

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

In the matter of the application of:

CALIFORNIA AMERICAN WATER COMPANY (PLN120618)

RESOLUTION NO. 14-015

Resolution by the Monterey County Zoning
Administrator:

- 1) Exempting the project from environmental review per Section 15303 of the CEQA Guidelines; and
- 2) Approving a Use Permit for the construction of an 188,000 gallon water tank and ancillary facilities including a booster pump station, and piping connecting to existing infrastructure and minor grading, for the Chualar Water System (Public Water System No. 2701202).

[PLN120618, California American Water Company, Easterly of Lincoln Street near South Street, Town of Chualar, Central Salinas Valley Area Plan (APNs: 145-151-001-000 & 145-151-002-000)]

The California American Water Co. application (PLN120618) came on for public hearing before the Monterey County Zoning Administrator on March 13, 2014. 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:** **PROJECT DESCRIPTION** – The proposed project is a Use Permit for development of a new 188,000 gallon water storage tank and ancillary facilities including a booster pump station, piping to connect to existing infrastructure and minor grading, for the Chualar Water System (Public Water System No. 2701202)

 EVIDENCE: 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 PLN120618.

2. **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;
 - Central Salinas Valley 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 subject properties are located Easterly of Lincoln Street near South

Street, Town of Chualar (Assessor's Parcel Number 145-151-001-000 & 145-151-002-000), Central Salinas Valley Area Plan. The properties are zoned "PQP" (Public/Quasi-Public) which allows public utility uses and accessory structures. The proposed water storage tank and ancillary facilities are proposed as part of an existing public water system (Chualar Water System) which is a public utility approved and regulated by the State of California Department of Public Health. Therefore, the project is an allowed land use for this site.

- c) The project planner conducted a site inspection on December 3, 2013 to verify that the project on the subject parcel conforms to the plans listed above.
- d) The project was not referred to any Land Use Advisory Committee (LUAC) for review as there is no LUAC designated for the area of the project site.
- e) 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 PLN120618.

3. **FINDING:** **SITE SUITABILITY** – The site is physically suitable for the use proposed.

- EVIDENCE:**
- a) 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.
 - b) The following report has been prepared for the project:
 - "Geotechnical Investigation for New Water Tank, Chualar, California" (LIB140078) prepared by Pacific Crest Engineering Inc., Watsonville, CA, October, 2013.This technical report prepared 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 December 3, 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 PLN120618.

4. **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. These 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 American Water Company and will be used to provide a more reliable potable water source and added capacity for fire suppression for properties already receiving this service. 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.
 - c) Staff conducted a site inspection on December 3, 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 PLN120618.

5. **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 December 3, 2013 and researched County records to assess if any violation exists on the subject property.
 - c) There are no known violations on the subject parcel.
 - d) 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 PLN120618.

6. **FINDING:** **CEQA (Exempt):** - The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.

- EVIDENCE:**
- a) California Environmental Quality Act (CEQA) Guidelines Section 15303 categorically exempts small structures such as the proposed water storage tank.
 - b) Section 15303 of the Guidelines categorically exempts small structures such as single family dwellings. The proposed water tank is smaller in height and bulk than a single-family dwelling and is located in an urbanized area.
 - c) The proposed project includes the 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 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, 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 review of the project because the County is preempted from doing so under the provisions of General Order 103-A.

- d) No adverse environmental effects were identified during staff review of the development application during a site visit on December 3, 2013.
- e) None of the exceptions under CEQA Guidelines Section 15300.2 apply to this project. The proposed project is related to an existing public water system regulated and permitted by the State Department of Public Health. The use is consistent with the public/quasi-public zoning and land use designations for the site. The site is not located on a designated scenic highway, is not identified as a hazardous waste site and does not contain historical resources.
- f) Staff conducted a site inspection on December 3, 2013 to verify that the site is suitable for this use.
- g) 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 PLN120618.

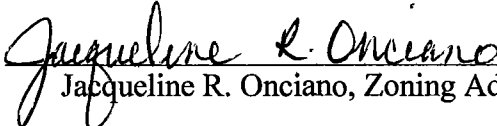
7. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Planning Commission.
- EVIDENCE:** Section 21.80.040 (B) of the Monterey County Zoning Ordinance states that the Planning Commission is the Appeal Authority to consider appeals from the discretionary actions of the Zoning Administrator.

DECISION

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

1. Find the project exempt from environmental review per Section 15303 (a) of the CEQA Guidelines; and
2. Approve a Use Permit for construction of a new 188,000 gallon water storage tank and ancillary facilities for the Chualar Water System (Public Water System No. 2701202), in general conformance with the attached sketch and subject to the attached conditions, all being attached hereto and incorporated herein by reference; and

PASSED AND ADOPTED this 13th day of March, 2014.


Jacqueline R. Onciano, Zoning Administrator

COPY OF THIS DECISION MAILED TO APPLICANT ON MAR 27 2014

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 ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE

APR 07 2014

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

Conditions of Approval/Implementation Plan/Mitigation Monitoring and Reporting Plan

PLN120618

1. PD001 - SPECIFIC USES ONLY

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: This Use 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 action. 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 for the construction of a 188,000-gallon water storage tank and ancillary facilities (Resolution Number 014-015 was approved by the Zoning Administrator for Assessor's Parcel Numbers 145-151-001-000 & 145-151-002-000 on March 13, 2014. The permit was granted subject to 5 conditions of approval 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. 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. The property 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.

4. 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 Monitoring Action to be Performed: The Owner/Applicant shall adhere to this condition on an on-going basis.

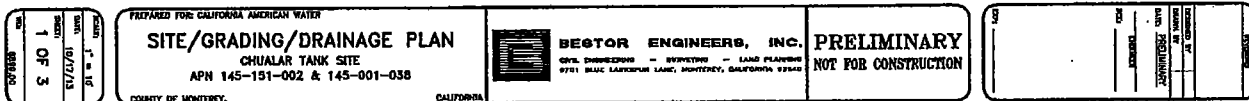
Prior to the issuance of grading or building permits and/or prior to the recordation of the final/parcel map, whichever occurs first, the Owner/Applicant shall include requirements of this condition as a note on all grading and building plans. The note shall state "Stop work within 50 meters (165 feet) 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.

5. EHSP01 - DESIGN WATER SYSTEM IMPROVEMENTS (STATE PERMITTED SYSTEM) (Non-Standard)

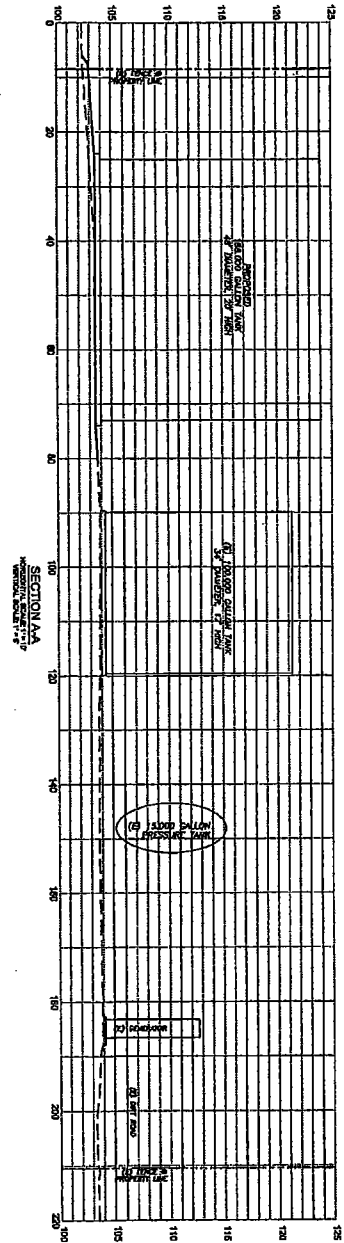
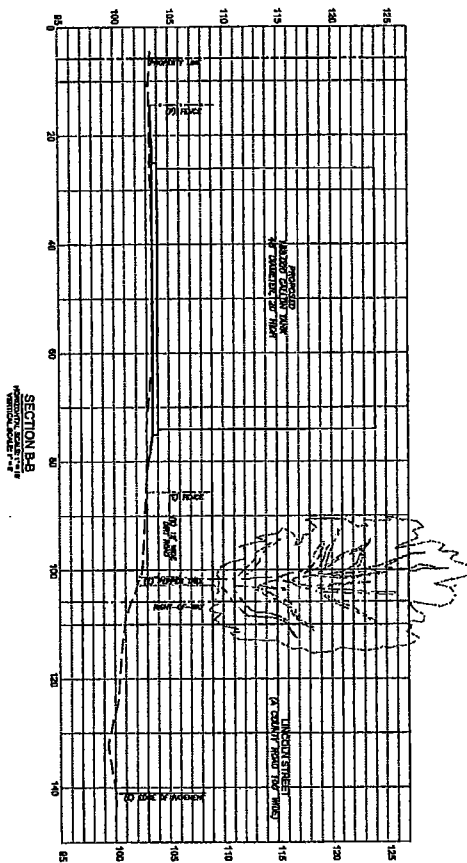
Responsible Department: Health Department

Condition/Mitigation Monitoring Measure: Design the water system improvements to meet the standards as found in Titles 17 and 22 of the California Code of Regulations.

Compliance or Monitoring Action to be Performed: Prior to issuance of construction permit, provide evidence to the satisfaction of the Environmental Health Bureau that the California Department of Public Health has received an application to amend the water system permit and approved that the design plans and specifications for the proposed water system improvements.



THE USE OF THESE PLANS AND SPECIFICATIONS SHALL BE RESTRICTED TO THE PROJECT, SITE AND CONDITIONS SHOWN HEREON. ANY OTHER USE, MODIFICATION, OR REUSE OF THESE PLANS WITHOUT THE WRITTEN CONSENT OF BESTOR ENGINEERS, INC. IS PROHIBITED. THESE PLANS AND SPECIFICATIONS SHALL BE THE PROPERTY OF BESTOR ENGINEERS, INC. AND SHALL NOT BE LOANED, REPRODUCED, COPIED, OR IN ANY MANNER DISSEMINATED OUTSIDE THE PROJECT SITE. ANY VIOLATION OF THESE TERMS SHALL BE CONSIDERED A BREACH OF CONTRACT AND SHALL BE SUBJECT TO LEGAL ACTION.



PREPARED FOR: CALIFORNIA AMERICAN WATER ELEVATION PLAN CHUALAR TANK SITE APN 145-151-002 & 145-001-038 COUNTY OF MONTEREY, CALIFORNIA		BESTOR ENGINEERS, INC. CIVIL ENGINEERING - SURVEYING - LAND PLANNING 8701 SILICON LANE, MONTEREY, CALIFORNIA 93940	PRELIMINARY NOT FOR CONSTRUCTION	APPROVED: _____ DATE: _____ DRAWN BY: _____ CHECKED BY: _____ NO. _____
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