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Nov. 22, 2016
Item No. 1

November 18, 2016

Chair Peter Adam, and
Members of the Board of Supervisors
County of Santa Barbara, CA 93101

Re: Barton Myers Bridge Appeal; 16APL -00000-00012 & 16LUP-00000-00109

Dear Chair Adam, and Supervisors:

I write on behalf of Barton and Vicki Myers to urge you to grant this appeal and give staff direction to work with the applicant to develop recommended conditions for approval that would support the proposed new bridge and Toro Canyon Creek crossing.

This matter comes before you from a tied vote of the Planning Commission. With four Commissioners participating, two supported the proposal, and initially only one opposed, which would have resulted in project approval. In the end, however, the fourth Commissioner (Cecilia Brown) who initially stated she would abstain, decided to vote only to send the matter to you to obtain your guidance.

Overview

The applicants seek approval for a carefully-designed access road and bridge on their 40-acre property to cross upper Toro Canyon Creek. The proposed access would be the only access that they fully control and that is actually on their property, would add to safety and would support existing permitted ag uses.

The applicable County policies that govern the issue are clear. They support reasonable development of private property, encourage fire safety measures, encourage continuation and support of existing ag uses, and expressly allow roads. At the same time they appropriately require that any potential impacts of a new use be minimized to the maximum extent feasible.

We believe staff will agree that the policies themselves do not prohibit the proposed access. The policies are not black and white ones that either support or prohibit development. Rather, they require a **balancing** of the advantages a project offers with the net impacts, after all mitigations.

There are compelling fire, and life/safety considerations that support the request, and the proposed access will support existing ag uses. Because the access will be across Toro Canyon Creek, a significant resource, it should be carefully designed. We believe the proposal, with the all



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appropriate mitigations, will actually have a net positive impact on the creek environment, and that it should be found in compliance with all County policies.

Factual Background

Barton and Vicki Myers own a large, 40-acre parcel of property in the upper section of Toro Canyon. Toro Canyon Creek traverses the entire western portion of their property. They have developed the property with a residence, a home architectural offices, and a detached residence. For the entire time they have owned the property, over 20 years, the Myers have maintained agricultural uses producing both olives and olive oil, vetiver grass, tuna cactus, grapevines, blood oranges, and specialty fruits, sold by and used by local restaurants and businesses.¹ We attach confirming letters from two local businesses.

Although they have one of the larger parcels on Toro Canyon, and although there are numerous crossings of the creek on other properties, the Myers do not have their own access. Instead, they are forced to share an access easement across property to the south that serves substantial other uses. Although that shared access might appear to be adequate on paper, in fact it has always been beset with problems. Three homes, and potentially a fourth, use the same access. The neighbor to the south has been undertaking one kind of construction or another for eight years with no end in sight, and the road is regularly blocked and congested by construction, service, and delivery vehicles. Years of effort have been unable to resolve the practical problems that arise from the shared use. On one occasion just a few months ago, Barton and Vicki were trapped in their home, unable to exit. As an elderly couple living in a high-fire risk area, with a single route out, they are especially concerned for their own health and safety. We attach photos showing recent occasions on which heavy equipment has obstructed the access.

Barton Myers is a renowned architect/planner with an international reputation, spanning many decades, for creating high quality, innovative, and beautiful projects. He brings to the proposed bridge design, over 50 years of experience as a planner and designer. Most of the other many crossings of Toro Canyon Creek are streambed crossings and culverts, and obviously have a direct impact on the creek environment. He proposes a bridge crossing because it eliminates all impacts to the creek bed itself, while providing critical safety benefits to the area.

The supports for the bridge are wholly out of the creek bed itself. After receiving direction from the Board, the applicant will complete and submit for approval a comprehensive habitat restoration

¹ The Staff Report states that the existing ag uses were commenced without the required permit. It is our understanding that **Staff has now altered its conclusion**, and will advise you that the ag uses were commenced under zoning that allowed ag uses without a permit. Staff does still assert that the ag uses were expanded after 2011 or 2012 when a change to the zoning required a permit. The Myers advise you that they put in all the ag uses at the outset, many years ago, and have not expanded them in any respect.



plan that will eliminate invasive and damaging species from the creek, and that will mitigate all biological impacts. In addition, as a part of the proposal, the applicant has offered to construct a hammerhead turn and fire hydrant on Toro Canyon Road itself—very important safety improvements for the entire area—all at no expense to the County.

There is a basic issue of fairness. Toro Canyon Creek is not a pristine environment. In fact, it lies within residential and agricultural uses for its entire length. Between the Myers property and the freeway there are at least 24 existing crossings of Toro Canyon Creek, most at streambed level with obvious impacts to the environment. We attach some photos. In the short span between East Valley Road and the Myers property there are four crossings, two fords and two culverts, each of which has far greater direct impacts to the creek than the proposed overhead crossing.

Moreover, just a few parcels below theirs, the County has constructed a check dam that has completely scarred the landscape, removing all vegetation over at least an acre of land, and completely obliterating the natural creek course and habitat. We attach photos. That project, which obviously obliterated some forty thousand square feet of creek habitat, nevertheless complied with all planning policies because it was deemed important. In our case, we believe there are not only strong fire and life-safety considerations that strongly support the access, but minimal if any resulting net impact.

Fire, Life and Safety

It is difficult to overstate the extreme fire danger faced by residents of upper Toro Canyon. The area has not experienced a wildfire in some 50 years. With the extended drought, the sides of the road are thick with fallen trees and dead vegetation which will fuel a wildfire. The canyon itself is relatively narrow, funneling winds in a fire, and Toro Canyon Road has only two lanes and is narrow and winding. In the event of a wildfire, reliable access to the road will be a matter of life and death.

The County has a **responsibility** to facilitate, not hinder, projects that will enhance safety.

Without the proposed bridge, the only egress/ingress to the Myers' property is a 1,000' dead end drive shared by a total of three single family homes, two home offices, and agricultural workers. If but one vehicle breaks down on the road, or any equipment or vehicle is left there, there is significant potential for residents to be trapped.

It is for these reasons that five different fire experts—three of them current County fire officers, and three former County fire officers—strongly support the proposed crossing. It will provide a second means of egress, and may provide vital not only for residents of the area and for firefighters. We attach a copy of each of their letters.

Jim Rampton, Interim Fire Chief of the Carpinteria-Summerland Fire Protection District visited the Myers property to assess the merits of a second access and wrote. His January 27, 2016, letter states:



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“During our [site] visit it was noticed that there was construction occurring on the properties next to your property, which made the long driveway congested. It is true that your 40-acre site that is covered with chaparral has not burned in many years and given the extreme wildfire conditions has the potential for a devastating wildfire.

“Given those extreme wildfire conditions it is prudent to have a second means of egress. A second means of egress has the potential to enhance firefighting and improve firefighter and occupant safety. ...

“I fully support your [the Myers’] concept of having a second means of egress from your property.” (*Emphasis added.*)

Scott Coffman, former Carpinteria-Summerland Fire Protection District Fire Marshall also visited the property and wrote in January 2016,

“First priority is to get residents evacuated from the area. However, as we saw in the Jesusita Fire secondary access points and safe refuge areas are vital if not lifesaving. Obtaining both of these in a situation such as Mr. Myers is presenting without a discretionary permit application for an additional structure. This [an applicant voluntarily offering a secondary access] is unheard of normally. [¶] Having this secondary means of access could be used as a safe refuge area for firefighters or residents on Mr. Myers clear areas as well as safeguarding the escape of residents from multiple properties in the 900 block of Toro Canyon. Having additional options at this location is critical if residents and firefighters are cut off from escaping the area.” (*Emphasis added.*)

Al MesKimen, retired Santa Barbara County Fire Captain with a Masters degree in fire protection, has noted that there can be 50 people using the single existing Myers access easement on a given day, and that “in the event of an emergency whether it is medical, law enforcement, or fire the emergency response would be hampered with current egress conditions, especially with a fire or obstruction on the existing access to the south.”

As recently as March, 2016, Steve Oaks, current Santa Barbara County Battalion Chief, has written that “As a general rule, greater access does equate to an increase in safety. The opportunity for the occupant to egress and the responding resources to ingress could be enhanced by providing alternate means of access.”

We attach photos of construction vehicles and congestion on the easement, and copies of letters from the following current and past County fire officials supporting the importance of the secondary access:

1. Jim Rampton, Interim Fire Chief of the Carpinteria-Summerland Fire Protection District;
2. Scott Coffman, former Carpinteria-Summerland Fire Protection District Fire Marshall;



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3. Al Meskimmen, Captain, Santa Barbara Fire Department;
4. Ed Foster, Carpinteria-Summerland Fire Protection District Fire Marshall
5. Steve Oaks, Santa Barbara County Fire District Battalion Chief

These recommendations from fire officials are consistent with the County's existing fire policies. Private Road and Driveway Standards, Development Standard #1, applicable elsewhere in the County, states:

"Two separate and approved access roads (not alternate access) shall be provided when it is determined by the fire Chief that access by a single road, in excess of 600 ft might be impaired by vehicle congestion, condition of terrain, climatic conditions or other factors that could limit access." (Santa Barbara County Fire Department Fire Prevention Division – Rev 1/25/10)

Toro Canyon Plan DevStd FIRE-TC-2.4, applicable to subdivisions of five or more lots, states:

"Two routes of ingress and egress shall be required for discretionary permits for subdivisions involving five or more lots to provide emergency access unless the applicable fire district waives/modifies the requirement and documents findings) for the waiver/modification with the County. For discretionary permits for subdivisions involving fewer than five lots, the permit application shall identify a secondary ingress and egress route of review by appropriate P&D decision makers. ..."

It is correct that these standards do not legally **require** a secondary access in this case. **But that is not the relevant question.** The fire experts certainly strongly indicate that with a long dead-end road, a secondary access is critically important. In this case, the access is much longer (1,000') than the extent beyond which a secondary access is required with five or more homes (600'). It's not a question of what is legally required, but a question of what is prudent. The staff report simply dismisses all of the foregoing, ignoring the photographic and written evidence confirmed by fire officials we have submitted showing a number of recent occasions on which the road was blocked. Although the second access may not be legally required, knowledgeable fire department officials certainly strongly favor one as the prudent course of action.

Indeed, Retired Battalion Chief Scott Coffman, who was directly involved in drafting the development plan standards, states that fire officials seriously considered requiring a secondary access for all lots with a dead-end drive over 600' feet, but did not do so only out of a concern that they couldn't mandate such an access over objections of the residents. But in this case, the owners are requesting the access, and offering to construct it all at their own expense. As one of the Planning Commissioners stated, it would seem irresponsible for the County to not allow a proposal with clear fire and life/safety benefits when the property owners are offering to construct it all at their own expense.



It is important to remember that the applicants' proposal includes a number of additional components that will add critical fire safety benefits to the residents of properties up canyon. Those of you who have visited the site will have seen how difficult it is to turn around even a passenger vehicle on Toro Canyon Road. The applicants will be constructing a hammerhead turnaround just above the proposed crossing, that will allow fire and other vehicles to turn around and that would benefit the entire area. And the Myers will install—at their own expense—a fire hydrant at the north portion of their property that will provide important protection to residents above.

The policies cited above and the recommendations by fire department professionals strongly militate in favor of the proposed secondary access. Absent strong countervailing considerations the bridge should be approved.

Environmental Considerations

The Myers' application includes a biological study by Jackie Worden, Senior Biologist with Impact Services, and arborist's report from Kenneth A. Knight, a 100-year flood study by Michael J. Gerenser, Civil Engineer, and a top of bank study by Jeffery B. Pailey, and complete drawings for completion of the project.

The total area that will be affected by the proposal is minimal. The 40-acre Myers property has roughly $\frac{1}{3}$ mile of creek that, from top of bank, represents 500,000 sq. ft. of ESH. As confirmed by Jackie Worden, the total area potentially affected by the proposed crossing is only 2,000 sq. ft., or 0.004% of the sensitive area—a trivial amount.² There is no basis for concluding that a 0.004% impact is significant. It is important to retain perspective. The creek area was already degraded by foreign debris and invasive non-native species. The area potentially affected is very small, the project has been carefully designed, and the resulting project will enhance the area.

Ken Knight, the project's arborist, has confirmed that "Coast Live Oak (*Quercus agrifolia*) is generally on the upper edges and outside of a riparian area." (*Add citation.*) He also confirms that the area includes sycamores. The biologist confirms that there are no special-status plant species recorded from the site and none observed. No special-status wildlife has been recorded.

Ken Knight has specifically stated:

"There are 59 protected trees (including 37 Coast Live Oak-*Quercus agrifolia* and 22 California Sycamore-*Platanus racemosa*) with varying levels of potential impact by the proposed construction. **The trees are likely to continue to grow and thrive after the construction is complete if mitigation measures suggested below are followed.**" (*Emphasis added.*)

² The staff report, we believe with no backup, provides a much larger area, 0.37 acres or 16,117 sq. ft., that will theoretically be impacted. We believe that figure is unsupported. But even if it were, it would still represent only 0.03% of the ESH that is on the Myers property alone.



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After reading the Staff Report stating that numerous native trees were removed, Mr. Knight has written a supplemental letter, which we attach, explicitly disputing staff's factual conclusions:

"The staff report ... states ... that 'It was apparent ... that the unpermitted grading required the removal of native trees'.

"During the preparation of my 1/4/15 report, **I did not see evidence of protected trees that were removed within the area graded ...**

"... staff states that aerial imagery before and after the grading shows that numerous protected native trees were removed during construction of the unpermitted road. **The canopy cover in this area continues to be extensive, and I cannot find evidence in the aerial photographs that protected trees were removed.**" (*Emphasis added.*)

Staff is correct that the applicant has not yet submitted a mitigation plan. That's because we need to know that the Board will potentially support a bridge crossing and the proposed design (rather than streambed crossing or no crossing) so that we can then design a mitigation plan that address the specific conditions of the proposed project. Otherwise, the applicant would have to propose a series of alternate plans, one if no bridge is approved, one if the proposed bridge is approved, and maybe an alternate of a variation is approved. That is just make work.

Staff has advised us that if the Board wishes to support the project, it will not be able to give final approval at the November 22 hearing. Staff will first need to undertake a detailed environmental analysis of the impacts of construction that it has not yet been undertaken and prepare findings for approval. That process will be the time for the applicants to submit a detailed mitigation plan, which they will do. They believe they can more than address any legitimate environmental concerns and more than mitigate any potential impacts.

For these reasons, we request that the Board support the appeal and provide Staff direction to work with the applicant to refine the design, complete the mitigation plan, and to prepare draft findings for approval.

Review by Other Agencies

The applicants have been working closely with the California Department of Fish and Wildlife ("Fish and Wildlife"), the Central Coast Water Quality Control Board ("Water Board"), and the Army Corps of Engineers. Because the Water Board has advised us that it is critical to submit an updated winterization plan, the Myers have done so, believe it has been approved in concept, and have already implemented the basic features of that plan (replacing jute and straw to stabilize soil pending completion of the project). Fish and Wildlife has already approved the emergency boulder removal work (all completed), and has approved an updated winterization plan. The Army Corps has advised Mr. Myers that it is not concerned with the project if the bridge abutments are outside of the creek bed itself, which they are.



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Staff implies that the you should not approve the proposed project because the other agencies may not approve it. With all due respect, we think that is inappropriate. If you support the project, but one of the other governing agencies does not, then it cannot proceed. But it would not be right for you to disapprove a project because you think that another agency, that has not yet taken final action or even had a hearing, might not approve it.

The Preliminary Work and Stop Order

Before concluding this letter, we need to explain why the Myers began one day of work believing that they did not require a permit.

The Myers originally sought only a creek bed summer crossing (not a bridge) both to support existing ag uses and to increase safety. Applicable Toro Canyon policy expressly state that native vegetation in an ESH and grading up to 50 cubic yards of cut or fill are allowed without a permit if “directly related to an agricultural use on a “with an agricultural zone designation.” The Myers believed that was applicable. There was an existing flat section of the creek with no vegetation that was already covered with innumerable small rocks that was the perfect location for a crossing.³ With minor improvements to the access, and minimal grading at two portions of the access road, they believed a vehicle could have crossed the creek at this point with no significant modifications of the creek bed itself.

County ag policies allow, without a permit, ag roads that support existing ag uses.⁴ The Myers have determined that the additional access will definitely help support their existing ag uses, and will also facilitate an important new well that the East Montecito Mutual Water Company plans (see attached letter). Believing that they had the right to improve the area as an ag road to support their existing ag uses, the Myers undertook what they considered modest changes, using only small equipment (one bobcat) finding a natural route from Toro Canyon Road to the top of bank, and not doing more than 50 cu. yds. of cut and fill to improve the access. They did only one day of work, removing man-made debris from the creek (couches and metal equipment), and non-native

³ A Biological Assessment by Jackie Worden of Impact Sciences, Inc., dated February 2016, determined that “Toro Creek supports little to no vegetation in the creed bed, with a few arroyo willow trees (*salix lasiolepis*) occurring immediately upstream and downstream of the low water crossing.” (Page 2.)

⁴ The issue of the permit requirements for the Myers’ ag uses is a tangential issue to the issue before the Board pertaining to the proposed bridge. However, their right to maintain the ag uses is very important to the Myers in part because those uses, which they have always maintained, were an important reason why they believed they were entitled to develop the stream bed crossing. To avoid having the body of this letter be too long, we are attaching to this letter a statement of the key facts and policies that Myers believe are relevant to their ag uses and their right to develop roads in support of those existing ag uses.



brush that had overgrown much of the area, and doing minor grading with a Bobcat. In the course of that work, they uncovered some boulders that they moved below the crossing to manage flow.

The Myers did not remove any significant native trees. But they did clear non-native brush and dead brush (a dangerous source of fuel for wildfires), and removed debris that clogged and disfigured the creek. Their goal, from the outset, was to establish the summer crossing in a way that beautified, restored, and enhanced the creek.

Although they strongly believe that the work they began did not require a permit, they immediately stopped all work, and filed applications for a crossing with both the County and the California Department of Fish and Wildlife. Working with those agencies, they concluded that a bridge crossing, though much more expensive, would minimize any potential environmental impacts and have therefore agreed to that solution. They have been working through the complex regulatory processes of multiple agencies ever since, and have done no unpermitted work ever since.

In response to County concerns, Myers applied for an emergency permit to remove some boulders the County thought might not be stable. Their application was approved by the County and Fish and Wildlife. Except for that work, and the County's and the Water Board's requests that they put down matting to control possible road erosion pending final County action on the application for a bridge, they have done no further work.

The Myers engaged independent professionals to assist them—a surveyor, an arborist to assess the condition of trees in the area, a biologist to assess the biological condition of the area, and a civil engineer to determine the 100-year flood line and top of bank, to design erosion control, and to assist with the structural design of the proposed bridge.

The Myers believe that when the approved bridge is completed, and they complete appropriate restoration of the immediately adjacent areas, the crossing will be seen as beautiful, environmentally sensitive, and appropriate.

Staff Position

In light of such strong reasons to support the Myers' request, why is Staff recommending denial?

Staff give four reasons for the denial—that the proposed access is not *required*, that they think existing access is sufficient, that the crossing is in ESH, and that native trees were removed. **These are all factual, not policy conclusions.** The evidence is to the contrary. If you agree with the applicants' evidence that the access is prudent, that the existing access is problematic, that potential impact to the ESH is minimal, and that no native trees have been removed, then the policies support the proposal.

The application of governing policies requires a balancing. With all due respect, we believe that the clear benefits of a second access have been undervalued, and the potential impacts to the creek overstated. The policies all favor reasonable development and a balancing of potential impacts. If



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the benefits are recognized, and a fully mitigated plan is correctly evaluated, we believe that the project can and should be found to comply with all governing policies.

Most of their conclusions that the proposed access violates County policies rest on the initial conclusion that “numerous native trees were removed” and that extensive changes were made to the habitat. The facts show otherwise.

At the Planning Commission hearing and in the current Staff Report, staff show aerial photographs of an area east of the creek that it states the applicants cleared. But as a site visit makes apparent, there was already a path in this area, and all the sycamores in the area are still there. The apparent “clearing” is simply because Staff compared a summer photo, in which the sycamores have rich vegetation, with a winter photo in which the trees are bare. Indeed, if one looks closely at the photos, the shadows of the bare trees allegedly removed still show. There is no evidence of tree removal. Moreover, the area in question is not even ESH, but what the Staff terms “ESH buffer.” The applicants’ biologist has confirmed that the area in question, which is separated from the creek by a large elevation change, does not function to support the creek habitat below.

Although the Staff Report, without any supporting evidence, states that native trees were removed, the arborist notes only that “There was one non protected tree failure in the area of review that appeared to be from drought related reason.” (Kenneth Knight, page 2.) Mr. Knight has submitted a follow-up email quoted above stating that “I did not see evidence of protected trees that were removed within the area graded.” We respectfully suggest that the evidence does not support Staff’s conclusion.

At the hearing before the Planning Commission, Staff introduced Google Street View photos that they asserted show that oaks were removed at the point where the proposed access road joins Toro Canyon Road. Staff introduced this new “evidence” only after public comments was closed, so the applicants were unable to respond. We believe it clear that Staff misinterpreted the photos.

We attach two photos of the entrance to the proposed road. The first is a complete Google Street View photo of the entrance taken in 2012. The second is the identical perspective, taken recently. On both, every significant tree is numbered. It is apparent that, contrary to Staff’s conclusion, no important trees were removed.

This evidence is extremely important. Staff’s conclusion that the proposed access conflicts with policy stems from their incorrect conclusion that numerous trees were removed and that the impact to the habitat is significant. We believe the facts simply do not support that conclusion.

Conclusion

There are compelling considerations of fire protection and life/safety that should cause the County to approve the proposal. We believe that the direct impacts will be truly minimal, and that, with the proposed mitigations, the net impact of the project will be positive. For that reasons, the proposed project fully complies with all applicable policies.



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This appeal comes to you from an extremely close, tied vote by the four members of the Planning Commission who were able to participate in the hearing below. Two of the Commissioners (Commissioners Ferini and Blough) argued very strongly in favor of the project because they found the fire and safety considerations compelling. One Commissioner (Commissioner Brown) was so conflicted that she initially stated that she would abstain from such a close question, which would have meant that the project would have been approved. But in the end, she stated that she thought the Board itself should review the matter, so that the applicants' appeal to the Planning Commission was denied on a 2 to 2 vote.

We completely concur with Commissioner Blough's succinct summary. He argued that the County should support the proposed bridge because it would enhance health/life safety with insignificant environmental impact, and at no cost to the County. He argued that to not support a plan that could potentially save lives of residents and firefighters, that is supported by a number of fire chiefs and marshals, seems unjustified and could expose the County to enormous liability. We can't say it any better.

We believe that when completed, the crossing will be viewed as a beautiful, environmentally sensitive enhancement to the area.

Sincerely,

Derek A. Westen
Attorney at Law

cc. Barton and Vicki Myers
Fire Chief Ray Navarro
Retired Battalion Chief Scott Coffman
Ken Knight
John Davis, CE, Senior Biologist, Dudek
Sean Heron
Alex Tuttle

Agricultural Uses

The Myers began agricultural uses on their property from the moment they purchased it, even before they built their residence. The ability to maintain ag uses was critical to their reasons for acquisition of the property.

Frankly, they are stunned to see the position taken in its Staff Report that the Toro Canyon Plan only allowed agricultural uses only with a conditional use permit, and that the ag uses they maintain are unpermitted.

Before the Toro Canyon Plan was adopted, the land use designation was AG II, and the zoning was E-1. Staff now confirms that the applicable zoning expressly allowed ag uses **without a permit**. When they purchased the property in 1996 the Myers immediately began the ag use, which was allowed both under the ag designation and then-applicable zoning. In 2004 the property remained designated for ag, and the zoning was changed to MT Toro. The new zone district still allows ag, but with a permit, and of course allows pre-existing lawful ag uses. The applicable zoning, The current MT Toro zone district (cultivated agriculture, orchard, vineyard) specifically states, in Table 2-4, that “Cultivated agriculture, orchard, vineyard –Historic legal use” is E-Exempt.

The property has existing cultivated agriculture, including five acres of olives, blood oranges, vetiver grass, tuna cactus, grapevines, and specialty fruits. Olives from the property are sold locally. Pan i Vino restaurant purchases blood oranges from the property that it uses in deserts and salads, and has commented that the olive oil from the property is the best California-produced olive oil available. Pierre La Fond sells the property’s olive oil and is interested in purchasing the blood oranges.

In addition, the property has an existing water well that provides the East Mountain Mutual Water Company an important source of water.

Because ag uses always require service roads, an agriculture Road is an “agricultural improvement” and not a new “development” that is encouraged in the Ag Element, Policy 1.C and Goal VI.

Permit requirements (35.28.100) clearly favor support of ag uses:

““Permit and processing requirements, ESH-TCP. The following permit and processing requirements shall apply to lots zoned ESH-TCP.

“1. Land Use Permit Requirement

- a. The issuance of a Land Use Permit in compliance with Section 35.82.11 ... shall be required for the following activities unless the activity is directly related to an agricultural use on a lot with an agricultural zone designation.

- (1) The removal of native vegetation along 50 linear feet or more of a creek bank or removal that, when added to the previous removal of native vegetation with the affected habitat on the site, would total 50 or more linear feet of native vegetation along a creek bank.

(2) Grading in excess of 50 cubic yards of cut or fill.

(3) Except for vegetation fuel management within 100 feet of an existing structure:

(4) The removal of native vegetation over an area greater than 21, 780 square feet (one-half acre) ...”

LETTERS FROM LOCAL BUSINESS USING AG PRODUCE FROM MYERS PROPERTY

Pane e Vino



TRATTORIA

August 3rd, 2016

To whom it may concern,

Pane e Vino Trattoria has been making artisan gelato using fresh fruit acquired from Mr. Barton Meyers. The fresh blood oranges are used to produce a truly exceptional dessert!

We also have come to love his handcrafted extra virgin olive oil, "Steel Bull", and believe it to be one of the best locally produced olive oils we have ever sampled.

All the best

Pane e Vino

1482 E. Valley Road
Santa Barbara
California 93108
(805) 969-9274

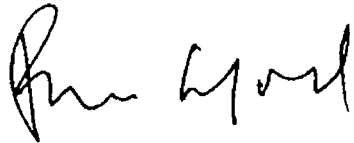
Pierre Lafond & Co.

08/03/2016

To whom it may concern,

Pierre Lafond & Co. purchases "Steel Bull Olive oil" From Barton Myers for resale in our market located at 516 San Ysidro Rd. Santa Barbara, Ca. 93108. Our Resale license number is 15-1625974. It is our intention to continue to purchase this product.

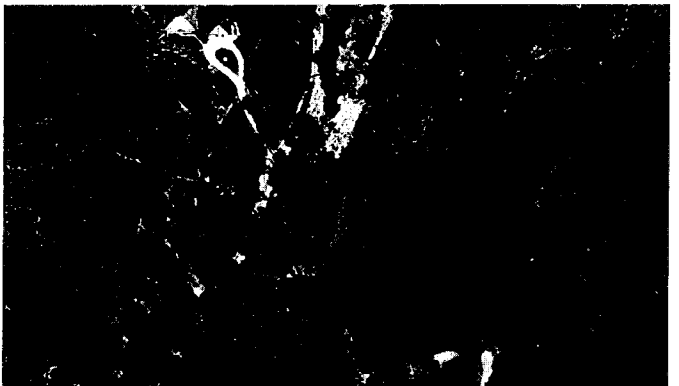
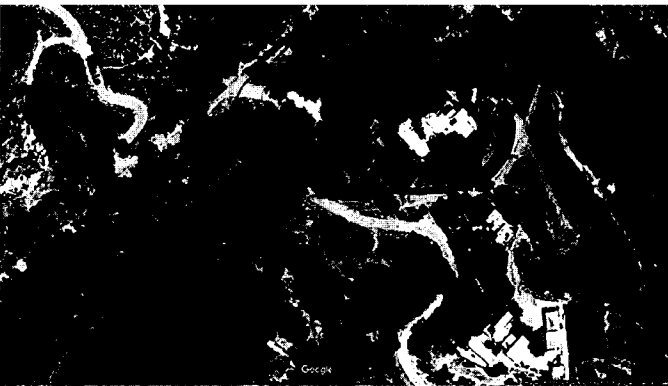
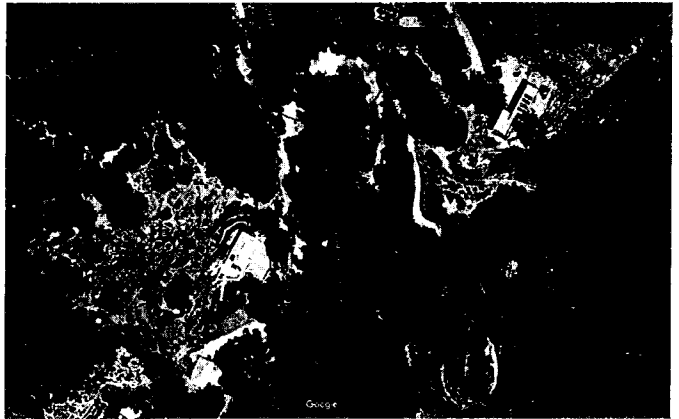
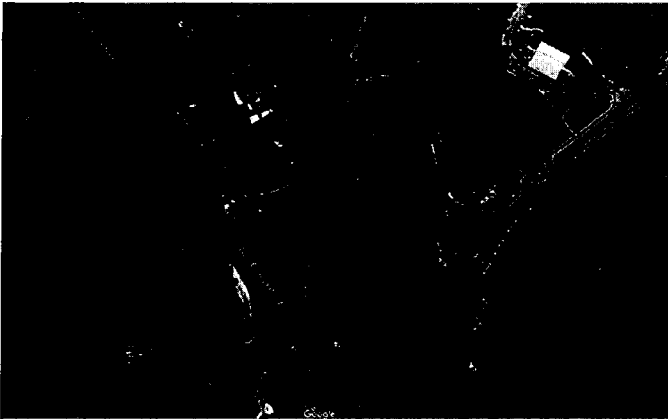
Sincerely,

A handwritten signature in black ink, appearing to read "Pierre Lafond". The signature is fluid and cursive, with the first name being more prominent.

Pierre Lafond, CEO

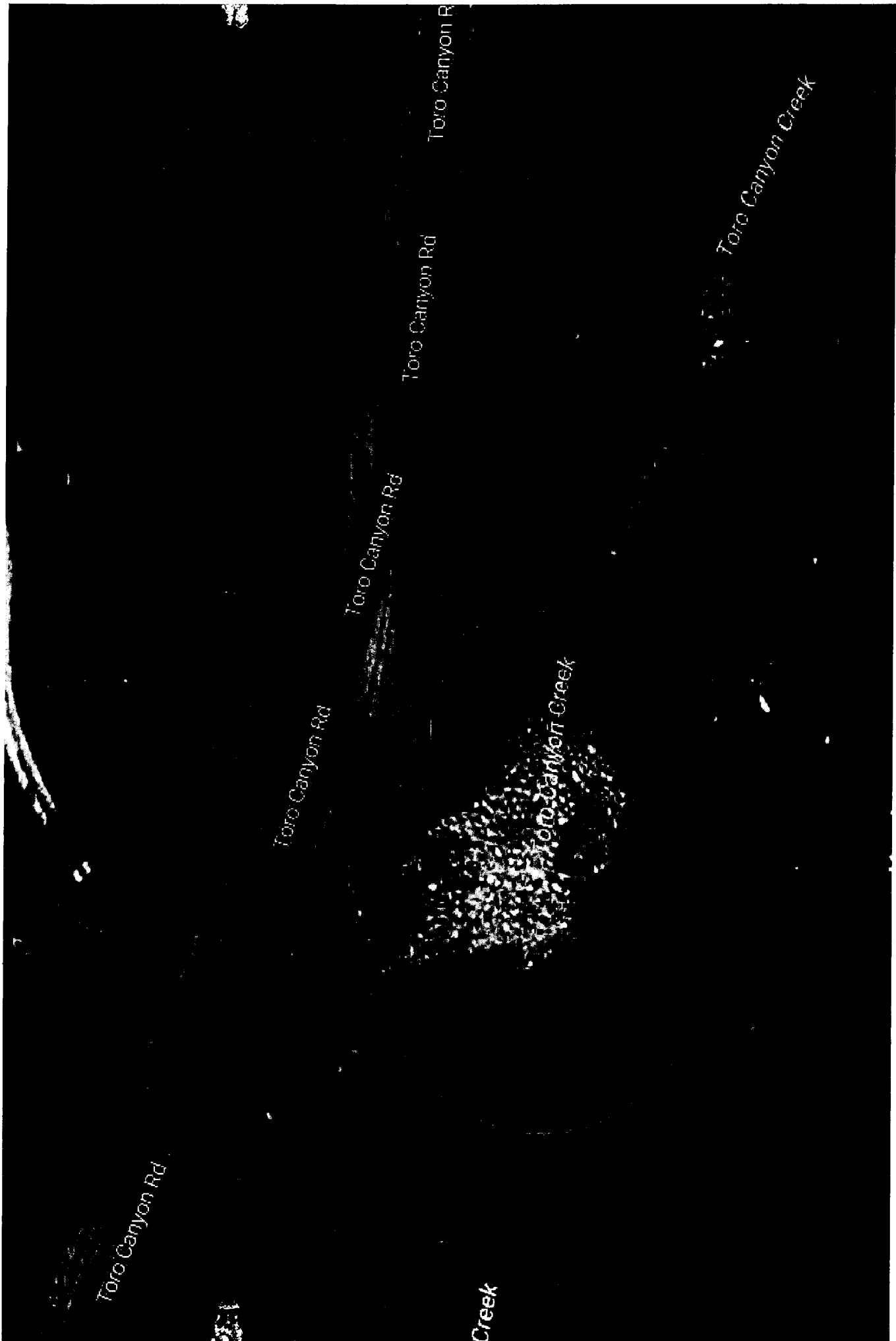
PHOTOS OF A FEW EXISTING CREEK CROSSINGS

CREEK CROSSINGS



- There are +/- 24 crossings of Toro Canyon Creek from Via Real to the end of Toro Canyon Road.
- Between route 192 to the end of Toro Canyon Road there are two fords and two culverts.
- 949 Toro Cv Bridge will be the first bridge to be constructed north of route 192 - the least environmental impact.

PHOTOS OF COUNTY DEBRIS DAM SLIGHTLY BELOW MYERS PROPERTY



Toro Canyon Rd

Toro Canyon Rd

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LETTERS RE FIRE AND HEALTH/SAFETY



CARPINTERIA~SUMMERLAND FIRE PROTECTION DISTRICT

January 27, 2016

Barton Myers
949 Toro Canyon Road
Santa Barbara, California 93108

Dear Mr. Myers,

Thank you for inviting myself and Fire Marshall Ed Foster to tour your property to listen to your proposal for a second means of egress from your property. During our visit it was noticed that there was construction occurring on the properties next to your property, which made the long driveway congested. It is true that your 40-acre site that is covered with chaparral has not burned in many years and given the extreme wildfire conditions has the potential for a devastating wildfire.

Given those extreme wildfire condition it is prudent to have a second means of egress. A second means of egress has the potential to enhance firefighting and improve firefighter and occupant safety. If this road is constructed and it is expected that our firefighting apparatus are to use this road, it must be constructed in a way that meets all Local, State and Federal rules for a driveway of this type.

Thank you again for your time and I appreciate your concern for our safety as well as your own during a wildfire. I fully support your concept of having a second means of egress from your property.

Respectfully,

Jim Rampton
Interim Fire Chief

January 9, 2016

Chief Jim Rampton
Carpinteria Summerland Fire Protection District
1140 Eugenia Place, Ste A
Carpinteria, Ca. 93013

Re: Barton Myers Access Driveway, 949 Toro Canyon Road

Chief Rampton,

Hope the new year is treating you well. Good seeing everyone over lunch this last Christmas. It reminded me of the good work we did together. This correspondence concerns fire related issues at Barton Myers property located at 949 Toro Canyon Road.

Mr. Myers is interested in putting in a secondary means of access including a rated bridge. It has always been my understanding the District has been urging and very appreciative of private - public partnership in fire protection. This enhancement seems to me to be no exception. Ed Foster and I have spent long hours looking for secondary means of egress especially for life safety concerns. When areas come available we normally jumped on any means to protect our community and firefighters.

In this case, the property is in Toro Canyon, CWPP Hazard Zone 3. This in an area arguably the most hazardous zone in our District and at a pinch-point as well. Getting residents evacuated out of upper Toro could be challenging. Additionally, firefighter safety in the area is critical in a conflagration fire. I believe a rated driveway and bridge specifically in this area is of great importance and helpful to our District.

First priority is to get residents evacuated from the area. However, as we saw in the Jesusita Fire secondary access points and safe refuge areas are vital if not lifesaving. Obtaining both of these in a situation such as Mr. Myers is presenting without a discretionary permit application for an additional structure. This is unheard of normally.

Having this secondary means of access could be used as a safe refuge area for firefighters or residents on Mr. Myers cleared areas as well as safeguarding the escape

of residents from multiple properties in the 900 block of Toro Canyon. Having additional options at this location is critical if residents and firefighters are cut off from escaping the area. Sheltering in Place is a viable option. Having a secondary access road to the property helps meet that objective. Secondary access roadway to escape the area is also viable especially when everyone wants to leave at the same time.

I believe it is important that the driveway, bridge, turn arounds, and fuel reduction related to the project be rated per Fire District Regulations. Having these requirements in place will stand the test of time when it might be needed. Either leaving the property or entering in a time of need should be accomplished with all the requirements met. Additionally, having a second access driveway during times of El Nino, road washout, with potential medical emergencies or vehicle accident may well prove to be life-saving.

Meeting with Ed Foster and our engine companies on understanding the dynamics and uses of the secondary access are important. Getting the County Planning and Development to approve this project are found in the following:

- 1) Toro Canyon Plan – Development Standard TC-2.4 “Two separate and approved access roads (not alternate access) shall be provided when it is determined by the Fire Chief that access by a single road, in excess of 600ft (access road for 949 Toro Canyon Road is approximately 1,000ft),
- 2) Carpinteria-Summerland Fire Protection District CWPP pp. 23 – 25.
- 3) Private Road and Driveway Standards, Development Standard #1 section IIE PRIVATE ROAD page 3 of 18: “Two separate and approved access roads (not alternate access) shall be provided when it is determined by the Fire Chief that access by a single road, in excess of 600ft (access road for 949 Toro Canyon Road is approximately 1,000ft), might be impaired by vehicle congestion, condition of terrain, climatic conditions or other factors that could limit access.” (Santa Barbara County Fire Department Fire Prevention Division – Rev 1/25/10).

Jim, again it was good seeing you this last holiday. It is encouraging and important to fight the good fight in protecting our community from the threat of wildland fire. This is an example of a private/public partnership that enhances safety in probably the most extreme threat in our District.

Respectfully Yours,

Scott Coffman

Battalion Chief (retired)



Florida Associates Inc.

Architecture • Interiors • Landscape Architecture • Urban Design

Fire Chief Jim Rampton
Carpinteria-Summerland Fire District
140 Eugenia Pl, Carpinteria, CA 93013

December 22, 2015

Dear Chief Rampton

I would like to recommend the additional of a second means of access/egress to Barton Myers property locate at 949 Torro Canyon on the basis of enhanced firefighting ability and improved life safety.

The current environmental conditions that support this recommendation are that the current ingress/egress is shared by three properties, and is many times congested. The surrounding vegetation is composed of highly flammable chaparral and oak lands that have not burned since the Coyote Fire of 1964.

The physical layout of the driveway is approximately 1,000 feet with a dead end. I have been at the property when the access/egress is impaired by vehicle congestion, construction. I understand that this experience happens far too often.

The current driveway serves three parcels, four dwelling units, and two home based offices. Productive agriculture and landscaping occur on this property. There can be as many as 50 persons using this access on any given day.

In the event of an emergency whether it is medical, law enforcement or fire the emergency response would be hampered with current egress conditions, especially with a fire or obstruction on the existing access to the south.

Given the extreme danger of a wildfire it is prudent to have a second means of egress, increased firefighter and occupant safety, and improved firefighting ability. Smoke generates visibility problems with accidents.

Further evidence of the need for secondary access is covered in the Santa Barbara County Fire Department Fire Prevention Division – Rev 1/25/10 under Private Road and Driveway Standards, Development Standard #1 section IIE PRIVATE ROAD page 3 of 18: “Two separate and approved access roads (not alternate access) shall be provided when it is determined by the Fire Chief that access by a single road, in excess of 600ft (access road for 949 Toro Canyon Road is approximately 1,000ft), might be impaired by vehicle congestion, condition of terrain, climatic conditions or other factors that could limit access.”

My appreciation for your immediate attention to this important matter.

Respectfully yours,

Al MesKimen

Begin forwarded message:

From: "Foster, Ed" <e.foster@csfd.net>
Date: March 7, 2016 at 9:56:55 AM PST
To: "Barton Myers(SB)" <b_myerssb@bartonmyers.com>
Subject: RE: 949 Toro Canyon road/bridge

Mr. Myers:

This letter shall be considered as a Preliminary Approval of a proposed bridge. This approval is tentative and is based on the review of a site and construction Plan which was presented on March 3, 2016. A formal plans review will be conducted after a submittal has been provided to and processed by the County of Santa Barbara Building and Safety Department.

Yours in the interest of fire and life safety,
Ed Foster
Fire Marshal
Fire Prevention Bureau
Carpinteria-Summerland Fire District
(805) 566-2451

Oaks, Steve

From: Oaks, Steve
Sent: Thursday, March 03, 2016 2:25 PM
To: Herron, Sean
Cc: Heckman, Rob; Tuttle, Alex; Russell, Glenn; Tan, Fred; Foster, Ed
Subject: Re: Definition of secondary access

Hello Sean,

I made a site visit yesterday in an effort to become more familiar with the issues. The question was raised regarding whether or not the secondary egress increases safety. As a general rule, greater access does equate to an increase in safety. The opportunity for the occupant to egress and the responding resources to ingress could be enhanced by providing alternate means of access. That being said, the responding fire department resources would access this property through the main driveway not one located further up the canyon. In addition, my Planning and Engineering folks have made contact with Ed Foster (Carpinteria Fire Marshal) and he is aware of the project. The development on this parcel has gone through the Carpinteria/Summerland Fire Protection District for Fire Department approvals, not through our department. I hope this helps. If I can be of further assistance please don't hesitate to contact Captain Fred Tan (Planning & Engineering Captain), or myself.

Regards,

*Steve Oaks, Battalion Chief
Deputy Fire Marshal
Santa Barbara County Fire Department
166 W. Hwy 246, Buellton, CA 93427
office: (805) 686-5066
cell: (805) 896-6420
email: steve.oaks@sbcfire.com*

EAST MOUNTAIN MUTUAL WATER COMPANY LETTER

East Montecito Mutual Water Company, Inc.
c/o Kennedy Accounting Systems
1332 De La Vina St.
Santa Barbara, CA 93101

October 26, 2016

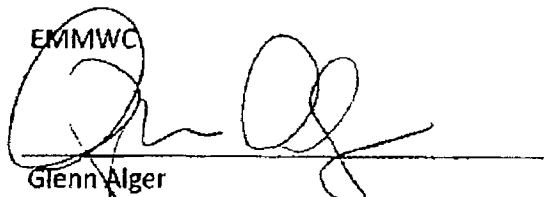
Glenn Russell
Director of Planning and Development
County of Santa Barbara
123 E. Anapamu Street
Santa Barbara, CA 93101

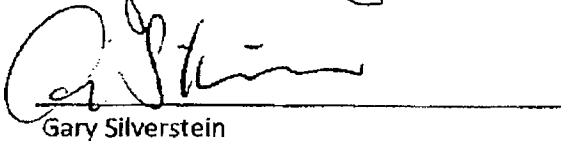
Mr. Russell,

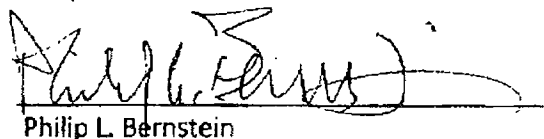
The EMMWC is in the final stages of negotiating an easement agreement over the Myers property at 949 Toro Canyon Road for the purpose of drilling well # 4.

As we believe the sites of best potential may well be on the east side of Toro Canyon Creek, we fully support the Myers proposal for a new road and bridge over Toro Canyon Creek as shown on plans given us. This would give our drilling rig the most effective access to these eastern sites.

With appreciation of your support

EMMWC

Glenn Alger


Gary Silverstein


Philip L. Bernstein

KEN KNIGHT SUPPLEMENTAL LETTER

From: **Ken Knight** kennethknight@cox.net
Subject: RE: 949 Toro
Date: August 8, 2016 at 12:39 PM
To: Barton Myers(SB) b_myerssb@bartonmyers.com
Cc: derek@westenlaw.com



Barton,

I reviewed page 6 and pages 7 through 18 of the Myers Bridge Appeal County staff report that will be heard on August 10, 2016. My comments are as follows;

On page 6, the staff report states that my 1/4/16 report did not address the impacts of unpermitted grading that had already taken place. The staff report later states on page 6 that "It was apparent (from staff visits on 10/19/15 and 2/18/16) that the unpermitted grading required the removal of native trees".

During the preparation for my 1/4/16 report, I did not see evidence of protected trees that were removed within the area graded, so I cannot verify staff comments that there was an impact to protected trees.

On pages 12 and 15, staff states that aerial imagery before and after the grading shows that numerous protected native trees were removed during construction of the unpermitted road. The canopy cover in this area continues to be extensive, and I cannot find evidence in the aerial photographs that protected trees were removed.

On page 18, the staff reports indicate that the critical root zones of 28 protected trees would be impacted. While this is true, my 1/4/16 report recommends procedures for reducing these impacts including changing alignments and construction retaining walls. In my opinion, the trees would likely recover and continue to thrive after the road project is completed if my recommendations are implemented.

On page 12, the staff report states that one sycamore is proposed for removal. My 1/4/16 report did not recommend any tree removals. Mr. Myers offered to remove one sycamore tree to comply with Carpinteria-Summerland requirements for Fire vehicle clearance. If this tree were removed, Mr. Myers agrees to mitigate the loss of this tree by planting another ten 15 gallon locally sourced sycamores at other locations of his property.

I will not be able to be present at the 8/10/16 hearing. If you have any questions that I can address by phone, please call me at (805) 252-1952.

Ken Knight
Registered Consulting Arborist #507
69 Calaveras Avenue
Goleta CA 93117
(805) 252-1952
kennethknight@cox.net
www.goletaarborists.com

**IMAGES OF ROAD ENTRANCE
(CONFIRMING NO TREE REMOVAL)**



TREES BEFORE (Google Street View)



949 TORO CANYON ROAD
AUGUST 2016

Barton Myers Associates Inc., Architects, Planners

TREES TODAY (Photo of access at Toro Canyon Road)
Showing every significant tree in place