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CORRESPONDENCE - 10/05/21 ITEM 5.0 - ORAL AND WRITTEN COMMUNICATIONS

Rachél Lather, President
Dr. Thomas R. LaHue, Vice-President
Carla Christensen
Dr. Bruce Daniels
Dr. Bruce Jaffe

Ron Duncan, *General Manager*

October 1, 2021

Re: 506 Pine St., Capitola CA 95010

Dear James and Claudia Kelley,

The District has received your request to transfer a water meter from one dwelling unit to another at your parcel 506 Pine St in Capitola. This request has been denied for the following reasons:

1. Customers are not permitted to disconnect individual meters from dwelling units that require water. The District is not requiring a new connection to the conversion ADU, therefore, is compliant with SB 13.
2. Your existing duplex was built in 1963 and was historically only served by one meter. In efforts to encourage separate metering and water conservation, the District adopted a policy that allowed duplexes built before the formation of the District (1965) to waive Water Capacity Fees (formerly known as Storage & Transmission Fees) since the water use was pre-existing.

In 2008, a developer was building four homes up at 509 Hill St and their existing water meter was down on Pine St with their service line going up through your property. You sent a letter to the District on 11/5/2008 requesting to take over this water meter to feed one of your duplex units. This request was granted for the duplex and the only fee collected was a partial payment on the meter drop fee. The full meter drop fee of \$260.00 was paid 05/25/2011, and then a portion (\$177) was refunded because we had a variance between 2009 and 2012 to cover the cost of the actual meter (no labor) as a way of encouraging two-unit residential properties served by one meter to add a separate meter. No Water Capacity Fees were collected, and the only intended use for this water meter, was to separately serve the duplex.

3. No Water Capacity Fees were ever paid for this secondary meter, meaning there is no credit to claim.

Your proposed new Single Family Dwelling is subject to all Water Demand Offset, Water Capacity, and Metering fees. The current Water Capacity Fee for a standard 5/8" water meter is \$18,860 per our 2021 Rate Schedule.

A handwritten signature in black ink, appearing to read 'Amanda Bunte', is written over a light blue horizontal line.

Amanda Bunte
Engineering Technician

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From: [Claudia Kelly](#)
To: [bod](#)
Cc: [James Kelly](#)
Subject: 506 Pine Street, Capitola
Date: Friday, September 24, 2021 3:53:22 PM

Dear Soquel Creek Water Board,

Our project consists of converting one half of an existing duplex to an ADU and adding a New SFD. We have two water meters on the property now. Historically the duplex was served by one water meter. If there is any chance that we can use the second water meter that has been connected to the duplex that is being converted to an ADU to use for the new SFD that would be wonderful news. Our understanding is that ADU conversions of existing permitted structures do not require a separate water meter.

Thank you so much,

James and Claudia Kelly

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From: [Becky Steinbruner](#)
To: [bod; Emma Olin](#)
Cc: [Becky Steinbruner](#)
Subject: PLEASE PROPERLY NOTICE PROPOSED PUREWATER SOQUEL PROJECT MODIFICATIONS AND ENVIRONMENTAL ANALYSIS CALENDARRED FOR OCTOBER 5, 2021
Date: Tuesday, September 21, 2021 11:23:00 AM

Dear Soquel Creek Water District Board of Directors,

I write to respectfully ask that your Board agendaize the item "PWS Phase 2 Treatment Contract & EIR Addendum" as a public hearing item and provide public noticing associated.

On September 7, 2021, your Board approved the Board Calendar as Consent Agenda Item 4.2 (page 8) in the agenda packet. I verbally requested during public comment at the September 7, 2021 meeting that your Board place this item on the October 5, 2021 agenda as a public hearing item, to be noticed as such, and held in the very beginning of the Board's meeting, for the benefit of the public. I received no response from the Board or staff. https://www.soquelcreekwater.org/AgendaCenter/ViewFile/Agenda/_09072021-261?packet=true

This proposed Addendum will be the second such action taken by the District regarding the PureWater Soquel Project. The first Addendum, approved by your Board on November 17, 2020, brought major modifications to the Project by adding a completely new nBAF treatment facility and process that will double the energy demand of the original Project, cause multiple large storage tanks of hazardous chemicals to be used, stored and transported to the two treatment sites, both of which are within 0.25 mile of multiple schools which received no written notice of the changes, and will increase the number of construction truck trips by nearly 1000.

Your Board chose to rely on the Project's EIR, certified on December 8, 2018, long before any of the facts that compelled these major modifications were even known. I continue to hold that, in compliance with 14 CCR 15162, the California Coastal Commission, as the agency taking subsequent discretionary action regarding the PureWater Soquel Project, should have consulted with the Soquel Creek Water District, as the lead agency of the Project, to determine whether or not the major modifications to the Project met the threshold of Subsequent EIR requirements.

CEQA Guidelines provide that a public hearing on a project's environmental impacts "should usually be held when the lead agency determines it would facilitate the purposes and goals of CEQA to do so." (14 Cal Code Regs 15202(c)).

Because your Board is composed of environmental scientists and industry professionals, you are all well aware that one of the primary goals of the CEQA process is to provide opportunity for informed public participation throughout a Project's process. However, if the public is not in good faith made aware of major modifications proposed, due to inadequate or thorough public noticing, how can the public participate in a manner that is meaningful or transparent?

When an agency considers whether to conduct subsequent environmental review after a Notice of Determination, courts apply the fair argument standard of review (*Friends of the College of San Mateo Gardens v. San Mateo County Community College Dist.* (2016) 1 Cal.5th 937, 959). **An agency therefore is required to conduct subsequent review if a proposed modification may produce a significant environmental effect that was not studied in the previous Notice of Determination.**

Lead Agencies may not arbitrarily establish thresholds to either create or avoid significant impacts. Thresholds must be backed by substantial evidence, which is defined in the CEQA statute to mean "facts, reasonable assumptions predicated on facts, and expert opinion supported by facts" (State CEQA Guidelines § 15064.7(b)).

CEQA and the CEQA Guidelines allow for "staged" EIRs, which an agency may prepare for "complex or phased projects" where the agency does not know specific project details at the time of the first discretionary approval. The agency can then rely on the overarching analysis in the staged EIR and evaluate only project level details in a later review (CEQA Guidelines Section 15167[a]). The CEQA Guidelines are located at Title 14, Division 6, Chapter 3 of the California Code of Regulations.

The statute and the CEQA Guidelines provide a framework for agencies to tier from a "program" EIR prepared for a program, plan, policy, or ordinance (PRC Sections 21093, 21094; CEQA Guidelines Sections 15168, 15152). The program EIR will cover "general matters and environmental effects" for the overarching program, plan, policy, or ordinance, and the agency will prepare "narrower or site-specific [EIRs] which incorporate by reference the discussion" in the program EIR (PRC Section 21068.5).

Subsequent environmental review is environmental analysis prepared for a later discretionary approval after an agency has certified a prior EIR or adopted a ND2 (PRC Section 21166; CEQA Guidelines Section 15162). Prior to approving a later project based on a program EIR, an agency must first determine whether the project is "within the scope" of the program EIR and whether it triggers the requirements for subsequent environmental review. Both determinations must be supported by substantial evidence.

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When a further discretionary approval is necessary, a subsequent or supplemental EIR is required only where the later activity, which is within the scope of the program EIR, would have effects that were **not examined in the program EIR** (CEQA Guidelines Section 15168[c][1]). The requirements for subsequent and supplemental review are limited in order to balance “CEQA’s central purpose of promoting consideration of the environmental consequences of public decisions with interests in finality and efficiency” (*Friends of the College of San Mateo Gardens v. San Mateo County Community College Dist.* [2016] 1 Cal.5th 937, 949). The agency must first determine, based on substantial evidence, whether the previous EIR retains some informational value (*Friends of the College of San Mateo Gardens v. San Mateo County Community College Dist.* [2016] 1 Cal.5th 937, 949).

When a program EIR or project-level EIR has been certified, a subsequent EIR is not required unless (PRC Section 21166; CEQA Guidelines Section 15162):

(1) **“Substantial changes are proposed in the project which will require major revisions”** to the EIR “due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects”;

(2) **“Substantial changes occur with respect to the circumstances,”** and those changes will require “major revisions” to the EIR “due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects”; or

(3) **“New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time” of preparation of the EIR, becomes available.**

Such information must show either:

a) the project will have one or more significant effects not discussed in the previous EIR;

b) significant effects previously examined will be substantially more severe;

c) mitigation measures or alternatives previously found to be infeasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

d) mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative. If the conditions in either section (1), (2), or (3), above, are triggered, an agency must prepare a subsequent environmental document.

If that project-level detail resulted in new significant impacts, then a subsequent EIR could be effective. The subsequent EIR would allow the agency to narrowly focus the subsequent analysis on the environmental impacts based on the newly available project detail. If the requirements for a subsequent EIR are triggered, but “[o]nly minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation,” an agency may decide to prepare a supplemental EIR rather than a subsequent EIR (CEQA Guidelines Section 15163[a]). 4 Either type of EIR may conclude that there will be new significant unavoidable impacts, in which case the lead agency must adopt a statement of overriding considerations.

If an agency is required under PRC Section 21166 and CEQA Guidelines Section 15162 to conduct subsequent environmental review under a program EIR, the agency should proceed pursuant to PRC Section 21094 and CEQA Guidelines Section 15168 or 15152. The agency must prepare an initial study to consider whether the later project may cause significant effects that were not examined in the program EIR (PRC Section 21093[c]).

The court does not place importance on the title of the EIR, but rather focuses on whether the level of analysis is commensurate with the detail of the project. The subsequent EIR and the supplemental EIR are identical in processing in that both require public circulation of the draft document, response to comments, etc.

Where they differ is in the magnitude of change between the project evaluated in the certified EIR and the one being proposed. If major changes to the original project description are required that would create more of an impact on the environment, then a subsequent EIR is appropriate. If new information is all that is needed to allow the newly proposed project to use the existing certified EIR, then a supplement to the original document would suffice.

Both subsequent and supplemental EIRs must comply with the same requirements for notice and public review as for a draft EIR (CEQA Guidelines Sections 15162[d], 15163[c]). **Response to public comments and a new final EIR, findings of fact, and if necessary a statement of overriding considerations would be required.**

Friends of the College of San Mateo Gardens v. San Mateo County Community College Dist. (2016) 1 Cal.5th 937: When there is a change in plans, circumstances, or available information after an agency initially approves a project, the agency must determine, based on substantial evidence, whether the original environmental document retains some

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informational value. Where it does, CEQA's subsequent review provisions apply. Where an agency relies on a prior EIR, the substantial evidence standard of review applies to the agency's determination not to conduct further review. Where an agency relies on a prior ND, the fair argument standard of review applies.

Lead Agencies may not arbitrarily establish thresholds to either create or avoid significant impacts. Thresholds must be backed by substantial evidence, which is defined in the CEQA statute to mean "facts, reasonable assumptions predicated on facts, and expert opinion supported by facts" (State CEQA Guidelines § 15064.7(b)).

There is no mention of "thresholds of significance" in the Council on Environmental Quality (CEQ) NEPA regulations, although changes adopted in 2020 include a new "thresholds" section incorporating several factors for agencies to consider when determining "whether NEPA applies or is otherwise fulfilled." (40 C.F.R. § 1501.1.) The changes also specify that, in considering whether the effects of the proposed action are significant, agencies shall analyze the potentially affected environment and the degree of the effects of the action. (40 C.F.R. § 1501.3.)

https://ceqaportal.org/tp/Subsequent%20and%20Supplemental%20EIRs%20and%20Streamlining%207.23.21_final5.pdf

In conclusion, I again respectfully request that the Soquel Creek Water District Board and staff publicly discuss as a public hearing item whether or not the proposed PureWater Soquel Project Phase 2 Treatment Contract and EIR Addendum meets the CEQA thresholds of a Subsequent EIR or Supplemental EIR and provide necessary public comment period and findings.

The magnitude of the proposed modifications that are compelling the District to seek an EIR Addendum on October 5 are unknown at this time to the public. However, I am hereby providing the District notice that if the modifications cause significant environmental impacts and the District chooses to avoid public hearing and a 30-day noticed public comment period, I will pursue legal challenge.

Please acknowledge receipt of this message. Thank you.

Sincerely,
Becky Steinbruner

CORRESPONDENCE - 10/05/21
ITEM 7.2

From: [Becky Steinbruner](#)
To: [bod](#); [Emma Olin](#)
Cc: [Becky Steinbruner](#)
Subject: Item 7.2 on October 5, 2021 Board Agenda re: Modified PureWater Soquel Project 2021 Addendum
Date: Tuesday, October 5, 2021 8:37:28 PM

Dear Board,
Please provide the information below, as the 2021 Addendum does not provide the information.

Please confirm that no chloramine will be in the effluent or R/O brine now that the nBAF treatment has been eliminated from the Santa Cruz Treatment Facility.

Please discuss and confirm the change in chemicals that will now be used and stored on-site at the Chanticleer and Santa Cruz City Facility.

How will these increases in construction and operation costs affect the cost/AcreFoot of the Indirect Potable Reuse water the District intends to sell to customers?

Please provide the energy calculations to support the claims regarding the significant energy demand that fails to address community conflict re: the Desal Project in the past.

Again, I reserve the right to file legal challenge within 30 days to address these issues.

Thank you.
Sincerely,
Becky Steinbruner
3441 Redwood Dr.
Aptos, CA 95003

From: [Becky Steinbruner](#)
To: [bod](#); [Emma Olin](#)
Cc: [Becky Steinbruner](#)
Subject: Comment and Notification re: Item #7.3 PureWater Soquel Project Modifications and Addendum on October 5, 2021 Board Agenda
Date: Tuesday, October 5, 2021 8:25:15 PM

Dear Board of Directors,

I am submitting the comment below regarding Item 7.3 on your October 5, 2021 Board Agenda. I reserve the right to file legal action to challenge matters regarding CEQA within the next 30 days and am hereby placing you on notice.

Actions taken by your Board fail to provide adequate noticing of these major changes to the already-Modified PureWater Soquel Project are significant because no public hearing was called for this item, the details of the changes now proposed were not made available to the public in print in any local media source or at the local public library for the public to read, and now the staff report claims there is no need to circulate these major modifications for public review.

I want to acknowledge, as I understand the Addendum, that there are positive aspects of the Project modifications in this Addendum. I am extremely glad that the chloramine-laden effluent travelling from the Santa Cruz Wastewater Treatment Facility to the Chanticleer Advanced Treatment Facility will now not exist, but request technical clarification on that critical environmental issue.

Because the City's recycled water must now come from the Chanticleer Facility, the District needs to consider consider paying for a larger sized pipe than a 6" pipe this Addendum describes, in order to make better use of recycled water for irrigation. This could include parks and greenbelts, and it is foolish to restrict the pipe to a mere 6" diameter purple pipe for increased future use of recycled water for irrigation.

Attachment 1, page 160 Santa Cruz Site Changes:

Pump Station (source water pump station and electrical transformer) and brine return pipeline receiving connection point located on equipment pads; consistent with Treatment Configuration 3 as analyzed in the Certified EIR. Exterior building lighting would be included at the pump station and receiving connection area, consistent with existing security and safety lighting found throughout the SC WWTF (exterior building lighting was not previously proposed for the pump station and receiving connection area).

What is the energy demand now for the Project in total?

A radio communication pole, approximately 60-feet tall, with base diameter of 3 feet and tapering up to 1.5 feet at the top; located next to the pump station, consistent with the Certified EIR's discussion of standard radio-based supervisory control and data acquisition (SCADA) to be installed at each site.

What aesthetic analysis and public notice of this 60' tower have been or will be conducted?

Pretreatment and associated facility components described in the 2020 Addendum would not be constructed at the SC WWTF; however, the cloth filter strainer described in the 2020 Addendum would be retained in order to provide non-potable reuse water for use by the City of Santa Cruz.

How will these changes affect the on-site hazardous chemical storage and use as well as number of construction truck trips be impacted with this version of the Modified PureWater Soquel Project?

Further, limited nighttime construction may occur, in order to complete connection points between the Project and existing SC WWTF facilities (such as connection of the Project brine return line to the SC WWTF outfall tunnel portal box) during SC WWTF low flow time periods, which are typically at night.

Please provide evidence that the District has evaluated the potential impacts of dumping the concentrated brine and associated contaminants directly into the Monterey Bay National Marine Sanctuary via the Santa Cruz Wastewater Treatment Facility's effluent pipe without first treating the brine. Will the District help the City of Santa Cruz repair the effluent outfall rupture at the 65' offshore area? This problem is known to the City and the Central Coast Regional Water Quality Control Board has taken initial enforcement action to require the City to repair this rupture. If the rupture is not repaired before the Modified PureWater Soquel Project would begin adding undiluted brine concentrate to the effluent now leaking 65' from the shore, how would the District take liability for any health problems experienced by swimmers and surfers in the area, and how will the District monitor the quality changes in the effluent being dumped in the Bay?

How will the brine be sampled and monitored for spikes in contaminants? How will the marine impacts be monitored? Has the District informed the California Coastal Commission of this change in the Project? Doing so is required as per the Commission's approval of the Consolidated Development permit for the Project in March, 2020.

What mitigations has the District developed regarding this with NOAA?

Figure 3 on page 162 is inaccurate because it does not show the Chanticleer Pedestrian Overpass that will soon be under construction on the property area adjacent to Soquel Avenue Frontage Road. The existence of the Overpass is confirmed on page 163:

Further, while the Chanticleer site does not have as many space limitations as the SC WWTF site, the north side of the Chanticleer site bounded by Soquel Avenue has been removed from the Project site layout to allow for construction and operation of the Santa Cruz County/Caltrans future bicycle-pedestrian bridge, which may be under construction at the same time as the Project.

Page 162 does not describe what "PW Tank" is, yet it appears to be a very tall structure in the visual models of Figures 4 and 5. Please define all abbreviations in this diagram.

Page 163:

Thus, the proposed pre-treatment system has been updated from that considered in the 2020 Addendum to reduce the amount of construction required to support the pre-treatment system and to reduce the volume of backwash requiring disposal. The Chanticleer site would now also include a permanent emergency generator (80 kW RO Flush Emergency Generator with a 175- gallon fuel tank), to provide for operational flexibility during power outages.

I applaud abandoning the nBAF treatment because it was chemical and energy-intensive, hazardous to the aquatic environment, and would have caused threats to the multiple local schools located within 0.25 mile of the treatment facilities.

Consistent with the Certified EIR's discussion of SCADA requirements, an approximately 60-foot-tall radio communication pole, with base diameter of 3 feet, tapering up to 1.5 feet at the top, would be located to the north of the AWPf process building.

This 60' tall tower was not discussed in the original Project EIR and must be now for aesthetic impacts and RF impacts on neighboring properties, per FCC requirements.

As discussed in the Certified EIR's Project Description, under Chemical Use and Storage (Certified EIR page 3-41), the chemicals used during the treatment process would be stored onsite at the purification facility in accordance with applicable regulatory requirements. Chemical storage facilities would include secondary concrete containment, alarm notification systems, and fire sprinklers. Chemicals to be used during the water purification process and the projected annual usage amounts are similar to that listed in Certified EIR Table 3-9, with the exception of the use and storage of ozone for pretreatment. The main treatment process chemicals would be housed in various bulk storage tanks of up to 5,000 gallons, located inside or near the process building. Cleaning chemicals would be stored in smaller containers. Sumps and sump pumps within the chemical containment area and loading areas would collect and

contain any chemicals accidentally released during operations.

What chemicals would now be stored and used on-site? The 2021 Addendum is confusing on this issue.

Page 164: The Aesthetic analysis does not include or discuss the "PW Tank" shown on Figure 3 and is shown as being a very tall structure in Figure 4 visual conceptual images.

Page 166: Figure 4 does not show the Pedestrian Overpass and must be included. What are the two large box-structures? These are not described or discussed in the Addendum for aesthetic impacts but must be due to the Overpass and Highway One adjacent.

Conclusions:

Page 171: Energy

The Certified EIR and 2020 Addendum identified a less-than-significant impact with mitigation regarding the use of large amounts of fuel or energy in an unnecessary, wasteful, or inefficient manner; and a less-than-significant impact for the potential that would constrain local or regional energy supplies, or cause environmental effects associated with updates to electrical generation or transmission facilities.

This was an inaccurate claim, as the energy demand for the Project doubled.

Page 172:

*Operation. Once operational, the Project would require an electrical demand **beyond what was analyzed in the Certified EIR and 2020 Addendum in order to operate the added pretreatment process.** Implementation of the Project would increase the District's total electrical demand by approximately 7,797 MWh per year, which is 1,597 MWh per year greater than that described in the Certified EIR and 2020 Addendum. The Project would use power from the Central Coast Community Energy, which has reduced greenhouse gas emissions through the deployment of clean and renewable utility scale energy supplies. Central Coast Community Energy intends to increase contracts for new long-term energy supply to achieve 60 percent of renewable resources by 2025, and then increase to 100 percent renewable resources by 2030.*

The 2020 Addendum spread the energy demand impacts over the 50-year life of the Project in order to claim there was no significant impact. This is unconventional, and did not accurately measure the true energy impacts. C3 Power is not 100% renewable source energy. Please correct this with better analysis of energy.

Page 175: Please provide noise levels of the new generator.

Sincerely,
Becky Steinbruner
3441 Redwood Drive
Aptos, CA 95003



October 5, 2021

Soquel Creek Water District
Board of Directors
5180 Soquel Drive
Soquel, CA 95073

RE: Item 7.3 - Consider Adopting Resolution 21-25 to Adopt an Addendum to the Previously Certified Environmental Impact Report (EIR) Approving the Clarified Treatment Process and Facility Layout Modifications and Adopting Resolution 21-26 to Execute an Amended and Restated Design-Build Agreement Treatment Facilities Project with Black and Veatch Construction Inc. for Phase 2 and 3 Services and Approving a Contract Amendment with Brown and Caldwell.

Dear President Lather, Vice President LaHue and Board members Christensen, Daniels and Jaffe:

I am writing on behalf of the Santa Cruz County Chamber of Commerce to support the staff report — Item 7.3 on your board agenda for tonight's meeting. For the record, the Santa Cruz County Chamber has been the voice of the business community since 1889 - (132 years) representing the interest of more than 400 plus members county-wide. More than 64% of our members conduct business outside of the City of Santa Cruz, and many of these businesses rely on the Soquel Creek Water District for their water service.

The Chamber has been actively following the Soquel Creek Water District's public hearing process related to the PureWater Soquel (PWS) program since its inception several years ago. The Chamber's Community Affairs Committee (CAC) acts as the clearing house on all policy matters throughout the County from education, housing, transportation and infrastructure projects to water services in the four cities and county of Santa Cruz. The make-up of the CAC includes chamber members as well as representatives from every public agency in the county and our four cities. These representatives provide monthly updates to our committee that is shared with our full membership and the greater Santa Cruz community via our weekly digital on-line communication tool (eNews). Our eNews distribution data base is 7,000 subscribers. The CAC has received several updates about the project through formal presentations by Soquel Creek Water District staff. I make these comments to underscore how your staff continues to provide additional community input on this project beyond the

required public hearings and community outreach set forth in the environmental review process.

The item before you tonight is a thorough environmental assessment of the need for the PWS program as well as a smart business decision to ensure that Soquel Creek Water District customers have access to clean reliable water supply into the future. The Chamber commends the Soquel Creek Water District staff for its collaborative approach working with the City of Santa Cruz (Water Department and Public Works Department), coordinating critical collaboration and partnerships with Santa Cruz County Public Works and the Regional Transportation Commission (RTC) to create a nexus in the Live Oak area with 'green' projects at the Chanticleer site (co-location of a bike-pedestrian over-crossing) in adjacent to the PWS's purified recycled water facility. This Project serves as a critical component to combat seawater intrusion, critical overdraft of the groundwater basin, and meets the State's mandate of basin sustainability by 2040.

On behalf of the Santa Cruz County Chamber, we urge your support of the staff recommendation.

Respectfully submitted,



Casey Beyer
Chief Executive Officer
Santa Cruz County Chamber