

Ieland lewis

BOX 46, CARMEL, CALIFORNIA 93921

20 August 2008

California Regional Water Quality Control Board
Central Coast Region
895 Aerovista Place, Suite 101
San Luis Obispo, California 93401-0397

Attention: Roger W. Briggs, Executive Officer
cc: Burton Chadwick
Matthew Keeling

RE: Michael Moeller – 194 San Remo Road, Carmel Highlands (APN 243-181-006)
Monterey County; Proposed Waiver of Waste Discharge Requirements for
Alternative Onsite Wastewater Disposal System (Resolution R3-2008-0061).

In response to the invitation to submit comments by 23 August 2008 concerning the proposed Resolution R3-2008-0061 to grant Michael Moeller a waiver of the Central Coast Water Board's Water Quality Control Plan (Basin Plan) & July 1979 Memorandum of Understanding prohibiting Monterey County from approving alternative or engineered onsite wastewater treatment or disposal systems, please consider carefully the following comments and comprehensive analyses regarding the development now commencing at 194 San Remo Road, Carmel Highlands, AP 243-181-06.

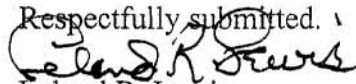
The design documents of an engineered system for on-site wastewater disposal presented by Andrew Brownstone of BioSphere Consulting and a geo-technical investigation report prepared by Richard Dante of Soil Surveys, Inc. appears to offer a valuable alternative approach to conventional rock-filled disposal trenches heretofore employed in permitted septic systems in Monterey County. The application of such an engineered system, if successfully proven over the tentative waiver period of five years, would be a boon to building projects currently held in abeyance due to unsuitable sites and environmentally destructive conventional septic systems operation heretofore permitted for residential development. The major question presented in the consideration of granting or not granting this waiver is the success or failure of this engineered system to perform as anticipated in worst case conditions potentially causing unexpected pollution and nuisance to adjoining properties. Default, backup, conventional rock-filled trenches with sufficient dimension must be provided to insure adequate effluent odor-free dispersal. Sufficient square footage of suitable permeable soil must be available on the building site to accommodate this default reservation. The Moeller building site APN 243-181-06 containing .86 acre is less than the zoning requirement of one acre, a standard building site area determined to be necessary for adequate conventional septic drain field

**Item No. 26 Attachment No. 9
WDR Moeller Residence
194 San Remo Rd.
R3-2008-0061**

dispersal. However, the current configuration of the property (without the proposed lot line re-configuration being concurrently applied for), despite its 20 degree slope toward neighboring property, would provide adequate area for sufficient rock-filled backup dispersal trenches. Re-configuration of the building site through a lot line adjustment as proposed by the applicant if simultaneously or subsequently granted would nullify the possibility of providing sufficient area for this septic system default backup and must be fundamentally considered in any conditionally granted waver contemplated.

The findings and conclusions as presented in the proposed waver have been comprehensively annotated with questions and comments that need to be substantively addressed to adequately balance all of the contingencies that may affect the successful operation of the engineered septic dispersal system being considered. To focus on only one contingency unmentioned anywhere in the waver proposal is the influence of heavy surface rain inundating the 20-degree slope of the building site and simply that gravity trumps ordinances, requirements and compliance, jeopardizing adjacent properties with effluent escaping, under adverse conditions, the best engineered intention.

Respectfully submitted, ✓



Leland R. Lewis,

50 Years of site-specific experience.

(B)

COMMENTS TO COVER LETTER
CERTIFIED MAIL NO. 7005 0100 0000 1777 5979
SENT TO M. MOELLER JULY 21, 2008
(APN 243-181-006)

P. 1

Paragraph 3:

“A secondary backup disposal system is also being proposed” **COMMENT:** Is one ^{TIER} of secondary backup rock-filled dispersal trench sufficiently adequate to handle full 100% discharge in case of primary system non operation or failure?

Paragraph 3:

“..system design was approved by Monterey County prior to the adoption of these ordinances..” **COMMENT:** Denied and negated on appeal, ^{to} Coastal Commission.

Paragraph 4:

“..up to 40 feet below ground surface) percolation test ...” **COMMENT:** 1) Contradictory numbers 2) There is only 2 +/- feet of permeable soil overburden over non-permeable clay and hard pan decomposed granite (revealed by a 12 foot excavation of foundation site) (see accompanying photo evidence)

P. 2

Continuation paragraph from P. 1:

“...5.5 feet below ground surface) conducted by the system designer...are designed to handle 100% of the design flow for the proposed residence..” **COMMENT:** Under ideal conditions, without regard for surface dilution under conditions of heavy rainfall..

Paragraph 3:

“...design criteria are hereby approved..” **COMMENT:** Without consideration of public comments?

“...the enclosed draft Waiver R3-2008-0061 contains...” **COMMENT:** Without condition & only adequate...

“The Waiver is subject to Water Board approval.” **COMMENT:** What oversight, inspection, compliance? Has Monterey County budgeted for increased personnel to perform these added responsibilities?

“Staff has no objection to the County issuing a building permit for the proposed system at this time..” **COMMENT:** Before septic approval? Highly unusual!

**RESOLUTION NO. R3-2008-0061
(DRAFT)
Waiver of Waste Discharge Requirements**

For

**ENGINEERED ONSITE DISPOSAL SYSTEM
MOELLER RESIDENCE 194 SAN REMO ROAD
CARMEL HIGHLANDS
(APN 243-181-006)
Monterey County**

COMMENTS

P. 1

3) "terminated at any time" **COMMENT:** Then what?? Existing Residence left high and dry.

P. 2

- 5) consists of 0.85 acre **COMMENT:** One acre zoning requirement
6) The proposed project ... **COMMENT:** was Denied on Coastal Commission Appeal
7) ..."40 feet below ground surface. **COMMENT:** ERRONEOUS data NOT factual
7) ..A Basin Plan exemption is required... **COMMENT:** Under heavy rainfall, What?
8) site conditions meet the recommended..." **COMMENT:** Need to defend these questionable statements

P. 3

9) "... directly or indirectly result in pollution or nuisance..." **COMMENT:** If so, then what?

10) application "was submitted...by the County on behalf of the Discharger."
COMMENT: Without protective conditions... Why did the County agree to this still unproven system with the knowledge that the available dispersal ground for back up would be conventional rock-filled trenches, diminished by half with the applicant's simultaneous petition for a lot line adjustment re APN 243-181-005/006?

13) ..."prior to issuing a building permit..." **COMMENT:** Building permit was issued nonetheless, before conditions were met.

15) ..."this waiver of waste discharge requirements is in the public interest..." **COMMENT:** and if not to be in the public interest, what then??

P. 4

16)

- a) "The discharge is already regulated ..." **COMMENTS:** NOT adequately
-County oversight?

-Enforcement?
-County resources already stretched beyond ability to oversee and enforce conventional and current projects.

18) a) “ Prohibits pollution , contamination...” **COMMENT:** Prohibits but does not address system failure to perform as engineered or intended.

c) “Requires the Discharger to grant...” **COMMENT:** How regularly on what specific schedule

d) “Requires the onsite disposal system to comply....” **COMMENT:** Compliance? What system fallback?

19) a) “is conditional b) may be terminated at any time **COMMENT:** Upon termination, then what??

P. 5

21) “The monitoring and reporting requirements...” **COMMENT:** Reporting oversight imperative. And “verify the adequacy and effectiveness of the conditions.”.

COMMENT: If not what then?

22) “The Regional Board provided an opportunity for a public hearing “ **COMMENT:** On 7 21 08 (WRONG DATE) ...”and considered all comments and evidence concerning this matter.” **COMMENT:** Unfounded expectation of questionable outcome. Before evaluation, public comments and substantive input.

THEREFORE BE IT RESOLVED:

1. In accordance with California water Code...” **COMMENT: Biased anticipatory conclusion**

a) ...”Ordinances and permit condition ...**COMMENT:** What oversight will support enforcement?

d) “ shall be inspected every two years..” **COMMENT:** Inspected by whom?

e)” Peak daily flow shall not exceed 1,800 gallons per day...” **COMMENT:** What manner of measurement and method of limitation?

f) “ ...shall not create a condition of pollution, contamination or condition of nuisance..” **COMMENT:** What determination and by whom? What penalty?

P. 6

h) ...”the use of self-regenerating water softeners is prohibited;. **COMMENT:** oversight? Inspection? Compliance?

i) “low flow plumbing fixtures, etc” **COMMENT:** Only recommended? Monitoring? Oversight?

k) “..discharges threatening water quality or public health.” **COMMENT:** Penalties?

l) The Discharger shall allow the Water Board and Monterey County to inspect...”

COMMENT: The Water Board or County budgeted for inspection or monitoring team?

n) ..”Provide copies of all monitoring data...”**COMMENT:** oversight? Compliance?

o) ..”shall inspect ..every two years”...**COMMENT:** Has the Water Board or the County put a monitoring, inspection, compliance, enforcement team into place?

q) "...shall notify the Water Board of the transfer within 30 days of transfer.."

COMMENT: Disclosure? Oversight? Compliance?

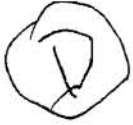
3. "...may terminate the applicability of the Waiver ..at any time." **COMMENT:** For cause? Then what? What fall back system will be in place for this eventuality?

4. .." This Waiver shall become effective on October 17, 2008.." **COMMENT:** If approved and with added conditions after duly considering public input. Upon expiration of the waiver... what is the protocol?

5. ..."condition of pollution or nuisance." **COMMENT:** Monitoring, inspection, compliance and effective enforcement, by an adequately staffed team for effective supervision?

P. 7

"...adopted by the California Regional Water Quality Control Board, Central Coast Region on October 17, 2008." **COMMENT:** 30-day requirement – PREMATURE CONCLUSION BEFORE PUBLIC INPUT.



**Addendum to Proposed Waiver of Waste
Discharged Requirements
192 San Remo Rd. Carmel Highlands
APN 243-181-005
Cover Letter to Moeller**

NOTE: This waiver is apparently predicated on subsequent approval of lot-line alteration of a division between APN 243-181- 006 and APN 243-181-005 from an East/West orientation to a North/South orientation. ^{As} the lot line adjustment petitioned violates state law 20.68.060, ~~therefore~~ ^{the} lot line adjustment is invalid and the waiver highly questionable.

P.1 last paragraph:

12 foot excavation cut for the foundation reveals 2 foot +/- permeable soil overburden underlaid by non-permeable clay and decomposed granite hardpan.

P.2 paragraph continued from page one:

2 foot +/- permeable overburden

Paragraph one:

“meet or exceed” this is questionable

Paragraph two:

Approved – without considering public input? Without conditions?

Paragraph Three and Four give a contradictory conclusion.