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September 30, 2008

OUR FILE NO. 4577.01

**Via Electronic and Regular Mail**

Matthew Keeling, P.E.  
CRWQCB - Central Coast Region  
895 Aerovista Place, Suite 101  
San Luis Obispo, CA 93401

**RE: Application for Proposed Waiver of Waste Discharge Requirements for  
Alternative Onsite Wastewater Disposal Systems - 192 & 194 San Remo Road,  
Carmel Highlands**

Dear Mr. Keeling:

This firm represents Dr. and Mrs. Michael Moeller, owners of the above referenced properties. Enclosed with this letter, please find the following documents:

- A table that summarizes our responses to the project opponents/neighbors' comments (Exhibit "A");
- BioSphere Consulting's Results of Additional Soil Testing and Discussion of Potential Influence of Rainfall, dated September 25, 2008 (Exhibit "B");
- Pacific Geotechnical Engineering's Progress Report and Scope of Work - Slope Stability Evaluation, dated September 26, 2008 (Exhibit "C");
- Monterey County Resolution No. 05-082, passed and adopted on April 19, 2005 (Exhibit "D"); and
- Revised plan for Lot -005 (Exhibit "E");

Please do not hesitate to contact me if you have any questions.

Respectfully submitted,

  
Pamela H. Silkwood

PHS:rl  
Enclosures  
cc: client

499 VAN BUREN STREET  
MONTEREY, CALIFORNIA 93940

Item No. 26 Attachment No. 11  
WDR Moeller Residence  
194 San Remo Rd.  
R3-2008-0061  
December 4-5 2008 Meeting

Matthew Keeling, P.E.  
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Carl Holm  
Richard LeWarne  
Janna Faulk  
Andrew Brownstone  
William Daniels, Esq.  
Brian Call, Esq.  
Steve Wilson  
Alan J. Smith, Esq.

# Exhibit A

**Exhibit A**  
**Applicant's Responses to Project Opponent's Comments**

Comment No.	Commenter	Comment	Response
1	Brian Call representing Mary Whitney	The alternative onsite wastewater disposal system is designed for a lot configuration that does not exist.	For those projects, like this one, that can proceed under Interim Ordinance No. 5086 as modified by Ordinance No. 5093, Monterey County requires a conditional waiver of waste discharge requirement for any proposed wastewater disposal system <i>before</i> processing a development permit application. The RWQCB approval and permit are required before Dr. Moeller's lot line adjustment and Lot -005 development application ("Project") will be determined complete and processed by Monterey County.
2		The development of any wastewater system on the Lot -005 property is in violation of Monterey County Board of Supervisors Ordinance No. 5093.	The California Coastal Commission approved the development on Lot -006, which includes construction of a standard septic system, and issued a coastal development permit ("CDP"). Dr. Moeller began construction of the residence on this parcel pursuant to the CDP. At the request of the neighbors, Dr. Moeller has volunteered to install this treatment system in lieu of the approved standard septic system to better protect the surrounding environment. The California Coastal Commission has determined that such change to the approved development does not require any further review and approval.
3	Brian Call representing Mary Whitney	The proposed ultraviolet disinfection system is currently being reviewed by outside consultants, and Ms. Whitney reserves the right to bring before the Board any deficiencies associated with the system.	Comment noted.
4	Brian Call representing Mary Whitney	The geotechnical investigation report is currently being reviewed by outside consultants for Ms. Whitney.	Comment noted.  There have been numerous geotechnical and septic investigations conducted on Lots -005 and -006 (collectively, "Subject Properties") including the following: <ol style="list-style-type: none"> <li>1) Soil Analysis, prepared by BioSphere Consulting, dated April 23, 2008;</li> <li>2) Geotechnical Investigation for San Remo Properties, prepared by</li> </ol>

Comment No.	Commenter	Comment	Response
			<p>Pacific Crest Engineering, dated April 2003; and</p> <p>3) Additional Percolation Tests and Addendum to Geotechnical and Percolation Investigation Report, prepared by Soils Surveys, Inc. dated November 2, 2001.</p> <p>More recently, BioSphere Consulting conducted additional analysis and testing of the shallow soils within the proposed wastewater dispersal areas to provide additional supportive data, even though this work was not specifically required by the RWQCB. BioSphere Consulting's report is included as <b>Exhibit "B"</b>. The results of this additional soil testing show that the application rates used as a design basis in sizing the proposed wastewater system are over 200% more conservative than the very lowest soil application rate empirically demonstrated by this testing. The site soils have demonstrated an infiltrative capacity that is more than sufficient for the proposed systems.</p> <p>Additionally, Pacific Geotechnical Engineering will be conducting a slope stability evaluation, and the data will be provided to staff prior to the RWQCB hearing. Pacific Geotechnical Engineering's scope of work and its preliminary evaluation are included as <b>Exhibit "C."</b></p>
5	Brian Call representing Mary Whitney	The proposed engineering wastewater disposal system will require ongoing inspection, maintenance and report, and there is no guarantee that the applicant will sufficiently inspect, maintain, and repair the system.	This comment is specifically addressed by the following nonstandard permit conditions imposed by Monterey County: (1) an operations and maintenance contract and (2) deed notification. Both are designed to ensure ongoing inspection, maintenance and reporting of the system. (RWQCB Staff Report, Background, No. 12.) It is improper to assume that the permittee will fail to comply with conditions of approval.
6	William B. Daniels representing Mary De La Rosa	The lot line adjustment could not be granted under state law.	<p>This issue is not relevant to the RWQCB's decision on the conditional waiver of waste discharge requirement for the proposed wastewater disposal system. Nevertheless, a response follows for information only.</p> <p>Monterey County allows lot line adjustments for properties that do not meet minimum lot size and when there is no way to adjust the lot lines so that the</p>

Comment No.	Commenter	Comment	Response
			<p>resulting lots become conforming as to size under Monterey County Code so long as (1) the lots have been created prior to March 7, 1972 (Gov. Code §66412.6) and in accordance with the relevant County ordinance in effect at that time, or created in accordance with the Subdivision Map Act; (2) a greater number of lots will not be created; and (3) the lot line adjustment is found to be consistent with applicable County policies.</p> <p>The Subject Properties were lawfully created prior to March 7, 1972. There will be no net change in acreage between the Subject Properties, and no new parcel will be created. In Resolution No. 05-082 (<b>Exhibit "D"</b>), which approved the same lot line adjustment, Monterey County determined the lot line to be consistent with the applicable plans and policies of the Monterey County Code, Local Coastal Program, and state Subdivision Map Act. Thus, the lot line adjustment is allowed under the state Subdivision Map Act.</p>
7	William B. Daniels representing Mary De La Rosa	Development, including waste water systems, will likely have a substantial environmental impact.	<p>In addition to this application, the RWQCB has had an opportunity to review and approve this same alternative wastewater system proposed by BioSphere Consulting as part of the Kashfi application. Unlike the Kashfi project, which proposes an on-site potable well, the Carmel Riviera Mutual Water Company will be providing water service to the Subject Properties. In issuing the waiver of waste discharge requirement through Resolution No. R3-2008-0020 for the Kashfi project, the RWQCB has concluded that the proposed system, with ultraviolet disinfection, is not anticipated to degrade groundwater and thus, would not have an impact to the surrounding environment. Contrary to this comment, the proposed advanced system has proven to often exceed treatment levels achieved by most municipal wastewater treatment plants and is significantly more beneficial to the surrounding environment than the standard septic systems, which are typically found throughout the Carmel Highlands area.</p>
8	Alan Smith representing Misaki Olson	A back up generator should be required	<p>There is over 250 gallons of surge capacity in the tank which should provide sufficient capacity even when the power is off. Moreover, the proposed system is watertight and thus, the plumbing would back-up in the house and be noticed before there would be any outside overflow. Thus, there is no need for a back-up generator.</p>

Comment No.	Commenter	Comment	Response
9	Alan Smith representing Misaki Olson	The proposed system is cutting edge experimental, unproven, and not an adequately tested design	The AdvanTex treatment system is not experimental, nor is it unproven.
10	Alan Smith representing Misaki Olson	Landscaping to block Ms. Olson's privacy may be restricted by this system.	This issue is not relevant to the RWQCB's decision on the conditional waiver of waste discharge requirement for the proposed wastewater disposal system.  Nevertheless, the applicant is willing to discuss the landscaping plan with Ms. Olson. The landscaping plan will take into consideration protection of Ms. Olson's privacy.
11	Alan Smith representing Misaki Olson	The surface and sub-surface drainage system need to be symbiotic.	First, it is important to note that the release from the system will not result in the daylighting of effluent. (RWQCB Staff Report, Condition m.) Second, any stormwater runoff that is not captured by the storm drainage system and instead, infiltrates to groundwater will not only serve to further dilute the treated filtrate, but will also help flush the soil pores and assist in transporting any remaining nutrients in the filtrate through the shallow soils where the highest concentration of microbial populations can further enhance biodegradation. As discussed in response to Comment No. 7, this advanced system has proven to exceed tertiary levels often achieved by most municipal wastewater treatment plants and is significantly more beneficial to water quality than a standard septic system installed throughout the Carmel Highlands area. Please refer to BioSphere Consulting's discussion of "Potential Influence of Rainfall" included as <b>Exhibit "B."</b>
12	Alan Smith representing Misaki Olson	Request for a third party review of the design/design assumption, during the course of construction, and monitoring after construction	The onsite wastewater disposal system design has been reviewed by qualified professional staff, including professional engineers (P.E.) of the RWQCB and the Monterey County Health Department.
13	Monterey Bay Engineers, Inc.; client – Dr. & Mrs. Hoxie	Without the approval of lot line adjustment, there is only one parcel of two that is possibly capable of providing septic system	The commenter identified the rationale for supporting this lot line adjustment. Please note that the California Coastal Commission remanded the lot line adjustment back to Monterey County for further review, particularly regarding the emergency access issue, and has recently agreed that this lot line adjustment would provide a more favorable layout for development to better

Comment No.	Commenter	Comment	Response
		<p>given the requirements for setbacks from water course and from slopes exceeding 30%. The proposed conditions of approval should make it clear that the approval would only be applicable if the property boundaries are actually adjusted.</p>	<p>protect the environment. Even if the lot line adjustment application is denied by Monterey County (which is unlikely since Monterey County originally approved this same lot line adjustment in 2005), the property owner retains the right to develop on Lot -005. If this occurs, the building envelope will be relocated; however, the proposed wastewater disposal system may remain in the same location (with an easement granted to and benefiting Lot -005). Thus, there is no valid nexus to impose the commenter's requested condition on this approval.</p>
14	<p>Monterey Bay Engineers, Inc.; client – Dr. &amp; Mrs. Hoxie</p>	<p>The plans for the proposed for parcel -006 show setbacks of approximately 10 feet to a 6-foot tall retaining wall (cut condition) and to the top of a cut slope. The plans for parcel -005 also do not contain the required minimum setbacks from the proposed leach fields.</p>	<p>The plans meet all the setback requirements. The California Coastal Commission approved the development on Lot -006, which includes construction of a standard septic system, and issued a coastal development permit ("CDP"). Dr. Moeller began construction of the residence on this parcel pursuant to the CDP. At the request of the neighbors, Dr. Moeller has volunteered to install this treatment system in lieu of the approved standard septic system to better protect the surrounding environment. If this treatment system is not approved, the permittee will construct the previously approved standard septic system.</p> <p>The applicant has volunteered to conduct a slope stability evaluation by collecting additional data for geologic and geotechnical suitability of the leachfield sites. The results of this evaluation will be submitted to staff prior to the RWQCB hearing. The scope of work for the slope stability evaluation is described in <b>Exhibit "C."</b></p>
15	<p>Monterey Bay Engineers, Inc.; client – Dr. &amp; Mrs. Hoxie</p>	<p>The plans for parcel -005 show a portion of a private road easement along the southerly boundary as San Remo Road. This property does not have frontage on San Remo Road as the plans would imply.</p>	<p>The commenter is correct. The revised plan is included as <b>Exhibit "E"</b>.</p>
16	<p>Monterey Bay Engineers, Inc.; client – Dr. &amp; Mrs. Hoxie</p>	<p>There is a significant conflict between the leach</p>	<p>The commenter is correct. The consultant used the wrong base map for driveway configuration. The corrected, revised plan is included as <b>Exhibit</b></p>



Comment No.	Commenter	Comment	Response
17	Leland Lewis	<p>field proposed and the driveway for parcel -005.</p> <p>The current configuration of the property, despite its 20 degree slope toward the neighboring property, would provide adequate area for sufficient rock-filled backup dispersal trenches.</p> <p>Reconfiguration of the building site through a lot line adjustment as would nullify the possibility of providing sufficient area for this septic tank.</p>	<p>“E.”</p> <p>As discussed in response to Comment No. 14, the applicant has volunteered to conduct a slope stability evaluation by collecting additional data to further evaluate geologic and geotechnical suitability of the leachfield sites. The results of this evaluation will be submitted to staff prior to the RWQCB hearing. The scope of work for the slope stability evaluation is described in <b>Exhibit “C.”</b></p>
18	Leland Lewis	<p>Influence of heavy surface rain inundating the 20-degree slope of the building site trumps ordinances, requirements and compliance.</p>	<p>As discussed in the response to Comment No. 11 and further discussed in the report prepared by BioSphere Consulting (<b>Exhibit “B”</b>), the rain water will further benefit the water quality of the filtrate through dilution and additional cleansing of the soil pores, enhancing the natural microbial degradation.</p> <p>BioSphere Consulting’s report also notes that the proposed system is water tight and equipped with an alarm system which will provide immediate notification if there is a leak in the system. Because the proposed dispersal systems will be pressurized, there is little concern that the trenches will be flooded with near-surface water.</p>

Exhibit B



- Site Evaluation & Mapping
- Soil Analysis & Percolation Testing
- New Development, Upgrades & Repairs
- Residential & Commercial

1315 King Street  
Santa Cruz, CA 95060  
Tel: (831) 430-9116  
Fax: (831) 430-9405

**Alternative Wastewater System Design**

[www.biosphere-consulting.com](http://www.biosphere-consulting.com)  
[andrew@biosphere-consulting.com](mailto:andrew@biosphere-consulting.com)

September 25, 2008

Dr. Michael and Patricia Moeller  
C/o: Pam Silkwood  
Horan, Lloyd Law Offices  
P.O. Box 3350  
Monterey CA, 93942-3350

**SUBJECT: Results of Additional Soil Testing  
and Discussion of Potential Influence of Rainfall.**

*REFERENCE: Alternative Onsite Wastewater System Design Plans for New Development  
192 & 194 San Remo Rd, Carmel Highlands, California (dated 5/14/08)*

Michael and Patricia,

At your request, we have conducted additional testing and analysis of the shallow soils within the proposed wastewater dispersal areas on the subject property referenced above. We performed this additional soil testing on September 3, 4, 17, and 18, 2008. The purpose of this additional soil testing was to obtain further verification that the soil application rate used as a design basis to size the proposed dispersal systems was appropriate. The initial soil testing we conducted in March, prior to designing the systems, consisted of eight hand-auger soil test borings advanced across the proposed dispersal areas. These test holes exposed relatively loose, sandy loam to sandy clay loam soil textures in the upper 12" to 24". We originally *estimated* that the deeper soil (below 24") would yield moderate to high hydraulic conductivity based on analysis of the soil texture. The additional soil testing we completed this month has determined that this is not the case, but our testing demonstrated that the upper soils proposed for dispersal do yield sufficiently rapid percolation rates.

Our additional soil testing consisted of installing eight percolation test holes and three soil infiltration test trenches across the proposed dispersal areas. The depths of the soil percolation test holes range from 14" to 36" below grade and resulted in percolation rates ranging from 3 to 43 minutes per inch (MPI) in the upper 30" of soil and roughly 60 to 120 MPI in the soils below 30" (see attached Percolation Test Data Sheets). The three soil infiltration test trenches were carefully constructed to a 12" depth to simulate the pressurized trenches proposed as the secondary dispersal systems (see attached Orenco Infiltration Test Kit document). Two test trenches were constructed in the lower (southern) dispersal area and one in the upper (northern) dispersal area. These infiltration tests provided an empirical demonstration of the upper soils Long Term Acceptance Rates (LTAR) through the use of a pump and programmable timer to pressure dose the trenches over a 24-hour period. Two of our tests (one in each of the proposed dispersal areas) resulted in LTARs of 20 to 30 gallons per day per square foot (gpd/ft<sup>2</sup>) of trench floor area (see attached Soil Infiltration Test Data Sheets). The third test trench, located in the southern portion of the lower (southern) dispersal area resulted in a significantly lower LTAR of around 2 to 5 gpd/ft<sup>2</sup>. The proposed dispersal systems we designed are sized using an

application rate of 0.4 to 0.8gpd/ft<sup>2</sup>. These design basis application rates are over 200% more conservative than the very lowest application rate that the site soils demonstrated during our testing. For this reason we are confident that the native site soils have an infiltrative capacity that is adequate for the proposed onsite wastewater dispersal systems.

Concern has been raised with regard to rainfall affecting the functionality of the proposed onsite wastewater system or influencing the ability of the system to maintain conditions that protect the environment and public health. There are several reasons why this concern is not valid.

- 1) The proposed system is watertight and is equipped with a proven telemetric, visual and audible alarm system that would provide early and redundant notification of any surface or groundwater infiltration that were to occur. This same control system would also provide remote and/or onsite notifications if there were a water leak or stuck fixture within the residence.
- 2) The nature of the soils and topography of the site do not promote accelerated infiltrative recharge. It is our opinion that the majority of the rainfall that falls on the site (average annual rainfall in the area is around 25") does not percolate into the soil, but rather flows off site as surface sheet-flow run-off. The U.S Department of Agriculture lists the ability of various soil types to absorb water based on bare or vegetated slopes with variable gradients. For the soil types observed on the subject site with slopes ranging from 12% to 20%, the USDA predicts a maximum percolation rate of 0.3 inches per hour (or 200 minutes per inch). In addition, the topographic and soil conditions are such to prevent groundwater from bubbling out of the ground. Because the proposed dispersal systems are pressurized, there is little concern about the trenches being occasionally flooded with near-surface water as functionality would not be compromised.
- 3) The lateral subsurface flow that occurs on the site is an ideal mechanism to provide maximum final polishing of filtrate by the soil. Because of the 15% to 30% slope gradient in the proposed dispersal areas, the rain water that does infiltrate into the near surface soils will slowly flow laterally within the upper 24" of the soil column. This is anticipated to occur less than 90% of the year during severe rainfall events and will only serve to further dilute the treated filtrate being dispersed to these soils and help flush the soil pore spaces and assist in transporting any remaining nutrients in the filtrate through the shallow soils where the highest concentration of microbial populations can further digest any contaminants.
- 4) Hundreds of these shallow pressurized wastewater dispersal systems have been in use for many years (some over 30 years!) in similar settings without problems or environmental impacts.

It is important to remember that the quality of the treated filtrate produced from the proposed AdvanTex treatment system has proven to typically exceeds tertiary levels achieved by most municipal wastewater treatment plants. These large municipal plants discharge large volumes of their treated waste directly into streams, lakes and even our local Monterey Bay Marine Sanctuary. This project proposes to discharge very small, controlled doses of higher quality filtrate to near surface soils loaded with microbial bacteria that have demonstrated the ability to provide tremendous treatment of wastewater.

Sincerely,  
*BioSphere Consulting, Inc.*

Andrew Brownstone, PG #7453

**BIOSPHERE CONSULTING - PERCOLATION TEST DATA SHEET**

DATE: 9/18/08		JOB: 08004-Moeller		APN: 243-181-006		TECHNICIAN: <b>ROCKY J.</b>			
PERCOLATION TEST HOLE #: <b>A</b>					DEPTH (FT.): <b>14.0"</b>				
Trial #	Start Time	Initial Water Level (ft.)	Reading Time	Water Level (ft.)	Time Interval (min.)	Water Drop (ft) (in.)		Perc. Rate (IPH) (MPI)	
1	1:34:30	2.35	1:44:30	2.68	0:10:00	0.33	3.960	23.760	2.5
2	1:45:30	2.35	1:55:30	2.67	0:10:00	0.32	3.840	23.040	2.6
3	1:56:15	2.35	2:06:15	2.66	0:10:00	0.31	3.720	22.320	2.7
4	2:06:30	2.35	2:16:30	2.66	0:10:00	0.31	3.720	22.320	2.7
5	2:16:45	2.35	2:26:45	2.65	0:10:00	0.30	3.600	21.600	2.8
6	2:27:15	2.35	2:37:15	2.65	0:10:00	0.30	3.600	21.600	2.8
7	2:37:30	2.35	2:47:30	2.65	0:10:00	0.30	3.600	21.600	2.8
8	2:47:45	2.35	2:57:45	2.64	0:10:00	0.29	3.480	20.880	2.9
9									
10									
Notes: 6.0" HEAD OF WATER @ 2.35' ON MEASURING TAPE (DRY @ 2.85')									
Presoak Method: FILLED HOLES TO GROUND SURFACE DAY PRIOR									

PERCOLATION TEST HOLE #: <b>B</b>					DEPTH (FT.): <b>19.0"</b>				
Trial #	Start Time	Initial Water Level (ft.)	Reading Time	Water Level (ft.)	Time Interval (min.)	Water Drop (ft) (in.)		Perc. Rate (IPH) (MPI)	
1	1:36:30	3.33	1:46:30	3.41	0:10:00	0.08	0.960	5.760	10.4
2	1:48:00	3.41	2:18:00	3.54	0:30:00	0.13	1.560	3.120	19.2
3	2:18:15	3.45	2:48:15	3.54	0:30:00	0.09	1.080	2.160	27.8
4	2:49:00	3.45	3:19:00	3.53	0:30:00	0.08	0.960	1.920	31.3
5	3:20:00	3.45	3:50:00	3.51	0:30:00	0.06	0.720	1.440	41.7
6	end of test								
7									
8									
9									
10									
Notes: 6.0" HEAD OF WATER @ 3.45' ON MEASURING TAPE (DRY @ 3.95')									

PERCOLATION TEST HOLE #:					DEPTH (FT.):				
Trial #	Start Time	Initial Water Level (ft.)	Reading Time	Water Level (ft.)	Time Interval (min.)	Water Drop (ft) (in.)		Perc. Rate (IPH) (MPI)	
1									
2									
3									
4									
5									
6									
7									
8									
9									
10									
Notes:									
Recommended Percolation Rate Range for Dispersal System (MPI):									
CERTIFICATION: I CERTIFY THAT THIS PERCOLATION TEST WAS PERFORMED BY ME OR UNDER MY SUPERVISION AND THAT COUNTY OF SANTA CRUZ PROCEDURES WERE USED.									
SIGNATURE:					PROFESSIONAL GEOLOGIST #7453				

**BIOSPHERE CONSULTING - PERCOLATION TEST DATA SHEET**

DATE: 9/4/08		JOB: 08011-Moeller 192 San Remo Rd		APN: 243-181-005		TECHNICIAN: <b>ROCKY J.</b>			
PERCOLATION TEST HOLE #: <b>D</b>				DEPTH (FT.): <b>24.0"</b>					
Trial #	Start Time	Initial Water Level (ft.)	Reading Time	Water Level (ft.)	Time Interval (min.)	Water Drop (ft) (in.)		Perc. Rate (IPH) (MPI)	
1	9:48:00	3.60	9:58:00	3.61	0:10:00	0.01	0.12	0.720	83.3
2	9:59:00	3.60	10:29:00	3.63	0:30:00	0.03	0.36	0.720	83.3
3	10:29:30	3.59	10:59:30	3.62	0:30:00	0.03	0.36	0.720	83.3
4	11:01:00	3.59	11:31:00	3.60	0:30:00	0.01	0.12	0.240	250.0
5	11:31:00	3.60	12:01:00	3.67	0:30:00	0.07	0.84	1.680	35.7
6	12:02:00	3.60	12:32:00	3.67	0:30:00	0.07	0.84	1.680	35.7
7	12:32:30	3.60	13:02:30	3.66	0:30:00	0.06	0.72	1.440	41.7
8	1:03:00	3.60	1:33:00	3.67	0:30:00	0.07	0.84	1.680	35.7
9									
10									
Notes: 6.0" HEAD OF WATER @ 3.6' ON MEASURING TAPE (DRY @ 4.1') Presoak Method: FILLED HOLES TO GROUND SURFACE DAY PRIOR									

PERCOLATION TEST HOLE #: <b>E</b>				DEPTH (FT.): <b>29.0"</b>					
Trial #	Start Time	Initial Water Level (ft.)	Reading Time	Water Level (ft.)	Time Interval (min.)	Water Drop (ft) (in.)		Perc. Rate (IPH) (MPI)	
1	9:51:00	3.58	10:01:00	3.59	0:10:00	0.01	0.12	0.720	83.3
2	10:01:00	3.59	10:31:00	3.62	0:30:00	0.03	0.36	0.720	83.3
3	10:32:00	3.60	11:02:00	3.60	0:30:00	0.00	0.00	~	~
4	11:02:00	3.60	11:32:00	3.63	0:30:00	0.03	0.36	0.720	83.3
5	11:32:30	3.60	12:02:30	3.63	0:30:00	0.03	0.36	0.720	83.3
6	12:03:00	3.60	12:33:00	3.63	0:30:00	0.03	0.36	0.720	83.3
7	12:34:00	3.60	13:04:00	3.63	0:30:00	0.03	0.36	0.720	83.3
8	1:05:00	3.60	1:35:00	3.63	0:30:00	0.03	0.36	0.720	83.3
9									
10									
Notes: 6.0" HEAD OF WATER @ 3.6' ON MEASURING TAPE (DRY @ 4.1')									

PERCOLATION TEST HOLE #: <b>F</b>				DEPTH (FT.): <b>36.0"</b>					
Trial #	Start Time	Initial Water Level (ft.)	Reading Time	Water Level (ft.)	Time Interval (min.)	Water Drop (ft) (in.)		Perc. Rate (IPH) (MPI)	
1	9:54:00	4.91	10:04:00	4.94	0:10:00	0.03	0.36	2.160	27.8
2	10:04:00	4.94	10:34:00	4.97	0:30:00	0.03	0.36	0.720	83.3
3	10:34:00	4.97	11:04:00	5.02	0:30:00	0.05	0.60	1.200	50.0
4	11:05:00	5.00	11:35:00	5.02	0:30:00	0.02	0.24	0.480	125.0
5	11:36:00	5.00	12:06:00	5.04	0:30:00	0.04	0.48	0.960	62.5
6	12:07:00	4.99	12:37:00	5.04	0:30:00	0.05	0.60	1.200	50.0
7	12:37:30	5.00	13:07:30	5.03	0:30:00	0.03	0.36	0.720	83.3
8	1:08:45	5.00	1:38:45	5.04	0:30:00	0.04	0.48	0.960	62.5
9									
10									
Notes: 6.0" HEAD OF WATER @ 5.0' ON MEASURING TAPE (DRY @ 5.5') Recommended Percolation Rate Range for Dispersal System (MPI):									

CERTIFICATION: I CERTIFY THAT THIS PERCOLATION TEST WAS PERFORMED BY ME OR UNDER MY SUPERVISION AND THAT COUNTY OF SANTA CRUZ PROCEDURES WERE USED.

SIGNATURE: \_\_\_\_\_ PROFESSIONAL GEOLOGIST #7453

**BIOSPHERE CONSULTING - PERCOLATION TEST DATA SHEET**

DATE: 9/4/08		JOB: 08011-Moeller 194 San Remo Rd		APN: 243-181-006		TECHNICIAN: ROCKY J.			
PERCOLATION TEST HOLE #: <b>A</b>				DEPTH (FT.): <b>24.0"</b>					
Trial #	Start Time	Initial Water Level (ft.)	Reading Time	Water Level (ft.)	Time Interval (min.)	Water Drop (ft) (in.)		Perc. Rate (IPH) (MPI)	
1	10:06:00	4.23	10:16:00	4.25	0:10:00	0.02	0.24	1.44	41.7
2	10:16:00	4.25	10:46:00	4.29	0:30:00	0.04	0.48	0.96	62.5
3	10:47:00	4.24	11:17:00	4.28	0:30:00	0.04	0.48	0.96	62.5
4	11:18:00	4.24	11:48:00	4.27	0:30:00	0.03	0.36	0.72	83.3
5	11:49:00	4.25	12:19:00	4.28	0:30:00	0.03	0.36	0.72	83.3
6	12:20:00	4.25	12:50:00	4.29	0:30:00	0.04	0.48	0.96	62.5
7	12:51:00	4.25	13:21:00	4.29	0:30:00	0.04	0.48	0.96	62.5
8	1:21:30	4.25	1:51:30	4.29	0:30:00	0.04	0.48	0.96	62.5
9									
10									
Notes: 6.0" HEAD OF WATER @ 4.25' ON MEASURING TAPE (DRY @ 4.75')									
Presoak Method: FILLED HOLES TO GROUND SURFACE DAY PRIOR									

PERCOLATION TEST HOLE #: <b>B</b>				DEPTH (FT.): <b>30.0"</b>					
Trial #	Start Time	Initial Water Level (ft.)	Reading Time	Water Level (ft.)	Time Interval (min.)	Water Drop (ft) (in.)		Perc. Rate (IPH) (MPI)	
1	10:08:00	4.38	10:18:00	4.39	0:10:00	0.01	0.12	0.72	83.3
2	10:19:00	4.39	10:49:00	4.43	0:30:00	0.04	0.48	0.96	62.5
3	10:50:00	4.40	11:20:00	4.43	0:30:00	0.03	0.36	0.72	83.3
4	11:20:30	4.40	11:50:30	4.43	0:30:00	0.03	0.36	0.72	83.3
5	11:51:00	4.40	12:21:00	4.43	0:30:00	0.03	0.36	0.72	83.3
6	12:21:30	4.38	12:51:30	4.41	0:30:00	0.03	0.36	0.72	83.3
7	12:52:00	4.40	13:22:00	4.43	0:30:00	0.03	0.36	0.72	83.3
8	1:23:00	4.40	1:53:00	4.43	0:30:00	0.03	0.36	0.72	83.3
9									
10									
Notes: 6.0" HEAD OF WATER @ 4.4' ON MEASURING TAPE (DRY @ 4.9')									

PERCOLATION TEST HOLE #: <b>C</b>				DEPTH (FT.): <b>36.0"</b>					
Trial #	Start Time	Initial Water Level (ft.)	Reading Time	Water Level (ft.)	Time Interval (min.)	Water Drop (ft) (in.)		Perc. Rate (IPH) (MPI)	
1	10:10:00	4.99	10:20:00	4.99	0:10:00	0.00	0.00	~	~
2	10:21:00	4.99	10:51:00	5.00	0:30:00	0.01	0.12	0.24	250.0
3	10:51:00	5.00	11:21:00	5.01	0:30:00	0.01	0.12	0.24	250.0
4	11:22:00	4.98	11:52:00	4.99	0:30:00	0.01	0.12	0.24	250.0
5	11:52:00	4.99	12:22:00	5.00	0:30:00	0.01	0.12	0.24	250.0
6	12:23:00	5.00	12:53:00	5.01	0:30:00	0.01	0.12	0.24	250.0
7	12:53:30	4.99	13:23:30	5.00	0:30:00	0.01	0.12	0.24	250.0
8	1:24:00	5.00	1:54:00	5.01	0:30:00	0.01	0.12	0.24	250.0
9									
10									
Notes: 6.0" HEAD OF WATER @ 5.0' ON MEASURING TAPE (DRY @ 5.5')									
Recommended Percolation Rate Range for Dispersal System (MPI):									
CERTIFICATION: I CERTIFY THAT THIS PERCOLATION TEST WAS PERFORMED BY ME OR UNDER MY SUPERVISION AND THAT COUNTY OF SANTA CRUZ PROCEDURES WERE USED.									
SIGNATURE:					R PROFESSIONAL GEOLOGIST #7453				

# BioSphere Consulting - Soil Infiltration Test Data Sheet

for Shallow Gravelless Drainfields

<b>Project:</b>	Moeller APN: 243-181-006		
TEST #:	2		
Address:	194 San Remo Rd, Carmel Highlands, California [Monterey County]		
Test Location:	southern portion of proposed dispersal area		
Description:	exactly 5'-long, 12"-deep, 6"-wide test trench (5' pressure lateral with 5 1/8" orifices spaced 12" apart)		
Soil Texture:	See soil analysis sheet(s)		
Start date/time:	9/4/2008	4:30pm	
End date/time:	9/5/2008	4:30pm	<b>RESULTS:</b> ~2-5gpd/ft2
Targeted (estimated) acceptable soil dispersal application rate (LTAR):	15gpd/ft2		CONFIRMED MAXIMUM ACCEPTABLE SOIL LOADING/APPLICATION RATE (LTAR):

## Timer settings

Pump "ON" Time (seconds):	21
Pump "OFF" Time (Min.):	30
Test Load (gpd):	37.5
Orig. Squirt Height (feet):	5.5
Length and date of previous battery charge (hrs):	24

## Inspection Data

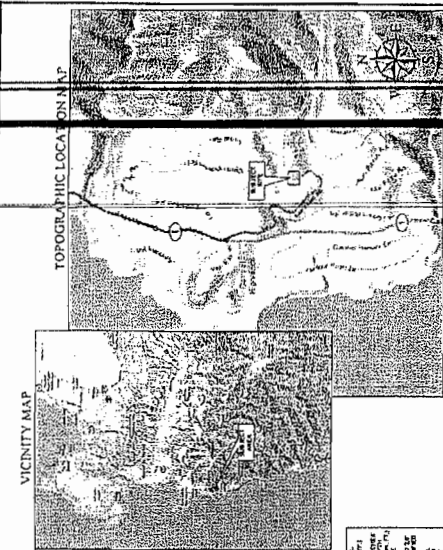
Inspection 1	Date:	9/4/2008
	Time:	4:31pm
	Minutes until next dose:	29
	Ponding (yes/no):	yes
	Ponding depth (inches):	0.5
	ponding immediately before dose (inches):	no
	ponding immediately after dose (inches):	0.5
	elapsed time to complete infiltration (min.):	n/a
	Re-check squirt height (feet):	5.5
Notes:		

Inspection 2	Date:	9/5/2008
	Time:	4:40pm
	Minutes until next dose:	1
	Ponding (yes/no):	yes
	Ponding depth (inches):	4" - 4.5"
	ponding immediately before dose (inches):	4" - 4.5"
	ponding immediately after dose (inches):	4" - 4.5"
	elapsed time to complete infiltration (min.):	n/a
	Re-check squirt height (feet):	5.5
Notes:		

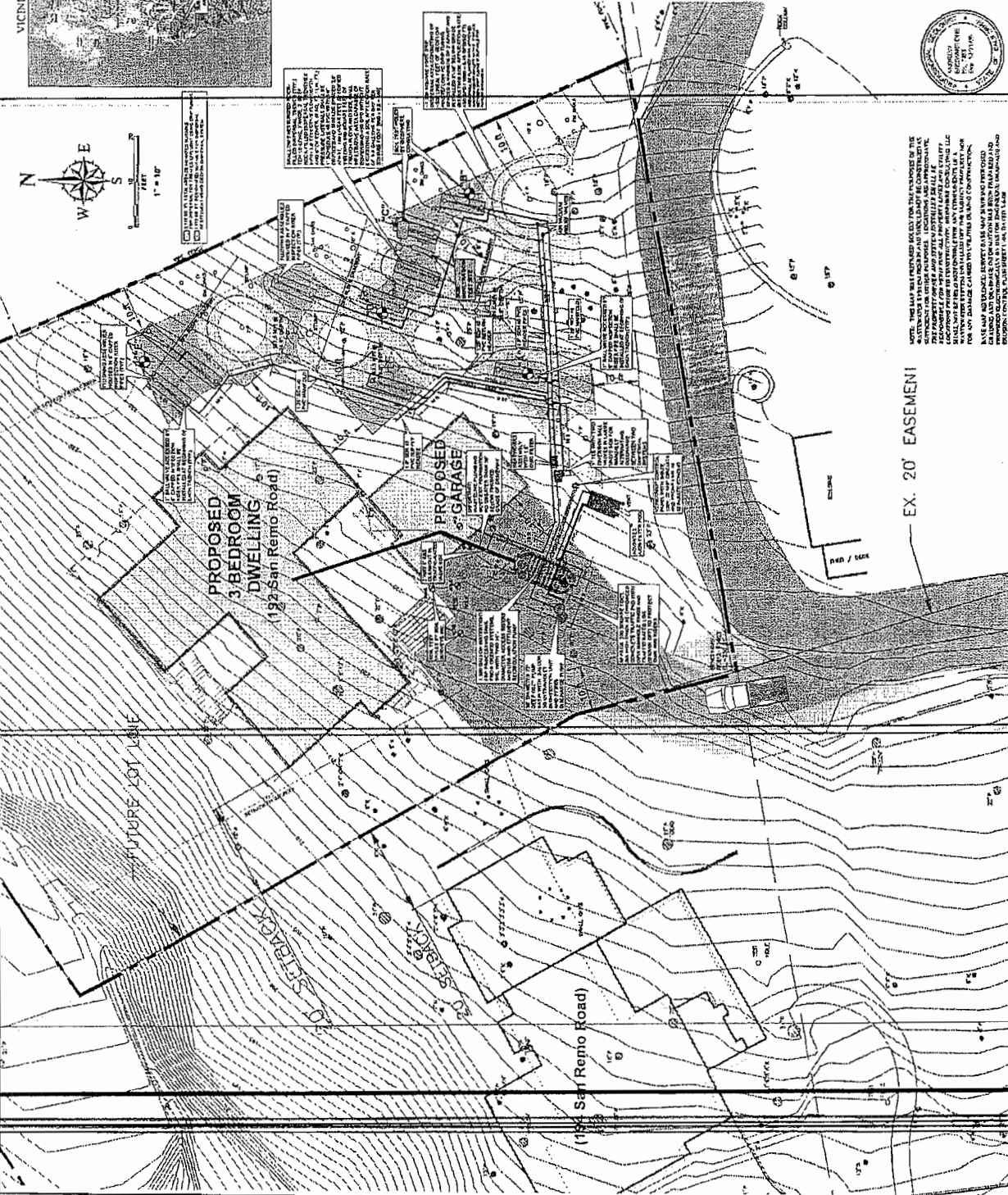
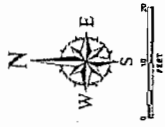


# BioSphere Consulting - Soil Infiltration Test Data Sheet

		for Shallow Gravelless Drainfields	
<b>Project:</b>	Moeller APN: 243-181-005		
<b>TEST #:</b>	1		
<b>Address:</b>	192 San Remo Rd, Carmel Highlands, California (Monterey County)		
<b>Test Location:</b>	near middle of upper (northern proposed dispersal area)		
<b>Description:</b>	exactly 5' long, 10" deep, 6" wide test trench (5' pressure lateral with 5 1/8" orifices spaced 12" apart)		
<b>Soil Texture:</b>	see soil analysis sheet(s)		
<b>Start date/time:</b>	9/3/2008	4:00pm	
<b>End date/time:</b>	9/4/2008	4:00pm	<b>RESULTS:</b> >20gpd/ft2
<b>Targeted (estimated) acceptable soil dispersal application rate (LTAR):</b>	15gpd/ft2		
<b>CONFIRMED MAXIMUM ACCEPTABLE SOIL LOADING/APPLICATION RATE (LTAR):</b>			
<b>Timer settings</b>			
Pump "ON" Time (seconds):	21		
Pump "OFF" Time (Min.):	30		
Test Load (gpd):	37.5		
Orig. Squirt Height (feet):	5.5		
Length and date of previous battery charge (hrs):	24		
<b>Inspection Data</b>			
<b>Inspection 1</b>	Date: 9/3/2008		
	Time: 4:29pm		
	Minutes until next dose: 1		
	Ponding (yes/no): no		
	Ponding depth (inches): n/a		
	ponding immediately before dose (inches): no		
	ponding immediately after dose (inches): 0.5		
	elapsed time to complete infiltration (min.): n/a		
	Re-check squirt height (feet): 5.5		
Notes:			
<b>Inspection 2</b>	Date: 9/4/2008		
	Time: 9:53am		
	Minutes until next dose: 1		
	Ponding (yes/no): no		
	Ponding depth (inches): n/a		
	ponding immediately before dose (inches): no		
	ponding immediately after dose (inches): 0.5		
	elapsed time to complete infiltration (min.): n/a		
	Re-check squirt height (feet): 5.5		
Notes:			
<b>Inspection 3</b>	Date: 9/4/2008		
	Time: 10:57am		
	Minutes until next dose: 28		
	Ponding (yes/no): yes		
	Ponding depth (inches): 0.75		
	ponding immediately before dose (inches): no		
	ponding immediately after dose (inches): 5 - 7.5		
	elapsed time to complete infiltration (min.): ~15 min.		
	Re-check squirt height (feet): 5.5		
Notes:			
<b>Inspection 4</b>	Date: 9/4/2008		
	Time: 11:26am		
	Minutes until next dose: 1		
	Ponding (yes/no): no		
	Ponding depth (inches): n/a		
	ponding immediately before dose (inches): no		
	ponding immediately after dose (inches): 5 - 7.5		
	elapsed time to complete infiltration (min.): ~15 min.		
	Re-check squirt height (feet): 5.5		
Notes:			
<b>Inspection 5</b>	Date: 9/4/2008		
	Time: 4:45pm		
	Minutes until next dose: 12		
	Ponding (yes/no): no		
	Ponding depth (inches): n/a		
	ponding immediately before dose (inches): no		
	ponding immediately after dose (inches): n/a		
	elapsed time to complete infiltration (min.): ~15 min.		
	Re-check squirt height (feet): 5.5		
Notes:			



AERIAL PHOTO SITE MAP



EX. 20' EASEMENT

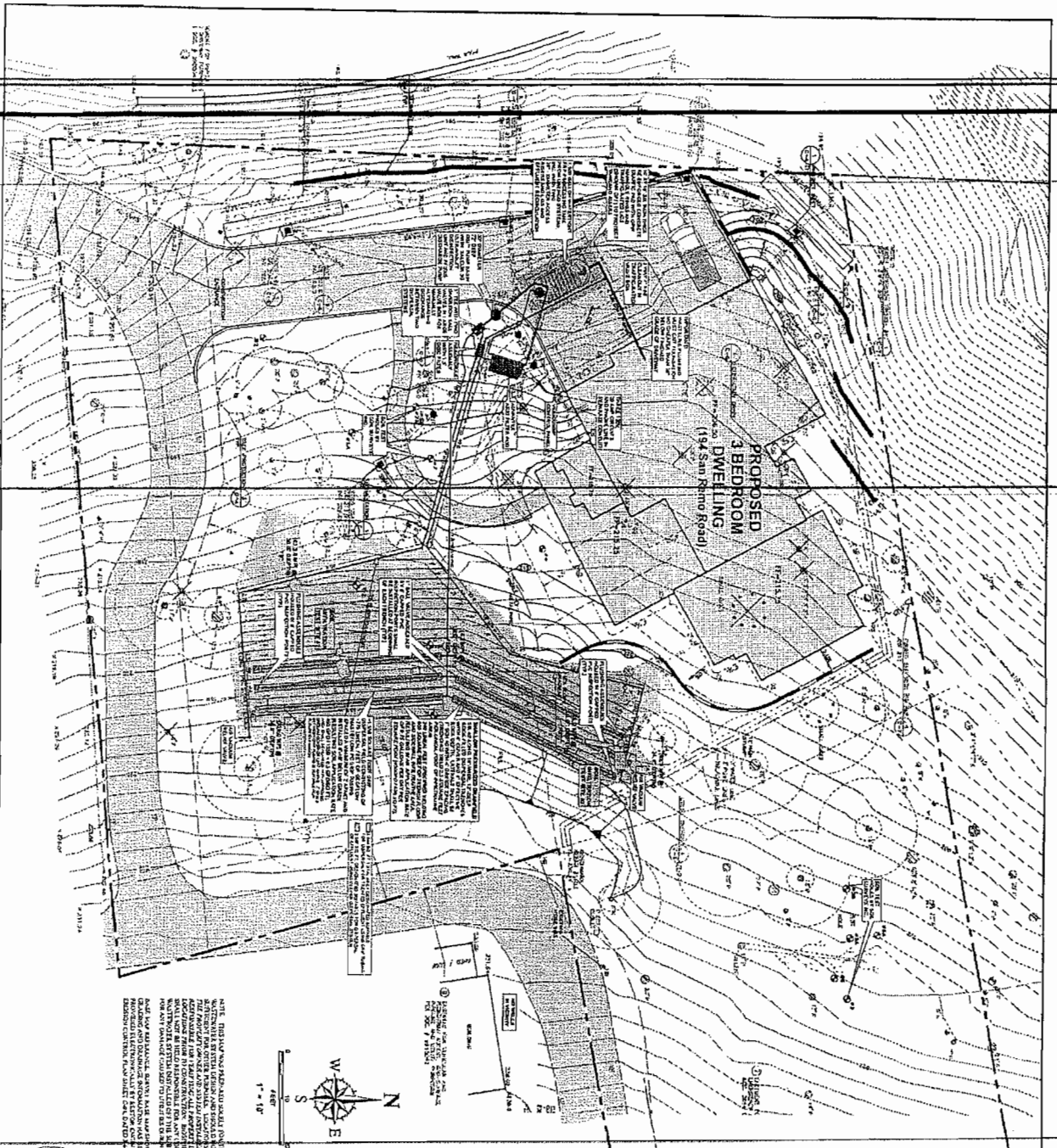
NOTE: THIS MAP HAS BEEN PREPARED FOR THE PURPOSE OF THE  
 WATERWORKS & WASTE WATER ENGINEERING CONSULTANTS  
 THE PROJECT AND THE CONTRACTOR SHALL BE RESPONSIBLE FOR  
 THE ACCURACY OF THE INFORMATION AND DATA SHOWN ON ALL  
 PLANS AND SPECIFICATIONS. THE ENGINEER'S RESPONSIBILITY IS  
 LIMITED TO THE DESIGN OF THE WASTE WATER SYSTEMS AND  
 TO THE DESIGN OF THE WASTE WATER TREATMENT PLANT. THE  
 ENGINEER DOES NOT WARRANT THE ACCURACY OF THE DATA  
 PROVIDED BY OTHER SOURCES OR THE ACCURACY OF THE  
 INFORMATION OBTAINED FROM THE FIELD. THE ENGINEER'S  
 DESIGN IS BASED ON THE INFORMATION PROVIDED AND IS NOT  
 TO BE USED FOR ANY OTHER PURPOSE WITHOUT THE  
 WRITTEN CONSENT OF THE ENGINEER.

**ALTERNATIVE ON-SITE WASTE WATER SYSTEM DESIGN  
 FOR NEW DEVELOPMENT OF A SINGLE FAMILY DWELLING  
 WITH SHALLOW DISPERSED TO SUBMERGED LOW  
 SHALLOW PRESSURIZED ROCK-FILLED DISPERSES  
 TRENCHES**

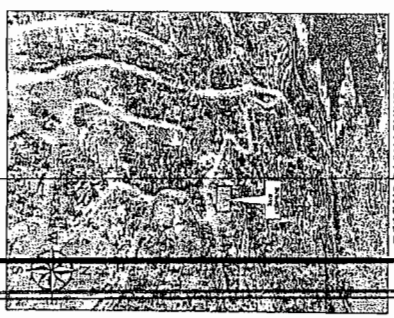
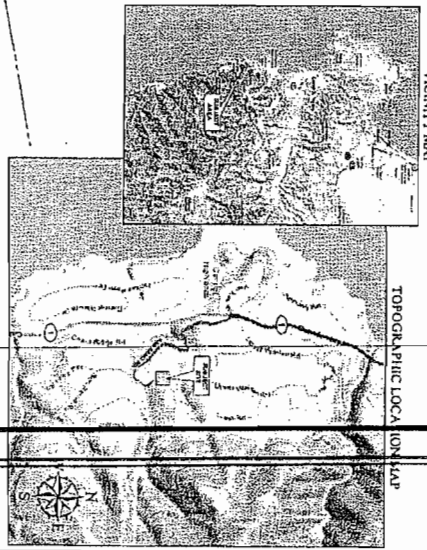
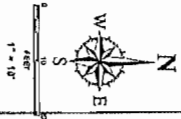
Project Location: 192 San Remo Rd, Carmel, California, CA 93921  
 Property Owner: Dr. Richard Moffler  
 Mailing Address: 24808 Upper Trail, Carmel, CA 93921  
 Owner Phone #: 311.212.2860  
 Direction to Site: 1/2 mile east of San Remo Rd, 1/2 mile south of  
 Date: 05/14/88 By: Associate Engineer (in Print) JAPP

1375 Oak Street  
 Suite 200, CA 93906  
 Phone: (408) 251-3405  
 Fax: (408) 251-3405

1 San Francisco, California  
 2 San Jose, California  
 3 San Diego, California  
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 99 San Diego, California  
 100 San Francisco, California



NOTE: THIS PLAN HAS BEEN PREPARED AND CHECKED FOR CONFORMANCE WITH THE REQUIREMENTS OF THE RESOURCE MANAGEMENT ACT AND THE RESOURCE MANAGEMENT ACT REGULATIONS. THE DESIGNER HAS CONDUCTED VISUAL IMPACT ASSESSMENT AND HAS TAKEN INTO ACCOUNT THE REQUIREMENTS OF THE ACT AND REGULATIONS. THE DESIGNER HAS CONDUCTED VISUAL IMPACT ASSESSMENT AND HAS TAKEN INTO ACCOUNT THE REQUIREMENTS OF THE ACT AND REGULATIONS. THE DESIGNER HAS CONDUCTED VISUAL IMPACT ASSESSMENT AND HAS TAKEN INTO ACCOUNT THE REQUIREMENTS OF THE ACT AND REGULATIONS.



**Alternative Onsite Wastewater System Design**

**FOR NEW DEVELOPMENT OF A SINGLE FAMILY DWELLING**

**PRESUMED DISINFECTED TO SUBSURFACE DRAINAGE**

**SHALLOW PRESSURIZED INVERTED DRAINAGE FIELD**

Project Location: 102 Sunbeam Rd, Concord Hills, Sydney, NSW 1592

Property Owner: Dr. Michael Nield

Author: [Name]

Order Number: 1511-213-2460

Order Date: 15/11/2013

Order Price: \$1,200.00

Order Status: [Status]

Order Reference: [Reference]

Order Contact: [Contact]

Order Email: [Email]

Order Phone: [Phone]

Order Fax: [Fax]

Order Address: [Address]

Order City: [City]

Order State: [State]

Order Postcode: [Postcode]

Order Country: [Country]

Order Currency: [Currency]

Order Language: [Language]

Order Units: [Units]

Order Date: 05/11/13

Order By: Andrew Stammers (Lic No. 089114) (APV 111-1-18-405) (EIT)

REVISIONS: [Revisions]

**Bohler Engineering**

1511 King Street  
 4th Floor, Suite 405  
 1511 King Street  
 Sydney, NSW 1592  
 Australia  
 Tel: 02 9550 1111  
 Fax: 02 9550 1112  
 Email: info@bohler.com.au  
 Website: www.bohler.com.au

# Exhibit C



16055-D Caputo Drive, Morgan Hill, CA 95037  
(408) 778-2818 • FAX (408) 779-6879  
info@pacific-geotechnical.com

September 26, 2008  
Project P1898

Dr. Michael Moeller  
c/o Ms. Pamela Silkwood  
Horan, Lloyd Law Offices  
P.O. Box 3350  
Monterey, CA 93942-3350

BY EMAIL & MAIL

**SUBJECT: Progress Report - Slope Stability Evaluation**  
Proposed Alternative Septic System  
192 San Remo Way  
APN 243-181-005  
Monterey County, California

Dear Dr. Moeller:

As requested, this letter provides you with a status report on our slope stability evaluation, in order that you may update the Regional Water Quality Control Board (RWQCB).

#### **BACKGROUND**

Your septic consultant (BioSphere Consulting, Inc.) has prepared the following plan for a proposed enhanced treatment system at the site:

- *Alternative Onsite Wastewater System Design for New Development of a Single Family Dwelling, Proposed Enhanced Treatment System Specifying Pressurized Dispersal to Subsurface Drip Tubing and Shallow Pressurized Rock-filled Dispersal Trenches;* prepared by BioSphere Consulting, rev. date September 25, 2008.

BioSphere has also provided us with various field test data sheets regarding percolation rates and pilot testing of infiltration rates using the proposed leach field system, and a summary letter (Results of Additional Soil Testing and Discussion of Potential Influence of Rainfall, dated September 25, 2008).

You have also provided us with copies of the following previous geotechnical and septic investigations, for use in the course of our evaluation: "Geotechnical and Percolation Investigation" by Soil Surveys, Inc. dated September 15, 1999; "Additional Percolation Tests and Addendum to Geotechnical and Percolation Investigation Report..." by Soil Surveys, Inc. dated November 2, 2001; "Geotechnical Investigation for San Remo Road Properties..." by Pacific Crest Engineering, Inc., dated April, 2003; and "Soil Analysis... 192 San Remo Road...", by BioSphere Consulting, dated April 23, 2008.

Since this system would be sited on slopes that exceed 20%, we understand that the RWQCB is requiring a slope stability evaluation of this proposed approach.

Our slope stability evaluation is intended to evaluate this potential concern, and provided findings are positive, to satisfy the RWQCB's requirement. Our aim is to explore and evaluate the engineering properties of on-site soil in the area of the proposed leach lines and to formulate conclusions regarding slope stability in that area under septic loading conditions.

## SCOPE OF WORK

The authorized scope of our evaluation consists of the following:

- 1) Review geologic maps, reports, and other pertinent information in our office files.
- 2) Perform geologic reconnaissance of the site and vicinity to evaluate geomorphic features that may be indicative of slope stability or instability.
- 3) Obtain field measurements to supplement a topographic profile to be prepared using the site topographic base that forms the basis for the Biosphere Consulting septic plan.
- 4) Explore subsurface conditions of the site by means of a portable drilling rig. We anticipate drilling 2 holes in the immediate vicinity of the proposed leach field lines. Drill holes are expected to extend up to about 10 feet below ground surface. Samples of soil and bedrock will be recovered for laboratory testing.
- 5) Plot subsurface data acquired from our drilling program onto the field-measured topographic profile, and convert it to a geologic cross section, showing the subsurface materials and our interpretation of their inter-relationships.
- 6) Perform laboratory tests on selected samples recovered from our drilling program to measure pertinent index and engineering properties.
- 7) Analyze the above data and evaluate the geologic and geotechnical suitability of the selected leach field site for the proposed plan from a slope stability standpoint. Develop supplemental recommendations if needed.
- 8) Summarize our findings, conclusions and recommendations in a Septic Leach Field Slope Stability Evaluation report, that will be appended with pertinent map/site plan, our geologic cross section, logs of our exploratory borings, and any supplemental data sheets.

## STATUS OF EVALUATION

We have conducted an initial reconnaissance of the property to evaluate geologic conditions as reported by previous investigations, to develop our own observations, and identify potential boring locations. We were fortunate to be able to observe fresh cuts through native soil and subsoil along the perimeter of the house under construction at the adjacent 194 San Remo Way; these cuts provide valuable context for site-specific data on 192 San Remo Way.

We have partially completed our literature review of the site vicinity. Recent detailed geologic and landslide mapping by the California Geological Survey (Wills and others, 2005) maps the site as being underlain by "older debris fans." No landslides are mapped at the site; mapped landsliding is confined to the steeper ground several hundred feet east of the site, and within steep-walled drainages incised into crystalline bedrock terrain still further east. Geomorphically, the site is located within a series of marine terraces into which the modern drainages (such as the swale just north of the site) are cut.

We are slated to perform our own subsurface investigation at the site this coming week (week of September 29, 2008), so data from that part of our scope is not yet available.



September 26, 2008

Project P1898

At this point, we can preliminarily state that based on the information we have reviewed to date, we are not aware of conditions that would preclude the proposed septic system, and do not see any "red flags."

If you have any questions, please contact me.

Sincerely,

PACIFIC GEOTECHNICAL ENGINEERING

G. Reid Fisher  
Engineering Geologist

Enc: Agreement for Professional Services (2)  
Schedule of Charges - 2007



## Exhibit D



Resolution No. 05-082  
Before the Board of Supervisors in and for the  
County of Monterey, State of California

<b>FINAL LOCAL ACTION NOTICE</b>
REFERENCE # <u>3-MCO-05-179</u>
APPEAL PERIOD <u>5/10-5/23/05</u>

Approve a Combined Development Permit )  
(PLN040050/Moeller) consisting of a Coastal )  
Administrative Permit and Design Approval for a two- )  
story 3,588 sq. ft. single family dwelling with a 1,164 )  
sq. ft. attached garage and grading (approximately 185 )  
cu. yds. of cut & 195 cu. yds. of fill); a Coastal )  
Development Permit for native tree removal (9 )  
Monterey pines including 2 landmark pines, 6 coast )  
live oaks, and 3 clusters of coast live oaks); a Coastal )  
Development Permit for development on slopes of 30% )  
or greater; and a Coastal Development Permit for an )  
equal lot line adjustment of approximately 0.27 acres )  
between a 0.85-acre lot (Parcel 1) and a 0.61-acre lot )  
(Parcel 2) resulting in no net change in acreage for )  
either parcel. The properties are located at and )  
adjacent to 194 San Remo Drive, Carmel (Assessor's )  
Parcel Numbers 243-181-006-000 & 243-181-005-000), )  
Carmel Highlands Area, Coastal Zone. )

**RECEIVED**

MAY 09 2005

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

In the matter of the application of PLN040050 (Moeller),

WHEREAS: The Monterey County Board of Supervisors pursuant to regulations established by local ordinance and state law, has considered, at public hearing, an application for a Combined Development Permit (PLN040050/Moeller) consisting of a Coastal Administrative Permit and Design Approval for a two-story 3,588 sq. ft. single family dwelling with a 1,164 sq. ft. attached garage and grading (approximately 185 cu. yds. of cut & 195 cu. yds. of fill); a Coastal Development Permit for native tree removal (9 Monterey pines including 2 landmark pines, 6 coast live oaks, and 3 clusters of coast live oaks); a Coastal Development Permit for development on slopes of 30% or greater; and a Coastal Development Permit for an equal lot line adjustment of approximately 0.27 acres between a 0.85-acre lot (Parcel 1) and a 0.61-acre lot (Parcel 2) resulting in no net change in acreage for either parcel. The properties are located at and adjacent to 194 San Remo Drive, Carmel (Assessor's Parcel Numbers 243-181-006-000 & 243-181-005-000), Carmel Highlands Area, Coastal Zone.

**NOW, THEREFORE, the Board of Supervisors finds as follows:**

1. **FINDING:** **CONSISTENCY** - The project, as conditioned, is consistent with applicable plans and policies, including the Monterey County Coastal Subdivision Ordinance (Title 19), the *Carmel Area Land Use Plan*, the *Regulations for Development in the Carmel Area Land Use Plan*, Part 6 (Appendices) of the *Coastal Implementation Plan*, and the Monterey County Zoning Ordinance (Title 20) which designates this area as appropriate for residential development.

- EVIDENCE:** (a) PBI staff has reviewed the project as contained in the application and accompanying materials for consistency with the *Carmel Area Land Use Plan*, the *Regulations for Development in the Carmel Area Land Use Plan*, Part 6 (Appendices) of the Coastal Implementation Plan. PBI staff has reviewed the project as contained in the application and accompanying materials for conformity with the Monterey County Coastal Subdivision Ordinance (Title 19) and the Monterey County Zoning Ordinance (Title 20) and has determined that the project is consistent with these plans and ordinances, which designate this area as appropriate for residential development. Application materials in Project File PLN040050.
- (b) Project planner conducted onsite inspections on July 20, 2003, January 15, 2004, and March 17, 2005 to verify that the project on the subject parcel conforms to the plans and ordinances listed above.
- (c) The project, for a lot line adjustment and a single family home, involves a conditional use and an allowed use, respectively, in accordance with Sections 20.14.050.BB and 20.14.040.A of the Zoning Ordinance (Title 20).
- (d) The project is in compliance with Site Development Standards for the Low Density Residential District in accordance with Section 20.14.060.
- (e) LAND USE ADVISORY COMMITTEE: The Carmel Area Land Use Advisory Committee heard the project on Monday, April 5, 2004, and recommended denial of the proposed house design by a vote of 4-0 (with 3 members absent), and voted to recommend approval of the proposed lot line adjustment as well as the waiver to allow development on slopes of 30% or greater by the same margin; LUAC meeting minutes dated Monday April 5, 2004.
- (f) The application, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development, found in Project File PLN040050.

**2. FINDING:** **SLOPES OF 30% OR GREATER** – The project proposes development on approximately 720 sq. ft. of Parcel 1 (currently APN 243-181-006-000) with slopes of 30% or greater. This development proposal better achieves the goals, policies and objectives of the Monterey County Local Coastal Program than other development alternatives because it minimizes tree removal and avoids development on steeper areas of the parcel (as adjusted). Remaining areas of both parcels with slopes of 30% or greater shall be conveyed to the County as a Scenic and Conservation easement, pursuant to the requirements of Section 20.146.120.A.6 of the Regulations for Development in the Carmel Area Land Use Plan.

- EVIDENCE:** (a) Plans and materials contained in Project File PLN040050.
- (b) Forest Management Plan prepared for the project by Forest City Consulting, dated January 27, 2004. Report contained in Project File PLN040050.
- (c) Staff conducted a site visit on January 15, 2004 and March 17, 2005, to verify that the site is suitable for this use.
- (d) Condition 9.

**3. FINDING: TREE REMOVAL** -A total of 9 Monterey pines, 6 coast live oaks, and 3 clusters of coast live oaks are proposed for removal. The subject project, as conditioned, minimizes tree removal in accordance with the applicable goals and policies of the Carmel Area Land Use Plan and the Regulations for Development in the Carmel Area Land Use Plan (Coastal Implementation Plan, Part 4). No alternatives to development (such as resiting, relocation, or reduction in development area) exist whereby removal can be avoided for the two landmark Monterey pine trees (#s 26 & 34 of the forester's report). Tree #34 is located within the footprint of the proposed residence and in the forester's latest assessment of the project, dated April 5, 2004, he states that, "*Tree #26 cannot be reasonably retained within falling distance of any structure or high use area.*" Therefore, a total of nine (9) Monterey pines may be removed (#s 3, 5, 6, 7, 24, 26, 32, 33, 34). The coast live oaks allowed for removal are #s 27, 28, 29, 30, 31, plus the three unnumbered clusters of small oaks indicated in the forester's report. This action does not allow for trees of any type or size to be removed on the undeveloped easterly lot (as adjusted). Pursuant to the requirements of Section 20.146.060.D.6 of the Regulations for Development in the Carmel Area Land Use Plan, the 6 Monterey pines to be removed that are 12" DBH or greater shall be replaced at a 1: 1 ratio and shall be included as part of the required landscaping plan.

- EVIDENCE:**
- (a) The forester's report states that the "*proposed design reflects the desire to protect trees, especially the larger Monterey Pines; however, it was decided that some large tree needed to be removed to insure protection of others.*"
  - (b) Forest Management Plan prepared for the project by Forest City Consulting, dated January 27, 2004, and addendum dated April 5, 2004, as well as supplemental report dated September 3, 2003 (reports contained in Project File PLN040050).
  - (c) On the westerly lot (as adjusted), two (2) landmark Monterey pine trees are proposed for removal along with 3 other pines greater than 12" in diameter-at-breast height (DBH) and 3 pines less than 12" DBH. Six (6) coast live oaks measuring 6" DBH or less and three (3) clusters of oaks with trunks measuring 4" or less are also proposed for removal on the westerly lot (as adjusted). Four dead or damaged trees north of the proposed residence are proposed for removal, and one 23" Monterey pine (#24) in the southern portion of the lot is uprooting and therefore proposed for removal.
  - (d) Staff conducted a site visit on January 15, 2004 and March 17, 2005 to verify that the site is suitable for this use.
  - (e) Condition 25.

**4. 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, and all zoning violation abatement cost, if any, have been paid.

**EVIDENCE:** Staff reviewed Monterey County Planning and Building Inspection Department records and is not aware of any violations that exist on subject property.

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:** The project was reviewed by Planning and Building Inspection, Public Works, Water Resources Agency, Environmental Health, Parks and the Carmel Highlands FPD. The respective departments and 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. The applicant has agreed to these conditions as evidenced by the application and accompanying materials and conditions.

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

**EVIDENCE:** (a) The project has been reviewed for suitability by Planning and Building Inspection, Public Works, Water Resources Agency, Environmental Health, Parks Department and the Carmel Highlands FPD. Conditions recommended have been incorporated.

(b) According to the PBID Geographic Information System (GIS), the project lies in a seismic-hazard zone "IIP" (i.e., "moderate"), landslide risk is low to moderate, and liquefaction risk is low. Erosion risk is high. However, standard erosion-control practices will be implemented as conditions of the grading permit in order to fulfill the requirements of the County's Grading and Erosion Control Ordinances (Chapters 16.08 & 16.12 of the County Code).

(c) A biological survey prepared for the project by Vern Yadon, dated March 14, 2003, reports that there are no statutorily-protected species found onsite, although two locally protected species are present onsite, which are native Monterey pine forest and coast live oaks. Report contained in Project File PLN040050.

(d) An archaeological survey prepared by Archaeological Consulting, Inc., dated December 2, 2002, reports no evidence of archaeological or historic resources onsite.

(e) Staff conducted a site visit on January 15, 2004 and March 17, 2005, to verify that the site is suitable for this use.

(f) Necessary public facilities are available and will be provided.

7. **FINDING: CEQA (EXEMPT)** – The project is exempt from environmental review.

**EVIDENCE:** (a) CEQA Guidelines Sections 15303, 15304, and 15305 allow small structures, minor alterations to land, and minor lot line adjustments, respectively, to be categorically exempted from environmental review.

(b) No adverse environmental effects were identified during staff review of the development application during a site visit on January 15, 2004.

- (c) According to the PBID Geographic Information System (GIS), the project lies in a seismic-hazard zone "III" (i.e., "moderate"), landslide risk is low to moderate, and liquefaction risk is low. Erosion risk is high. However, standard erosion-control practices will be implemented as conditions of the grading permit in order to fulfill the requirements of the County's Grading and Erosion Control Ordinances (Chapters 16.08 & 16.12 of the County Code).
- (d) A biological survey prepared for the project by Vern Yadon, dated March 14, 2003, reports that there are no statutorily-protected species found onsite, although two locally protected species are present onsite, which are native Monterey pine forest and coast live oaks. Report contained in Project File PLN040050.
- (e) An archaeological survey prepared by Archaeological Consulting, Inc., dated December 2, 2002, reports no evidence of archaeological or historic resources onsite.

8. **FINDING: PUBLIC ACCESS** - The project is in conformance with the public access and public recreation policies of the Coastal Act and Local Coastal Program, and does not interfere with any form of historic public use or trust rights (see 20.70.050.B.4). No access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in Section 20.70.050.B.4.c of the Monterey County Coastal Implementation Plan, can be demonstrated.

**EVIDENCE** (a) The subject property is not described as an area where the Local Coastal Program requires access.  
 (b) The subject property is not indicated as part of any designated trails or shoreline access areas as shown in Figure 3, the Public Access Map, of the *Carmel Area Land Use Plan*.  
 (c) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.  
 (d) Staff site visit on January 15, 2004 and March 17, 2005.

9. **FINDING: LOT LINE (ADJACENT PARCELS)** - The lot line adjustment is between two existing adjacent parcels.

**EVIDENCE:** Application and plans for a lot line adjustment found in the Project File PLN040050.

10. **FINDING: LOT LINE (PARCEL CREATION)** - A greater number of parcels than originally existed will not be created as a result of the lot line adjustment.

**EVIDENCE:** Two contiguous separate legal parcels of record will be adjusted and two adjacent contiguous separate legal parcels of record will result from the adjustment.

11. **FINDING: LOT LINE (ZONING CONFORMITY)** - The parcels resulting from the lot line adjustment conform to the County Zoning and Building Ordinances.

**EVIDENCE:** The proposed lot line adjustment is consistent with the site development standards for parcels within the LDR/1(CZ) Zoning District, pursuant to

Sections 20.14.060 of the Monterey County Zoning Ordinance (Title 20). The application and plans for a lot line adjustment found in Project File PLN040050.

12. **FINDING: APPEALABILITY** – The decision on this project is appealable to the California Coastal Commission.

**EVIDENCE:** (a) Section 20.86.080 of the Monterey County Coastal Implementation Plan – Part 1 (Coastal Commission). Approved projects involving development permitted as conditional uses are appealable to the Coastal Commission. The project involves conditional use permits for the removal of protected trees, development on 30% slope, and for the lot line adjustment.

### FINDINGS FOR THE APPEAL

13. **FINDING:** The County has conducted a fair and impartial public hearing on the application and related approvals.

**EVIDENCE:** (a) The Minor Subdivision Committee conducted a duly noticed, full, fair, and impartial public hearing on the application and related approvals on November 18, 2004. The hearing was conducted in accordance with state law and the adopted Monterey County Zoning Administrator Rules for the Transaction of Business (“Rules”). All members of the public wishing to speak on the project were afforded the opportunity to speak and to submit written testimony.

(b) Minutes and audio recording of the Minor Subdivision Committee hearing from November 18, 2004.

(c) The Board of Supervisors conducted a duly noticed, full, fair, and impartial *de novo* public hearing on the application and related approvals on February 15, 2005 and April 19, 2005.

(d) Minutes and audio recording of the Board of Supervisors from February 15, 2005 and April 19, 2005.

14. **FINDING:** An appeal of the November 18, 2004, action of the Minor Subdivision Committee approving a Combined Development Permit (PLN040050/Moeller) consisting of a Coastal Administrative Permit and Design Approval for a two-story 3,588 sq. ft. single family dwelling with a 1,164 sq. ft. attached garage and grading (approximately 185 cu. yds. of cut & 195 cu. yds. of fill); a Coastal Development Permit for native tree removal (9 Monterey pines including 2 landmark pines, 6 coast live oaks, and 3 clusters of coast live oaks); a Coastal Development Permit for development on slopes of 30% or greater; and a Coastal Development Permit for an equal lot line adjustment of approximately 0.27 acres between a 0.85-acre lot (Parcel 1) and a 0.61-acre lot (Parcel 2) resulting in no net change in acreage for either parcel, was filed by Pamela Krone-Davis, *et al.* The appeal was timely filed on December 20, 2004.

**EVIDENCE:** (a) Said appeal has been filed with the Clerk of the Board of Supervisors within the time prescribed by Monterey County pursuant to the Zoning Ordinance (Title 20) Chapter 20.86.

(b) Said appeal has been determined to be complete.

(c) The Board of Supervisors has reviewed, evaluated, and considered, and the appeal.

15. **FINDING:** This appeal is brought on the claim that: (1) the findings or decision or conditions are not supported by the evidence, and (2) the decision was contrary to law.

**EVIDENCE:** Appellant's Notice of Appeal dated December 20, 2004; files of Clerk of the Board of Supervisors.

16. **FINDING:** Upon consideration of the documentary information in the files, the staff report, the oral and written testimony and other evidence presented before the Zoning Administrator, the Board of Supervisors upholds the appeal and approves the project as proposed.

**EVIDENCE:** (a) Oral testimony, staff reports, and documents in the administrative record.  
(b) Minor Subdivision Committee Resolution No. 04023, dated November 18, 2004.  
(c) Minutes and audio recording of the Minor Subdivision Committee hearing from November 18, 2004.  
(d) The Board of Supervisors has reviewed, evaluated, and considered the appeal. The above finding is further evidenced by Staff's responses below, as recognized by the Board of Supervisors:

#### Summary of Appellants' Contentions & Staff Responses

The appeal by Pamela Krone-Davis, Ken Edwards, Misaka Olson, Betsy Collins, and Mary Whitney, of the Minor Subdivision Committee's approval of the Moeller Combined Development Permit (PLN040050) is based on a contention that the findings or decision or conditions are not supported by the evidence and that the decision was contrary to law. These contentions are based on the following issues, as summarized from the neighbors' appeal:

*Issue 1: Not a minor lot line adjustment but a major lot line adjustment, and as such is subject to CEQA review.*

*Staff Response 1:* Section 19.02.150 of the Subdivision Ordinance (Coastal Zone) defines a lot line adjustment that results in the relocation of the building area or has the potential to result in the creation of additional lots as "major." A lot line adjustment which does not result in the relocation of the building area is defined as "minor." With regard to the present application, there are no defined or established building areas on the subject parcels. In addition, the northerly lot is bisected from east to west by a natural drainage swale, resulting in steep slopes, riparian habitat, and irregular topography. The combination of these facts indicates that development of this constrained lot (APN 243-181-005-000) in its current configuration would result in more substantial impacts than would occur with the benefit of the proposed lot line adjustment. The application is therefore characterized as a minor lot line adjustment, since, as adjusted, development of the two legal lots of record will minimize the impacts associated with their development to less-than-significant levels. The proposed project can therefore be considered as "self-mitigating," qualifying it for a Class 5 categorical exemption, pursuant to Section 15305 (Minor Alterations in Land Use Limitations) of the CEQA Guidelines.

*Issue 2: The lots "created" by the Minor Subdivision Committee (MSC) are contrary to law because a non-buildable land-locked lot will be created that does not have access.*

*Staff Response 2:* The decision by the MSC to approve the subject Combined Development Permit (PLN040050) allowed an equal exchange of acreage between two existing lots of record to allow for an adjustment of property lines that will minimize the impacts associated with their development to less-than-significant levels, but did not create any new lots.

*Issue 3: Both the existing and proposed configurations of the subject parcels exceed the maximum-allowable density of the applicable land-use designation.*

*Staff Response 3:* This contention is true. The subject parcels lie within the Low-Density Residential (LDR) land-use designation and zoning district, which allow 1 acre of land per residential unit. Regardless, however, the subject parcels are legal non-conforming lots of record and may be developed pursuant to the issuance of applicable discretionary permits, as granted by the MSC. Development of the subject parcels is found to be preferable as adjusted compared to their existing configuration, since the proposed lot-line adjustment will minimize the impacts associated with their development to less-than-significant levels.

*Issue 4: As stated by the appellants, "At an earlier meeting, the applicant stated that one of the lots is vested with a contiguous lot to the north. This vestment needs to be addressed and made clear on the new lot."*

*Staff Response 4:* The owner of the subject lots also owns a third contiguous parcel (APN 241-291-011-000) to the north of the subject parcels. However, this lot is not part of the current Combined Development Permit application and was unaffected by the MSC's action.

*Issue 5: As stated by the appellants, "The proposed house is not consistent with the Carmel Area Land Use Plan because it is massive in scale and height, and the materials chosen increase visibility and a massive appearance."*

*Staff Response 5:* Staff finds the proposed house design to be consistent with the site-development standards of the LDR zoning district, which serve to limit the size of the house. Also, the proposed design is not unlike others approved in the vicinity since adoption and certification of the County's *Local Coastal Program*. In addition, Condition 25 requires the planting of at least 6 Monterey pines to replace those removed that are 12" DBH or greater, and the applicant proposes privacy screening along the westerly property line of Parcel 1 (as adjusted) consisting of several 15-gallon coast live oaks. These facts taken together indicate that the structure will be subordinate and blended into the environment consistent with Policy 2.2.3.6 of the *Carmel Area Land Use Plan*.

*Issue 6: As stated by the appellants, "The proximity of the proposed driveway to the neighboring property line to the west will create the need for a massive retaining wall on a 30 percent slope, which was not adequately represented on the plans."*

*Staff Response 6:* A retaining wall of the nature described by the appellants is not proposed by the subject application. In fact, the project does propose a small retaining wall along the westerly edge of the proposed driveway, but this wall would face the propose house and would



not be on the downward slope facing the neighboring property to the west. Nevertheless, any additional development not covered by the scope of the present application would require a separate discretionary Permit-Amendment application.

*Issue 7: Regarding tree removal, the appellants note that several trees have been removed in the past and that more are proposed for removal. In addition, the appellants contend that, "a condition for removing these landmark pines should be the planting of pines that will grow to equal stature in the future."*

**Staff Response 7:** Staff conducted a site visit to the subject parcels on July 30, 2003 at which time the stumps of 16 trees were noted. As a result, a supplemental forester's report was required to provide more information on this subject (prepared by Glenn Flamik of Forest City Consulting, dated September 3, 2003). The results of the forester's investigation indicate that these trees were removed for reasons including clearing small trees for fuel-load maintenance, clearing storm-damaged trees, and clearing dead trees, all of which are activities exempted from Coastal Development Permit requirements. The random pattern of the stumps throughout the subject parcels lends credence to the forester's analysis in that it is clear that the trees were not removed to create a building pad, for example.

Regarding tree replacement, included in the standard landscaping condition of the MSC Resolution (Condition 23 of that document) was a requirement that the landscaping plan include 6 Monterey pines to replace those allowed for removal, and to maintain consistency with the requirements of the *Regulations for development within the Carmel Area Land Use Plan*.

#### ***APPELLANTS' DISAGREEMENT WITH FINDINGS***

The neighbors' appeal lists five findings made by the MSC with which they disagree. These are as follow:

*Findings 1 (Consistency) & 4 (No Violations): The appellants claim that these finding are "not accurate."*

**Staff Response:** The appeal filed by the neighbors does not elaborate as to how they've determined that Findings 1 & 4 made by the MSC were inaccurate. As a result, staff has no response except to refer to Findings & Evidence 1 & 4, below and to reiterate that staff does find the project to be consistent with the County Code and that no violations of the Code were found with regard to the subject parcels.

*Findings 2 (Slopes of 30% or Greater) & 3 (Tree Removal): The appellants contend that these findings wrongly state that the proposed location of the home minimizes tree removal and avoids development on steeper slopes. The appellants also contend that, "There are better alternatives for the building site then that chosen and the house could be made smaller to have less impact."*

**Staff Response:** The effect of the lot line adjustment would be that the development constraints on the northerly lot, including steep slopes and riparian habitat, would be minimized. The northerly lot is bisected from east to west by a natural drainage swale, resulting in steep slopes, riparian habitat, and irregular topography. The combination of these facts indicates that development of this constrained lot (APN 243-181-005-000) in its current configuration would result in more substantial impacts than would occur with the benefit of the proposed lot line

adjustment, since a longer driveway access would be required that would involve more tree removal. Granting the lot line adjustment as proposed allows the development of both lots to avoid the steeper slopes while minimizing tree removal. Approval of the proposed project would allow development on approximately 720 sq. ft. of Parcel 1 (currently APN 243-181-006-000) with slopes of 30% or greater. Staff finds that this proposal better meets the goals and policies of the Local Coastal Program when compared to the potential impacts that may result from developing the lots in their current configuration.

*Findings 5 (Health & Safety): The appellants contend that approval of the project may result in a landlocked parcel without adequate access for emergency vehicles.*

*Staff Response:* The project was reviewed by the Carmel Highlands Fire Protection District as part of the County's Interdepartmental Review process. Four conditions recommended by the fire district are included below (#s 21, 22, 23 & 24). The fire district has made no indication to the Planning & Building Inspection Department that the project would result in inadequate access for emergency vehicles for either parcel. Review of this project did not include and does not approve a specific proposal to develop Parcel 2, but staff has determined that access to the parcel is feasible. Any future development on the parcel is subject to additional permits and review, including requirements for emergency access.

## DECISION

IN VIEW OF THE ABOVE FINDINGS AND EVIDENCE the Board of Supervisors does hereby approve the subject project (PLN040050/Moeller) as proposed, subject to the conditions that follow.

PASSED AND ADOPTED on this 19<sup>th</sup> day of April, 2005, upon motion of Supervisor Potter, seconded by Supervisor Calcagno, by the following vote, to-wit:

AYES: Supervisors Armenta, Calcagno, Lindley Potter

NOES: None

ABSENT: Supervisor Smith

I, LEW BAUMAN, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof at Page   --   of Minute Book   72  , on   April 19, 2005  .

Dated:   May 5, 2005  

LEW BAUMAN, Clerk of the Board of Supervisors, County of Monterey, State of California.

By   
Ann Anderson, Deputy

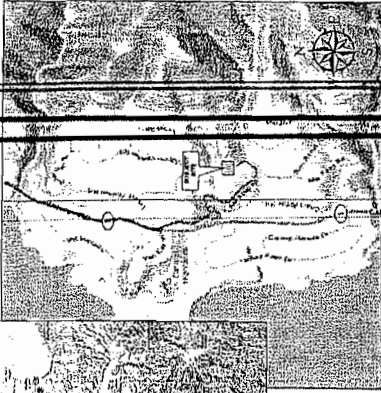
## Exhibit E



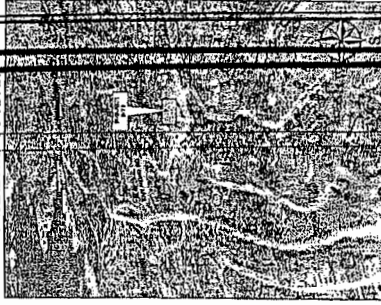
VICINITY MAP



TOPOGRAPHIC LOCATION MAP



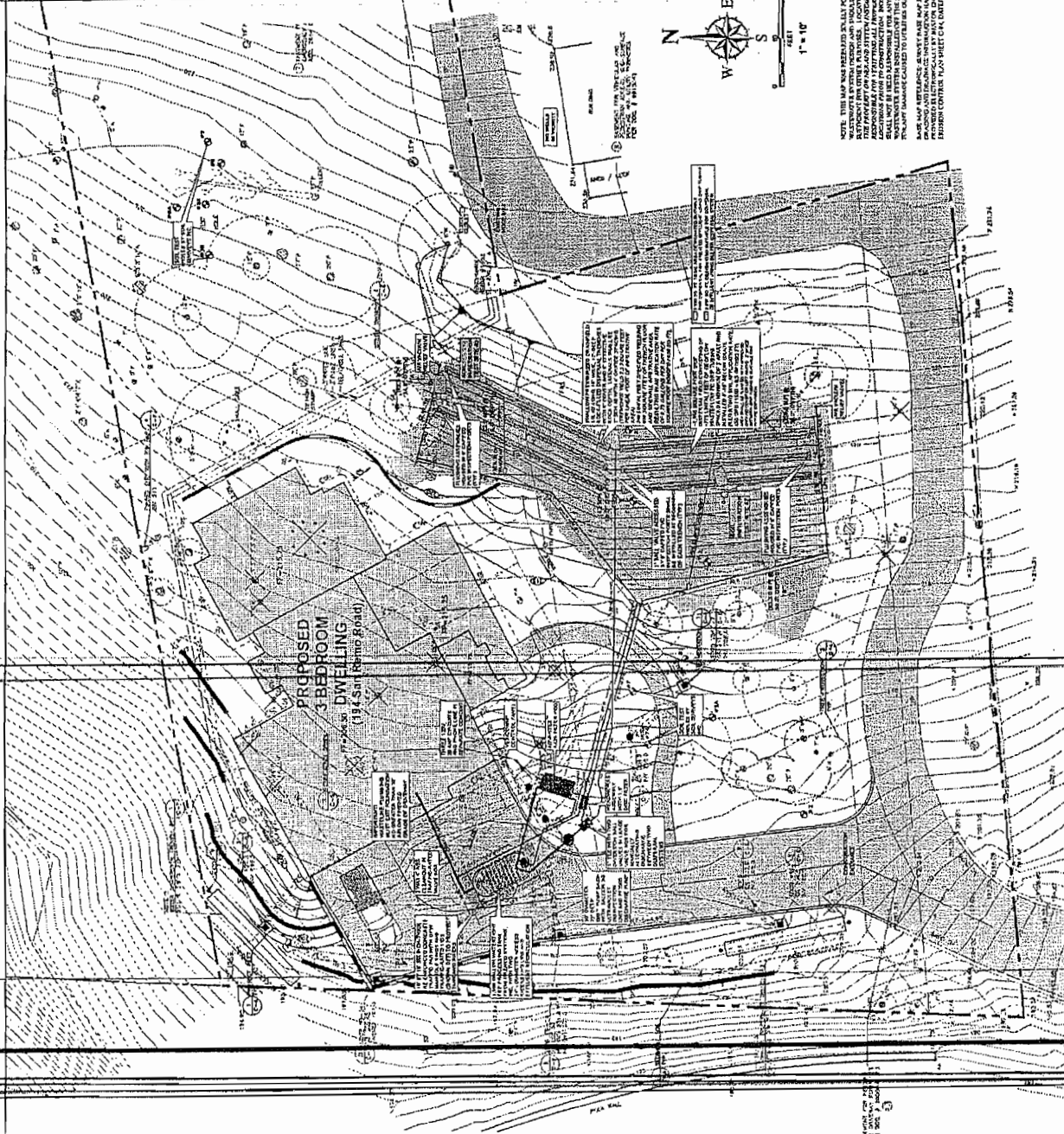
AERIAL PHOTO SITE MAP



**ALTERNATIVE ONSITE WASTEWATER SYSTEM DESIGN**  
 FOR NEW DEVELOPMENT OF A SINGLE FAMILY DWELLING  
 PROPOSED ENHANCED TREATMENT SYSTEM TO  
 PRESUMED DISTRICT, TO SUBSEQUENCE DISTRICT  
 SHALLOW PRESUMED (S-C) FILLED DISTRICT

Project Location: 197 S. 1st St. Carroll Highlands, CA (Building Corner)  
 Property Owner: Dr. Michael Mueller  
 Mailing Address: 1403 Upper Trail, Carroll, VA 99833  
 Owner Phone #: 831.331.7860  
 Director of Site: [Name Redacted]  
 Date: 05/14/2013  
 By: [Name Redacted]  
 Scale: 1/8" = 1'-0"

**NOI CONSULTING**  
 11111 1st Avenue, Suite 100  
 Alternative Wastewater System Design



NOTE: THIS MAP WAS PREPARED BY THE ENGINEER IN ACCORDANCE WITH THE REQUIREMENTS OF THE HEALTH DEPARTMENT AND THE HEALTH DEPARTMENT. THE ENGINEER HAS CONDUCTED A VISUAL INSPECTION OF THE PROPERTY AND HAS FOUND IT TO BE SUITABLE FOR THE PROPOSED DEVELOPMENT. THE ENGINEER HAS CONDUCTED A VISUAL INSPECTION OF THE PROPERTY AND HAS FOUND IT TO BE SUITABLE FOR THE PROPOSED DEVELOPMENT. THE ENGINEER HAS CONDUCTED A VISUAL INSPECTION OF THE PROPERTY AND HAS FOUND IT TO BE SUITABLE FOR THE PROPOSED DEVELOPMENT.

