

# EMERGENCY PERMIT

## 09EMP-00000-00005



X **Countywide:**

Subject to the requirements of Section 35.82.090 of the Santa Barbara County Land Use and Development Code

       **Montecito:**

Subject to the requirements of Section 35.472.080 of the Santa Barbara County Montecito Land Use & Development Code

**Case Name:** Painted Cave Mutual Water Company Tank Replacement  
**Case Number:** 09EMP-00000-00005  
**Site Address:** No Site Address; Site Adjoins 2782 Painted Cave Road  
**APN:** 153-131-002 and 153-150-020 (stockpile site)  
**Applicant/Agent Name:** David Wright  
**Owner Name:** Painted Cave Mutual Water Company

South County Office  
123 E. Anapamu Street  
Santa Barbara, CA 93101  
(805) 568-2000

Energy Division  
123 E. Anapamu Street  
Santa Barbara, CA 93101  
(805) 568-2040

North County Office  
624 W. Foster Road  
Santa Maria, CA 93454  
(805) 934-6250

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## PERMIT APPROVAL:

This is to inform you that an Emergency Permit has been approved for:

**The applicant/property owner, Painted Cave Mutual Water Company, applied to replace two existing 22,000 gallon water storage tanks with one 82,000 gallon water storage tank on an approximately 0.42-acre parcel (APN 153-131-002). The proposed water tank will be located in approximately the same location as the existing water tanks. The existing water tanks will be demolished and removed. The project also includes a masonry retaining wall that will encircle the building pad of the proposed tank. The retaining wall will be approximately 3 feet in height.**

**The proposed water tank will be approximately 12 feet in height and 34 feet in diameter. The project requires approximately 400 cubic yards of cut and 20 cubic yards of fill. Approximately 380 cubic yards of excess excavation material will be exported. Excess excavation material will be temporarily placed at a stockpile site located approximately 50 feet northeast of the existing water tanks (APN 153-150-020). The project requires the removal of three small trees on the subject parcel.**

The two existing 22,000 gallon water tanks are in poor condition and need to be replaced as soon as possible. In part, the water tanks are corroded and leaking. This Emergency Permit will help minimize risks to health, safety and property posed by the possible failure of these water tanks. These two water tanks provide approximately 75 percent of the water storage capacity of the water system for the Painted Cave community. Prompt installation of the new water tank will minimize the risk of an unplanned interruption of water service for domestic and fire-protection purposes. In addition, the new water tank needs to be installed before the approaching wildfire season since water service for fire protection purposes will be significantly reduced during demolition and construction activities.

Therefore, this situation constitutes an emergency in accordance with the Land Use and Development Code and immediate action is warranted. As the required findings (listed below) can be made, the emergency work is hereby approved, subject to compliance with the attached conditions of approval. This permit is not valid until signed by the applicant/property owner and subsequently issued by the Planning and Development Department (P&D).

Sincerely,

Dianne Black  
Director of Development Services

APPROVAL DATE: March 19, 2009

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## APPLICANT/PROPERTY OWNER AGREEMENT:

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions of approval incorporated herein. The undersigned also acknowledges and agrees that:

- This Emergency Permit provides only temporary authorization for the proposed action and other applicable permits (e.g., Conditional Use Permit, Zoning Clearance, Building Permit) are required by law to validate the emergency work as permanent.
- Any evidence or findings contained herein, or upon which this permit relies, shall not constitute any limitation on the authority of the County to issue, grant, deny, rescind, or revoke this permit or any future permit(s) required for the activities described herein, or on the authority of the County to analyze, mitigate, or condition any future permit(s) required for the activities described herein.
- This permit does not authorize any work or construction activities outside of the scope of the project as indicated in the project description, conditions of approval and approved plans.
- This permit shall not be construed to authorize any violation of County ordinance or policy, or the violation of any State or Federal regulation.

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Print Name

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Signature

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Date

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## PERMIT ISSUANCE:

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Print Name

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Signature

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Date

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## **BACKGROUND:**

The subject parcel is located approximately one-mile north of the junction of San Marcos Pass Road (Highway 154) and Painted Cave Road in the foothills of the San Ynez Mountains. It is within the Inland Area and a designed Existing Developed Rural Neighborhood (Painted Cave). The subject parcel and the surrounding parcels are zoned Residential Ranchette with a 10-acre minimum lot size (RR-10).

The subject parcel is approximately 0.42 acres in size. The surrounding parcels range from approximately 0.25 to 6.0 acres in size and typically include single-family residences and accessory structures. The surrounding landscape is predominately moderate to steep northeast facing slopes that include coastal sage shrub and riparian plant communities. The subject parcel has been disturbed by past grading and construction activities. It includes grass, shrubs and several trees. The proposed project requires removal of three small trees that are growing a few feet from the existing water tanks, including a Manzanita (10 feet in height), willow (12 feet in height) and toyon (12 feet in height).

The Painted Cave Mutual Water Company owns the subject parcel, which includes two 22,000-gallon steel water tanks and one 15,000-gallon fiberglass water tank. These tanks provide water for domestic and fire-protection purposes to 96 parcels that include 75 single-family residences with approximately 200 to 250 residents. The subject parcel is an interior lot situated approximately 250 feet east of Painted Cave Road. A gravel road provides access to the subject parcel and three adjoining parcels.

The two existing 22,000 gallon water tanks are in poor condition. They were installed more than 50 years ago and are near the end of their serviceable life. As stated in the applicant's permit application, "Inspections by the water system's certified operator have documented significant loss of structure material due to corrosion, and in recent months, the deteriorated condition has advanced to include seepage of water at several locations . . ."

The proposed project would normally require a Minor Conditional Use Permit and Zoning Clearance according to Sections 35.23.030 and 35.82.060.G.2.b of the Land Use and Development Code. It would also require a Grading Permit according to Section 14-10 of the Santa Barbara County Grading, Erosion, Sediment Control Ordinance and a Building Permit according to Section 10-1.4 of the County of Santa Barbara Building Code. Processing these types of permits typically takes four to six months. The Emergency Permit will allow the applicant to immediately order the new water tank and schedule demolition of the existing water tanks and installation of the new water tank.

This Emergency Permit will help minimize risks to health, safety and property posed by the possible failure of the two existing 22,000 gallon water tanks. These two water tanks provide approximately 75 percent of the water storage capacity of the water system for the Painted Cave community. Prompt installation of the new water tank will minimize the risk of an unplanned interruption of water service for domestic and fire-protection purposes. In addition, the new water tank needs to be installed before the approaching wildfire season since water service for fire protection purposes will be significantly reduced during demolition and construction activities. (Water storage capacity will be reduced from 59,000 gallons to as low as 15,000 gallons while the applicant's contractor demolishes the existing water tanks and installs the new water tank.)

The proposed project will have the added benefit of increasing the water storage capacity of the existing water system by approximately 65 percent. Specifically, it will replace two 22,000 gallon water tanks with one 82,000 gallon water tank and, thereby, increase the water storage capacity from 59,000 gallons to 97,000 gallons. This will result in a more reliable domestic water supply and significantly increase fire protection capabilities in this High Fire Hazard Area.

## FINDINGS OF APPROVAL:

1. The approval of this project shall not be held to permit or to be an approval of a violation of any provision of any County ordinance or State law.
2. Pursuant to Section 35.82.090 of the Land Use and Development Code, an Emergency Permit may be granted if the Director makes the following findings:
  - a. *An emergency exists and requires action more quickly than provided for by the customary procedures for permit processing.*

The two water tanks to be replaced provide approximately three-quarters of the water storage capacity of the water system for the Painted Cave community. The applicant needs to take immediate action to minimize risks to health, safety and property posed by the possible failure of these tanks.

The proposed project requires a Minor Conditional Use Permit and Zoning Clearance according to Sections 35.23.030 and 35.82.060.G.2.b, respectively, of the Land Use and Development Code. It would also require a Grading Permit according to Section 14-10 of the Santa Barbara County Grading, Erosion, Sediment Control Ordinance and a Building Permit according to Section 10-1.4 of the County of Santa Barbara Building Code. Processing these types of permits typically takes four to six months. The Emergency Permit will allow the applicant to immediately order the proposed water tank and schedule demolition of the existing water tanks and installation of the new water tank.

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- b. *The action proposed is consistent with the policies of the Comprehensive Plan, including any applicable community or area plan and the requirements of this Development Code.*

The proposed project is consistent with the policies of the Comprehensive Plan and the requirements of the Land Use and Development Code. The applicant submitted detailed grading plans, cross sections and project details. The applicant revised some aspects of the project to ensure consistency with the policies of the Comprehensive Plan, such as revising the project to minimize grading and preserve existing landforms according to the Hillside and Watershed Protection Policies. In addition, this Emergency Permit includes conditions of approval to ensure the project will comply with various policies regarding archaeological resources, noise, parking and erosion and sediment control. The project will not affect any known cultural resources or environmentally sensitive habitats.

The subject parcel is zoned Residential Ranchette with a 10-acre minimum lot size (RR-10) under the Land Use and Development Code. The proposed water tank is an allowed use in this zone. It complies with height, setback and other applicable zoning requirements.

c. *Public comment on the proposed emergency action has been reviewed.*

The applicant needs to take immediate action to replace the two failing water tanks. As a result, there is not sufficient time to receive public comment on the proposed project before issuance of this Emergency Permit. However, P&D will provide public notice of the proposed project in compliance with Chapter 35.106 of the Land Use and Development Code, including mailing a notice to property owners within 300 feet of the subject parcel. The processing of the follow-up permits (i.e., Minor Conditional Use Permit, Zoning Clearance) required to validate the emergency action will provide an opportunity for public comment on the proposed project and appeal of the County's final action on the follow-up permits.

3. This action is not subject to the provisions of the California Environmental Quality Act, pursuant to Section 15269 of the State CEQA Guidelines, statutory exemption for emergency projects.

## **EMERGENCY PERMIT CONDITIONS OF APPROVAL:**

1. This Emergency Permit is based upon and limited to compliance with the project description, and the conditions of approval set forth below. Any deviations from the project description or conditions must be reviewed and approved by the County for conformity with this approval. Deviations without the above-described approval will constitute a violation of permit approval. If it is determined that project activity is occurring in violation of any or all of the following conditions, the Director may revoke this permit and all authorization for development. The decision of the Director to revoke the Emergency Permit may be appealed to the Planning Commission.

The project description is as follows:

**The applicant/property owner, Painted Cave Mutual Water Company, applied for an Emergency Permit to replace two existing 22,000 gallon water storage tanks with one 82,000 gallon water storage tank on an approximately 0.42-acre parcel. The proposed water tank will be located in approximately the same location as the existing water tanks. The existing water tanks will be demolished and removed from the subject parcel.**

**The existing water tanks are approximately 8 feet in height and 22 feet in diameter. The proposed water tank will be approximately 12 feet in height and 34 feet in diameter. It will be constructed of steel and the exterior will be painted an unspecified color. A 15,000 gallon water tank also exists on the subject parcel. The proposed project will not affect this water tank.**

The existing grade of the building pad of the existing water tanks will be lowered (cut) approximately 4 feet to create a level building pad. As a result, the elevation of the top of the proposed water tank will be approximately the same elevation as the top of the existing tanks.

The proposed project requires approximately 400 cubic yards of cut and 20 cubic yards of fill. Approximately 380 cubic yards of excess excavation material will be exported from the subject parcel. The excess excavation material will be deposited in a landfill, construction site or other suitable site.

Excess excavation material will be temporarily placed on a relatively flat site located approximately 50 feet northeast of the existing water tanks. The stockpile site is located on an adjoining parcel that totals approximately 3.5-acres. The applicant plans to use the stockpile site as a staging area for hauling as grading takes place. At any time, the applicant only plans to stockpile approximately one-half of the excess excavation material (approximately 200 cubic yards) at the stockpile site.

The proposed project will create a building pad of approximately 0.13 acres, which will allow the future installation of a second 82,000 gallon water storage tank adjacent to the proposed 82,000 gallon water storage tank. (Note: This Emergency Permit only allows one 82,000 gallon water tank. The second future tank would require separate zoning, grading and building permits.) The project also includes a masonry retaining wall that will encircle the building pad of the proposed tank and future tank. The retaining wall will be approximately 3 feet in height.

The subject parcel is an interior lot located approximately 250 feet east of Painted Cave Road. An existing gravel road provides access to the subject parcel. The proposed project will not affect existing access to the subject parcel. The project will not require new utilities or affect existing access to the subject parcel.

The proposed project requires the removal of three small trees on the subject parcel, including a Manzanita (10 feet in height), willow (12 feet in height) and toyon (12 feet in height).

The project will be completed within approximately 15 weeks. The applicant plans to order the proposed water tank as soon as the County issues this Emergency Permit. The manufacturer requires approximately 10 weeks to fabricate and deliver the tank. The contractors will commence work in approximately 8 to 10 weeks and will take approximately three weeks to complete demolition, grading and installation activities. The applicant plans to implement water consumption reduction measures and temporary reserve capacity (mobile rental water tanks) to minimize service impacts during the period of reduced water capacity.

The subject parcel and the adjoining parcels are zoned Residential Ranchette with a 10-acre minimum lot size (RR-10). The subject parcel is shown as Assessor's Parcel Number 153-131-002. It does not have a site address, but adjoins 0.69-acre parcel located at 2782 Painted Cave Road. The 3.5-acre parcel that adjoins the subject parcel to the northeast

(stockpile site) is shown as Assessor's Parcel Number 153-150-020 and located at 2764 Painted Cave Road. Both parcels are located within the Second Supervisorial District.

This project description was prepared using the following project plans:

**Overall Site Plan, Preliminary Concept, Painted Cave Mutual Water Company (Sheet 1 of 2, Water Resource Engineering Associates, March 12, 2009)**

**Grading Plan, Preliminary Concept, Painted Cave Mutual Water Company (Sheet 2 of 2, Water Resource Engineering Associates, March 12, 2009)**

2. An application(s) for the required zoning permits necessary to validate the emergency work as permanent shall be submitted by the applicant to the Planning and Development Department no later than 30 days following the issuance of this Emergency Permit. The zoning permits required for the proposed emergency work include a Minor Conditional Use Permit and Zoning Clearance pursuant to Table 2-7 ("Water Supply and Wastewater Facilities") in Section 35.23.030 ("Residential Zone Allowable Land Uses") and Section 35. 82.060.G.2.b ("Requirements Prior to Commencement of Conditionally Permitted Uses") of the Santa Barbara County Land Use and Development Code.
3. Any materials required for a completed application, as identified in the initial review of the original application required pursuant to Condition #2 above, shall be submitted within 90 days after written notification of the application deficiencies is provided to the applicant. This time period may be extended by the Director.
4. Only that emergency work specifically requested and deemed an emergency for the specific property mentioned is authorized. Any additional emergency work requires separate authorization from the Director. The work authorized herein must be commenced within 15 weeks of the date of issuance of this Emergency Permit.
5. This permit does not preclude the necessity to obtain authorization and/or permits from other Departments or agencies. In part, the emergency work requires a Grading Permit and Building Permit from the Santa Barbara County Building and Safety Division.
6. The Director may order the work authorized under this Emergency Permit to stop immediately if it is determined that unanticipated and substantial adverse environmental effects may occur with continued construction.
7. **Washout Area.** During construction, washing of concrete trucks, paint equipment or similar activities shall occur only in areas where polluted water and materials can be contained for subsequent removal. Wash water shall not be discharged to the highway, ditches, creeks or wetlands. Areas designated for washing functions shall be at least 100 feet from any waterbody or sensitive biological resources. The location(s) of the washout area(s) shall be clearly noted at the construction site with signs. **Timing:** The washout area(s) shall be in place and maintained throughout construction activities. **Monitoring:** P&D staff shall spot check for compliance during construction activities.



8. **Erosion and Sediment Control Measures.** Best available erosion and sediment control measures shall be implemented during demolition, grading and construction activities. Best available erosion and sediment control measures may include but are not limited to the use of sediment basins, gravel bags, silt fences, geo-bags or gravel and geotextile fabric berms, erosion control blankets, coir rolls, jute net and straw bales. Storm drain inlets shall be protected from sediment-laden waters by use of inlet protection devices such as gravel bag barriers, filter fabric fences, block and gravel filters, and excavated inlet sediment traps. Sediment control measures shall be maintained for the duration of the demolition, grading and construction periods and until graded areas have been stabilized by structures, long-term erosion control measures or landscaping. Construction entrances and exits shall be stabilized using gravel beds, rumble plates or other measures to prevent sediment from being tracked onto adjacent roadways. Any sediment or other materials tracked off site shall be removed the same day as they are tracked using dry cleaning methods. **Timing:** Erosion and sediment control measures shall be maintained throughout demolition, grading and construction activities. **Monitoring:** P&D staff shall spot check for compliance during demolition, grading and construction activities.
9. **Fugitive Dust.** Dust generated by development activities shall be kept to a minimum with a goal of retaining dust on the site. The applicant shall follow the dust control measures listed below:
- a. During clearing, grading, earth moving or excavation of cut or fill materials, water trucks or sprinkler systems are to be used to prevent dust from leaving the project site and to create a crust after each day's activities cease.
  - b. During construction, water trucks or sprinkler systems shall be used to keep all areas of vehicle movement damp enough to prevent dust from leaving the site. At a minimum, this must include wetting down such areas in the later morning and after work is completed for the day and whenever wind exceeds 15 miles per hour.
  - c. Soil stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation.
- Timing:** All dust control measures shall be adhered to during all demolition, grading and construction activities. **Monitoring:** P&D staff shall spot check for compliance during demolition, grading and construction activities.
10. **Off-street Construction Parking.** All construction-related vehicles, equipment staging and storage areas shall be located onsite and outside of the road and highway right of way of Painted Cave Road. The applicant shall provide all construction personnel with a written notice of this requirement and a description of approved parking, staging and storage areas. The notice shall also include the name and phone number of the applicant's designee responsible for enforcement of this restriction. **Timing:** This restriction shall be maintained throughout construction. **Monitoring:** P&D staff shall spot check for compliance and respond to any complaints during demolition, grading and construction activities.

11. **Construction Hours.** Demolition, grading and construction activities shall be limited to the hours between 7:00 a.m. and 4:30 p.m., Monday through Friday. No construction shall occur on State holidays (e.g., Thanksgiving, Labor Day). Construction equipment maintenance shall be limited to the same hours. Non-noise generating construction activities such as painting are not subject to these restrictions. Two (2) signs stating these restrictions shall be provided by the applicant and posted on site. **Timing:** Signs shall be in place prior to and throughout all demolition, grading and construction activities. Violations may result in suspension of permits. **Monitoring:** P&D staff shall spot check for compliance and respond to any complaints during demolition, grading and construction activities.
12. **Archaeological Resources, Discovery During Construction.** In the event archaeological remains are encountered during grading or other ground disturbing activities, all work shall be stopped immediately or redirected until a P&D qualified archaeologist and Native American representative are retained by the applicant to evaluate the significance of the remains pursuant to a Phase 2 investigation consistent with the County's cultural resources guidelines. If remains are found to be significant, they shall be subject to a Phase 3 mitigation program consistent with the County's cultural resources guidelines and funded by the applicant.
13. **Indemnity and Separation Clauses.** The applicant shall defend, indemnify and hold harmless the County or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees, to attack, set aside, void, or annul, in whole or in part, the County's approval of this Coastal Development Permit. In the event that the County fails promptly to notify the applicant of any such claim, action or proceeding, or that the County fails to cooperate fully in the defense of said claim, this condition shall thereafter be of no further force or effect.
14. **Legal Challenge.** In the event that any condition imposing a fee, exaction, dedication or other mitigation measure is challenged by the applicant in an action filed in a court of law or threatened to be filed therein which action is brought within the time period provided for by law, this approval shall be suspended pending dismissal of such action, the expiration of the limitation period applicable to such action, or final resolution of such action. If any condition is invalidated by a court of law, the entire project shall be reviewed by the County and substitute conditions may be imposed.

## ATTACHMENTS:

- A. Overall Site Plan, Preliminary Concept, Painted Cave Mutual Water Company (Sheet 1 of 2, Water Resource Engineering Associates, March 12, 2009)
- B. Grading Plan, Preliminary Concept, Painted Cave Mutual Water Company (Sheet 2 of 2, Water Resource Engineering Associates, March 12, 2009)

cc: Case File (Allen Bell, Planner)  
Supervisor Janet Wolf, Second District  
Dave Ward, Deputy Director, Development Review Division, P&D  
June Pujo, Supervising Planner, Development Review Division, P&D

Mike Zimmer, Deputy Director, Building and Safety Division, P&D  
Tony Bohnett, Grading Inspector, Building and Safety Division, P&D

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