

CONSEQUENCES OF ROYER BR1995 FAILURE  
to PROVIDE TIMELY NOTICE

STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL COAST REGION

SUPPLEMENTAL SHEET FOR REGULAR MEETING OF MARCH 20-21, 2008  
Prepared on March 13, 2008

ITEM NUMBER: 14

SUBJECT: Waiver of Waste Discharge Requirements for Engineered Onsite Disposal System, Kashfi Residence, 74 Corona Road, Carmel Highlands, Monterey County, Resolution No. R3-2008-0020

#### LATE COMMENTS

Water Board staff received three additional comment letters regarding this item after the February 18, 2008 close of the public comment period. The consultant for the project opponents, Russell Juncal, submitted two letters, dated February 26, 2007, and March 6, 2008. A third letter was submitted by the project applicant's (Discharger's) legal representative, Fenton & Keller, dated March 3, 2008.

The March 3, 2008 Fenton & Keller letter requests that information provided by the project opponents after February 18, 2008, not be allowed into the record for this item due to prejudice against the Discharger for lack of time and expense that would be involved to respond to the late comments.

The February 26, 2008 letter from Russell Juncal generally does not present any new information that is not part of the existing record for this item except for a bulleted statement that has been stricken from the record per the Fenton & Keller request. The March 6, 2008 letter from Russell Juncal contains new information and questions the permitting and placement of the domestic water supply well on the subject property under the authority of Monterey County and is therefore not pertinent to this discussion pursuant to our authority governing the permitting of onsite wastewater treatment and disposal systems. Consequently, staff has not included the March 6, 2008 letter in this supplemental sheet.

Staff anticipates that Russell Juncal will provide oral testimony at the Water Board hearing regarding the well placement issue and the subject matter stricken from the attached letters.

#### ATTACHMENTS

1. February 26, 2008, letter from Ground Zero Analysis, Inc. (Russell Juncal), re: Resolution R3-2008-0020 (Draft) – Waiver of Waste Discharge Requirements (with stricken language)
2. March 3, 2008, letter from Fenton & Keller, re: 74 Corona Road, Carmel Highlands, (APN: 241-052-001); Waiver Resolution R3-2008-0020



# California Regional Water Quality Control Board

## Central Coast Region



Linda S. Adams  
Secretary for  
Environmental  
Protection

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Arnold  
Schwarzenegger  
Governor

January 18, 2008

Certified Mail No. 7004 1350 0003 9877 2248

Rick Kashfi  
73 Spruce Way  
Carmel, CA 93922

Dear Mr. Kashfi:

**74 CORONA ROAD, CARMEL HIGHLANDS, CARMEL, (APN: 241-052-001), MONTEREY COUNTY; PROPOSED WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR ALTERNATIVE ONSITE WASTEWATER DISPOSAL SYSTEM (RESOLUTION R3-2008-0020)**

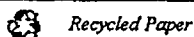
We reviewed Monterey County Department of Health's (County) December 20, 2007, *Application for an Alternative Onsite Wastewater System Permit for the Kashfi Residence at 74 Corona Road, APN 241-052-001*. The application package contains a Report of Waste Discharge Supplemental Form for Regional Board Subsurface Disposal Exemption Submittal (for Basin Plan Exemption) and design documents for an engineered onsite wastewater system for the subject property prepared by Andrew Brownstone of BioSphere Consulting.

The Basin Plan and existing July 1979 Memorandum of Understanding between the County and Central Coast Water Board prohibits the County from approving engineered onsite wastewater systems. The engineered system is being proposed in response to our March 7, 2007 and May 7, 2007 letters to the County regarding the ongoing use of onsite wastewater systems in the Carmel Highlands area and subsequent County Ordinance Nos. 5086 and 5093.

Your Basin Plan exemption request is hereby approved. We intend to request the Regional Board waive waste discharge requirements for the proposed engineered system at its March 21, 2008 meeting in Salinas. The enclosed draft Waiver (Resolution No. R3-2008-0020) contains staff-proposed conditions based on County Ordinance No. 5093 and nonstandard County permit conditions. The Waiver is subject to Water Board approval.

We have no objections to the County issuing a building permit at this time. However, this letter does not authorize sewage discharges to the proposed system. You may choose to proceed with construction of the proposed system at your own risk given the Water Board retains the authority to deny the proposed Waiver or add additional conditions. We will advise you of the Water Board's determination of the proposed Waiver following the March 21, 2008 meeting. You may choose to attend the meeting.

California Environmental Protection Agency



The proposed Waiver and associated attachments can also be viewed and downloaded from our website at:

<http://www.swrcb.ca.gov/rwqcb3/Permits/Index.htm>

Please submit all comments regarding the proposed Waiver in writing to the above address no later than February 18, 2008. All comments or objections received prior to that date will be considered in the formulation of staff recommendations regarding the waste discharge. The Central Coast Water Board will not accept comments or other written submissions on the draft Waiver after **February 18, 2008**, unless the Central Coast Water Board chairman rules that exclusion would create a severe hardship, and that the late submission will not prejudice any party or the Central Coast Water Board. Any person submitting late comments must explain why the materials were not submitted by February 18, 2008. The Central Coast Water Board Chairman will rule on late submittals at or before the hearing. Late submissions that consist of evidence (as opposed to policy statements or comments) are generally prejudicial unless all designated parties and Central Coast Water Board staff have time to consider the evidence before the meeting.

Questions regarding this matter may be directed to **Matthew Keeling at (805) 549-3685 or mkeeling@waterboards.ca.gov**, or Harvey Packard at (805) 542-4639.

Sincerely,



Roger W. Briggs  
Executive Officer

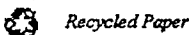
Paper File: Agency, Monterey County Individual Sewage Disposal System Waiver  
Electronic File: S:\WDR\Basin Plan Exemptions\Monterey Co\SDS\74 Corona Rd\Authltr011408.doc  
Task Code: 126-01

Enclosure: Waiver Resolution No. R3-2008-0020 (DRAFT)

cc w/ attachment:

Richard LeWarne  
County of Monterey  
Division of Environmental Health  
1270 Natividad Road  
Salinas, CA 93906

**California Environmental Protection Agency**



Mr. Rick Kashfi

3

January 18, 2008

Russell Juncal  
Ground Zero Analysis, Inc.  
1714 Main Street  
Escalon, CA 95320

Andrew Brownstone  
BioSphere Consulting  
1315 King Street  
Santa Cruz, CA 95060

John Bridges  
Fenton & Keller  
2801 Monterey-Salinas Hwy  
Monterey, CA 93940

Liz Gonzalez  
County of Monterey  
Planning Department  
1668 W. Alisal Street  
Salinas, CA 93901

NO NOTICE to  
APPELLANTS

JOHN WILLSEN  
GWYN DE AMARAL  
WAYNE FRANKS  
BETH FRANKS

*California Environmental Protection Agency*



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# California Regional Water Quality Control Board

## Central Coast Region



Linda S. Adams  
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Arnold Schwarzenegger  
Governor

March 7, 2007

Richard LeWarne  
County of Monterey  
Division of Environmental Health  
1270 Natividad Road  
Salinas, CA 93906

**RE: 74 CORONA ROAD, CARMEL HIGHLANDS (APN 241-052-001-000, PLN050447/REYNOLDS); RESPONSE TO MONTEREY COUNTY REQUEST FOR REVIEW**

We reviewed your February 6, 2007, letter and accompanying attachments regarding a proposed septic system at 74 Corona Road in the Carmel Highlands. Your letter requests our review of a proposed septic system at 74 Corona Road for conformance with the Central Coast Region Water Quality Control Plan<sup>1</sup> (Basin Plan). We also reviewed related documents provided separately by Russell Juncal<sup>2</sup> and Aaron Bierman<sup>3</sup>, consultants for the project opponents and proponents, respectively.

The provided documents indicate the proposed septic system is in conformance with the Basin Plan with regard to percolation rate, setbacks from existing domestic wells, and vertical separation to first encountered groundwater and bedrock. This determination is based on the limited site data collected from the subject property that would normally be reviewed as part of an on-site wastewater disposal system application. However, we do not feel the proposed septic system is in conformance with narrative Basin Plan prohibitions regarding potential threats to water quality, public health, and conditions of nuisance. A more detailed evaluation that considers the existing and potential on-site disposal system and domestic well densities along with the geology of the Carmel Highland area, and not just the subject site, substantiates a long standing Central Coast Water Board concern regarding the continued development of the Carmel Highlands without the preparation and implementation of an on-site wastewater management plan.

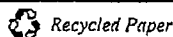
The provided May 8, 2006, well completion report (No. e018450) for the subject site [Kashfi #2] test well indicates the site is underlain by approximately 60 feet of decomposed granite, and 180 feet of hard granite (bedrock without fractures) before encountering fractured bedrock at approximately 240 feet below ground surface (bgs). The test well completion report also indicates groundwater was first encountered at 240 feet bgs (at the depth of observed fractured

<sup>1</sup> September 8, 1994, Water Quality Control Plan, Central Coast Region

<sup>2</sup> January 24, 2007, Ground Zero Analysis, Inc. letter from Russell Juncal to Roger Briggs re: Basin Plan Compliance – permitting of on-site septic systems and domestic wells in Carmel Highlands, 74 Corona Road.

<sup>3</sup> January 31, 2007, transmittal from Aaron Beirman to Matthew Keeling of July 21, 2006, Weber, Hayes & Associates report titled 72-Hour Well Pumping and Aquifer Recovery Test & Well Source and Pumping Impact Assessment for Kashfi Well #2, APN: 241-052-001, Carmel Highlands, Monterey County, California

*California Environmental Protection Agency*



Item No. 14 Attachment No. 2  
March 20-21, 2008 Meeting  
Kashfi Residence

granite) and the static water level stabilized within the test well at approximately 152 feet bgs. The test well, proposed as a domestic water supply well for the subject site, has a sanitary seal to a depth of 80 feet bgs and is screened within the fractured granite at depths of 454 to 614 feet bgs. An April 26, 2005, percolation test<sup>4</sup> indicates a rapid percolation rate of 10 min/inch within the decomposed granite beneath the proposed leachfield trenches. The on-site test well boring indicates there is competent bedrock separating the decomposed granite from the deeper fractured bedrock and the proposed leachfield design, consisting of 11-foot deep trenches, appears to exceed the minimum vertical separation distances from trench bottom to first encountered usable groundwater of 8 feet and bedrock or other impervious layer of 10 feet per the Basin Plan prohibitions<sup>5</sup>. It should be noted that the lot size requires a single 11-foot deep leachfield trench to increase the trench side wall area and accommodate the required disposal loading rate while maintaining the interpreted 100 foot setback of leachfield trenches from existing domestic wells.

The primary contention by Russell Juncal (Ground Zero Analysis, Inc.) is that the geology beneath the subject property contains soils or formations with continuous channels, cracks, or fractures, and that a subsequent setback distance of 250 feet from on-site wastewater disposal systems to domestic water supply wells needs to be applied (versus the standard 100 foot setback) for new soil absorption systems installed after September 16, 1983<sup>6</sup>. Mr. Juncal argues that fractured bedrock conditions generally exist in the Carmel Highlands from the ground surface to the deeper water bearing zone where the domestic water supply wells are screened. His argument is based on the presence of fractured granite outcroppings throughout the area and a well completion report (No. 517481) for the nearby Garren property at 73 Spruce showing weathered and fractured granite directly beneath the decomposed granite from depths of 92 feet to 220 feet bgs. The groundwater discussion found on page 5 of the Weber, Hayes & Associates (WHA) July 21, 2006, well report also substantiates this concern by stating the "Kashfi Well #2 yields groundwater from fractures in the granite rock" and that "groundwater from these fractures is derived from precipitation, which percolates into the subsurface." The provided well completion reports indicate domestic water supply wells in the vicinity of the project site are pumping water from the fractured granite at depths as shallow as 180 feet bgs (Garren well). In addition, Figure 4 - Geologic Cross Section A-A' in the WHA well report depicts a geologic formation that is not conducive to a high density of on-site wastewater disposal systems or domestic drinking water wells. The cross section shows a thin surface layer of terrace deposits and 60 feet of dense sand of limited aerial extent underlain by fractured granite sloping towards the Pacific Ocean. A high density of on-site wastewater disposal systems in this area will likely result in surfacing effluent and potential impacts to existing domestic water supply wells in the area that are pumping groundwater from the fractured bedrock.

There are reportedly six existing and one proposed leachfield disposal systems (two of which are existing 50 foot deep seepage pits) within 250 feet of the subject site proposed domestic supply well, three existing domestic water supply wells within approximately 1,000 feet, and several additional undeveloped lots within 1,000 feet of the subject site that may be developed

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<sup>4</sup> Soil Surveys Inc. May 10, 2005, Geotechnical Investigation with Geologic Considerations for New Single Family Home with Garage and Septic System at 74 Corona Road, APN 241-052-001, Carmel Highlands, California for Mr. and Mrs. Rick Kashfi

<sup>5</sup> Central Coast Region Water Quality Control Plan, VIII.D.3.i Individual Alternative and Community Systems Prohibitions, paragraph nos 3 and 5, respectively.

<sup>6</sup> Central Coast Region Water Quality Control Plan, VIII.D.3.i Individual Alternative and Community Systems Prohibitions, paragraph no 1.

in the future that will require individual on-site disposal systems and domestic water supply wells. Separate recharge analyses provided by consultants for the project proponents and opponents indicate between 24% (does not include the proposed subject site disposal system) and 78% of the recharge for the area surrounding the subject property proposed water supply well is comprised of wastewater effluent from on-site disposal systems. Regardless of whether fractures exist directly beneath the subject site, the provided recharge analyses coupled with rapid percolation rates, lack of potential treatment provided by the decomposed granite, and noted fractured bedrock conditions within 1,000 feet of the subject site along with the high density of existing on-site wastewater disposal systems poses a significant threat to the domestic water supply wells in the site vicinity. Consequently, we strongly recommend the County exercise a higher level of scrutiny in its review and approval of on-site wastewater disposal systems and domestic water supply wells in the Carmel Highlands area given any portion of disposed effluent may reach a domestic water supply well, as alluded to by the two separate recharge analyses and geologic evaluations even though minimum county ordinance, Department of Water Resources Bulletin, or Basin Plan setbacks are met.

According to our recent verbal communication with you, a number of on-site wastewater disposal system failures have been documented over the years in the Carmel Highlands area. We reportedly requested an accounting of all on-site wastewater disposal system failures from your agency sometime back in 2000. Unfortunately these documents were not available for our review at the time this response was prepared. In response to our recent verbal request<sup>7</sup> for an updated list of septic system failures in Carmel Highlands, you indicated that an updated list would be difficult to compile in the time frame needed for our review, given your agency's current record keeping and filing system. Based on our discussion with you, most of the reported failures were for older homes with substandard systems in areas of the Carmel Highlands with even more severe geologic constraints. Failures primarily consisted of failing leachfields and surfacing effluent. We also understand that the County has denied numerous on-site wastewater disposal system permits for lots within the Carmel Highlands because they could not meet various Basin Plan requirements or county health department standards.

We sent Monterey County a February 27, 2001 letter<sup>8</sup> indicating our desire to have the Carmel Highlands connected to the Carmel Area Wastewater District (CAWD) sewer system. At that time, there was an opportunity to install a trunk line of sufficient capacity to handle the entire Carmel Highlands area wastewater flow as part of the Point Lobos State Reserve sewer project. Both CAWD and the California Department of Parks and Recreation were in support of providing service to Carmel Highlands<sup>9</sup>. Unfortunately, our efforts only resulted in the connection of the Carmel Highlands Sanitary Association (consisting of twelve single family residences) and Tickle Pink Inn to CAWD for sewer service. The trunk line was reportedly sized to handle the wastewater flow from these areas only. We attached a copy of the December 1979 draft Carmel Sanitary District Areawide Facilities Plan & Carmel Valley/Highlands Study Environmental Impact Report (1979 EIR) introduction and summary to our February 27, 2001 letter for reference. In short, the 1979 EIR summary recommends sewerage of the Carmel Highlands to protect groundwater quality and public health. Evidently

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<sup>7</sup> February 23, 2007, telephone correspondence between Central Coast Water Board staff, Matthew Keeling and Richard LeWarne

<sup>8</sup> February 27, 2001, Central Coast Water Board letter from Roger Briggs to Sally R. Reed, County Administrative Officer, re: Response to County of Monterey Letter, Dated January 3, 2001, Regarding the Sewering of Carmel Highlands.

<sup>9</sup> January 22, 2001, Carmel Area Wastewater District letter re: Providing Service to the Highlands Area South of Carmel

this recommendation was overcome by opposition from the existing residents who wanted to slow down and limit any future development within the Carmel Highlands. The absence of a sewer system only restricts additional development to an unknown number of lots that can be built in accordance with the Basin Plan and county ordinances. As development of the existing lots within Carmel Highlands continues, it will put an additional strain on the area's limited ability to handle on-site wastewater disposal.

It should be noted that the proposed on-site system would not be in conformance with the Basin Plan<sup>10</sup> for "new divisions of land" given the property consists of a substandard lot of less than one acre and soil and other physical constraints are not particularly favorable to smaller lot sizes for the reasons discussed above. As a lot-of-record of less than one acre the subject site is not held to the same standard as new divisions of land with regard to the Basin Plan requirements governing the density of such systems. We assume that all of the remaining undeveloped lots in the Carmel Highlands are lots-of-record of less than one acre. Given the substandard lots-of-record and commonly accepted geologic shortcomings of the Carmel Highlands area with regard to on-site wastewater disposal, the Basin Plan identified the Carmel Highlands as an area needing additional study and the development of regulatory controls to address future development via the use of on-site wastewater disposal systems to protect water quality and public health. Paragraph 14 of Basin Plan section VIII.D.3.h provides recommendations for local agencies to prepare on-site wastewater management plans for specific areas, including Carmel Highlands. Section VIII.D.2.b of the Basin Plan discusses the rationale and basic components of on-site wastewater management plans. Please note that we are seriously considering changing these recommendations to enforceable requirements in future Basin Plan amendments.

Based on the above discussion we do not believe the County's existing level of oversight for the continued permitting of on-site wastewater disposal systems in Carmel Highlands is in conformance with the prohibitions outlined in paragraphs 17 and 18 of Basin Plan section VIII.D.3.i as follows:

17. Lot sizes, dwelling densities or site conditions causing detrimental impacts to water quality.
18. Any area where continued use of on-site systems constitutes a public health hazard, an existing or threatened condition of water pollution, or nuisance.

Consequently, we do not support the County's issuance of any additional on-site wastewater disposal system permits within the Carmel Highlands area until a sufficiently detailed wastewater management plan is prepared that addresses the shortcomings of this area with regard to its capacity to handle any additional on-site wastewater disposal systems. Given the absence of an area-wide evaluation, we question whether the establishment of a 250 foot setback for on-site wastewater disposal systems from domestic water supply wells would be sufficiently protective of water quality and public health.

Please note that we do not agree with your interpretation of the California Department of Water Resources (DWR) Bulletin 74-90 regarding setback distances of domestic water supply wells from on-site wastewater disposal system distribution boxes. We believe a distribution box is neither a part of a septic tank or sanitary sewer line, but is part the septic system leachfield and

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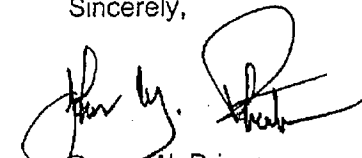
<sup>10</sup> Central Coast Region Water Quality Control Plan, VIII.D.3.i Individual Alternative and Community Systems Prohibitions, paragraph no 11.



should be held to the minimum setback distance of 100 feet and not 50 feet. We suggest you contact DWR to verify their setback requirements.

If you have questions regarding this matter, please contact **Matthew Keeling** at (805) 549-3685 or [mkeeling@waterboards.ca.gov](mailto:mkeeling@waterboards.ca.gov), or John Robertson at 805-542-4630.

Sincerely,

  
FOR  
Roger W. Briggs  
Executive Officer

Paper File: Monterey County Septic Systems  
Electronic File: H:\Miscellaneous\74 Corona Rd Carmel Highlands.doc  
Task Code: 12601

cc:

Russell Juncal  
Ground Zero Analysis, Inc.  
1714 Main Street  
Escalon, CA 95320

Aaron Bierman  
Weber, Hayes & Associates  
120 Westgate Drive  
Watsonville, CA 95076



# California Regional Water Quality Control Board Central Coast Region



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Arnold Schwarzenegger  
Governor

May 7, 2007

Richard LeWarne  
County of Monterey  
Division of Environmental Health  
1270 Natividad Road  
Salinas, CA 93906

**RE: 74 CORONA ROAD, CARMEL HIGHLANDS (APN 241-052-001-000, PLN050447/REYNOLDS); RESPONSE TO MONTEREY COUNTY REQUEST FOR CLARIFICATION**

We received your March 23, 2007 letter requesting clarification of our March 7, 2007 letter and statements presented to you via e-mail on March 13, 2007, by John Bridges regarding a proposed septic system at 74 Corona Road in the Carmel Highlands. Your letter requests clarification of seven statements listed on page two of your letter. Clarification of each of your statements is provided below in order and referenced by number from your list:

1. We understand that the Kashfi project has already been approved by the Monterey County Health Department and that your original request for our clarification as to whether the proposed project was in conformance with our Basin Plan<sup>1</sup> was based on an appeal to the County Board of Supervisors by neighboring residents. Our response was a conditional affirmative response in that the proposed project was in conformance with the numeric Basin Plan prohibitions as would normally be applied to on-site wastewater disposal system applications, but that conformance with the noted Basin Plan narrative prohibitions<sup>2</sup> was in question regarding on-site system permitting in the Carmel Highlands as a whole. Although we seriously question whether permitting of the proposed Kashfi project is in conformance with the noted narrative prohibitions, additional study is needed to clarify this and to establish appropriate engineering and institutional controls as required to protect water quality and public health as a result of continued development in the Carmel Highlands via the use of on-site wastewater disposal systems. Consequently, our March 7, 2007, letter indicated that we did not support the continued permitting of on-site wastewater disposal systems in Carmel Highlands without an on-site wastewater management plan to address whether continued permitting would be in conformance with the noted narrative prohibitions. Our response was not a revocation of the County's permitting authority for this case and the County remains the primary permitting authority for this and other cases per the July 13, 1999, Memorandum of Understanding (MOU) between the Central Coast Water Board

<sup>1</sup> September 8, 1994, Water Quality Control Plan, Central Coast Region

<sup>2</sup> Paragraphs 17 and 18 of Basin Plan section VIII.D.3.i as follows:

17. Lot sizes, dwelling densities or site conditions causing detrimental impacts to water quality.
18. Any area where continued use of on-site systems constitutes a public health hazard, an existing or threatened condition of water pollution, or nuisance.

and the County of Monterey until such time as the MOU is terminated or modified. In summary, our response was intended to direct the County to expand its level of permit oversight by implementing the Basin Plan recommendation for an on-site wastewater management plan to determine what level of engineering and institutional controls are required to sustain any additional development within the Carmel Highlands.

2. Your paraphrasing of Mr. Bridges' use of the term "enforcement action" appears to be taken out of context and is not appropriate in this case, as we intend to deal with this issue administratively in coordination with the County to facilitate our ongoing relationship and constructively address our concerns. As stated above the County is the primary oversight authority for on-site wastewater disposal systems per the MOU. The MOU requires the County issue on-site wastewater disposal system permits in accordance with the Basin Plan and applicable County ordinances and regulations. The County has established and routinely implemented ordinances and regulations that are consistent with, and in some cases exceed, the Basin Plan requirements, specifically with regard to the numeric requirements and prohibitions for on-site systems. However, it appears the County may not be considering whether the issuance of on-site system permits in the Carmel Highlands, or other areas, is in conformance with the Basin Plan narrative prohibitions. This point is exemplified by the fact that the County has not prepared an on-site wastewater management plan for Carmel Highlands and other areas within its jurisdiction. It is generally accepted that compliance with the numeric requirements and prohibitions contained within the Basin Plan result in compliance with the narrative prohibitions for divisions of land of at least one-acre. This is not the case for existing divisions of land of less than one-acre as is generally the case in the Carmel Highlands. In addition, the documented geologic shortcomings of the Carmel Highlands only increases the likelihood of noncompliance with the narrative prohibitions. If the County continues to disregard the narrative prohibitions, particularly as they relate to existing divisions of land of less than one-acre and/or areas identified in the Basin Plan as needing on-site wastewater management plans, we may be required to assert our own permitting authority for these areas until an on-site wastewater management plan has been prepared and approved.
3. Mr. Bridges' indicated to Matthew Keeling of our staff that the applicant's consultant was recommending enhanced treatment and asked whether this would address our concerns. At the time of our conversation with Mr. Bridges, we were not aware of the type or level of enhanced treatment being considered. Regardless, our response to Mr. Bridges was that although enhanced treatment was a step in the right direction, an area wide on-site wastewater management plan was required to determine whether, or what type of, enhanced treatment was appropriate to protect water quality and public health.
4. See 1 and 2 above.
5. Our position regarding your interpretation of the California Department of Water Resources (DWR) Bulletin 74-90 regarding setback distances of domestic water supply wells from on-site wastewater disposal system distribution boxes is based on commonly used and accepted terminology and the fact that the Basin Plan, DWR Bulletin, and Monterey County Code make no distinction between the various components of septic tank systems when establishing minimum setbacks from water supply wells. As used in the DWR Bulletin table outlining minimum horizontal separation distances, the term "sanitary sewer line (main or lateral)" commonly refers to portions of a publicly owned collection system tributary to a centralized wastewater treatment facility. The language

contained in part A of Monterey County Code section 15.20.040 – Required connection to public sewer<sup>3</sup>, is also consistent with this definition. The DWR Bulletin table makes no distinction between the various components of a septic system, most notably distribution boxes and conveyance lines, by way of establishing a 100-foot setback of wells from a "watertight septic tank or subsurface sewage disposal leaching field." It should be noted that the second paragraph of part A of Monterey County Code section 15.20.070 – Standards and specifications<sup>4</sup>, also collectively refers to the components of a "septic tank system, or part thereof" in establishing a minimum horizontal setback from domestic water supplies of 100 feet, and part T of section 15.20.010. – Definitions, defines "septic tank system" as "a wastewater disposal system, and means a septic tank with the effluent discharging into a subsurface disposal field." The County's definition is inclusive of the appurtenances between the septic tank and disposal field and would therefore include the conveyance lines and distribution box. Consequently, we feel the application of the 50-foot DWR setback criteria for sewer lines is not appropriately applied for any portion of a septic system, including distribution boxes, and again direct you to seek clarification from DWR regarding their well setback standards. We find it interesting that the County appears to be applying well setback requirements from septic tank systems that are not consistent with septic tank system setback requirements from wells.

6. Our comment regarding the validity of the 250 foot setback distance inferred by Russell Juncal under the context of "fractured conditions" was intended to clarify that merely establishing a de facto setback requirement of 250 feet for new on-site systems in Carmel Highlands would not address our concerns. Appropriate setbacks and other engineering and institutional controls need to be evaluated and established as part of the on-site wastewater management plan for Carmel Highlands as required to adequately protect water quality and public health.
7. See 3 and 6 above.

We are confident in the County's oversight of on-site wastewater disposal systems with the exception of not following the Basin Plan recommendation for the development of an on-site wastewater management plan for Carmel Highlands and Carmel Valley. At this time we will defer to the County to determine whether the proposed project is protective of water quality and public health, given existing site conditions and density of on-site systems and domestic water supply wells. In the absence of an on-site wastewater management plan the County's evaluation is limited to existing ordinances and regulations, and the best professional judgment of its staff.

However, as stated in our March 7, 2007 letter, we still do not support the County's issuance of any additional on-site wastewater disposal system permits within the Carmel Highlands area until a sufficiently detailed wastewater management plan is prepared that addresses the shortcomings of this area with regard to its capacity to handle any additional on-site wastewater disposal systems. Until such time as an on-site wastewater management plan has been

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<sup>3</sup> A. Except as provided in subdivision B of this Section, no person shall use or maintain any building or structure where people reside, congregate, or are employed which is within two hundred (200) feet of an approved sanitary sewer, or which is located on a parcel of land which abuts a road, street, or alley in which any such sewer has been installed, unless it is connected to such sewer.

<sup>4</sup> A. No septic tank system, or part thereof, shall be located at any point having less than the minimum distances indicated in Tables A and B, unless for good cause, a variance therefrom is allowed by the Director.

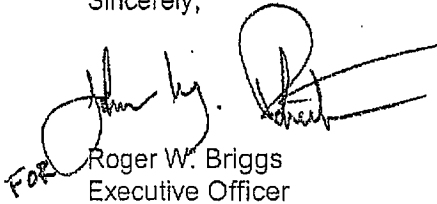
prepared and approved we will not consider any permit applications for on-site systems in Carmel Highlands referred to us by the County for Basin Plan exemptions and request that the County provide semiannual reports documenting failures of, and permitting activities relating to, onsite wastewater disposal systems in the Carmel Highlands.

Until an on-site wastewater management plan as been prepared and approved please submit semiannual reports to us **by August 1<sup>st</sup> and February 1<sup>st</sup>** documenting the number and type of on-site system failures (with a description of the implemented repairs and upgrades) and the number of permit applications received and the status thereof for the Carmel Highlands area. Each of the entries should contain site information including address, assessor's parcel number, and lot size, dates of failure occurrence and completed repairs, and dates of permit application and approval or denial. Please submit your first semiannual report to us by August 1, 2007, that contains all outstanding permits and permits issued since January 1, 2007, and a list of system failures dating back to January 2002.

In an effort to facilitate the County's timely development and implementation of a wastewater management plan please submit a proposed time schedule outlining the various milestones/tasks necessary to develop and implement a wastewater management plan. Please submit the time schedule with your August 1<sup>st</sup> semiannual report.

If you have questions regarding this matter, please contact **Matthew Keeling at (805) 549-3685** or [mkeeling@waterboards.ca.gov](mailto:mkeeling@waterboards.ca.gov), or John Robertson at 805-542-4630.

Sincerely,

  
Roger W. Briggs  
Executive Officer

Paper File: Monterey County Septic Systems  
Electronic File: H:\Miscellaneous\74 Corona Rd 041007 resp.doc  
Task Code: 12601

Attachment:

Monterey County March 23, 2007 letter re: 74 Corona Raod, Carmel Highlands, APN 241-052-001-000, PLN050447/Reynolds(Kashfi)

cc:

Russell Juncal  
Ground Zero Analysis, Inc.  
1714 Main Street  
Escalon, CA 95320

John Bridges  
Fenton & Keller  
2801 Monterey-Salinas Hwy  
Monterey, CA 93940

Aaron Bierman  
Weber, Hayes & Associates  
120 Westgate Drive  
Watsonville, CA 95076

Rick Kashfi  
73 Spruce Way  
Carmel, CA 93922

*California Environmental Protection Agency*

>  
 > ?Respectfully,  
 >  
 >  
 > Cindy Byrd  
 >  
 > Executive Administrative Assistant  
 >  
 > ?  
 >  
 > Ground Zero Analysis, Inc.  
 >  
 > 1714 Main Street  
 >  
 > Escalon, CA? 95320  
 >  
 > Phone:?(209) 838-9888  
 >  
 > Fax:?(209) 838-9883  
 >  
 > Cell:?(209) 401-3481  
 >  
 > ?  
 >  
 > ?  
 >

> CONFIDENTIALITY NOTICE:  
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 > email to GZACin@aol.com  
 >  
 > ?  
 >

> -----Original Message-----  
 > From: Roger Briggs <Rbriggs@waterboards.ca.gov>  
 > To: Cindy Byrd <gzacin@aol.com>  
 > Cc: juncalrw@snowcrest.net; Burton Chadwick  
 > <BChadwick@waterboards.ca.gov>; Frances McChesney  
 > <FMChesney@waterboards.ca.gov>; Harvey Packard  
 > <Hpackard@waterboards.ca.gov>; Matt Keeling <Mkeeling@waterboards.ca.gov>  
 > Sent: Tue, 11 Mar 2008 4:25 pm  
 > Subject: Re: Resolution R3-2008-0020  
 >  
 >  
 >

> Ms. Byrd,  
 > Our chair approves Mr. Juncal for 15 minutes to speak on behalf of and  
 > in  
 > lieu  
 > of his four clients. Please be sure his clients are aware of this  
 > conditioned

MR BRIGGS LIMITATION  
 ON EVIDENCE  
 PRESENTATION to RWQCB  
 BY EXPERT MR JUNCAL  
 + PROHIBITION OF 4  
 APPELLANTS FROM SPEAKING

> approval.  
> thanks,  
> Roger Briggs  
>  
>>>> Cindy Byrd <gzacin@aol.com> 3/10/2008 10:17 AM >>>  
>  
> Mr. Briggs,  
>  
> The names and addresses of our clients are:  
>  
> Wayne & Beth Franks  
> 25640 Rio Vista Drive  
> Carmel, CA? 93923  
>  
> Dr. John J. Willsen &  
> Gwyn P. DeAmaral  
> 77 Corona Road  
> Carmel, CA? 93921  
>  
> They own a total of four adjoining parcels.  
>  
> If you have any further questions please don't hesitate to contact us.  
>  
> Thank you,  
>  
>  
>  
> Cindy Byrd  
>  
>  
>  
> Executive  
> Administrative Assistant  
>  
>  
>  
> ?  
>  
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>  
> Ground Zero Analysis, Inc.  
>  
>  
>  
> 1714 Main Street  
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>  
> Escalon, CA?  
> 95320  
>  
>  
> Phone: ? (209) 838-9888  
>  
>  
>  
> Fax: ? (209) 838-9883  
>  
>

Subj: Re: [Fwd: Re: Resolution R3-2008-0020]reply to russell from john willsen  
Date: 3/13/2008 9:57:18 P.M. Pacific Daylight Time  
From: [juncalrw@snowcrest.net](mailto:juncalrw@snowcrest.net)  
To: [ERBIUM4U@aol.com](mailto:ERBIUM4U@aol.com)

I think a call into Matt Keeling; probably they are thinking we are getting too much time so we should either ask for a few minutes at least in the public comment period and/or ask for some of my time to be allotted to others.

> russell what can we do??  
>  
>  
> In a message dated 3/13/2008 4:45:08 P.M. Pacific Daylight Time,  
> [juncalrw@snowcrest.net](mailto:juncalrw@snowcrest.net) writes:  
>  
>  
> Looks like they are trying to keep your testimony out, I'll follow up.

> ----- Original Message

> -----  
> Subject: Re: Resolution R3-2008-0020  
> From: "Roger Briggs" <[rbriggs@waterboards.ca.gov](mailto:rbriggs@waterboards.ca.gov)>  
> Date: Wed, March 12, 2008 4:40 pm  
> To: [gzacin@aol.com](mailto:gzacin@aol.com)  
> Cc: [juncalrw@snowcrest.net](mailto:juncalrw@snowcrest.net)  
> "Frances McChesney" <[FMcChesney@waterboards.ca.gov](mailto:FMcChesney@waterboards.ca.gov)>  
> "Matt Keeling" <[Mkeeling@waterboards.ca.gov](mailto:Mkeeling@waterboards.ca.gov)>

> Ms. Byrd,  
> No, that's not correct unless they want to speak in the separate public  
> comment period on the agenda that is for items that are not listed on the  
> agenda - in other words, not this issue.  
> My note said "in lieu of" which means "instead of," which is consistent  
> with your original request which said, "...asking for the time that would  
> be allocated to his four clients. That means he would be speaking for  
> them and they would not."

> Roger Briggs  
>  
> Roger W. Briggs PE  
> Executive Officer  
> Central Coast Regional Board  
> 805-549-3140  
> fax 805-788-3511  
> [rbriggs@waterboards.ca.gov](mailto:rbriggs@waterboards.ca.gov)  
> <http://www.waterboards.ca.gov/centralcoast/>  
>>>> Cindy Byrd <[gzacin@aol.com](mailto:gzacin@aol.com)> 03/12/08 3:46 PM >>>  
> Dear Mr. Briggs,

>  
> Thank you for allowing Mr. Juncal to speak on behalf of his four clients  
> as part of the scheduled agenda.??Although, we understand our clients  
> will  
> have a chance to speak during the "Public Comment" period.? Is this  
> correct?  
>  
> We appreciate your cooperation in this matter.

LIMITATION  
By ROGER BRIGGS  
OF EXPERT TESTIMONY  
AND PROHIBITION  
OF 4 APPELLANTS  
FROM SPEAKING  
AT PUBLIC HEARING



Subj: **Re: conference call on Monday reply to russell from john**  
Date: 3/14/2008 3:10:33 P.M. Pacific Daylight Time  
From: [juncalrw@snowcrest.net](mailto:juncalrw@snowcrest.net)  
To: [ERBIUM4U@aol.com](mailto:ERBIUM4U@aol.com)

PREJUDICIAL  
LIMITATION  
OF TIME  
TO PRESENT  
EVIDENCE

A call to Keeling might be the best way to start. r.

> Russell, these limits on time and what we can submit seem arbitrary and  
> prejudicial to us.any ideas?can we go straight to the chairman of the  
> board to  
> ask to be treated fairly?? conference call Monday at 7:30 would be  
> good.John

>  
>  
> In a message dated 3/13/2008 4:39:10 P.M. Pacific Daylight Time,  
> [juncalrw@snowcrest.net](mailto:juncalrw@snowcrest.net) writes:

>  
> Gwynn, John, Beth, Wayne, I spoke twice with Matt Keeling today. He  
> said  
> they could allow me 15 minutes only if my last letter was not part of the  
> package sent to the Board members and that references to the replacement  
> leachfield areas area struck from the version of my Powerpoint  
> presentation that will be provided to the Board in advance.  
> He said in lieu of that they could leave those things in the written  
> package but I would only get 10 minutes and Bridges would be given 10  
> minutes to rebut. Guess which alternative I chose?

>  
> I'm good for Monday evening before about 8 PM (my basketball league game  
> starts at 8:30). r.

>  
>> Gwyn, John & Russell: it sounds like Monday evening is best for us to  
>> get on another conference call. Let us know what time works for you  
>> all. I would like for everyone (wayne, beth, gwyn & john) to come up  
>> with their draft 3minute presentation to email around for all to  
>> preview. That way we will know all topics that will be addressed and  
>> avoid redundancy & any missing components. I think this will make our  
>> call the most productive.

>>  
>> talk to you all soon,  
>> Beth

>>  
>>  
>>  
>> \*\*\*\*\*

>> Beth Franks  
>> Tehama Realty - DMB Realty Estate Properties  
>> 831-625-2075  
>> [BFranks@DMBRealty.com](mailto:BFranks@DMBRealty.com)

>>  
>>  
>  
>  
>  
>  
> -----

> This message was sent using SnowCrest WebMail.  
> <http://www.snowcrest.net>

>  
>  
>  
>

OUR  
EXPERT OPINION  
FROM RUSSELL JUNCAL

re CEQA

PRESENTATION to Reg  
WATER QUAL  
| CONT. BOARD  
CENTRAL  
COAST

20 MAR 08  
SALINAS CA

Good afternoon Board members, my name is Russell Juncal, I am a professional hydrogeologist representing the owners of 5 lots of record adjoining the parcel that is the subject of this waiver hearing. We thank you for the opportunity to speak about the very serious consequences of approving the proposed waiver. Our time is limited so I will be speaking rather quickly but please stop me at any time if I can clarify any of the points presented.

We are opposing this waiver of this engineered disposal system because the proposed system, when operated along with the other existing systems in the immediate area will directly or indirectly result in pollution, nuisance, risk to public health and water quality impacts.

This waiver should be denied..... because it is not in the public interest,..... does not comply with the Basin Plan, .....poses an imminent threat to public health, .....and forecloses options for neighbors to replace failing leachfields.

Furthermore, Board staff did not have full knowledge of several relevant site conditions, including the fact that it does not even meet the County Interim Ordinance,..... which was adopted to carve out an exception that would allow this small, non-conforming lot to be built upon. Specifically, the County's October 26, 2006 letter to Matthew Keeling states that the sites excepted from the Board's mandated area wide study will be held to quote, 'stringent interim standards'. These standards spell out among other things that 'There shall be 3 or more soil borings

2

and/or soil corings to a minimum depth of 70 feet bgs. The purpose of these borings /corings is to characterize the soil and determine if there are fractures, cracks or continuous channels in the soils or formations at these depths'. Nowhere in the County's letter or published ordinance does it say that the provisions can be waived. Nor was that the understanding of Board staff when they evaluated this situation. The fact that an applicant would prove through by coring the formation, that there are at least no shallow fractures within 70 feet is probably the most substantive mitigating factor in the interim ordinance. Yet the County has effectively gutted the so-called stringent protections. Your approval of this waiver will validate this abuse of the Memorandum of Understanding between the Board and the County.

PUT UP MAP of SITE

If you will refer to the map shown on the screen the very serious consequences of this waiver request can be appreciated. This is the project parcel and here is the approximate location of the septic area being considered for waiver. You will note a

well in the center the parcel which is really at the heart of the problems with considering a waiver for this property. The proposed system on the site barely meets the numerical 100 foot setback from the well, however, the cumulative impacts of all the systems in the immediate area, including this engineered system, must be considered .....as stated in paragraph 6 of your Draft Resolution.

Consideration of the cumulative impacts clearly indicates a much greater setback from the well is required for the system you are being asked to approve.

Ignoring the proposed engineered system entirely, there are 6 private systems within 250 feet of the water well (*pointing them out*). Of these existing systems at least 4 are on lots of less than 1 acre. One of these systems is less than the required setback of 100 feet from the well already, as it's D box is only about 90 feet from the well (*point out Silver*). Matthew Keeling of your staff emphatically pointed out that the D box is part of the system and thus subject to the Basin Plan and County setbacks but the County has chosen to ignore the Board staffs clear interpretation.


Two other systems use or will shortly use 50 deep septic dry wells for disposal.

These wells release water with essentially no soil treatment about 10 feet above the known top of the fractured granite bedrock. One of these two systems is exactly at

4

the 150 foot numerical Basin Plan setback from the well and the second is about 160 feet (*point out Franks and Proust*). All of these 6 existing systems are within the narrative setback requirement within the Basin Plan of 250 feet from a well where fractures, fissures or continuous channels exist.

There is no question that this site and the subject water well are within fractured granite. The USGS, the County, the applicant's consultant and your Board staff have all clearly recognized this, yet the set back is being ignored. The technical argument that apparently explains this away is that the well driller stated that he didn't hit any fracturing until approximately 200 feet in the well, despite the fact that a nearby well hit the fractured bedrock between 60 and 90 feet, .....again only 10 feet below the terminus of dry wells discharging primarily treated sewage effluent. This explanation is specious; ..... by it's very nature fractured terrain does not exhibit fractures continuously but is a network of intersecting fissures that interconnect laterally and vertically. Your Board staff very clearly stated that these site conditions were highly unfavorable for on-site wastewater disposal systems.



I would like to call your attention to a significant point on this map because it represents a relevant site condition that Board staff was unaware of when they recommended waiver approval. Please note that there are two 50 ft deep disposal pits exactly 150 feet away from the on-site well that are permitted but have not been put into use yet. The septic field for that parcel (*pointing out former Franks parcel*) is failing as have numerous others in the area (*point out others*) and soon there will be a discharge of septic tank effluent 10 feet above bedrock just 150 directly upslope from the site well (*point out flow path*). This is significant because the one and only water sample collected from the well did not have detectable bacteria, however, this ignores the long term well-use drawing effluent into the bedrock fractures and the initiation of discharge into the nearby septic wells. And all of this ignores the contribution of the proposed site disposal system. It must be noted that while the engineered system may remove 60% of the nitrogen load and even 95% of the pathogens, the effluent is of extremely poor quality and will add cumulatively to the effects of the existing 6 systems. {may talk about millions of bacteria per liter and insignificance of removing 95% and/or how chemicals can get into leachfields}

6

Clearly, it cannot be reasonably stated that the cumulative effects of the system on water quality and public health were adequately considered as this waiver would imply. I think the clearest indication of the seriousness of these aggregate impacts is obtained by analyzing the recharge area around the Kashfi well. Last year I presented an estimate to Matthew Keeling based on published rainfall data, the discharge of the 6 existing septic systems and other information that indicated approximately 75% of the recharge to the Kashfi well would come from septic effluent. This estimate, by the way assumed the Kashfi septic system discharged nothing whatsoever. As you might expect this was strongly challenged by the Mr. Kashfi's, hydrogeologic consultant, and they performed their own analysis with what they considered to be more appropriate data and assumptions. The applicant's consultant concluded that in fact, that only 24% of the well recharge was coming from septic effluent. ....**We do not believe there is any reasonable scenario under which public health could be considered protected by green lighting the use of a well that receives a quarter of its recharge from marginally treated septic effluent.**

The County's new ordinance and the applicant's engineered system do nothing to address the issues in Mr. Keeling's letters because those issues are based on the existing conditions. The applicant's system, for which you are being asked to waive the WDRs, only creates more cumulative impacts.

Moreover the Regional Board and certain agencies within Monterey County have been addressing this problem since the 1970s (Slide # \_\_) .....This is not a newly recognized risk, yet only 3 years ago Monterey County provided an exception for the use of water wells on non-conforming lots that are less than 1 acre, one of the first of many exceptions to typical safe practice that has led to the waiver that is before you today. The County initially turned this project down in 2006 but was persuaded to change course. Similarly, the County exempted or otherwise relieved the applicant of the need to conform with the 100 foot numerical setback requirement from a septic system by simply decreeing that a D box isn't part of a septic system, something vigorously denied by your staff. The site was also exempted from the need for an initial study, .....exempted from Board's requirement for an area wide study because it was in progress, .....given an exemption to install an engineered system, and finally....., after the



County has crafted a special ordinance to protect public health and the environment during the temporary period of development until the Board-required study is completed, .....this site is exempted from the requirements of the new ordinance. Specifically, the new ostensibly protective County Ordinance requires that sites located in potentially fractured terrain shall install 3 - 70 ft. deep soil borings/cores to evaluate whether fractures, fissures or continuous channels exist, and if they do exist a setback of 250 feet is required from any well. This Ordinance was to be conservative and protective, and my understanding is that it's implementation was a significant factor in Staff's consideration of the appropriateness of this development. Yet, County Environmental Health staff have reported that this site, .....the situation that essentially created the need for the ordinance,..... wont have to comply with it. The boring requirements, that if properly implemented could provide critical data for addressing the issues of potential impacts in the area, are being waived.

It is difficult to avoid the conclusion that the waiver of the boring requirements is to avoid confirming the reasonably expected conditions which would then kill the project. However, ostensibly the waiver was granted because the upper portion of

It cannot be stressed enough that approving this waiver is in fact approving the setbacks applied to the well and accepting that there are no cumulative impacts from the high density of private septic systems in the immediate area, including Mr. Kashfi's. I truly hate to be protesting your staff's analysis of this site because I have found myself in agreement with virtually all of the technical conclusions reached by Matthew Keeling and contained in the Board's file. It was Mr. Keeling who stated that the D box was part of a septic system and the well did not meet the 100 foot setback; .....Mr. Keeling who stated that the area was fractured and not suitable for on-site septic systems; .....Mr. Keeling who stated that the decomposed granite subsoil provided poor treatment of effluent,..... Mr. Keeling who said that even a 250 foot setback from the well might not be sufficient..... and Mr. Keeling who said that no further on-site septic systems should be approved in the Carmel Highlands until an area wide study was performed. ....And yet somehow, after taking these clear positions with regard to the suitability of this site to accommodate onsite wastewater disposal and a water well, this waiver request has been processed, .....even though there has been no further technical analysis that is presented in the Board's files.

the granite in the 8 inch water well drilled beneath the site did not have fractures.....according to the well driller. As previously mentioned a nearby well did have shallow fractures, and fractured rock is visible at the surface throughout the area. This is bad science,....bad environmental science.

There are a great many factors pointing to the inadvisability of allowing this new septic system and the existing systems to operate in such close proximity to the proposed on-site well without the detailed study demanded by your staff. Since this detailed study is forthcoming from the County by years end according to one estimate, it is difficult to understand why there is any need to move this project along on a waiver. To exempt a worst-case site, which was the very basis for the Board's demand for an area-wide study, defies logic and is poor public policy. Regardless of when the County decides to get this study completed, their first responsibility, and the Board's, is to the public health and environment, not private gain.

I strongly urge you to deny this proposed waiver and allow prudent technical analysis to guide this important public health decision, not speculations in the absence of needed data and in the face of clear warnings about potential impacts.