



**MONTEREY PENINSULA  
WATER MANAGEMENT DISTRICT**

5 HARRIS COURT, BLDG. G  
POST OFFICE BOX 85  
MONTEREY, CA 93942-0085 • (831) 658-5600  
FAX (831) 644-9560 • <http://www.mpwmd.dst.ca.us>

# SUPPLEMENT TO 7/17/06 MPWMD BOARD PACKET

Attached are copies of letters received between June 13, 2006 and July 3, 2006. These letters are also listed in the July 17, 2006 Board packet under item 14, Letters Received.

<b>Author</b>	<b>Addressee</b>	<b>Date</b>	<b>Topic</b>
Miriam Schakat	David A. Berger	6/16/06	Carmel Valley Ranch Water Credit Appeal <i>Response letter attached</i>
Diana Ingersoll	David A. Berger	6/22/06	Conditional Use Permit Application No. UP-06-18 for Monterey Peninsula Water Management District Phase I Aquifer Storage and Recovery Project <i>Response by David A. Berger attached</i>

**HAND  
DELIVERED**

Anthony L. Lombardo  
Jeffery R. Gilles  
Derinda L. Messenger  
James W. Sullivan  
Jacqueline M. Zischke  
Steven D. Penrose\*  
E. Soren Diaz  
Sheri L. Damon  
Virginia A. Hines  
Patrick S.M. Casey  
Paul W. Moncrief  
Bradley W. Sullivan  
Miriam Schakat  
Kelly McCarthy Sutherland  
Ken Gorman  
Dennis Beougher

\*Certified by the State Bar  
of California Board of Legal  
Specialization as a Specialist  
in Estate Planning, Trust and  
Probate Law.

Lombardo  
& Gilles  
PROFESSIONAL CORPORATION  
Attorneys At Law

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P. O. Box 2119  
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225 Sixth Street  
Hollister, CA 95023  
831-630-9444

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File No.: 0108.000

**RECEIVED**

JUN 16 2006

MPWMD

June 16, 2006

**VIA HAND DELIVERY**

Mr. David Berger, General Manager  
Monterey Peninsula Water Management District  
Post Office Box 85  
Monterey, CA 93940

Re: **Carmel Valley Ranch Water Credit Appeal**

Dear Mr. Berger:

This letter serves as a Notice of Appeal to the Monterey Peninsula Water Management District's denial of Water Use Credits for the conversion of the existing landscaping and irrigation system around the lodge and hotel units to well water.

The second paragraph of your letter dated May 26, 2006 incorrectly states that there would be a reduction in Cal-Am water use, but that the water use capacity remains the same. The water use capacity will substantially decrease as a result of the golf course retrofit and conversion to well water. Additionally, we are proposing to replace all high water use factor plants with low water use factor plants and some areas will be completely replaced with concrete.

The Golf Course renovation would result in an overall substantial reduction of water use, even after the conversion from Cal-Am to well water. Our proposal is to retrofit the golf course irrigation system which will result in substantial water use savings of well water estimated at approximately 40 AF/yr. We are proposing to use some of the well water to irrigate around the lodge area and hotel units, which is currently using Cal Am water, thereby permanently abandoning Cal Am water, while still resulting in a savings of approximately 37 AF/yr of well water. Subsequently, the water use capacity will be decreased dramatically.

The golf course and the lodge are on distinct parcels, however, according to the Monterey Peninsula Water Management District's own definition, a site is defined as "any unit of land which qualifies as a parcel or lot under the Subdivision Map Act and shall include all units of land: (1) which are contiguous to any other parcel (or separated only by a road or easement), and (2) which have identical owners, and (3) which have an identical present use". The golf course

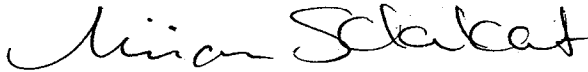
Mr. David Berger  
June 16, 2006  
Page 2

and lodge are contiguous parcels, owned by the same parties and are used as a golf course resort. Consequently, the resort parcels should be considered as one site as defined by the Monterey Peninsula Water Management District's own regulations. Therefore, a water distribution system amendment is not necessary for the expansion of well water use to the lodge irrigation.

We are respectfully requesting that you reconsider our water use credit application for the conversion of the existing landscaping and irrigation system around the lodge and hotel units to well water. Once the water use credits have been determined, the applicant is willing to apply for any necessary permit(s) required as a condition of the credit issuance.

Sincerely,

**Lombardo & Gilles, PC**



Miriam Schakat  
MS:rp

Enclosure

cc: Stephanie Pintar  
David Laredo, Esq.



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**MONTEREY PENINSULA  
WATER MANAGEMENT DISTRICT**

5 HARRIS COURT, BLDG. G  
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May 26, 2006

RECEIVED  
MAY 30 2006

Anthony Lombardo, Esquire  
Lombardo & Gilles  
Post Office Box 2119  
Salinas, California 93902

**Subject: Denial of Water Use Credit at Carmel Valley Ranch (APN: 416-522-010)**

Dear Tony:

This letter responds to a portion of a Water Use Credit Application received by the District on May 3, 2006. The request is for Water Use Credits for conversion of the existing landscaping and irrigation system around the lodge and hotel units to well water.

The conversion of irrigation to well water would not result in a permanent reduction in capacity for water use on the hotel site. It would result in the reduction of Cal-Am water use; however the water use capacity remains. In addition, the landscaping around the lodge was not permitted separately from the hotel use when the water permit for the lodge was issued in 1986. The adjacent landscaping was considered to be an associated use of the lodge.

The parcel occupied by the lodge is distinct from the golf course parcel. The expansion of well water use to this parcel for lodge irrigation will require an amendment to the Water Distribution System Permit for the Carmel Valley Ranch wells. The amendment process begins with completion of a separate pre-application (enclosed) and submittal of \$200. A meeting with staff will be scheduled after the pre-application is received. The amendment process may take three to four months, including a public hearing before the Board. After the water distribution system amendment has been approved, the District can issue a water permit for the expansion of the well water use to the lodge irrigation.

**The current application for a Water Use Credit for converting Cal-Am irrigation to well water is denied as there is no permanent reduction in water use capacity, as defined by Rule 11. This decision is a final decision of the General Manager and is appealable to the Board of Directors within 21 days.**

If you have any questions, please call the Permit and Conservation Office at 658-5601.

Sincerely,

Stephanie Pinter  
Water Demand Manager

cc: David Berger  
Dave Laredo



## APPEAL APPLICATION

## EXHIBIT 1

## STATEMENT OF APPEAL REQUEST

*\*If additional space is needed for response to any question, please continue on a separate piece of paper and attach it to the back of this application.*

1. From which rule(s) or staff's decision(s) are you requesting an appeal?

We are requesting an appeal of the May 26, 2006 decision to deny our request of water use credits for conversion of the existing landscaping and irrigation system around the lodge and hotel units to well water.

2. Do you feel the rule or staff's decision is applicable in most cases, or do you believe it should be revoked or changed?

N/A

3. What were the circumstances surrounding your decision to appeal?

We would like the opportunity to clarify our application for water use credits by submitting additional information. Please see attached letter.

4. Please state the special circumstances that distinguish your application from all others which are subject to enforcement of this process.

The Water Management District has misunderstood the circumstances of our application as stated in the second paragraph of MPWMD May 26, 2006 letter. The water use capacity does not remain the same after the retrofit of the golfcourse and conversion of Cal-Am water to well water around the lodge and hotel units due to the golfcourse retrofit. The water use capacity will substantially decrease.

5. What difficulties or hardships would result if your appeal request is denied?

Carmel Valley Ranch Resort would be denied a deserved water credit due to the golfcourse irrigation system retrofit.

6. What specific action are you requesting that the Board take?

We are requesting that the Board reconsider the water use credit application for the conversion of the existing landscaping and irrigation system around the Lodge and hotel units to well water after the golfcourse retrofit and to grant our appeal.

7. Please indicate if you intend to make a statement at the appeal hearing, and list the names of any other individuals who may speak on your behalf.

Anthony L. Lombardo will speak on behalf of Carmel Valley Ranch Resort.





**Monterey Peninsula Water Management District**

**DISCLOSURE STATEMENT  
(EX PARTE COMMUNICATIONS)**

Name or description of project, action, etc.: \_\_\_\_\_

Names and addresses of all persons authorized to communicate with the Board of Directors on this matter:

<u>Name</u>	<u>Address</u>
Anthony L. Lombardo, Esq.	P. O. Box 2119, Salinas, CA 93902
Miriam Schakat, Esq.	P. O. Box 2119, Salinas, CA 93902

This *Disclosure Statement* is completed in my capacity as  the Applicant for matter referenced in the first line, or as  an authorized Agent of the Applicant. My signature evidences I am duly authorized to act on behalf of all individuals and/or entities that have an ownership interest in this matter (exceptions shall be noted by checking this box  and providing a complete explanation as an attachment to this *Disclosure Statement*).

I understand this *Disclosure Statement* is required to list the names and addresses of all persons authorized to communicate with the Directors of the Water Management District on this matter. I further understand and agree to revise and amend this *Disclosure Statement* whenever any other person is authorized to communicate regarding this matter. Oral disclosure of agents shall not satisfy this requirement.

I understand and agree that failure to disclose the name of individuals who shall communicate with the District Board Members on behalf of the applicant shall subject the matter referenced above to immediate review and denial. Further, I understand that if denial is based on failure of either the applicant or of an authorized agent of the applicant to comply with these disclosure requirements, no request for approval of an identical or similar matter shall be granted for a period of twenty-four (24) months from the date this matter is denied.

I declare the foregoing to be true and correct of my own personal knowledge. I have signed this form this \_\_\_\_\_ day of \_\_\_\_\_ June 2006. This form is signed in the City of \_\_\_\_\_ Salinas \_\_\_\_\_, State of \_\_\_\_\_ California \_\_\_\_\_.

Miriam Schakat  
Name (print)  
Miriam Schakat  
Signature





MONTEREY PENINSULA  
WATER MANAGEMENT DISTRICT

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June 28, 2006

Miriam Schakat, Esquire  
Lombardo & Gilles  
Post Office Box 2119  
Salinas, California 93902-2119

**Subject: Appeal Hearing Date for Carmel Valley Ranch  
APNs 416-522-010 & 416-592-023)**

Dear Miriam:

This letter is to notify you and the property owner that the Application for Appeal regarding District staff application of Rule 11 on the subject property has been reviewed and is complete at the present time. You will be notified of the hearing date, location, and time, and provided with a copy of the staff report prior to the hearing date. Staff will post public hearing notices around the property at least ten days prior to the hearing.

If you have any questions please call the Permit and Conservation Office at 658-5601.

Sincerely,

Gabriela Ayala  
Conservation Representative


**Resource Management Services**

 440 Harcourt Avenue  
 Seaside, CA 93955

 Telephone (831) 899-6737  
 FAX (831) 899-6211  
 TDD (831) 899-6207

**HAND  
 DELIVERED**
**RECEIVED**

June 22, 2006

 David Berger  
 General Manager  
 Monterey Peninsula Water Management District  
 5 Harris Court, Building G  
 Post Office Box 85  
 Monterey, CA 93942-0085

JUN 23 2006

MPWMD

RE: Conditional Use Permit Application No. UP-06-18 for Monterey Peninsula Water Management District Phase 1 Aquifer Storage and Recovery Project.

Dear Mr. Berger:

In accordance with Section 65943 of the State Planning and Zoning Laws, I am writing to inform you that it has been determined that your application to construct a new permanent injection/extraction well and appurtenant facilities on the land that is currently owned and managed by the U.S Army on the former Fort Ord military base is **INCOMPLETE**. The application and filing fees were officially received on May 26, 2006. The 30-day review period for completeness would end on June 25, 2006. During the 30-day review period, City staff has reviewed the attached project description and researched the existing permits and proposed land use entitlements related to the current application, and received input from the City's legal counsel regarding the application and the status of the temporary easement that will be established with the U.S Army for the construction of the injection/extraction well and well appurtenances. It has been determined that the application is incomplete based on the issues described below:

1. **Property Owner Information**

It is the City of Seaside's understanding that the existing easement with the U.S Army allows for the construction and operation of a temporary test injection well on the established 100' by 100' site. The application for a use permit is for the consideration to establish a permanent facility on the site and to extend the boundary further to the east. Prior to moving forward in the process to expand the boundaries of the existing temporary easement for the installation of a new permanent well and appurtenant facilities, you would need to provide the City of Seaside with proof of a permanent easement for the entire site which allows for the construction and operation of a permanent ASR well. The permanent easement must be signed and executed by both the Property Owner and Applicant and the City of Seaside, as future recipient of this land should be a party to the drafting of terms to the easement. The footnote at the bottom of Section 1 on the project application does not address the permanent status of the well and

## Notice of Incompleteness

File No. UP-06-18

Page 2 of 3

appurtenant well facilities and authorization from the property owner to construct permanent improvements.

In review of the project site and its location within an area zoned for low density residential, keep in mind that the City of Seaside is requesting that the permanent easement follow the Pacific Gas and Electric (PG&E) easement that extends within a 100-foot wide area north of the project site as opposed to extending eastward as proposed. Placing the proposed facility within the PG&E easement would avoid having the well site encroach into areas that could be developed for residential use, would create a buffer area between the site and planned residential uses to minimize sound transmission generated by the well and appurtenant facilities, and create a natural landscape area to screen the site from any planned residential use and/or public right-of-way.

The City of Seaside would appreciate if it could be involved with the creation of the permanent easement to ensure that the easement would have the least impact on the planned residential uses in the vicinity of the project site and encroachment into areas that could be used for future residential development and as the future landowner, the city would become the permanent grantor of the easement.

2. **Screening/Landscaping**

Provide information on the type and height of fence material that would be installed around the perimeter of the site and landscape materials that would be used screen the well site.

3. **Delivery Route**

Provide information regarding the size of trucks and delivery route that would be used through the City to transport and pick-up material from the well site during construction and operation of the well site.

4. **Tracking Dirt and Debris on City Roadways**

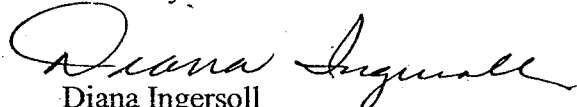
Provide information on how you intend to reduce the impacts of tracking dirt and debris from vehicles during construction and operation of the well site.

Upon receiving the information listed above, City staff will provide a prompt response to the completeness of the new information and final determination on the completeness of the application. Once the application has been deemed complete, City staff will schedule meeting with Monterey Peninsula Water District staff to outline the schedule for the preparation of an Initial Study and potential public hearing dates for the consideration of the Environmental Document and conditional use permit.

Notice of Incompleteness  
File No. UP-06-18  
Page 3 of 3

If you have any questions or comments, you can contact me at (831) 899-6825.

Sincerely,



Diana Ingersoll  
Deputy City Manager  
Resource Management Services

C: Don Freeman, City Attorney  
Ray Corpuz, City Manager



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June 29, 2006

Diana Ingersoll  
Deputy City Manager  
Resource Management Services  
City of Seaside  
440 Harcourt Avenue  
Seaside, CA 93955

**Subject: Follow up to June 22, 2006 letter regarding Conditional Use Permit Application UP-06-18 for Monterey Peninsula Water Management District Phase 1 Aquifer Storage and Recovery Project**

Dear Ms. Ingersoll:

Thank you for your June 22, 2006 letter to Dave Berger clarifying the status and additional information requirements attendant to the Monterey Peninsula Water Management District's (MPWMD's) Conditional Use Permit (CUP) application dated May 11, 2006, for the Phase 1 Aquifer Storage and Recovery (ASR) Project. This letter provides initial responses on each of the numbered items in your June 22, 2006 letter, and we propose to have a follow up meeting as soon as convenient with the City of Seaside to further discuss these responses and the next steps to be taken.

**1. Property Owner Information**

Your letter correctly describes the easement with the U.S. Army for the existing Santa Margarita Test Injection Well (SMTIW) site. The current CUP application with the City of Seaside is to establish a permanent ASR facility through expansion of the existing SMTIW site. Your letter raises two issues with regard to the permanent site: (1) the process for issuing easement by the Army and CUP by the City, and (2) the location of site expansion area. Each of these issues is addressed below.

*Army easement and City CUP issuance.* Your letter indicates that the City would need proof of a permanent easement for the expanded ASR site prior to the City moving forward in the process of issuing a CUP for this purpose. This presents an unachievable outcome given the Army's easement approval process. It is the District's understanding, based on discussions with the Base Realignment and Closure (BRAC) office staff, that the Army will not issue a formal

Ms. Diana Ingersoll

June 29, 2006

Page 2

amended easement that includes the ASR expansion site until all construction activities are completed and "as-built" drawings have been submitted. The Army will, however, issue a Right Of Entry (ROE) to allow construction of the facilities once the final Phase 1 ASR Environmental Impact Report / Environmental Assessment (EIR/EA) is certified, and other required permits, including the City of Seaside CUP, are issued. Accordingly, the District respectfully requests that the City consider adding as a condition of CUP approval that the District receives the Army ROE prior to initiating construction, in order to avoid this timing dilemma. Your letter also indicates execution of the site easement to include the City of Seaside as the future recipient of this area of the former Fort Ord base. Given that the easement is a real estate matter separate from the CUP application, which is a land use decision, we will address this point separately.

*Location of site expansion area.* Your letter indicates the City's request that the ASR site expansion area be located within the Pacific Gas & Electric (PG&E) power line easement that runs to the northeast from the existing SMTIW site, as opposed to the design location directly east of the existing SMTIW site. We have pursued discussion of this option with PG&E and determined that placement within the PG&E easement will not be possible given PG&E and California Occupational Safety and Health Administration (Cal-OSHA) restrictions. According to the local PG&E land services office (Nguyen Chau, pers. comm.), no permanent structures, including wells and any associated structures, are allowed within the PG&E easement corridor. This does not apply to uses such as parking lots or access roads, however. In addition, Cal-OSHA electrical safety restrictions will preclude erecting a drill rig, of the size and mast height (up to 60 feet) likely needed to construct the new ASR well, beneath the 60,000-volt transmission lines within this easement. Additional information regarding these restrictions can be found in Title 8, Section 2946 of the California Code of Regulations (Electrical Safety Order). Notwithstanding these restrictions, it is important to note that most reputable drilling contractors will not operate within two mast heights of high-voltage transmission lines, which would preclude the new ASR well construction anywhere within or immediately adjacent to the PG&E easement corridor. The reason for this is that if a hoist or sand line cable on the drill rig broke while under stress, it could cause the free end to "whip" over the top of the mast sheave and potentially contact the overhead lines.

## 2. Screening/Landscaping

Your letter requests information on the type and height of fencing that would be installed around the perimeter of the ASR site and landscape materials that would be used for screening the well site. The District is planning to install 6-foot high chain link fencing around the perimeter of the site. This fencing would mimic the installation around the existing SMTIW site. If desired by the City, this fencing could include "privacy slats" for additional site screening. Landscape plantings would be installed to promote additional screening of site facilities from the public, such as the shrubbery that is currently in place on the north and west sides of the existing SMTIW site. This evergreen shrubbery (plant name *Dodonaea viscosa*) would be installed as a primary landscape screen unless the City requests another type or assemblage of plants.

3. Delivery Route

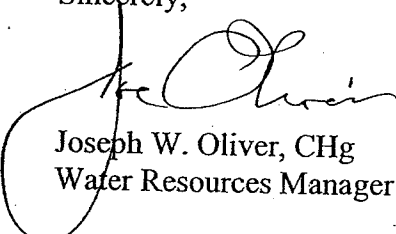
Your letter requests information regarding the size of trucks and delivery routes to be used to transport materials to and from the ASR site during construction and operation. The draft EIR/EA contains discussion of construction and operation impacts and mitigations in Chapter 13 beginning on page 13-3. In addition, the draft EIR/EA includes the provision for preparing a "Traffic Control Plan" prior to project construction, as described in Chapter 2 beginning on page 2-6. This information provides additional detail about how traffic would be routed and managed to minimize disruption and impacts within the City. The District would have no concern if the CUP approval included a condition that the Traffic Control Plan be submitted for approval by the City prior to initiating construction.

4. Tracking Dirt and Debris on City Roadways

Your letter requests information on how the District intends to reduce the impacts of tracking dirt and debris from vehicles during project construction and operation. To address this, the District intends to require that the contractor install a "Type 1 Stabilized Construction Site Entrance/Exit", as per California Department of Transportation (Caltrans) specification (**Enclosure 1**). The District would have no concern if the CUP approval included a condition that required this specification.

I trust that the information provided herein will be sufficient to consider the District's CUP application complete for continued processing by the City. In any event, we would like to meet to further discuss the CUP review and approval process. Given the difficulty that scheduling a meeting during the Fourth of July holiday week might pose, we would like to schedule a meeting date and time during the following week, and suggest Monday, July 10 at 2 pm at your office. Please respond to me at 658-5640 to indicate you and your staff's availability to meet on this topic at this or another more convenient time. Again, we sincerely appreciate the opportunity to work with the City on this important community water supply project.

Sincerely,



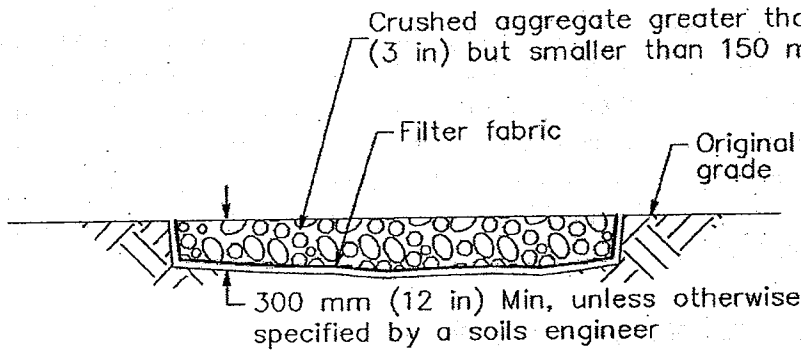
Joseph W. Oliver, CHG  
Water Resources Manager

enclosure

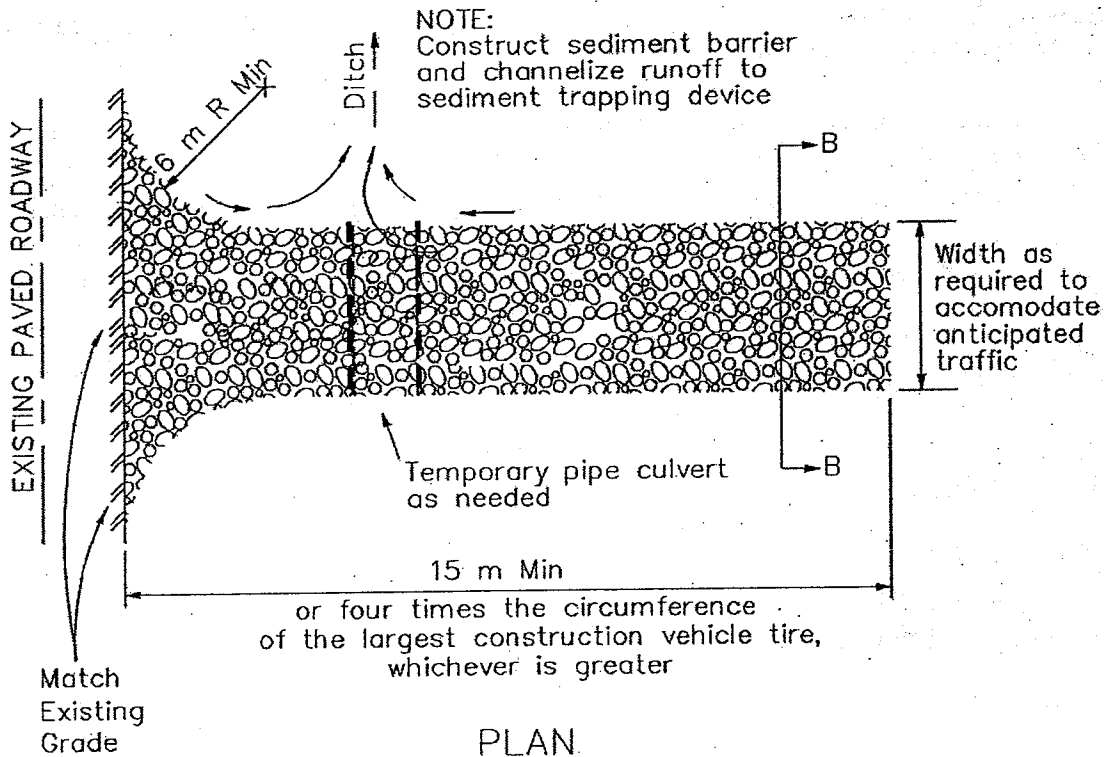
C: Dave Berger, Henrietta Stern, MPWMD  
Dave Laredo, MPWMD Counsel  
Steve Tanner, Robert Marks, Padre Associates, Inc.

# Stabilized Construction Entrance/Exit

**TC-1**



SECTION B-B  
NTS



PLAN  
NTS

Stabilized Construction Entrance/Exit (Type 1)

