

COUNTY OF SANTA BARBARA APPEAL TO THE:

BOARD OF SUPERVISORS

PLANNING COMMISSION: COUNTY MONTECITO

RE: Project Title Montecito Sanitary District Site Improvements Development Plan

Case No. 20DVP-00000-00003 & 20CDP-00000-00039

Date of Action October 21, 2020

I hereby appeal the approval approval w/conditions denial of the:

Board of Architectural Review – Which Board? _____

Coastal Development Permit decision

Land Use Permit decision

Planning Commission decision – Which Commission? Montecito Planning Commission

Planning & Development Director decision

Zoning Administrator decision

Is the appellant the applicant or an aggrieved party?

Applicant

Aggrieved party – if you are not the applicant, provide an explanation of how you are and “aggrieved party” as defined on page two of this appeal form:

Montecito Water District fulfills the definition of an “aggrieved party” pursuant to Santa Barbara County Code, Chapter 35.490.020(A) because it appeared at the October 21, 2020 public hearing on the matter subject to this appeal, and informed the Montecito Planning Commission of the nature of its concerns.

Reason of grounds for the appeal – Write the reason for the appeal below or submit 8 copies of your appeal letter that addresses the appeal requirements listed on page two of this appeal form:

- A clear, complete and concise statement of the reasons why the decision or determination is inconsistent with the provisions and purposes of the County’s Zoning Ordinances or other applicable law; and
- Grounds shall be specifically stated if it is claimed that there was error or abuse of discretion, or lack of a fair and impartial hearing, or that the decision is not supported by the evidence presented for consideration, or that there is significant new evidence relevant to the decision which could not have been presented at the time the decision was made.

See Attachment 'A'

Specific conditions imposed which I wish to appeal are (if applicable):

- a. N/A
- b.
- c.
- d.

Please include any other information you feel is relevant to this application.

CERTIFICATION OF ACCURACY AND COMPLETENESS Signatures must be completed for each line. If one or more of the parties are the same, please re-sign the applicable line.

Applicant's signature authorizes County staff to enter the property described above for the purposes of inspection.

I hereby declare under penalty of perjury that the information contained in this application and all attached materials are correct, true and complete. I acknowledge and agree that the County of Santa Barbara is relying on the accuracy of this information and my representations in order to process this application and that any permits issued by the County may be rescinded if it is determined that the information and materials submitted are not true and correct. I further acknowledge that I may be liable for any costs associated with rescission of such permits.

Print name and sign – Firm Date

Print name and sign – Preparer of this form Date

 Nick Turner, General Manager, Montecito Water District 10/29/20

Print name and sign – Applicant Date

Print name and sign – Agent Date

Print name and sign – Landowner Date

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Attachment A
to the Appeal to the Board of Supervisors
submitted by Montecito Water District
Dated October 29, 2020

Project Title: Montecito Sanitary District Site Improvements Development Plan

Case No. 20DVP-00000-00003 & 20CDP-00000-00039

A. Reason of Grounds for Appeal

The Montecito Planning Commission's ("MPC") action of October 21, 2020 is inconsistent with provisions of the County Water District Law which gives Montecito Water District broad power over water within its jurisdiction, including authority to: (1) do any act necessary to furnish sufficient water in the district for any present or future beneficial use [Water Code §31020]; (2) operate water works necessary to convey, supply, store or make use of water for any purpose [Water Code §31022]; and (3) establish rules and regulations for the sale, distribution and use of water [Water Code §31024]. MPC approval of the requested MSD project, without appropriate and necessary input from MWD, does not take into account Montecito Water District's authority under the Water Code regarding the development of facilities related to recycled water in its jurisdiction.

The MPC's action of October 21, 2020 also demonstrates an **abuse of discretion** because the **action is not supported by the evidence**. The MPC application demonstrates a lack of analysis and information concerning the proposed recycled water project approved as part of the referenced action, any future expansion of the recycled water project, and compliance with probable future regulations requiring a reduction in ocean discharge and an increase in wastewater recycling. Approval of a project which includes a recycled water component without adequate information about facility requirements needed to serve the community, will have significant consequences for water resource management. Failure to consider expansion of the recycled water facility is also inconsistent with the Santa Barbara County Montecito Land Use & Development Code Section 35.430.010(B) because it fails to take in to account necessary future development.

B. Supplemental Information in Support of Appeal

Montecito Sanitary District's ("MSD") application, as submitted and approved by the MPC, is incomplete and does not thoroughly consider all aspects of the application, specifically the recycled water treatment component. Only limited information concerning the recycled water treatment component is currently available and this information is not grounded in sound long term planning.

The project applicant, MSD has not evaluated, and therefore lacks needed information on, the makeup of a full-scale recycled water project, including the required footprint(s) of such a project. Proceeding with any development at the project site, including the (1) Phase 1 Recycled Water Treatment Facility, (2) Essential Services Building, and (3) solar panel infrastructure in the absence of proper long-term planning will serve to preclude and/or hinder future development, including any expansion of the proposed recycled water treatment facility. Adequate consideration must be given to long term plans for the site to safeguard the community's ability and priority to make long term use of this essential resource to lessen the impact of future drought conditions and to achieve compliance with probable future regulations requiring a reduction in ocean discharge and an increase in wastewater recycling.

MWD's request for a continuance concerning the MPC determination of the MSD project is thoroughly detailed in the public comment letter dated October 16, 2020 submitted to the MPC, as well as the presentation given by MWD's General Manager at the MPC's October 21, 2020 hearing. The October 16, 2020 letter and presentation are attached as **Exhibit A and B**.

MWD also expressed similar concerns to the Montecito Board of Architectural Review ("MBAR") at its meeting of July 23, 2020. Information regarding the Phase 1 recycled water treatment component and its future expansion, specifically an analysis, engineered drawings and/or architectural renderings were not submitted to, nor considered by, the MBAR. The proposed recycled water treatment component of MSD's proposed project has not been adequately evaluated by MBAR and therefore its potential impact on the surrounding community has not been considered. Attached as **Exhibit C** is MWD's public comment letter dated July 22, 2020 submitted to the MBAR and made part of the record for its July 23, 2020 meeting.

MWD's request for a continuance concerning the MPC determination of the MSD project is to ensure that the recycled water projects proceed in a methodical and thorough manner to ensure that recycled water is appropriately and successfully implemented for the community. This commitment to provision of recycled water is clearly demonstrated in MWD's record:

- The MWD's 2015 Urban Water Management Plan directs MWD on a path of water security, and incorporates recycled water in its future plans for securing rainfall independent water supplies.
- In 2018, MWD completed a Recycled Water Feasibility Study, which ultimately recommended a partnership with MSD for the irrigation of local commercial landscapes.
- The MWD adopted Resolution 2187 in mid-2019 supporting MSD's recycled water pilot project which analyzed new treatment technologies.
- The MWD completed a Groundwater Augmentation Feasibility Study in 2019 to evaluate the viability of storing recycled water in the groundwater basin, which concluded the fragmented geology in the basin is not conducive to groundwater injection.
- MWD adopted Resolution 2189 (attached as **Exhibit D**) in late 2019 refining its vision for recycled water for Montecito.
- Most recently, in July 2020, MWD, in collaboration with MSD began the preparation of Preliminary Design Report and 30% design ("Preliminary Design") for a recycled water project. This Preliminary Design is the missing information that should be considered by the County of Santa Barbara before approval of the MSD project subject to this appeal is granted.

The MSD application also does not consider pending regulatory requirements that will require a reduction in ocean discharge and an increase in wastewater recycling. See the attached letter prepared by the Central Coast Regional Water Quality Control Board dated January 28, 2020 (attached as Exhibit E).

Based on the foregoing, the MPC's approval of the MSD project is inconsistent with the Water Code, is not supported by the evidence presented for consideration, and represents error and/or abuse of discretion. MWD respectfully requests the County of Santa Barbara Board of Supervisors reconsider the MPC's approval of this project and reverse the MPC's actions on this matter. The information needed to fully evaluate MSD's application, i.e. Preliminary Design for the recycled water treatment component, will be available in as soon as 6 to 8 months. It is not essential that the County of Santa Barbara provide approval of this project at this time. A requested continuance will not impact water supply management nor prevent regulatory compliance.



October 15, 2020

Mr. David Villalobos
Board Assistant Supervisor
Montecito Planning Commission
County of Santa Barbara, Planning and Development
123 E. Anapamu Street
Santa Barbara, CA 93101

**RE: 20DVP-00000-00003
20CDP-00000-00039
MONTECITO SANITARY DISTRICT
SITE IMPROVEMENTS DEVELOPMENT PLAN**

Board of Directors

Floyd Wicks
President

Tobe Plough
Vice President

Ken Coates
Director

Cori Hayman
Director

Brian Goebel
Director

**General Manager
and Board Secretary**
Nick Turner

Dear Mr. Villalobos,

This letter provides comments by Montecito Water District (MWD) concerning the Montecito Sanitary District’s (MSD) Coastal Development Plan (CDP) scheduled to be reviewed by the Montecito Planning Commission (MPC) on Wednesday, October 21, 2020. The MPC’s review pertains to various capital improvements to be made at the MSD wastewater treatment facility located at 1042 Monte Cristo Lane, one of which includes “Phase 1” of a Recycled Water Treatment Facility. **MWD recommends the MPC defer action on MSD’s CDP until a Preliminary Design Report and 30% design for a Recycled Water Treatment Facility is complete, as described below.**

The MPC and the community can be assured that MWD has been, and continues to be, fully supportive of implementing meaningful wastewater reuse as expediently as possible for the Montecito and Summerland communities. County Water District Law [Water Code §§30000 – 33901], gives MWD broad power over water within its jurisdiction, including authority to: (1) do any act necessary to furnish sufficient water in the district for any present or future beneficial use [Water Code §31020]; (2) operate water works necessary to convey, supply, store or make use of water for any purpose [Water Code §31022]; and (3) establish rules and regulations for the sale, distribution and use of water [Water Code §31024], all of which includes recycled water. MWD intends to fully exercise its authority provided under the law.

MWD Resolution 2189 (attached), adopted on November 19, 2019, refines its vision of recycled water for the community. This resolution specifically

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The District uses recycled paper.
Each ton of recycled paper
saves 7,000 gallons of water.

recognizes that recycled water will likely be phased and that **near-term projects must consider future phases in our design and infrastructure planning.** Review of MSD's CDP is premature for the following reasons:

- (1) **No approved design for any Recycled Water Treatment Facility has been completed.** MWD and MSD have been collaborating for more than a year, yet have not reached agreement on facility requirements for Phase 1 or any subsequent phases of a Recycled Water Treatment Facility. Essential design criteria that have not been defined include: a) overall size of the footprint needed for a facility; b) location of various components of the recycled water treatment facility; and c) size and location of accessory structures such as large storage tanks. The "Phase 1" project outlined in MSD's CDP has not been designed, and requirements for Phase 1 are dependent upon the design and planning of future phases of the facility, which have not been prepared to date.
- (2) **Preliminary Design Report & 30% Design will be available in 6 to 8 months.** At their August 4, 2020 Joint Committee meeting, MWD and MSD agreed to partner in the preparation of a Preliminary Design Report (PDR) and 30% design for the project. The PDR will be prepared for the full-scale recycled water project as recommended in MWD's *2018 Recycled Water Facilities Plan* (Large NPR project), followed by development of 30% design of a Phase 1 project. Generally, the PDR and 30% design will further develop the conceptual design and confirm assumptions provided in the *2018 Recycled Water Facilities Plan*. Specifically, the PDR and 30% design will: (1) provide a more thorough understanding of the near-term and long-term project requirements, including more detail for consideration by the MPC as to the land area required for the full scale project; (2) define the appropriate approach to project phasing that considers essential factors such as construction, operations, customer demands and economic factors; and (3) establish a more refined estimate of projected near and long-term project costs such that a Phase 1 project capable of supplying recycled water sufficient to meet the needs of the Santa Barbara Cemetery (at a minimum) can be implemented initially, with subsequent phasing to achieve the larger project being pursued in the future.
- (3) **Adequate analysis and design of all planned developments on the property is necessary to properly consider and review MSD's CDP.** Sufficient information for the MPC to review the project is not yet available. The PDR and 30% design will provide vital information that the MPC should review before conveying final approval of the CDP. Most importantly, the PDR will help ensure that an adequate footprint can be preserved so that near-term projects such as those included in MSD's CDP do not preclude the implementation of future projects that factor into the comprehensive long-term plans for meeting the water supply needs of the community.
- (4) **Future expansion of the proposed Phase 1 Recycled Water Treatment Facility has not been addressed.** MSD's CDP does not consider future expansion of the recycled water treatment facility and accessory structures beyond what may be needed to serve the Santa Barbara Cemetery. Future expansion is projected in MWD's *2018 Recycled Water Facilities Plan* and involves treating much greater volumes of water and farther-

reaching deliveries. Construction of the capital improvements outlined in MSD's current CDP may preclude future developments on the property such as an expansion of the Recycled Water Treatment Facility if careful consideration is not given to long-term plans for the site. Compliance with future regulatory requirements, such as the possible requirement to reduce ocean discharge, may also be jeopardized if site planning is not done in a thorough and synchronous manner.

It is noteworthy that Senate Bill 332 was introduced by Senator Hertzberg in the 2019-2020 Regular Session of the California Legislature. The proposed bill stated, ***"This bill would declare, except in compliance with the bill's provisions, that the discharge of treated wastewater from ocean outfalls is a waste and unreasonable use of water."*** While the bill did not pass during the 2020 Session, it clearly sets forth the intent of legislators as related to the re-use of this valuable resource, for the community's benefit. Further, recent correspondence from the Central Coast Regional Water Quality Control Board received by MSD dated January 28, 2020 documents the State Water Board's Recycled Water Policy objectives of increased and improved water recycling, including the anticipated requirement for all ocean dischargers to recycle 100% of their treated wastewater.

MWD looks forward to continued collaboration with MSD on delivering an appropriate recycled water project to the community. A Preliminary Design Report (PDR) and 30% design of the Recycled Water Treatment Facility, consistent with the level of effort put forth for other components of MSD's CDP, is underway and when complete (in approximately 6 to 8 months) will provide the analysis needed for proper consideration of permitting and regulatory approvals. This information is essential to ensuring recycled water is appropriately implemented for the community. MWD intends to work diligently with MSD to accelerate the timely completion of this work.

Please contact me at fwicks@montecitowater.com and Nick Turner, the MWD General Manager at 805-969-2271 or nturner@montecitowater.com with any questions.

Sincerely,



Floyd Wicks, Board President
Montecito Water District

CC: Donna Senauer, Chair, Montecito Planning Commission
Nick Turner, General Manager, Montecito Water District
Tom Bollay, Board President, Montecito Sanitary District
Jeff Kerns, Director, Montecito Sanitary District
Dana Newquist, Director, Montecito Sanitary District
Woody Barrett, Director, Montecito Sanitary District
Thomas Kern, Director, Montecito Sanitary District
Jon Turner, Interim General Manager, Montecito Sanitary District



Montecito Sanitary District

1042 Monte Cristo Lane
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A Public Service Agency

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November 13, 2020

Lisa Plowman
Director of Planning and Development
County of Santa Barbara
123 East Anapamu Street
Santa Barbara, CA 93101-2058

Subject: Response to MWD Appeal Letter to MPC

Dear Ms. Plowman:

This letter reacts to the document filed by the Montecito Water District (“MWD”) on or about October 29, 2020 (the “MWD Letter”). The MWD Letter purports to appeal the Montecito Planning Commission’s (“MPC”) decision on October 21, 2020 to grant a Coastal Development Permit (“CDP”) to the Montecito Sanitary District (“MSD”). At the outset, MSD reincorporates observations listed in its October 16, 2020 letter sent to MPC (enclosed) regarding MWD’s complaints. Simply put, MWD’s assertions have nothing to do with the Santa Barbara County Code or Santa Barbara Coastal Zoning Ordinance (collectively, “SBCC”); the MWD Letter does not constitute an appeal under SBCC Section 35-182. Accordingly, MSD urges you to reject the MWD Letter pursuant to SBCC Section 35-182.2(D)(3).

MWD representatives made their arguments in writing and person during the MPC public hearing on October 21, 2020. There is nothing new asserted in the MWD Letter. Then, as now, MWD’s position is not relevant to MSD’s CDP. They are only legal arguments regarding MWD’s statutory authority for treating and delivering water within its jurisdictional boundaries. MSD is not interested in engaging in legal debates about what legal authority each special district has regarding potable water, recycled water, or wastewater; MSD’s need for a CDP is stated in the October 16th letter.

MSD urges you to reject the MWD Letter pursuant to SBCC Section 35-182.2(D). In short, the MWD Letter completely fails to explain how MPC’s decision “is inconsistent with the provisions and purposes of the Coastal Land Use Plan, this Article [i.e., the Coastal Zoning Ordinance], or other applicable law....” (see SBCC Section 35-182.2(C)).

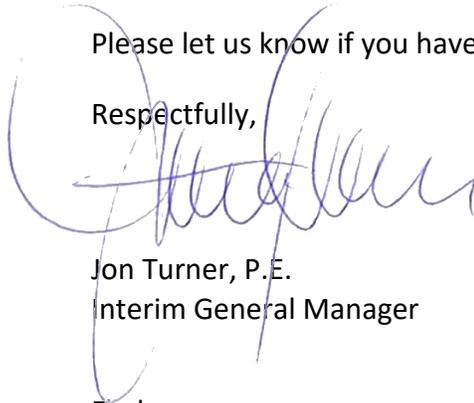
The MWD Letter only argues that the MPC’s decision was inconsistent with the “County Water District Law” (which is undefined) and did not “take into account [MWD’s] authority under the Water Code regarding the development of facilities related to recycled water in its jurisdiction.” These complaints are unrelated to the purpose of a CDP (see SBCC section 35-169.1) or the findings required to issue a CDP (see SBCC section 35-169.5). MSD’s CDP governs only MSD owned property and facilities. If the MSD Board of Directors authorize construction of any new

facilities, they would (if ever built) be located on MSD property and would be constructed in accordance with applicable law.

While MSD certainly values its partnership with MWD to develop long-term plans governing the future of recycled water within the Districts' respective jurisdictions, the CDP has nothing to do with that discussion. It is simply a land use permit that must be issued by the County of Santa Barbara for *any potential* development within the Coastal Zone. MWD's suggestion that it must be consulted by the County or MSD regarding facilities constructed, owned, and placed on MSD real property is mistaken. More importantly, however, it does not meet the requirements of the SBCC for an appeal.

Please let us know if you have any questions.

Respectfully,



Jon Turner, P.E.
Interim General Manager

Enclosure

Cc: Thomas Bollay, Board President; Karl H. Berger, General Counsel (w/encl.)



Montecito Sanitary District

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October 16, 2020

Mr. David Villalobos
Board Assistant Supervisor
Montecito Planning Commission
County of Santa Barbara
Planning and Development
123 E. Anapamu Street
Santa Barbara, CA 93101

Subject: 20DVP-00000-00003 and 20CDP-00000-00039 Montecito Sanitary District Development Plan

Dear Mr. Villalobos,

This letter is in response to the letter written by Mr. Floyd Wicks of Montecito Water District ("MWD") dated October 15, 2020. It is unclear whether Mr. Wicks wrote this at the direction of the MWD Board of Directors or simply as President of the Board. Regardless, it is important that the record be clear regarding the Montecito Sanitary District's ("MSD") Coastal Development Plan ("CDP") application.

Mr. Wicks's letter focuses on two aspects of MSD's application: a new Essential Services Building and a recycled water treatment system. From MSD's perspective, these are two minor aspects of the CDP application. MSD mainly seeks to obtain a CDP for existing (but unpermitted) maintenance and laboratory buildings and to verify long-term permission for four temporary staff support trailers that were allowed under emergency powers to respond to the ongoing COVID-19 Pandemic.

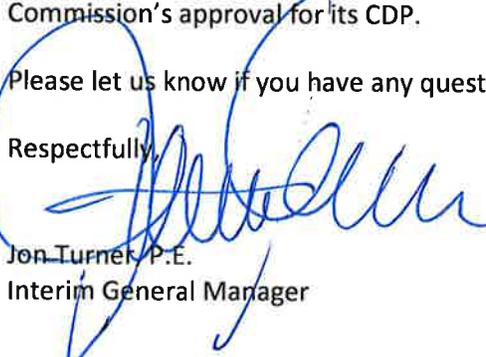
MWD and MSD are in ongoing discussions regarding the two minor items identified by Mr. Wicks. The legal arguments made in his letter, frankly, have no bearing on the question before the Montecito Planning Commission or on whether a CDP should be approved. Issuing a CDP does not mandate construction of the two minor items identified by Mr. Wicks; whether or not they are ever constructed is entirely up to the MSD Board of Directors. A CDP simply means that the County approves the structures. Most importantly, however, a CDP will allow MSD to continue utilizing its existing and vital infrastructure to fulfill its only purpose: treating wastewater to standards required by California law.

Regrettably, the County strongly advised MSD to combine various projects into one CDP application. This created the unintended consequence of exasperating a difference in political viewpoints and injecting that conflict into a land use planning process mandated by the California Coastal Act. Nothing in MSD's CDP application is intended to short-circuit its discussions with the MWD; MSD has every intention of continuing its good-faith negotiations with MWD regarding the future of recycled water and other important matters.

MSD looks forward to moving forward with the public hearing on October 21st and securing the Montecito Planning Commission's approval for its CDP.

Please let us know if you have any questions.

Respectfully,


Jon Turnek, P.E.
Interim General Manager