment and concrete foundations; and 2) Reconstruction and expansion of the water storage facility including construction of two above ground, welded steel water storage tanks 150,000 and 170,000 gallons in size respectively (one each on the two existing lots), with concrete ringwall foundations and associated piping and grading (approximately 220 cubic yards of cut and 5 cubic yards of fill); construction of a six-foot high solid wood fence along the perimeter of the property, a three-foot high concrete retaining wall located generally between the two tanks, an asphalt drainage apron around the tanks and a 20-foot wide driveway on Pine Canyon Road; installation of a hydro pneumatic tank; and removal of four protected (six inches or greater in diameter) and eight non protected (less than six inches in diameter) Coast Live Oak trees. The project will be completed in two phases: 1) Grading of the site and construction of the 170,000-gallon tank with concrete ringwall foundation, associated piping and the three-foot high retaining wall; this phase is scheduled for completion in 2013. 2) Destruction of the two existing groundwater wells, removal of the six existing plastic water storage tanks and pumping equipment/building, and construction of the 150,00-gallon tank with concrete ringwall foundation and associated piping. The project is designed to meet current Clifornia Fire Code and the American Water Works Association and industry standards. The project is located between the intersection of Mesa Road and Pine Canyon Road, Toro Area Plan (Assessor's Parcel Numbers: 415-031-003-000 and 415-031-004-000). The permit was approved in accordance with County ordinances and land use regulations subject to the terms and conditions described in the project file. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of the RMA - Planning Department. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (RMA - Planning Department)

Compliance or Monitoring Action to be Performed:

The Owner/Applicant shall adhere to conditions and uses specified in the permit on an ongoing basis unless otherwise stated.

2. PD002 - NOTICE PERMIT APPROVAL

Responsible Department:

Planning Department

Condition/Mitigation Monitoring Measure: The applicant shall record a Permit Approval Notice. This notice shall state: "A Use Permit and Design Approval (Resolution Number _____) was approved by the Monterey County Zoning Administrator for Assessor's Parcel Numbers 415-031-003-000 and 415-031-004-000 on September 26, 2013. The permit was granted subject to 15 conditions which run with the land. A copy of the permit is on file with the Monterey County RMA - Planning Department." Proof of recordation of this notice shall be furnished to the Director of the RMA - Planning Department

prior to issuance of building permits or commencement of the use.

(RMA - Planning Department)

Compliance or Monitoring Action to be Performed:

Prior to the issuance of grading and building permits or commencement of use, the Owner/Applicant shall provide proof of recordation of this notice to the RMA - Planning Department.

3. PD003(A) - CULTURAL RESOURCES NEGATIVE ARCHAEOLOGICAL REPORT

Responsible Department:

Planning Department

Condition/Mitigation Monitoring Measure:

If, during the course of construction, cultural, archaeological, historical or paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until a qualified professional archaeologist can evaluate it. The Monterey County RMA - Planning Department and a qualified archaeologist (i.e., an archaeologist registered with the Register of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for recovery. (RMA - Planning Department)

Compliance or

Monitorina Action to be Performed: The Owner/Applicant shall adhere to this condition on an on-going basis. Stop work within 50 meters (165 feet) of uncovered resource and contact the Monterey County RMA - Planning Department and a qualified archaeologist immediately if cultural, archaeological, historical or paleontological resources are uncovered. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery.

PLN110595

4. PD004 - INDEMNIFICATION AGREEMENT

Responsible Department:

Planning Department

Condition/Mitigation Monitoring Measure:

The property owner agrees as a condition and in consideration of approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable. including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. owner will reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. The County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of property, filing of the final map, whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the County harmless. (RMA - Planning Department)

Compliance or Monitoring Action to be Performed:

Upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, recording of the final/parcel map, whichever occurs first and as applicable, the Owner/Applicant shall submit a signed and notarized Indemnification Agreement to the Director of RMA-Planning Department for review and signature by the County.

Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to the RMA-Planning Department.

5. PD005 - FISH & GAME FEE NEG DEC/EIR

Responsible Department:

Planning Department

Condition/Mitigation Monitoring Measure:

Pursuant to the State Public Resources Code Section 753.5, State Fish and Game Code, and California Code of Regulations, the applicant shall pay a fee, to be collected by the County, within five (5) working days of project approval. This fee shall be paid before the Notice of Determination is filed. If the fee is not paid within five (5) working days, the project shall not be operative, vested or final until the filing fees are paid. (RMA - Planning)

Compliance or Monitoring Action to be Performed:

Within five (5) working days of project approval, the Owner/Applicant shall submit a check, payable to the County of Monterey, to the Director of RMA - Planning.

If the fee is not paid within five (5) working days, the applicant shall submit a check, payable to the County of Monterey, to the Director of RMA - Planning prior to the recordation of the final/parcel map, the start of use, or the issuance of building permits or grading permits.

6. PD032(A) - PERMIT EXPIRATION

Responsible Department:

Planning Department

Condition/Mitigation Monitoring Measure:

The permit shall be granted for a time period of 3 years, to expire on September 12, 2016 unless use of the property or actual construction has begun within this period. (RMA-Planning)

Compliance or Monitoring Action to be Performed:

Prior to the expiration date stated in the condition, the Owner/Applicant shall obtain a valid grading or building permit and/or commence the authorized use to the satisfaction of the RMA-Director of Planning. Any request for extension must be received by RMA-Planning at least 30 days prior to the expiration date.

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7. PD010 - EROSION CONTROL PLAN

Responsible Department:

Planning Department

Condition/Mitigation Monitoring Measure:

A grading permit is required for development of the project. The grading permit shall include a erosion control plan and measures and the development of the project shall incorporate those measures throughout its development. The Erosion Control Plan shall be reviewed by the Director of RMA - Planning and Director of Building Services prior to issuance of the grading permit. All cut and/or fill slopes exposed during the course of construction be covered, seeded, or otherwise treated to control erosion during the course of construction, subject to the approval of the Director of RMA - Planning and RMA - Building Services.

(RMA - Planning Department and RMA - Building Services Department)

Compliance or Monitoring Action to be Performed:

Prior to issuance of building and grading permits, the Owner/Applicant shall submit a Grading Permit application/Erosion Control Plan to the RMA - Planning Department and the RMA -Building Services Department for review and approval. The grading plans shall include an implementation schedule of measures for the prevention and control of erosion, siltation and dust during and immediately following construction and until erosion control planting becomes established.

The Owner/Applicant, on an on-going basis, shall comply with the recommendations of the Erosion Control Plan during the course of construction until project completion as approved by the Director of RMA - Planning and Director of RMA - Building Services.

8. PD011 - TREE AND ROOT PROTECTION

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure:

Trees which are located close to construction site(s) shall be protected from inadvertent damage from construction equipment by fencing off the canopy driplines and/or critical root zones (whichever is greater) with protective materials, wrapping trunks with protective materials, avoiding fill of any type against the base of the trunks and avoiding an increase in soil depth at the feeding zone or drip-line of the retained trees. Said protection, approved by certified arborist, shall be demonstrated prior to issuance of building permits subject to the approval of RMA - Director of Planning. If there is any potential for damage, all work must stop in the area and a report, with mitigation measures, shall be submitted by certified arborist. additional trees not included in this permit be harmed, during grading or construction activities, in such a way where removal is required, the owner/applicant shall obtain required permits. (RMA - Planning Department)

Compliance or Monitoring Action to be Performed:

Prior to issuance of grading and/or building permits, the Owner/Applicant shall submit evidence of tree protection to the RMA - Planning Department for review and approval.

During construction, the Owner/Applicant/Arborist shall submit on-going evidence that tree protection measures are in place through out grading and construction phases. If damage is possible, submit an interim report prepared by a certified arborist.

Prior to final inspection, the Owner/Applicant shall submit photos of the trees on the property to the RMA-Planning Department after construction to document that tree protection has been successful or if follow-up remediation or additional permits are required.

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9. PD012(D) - LANDSCAPE PLAN & MAINTENANCE (MPWMD-SFD ONLY)

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure:

The site shall be landscaped. Prior to the issuance of building permits, three (3) copies of a landscaping plan shall be submitted to the Director of the RMA - Planning Department. landscape plan review fee is required for this project. Fees shall be paid at the time of landscape plan submittal. The landscaping plan shall include buffering plant species Mesa and Pine Canyon Roads and along the northwestern boundary of the property to buffer the visibility of the water tanks. The plan shall include the replanting of eight Coast Live Oak trees originally proposed for removal; those trees are identified as Tree Numbers 3, 4, 5, 6, 7, 13, 14 and 22 on the Tree Survey prepared for the project and contained in the project file. The paln shall be in sufficient detail to identify the location, species, and size of the proposed landscaping materials and shall include an irrigation plan. The plan shall be accompanied by a nursery or contractor's estimate of the cost of installation of the plan. Before occupancy, landscaping shall be either installed or a certificate of deposit or other form of surety made payable to Monterey County for that cost estimate shall be submitted to the Monterey County RMA - Planning Department. All landscaped areas and fences shall be continuously maintained by the applicant; all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. (RMA - Planning Department)

Compliance or Monitoring Action to be Performed:

Prior to issuance of building permits a landscaping plan shall be prepared by a Licensed Landscape Architect and submitted with a contractor's estimate for the installation to the RMA -Planning Department for review and approval. Landscaping plans shall include buffering plant species along Mesa and Pine Canyon Roads and along the northwestern boundary of the property to buffer the visibility of the water tanks. The plan shall include the replanting of eight Coast Live Oak trees originally proposed for removal; those trees are identified as Tree Numbers 3, 4, 5, 6, 7, 13, 14 and 22 on the Tree Survey prepared for the project. All landscape plans shall be signed and stamped by licensed professional under the following statement, "I certify that this landscaping and irrigation plan complies with all Monterey County landscaping requirements including use of native, drought-tolerant, non-invasive species; limited turf; and low-flow, water conserving irrigation fixtures."

Prior to issuance of a final building permit, the Owner/Applicant shall ensure that the landscaping shall be either installed or a certificate of deposit or other form of surety made payable to Monterey County for that cost estimate shall be submitted to the Monterey County RMA -Planning Department.

On an on-going basis, all landscaped areas and fences shall be continuously maintained by the Owner/Applicant; all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition.

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10. PD016 - NOTICE OF REPORT

Responsible Department:

Planning Department

Condition/Mitigation Monitoring Measure:

Prior to issuance of building or grading permits, a notice shall be recorded with the Monterey County Recorder which states:

"The following technical reports have been prepared for the subject project and are on file in the Monterey County RMA - Planning Department:

- •"Geotechnical Investigation" (LIB120382) prepared by Cotton, Shires and Associates, Inc., Los Gatos, CA, May, 2012.
- "Biological Assessment Station 70 Rebuild, Proposed Tanks 4 and 5, Pine Canyon Road, Monterey County" (LIB120381) prepared by Bryan Mori Biological Consulting Services, Watsonville, CA, June 26, 2012.
- •"Arborist Report" (LIB120380) prepared by Kielty Arborist Services, San Mateo, CA, May 7, 2012.

All development shall be in accordance with these reports."

(RMA - Planning Department)

Compliance or Monitoring Action to be Performed:

Prior to the issuance of grading and building permits, the Owner/Applicant shall submit proof of recordation of this notice to the RMA - Planning Department.

Prior to occupancy, the Owner/Applicant shall submit proof, for review and approval, that all development has been implemented in accordance with the report to the RMA - Planning Department.

11. PD048 - TREE REPLACEMENT/RELOCATION

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure:

The applicant shall relocate/replant on the property the Coast Live Oak trees identified on the Tree Survey as Tree Nos. 3, 4, 5, 6, 7, 13, 14, and 22. The locations of the replanted trees and the timing of the relocation/planting shall be determined as recommended by the project arborist.

Compliance or Monitoring Action to be Performed:

The project arborist shall recommend the appropriate locations for the relocation/replanting of the trees. The relocated/replanted trees shall be included in the landscaping plan.

The Owner/Applicant shall submit a statement by the project arborist and fotographs to the RMA-Planning Department for review and approval demostrating that the trees have been relocated/replanted as recommended by the arborist.

Six months after the planting of the replacement tree(s), the Owner/Applicant shall submit a statement prepared by the project arborist addressing the state of the replanted trees. The statement shall contain a statement the overall health and growing condition of the replacement trees and whether or not the tree replacement was successful or if follow-up remediation measures are necessary to assure their survival.

One year after the planting of the replacement tree(s), the Owner/Applicant shall submit a letter prepared by the tree arborist or another County-approved tree consultant reporting on the health of the replacement tree(s) and whether or not the tree replacement was successful or if follow-up remediation measures or additional permits are required.

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12. EHSP01 - CDPH Permit Amendment (Non-Standard)

Responsible Department:

Health Department

Condition/Mitigation Monitoring Measure:

The applicant (California Water Service Company) shall submit a permit amendment application to California Department of Public Health (CDPH) including plans and specifications demonstrating compliance with California Waterworks Standards and documentation on CEQA compliance. CDPH must review plans before issuance of building permits.

(Environmental Health)

Compliance or Monitoring Action to be Performed:

Prior to issuance of building permit

- Submit a permit amendment application including plans and specifications to CDPH.
- Obtain CDPH approval of construction plans
- Submit proof of CDPH review to Environmental Health Bureau

13. EHSP02 - Well Destruction Permit (Non-Standard)

Responsible Department: Health Department

Condition/Mitigation Monitoring Measure:

Obtain well destruction permits for the two wells to be destroyed. Destroy the wells which according to the standards found in State of California Bulletin 74 and all its supplements, and Chapter 15.08 of the Monterey County Code.

(Environmental Health)

Compliance or Monitorina Action to be Performed:

Prior to issuance of a building permit:

A CA licensed well drilling contractor shall obtain a well destruction permit from the Environmental

Health Bureau.

Complete well destruction according to the well destruction permit.

After destruction the CA licensed well drilling contractor shall submit the Well Drillers Report to

the Environmental Health Bureau

14. PW0001 - ENCROACHMENT (COM)

Responsible Department: Public Works Department

Condition/Mitigation Monitoring Measure:

Obtain an encroachment permit from the Department of Public Works and construct a commercial driveway connection to Pine Canyon Road including acceleration and deceleration tapers. The design and construction is subject to the approval of the Public Works Director. (Public Works)

Compliance or Monitoring Action to be Performed: Prior to Building/Grading Permit Issuance Owner/Applicant shall obtain an encroachment permit from DPW. Improvements are to be completed prior to occupancy or commencement of use. Applicant is responsible to obtain all permits and environmental clearances.

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15. PW0044 - CONSTRUCTION MANAGEMENT PLAN

Responsible Department:

Public Works Department

Condition/Mitigation Monitoring Measure:

The applicant shall submit a Construction Management Plan (CMP) to the RMA-Planning Department and the Department of Public Works for review and approval. The CMP shall

include measures to minimize traffic impacts during the construction/grading phase of the project

and shall provide the following information: Duration of the construction, hours of operation, an estimate of the number of truck trips that will be generated, truck routes, number of construction workers, parking areas for both equipment and workers, and locations of truck staging areas. Approved measures included in the CMP shall be implemented by the applicant during the Construction/grading phase of the project. (Public Works)

Compliance or Monitoring Action to be Performed:

- 1. Prior to issuance of the Grading Permit or Building Permit Owner/Applicant/ Contractor shall prepare a CMP and shall submit the CMP to the RMA-Planning Department and the Department of Public Works for review and approval.
- 2. On-going through construction phases Owner/Applicant/Contractor shall implement the approved measures during the construction/ grading phase of the project.

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