



Agenda Correspondence

January 3, 2017 Planning Commission Meeting

3300 Panorama Drive CP0-500 & UP0-440

RECEIVED

DEC 22 2016

City of Morro Bay
Community Development Dept.

October 18, 2016

Honorable Members of the Morro Bay Planning Commission.

Reference Case No: CPO-500, UPO-440

Site Location: 3300 Panorama Drive, Morro Bay, CA

Project: Demolish & Removal of 2 Fuel Tanks & 1 Water Tank

I am Carole Truesdale, a resident of North Morro Bay since, 1995 and homeowner since 1999.

I attended a Stakeholder's Meeting on Monday, October 17, 2016 with the proposed developer CVI, LLC et al as they tried to address numerous questions that we had concerning this demolition process. We have never challenged the removal of these tanks, only grave concerns as it pertains to the habitat, toxicity of material being removed, land erosion, precious water contamination, and streets surrounding this demolition site. The integrity of this company, which is based on their history in Fresno, CA, is also in question.

I heard a City of Morro Bay official describe the approval process for allowing huge (40 ton) construction trucks to utilize a badly deteriorating Morro Bay residential street for purposes of a private developer.

This remark concerned me because it appears that there is no approval process. It's just a rubber-stamp. As long as the vehicle meets weight standards for highways (80,000 lbs.), it's A-OK to make several trips a day on an already broken city street. The only caveat was that the City would make a video tape before and after the project to document any visible damage and the developer would be responsible to fix it.

A study by the U.S. General Accounting Office (GAO) determined that the road damage caused by a single 18-wheeler was equivalent to the damage caused by 9,600 cars. (GAO: Excessive Truck Weight: An Expensive Burden We Can No

Longer Afford) The study seems to have based its calculations around the number of axles per vehicle. The study found that essentially, road damage was related to the 4th power of the relative loads. That means that if one vehicle carries a load of 1,500 pounds per axle and another carries a load of 3,000 pounds on each axle, the road damage caused by the heavier vehicle is not twice as much, but 2 to the 4th power as much ($2 \times 2 \times 2 \times 2 = 16$ times as much road damage as the lighter vehicle).

Based upon the current situations with our streets in North Morro Bay, with the majority of them being deemed “Poor” by the City of Morro Bay and cannot be brought up to standards until they totally deteriorate, and money is available for repairs...I asked that the Morro Bay Planning Commission seriously consider and recommend to the City to put in place some type of Construction Surety Bond for this development for the benefit of the City of Morro Bay.

Currently, a Contractor’s License Bond is \$12,500 – Even though they’re actually a type of license and permit bond, contractor license bonds are often mistakenly grouped in with contract bonds since they are used by construction professionals and do not cover the actual cost of any type of issues that may be caused by the contractor or developer. Do we know what type of Bond and how much this developer carries?

Securing a Performance Bond or Payment Bond; either one will guarantee that contractors complete projects according to the contractual terms. If a contractor fails to so, there is financial recourse to the City of Morro Bay.

In fact, The Federal Miller Act requires that Performance and Payment Bonds be used on all federally funded projects worth \$100K or more...sometimes both of these bonds are required.

Thank you for your time and Consideration.

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DEC 02 2016

City of Morro Bay
Community Development Dept.

December 6, 2016

Morro Bay Planning Commission

RE: UPO-440, CPO-500

We are almost back to square one from the September 6th Planning Committee Meeting. The Morro Bay Stakeholders asked that the decision on the tank demolition project be put back to give the community time to review the project. Yet on November 29th, 2016 we received the Staff Report on the the project prepared for the December 6th, 2016 Planning Commission Meeting. In the time between the September 6th Planning Commission Meeting and the recent Staff Report, the volume of material to be removed has grown steadily from an estimated 36 cubic yards to an estimated 150 yards and the number of expected 80,000 round trip loads has gone from 6 per day to up to 15 per day!

These are facts that I have carefully cited from several well documented sources in the references below.

The following is an analysis of the dramatic difference between the original estimates of the total materials to be removed between the the time of the July 25, 2016 Initial Study and Checklist, and the current Staff Report dated December 6, 2016. They are organized to reflect how the volume of material and the resulting loads have increased over time.

Volume of material to removed, shifted on site, and area to be disturbed.

July 25, 2016- 1st estimated cubic yards to be removed

According to the Exhibit C, Initial Study and Checklist dated July 25, 2016(submitted at the September 6th, 2016 Planning Commission Meeting), the volume of material to be removed from the site is as follows:

Page 3, paragraph 1: ...approximately 24 cubic yards of shot-crete located along a central line...

Page 4, paragraph 1... approximately 12 cubic yards of soil removed to expose underground pipe...

Page 4, paragraph 1 states 20 yards of material are to be shifted

The total material to be removed is 36 cubic yards of material, from this portion of the Mitigated Negative Declaration.

October, 2016- 2nd estimated cubic yards to be removed

The October, 2016 Bedford Demolition Plan states on age 15, paragraph 1, that:

Metals – fifty loads

Debris – four loads

Domestic trash miscellaneous debris – two loads.
A total of 56 Loads will be hauled away.

November, 21, 2016- 3rd estimated loads to be removed

Truck Traffic Impact Analysis, Completed by Diversified Project Services International on November 21, 2016 stated on Page 1:

A total of 1,050 yards of concrete is anticipated to be removed

December 6th, 2016- 4th estimated cubic yards to be removed

According to the updated Staff Report of December 6th, 2016, B-1, Exhibit B, Sheet 2, titled Demolition Plan Exiting Tanks and Piping, the following material is to be removed, shifted, disturbed(in fine print, in a map of the site):

1,050 cubic yards of concrete removal
1,950 cubic yards of dirt(cut)
225,000 square feet disturbed area

The total cubic material from the recent Staff Report is 1,050 yards of material, 1,950 yards of material to be shifted, and 225,000 square feet to be disturbed.

Conclusion: the original plan stated that a total of 36 yards were to be removed, the recent Staff Report(released Nov.29) states that 1,050 are to be removed(29 times the original figures).

Also the amount of material originally to be shifted within the site went from 20 cubic feet to 1,950 cubic yards.

At no place in the original document did they state that 225,000 square feet of material was to be disturbed.

Total number of loads to be moved from the site.

Page 4(page 56 on the PDF packet tiled 09-06-16_PC Packet), of the September 6th Packet of information titled Initial Study and Checklist, paragraph 3, sentence 1 states:

“The project is expected to require 1.5 to 2 months to complete. Over this time, a total of approximately 40 round-trip truck loads would be required, and construction traffic would vary from 0 to 6 trucks per day.

According to the Staff Report dated November 28, 2016(released on Dec. 29th), for the December 6th, 2016 Planning Commission Meeting, Page 1 of the Staff Report, the estimated number of trucks has increased significantly:

“Demolition is anticipated to take approximately 2 to 3 months and will involve roughly 40 to 50 truckloads for the tank, pipeline and pump removal, and approximately 50 to 100 additional truckloads for removal of the concrete foundations and shot-crete”.

The Truck Traffic Impact Analysis, Completed by Diversified Project Services International on November 21, 2016 stated on Page 1:

An anticipated 70 truckloads (10 to 15 per day only during hauling of material) will be required for this portion of the removal.

The total number of truck loads went from a estimated total 40 round trip truck loads, to a minimum of 90(more than twice the original) round-trip truck loads and a maximum of 150 round-trip truck loads(almost 4 times the original).

Summary:

The total cubic yardage that is proposed to be removed has grown steadily from 36 cubic yards to 1,050 cubic yards from the original figures in July, 2016.

The number of truck loads of up to 80,000lbs each has grown from 40 loads(6 loads per day) to a a maximum total of 150 loads per day or 10-15 loads per day.

These are significant changes from the figures submitted at the September 6th, 2016, and need serious consideration.

Conclusion

The present Staff Report is a dramatic change in the volume of material being transported through our neighborhood from the application presented on September 6th, 2016! The present Staff Report on the 29th of November shows a volume in cubic yards, representing a 29 fold increase; and an increase that doubles the round trip loads per day!

It seems as though the applicant is attempting to jump the gun, in preparing the site for a future development, rather than just remove the tanks, which would require at least another permit application, if not an EIR!

Recommendation

I recommend that the project be scaled back, to be completed in phases, such as the applicant originally suggested. If the applicant successfully completes each phase a new permit should be required to advance to the next phase.

Ed Griggs

Morro Bay Stakeholders

December 20, 2016

To: Morro Bay Planning Commission
Chairperson Robert Tefft
Commissioner Gerald Luhr
Commissioner Michael Lucas
Commissioner Richard Sadowski
Chairperson Joseph Ingrassia

RE: PUBLIC HEARINGS/INFORMATIONAL MEETING, December 6, 2016
B-1 Case #: CPO-550, UPO-440
Site Location: 3300 Panorama Drive
Project Title: Demolition of Tanks and Associated Structures

Below is the statement I read at what was expected to be the Public Hearing scheduled for December 6 to review this project. Because there was sporadic notification to a limited number of residents and no published "NOTICE OF PUBLIC HEARING," this meeting was convened as "informational only." The feeble attempt by Community Development Staff to explain *why* the notification issue occurred was disheartening, no apology offered, and speaks directly to the following:

"Good Evening Honorable Commissioners, and Community Development Staff,

I am Annie Pivarski, resident and homeowner in North Morro Bay; and a Morro Bay Stakeholder. For me, the latest iteration of this project comes down to **TRUST**:

The word has been flung high and low nationally; and here it is in our own community. I think *expectation* has a lot to do with trust. Having the *expectation* that someone will *do right and be right* towards you also ties in to *feeling safe*. To me, trust is most visible via *actions*.

From the outset of this project, trust has been lacking: Of the System and of the Applicant and associated LPs and LLC's. I believe the City has been naïve about the magnitude of and overall effect this project will have on its citizens, the environment, and infrastructure.

Now, the scope of the project has changed with impacts far greater than what was originally proposed. Yet, according to the applicant in a written response to our concerns dated December 1, he states, "There are no changes." Trustworthy? I think not. Regarding the Insurance Guaranty required as a condition of approval, the response: "We have already committed to the insurance and the indemnification for the neighborhood in the event of damages. We will provide you with the insurance certificate." To date, there is no certificate. I would expect it to be secured in time for this meeting. Trust is most visible via *actions*.

Regarding this project and-any other for that matter-my *expectation* is that the City of Morro Bay follows its own "ORGANIZATIONAL CHART," which is included with this statement and is for F/Y 2015/16. At the top of the chart, "CITIZENS OF MORRO BAY." Reporting to the "CITIZENS," the MAYOR AND CITY COUNCIL, followed by City ADMINISTRATION and various departments falling under it.

My current property taxes are \$4,470.56 a year. For the amount of money we pay to live here I am not *feeling safe* with the current proposed plan which was released a week ago today.

RECEIVED

DEC 22 2016

City of Morro Bay
Community Development Dept.

November 1, 2016

Honorable Members of the Morro Bay Planning Commission.

Reference Case No: CPO-500, UPO-440

Site Location: 3300 Panorama Drive, Morro Bay, CA

Project: Demolish & Removal of 2 Fuel Tanks & 1 Water Tank

I am Carole Truesdale, a resident of North Morro Bay since, 1995 and homeowner since 1999.

I am a voice from the Morro Bay Stakeholders. As I mentioned on October 18, 2016..."We have never challenged the removal of these tanks, only grave concerns as it pertains to the habitat, toxicity of material being removed, land erosion, precious water contamination, and the streets surrounding this demolition site. The integrity of this company, which is based on their history in Fresno, CA, is also in question, and asked for you to require a "Performance Bond" from the project Applicant/Agent: Chris Mathys et al. Our only goal is to protect the City of Morro Bay against potential issues that may impact their fiscal capabilities should the Applicant go bankrupt and/or default in any way; fail to comply with all of the Federal & State requirements during the demolition, or cause damage to the area that surrounds this project. Most important – Our City's Financial Stability, residents' health and safety, protection of the environmentally sensitive habitat currently on this project site, and the surrounding areas that could be in jeopardy.

I present to each of you copies of about 200 plus signatures we have collected from Morro Bay Citizens requesting the same; Definition of Performance Bond; Fresno Court Hearing Records for Christopher Mathys (Applicant/Agent); CVI Group, LLC and Steve Gallegos – all whom are connected in some way with this project.

As parents we seek the best health insurance for our families...let's do the same for our City of Morro Bay.

Thank you for your time and Consideration.

Performance bond

From Wikipedia, the free encyclopedia

Jump to: [navigation](#), [search](#)

A **performance bond** , also known as a contract bond, is a surety bond issued by an insurance company or a bank to guarantee satisfactory completion of a project by a contractor.^[1]

A job requiring a payment and performance bond will usually require a bid bond, to bid the job. When the job is awarded to the winning bid, a payment and performance bond will then be required as a security to the job completion.

For example, a contractor may cause a performance bond to be issued in favor of a client for whom the contractor is constructing a building. If the contractor fails to construct the building according to the specifications laid out by the contract (most often due to the bankruptcy of the contractor), the client is guaranteed compensation for any monetary loss up to the amount of the performance bond.

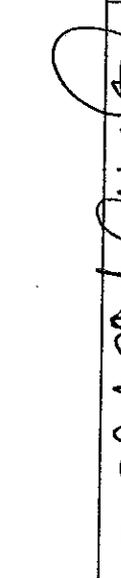
Performance bonds are commonly used in the construction and development of real property, where an owner or investor may require the developer to assure that contractors or project managers procure such bonds in order to guarantee that the value of the work will not be lost in the case of an unfortunate event (such as insolvency of the contractor). In other cases, a performance bond may be requested to be issued in other large contracts besides civil construction projects. Another example of this use is in commodity contracts where the seller is asked to provide a Bond to reassure the buyer that if the commodity being sold is not in fact delivered (for whatever reason) the buyer will at least receive compensation for his lost costs.

The term is also used to denote a collateral deposit of "good faith money",^[2] intended to secure a futures contract, commonly known as margin.

Performance bonds are generally issued as part of a 'Performance and Payment Bond', where a Payment Bond guarantees that the contractor will pay the labour and material costs they are obliged to.

In the United States, under the Miller Act of 1932, all Construction Contracts issued by the Federal Government must be backed by Performance and Payment Bonds. States have enacted what is referred to as "Little Miller Act" statutes requiring Performance and Payment bonds on State Funded projects as well.

We the undersigned hereby petition the City of Morro Bay to require a performance bond from the applicant associated with project Case No. CPO-500, UPO-440 - Demolish & Removal of 2 Fuel Tanks & 1 Water Tank at 3300 Panorama Drive, Morro Bay, CA. Provisions of the bond are to be fully commensurate with the full term, scope, cost and schedule for this project. This project presents a liability to the citizens and City of Morro Bay that far exceeds the fiscal capabilities of both, should this project be abandoned or rendered incomplete by the applicant.

NAME	SIGNATURE	ADDRESS
MELLE F. BISS		596 Quebar St.
Alex F. Hays		594 Blanca St
Chelsea Carpenter		3350 Tide Ave
Matha H. Washberg		512 Blanca St.
Richard Ketchum		3450 Panorama Dr
Estevan Kees		500 Dawson
Ann Kees		509 Dawson
Jerry Smith		505 Dawson
Glenn Hightee		521 Dawson
RONALD J. MARTIN		530 Dawson
STEVE & KIM GIERKS		536 Dawson St.
ERIE RASH		516 " "
Morgan Dupree		562A Dawson St
Kevin Keller		572 Dawson St.
Jensine Hanson		596 Dawson St.

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NAME	SIGNATURE	ADDRESS
Alison Vege	<i>John W. Vege</i>	472 TRINIDAD ST
Leslie Zaroy	<i>Leslie Zaroy</i>	497 Trinidad St
FRANK ZARROY	<i>Frank Zarroy</i>	497 TRINIDAD ST
NICHOLAS GOBBLE	<i>Nicholas Gobble</i>	473 TRINIDAD ST
KAREN GOBBLE	<i>Karen G. Gobble</i>	473 TRINIDAD ST
TUDY SIDENER	<i>Tudy Sidener</i>	496 TRINIDAD ST
PAUL ROBERTS	<i>Paul Roberts</i>	2462 Remo Ct. M.B.
Sally Harrill	<i>Sally Harrill</i>	489 Trinidad St MB
Chelsea Moore	<i>Chelsea Moore</i>	486 Trinidad St. MB
Chud Moore	<i>Chud Moore</i>	486 TRINIDAD ST. MB
Kim Barnes	<i>Kim Barnes</i>	481 TRINIDAD ST MB
KAREN CHIPMAN	<i>Karen Chipman</i>	452 TRINIDAD ST MB
Russell Duglos	<i>Russell Duglos</i>	460 TRINIDAD ST MB
Ellie Duglos	<i>Ellie Duglos</i>	460 TRINIDAD ST MB
John W. Rooster	<i>John W. Rooster</i>	424 TRINIDAD MB

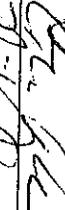
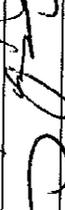
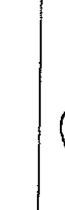
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NAME	SIGNATURE	ADDRESS
KRISTINA J. SPENTY	<i>Kristina Spenty</i>	3144 Trinidad Ave MFB
Sandy French	<i>Sandy French</i>	33290 Tide Av. MB.
MICHELLE TONIE	<i>Michelle Tonia</i>	361 Trinidad Ave
BARBARA	Barbara	311 TUREMAN ST
Gayle Chipman	<i>Gayle Chipman</i>	452 Trinidad MB

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NAME (Print)	SIGNATURE	ADDRESS
Fran Lawson	<i>[Signature]</i>	490 Whiskey Bay
Harry Stroop	<i>[Signature]</i>	561 Yerba Buena
Eve Cummings	<i>[Signature]</i>	550 CA Jolla St
Charlotte Stroop	<i>[Signature]</i>	501 Yerba Buena St

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NAME	SIGNATURE	ADDRESS
Jon Elliott		421 Yerba Buena
Glen Turner		356 Yerba Buena
Rick Alford		370 Yerba Buena
Dennis Peterson		490 Yerba Buena
David D. Wilson		467 Yerba Buena
Mary Kirkwood		454 Yerba Buena
Bryant Siffert		323 Yerba Buena
Charles Crosby		520 Yerba Buena
Christine Moore		520 Yerba Buena
Kandice Crosby		520 Yerba Buena
Kathryn B. South		3390 Panorama Dr.
Tom B. South		3390 Panorama Dr.

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NAME	SIGNATURE	ADDRESS
Cheryl Truesdale		331 Kodiak St. MB
Larry Truesdale		331 Kodiak St, MB
Andy Kachadoorian		340 Kodiak St, MB
Petera P. White		361 Kodiak St. MB
GERALD R. WHITE		361 Kodiak St. MB
William R. Baldwin	William R. Baldwin	360 Kodiak St. M.B.
SHEILA Puff	as above in the name also of	351 Kodiak St. M.B.
DANN Reisman	D Ann Reisman	1315 Clarendelle Dr
Jill Garcia	Jill Garcia	351 JANA ST., MB
Forrest Robertson	Forrest Robertson	330 Kodiak St. MB.
Teresa L. Robertson	Teresa L. Robertson	330 Kodiak St. MB
GENAS Robertson-SAWA	GENAS Robertson-SAWA	330 Kodiak St. MB
JACK M RITCHIE	JACK M RITCHIE	120 HATHENS ST. M.B.
CHARLOTTE R. RICHIE	CHARLOTTE R. RICHIE	120 HATHENS ST. M.B.

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NAME	SIGNATURE	ADDRESS
Michael Loring	M. L. Loring	487 Sicily St
Hazeldean Skolding	Hazeldean Skolding	489 Sicily St
Elizabeth McMeans	Elizabeth McMeans	497 Sicily St.
Mary Kate Phipps	Mary Kate Phipps	485 Sicily St
Christy Jiles	Christy Jiles	482 Sicily St.
Susan Ewing	Susan Ewing	460 Sicily St
JANICE COOPER	Janice Cooper	449 Sicily St.
SHERI MRS WOLF	Sheri Wolf	501 Penn St
Robert Margolis	Robert Margolis	341 Sicily St
Stephanie Burns	Stephanie Burns	331 Spruce St.
Aimee Y. Burns	Aimee Y. Burns	330 Redwood St.
NORMAN R Sasmeko	Norman R Sasmeko	340 Pennel St
DA Van. Cornwell	DA Van Cornwell	340 Pennel St
DANN BRESER	DANN BRESER	423 OHV ST. MB
GARY WEST	GARY WEST	431 RENNEL ST.

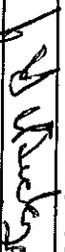
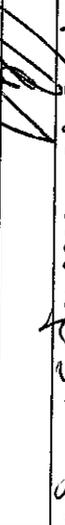
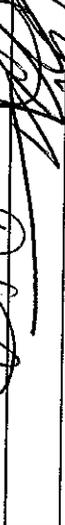
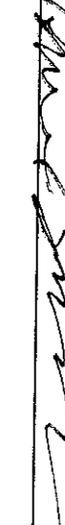
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NAME	SIGNATURE	ADDRESS
Arlene N. Butler		380 Rennell St.
Son Webster		401 Parray St.
Nick Ballantine		406 RENNELL St
DAN COSTER		409 RENNELL St
Aimee Godsey		423 Rennell St
Dean Godsey		424 RENNELL St
Cheryl Emcke		440 Rennell Street
Camille Handy		439 Rennell St.
Kathy Patrick		483 Rennell St
DIVINE MOORE		497 RENNELL ST.
FRED MOORE		497 RENNELL ST.
Dean Johnson		493 Sicky St.
Aya C. Johnson		493 Sicky St.
Liana R. Smith		433 Sicky St.
JASON CARMICHAEL		3281 TIDE AVE

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NAME	SIGNATURE	ADDRESS
John GOSPER	<i>John Gosper</i>	409 Sicily
TERRY WAHLER	<i>Terry Wahler</i>	405 Sicily
MARK MURPHY	<i>Mark Murphy</i>	492 Sicily

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NAME	SIGNATURE	ADDRESS
JL Rudge		1117 Ocean
Doranne Deangerty budge		417 central St. Morro Bay, CA
F S merrins		2113 whidbey st Morro Bay CA
AET GARY		476 whidbey st Morro Bay CA
Gerald Lowe		404 whidbey st "
LINDA D KANE		523 whidbey St MB
Robert H Walker		501 whidbey St MB
Richard Barnes		501 whidbey St MB

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NAME	SIGNATURE	ADDRESS
Carol Whitte	Carol Whitte	523 Whidbey St. MB
Fabian Blechal	Fabian Blechal	483 Whidbey St MB
Miriam Eber	Miriam Eber	471 Whidbey St. MB
David Gomes	David Gomes	471 Whidbey St. MB
Phillip Britton	Phillip Britton	465 Whidbey St MB
Mary Ann Britton	Mary Ann Britton	465 Whidbey St MB
Terri Frank	Terri Frank	445 Whidbey St. MB
David Swadlow	David Swadlow	496 Whidbey St. MB

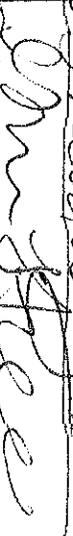
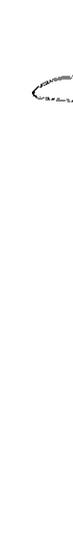
We the undersigned hereby petition the City of Morro Bay to require a performance bond from the applicant associated with project Case No. CPO-500, UPO-440 - Demolish & Removal of 2 Fuel Tanks & 1 Water Tank at 3300 Panorama Drive, Morro Bay, CA. Provisions of the bond are to be fully commensurate with the full term, scope, cost and schedule for this project. This project presents a liability to the citizens and City of Morro Bay that far exceeds the fiscal capabilities of both, should this project be abandoned or rendered incomplete by the applicant.

NAME	SIGNATURE	ADDRESS
FRANK C. HOWE	F Howe	563 WHIDBEY ST. MORRO BAY
SUZANNE R CARPENTER BOB WALKER	Suzanne R Carpenter Bob Walker	499 Whidbey Way Morro Bay 481 Whidbey Way, M.B.
JOSEPH R. WENNICKL	Joe R. Wenickl	901 MORRO BAY SP. W. MORRO BAY CA.
JEREMY MASSIE DAVID JACOB NACHRE	Jeremy Massie David Jacob Nachre	3341 Whidbey Way 443 Whidbey way
DAVID DALLIDE	David Dallide	3351 Whidbey Way
MIKE TEAGUE	Mike Teague	555 Whidbey St M.B. CA.
LINDA TEAGUE	Linda Teague	535 Whidbey St. NB. CA.
MARISSA COUDRAY	Marissa Coudray	3337 Panorama Dr.
DAVID POST	David Post	3337 Panorama Dr.
KELLY LOWRY	Kelly Lowry	3335 Panorama Dr.
JASON BUCKMASTER	Jason Buckmaster	473 WHIDBEY WAY

Table 1

First Name	Last Name	Email Address	Street Address	City	State	Post Code	Country	Custom Field	Date Signed	Confirmed
Gerard	Anderson	Geraldanderson670@gmail.com		Morro Bay	California				2016-10-31 14:26:38	unconfirmed
Patricia	Pyle	patryle4@yahoo.com		Morro Bay	California				2016-10-30 18:30:17	unconfirmed
Cathy	Reitz	beachingcat@aol.com		Morro Bay	California				2016-10-28 18:22:43	confirmed
Alan	Schluter	alan.schluter@outlook.com		Morro Bay	California				2016-10-28 15:19:01	confirmed
Sharalyn	Pettit	pettitco@charter.net		Morro Bay	California				2016-10-28 01:25:33	unconfirmed
Linda	Schluter	lfcjaj@yahoo.com		Morro Bay	CA				2016-10-28 00:40:08	confirmed
Helen	Mellon	mellh526@newschool.edu		Morro Bay	CA				2016-10-27 23:39:18	confirmed
Bob	Mellon	mellons@msn.com		Morro Bay	CA				2016-10-27 23:37:34	confirmed
Diane	Playan	diane@dianeplayan.com		Morro Bay	CA				2016-10-27 02:18:15	unconfirmed
Marguerite	Shore	megshore@gmail.com		New York	NY				2016-10-26 22:07:46	confirmed
Ruth Ann	Angus	candicow@att.net		Morro Bay	California				2016-10-26 19:39:46	confirmed
Michael	shaffran	mshaffran@gmail.com		Morro Bay	CA				2016-10-26 18:14:14	confirmed
Sarah	Robles	mrsrobles@gmail.com		Morro Bay	Ca				2016-10-26 17:19:05	confirmed
Carole	Truesdale	Carole_truesdale@hotmail.com		Morro Bay	CA				2016-10-26 15:24:46	confirmed
Carol	Golden	carol@carolgoldenarts.com		Morro Bay	CA				2016-10-26 13:43:09	unconfirmed
Annie	Pivarski	annie@pivarski.com		Morro Bay	CA				2016-10-26 13:40:13	confirmed
Theresa	Pena	trpdrh1019@yahoo.com		Morro Bay	Ca				2016-10-26 04:05:51	confirmed
Judi	Brown	sansimeoncov@gmail.com		Morro Bay	California				2016-10-26 03:40:50	unconfirmed
Joyce	Ford	truth.moves.us@gmail.com		Morro Bay	California				2016-10-26 03:38:07	confirmed
Cal	Nishinaka	calnish@sbcglobal.net		Morro Bay	CA				2016-10-26 01:47:22	unconfirmed
YVONNE	BRUCKNER	jonyvonne@charter.net		MORRO BAY	California				2016-10-26 01:43:37	confirmed
Nolan	Meeks	nolanmeeks76@gmail.com		Morro Bay	CA				2016-10-26 01:26:19	confirmed
Gary	Messerotes	gmezzo@comcast.net		Morro Bay	CA				2016-10-26 00:56:25	confirmed
Loretta	LaForm	Llipitrader@me.com		Morro Bay	CA				2016-10-26 00:23:27	confirmed
Vanessa	Evans	Nessa-v@hotmail.com		Morro Bay	Ca				2016-10-26 00:16:28	unconfirmed
John	Shorb	johnrshorb@gmail.com		Morro Bay	California				2016-10-25 22:31:30	confirmed
Paul	Kenney	Paulhandymkenney@yahoo.com		Morro Bay	Ca				2016-10-25 16:51:28	unconfirmed
Caroline	Maxwell Lewis	Maxbirds@gmail.com		Morro Bay	CA				2016-10-25 15:50:26	confirmed
Beverly	Kurz	Beverlykurz@gmail.com		Morro Bay	ca				2016-10-25 15:29:23	confirmed
Dan	Ragland	dr.danragland@gmail.com		Morro Bay	CA				2016-10-25 14:33:08	confirmed
Kristen	Headland	donkris88@yahoo.com		Morro Bay	ca				2016-10-25 13:10:22	confirmed
Hank	Roth	hankroth@att.net		Morro Bay	California				2016-10-25 11:30:17	confirmed
betty	winholtz	winholtz@sbcglobal.net		Morro Bay	ca				2016-10-25 06:48:22	confirmed
Bill	Alpert	bill@copiesandink.com		Morro Bay	CA				2016-10-25 05:00:29	confirmed
Melanie	Alpert	melaniealperts@charter.net		Morro Bay	CA				2016-10-25 04:33:44	confirmed

We the undersigned hereby petition the City of Morro Bay to require a Performance Bond from the applicant associated with project Case No. CP0-500, UP0-440 - Demolish & Removal of 2 Fuel Tanks & 1 Water Tank at 3300 Panorama Drive, Morro Bay, CA. Provisions of the bond are to be fully commensurate with the full term, scope, cost and schedule for this project. This project presents a liability to the citizens and City of Morro Bay that far exceeds the fiscal capabilities of both, should this project be abandoned or rendered incomplete by the applicant.

Name	Signature	Address
Mike Weddige		464 Tahiti St. Morro Bay
Dodie Dunton		361 Tahiti St. Morro Bay
David Costa		411 Tahiti St Morro Bay
Linda A Best		3310 WARD ST, MORRO BAY -
Mary DaFinger		340 Tahiti St. Morro Bay
Dad Lintner		458 Tahiti ST Morro Bay
Theodore Zamora		321 Tahiti St. Morro Bay CA
Genevieve Headland		2808 Birch Ave Morro Bay, CA
Bernie Westlander		505 Sanzibar St. Morro Bay CA
Ysabella Tonsen		496 Tahiti, Morro Bay CA

Hearing Search Results

Case Numb...	Style / Defendant	Hearing Da...	Hearing Ti...	Type
0447406	Diana Mathys vs Christopher Mathys	9/27/2000	9:00 AM	Motion - Child Visitation
0447406	Diana Mathys vs Christopher Mathys	4/2/2001	9:00 AM	General Motion
0447406	Diana Mathys vs Christopher Mathys	5/2/2001	9:00 AM	General Motion
0447406	Diana Mathys vs Christopher Mathys	5/29/2002	1:15 PM	Motion - Child Custody
✓ 06CECG03940	Fresno County Jury Commissioner vs Daniel Luna Jr.	2/6/2007	9:30 AM	Order to Show Cause - Contempt
✓ 07CECG02343	Fresno County Jury Commissioner vs Sarah Lopez	9/25/2007	9:30 AM	Order to Show Cause - Contempt
1812049	Mathys, Christopher Paul	3/17/2008	4:00 PM	Chambers Work- Pre
1812049	Mathys, Christopher Paul	4/30/2008	4:00 PM	Chambers Work- Pre
1812049	Mathys, Christopher Paul	5/1/2008	1:30 PM	Court Trial
1812049	Mathys, Christopher Paul	5/2/2008	1:30 PM	Court Trial

Hearing Search Results

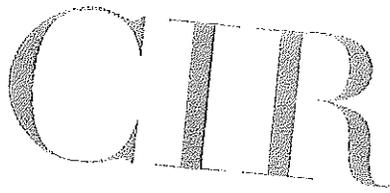
Case Numb...	Style / Defendant	Hearing Da...	Hearing Ti...	Type
1812049	Mathys, Christopher Paul	6/20/2008	4:00 PM	Chambers Work- Pre
05976DW	Mathys, Christopher Paul	6/20/2008	4:00 PM	Chambers Work- Pre
05976DW	Mathys, Christopher Paul	7/16/2008	1:30 PM	Court Trial
1812049	Mathys, Christopher Paul	7/17/2008	1:30 PM	Court Trial
1812049	Mathys, Christopher Paul	8/8/2008	4:00 PM	Chambers Work- Pre
0002107	People of the State of California	1/9/2009	8:30 AM	Appeal
66029LA	Mathys, Christopher Paul	10/8/2010	4:30 PM	Chambers Work - Trial by Written Declaration
E0020001	Mathys, Christopher Paul	4/29/2011	4:30 PM	Chambers Work - Trial by Written Declaration
E0051828	Mathys, Christopher Paul	11/10/2011	4:30 PM	Chambers Work - Trial by Written Declaration
E0051828	Mathys, Christopher Paul	1/5/2012	1:30 PM	Court Trial - Trial De Novo

Hearing Search Results

Case Num...	Style / Defendant	Hearing D...	Hearing Ti...	Type
24381	Mathys, Christopher Paul	1/30/2012	5:00 PM	Chambers Work- Pre
E0051828	Mathys, Christopher Paul	2/7/2012	1:30 PM	Court Trial
24381	Mathys, Christopher Paul	3/5/2012	10:30 AM	Arraignment/Court Trial
E0051828	Mathys, Christopher Paul	3/12/2012	1:30 PM	Court Trial
24381	Mathys, Christopher Paul	4/16/2012	10:30 AM	Court Trial
E0106652	Mathys, Christopher Paul	1/11/2013	1:30 PM	Arraignment/Court Trial
E0161322	Mathys, Christopher Paul	1/7/2014	1:30 PM	Arraignment/Court Trial
E0161322	Mathys, Christopher Paul	1/27/2014	1:30 PM	Arraignment/Court Trial
E0176997	Mathys, Christopher Paul	4/10/2014	4:30 PM	Chambers Work- Pre
E0176997	Mathys, Christopher Paul	4/30/2014	1:30 PM	Court Trial

Hearing Search Results

Case Numb...	Style / Defendant	Hearing Da...	Hearing Ti...	Type
14CECG02635	State of California vs Christopher Mathys	1/12/2015	10:00 AM	Case Management Conference
14CECG02635	State of California vs Christopher Mathys	3/19/2015	10:07 AM	OSC - ADR Stipulation
14CECG02635	State of California vs Christopher Mathys	5/12/2015	5:30 PM	Chambers Work- Pre
14CECG02635	State of California vs Christopher Mathys	7/6/2015	5:30 PM	Chambers Work- Pre



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MATHYS IS FOCUS OF LAWSUIT

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Council member's conduct in rejection of apartment project in northwestern Fresno is studied.

By Bill McEwen

The Fresno Bee, September 17, 2001

The conduct of City Council Member Chris Mathys in the derailment of a low-income apartment complex in northwest Fresno and a zoning deal he allegedly cut with a prominent developer are the focus of a \$10 million lawsuit wending through federal court.

In a 90-page opinion, U.S. District Judge Oliver W. Wanger said it should be decided at trial whether the city of Fresno and Mathys, acting in an individual capacity, violated the Fair Housing Act and state laws, conspired to deprive civil rights and interfered with a contract based on race.

Shortly after joining the council in 1997, Mathys helped kill the proposed 324-unit Wellington Place Apartments — thus allaying constituent fears of increased crime, overcrowded schools and declining property values.

Court documents include allegations that he was a conduit for the related rezoning of two properties near North Herndon Avenue owned by Robert McCaffrey, one of the Valley's most successful and powerful developers.

Said Wanger: "The evidence presented as to Mr. Mathys is sufficient to create a genuine issue of fact as to whether he conspired with Mr. McCaffrey and any citizen defendants with respect to [rezoning] to perpetuate housing discrimination."

The city has spent \$1.3 million defending Mathys and four other council members in suits filed by Affordable Housing Development Corp., or AHDC, and Ashwood Construction.

Wanger dropped the other council members — Garry Bredefeld, Sal Quintero, Henry Perea and Dan Ronquillo — from the suit.

The judge also dismissed seven of the 12 northwest homeowners sued by AHDC.

The apartment developers, who held an option to buy the larger of the two properties, aren't suing McCaffrey.

City officials are contemplating steps to separate the city from the conduct of Mathys, a one-term council member who is leaving in January.

members following summary judgment rulings by Wanger. The city has provided Mathys with separate counsel since February 1999.

"As a matter of strategy, we will explore advantages and disadvantages for the city to distance itself from the conduct of Council Member Mathys," Montoy said in a document obtained by The Bee.

With other council members removed from the suit, Montoy said, "the sole focus is upon the actions of Mathys and how they might be connected to the city."

Those alleged actions — holding neighborhood meetings, distributing fliers and, in general, marshaling opposition to the apartments, which would have set aside 20% of its units for low-income residents — were cited by Wanger in allowing portions of the suit to continue.

The court documents also contain allegations that Mathys attempted to intimidate Robert C. Wilson, at the time the executive director of the Fresno Housing Authority, which endorsed the complex.

"That message was conveyed to us...that we weren't expected to support the project," Wilson said in a deposition. Nancy A. Jenner, a Visalia lawyer who represents Mathys, said she wasn't surprised by Wanger's decision to deny her request to drop the council member from the suit.

"It's precisely what we predicted," Jenner said. "He did a thorough analysis of the facts. But the city and Chris are in a very defensible position, and I am confident it will come out a victory.

"Council members represent their constituents. These people got sued for doing just that."

Jenner declined to comment on Montoy's memo, saying that she hadn't read it.

Peter Herzog, a Clovis developer and AHDC partner, says he is pleased the suit is moving forward.

"Finally, after 36 months of delay tactics by the city, it's clear they have a potentially significant problem on their hands," Herzog said.

Rezoning won council's OK

In denying a city request for complete dismissal, Wanger cited the City Council's rezoning of 23.5 acres near Gregory and Spruce avenues, where the complex was supposed to go, and 6 more acres near Herndon and Spruce.

As described in court documents, McCaffrey sought to have the Wellington site rezoned from multi-family residential to single-family residential, thus appeasing neighbors who opposed the complex.

In return, McCaffrey wanted a potentially lucrative commercial designation for the smaller parcel, which was zoned for professional offices.

The council unanimously approved his requests.

"We are sensitive to the homeowners' concerns and have, by the subject application, proposed an approach which we believe creates a 'win-win' solution for all concerned," McCaffrey wrote in a letter to Mathys one month after the council decided against authorizing \$30 million in tax-exempt bonds for Wellington Place in March 1997.

"If the application is approved, the existing single-family homeowners are assured that the subject acreage will not be developed for any multi-family use. That is their 'win.'...This upgrade...would be our 'win.'"

Mathys acknowledged in his deposition that he told McCaffrey that residents would “support single-family homes at that location.”

Asked whether the rezonings were a package deal, Mathys answered, “Right.”

The residential site remains undeveloped. The smaller parcel was sold by McCaffrey to developers who built an assisted-living center near Herndon and Spruce.

McCaffrey didn’t respond to a request for comment. Mathys declined to be interviewed. Instead, he provided this statement via e-mail:

“Unfortunately a lobbyist didn’t get his way and is now attempting to silence my neighbors and [me] through threats and frivolous litigation,” Mathys said. “Threats or no threats, Chris Mathys will continue to fight for the people of Fresno and make decisions in their best interest.”

Lawyer sanctioned

Based on a deposition given by then Council Member Mike Briggs — who joined Ken Steitz in voting for the complex — AHDC sought to link other council members to its conspiracy allegations.

Briggs, now a state Assembly member, said in court documents that he was surprised by the lack of support from council members who “often stood up for those who are underrepresented in our community.”

Added Briggs: “[It] appeared obvious...that some sort of deal had taken place, some sort of an agreement between council members to attain a vote in one direction.”

Wanger ruled that Briggs’ contention was “speculation” and there was “absolutely no evidence” of intentional interference by Bredefeld, Quintero, Perea and Ronquillo.

The judge also ordered sanctions against William J. Davis, an Irvine lawyer representing AHDC, for interviewing Briggs months before his deposition without city permission.

The interview violated the city’s attorney-client privilege, said Wanger, who ruled that AHDC lawyers can’t use privileged information revealed to them by Briggs.

Speech, housing rights clash

Lawyers say this is a complex case pitting free-speech guarantees vs. fair-housing rights. It also is likely to test a state law that allows governments to consider the effects on schools, such as overcrowding, in making zoning decisions.

“It’s very complicated,” said James P. Lough, a former city attorney who is among several lawyers representing the homeowners. “We’ve looked at 200 cases, trying to find similarities, and there are very few.”

The Center for Individual Rights, or CIR, says the suit resembles one involving Berkeley residents who opposed a low-income housing project and then were accused of discrimination by federal officials.

A judge ruled that the officials were liable in their personal capacities for violating the First Amendment rights of project opponents. The case is on appeal.

CIR, based in Washington, D.C., is a nonprofit law firm specializing in civil-rights and free-speech issues. It

represented Travis Compton, one of the Fresno homeowners dropped from the suit.

Terence Pell, chief executive officer of CIR, said the Fresno case is the “first one of these involving someone other than the federal government using federal housing laws to silence or intimidate individuals who speak out against low-income housing projects.

“We’re hopeful that this decision [to dismiss Compton] will discourage developers from this particular abuse of discrimination law.”

Davis, the AHDC lawyer, says free-speech guarantees don’t provide blanket protection.

“It is illegal under federal law to facilitate the exclusion of people and to exclude families with children, most of whom would be minorities,” Davis said.

Lough says the dismissal of seven homeowners from the suit was a significant victory for their side.

“Even for the ones that are still in, most of the case is over,” Lough said of Wanger’s rulings.

“We’re down to whether or not it was discriminatory to circulate meeting notices about the project and whether or not a couple of remarks made at the meetings were considered threats.”

Lough said the trial probably would begin early next year. Also pending is a countersuit filed by the homeowners against AHDC, Lough said.

“I am so relieved that this part of the litigation is finally over, and I’m looking forward to a final and complete resolution. I never did anything wrong,” said Compton, who ran up \$30,000 in legal bills before turning to CIR.

“All I ever did was try to facilitate communication between groups and to participate in what I had always understood to be part of the traditional democratic process: debate and discussion.”

More about this case:

- [Affordable Housing Development Corp. v. Fresno](#)



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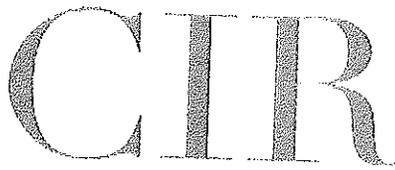
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Mathys not liable; Fresno to pay nominal amount

By Jerry Bier

The Fresno Bee, August 30, 2003

A \$27 million lawsuit ended at a couple of dollars Friday.

A federal court jury decided in favor of former City Council Member Chris Mathys and at the same time concluded that any damage caused by a council decision against two developers six years ago should be limited to \$1 apiece.

The verdicts ended — at least for the time being — six years of litigation which began when developers Peter Herzog and Michael Conway, owners of Affordable Housing Development Corp., were denied bond financing for a 324-unit low-income apartment project called Wellington Place in northwest Fresno.

The developers sued, seeking \$27 million, and the case concluded Friday after four weeks of trial.

The six women and three men on the jury deliberated part of Thursday and into Friday afternoon before concluding that AHDC and Conway's Ashwood Construction should not receive any major damage award for the council action.

What the jury did decide was that the effect of the city's decision to deny the apartments did "cause a significant adverse or disproportionate impact on persons seeking affordable housing because of their race, national origin or familial status."

But they also concluded that the City Council would have reached the same decision even if those groups were not affected.

Thus, the jurors, as directed by a lengthy, 13-question verdict form, awarded \$1 each to AHDC and Ashwood.

Herzog, who had called the council's actions denying the project racist and discriminatory, declined to comment outside the courtroom.

William J. Davis, who represented AHDC, said the jury verdicts "are not the last of it."

"My prediction is this is not the final outcome," Davis continued, adding that an appeal will be filed.

City Attorney Hilda Cantu Montoy, who did not defend the city at trial but sat through most of it, said she was

"extremely pleased with the verdict.

"This has been a cloud on the city over six years, and we're glad it's over."

Lawyer Douglas T. Sloan, who represented the city, said it was "clear the jury found no intent to discriminate" by the city.

Mathys was not in the courtroom for the verdict, but his lawyer, Nancy Jenner, said she also was pleased with the verdict and "that Mr. Mathys was vindicated and the jury found he did not discriminate against anyone."

The jurors left the federal courthouse quickly after they were thanked and excused by U.S. District Judge Oliver W. Wanger.

The jury member who was the last to leave declined to comment to a reporter.

Mathys led the fight to block the development and allayed the fears of neighborhood residents who complained that apartments would increase crime, crowd schools and depress property values.

In a telephone interview after the verdicts, Mathys said he was glad the trial was over.

"People's freedom of speech has been preserved, and their right to voice their concerns without the fear of being sued," Mathys said.

All of the 324 units would have been made available to low-income groups as part of the developers' agreements for federal bonds to help fund the project.

Herzog estimated that they had spent about \$500,000 just to get the project to the council hearing where it was rejected in a 5-2 vote on March 25, 1997.

Much of the time it took to bring the lawsuit to trial was spent in courtroom battles over whether it should be dismissed.

Two years ago, Wanger threw out the lawsuit, granting motions by the city, Mathys and the neighborhood residents who had objected to the complex planned on 23.5 acres near Herndon and Polk avenues.

But Davis asked for reconsideration, and last year Wanger, citing recent higher-court decisions, reversed his earlier ruling and reinstated the case against the city and Mathys.

However, the 12 neighborhood residents and other council members who opposed the development were dismissed as defendants.

Although the jury award seems minimal, the fact the jurors found an impact on minorities and families indicates a violation of the Fair Housing Act and opens the door for Herzog and Conway to seek attorneys' fees, which could run over \$1 million.

Since the project was denied, AHDC has begun development of a 138-unit complex on Fig Garden Drive north of Bullard Avenue that would offer 20% of the apartments for low-income renters, Herzog said.

That site is about a mile from the site where Wellington Place would have been constructed, a 23.5-acre parcel that was later rezoned to single-family uses and remains undeveloped.

More about this case:

▪ Affordable Housing Development Corp. v. Fresno

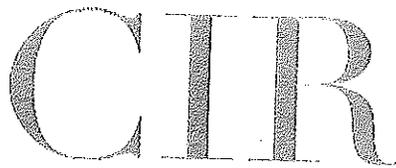


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Affordable Housing Development Corp. v. Fresno

CIR won an important free speech victory in 2006 in its defense of California resident Travis Compton. Compton had been accused of federal housing discrimination by a low-income housing developer angry over Compton's public comments critical of the developer's plans to seek tax exempt bond funding for his project. The U.S. Court of Appeals for the Ninth Circuit ruled that Compton's speech was protected by the First Amendment. AHDC v. Fresno was one of the first cases in the nation to challenge the use of federal anti-housing discrimination law to silence public opposition to a privately developed housing project.

In 1997, Mr. Compton was appointed by the Mayor and City Council of Fresno, California to serve on a community advisory committee charged with making recommendations on proposed development plans. In that capacity, Mr. Compton voted and spoke against recommending bond funding for a low-income housing project proposed by Affordable Housing Development Corp. ("AHDC"). AHDC is a for-profit corporation that builds apartment complexes and serves as landlord for low-income tenants. As a consequence of exercising his First Amendment right to speak out on a matter brought before the advisory committee to which he had been appointed, Mr. Compton was sued by AHDC for housing discrimination.

The Court ruled not only that citizens have a right to speak out but that they shouldn't have to spend a decade in court defending that right. The Court ordered the plaintiff-housing developer to pay our client's attorneys' fees.

- Jeremy Rabkin. "Developers nail free speech." *American Spectator*, December 2000, p. 46.
- Bill McEwen. "Mathys is focus of lawsuit." *The Fresno Bee*, September 17, 2000, p. A1.
- Lewis Griswold. "Summary judgement sought in lawsuit." *The Fresno Bee*, September 29, 1999, p. B3.
- Jerry Bier. "\$2 Awarded in Housing Case." *Fresno Bee*, August 30, 2003

Case Status: Victory. Defendant Compton's motion for Summary Judgment granted on August 31, 2000.



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Hearing Search Results

Case Numb...	Style / Defendant	Hearing Da...	Hearing Ti...	Type
05CECL05902	Steve Gallegos vs Irdee Lewis/UD	9/20/2005	9:00 AM	Unlawful Detainer Court Trial
05CECG03723	La Jolla Grroup II vs Maurice L Smith Sr/DISMISSED	4/3/2006	1:30 PM	Case Management Conference
05CECG03723	La Jolla Grroup II vs Maurice L Smith Sr/DISMISSED	6/5/2006	1:30 PM	Continued Case Management Conference
05CECG03723	La Jolla Grroup II vs Maurice L Smith Sr/DISMISSED	4/24/2007	1:30 PM	Mandatory Settlement Conference
05CECG03723	La Jolla Grroup II vs Maurice L Smith Sr/DISMISSED	5/4/2007	9:30 AM	Trial Readiness
05CECG03723	La Jolla Grroup II vs Maurice L Smith Sr/DISMISSED	5/9/2007	8:30 AM	Court Trial
08CECL06258	Steve Gallegos vs. Tylyn Hardman/UD	7/17/2008	8:31 AM	Summary Judgment
08CECL06258	Steve Gallegos vs. Tylyn Hardman/UD	8/1/2008	1:30 PM	Unlawful Detainer Dismissal
08CECL12369	Steve Gallegos vs Israel Rodriguez/UD	1/2/2009	1:30 PM	Unlawful Detainer Dismissal
08CECL13655	Steve Gallegos vs Thomas Joseph/Dismissed	2/6/2009	1:30 PM	Unlawful Detainer Dismissal

Hearing Search Results

Case Numb...	Style / Defendant	Hearing Da...	Hearing Ti...	Type
08CECL13655	Steve Gallegos vs Thomas Joseph/Dismissed	2/17/2009	8:30 AM	Summary Judgment
08CECL13655	Steve Gallegos vs Thomas Joseph/Dismissed	2/27/2009	1:30 PM	Ex Parte Hearing
08CECL13655	Steve Gallegos vs Thomas Joseph/Dismissed	3/3/2009	9:00 AM	Unlawful Detainer Court Trial
08CECL13655	Steve Gallegos vs Thomas Joseph/Dismissed	3/13/2009	1:30 PM	Unlawful Detainer Dismissal
08CECL13655	Steve Gallegos vs Thomas Joseph/Dismissed	3/20/2009	1:30 PM	Ex Parte Hearing
08CECL13655	Steve Gallegos vs Thomas Joseph/Dismissed	4/7/2009	9:00 AM	Unlawful Detainer Court Trial
08CECL13655	Steve Gallegos vs Thomas Joseph/Dismissed	4/21/2009	8:30 AM	Motion - Sanctions
08CECL13655	Steve Gallegos vs Thomas Joseph/Dismissed	4/21/2009	8:30 AM	Motion - Continuance - Pre
09CECL02386	Steve Gallegos vs Rosalinda Buelna/UD	5/1/2009	1:30 PM	Unlawful Detainer Dismissal
09CECL02386	Steve Gallegos vs Rosalinda Buelna/UD	5/12/2009	9:00 AM	Unlawful Detainer Court Trial

Hearing Search Results

Case Numb...	Style / Defendant	Hearing Da...	Hearing Ti...	Type
08CECL13655	Steve Gallegos vs Thomas Joseph/Dismissed	5/26/2009	8:30 AM	Motion - Tax Costs
09CECL03698	Steve Gallegos vs James Fair/UD	5/29/2009	1:30 PM	Unlawful Detainer Dismissal
09CECL03699	Steve Gallegos vs Monica Moreno/UD	5/29/2009	1:30 PM	Unlawful Detainer Dismissal
09CECL03750	Steve Gallegos vs Thomas Pepion/UD	5/29/2009	1:30 PM	Unlawful Detainer Dismissal
09CECL03750	Steve Gallegos vs Thomas Pepion/UD	7/10/2009	1:30 PM	Unlawful Detainer Dismissal
09CECL07154	Steve Gallegos vs Angelina Lara/UD	9/11/2009	1:30 PM	Unlawful Detainer Dismissal
09CECL07502	Aurora Loan vs Steve Gallegos/UD	9/18/2009	1:30 PM	Unlawful Detainer Dismissal
09CECL07154	Steve Gallegos vs Angelina Lara/UD	10/16/2009	1:30 PM	Unlawful Detainer Dismissal
09CECL10404	Aurora Loan Serv. vs Steve Gallegos/UD	12/4/2009	1:30 PM	Unlawful Detainer Dismissal
05CECG03723	La Jolla Group II vs Maurice L. Smith Sr/DISMISSED	3/26/2012	1:00 PM	CRC225 Dismiss After Settlement

Hearing Search Results

Case Numb...	Style / Defendant	Hearing Da...	Hearing Ti...	Type
12CESC02220	Maria Lemus Zuniga vs Steve Gallegos	1/3/2013	9:00 AM	Court Trial
12CESC02220	Maria Lemus Zuniga vs Steve Gallegos	2/7/2013	9:00 AM	Court Trial
14CECL07717	Wathen Legacy, LLC vs. Bulldog Enterprises/UD/JU	11/17/2014	1:30 PM	Unlawful Detainer Dismissal
14CECL07717	Wathen Legacy, LLC vs. Bulldog Enterprises/UD/JU	11/24/2014	2:04 PM	Money Damages

31 - 34 of 34 items

Hearing Search Results

Case Numb...	Style / Defendant	Hearing Da...	Hearing Ti...	Type
12CECL03280	CVI Group LLC vs Robert Tull/UD	6/29/2012	1:30 PM	Unlawful Detainer Dismissal
12CECL03280	CVI Group LLC vs Robert Tull/UD	6/29/2012	2:03 PM	Money Damages
12CECL04426	CVI Group vs Steve T Nolte/UD	8/14/2012	1:15 PM	Unlawful Detainer Dismissal
12CECL04426	CVI Group vs Steve T Nolte/UD	9/25/2012	2:06 PM	Money Damages
13CECL02494	CVI Group LLC v Montinique Butler/UD	4/16/2013	8:30 AM	Unlawful Detainer Court Trial
13CECL02494	CVI Group LLC v Montinique Butler/UD	5/7/2013	10:00 AM	Unlawful Detainer Dismissal
13CESC00486	CVI Group LLC vs Karl Keller	5/14/2013	1:30 PM	Court Trial
13CECL02494	CVI Group LLC v Montinique Butler/UD	6/4/2013	8:34 AM	Money Damages
13CECL04571	CVI Group LLC v Margaret Garcia/UD/JU	7/16/2013	8:30 AM	Unlawful Detainer Dismissal
13CECL04571	CVI Group LLC v Margaret Garcia/UD/JU	7/30/2013	8:34 AM	Money Damages

Hearing Search Results

Case Numb...	Style / Defendant	Hearing Da...	Hearing Ti...	Type
14CECL06673	CVI Group vs John Gentry/UD/JU	10/20/2014	1:30 PM	Court Trial
14CECL06674	CVI Group vs Estevan Perez/UD/JU	10/20/2014	1:30 PM	Unlawful Detainer Dismissal
14CECL06673	CVI Group vs John Gentry/UD/JU	10/27/2014	2:05 PM	Money Damages
14CECL06674	CVI Group vs Estevan Perez/UD/JU	10/27/2014	2:05 PM	Money Damages
14CECL07309	CVI Group v Alex T Arellano/UD	11/3/2014	1:30 PM	Unlawful Detainer Dismissal
14CECL07309	CVI Group v Alex T Arellano/UD	11/3/2014	2:05 PM	Money Damages
15CECL00757	CVI Group LLC vs Justin W Yuen/UD/JU	3/30/2015	1:30 PM	Unlawful Detainer Dismissal
15CECL00757	CVI Group LLC vs Justin W Yuen/UD/JU	3/30/2015	2:00 PM	Money Damages
15CECL03498	CVI Group LLC vs. Ricky Villa	7/14/2015	8:30 AM	Money Damages
15CECL05610	CVI Group LLC vs. Jerry Ortiz	8/12/2015	5:30 PM	Chambers Work- Pre

Hearing Search Results

Case Numb...	Style / Defendant	Hearing Da...	Hearing Ti...	Type
15CECL04759	CVI Group LLC vs. Judith Bolin	9/1/2015	8:30 AM	Money Damages
15CECL05610	CVI Group LLC vs. Jerry Ortiz	9/8/2015	8:30 AM	Unlawful Detainer Court Trial
15CECL05610	CVI Group LLC vs. Jerry Ortiz	11/10/2015	8:30 AM	Money Damages
15CECL07453	CVI Group LLC vs. Jose Cervantes	11/17/2015	8:30 AM	Unlawful Detainer Court Trial
15CECL05610	CVI Group LLC vs. Jerry Ortiz	12/15/2015	8:30 AM	Money Damages
16CECL05344	CVI Group LLC vs. Joseph Garcia	9/6/2016	8:30 AM	Money Damages
16CECL06387	CVI Group LLC vs. Eric Garcia	10/25/2016	8:30 AM	Money Damages

Reference Case No: CPO-500, UPO-440
Site Location: 3300 Panorama Drive, Morro Bay, CA
Project: Demolish & Removal of 2 Fuel Tanks & 1 Water Tank, as originally stated in the July 25th application

December 22, 2016

Honorable Members of the Morro Bay Planning Commission & City Staff.

I am Carole Truesdale, a resident of North Morro Bay since, 1995 and homeowner since 1999 in addition to being on the Steering Committee for the Stakeholders of Morro Bay.

We the Morro Bay Stakeholders have never been adverse to the removal of the fuel tanks and water tanks as presented in the first application. We stand firm on the fact that the residents, wildlife, sewer/water lines, streets, and City of Morro Bay be protected from any potential hazard that may have an impact on all as a result of this demolition project.

The Morro Bay Stakeholders' Steering Committee has been involved in the numerous meetings as it pertains to this major project. From the September 6th Planning Commission meeting; October 17th onsite Meeting with the Applicant Chris Mathys; I stood before you commissioners again on October 18th as it pertains to heavy truckloads upon our streets, again on November 1st to request that the City of Morro Bay be protected financially against any potential fiscal impact from this project, and then finally on November 16th with the Morro Bay Community Planning Department and contract attorney Chris Neumeyer to voice my concerns about this project. I personally thank you all for your time and effort.

I am still confused and disturbed at this time because of all of the changes to this application from the July 25, 2016 submittal that seem to have slipped in like a *backstreet affair*. It is my understanding that when applications are submitted for permitting, any changes need to be re-applied, re-assessed and an appropriate permit and fees applicable to the overall project be set in place not just ad hoc emails floating back and forth.

RECEIVED

DEC 22 2016

City of Morro Bay
Community Development Dept.

Reference Case No: CPO-500, UPO-440
Site Location: 3300 Panorama Drive, Morro Bay, CA
Project: Demolish & Removal of 2 Fuel Tanks & 1 Water Tank, as originally stated in the July 25th application

We, the Morro Bay Stakeholders were told one thing, than another, and now more... from Phases that are no longer a part of this process: Concrete footings, pipes, entering the ESH area; to the volume of material that is being disturbed on this parcel, the impact of loaded trucks on our streets and most of all...our citizens adjacent to this site. I am grateful that the City of Morro Bay Community Development Department heard our pleas to require an Insurance Guaranty to protect our City from any financial impact that may be associated with this project. We further ask the City of Morro Bay to require a Performance Bond to protect them in case this project is not completed and the City is left handling the debris.

Noise surrounding this project is an area of grave concern...I present to you various documentations as it pertains to how noise can impact on individuals surrounding this demolition site:

Decibel (Loudness) Comparison Chart

Noise Induced Hearing Loss

NIH Fact Sheet Brochure

City of Morro Bay Noise Requirements Code #17.52.030

State of CA Noise Laws

Noise was referenced in the original application on pages 56 & 57 as follows:

NOISE

Mitigation Measure N-1: *Prior to demolition actions, the applicant shall ensure that the following standard is include on the Demolition Plan, and shall verify compliance during construction and demolition: Use of metal shears, saws, and jack-hammers shall be limited to Monday through Friday, 8:00 a.m. to 4:00 p.m. only.*

Reference Case No: CPO-500, UPO-440
Site Location: 3300 Panorama Drive, Morro Bay, CA
Project: Demolish & Removal of 2 Fuel Tanks & 1 Water Tank, as originally stated in the July 25th application

Mitigation Monitoring N-1: The construction contractor shall be responsible for complying with demolition restrictions and notifying the City Community Development Department at least one week prior to initiation of demolition activities. The City Engineer shall conduct periodic inspections to verify compliance.

Based upon the aforementioned documentation describing the decibel levels that can impact humans, I am requesting that the City of Morro Bay Planning Commissions take this information I have presented, digest its contents, and come to an agreement to require a "Sound Barrier" be set in place around this project site as part of the permit process in order to protect the surrounding residents' hearing, which may also assist with the intrusion of their personal lives.

This is not a simple demolition; the decision of the Morro Bay Planning Commission et al sets a precedent for any future developments/developers within the City of Morro Bay's sphere and how we set this precedent is important.

We trust that the Morro Bay Planning Commission will understand and respect the seriousness of our concerns thereby acting on behalf of the welfare of the citizens and wildlife impacted by this project.

We the citizens and stakeholders of Morro Bay, need to grasp the magnitude of this demolition project to better prepare ourselves for the noise, impact and overall disruption of our private lives.

Thank you for your time and consideration.

Carole A. Truesdale
331 Kodiak Street
Morro Bay, CA 93442

Decibel (Loudness) Comparison Chart

Here are some interesting numbers, collected from a variety of sources, that help one to understand the volume levels of various sources and how they can affect our hearing.

Environmental Noise	
Weakest sound heard	0dB
Whisper Quiet Library at 6'	30dB
Normal conversation at 3'	60-65dB
Telephone dial tone	80dB
City Traffic (inside car)	85dB
Train whistle at 500', Truck Traffic	90dB
Jackhammer at 50'	95dB
Subway train at 200'	95dB
<i>Level at which sustained exposure may result in hearing loss</i>	<i>90 - 95dB</i>
Hand Drill	98dB
Power mower at 3'	107dB
Snowmobile, Motorcycle	100dB
Power saw at 3'	110dB
Sandblasting, Loud Rock Concert	115dB
<i>Pain begins</i>	<i>125dB</i>
Pneumatic riveter at 4'	125dB
<i>Even short term exposure can cause permanent damage - Loudest recommended exposure <u>WITH</u> hearing protection</i>	<i>140dB</i>
Jet engine at 100'	140dB
12 Gauge Shotgun Blast	165dB
Death of hearing tissue	180dB
Loudest sound possible	194dB

OSHA Daily Permissible Noise Level Exposure	
Hours per day	Sound level
8	90dB
6	92dB
4	95dB
3	97dB
2	100dB
1.5	102dB

1	105dB
.5	110dB
.25 or less	115dB

NIOSH Daily Permissible Noise Level Exposure	
Hours per day	Sound level
8	85dBA
6	86dBA
4	88dBA
3	89dBA
2	90dBA
1.5	92dBA
1	94dBA
.5	97dBA
.25 or less	100dBA
0	112dBA

Perceptions of Increases in Decibel Level	
Imperceptible Change	1dB
Barely Perceptible Change	3dB
Clearly Noticeable Change	5dB
About Twice as Loud	10dB
About Four Times as Loud	20dB

Sound Levels of Music	
Normal piano practice	60 -70dB
Fortissimo Singer, 3'	70dB
Chamber music, small auditorium	75 - 85dB
Piano Fortissimo	84 - 103dB
Violin	82 - 92dB
Cello	85 -111dB
Oboe	95-112dB
Flute	92 -103dB
Piccolo	90 -106dB

Clarinet	85 - 114dB
French horn	90 - 106dB
Trombone	85 - 114dB
Tympani & bass drum	106dB
Walkman on 5/10	94dB
Symphonic music peak	120 - 137dB
Amplifier, rock, 4-6'	120dB
Rock music peak	150dB

NOTES:

- One-third of the total power of a 75-piece orchestra comes from the bass drum.
- High frequency sounds of 2-4,000 Hz are the most damaging. The uppermost octave of the piccolo is 2,048-4,096 Hz.
- Aging causes gradual hearing loss, mostly in the high frequencies.
- Speech reception is not seriously impaired until there is about 30 dB loss; by that time severe damage may have occurred.
- Hypertension and various psychological difficulties can be related to noise exposure.
- The incidence of hearing loss in classical musicians has been estimated at 4-43%, in rock musicians 13-30%.
- Recent NIOSH studies of sound levels from weapons fires have shown that they may range from a low of 144 dB SPL for small caliber weapons such as a 0.22 caliber rifle to as high as a 172 dB SPL for a 0.357 caliber revolver. *Double* ear protection is recommended for shooters, combining soft, insertable ear plugs and external ear muffs.

Statistics for the Decibel (Loudness) Comparison Chart were taken from a study by Marshall Chasin, M.Sc., Aud(C), FAAA, Centre for Human Performance & Health, Ontario, Canada. There were some conflicting readings and, in many cases, authors did not specify at what distance the readings were taken or what the musician was actually playing. In general, when there were several readings, the higher one was chosen.

Noise Induced Hearing Loss (NIHL)

Dangerous Decibels focuses on noise-induced hearing loss

Of the roughly 40 million Americans suffering from hearing loss, 10 million can be attributed to noise-induced hearing loss (NIHL). NIHL can be caused by a one-time exposure to loud sound as well as by repeated exposure to sounds at various loudness levels over an extended period of time. Damage happens to the microscopic hair cells found inside the cochlea. These cells respond to mechanical sound vibrations by sending an electrical signal to the auditory nerve. Different groups of hair cells are responsible for different frequencies (rate of vibrations). The healthy human ear can hear frequencies ranging from 20Hz to 20,000 Hz. Over time, the hair cell's hair-like stereocilia may get damaged or broken. If enough of them are damaged, hearing loss results. The high frequency area of the cochlea is often damaged by loud sound.

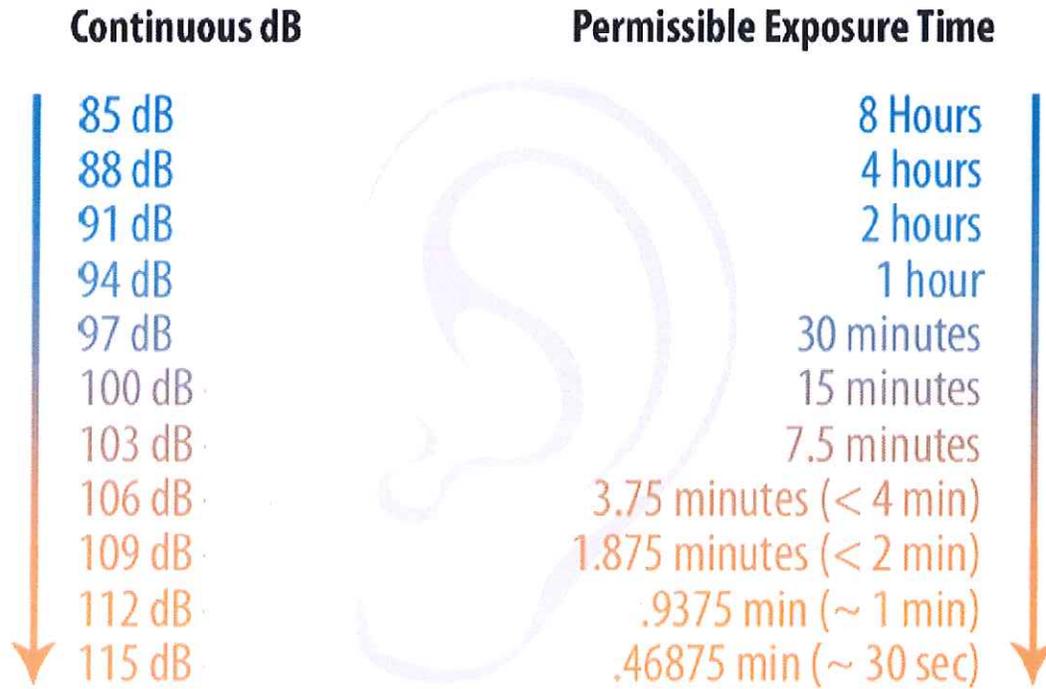
Sound pressure is measured in decibels (dB). Like a temperature scale, the decibel scale goes below zero. The average person can hear sounds down to about 0 dB, the level of rustling leaves. Some people with very good hearing can hear sounds down to -15 dB. If a sound reaches 85 dB or stronger, it can cause permanent damage to your hearing. The amount of time you listen to a sound affects how much damage it will cause. The quieter the sound, the longer you can listen to it safely. If the sound is very quiet, it will not cause damage even if you listen to it for a very long time; however, exposure to some common sounds can cause permanent damage. With extended exposure, noises that reach a decibel level of 85 can cause permanent damage to the hair cells in the inner ear, leading to hearing loss. Many common sounds may be louder than you think...

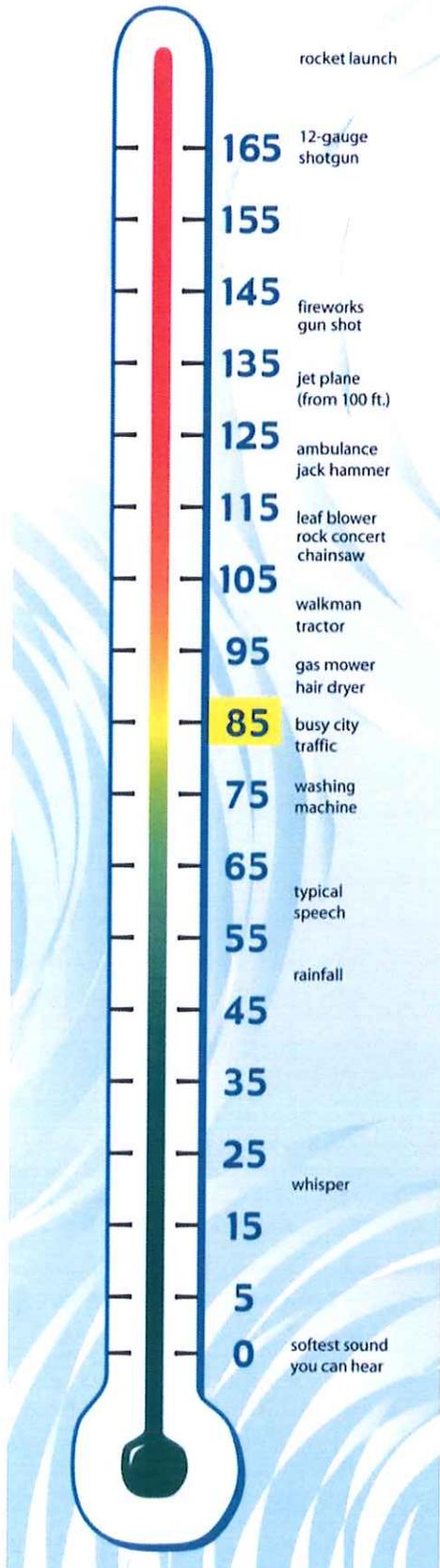
- **A typical conversation occurs at 60 dB – not loud enough to cause damage.**
- **A bulldozer that is idling (note that this is idling, not actively bulldozing) is loud enough at 85 dB that it can cause permanent damage after only 1 work day (8 hours).**
- **When listening to a personal music system with stock earphones at a maximum volume, the sound generated can reach a level of over 100 dBA, loud enough to begin causing permanent damage after just 15 minutes per day!**
- **A clap of thunder from a nearby storm (120 dB) or a gunshot (140-190 dB, depending on weapon), can both cause immediate damage.**

In fact, noise is probably the most common occupational hazard facing people today. It is estimated that as many as 30 million Americans are exposed to potentially harmful sounds at work. Even outside of work, many people participate in recreational activities that can produce harmful noise (musical concerts, use of power tools, etc.). Sixty million Americans own firearms, and many people do not use appropriate hearing protection devices.

Exposure Time Guidelines

Accepted standards for recommended permissible exposure time for continuous time weighted average noise, according to [NIOSH and CDC, 2002](#). For every 3 dBAs over 85dBA, the permissible exposure time before possible damage can occur is cut in half.







NIDCD Fact Sheet | **Hearing and Balance**

Noise-Induced Hearing Loss

What is noise-induced hearing loss?

Every day, we experience sound in our environment, such as the sounds from television and radio, household appliances, and traffic. Normally, these sounds are at safe levels that don't damage our hearing. But sounds can be harmful when they are too loud, even for a brief time, or when they are both loud and long-lasting. These sounds can damage sensitive structures in the inner ear and cause noise-induced hearing loss (NIHL).

NIHL can be immediate or it can take a long time to be noticeable. It can be temporary or permanent, and it can affect one ear or both ears. Even if you can't tell that you are damaging your hearing, you could have trouble hearing in the future, such as not being able to understand other people when they talk, especially on the phone or in a noisy room. Regardless of how it might affect you, one thing is certain: noise-induced hearing loss is something you can prevent.

Who is affected by NIHL?

Exposure to harmful noise can happen at any age. People of all ages, including children, teens, young adults, and older people, can develop NIHL. Approximately 15 percent of Americans between the ages of 20 and 69—or 26 million Americans—have hearing loss that may have been caused by exposure to noise at work or in leisure activities. As many as 16 percent of teens (ages 12 to 19) have reported some hearing loss that could have been caused by loud noise, according to a 2010 report based on a survey from the Centers for Disease Control and Prevention (CDC).

What causes NIHL?

NIHL can be caused by a one-time exposure to an intense "impulse" sound, such as an explosion, or by continuous exposure to loud sounds over an extended period of time, such as noise generated in a woodworking shop.

Recreational activities that can put you at risk for NIHL include target shooting and hunting, snowmobile riding, listening to MP3 players at high volume through earbuds or headphones, playing in a band, and attending loud concerts. Harmful noises at home may come from sources including lawnmowers, leaf blowers, and woodworking tools.

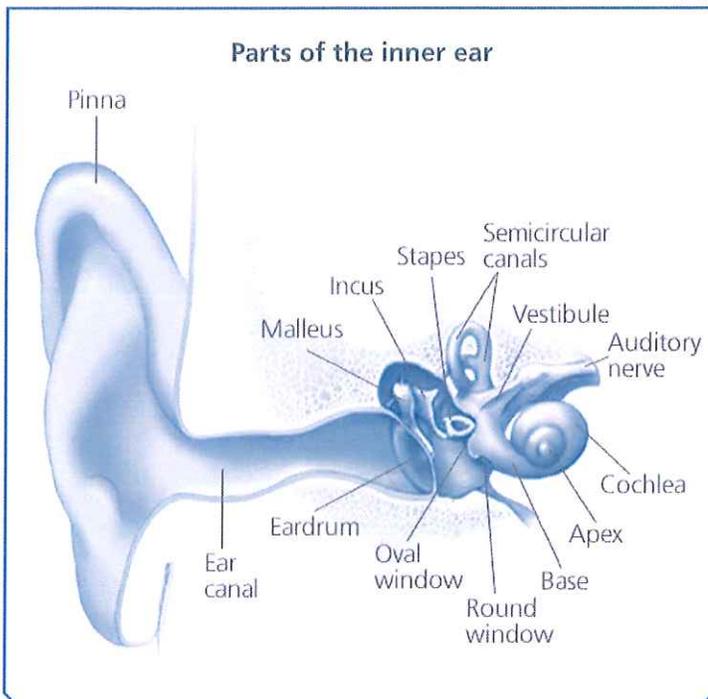
Sound is measured in units called decibels. Sounds of less than 75 decibels, even after long exposure, are unlikely to cause hearing loss. However, long or repeated exposure to sounds at or above 85 decibels can cause hearing loss. The louder the sound, the shorter the amount of time it takes for NIHL to happen.

Here are the average decibel ratings of some familiar sounds:

▶ The humming of a refrigerator	45 decibels
▶ Normal conversation	60 decibels
▶ Noise from heavy city traffic	85 decibels
▶ Motorcycles	95 decibels
▶ An MP3 player at maximum volume	105 decibels
▶ Siren	120 decibels
▶ Firecrackers and guns	150 decibels

Your distance from the source of the sound and the length of time you are exposed to the sound are also important factors in protecting your hearing. A good rule of thumb is to avoid noises that are too loud, too close, or last too long.

How can noise damage our hearing?



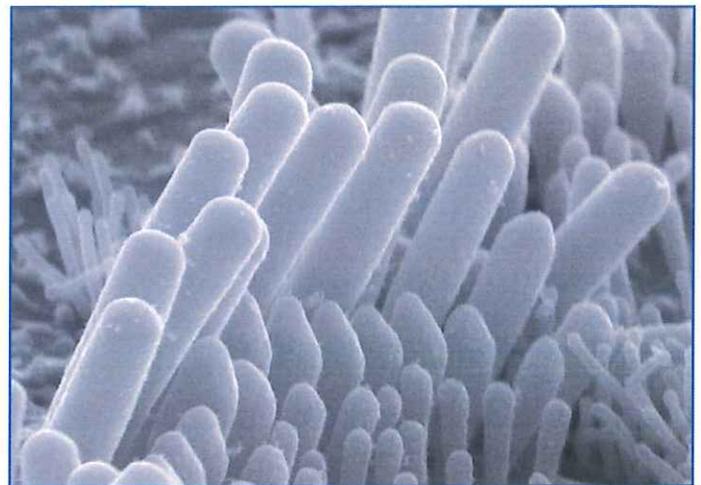
Credit: NIH Medical Arts

To understand how loud noises can damage our hearing, we have to understand how we hear. Hearing depends on a series of events that change sound waves in the air into electrical signals. Our auditory nerve then carries these signals to the brain through a complex series of steps.

1. Sound waves enter the outer ear and travel through a narrow passageway called the ear canal, which leads to the eardrum.
2. The eardrum vibrates from the incoming sound waves and sends these vibrations to three tiny bones in the middle ear. These bones are called the malleus, incus, and stapes.
3. The bones in the middle ear couple the sound vibrations from the air to fluid vibrations in the

cochlea of the inner ear, which is shaped like a snail and filled with fluid. An elastic partition runs from the beginning to the end of the cochlea, splitting it into an upper and lower part. This partition is called the basilar membrane because it serves as the base, or ground floor, on which key hearing structures sit.

4. Once the vibrations cause the fluid inside the cochlea to ripple, a traveling wave forms along the basilar membrane. Hair cells—sensory cells sitting on top of the basilar membrane—ride the wave.
5. As the hair cells move up and down, microscopic hair-like projections (known as stereocilia) that perch on top of the hair cells bump against an overlying structure and bend. Bending causes pore-like channels, which are at the tips of the stereocilia, to open up. When that happens, chemicals rush into the cell, creating an electrical signal.
6. The auditory nerve carries this electrical signal to the brain, which translates it into a sound that we recognize and understand.



Stereocilia perch atop sensory hair cells in the inner ear.
Credit: Yoshiyuki Kawashima

Most NIHL is caused by the damage and eventual death of these hair cells. Unlike bird and amphibian hair cells, human hair cells don't grow back. They are gone for good.

What are the effects and signs of NIHL?

When you are exposed to loud noise over a long period of time, you may slowly start to lose your hearing. Because the damage from noise exposure is usually gradual, you might not notice it, or you might ignore the signs of hearing loss until they become more pronounced. Over time, sounds may become distorted or muffled, and you might find it difficult to understand other people when they talk or have to turn up the volume on the television. The damage from NIHL, combined with aging, can lead to hearing loss severe enough that you need hearing aids to magnify the sounds around you to help you hear, communicate, and participate more fully in daily activities.

NIHL can also be caused by extremely loud bursts of sound, such as gunshots or explosions, which can rupture the eardrum or damage the bones in the middle ear. This kind of NIHL can be immediate and permanent.

Loud noise exposure can also cause tinnitus—a ringing, buzzing, or roaring in the ears or head. Tinnitus may subside over time, but can sometimes continue constantly or occasionally throughout a person's life. Hearing loss and tinnitus can occur in one or both ears.

Sometimes exposure to impulse or continuous loud noise causes a temporary hearing loss that disappears 16 to 48 hours later. Recent research suggests, however, that although the loss of hearing seems to disappear, there may be residual long-term damage to your hearing.

Can NIHL be prevented?

NIHL is the only type of hearing loss that is completely preventable. If you understand the hazards of noise and how to practice good hearing health, you can protect your hearing for life. Here's how:

- ▶ Know which noises can cause damage (those at or above 85 decibels).
- ▶ Wear earplugs or other protective devices when involved in a loud activity (activity-specific earplugs and earmuffs are available at hardware and sporting goods stores).

- ▶ If you can't reduce the noise or protect yourself from it, move away from it.
- ▶ Be alert to hazardous noises in the environment.
- ▶ Protect the ears of children who are too young to protect their own.
- ▶ Make family, friends, and colleagues aware of the hazards of noise.
- ▶ Have your hearing tested if you think you might have hearing loss.

What research is being done on NIHL?

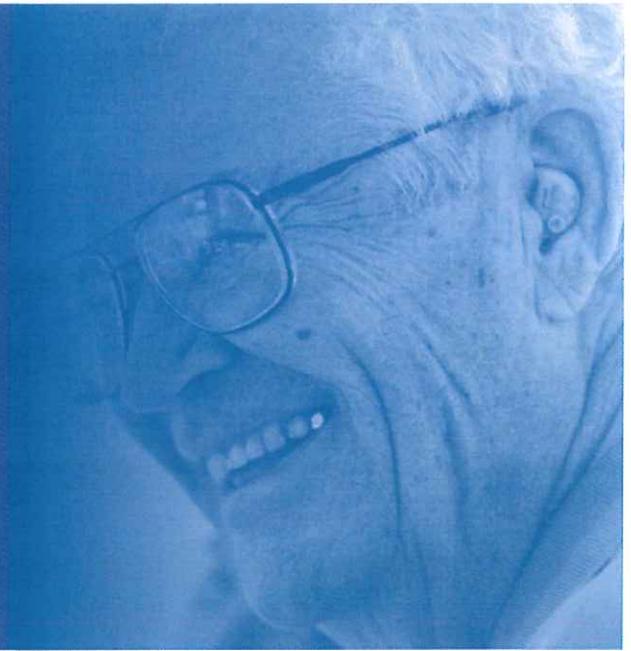
The National Institute on Deafness and Other Communication Disorders (NIDCD) supports research on the causes, diagnosis, treatment, and prevention of hearing loss. NIDCD-supported researchers have helped to identify some of the many genes important for hair-cell development and function and are using this knowledge to explore new treatments for hearing loss.

Researchers are also looking at the protective properties of supporting cells in the inner ear, which appear to be capable of lessening the damage to sensory hair cells upon exposure to noise.

The NIDCD sponsors *It's a Noisy Planet. Protect Their Hearing®*, a national public education campaign to increase awareness among parents of preteens about the causes and prevention of NIHL. Armed with this information, parents, teachers, school nurses, and other adults can encourage children to adopt healthy hearing habits.



National Institute on
Deafness and Other
Communication Disorders



Where can I find additional information about noise-induced hearing loss?

The NIDCD maintains a directory of organizations that provide information on the normal and disordered processes of hearing, balance, taste, smell, voice, speech, and language. Visit the NIDCD website at <http://www.nidcd.nih.gov> to search the directory.

Use the following keywords to help you find organizations that can answer questions and provide printed or electronic information on NIHL:

- ▶ Noise-induced hearing loss
- ▶ Hard of hearing
- ▶ Tinnitus

More NIDCD fact sheets on Hearing and Balance:

- ▶ Age-Related Hearing Loss
- ▶ How Loud Is Too Loud? How Long Is Too Long?
- ▶ Otosclerosis
- ▶ Ten Ways to Recognize Hearing Loss
- ▶ Tinnitus

Visit the NIDCD website at <http://www.nidcd.nih.gov> to read, print, or download fact sheets.

For more information, additional addresses and phone numbers, or a printed list of organizations, contact us at:

NIDCD Information Clearinghouse

1 Communication Avenue
Bethesda, MD 20892-3456
Toll-free Voice: (800) 241-1044
Toll-free TTY: (800) 241-1055
Fax: (301) 770-8977
Email: nidcdinfo@nidcd.nih.gov

<http://www.nidcd.nih.gov>

 Follow the NIDCD on Twitter at @NIDCD

The NIDCD supports and conducts research and research training on the normal and disordered processes of hearing, balance, taste, smell, voice, speech, and language and provides health information, based upon scientific discovery, to the public.



Noise-Induced Hearing Loss

NIH Pub. No. 99-4233

March 2014

Reprinted December 2014

17.52.030 - Noise requirements.

- A. General Noise Limitations. Any business operation with sustained or intermittent noise levels exceeding seventy dB Ldn (or CNEL) as described by the noise element including, but not limited to, wood or machine milling, air hammers, generators, or prolonged or excessive truck deliveries, will not be allowed within one hundred feet of residential uses, hospitals, and other noise sensitive uses unless noise levels are mitigated in compliance with this section.
- B. Operational Hours. All commercial and industrial deliveries and loud commercial activities such as loading and unloading, leaf blowers, bands with loudspeakers within one hundred feet of a residential use shall be limited to the hours between seven a.m. and ten p.m.
- C. Review Of Development Projects. The city shall review new public and private development proposals to determine conformance with the policies of the noise element. Where the development of a project may result in land uses being exposed to existing or projected future noise levels exceed the levels specified by the policies of the noise element, the city shall require an acoustical analysis early in the review process so that noise mitigation may be included in the project design. For development not subject to environmental review, the requirements for an acoustical analysis shall be implemented prior to the issuance of a building permit. The requirements for the content of an acoustical analysis are given in subsection E of this section. At the discretion of the city, the requirement for an acoustical analysis may be waived provided that all of the following conditions are met:
1. Size of Development. The development is for less than five single-family dwellings or for office buildings, churches or meeting halls having a total gross floor area less than ten thousand square feet;
 2. Noise Source. The noise source in question consists of a single transportation noise source (roadway, railway or airport) for which up-to-date noise exposure information is available. An acoustical analysis will be required when the noise source in question is a stationary noise source or when the noise source consists of multiple transportation noise sources;
 3. Noise Exposure. The existing or projected future noise exposure at the exterior of the buildings which will contain noise sensitive uses or within proposed outdoor activity areas (other than playgrounds and parks) does not exceed sixty-five dB Ldn (or CNEL) prior to mitigation. For playgrounds and parks, the existing or projected future noise exposure may not exceed seventy-five dB Ldn (or CNEL) prior to mitigation;
 4. Topography. The topography in the project area is flat, and the noise source and receiving land use are at the same grade; and
 5. Noise Mitigation. Effective noise mitigation, as determined by the city is incorporated into the project design to reduce noise exposure to the levels specified in Table 17.52.030(1), codified at the end of this chapter. Such measures may include the use of building setbacks, building orientation, noise barriers and the standard noise mitigation packages contained within the acoustical design manual. If closed windows are required for compliance with interior noise level standards, air conditioning or a mechanical ventilation system will be required.
- D. Noise Reduction Measures Required. The planning commission shall consider one or more of the following mitigation measures where existing noise levels significantly impact existing noise sensitive land uses or where cumulative increase in noise levels resulting from the new development significantly impact noise sensitive land uses:
1. Rerouting Traffic. Rerouting traffic, if feasible, onto streets that have low traffic volumes or onto streets that do not adjoin noise sensitive land uses;
 2. Rerouting Trucks. Rerouting trucks, if feasible, onto streets that do not adjoin noise sensitive land uses;
 3. Noise Barriers. Construction of noise barriers as long as such barriers do not significantly negatively impact coastal or scenic views; and

4. Acoustical treatment of buildings.
- E. Requirements for an Acoustical Analysis. An acoustical analysis prepared pursuant to the noise regulations shall:
1. Be the financial responsibility of the applicant;
 2. Be prepared by a qualified person experienced in the fields of environmental noise assessment and architectural acoustics;
 3. Include representative noise level measurements with sufficient sampling periods and locations to adequately describe local conditions. Where actual field measurements cannot be conducted, all sources of information used for calculation purposes shall be fully described. When the use being studied is a commercial use, all noise sources related to the service and maintenance of the facility shall be considered, including parking lot and landscape maintenance, refuse collection and truck loading/unloading activities;
 4. Estimate existing and projected (twenty years) noise levels in terms of the descriptors used in Tables 17.52.030(1) and (2), codified at the end of this chapter and compare those levels to the adopted policies of the noise element. Projected future noise levels shall take into account noise from planned streets, highways and road connections;
 5. Recommend appropriate mitigation to achieve compliance with the adopted policies of the noise element, giving preference to proper site planning and design over mitigation measures which require the construction of noise barriers or structural modifications to buildings which contain noise sensitive land uses;
 6. Estimate noise exposure after the prescribed mitigation measures have been implemented; and
 7. Describe a post-project assessment program which could be used to evaluate the effectiveness of the proposed mitigation measures.

(Ord. 445 § 3 (part), 1995)

California Noise Laws

California Health and Safety Code

DIVISION 28. NOISE CONTROL ACT

CHAPTER 1. FINDINGS, DECLARATIONS, AND INTENT

46000. The Legislature hereby finds and declares that:

- (a) Excessive noise is a serious hazard to the public health and welfare.
- (b) Exposure to certain levels of noise can result in physiological, psychological, and economic damage.
- (c) There is a continuous and increasing bombardment of noise in the urban, suburban, and rural areas.
- (d) Government has not taken the steps necessary to provide for the control, abatement, and prevention of unwanted and hazardous noise.
- (e) The State of California has a responsibility to protect the health and welfare of its citizens by the control, prevention, and abatement of noise.
- (f) All Californians are entitled to a peaceful and quiet environment without the intrusion of noise which may be hazardous to their health or welfare.
- (g) It is the policy of the state to provide an environment for all Californians free from noise that jeopardizes their health or welfare. To that end it is the purpose of this division to establish a means for effective coordination of state activities in noise control and to take such action as will be necessary to achieve the purposes of this section.

46001. No provision of this division or ruling of the Office of Noise Control is a limitation or expansion:

- (a) On the power of a city, county, or city and county to adopt and enforce additional regulations, not in conflict therewith, imposing further conditions, restrictions, or limitations.
- (b) On the power of any city, county, or city and county to declare, prohibit, and abate nuisances.
- (c) On the power of the Attorney General, at the request of the office, the state department, or upon his own motion to bring an action in the name of the people of the State of California to enjoin any pollution or nuisance or to protect the natural resources of the state.

(d) On the power of a state agency in the enforcement or administration of any provision of law which it is specifically permitted or required to enforce or administer.

(e) On the right of any person to maintain at any time any appropriate action for relief against any private nuisance as defined in the Civil Code or for relief against any noise pollution.

46002. Nothing in this division shall be construed as giving the Office of Noise Control authority or responsibility for adopting or enforcing noise-emission standards for any product for which a regulation has been, or could be, prescribed or promulgated by the Environmental Protection Agency under the Noise Control Act of 1972.

CHAPTER 2. SHORT TITLE

46010. This division shall be known and may be cited as the California Noise Control Act of 1973.

CHAPTER 3. DEFINITIONS

46020. Unless the context otherwise requires, the definitions set forth in this chapter govern the construction of the words used in this division.

46021. "Local agency" means and includes every local agency, including a county, city, whether general law or chartered, city and county, school district, municipal corporation, district, political subdivision, or any board, commission or agency thereof, or other local public agency.

46022. "Noise" means and includes excessive undesirable sound, including that produced by persons, pets and livestock, industrial equipment, construction, motor vehicles, boats, aircraft, home appliances, electric motors, combustion engines, and any other noise-producing objects.

46023. "Office" means the Office of Noise Control.

46024. "Public agency" means and includes every state agency and every local agency.

46025. "State agency" means and includes every state office, officer, department, division, bureau, board, council, commission, or other state agency.

CHAPTER 4. ESTABLISHMENT OF OFFICE

46040. There is within the state department an Office of Noise Control.

CHAPTER 5. DUTIES OF THE OFFICE

46050. The office shall, in order to protect health and well-being establish and maintain a program on noise control, including but not limited to:

(a) Determining the psychological and physical health effects of noise.

- (b) Determining the physiological effects of noise upon plant and animal life.
- (c) Monitoring noise.
- (d) Collecting and disseminating authoritative information on adverse effects of noise and of means for its control.
- (e) Developing, in cooperation with local governments, model ordinances for urban, suburban, and rural environments.
- (f) Providing assistance to local governmental entities engaged in developing and implementing noise abatement procedures.
- (g) Developing criteria and guidelines for use in setting standards for human exposure to noise.
- (h) Developing standards for the use of noise-producing objects in California.
- (i) Developing criteria for submission to the Legislature so that state agencies may require noise control in equipment purchased for state use.

46050.1. Notwithstanding Section 65040.2 of the Government Code, the office shall adopt, in coordination with the Office of Planning and Research and each state department and agency as it deems appropriate, guidelines for the preparation and content of noise elements as required by Section 65302 of the Government Code.

In adding Section 39850.1 to the Health and Safety Code, which was the predecessor to this section, and amending Section 65302 of the Government Code by Chapter 1124 of the Statutes of 1975, it was the intent of the Legislature to ensure, insofar as possible, that new and periodically revised noise elements in local governments' general plans be more standardized, comprehensive, and utilitarian than they had been previously.

However, the Legislature also recognized that some cities and counties had already adopted noise elements pursuant to the existing Section 65302 of the Government Code and that others had received extensions on the due date of their noise element until September 20, 1975. Those cities and counties were not required to resubmit new noise elements consistent with Section 65302 of the Government Code, or to recognize guidelines adopted pursuant to this section, but are required, upon initial and periodic revision of the noise element, to comply with Section 65302 of the Government Code and to recognize those guidelines.

The requirement that the office adopt guidelines for the preparation and content of noise elements shall be inoperative during the 1993-94 fiscal year.

CHAPTER 6. ASSISTANCE TO LOCAL AGENCIES

46060. It is the purpose of this chapter to encourage the enactment and enforcement of local ordinances in those areas which are most properly the responsibility of local government. It is

further the purpose to insure that the state is of maximum assistance to local agencies in the discharge of those responsibilities, furnishing technical and legal expertise to assist local agencies in the enactment and enforcement of meaningful and technically sufficient noise abatement measures.

46061. The office shall provide technical assistance to local agencies in combating noise pollution. Such assistance shall include but not be limited to:

- (a) Advice concerning methods of noise abatement and control.
- (b) Advice on training of noise control personnel.
- (c) Advice on selection and operation of noise abatement equipment.

46062. The office shall provide assistance to local agencies in the preparation of model ordinances to control and abate noise. Such ordinances shall be developed in consultation with the Attorney General and with representatives of local agencies, including the County Supervisors Association of California and the League of California Cities. Any local agency which adopts any noise control ordinance shall promptly furnish a copy to the office.

CHAPTER 7. COORDINATION OF STATE AND FEDERAL ACTIVITIES

46070. The director shall promote coordination of the programs of all state agencies relating to noise research, abatement, prevention, and control. Each state agency shall, upon request, furnish to the director such information as he may reasonably require to determine the nature, scope, and results of the noise research and noise control programs of the agency.

46071. On the basis of regular consultation with appropriate state agencies, the director shall compile and publish, from time to time, a report on the status and progress of state activities relating to noise research and noise control. This report shall describe the noise programs of each state agency and assess the contributions of those programs to the state's overall efforts to control noise.

46072. In any case where any state agency is carrying out or sponsoring any activity resulting in noise which the director determines amounts to a public nuisance or is otherwise objectionable, such agency shall consult with the director to determine possible means of abating such noise. This section does not apply to any action of a private person for which a license, permit, or other entitlement for use is required to be issued by a state agency.

46073. The Legislature authorizes and directs that all state agencies shall, to the fullest extent consistent with existing authority, administer the programs within their control in such a manner as to further the policy declared in Section 46000. This section shall not be construed to limit or expand the authority of any state agency to issue or deny a license, permit, or other entitlement for use.

46074. Each state agency authorized to adopt regulations in the area of noise control shall in the manner specified in subdivision (c) of Section 11423 of the Government Code give notice to and invite the comments of the office concerning any proposed adoption, amendment, or repeal of a regulation in the area of noise control.

46075. In accordance with the provisions of Section 11426 of the Government Code or other applicable law, the office may petition any public agency for the adoption of regulations or other measures otherwise within the authority of that public agency in the area of noise control.

46076. The Office of Noise Control shall maintain a program to insure that all state agencies are advised of available federal assistance and funds for noise control programs. The office may, at the request of individual agencies, act for them for the following purposes:

(a) Applying for federal funds which may be made available to the states for noise control programs or related research as a result of the Noise Control Act of 1972 (P.L. 92-574) or any other federal program or law.

(b) Receiving technical assistance from the Environmental Protection Agency to facilitate the development and enforcement of state noise standards and model noise legislation.

46077. The office shall maintain a program to ensure coordinated state and federal noise control programs including, but not limited to, the following:

(a) The study of federal noise regulations proposed for adoption pursuant to the Noise Control Act of 1972.

(b) The preparation of comments, evaluations, objections or the use of any other means to ensure that the federal government considers existing California noise control statutes and regulations prior to the adoption of regulations in order to prevent the adoption of federal noise regulations weaker than existing state standards.

CHAPTER 8. RESEARCH AND PUBLIC INFORMATION

46080. In furtherance of his responsibilities under this division and to complement, as necessary, the noise research programs of federal agencies and of other state agencies, the director is authorized to:

(a) Conduct research, and finance research by contract with other public and private bodies, on the effects, measurement, and control of noise, including but not limited to:

(1) Investigation of the psychological and physiological effects of noise on humans and the effects of noise on domestic animals, wildlife, and property, and determination of acceptable levels of noise on the basis of such effects.

(2) Development of improved methods and standards for measurement and monitoring of noise.

(3) Determination of the most effective and practicable means of controlling noise generation, transmission, and reception.

(b) Coordinate with and become knowledgeable concerning the noise research programs of other governmental entities including the federal government.

(c) Disseminate to the public information on the effects of noise, acceptable noise levels, and techniques for noise measurement and control.

Monitoring N-1: The construction contractor shall be responsible for complying with demolition restrictions and notifying the City Community Development Department at least one week prior to initiation of demolition activities. The City Engineer shall conduct periodic inspections to verify compliance.

TRANSPORTATION/CIRCULATION

Mitigation Measure TR-1: Prior to initiation of demolition actions, the applicant shall prepare and submit a Construction Staging and Traffic Management Plan for approval by the City Community Development Department. The Plan shall be implemented during construction, and shall include, but not be limited to, the following elements:

- a. Description of construction activities, including equipment lists and project schedule, including estimated start and end dates and working hours;
- b. Name of on-site construction manager;
- c. Identification of the work area, truck route(s), and staging areas in relation to cross streets, including all distances and dimensions;
- d. Traffic control plan, including: identification of partial or full road closures and on-street parking, staging, and queuing; all temporary traffic control devices including signs and delineators; use of construction staff to manage or direct traffic; measures to reduce truck and equipment queuing on City streets; and safety measures for vehicles, pedestrians, bicyclists, and construction workers.

Monitoring TR-1: The construction contractor shall be responsible for complying with traffic mitigation measures and notifying the City Community Development Department at least one week prior to initiation of construction activities. The City Engineer shall conduct periodic inspections to verify compliance.

Acceptance of Mitigation Measures by Project Applicant:



Applicant

7/27/14
Date

reporting methods; (3) compliance reporting; (4) construction crew training regarding cultural resources; (5) authority to stop work; and (6) action to be taken in the event of non-compliance. The archaeological monitor and Native American representative(s) shall be present during ground disturbing activities. The archaeological monitor shall submit a monitoring report to the City Community Development Department following completion of all required monitoring activities.

Monitoring CR-3: The City Community Development Department shall verify receipt and compliance with the approved Cultural Resources Monitoring Plan.

HAZARDS/HAZARDOUS MATERIALS

Mitigation Measure HM-1: Prior to the initiation of demolition actions, the applicant shall submit all documentation of the County of San Luis Obispo Environmental Health Services approval of the Aboveground Hazardous Materials Storage Tank and Piping Closure permit application and *Contingency Plan for Discovered Hazardous Waste* (Bedford Contracting, Inc. 2016). A copy of the contingency plan shall be available for review onsite at all times, and the applicant shall comply with all approved policies and measures identified in the document. The applicant shall comply with all existing regulations protecting public health and safety.

Monitoring HM-1: The City Community Development Department shall verify receipt of approval documentation from County Environmental Health Services, and shall verify compliance with all policies and guidelines identified in the Aboveground Hazardous Materials Storage Tank and Piping Closure permit application and *Contingency Plan for Discovered Hazardous Waste* (Bedford Contracting, Inc. 2016) in consultation with the County of San Luis Obispo.

Mitigation Measure HM-2: Prior to initiation of demolition actions, the applicant shall prepare and submit a Spill Prevention Control and Countermeasure Plan to the City Community Development Department. The plan shall supplement the approved *Contingency Plan for Discovered Hazardous Waste* (Bedford Contracting, Inc. 2016) and identify hazardous materials to be used on and off-site, and shall identify procedures for storage, distribution, and spill response. Equipment refueling shall be done in non-sensitive areas and such that spills can be easily and quickly contained and cleaned up without entering any existing stormwater drainage system or creek. The plan shall include procedures in the event of accidents or spills, identification of and contact information for immediate response personnel, and means to limit public access and exposure. Any necessary remedial work shall be done immediately to avoid surface or ground water contamination. The plan shall be implemented by the construction contractor, and verified by the City Engineer.

Monitoring HM-2: The City Community Development Department shall verify receipt of approval documentation from County Environmental Health Services, and shall verify compliance with all policies and guidelines identified in the Aboveground Hazardous Materials Storage Tank and Piping Closure permit application and *Contingency Plan for Discovered Hazardous Waste* (Bedford Contracting, Inc. 2016) in consultation with the County of San Luis Obispo.

NOISE

Mitigation Measure N-1: Prior to demolition actions, the applicant shall ensure that the following standard is included on the Demolition Plan, and shall verify compliance during construction and demolition: Use of metal shears, saws, and jack-hammers shall be limited to Monday through Friday, 8:00 a.m. to 4:00 p.m. only.

December 22, 2016

City of Morro Bay
Planning Commission
955 Shasta Avenue
Morro Bay, CA 93442



Re: Case No. UPO-440, CPO-500. Demolition of Jet Fuel Storage Tanks at 3300 Panorama Dr.

Dear Planning Commissioners,

The Morro Coast Audubon Society, MCAS, appreciates this opportunity to provide written comments regarding the demolition project at 3300 Panorama Dr. On the whole, MCAS is not opposed to this project. However, one component of the project causes us concern – as that component conflicts with the MCAS Mission Statement “to promote the appreciation, conservation, and restoration of ecosystems focusing on the biological diversity of birds, other wildlife, and their habitats.”

The mature Monterey cypress and pine trees throughout the project site offer valuable canopy and structure for nesting raptors including the Coopers Hawk, a California Dept. of Fish and Wildlife ‘watch list species’.

As stated in the Terra-Verde Biological Assessment letter dated November 17, 2016 – impacts to nesting birds, including those protected by Fish and Game Code and the Migratory Bird Treaty Act may occur if demolition and removal, ground disturbance, or vegetation removal occur during the typical nesting period (February 1 to September 15).

Mitigation measures are recommended in the Biological Assessment, and required in the City’s Staff Report to the Planning Commission, to avoid both direct and indirect impacts to special-status and nesting bird resources. Mitigation Measure BR-6 states that demolition and removal activities, earth disturbance, and vegetation clearing **shall be avoided** during the typical nesting season (February 1 to September 15) . . . **to the extent feasible**.

MCAS urges you to focus on the words “shall be avoided”, and remove the following four words in the mitigation measure “to the extent feasible”. The term “feasible” invites opening up a loophole that may tip the scale in favor of the applicant at the expense of the City’s nesting bird resources.

In Mitigation Measure BR-6, the wording “shall be avoided” adds some teeth to this measure to lessen environmental impacts from this project, while the words “to the extent feasible” considerably weakens this mitigation, and again, may create a loophole for the applicant to disregard the City’s sensitive natural resources.

We respectfully request that you deny any variance that the applicant may seek to start demolition, earth disturbance, and vegetation clearing during the nesting season. Working outside this nesting period runs less risk of disturbing or destroying active nests – but care is needed at all times to avoid harm.

In conclusion we would hope that the City of Morro Bay would place a high priority on its environmental resource policy that avoids implementing activities that result in the loss of active birds’ nests, including both direct loss and indirect loss through abandonment.

MCAS asks that you, as decision makers, consider the wildlife on site when making planning decisions.

Respectfully submitted,

Douglas Tait

Doug Tait, Conservation Chair
Morro Coast Audubon Society

RECEIVED

DEC 27 2016

City of Morro Bay
Community Development Dept.

Date: December 26, 2016
To: City of Morro Bay
Planning Commissioners
Community Development Staff
From: Kristen Headland
Morro Bay Stakeholder

Subject: 3300 Panorama Drive, Morro Bay – Case # CPO-500 and #UPO 440

My husband and I have lived at 498 Yerba Buena Street for the past 26 years. We raised our family here and intend to live the rest of our lives in North Morro Bay. I live 50 yards from the proposed demolition project.

I support the removal of the jet fuel tanks but I have great concern about our health, safety, the environment, wildlife habitat and the affects on my neighborhood.

In August, I became a Stakeholder along with other citizens in North Morro Bay with the goal of having a voice in the demolition and removal project at 3300 Panorama Drive.

I feel the project should be done in a two-step process. Step-one, remove the three tanks, exterior pipes and pumps then test the soil for contaminates. After the test results are reviewed, proceed with guidelines from the outside agencies for step-two; the excavation of the underground pipes and removal of shotcrete with an erosion control plan.

Here are my concerns for the Environmentally Sensitive Habitat Area

Map

I have not seen a map prepared by an Engineer/Licensed Land Surveyor for the Environmentally Sensitive Habitat and it's "buffer zone". Mitigation Measure BR-3 - install protective fencing to delineate the boundaries of the ESH and excavate a six-inch pipe in the ESH/buffer zone. How will the demolition contractors know where to install the protective fence if there is not a map to delineate the boundaries of the ESH? A map prepared by an Engineer/Licensed Land Surveyor of the Environmentally Sensitive Habitat should be required by the Community Development Department.

Nesting Season

The City of Morro Bay Public Services Department has a city guideline titled "Implementation Measures For Major Vegetation Removal, Replacement and Protection Regarding Private Property Tree Removals". Item C, Vegetation Protection Policy: "Except in the case of an emergency as determined by the Director of Public Services, no tree should be removed during nesting season, which is February 1 through June 30". See attached document.

Mitigation Measure BR-6, I would like to request the words "to the extent feasible" be removed from this document. As it gives an opening to disregard the City of Morro Bay Municipal Codes (noted below & attached) and Terra Verde's report identifies the nesting season as February 1st to September 15th which states "demolition and removal activities, earth disturbance or vegetation clearing shall be avoided during the typical nesting season".

Municipal Code: 7.16.020 – Wild bird sanctuary
The city is designated a bird sanctuary and signs bearing the legend "Morro Bay is a bird sanctuary" shall be placed at appropriate locations at or near the city limits at principal entrances to the city.

Municipal Code: 7.16.025- Molesting wild birds-Nuisance remedies
No person shall trap, shoot, hunt, molest, injure or kill any wild birds, or tamper, damage or destroy the nests or eggs of any wild birds within the city....

There is no Arborist report for the Monterey Cypress and Pine trees in the ESH. There should be an Arborist report with feedback regarding the possible removal of the six-inch pipe.

In the month of January, Morro Bay is going to have its Annual Bird Festival. As noted on their website "over 500 California bird festival lovers visit Morro Bay, California, a Globally Important Bird Area, to see, photograph, and learn more about birds. Over 200 species are usually sighted during the Festival weekend".

The habitat for all wildlife, including birds, is decreasing due to development through out the world. As a city declared a "Bird Sanctuary" and "Tree City USA – Arbor Day Foundation" we can do out part to protect the bird habitat.

My hope is that the applicant, residents, Community Development Staff and Planning Commissioners can work together as a team to come up with the best plan to preserve the Environmentally Sensitive Habitat that is home to many different types of wildlife.

Thank you for you time,

Respectfully,

Kristen Headland
Morro Bay Stakeholder



CITY OF MORRO BAY
PUBLIC SERVICES DEPARTMENT
955 SHASTA AVENUE. ♦ MORRO BAY, CA 93442
805-772-6261

Implementation Measures For Major Vegetation Removal, Replacement and Protection Regarding Private Property Tree Removals

When is a Permit Required?

On July 9, 2007, the City Council amended the Major Vegetation Removal, Replacement and Protection Guidelines. The Guidelines establish when a permit and replacement of vegetation is required. The guidelines define what major vegetation is but the definition may be difficult for those who are not familiar with the terminology. To help determine if the guidelines apply we recommend that you contact the Public Services Department.

A permit may be required for the removal of any tree with a trunk that is a minimum of six (6) inches in diameter (i.e., 18.8" in circumference) at four and one half feet (4 1/2) vertically above the ground, or, any tree with multiple trunks that includes at least one trunk with a minimum diameter of six (6) inches in diameter at four and one half feet (4 1/2) vertically above the ground or with trunks that have an aggregate diameter of at least twenty (20) inches at four and one half feet (4 1/2) vertically above the ground. In addition, Planning Staff will assist in determining if there is major vegetation removal proposed by evaluating if natural riparian vegetation, a creek, threatened or endangered species or significant habitat or other significant factors exist on the site where the vegetation is to be removed. A site visit may be necessary if staff is not familiar with the property. There is no charge for this visit. If Staff is not able to make a determination, then we may suggest that the property owner obtain the opinion of a qualified professional such as a biologist to determine if threatened or endangered species are present.

When is a Permit Not Required?

A permit is not required for the removal of less than three (2 total) trees in any twelve-month period for single-family residential homes. In addition, a permit is not required for the removal of crop or ornamental edible fruit trees or diseased, damage or aged trees that pose an imminent danger to persons or property. If the tree to be removed is diseased and/or hazardous, a report by a certified arborist stating that the tree presents a hazard and must be removed shall be submitted using a "Tree Hazard Evaluation Form" to the Public Services Department.

Vegetation Protection

The Major Vegetation Removal Guidelines establishes a nesting season from February 1 through June 30 where removal is only allowed in the case of an emergency. This limited removal period also applies to the exceptions stated above for when a permit is not required. The Director of Public Services shall determine if the removal constitutes an emergency. A certified arborist shall evaluate the tree and submit a "Tree Hazard Evaluation Form" indicating the trees condition and stating the tree presents a hazard and must be immediately removed.

Vegetation Replacement

Vegetation removal that requires a permit must be replaced according to ratios contained in the guidelines. A Voluntary Tree Program encourages replacement of trees for tree removals not requiring a permit. If it is determined that major vegetation removal is taking place, then a Coastal Development Permit is required and vegetation is to be replaced in accordance with the guidelines. Major vegetation removed without a permit, requires additional revegetation in accordance with the guidelines.

Who to Contact

The Coastal Act requires a Coastal Development Permit for the removal of major vegetation. The Planning Division of the Public Services Department will answer additional questions about removal of trees or other vegetation. We may be contacted at our offices at 955 Shasta Avenue or by telephone at (805) 772-6261.

Administrative Protocols

- A. Public Services staff provides information on guidelines.
- B. Public Services staff conducts a field review to confirm if vegetation to be removed requires a Coastal Development Permit.
- C. An arborist and/or biologist may be required to evaluate the tree and submit a written report.
- D. Public Services staff will determine if removal is authorized under the guidelines.
- E. Complaints are investigated by Public Services Staff.
- F. Violations are referred to Code Enforcement.

Major Vegetation Removal, Replacement and Protection Guidelines

A. Pursuant to 17.12.199.G, Major Vegetation Shall Be Defined As:

1. Natural riparian vegetation within fifty (50) feet from the top of a creek bank, coastal bluff, beach, or sand dune.
2. Natural riparian vegetation within fifty (50) feet from a wetland as defined by the U.S. Fish and Wildlife Service and the Coastal Commission Statewide Interpretive Guidelines.
3. Threatened or endangered plant species including trees as defined by the Environmental Protection Agency and the California Natural Diversity Data Base.
4. Vegetation growths providing a significant habitat base for threatened or endangered animal species.
5. City-designated or voluntarily identified landmark trees.
6. Any tree with a trunk that is a minimum of six (6) inches in diameter (i.e., 18.8" in circumference) at four and one half feet (4 1/2) vertically above the ground, or, any tree with multiple trunks that includes at least one trunk with a minimum diameter of six (6) inches in diameter at four and one half feet (4 1/2) vertically above the ground or with trunks that have an aggregate diameter of at least twenty (20) inches at four and one half feet (4 1/2) vertically above the ground.
7. **Exceptions which are NOT considered major vegetation:**
 - a. Crop trees and/or ornamental edible fruit trees are not considered major vegetation and shall not require a Coastal Development Permit for removal.
 - b. Diseased, damaged and/or aged trees that pose an imminent danger to persons and/or property shall not require a Coastal Development Permit for removal. If the tree to be removed is diseased and/or hazardous, a report by a certified arborist stating that the tree presents a hazard and must be immediately removed shall be submitted to the Public Services Department.
 - c. Single family residential homes shall not require a Coastal Development Permit for the removal of less than three trees in any twelve (12) month period.

B. Coastal Development Permit and Findings Required:

1. Removal of major vegetation as defined in Section A shall require a Coastal Development Permit which shall be processed as follows:
 - a. If the major vegetation removal is within non-appeal jurisdiction, the City shall process an Administrative Coastal Development Permit (the administrative permit process shall be changed to a "Minor Coastal Development Permit" procedure at the time the City implements such procedure).
 - b. If the major vegetation removal is within appeal or original jurisdiction, a regular Coastal Development Permit shall be required.
2. For a Coastal Development Permit to issue, the following findings must be made:
 - a. That the major vegetation removal, as mitigated, will not significantly impact any threatened or endangered plant or animal habitat area;
 - b. That reasonably calculated mitigation measures are in place to avoid

- dangerous soil erosion or instability resulting from the removal;
- c. That the Major Vegetation removal will not adversely affect the character of the surrounding neighborhood.
3. In the event that a Coastal Development Permit is denied under the terms of these guidelines and said denial is the sole cause that the property owner is reasonably unable to develop the property, the City may waive the provisions of this ordinance in such a manner as to make reasonable development possible.

C. **Vegetation Protection Policy:**

1. Except in the case of an emergency as determined by the Director of Public Services, no tree should be removed during nesting season, which is February 1 through June 30.

D. **Vegetation Replacement Policy:**

1. All citizens of Morro Bay and all tree owners presenting Removal Notification shall be encouraged to participate in the Voluntary Tree Program. Replacement vegetation may be planted on site, on City property as directed by the Public Works Department, or on property designated in the "Trees Wanted List," which shall consist of property owners who would like trees planted on their property and are willing to commit to maintain the planted trees until established; the City will provide the property owner with printed information on the City-sponsored Voluntary Tree Program.
2. All major vegetation removed with a Coastal Development Permit (Minor, Administrative, or Regular) shall be subject to a mandatory replacement program as follows:
 - a. Trees shall be replaced at a ratio of two 5-gallon trees or one 15-gallon tree for every tree removed.
 - b. Tree removal within an Environmentally Sensitive Habitat (ESH) zone, a wetland, or a stream corridor shall be replaced at a ratio of three 5-gallon trees or two 15-gallon trees for every tree removed.
 - c. Replacement vegetation may be planted on the applicant's site or other privately held lands with the property owner's permission, or presented to the City to plant on public lands.

E. **Fees:**

1. A fee equal to the City's cost of such permit processing shall be charged for all Coastal Development Permits.

F. **Fines and Penalties:**

1. Any unpermitted major vegetation removal undertaken in an ESH zone, a wetland, or a stream corridor shall be replaced at a ratio of five 15-gallon trees for every tree removed.
2. Any unpermitted tree removal undertaken in an area other than an ESH zone, wetland, or a stream corridor shall be replaced at a ratio of two 15-gallon trees for

- every tree removed.
3. If the City finds a professional person or company responsible for the illegal removal of major vegetation, the City shall notify the appropriate certifying body and/or licensing board to inform them of the name of the professional responsible for the unauthorized removal and the circumstances of the violation.

G. Major Vegetation Plan for Proposed Construction:

1. All proposed construction plans shall show existing major vegetation.
2. If Staff finds that the proposed construction will encroach on existing major vegetation, the applicant shall:
 - a. Have the option of requesting a permit to remove the vegetation; or
 - b. Retain the vegetation with recommendations from Planning and Building staff for protective plans.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 9 day of July, 2007 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

JANICE PETERS, MAYOR

ATTEST:

BRIDGETT BAUER, CITY CLERK

7.16.020 - Wild bird sanctuary.

The city is designated a bird sanctuary, and signs bearing the legend "Morro Bay is a bird sanctuary" shall be placed at appropriate locations at or near the city limits at principal entrances to the city.

(Ord. 480 (part), 2000)

7.16.025 - Molesting wild birds—Nuisance remedies.

No person shall trap, shoot, hunt, molest, injure or kill any wild birds, or tamper, damage or destroy the nests or eggs of any wild birds within the city. Should the city council determine by resolution that birds protected under this chapter have become so numerous or destructive in any particular location or area as to constitute a menace and danger to the public health, safety or property, the council may provide for such remedies appropriate under the circumstances.

(Ord. 480 (part), 2000)

RECEIVED

DEC 27 2016

City of Morro Bay
Community Development Dept.

December 20, 2016

To: Morro Bay Planning Commission
Chairperson Robert Tefft
Commissioner Gerald Luhr
Commissioner Michael Lucas
Commissioner Richard Sadowski
Chairperson Joseph Ingraffia

RE: PUBLIC HEARINGS/INFORMATIONAL MEETING, December 6, 2016
B-1 Case #: CPO-550, UP0-440
Site Location: 3300 Panorama Drive
Project Title: Demolition of Tanks and Associated Structures

Below is the statement I read at what was expected to be the Public Hearing scheduled for December 6 to review this project. Because there was sporadic notification to a limited number of residents and no published "NOTICE OF PUBLIC HEARING," this meeting was convened as "informational only." The feeble attempt by Community Development Staff to explain *why* the notification issue occurred was disheartening, no apology offered, and speaks directly to the following:

"Good Evening Honorable Commissioners, and Community Development Staff,

I am Annie Pivarski, resident and homeowner in North Morro Bay; and a Morro Bay Stakeholder. For me, the latest iteration of this project comes down to **TRUST**:

The word has been flung high and low nationally; and here it is in our own community. I think *expectation* has a lot to do with trust. Having the *expectation* that someone will *do right* and *be right* towards you also ties in to *feeling safe*. To me, trust is most visible via *actions*.

From the outset of this project, trust has been lacking: Of the System and of the Applicant and associated LPs and LLC's. I believe the City has been naïve about the magnitude of and overall effect this project will have on its citizens, the environment, and infrastructure.

Now, the scope of the project has changed with impacts far greater than what was originally proposed. Yet, according to the applicant in a written response to our concerns dated December 1, he states, "There are no changes." Trustworthy? I think not. Regarding the Insurance Guaranty required as a condition of approval, the response: "We have already committed to the insurance and the indemnification for the neighborhood in the event of damages. We will provide you with the insurance certificate." To date, there is no certificate. I would expect it to be secured in time for this meeting. Trust is most visible via *actions*.

Regarding this project and-any other for that matter-my *expectation* is that the City of Morro Bay follows its own "ORGANIZATIONAL CHART," which is included with this statement and is for F/Y 2015/16. At the top of the chart, "CITIZENS OF MORRO BAY." *Reporting to* the "CITIZENS," the MAYOR AND CITY COUNCIL, followed by City ADMINISTRATION and various departments falling under it.

My current property taxes are \$4,470.56 a year. For the amount of money we pay to live here I am not *feeling safe* with the current proposed plan which was released a week ago today.

Commissioners, I trust you to hear our concerns and make your decision based on the "CITIZENS OF MORRO BAY," along with thorough review and scrutiny of all applicable documentation.

Thank You."



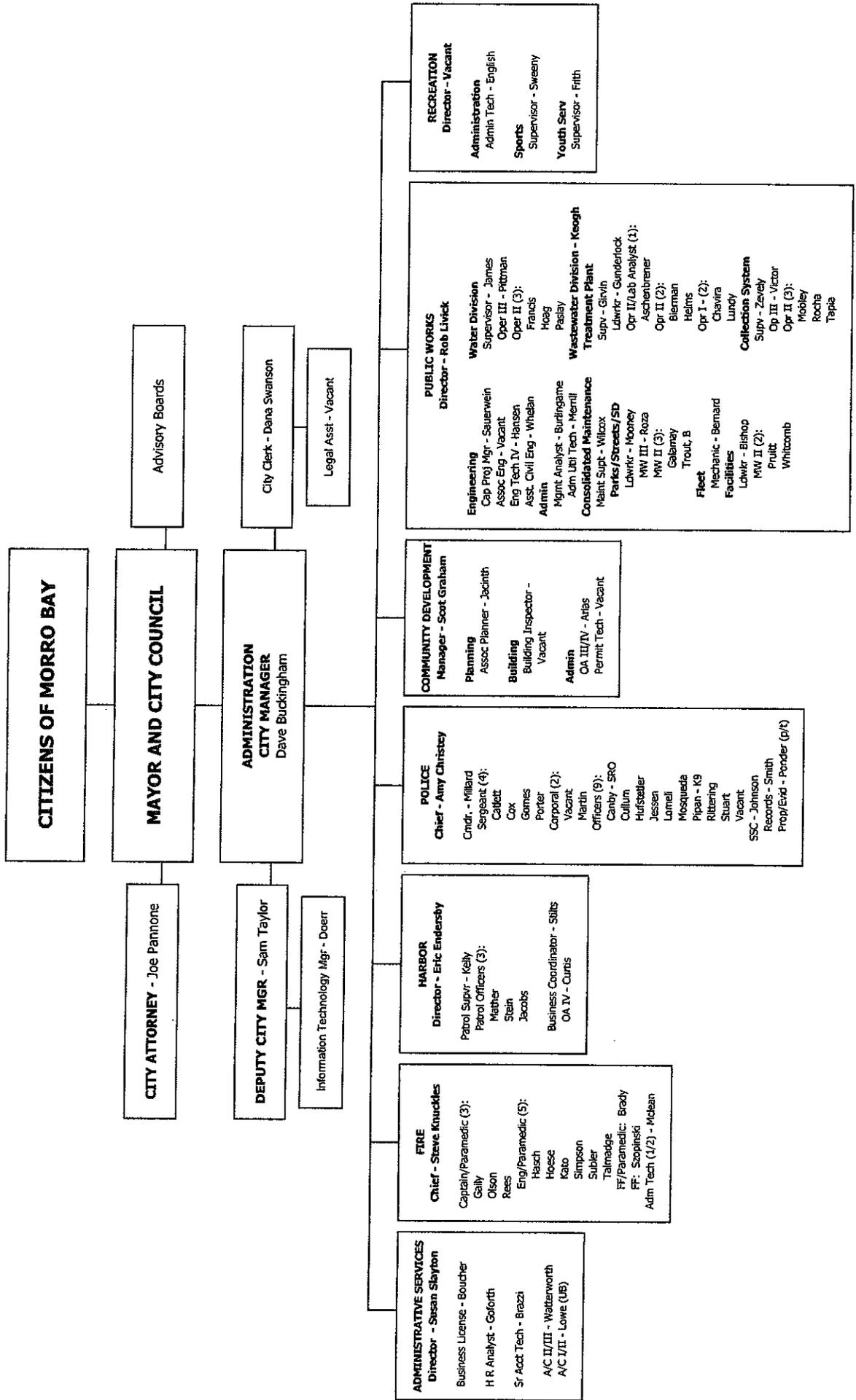
Annie Pivarski

Resident, Homeowner, Morro Bay Stakeholder

Attachment: CITY OF MORRO BAY ORGANIZATIONAL CHART For the 2015/16 Fiscal Year

CITY OF MORRO BAY ORGANIZATIONAL CHART

For the 2015/16 Fiscal Year



3300 Panorama Drive, Morro Bay

Tank Removal Project

December 27, 2016

Planning Commission Members
City of Morro Bay
955 Shasta Ave.
Morro Bay, CA 93442

Re: 3300 Panorama Drive – Tank Removal

To Whom It May Concern:

We would like to take a moment of your time to respond to concerns expressed in letter(s) you have received from small number of vocal critics regarding our project, and address some of the statements that have been posted on the ‘Morro Bay Stakeholders’ website (<http://morrobaystakeholders.com/>).

We are a bit surprised by the repetition of the many concerns being made by the small number of critics, especially since we have been actively addressing the concerns of not only the ‘Stakeholders’, but also any other parties expressing concerns or having questions.

To that end, we have ordered numerous ADDITIONAL reports and studies to be conducted due to those specific request(s). We have, to date complied with and exceeded all requirements of every agency with jurisdiction over this proposed project.

One statement on the website refer to a ‘blank check’ as part of the “Mitigated Negative Declaration”, this ‘blank check’ is NON-EXISTENT! With the multitude of agencies with oversight on this project there is very little chance that something improper could occur. And, it has been our goal from the beginning of this project to ensure that it is conducted in the most open and proper way, following all regulations by agencies with jurisdiction.

The ‘Stakeholders’ have asked for many types of ‘guarantees’ in case the project is for some reason abandoned before completion due to monetary issues. We have worked diligently with City of Morro Bay Staff, including an Assistant City Attorney, to formulate a plan for insurance coverage to protect the City of Morro Bay and its citizens. Considering that this piece of property is valued at approximately \$5,000,000.00 (Five Million Dollars) and has no encumbrances against it what so ever, there is at the very least a free & clear piece of expensive property to lien in the remote chance there is a problem completing the project.

3300 Panorama Drive, Morro Bay

Tank Removal Project

December 28, 2016

Planning Commission Members

City of Morro Bay

Page Two

Applicant's reputation? What are the 'Stakeholders' basing their opinion of the applicant's reputation on?? We wonder! There have been numerous borderline slanderous and libelous statements made, mostly by a Mr. Ed Griggs, regarding the principals and the merits of this project. It appears that Mr. Griggs has some sort of ax to grind about this project, and it appears that he is being disingenuous and not completely forthcoming with the facts of this project via postings on the 'Stakeholder' website.

The removal of these tanks in an environmentally and ecologically safe manner at **NO** cost to the City of Morro Bay or its citizens should be considered a huge benefit to the community. This project is in fact supported by a very large number of the residents of your fine city. We believe that they are the 'silent' majority.

Thank you for your time and consideration.

Rob Solley
CVI Group, LLC
Tank Removal Project Principal

RS:cakm

Enclosures: None

cc: All City of Morro Bay Planning Commission Members
Scot Graham
Whitney McIlvaine
Chris Neumeyer, Assistant City Attorney