

**COUNTY OF LOS ANGELES
DEPARTMENT OF PUBLIC WORKS
NEGATIVE DECLARATION FOR LOWER BUSCH WATER TANK**

I. Location and Brief Description

The proposed project is located in the Los Angeles County Waterworks District No. 29, Malibu, at the existing Lower Busch Water Tank site as shown on Exhibit A. The project consists of replacing the existing concrete water tank with a new steel tank. The existing cylindrical 300,000-gallon concrete tank is 24 feet high with an outside diameter of 52 feet. The existing tank is over 50 years old and serves approximately 300 service connections in the surrounding area. In order to meet current domestic and fire protection standards, the District proposes to increase the new tank volume to 380,000 gallons. The proposed steel tank will be approximately 24 feet high with an outside diameter of 59 feet.

II. Mitigation Measures Included in the Project to Avoid Potentially Significant Effects

No significant environmental effects were identified. However, mitigation measures are discussed in Section VI of the Initial Study.

III. Finding of No Significant Effect

Based on the attached Initial Study, it has been determined that the project will not have a significant effect on the environment.

MS:lm

BDL2159.LowerBuschTankND

Attach.

INITIAL STUDY OF ENVIRONMENTAL FACTORS

1. **Project Title:** Lower Busch Water Tank
2. **Lead Agency Name and Address:** County of Los Angeles Department of Public Works, Waterworks and Sewer Maintenance Division, P.O. Box 1460, Alhambra, California 91802-1460.
3. **Contact Person and Phone Number:** Mr. Mondher Saïed - (626) 300-3337
4. **Project Location:** The proposed project site is located in the northwestern portion of Los Angeles County within the City of Malibu, on Busch Drive, as shown on Exhibit A.
5. **Project Sponsor's Name and Address:** County of Los Angeles Department Public Works, Waterworks and Sewer Maintenance Division, P.O. Box 1460, Alhambra, California 91802-1460.
6. **General Plan Designation:** Residential
7. **Zoning:** Single-Family Residence (R-1); Limited Multiple Residence (R-3).
8. **Description of Project:** The project consists of replacing the existing concrete water tank with a new steel tank. The existing cylindrical 300,000-gallon concrete tank is 24 feet high with an outside diameter of 52 feet. The existing tank is over 50 years old and serves approximately 300 service connections in the surrounding area. In order to meet current domestic and fire protection standards, the District proposes to increase the new tank volume capacity to 380,000 gallons. The proposed steel tank will be approximately 24 feet high with an outside diameter of 59 feet. The project facilities will be located within the District's right-of-way.
9. **Surrounding Land Uses and Environmental Setting:**
 - A. **Project Site** - The proposed project site is located in the northwestern portion of Los Angeles County within the City of Malibu, on Busch Drive, as shown on Exhibit A. The site is located at an elevation of 300 feet above sea level. The proposed tank will be built on the same site as the existing tank.

B. Surrounding Properties - The topography of the surrounding project is rather mountainous. The surrounding area is mostly residential interspersed with vacant lots. There is a row of houses on both sides of Busch Drive where the tank is located. Animal life in the surrounding area includes domesticated dogs, rodents, birds, and insects. No known endangered species or species of special concern exist within the project limit.

10. **Other agencies whose approval is required (and permits needed)**

1. California Coastal Commission.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" or "Potentially Significant Unless Mitigated," as indicated by the checklist on the following pages.

- | | | |
|--|---|---|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture Resources | <input type="checkbox"/> Air Quality |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Geology/Soils |
| <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Hydrology/Water Quality | <input type="checkbox"/> Land Use/Planning |
| <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Noise | <input type="checkbox"/> Population/Housing |
| <input type="checkbox"/> Public Services | <input type="checkbox"/> Recreation | <input type="checkbox"/> Transportation/Traffic |
| <input type="checkbox"/> Utilities/Service Systems | <input type="checkbox"/> Mandatory Findings of Significance | |

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

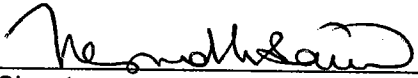
- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

- I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

- I find that although the proposed project would have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier ENVIRONMENTAL IMPACT REPORT or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier ENVIRONMENTAL IMPACT REPORT or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.



 Signature

August 18, 2003

 Date

Mondher Saied

 Printed Name

Los Angeles County Waterworks Districts

 For

EVALUATION OF ENVIRONMENTAL IMPACTS

- 1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants based on a project specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project level, indirect as well as direct, and construction as well as operational impacts.
- 3) "Potential Significant Impact" is appropriate if an effect is significant or potentially significant, or if the lead agency lacks information to make a finding of insignificance. If there are one or more "Potential Significant Impact" entries when the determination is made, an Environmental Impact Report (EIR) is required.
- 4) "Less Than Significant With Mitigation Incorporation" applies where the incorporation of mitigation measures has reduced an effect from "Potential Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVIII, "Earlier Analysis," may be cross-referenced).
- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other California Environmental Quality Act process, an effect has been adequately analyzed in an earlier EIR or Negative Declaration. Section 15063(c)(3)(D). Earlier analysis are discussed in Section XVIII at the end of the checklist.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). See the sample question below. A source list should be attached and other sources used or individuals contacted should be cited in the discussion.

**LOWER BUSCH TANK
ENVIRONMENTAL CHECKLIST FORM**

		Potential Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
I. AESTHETICS - Would the project:					
	a)	Have a substantial adverse effect on a scenic vista?			X
	b)	Substantially damage scenic resources, including, but not limited to, trees, rock outcrops, and historic buildings within a State scenic highway?			X
	c)	Substantially degrade the existing visual character or quality of the site and its surroundings?		X	
	d)	Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?			X
II. AGRICULTURE RESOURCES - In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:					
	a)	Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to nonagricultural use?			X
	b)	Conflict with existing zoning for agricultural use or a Williamson Act contract?			X
	c)	Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to nonagricultural use?			X
III. AIR QUALITY - Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:					
	a)	Conflict with or obstruct implementation of the applicable air quality plan?			X
	b)	Violate any air quality standard or contribute substantially to an existing or projected air quality violation?			X
	c)	Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is nonattainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for zone precursors)?			X
	d)	Expose sensitive receptors to substantial pollutant concentrations?		X	
	e)	Create objectionable odors affecting a substantial number of people?		X	

		Potential Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
IV. <u>BIOLOGICAL RESOURCES</u> - Would the project:					
	a)	Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?			X
	b)	Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?			X
	c)	Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?			X
	d)	Interfere substantially with the movement of any native resident, migratory fish, or wildlife species; or with established native resident or migratory wildlife corridors; or impede the use of native wildlife nursery sites?			X
	e)	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?			X
	f)	Conflict with the provisions of an adopted Habitat Conservation Plan; Natural Community Conservation Plan; or other approved local, regional, or state habitat conservation plan?			X
V. <u>CULTURAL RESOURCES</u> - Would the project:					
	a)	Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?			X
	b)	Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?			X
	c)	Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?			X
	d)	Disturb any human remains, including those interred outside of formal cemeteries?			X

		Potential Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
VI. <u>GEOLOGY AND SOILS</u> - Would the project:					
	a)	Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:			
	i)	Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State geologist for the area or based on other substantial evidence of a know fault? Refer to Division of Mines and Geology Special Publication 42.			X
	ii)	Strong seismic ground shaking?		X	
	iii)	Seismic-related ground failure, including liquefaction?		X	
	iv)	Landslides?			X
	b)	Result in substantial soil erosion or the loss of topsoil?			X
	c)	Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?		X	
	d)	Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?		X	
	e)	Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?			X
VII. <u>HAZARDS AND HAZARDOUS MATERIALS</u> - Would the project:					
	a)	Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?			X
	b)	Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?			X
	c)	Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?			X
	d)	Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code, Section 65962.5, and, as a result, would it create a significant hazard to the public or the environment?			X

		Potential Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
	e)	For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?			X
	f)	For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?			X
	g)	Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?			X
	h)	Expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?			X
VIII. HYDROLOGY AND WATER QUALITY - Would the project:					
	a)	Violate any water quality standards or waste discharge requirements?			X
	b)	Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of preexisting nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?			X
	c)	Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?			X
	d)	Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?			X
	e)	Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?			X
	f)	Otherwise substantially degrade water quality?			X
	g)	Place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?			X
	h)	Place within a 100-year flood hazard area structures which would impede or redirect flood flows?			X

			Potential Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
	i)	Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam?				X
	j)	Inundation by seiche, tsunami, or mudflow?				X
IX. LAND USE AND PLANNING - Would the project:						
	a)	Physically divide an established community?				X
	b)	Conflict with any applicable land use plan, policy, or regulation of any agency with jurisdiction over the project (including, but not limited to, the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?				X
	c)	Conflict with any applicable habitat conservation plan or natural community conservation plan?				X
X. MINERAL RESOURCES - Would the project:						
	a)	Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				X
	b)	Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?				X
XI. NOISE - Would the project result in:						
	a)	Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or ordinance or applicable standards of other agencies?			X	
	b)	Exposure of persons to or generation of excessive ground-borne vibration or ground-borne noise levels?			X	
	c)	A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?			X	
	d)	A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?			X	
	e)	For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				X
	f)	For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				X

		Potential Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
XII. POPULATION AND HOUSING - Would the project:					
	a)	Induce substantial population growth in an area, either directly (e.g., by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure)?			X
	b)	Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?			X
	c)	Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?			X
XIII. PUBLIC SERVICES					
	a)	Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities; need for new or physically altered governmental facilities; the construction of which could cause significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:			
		Fire protection?			X
		Police protection?			X
		Schools?			X
		Parks?			X
		Other public facilities?			X
XIV. RECREATION					
	a)	Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?			X
	b)	Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?			X

		Potential Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
XV. TRANSPORTATION/TRAFFIC - Would the project:					
	a)	Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?		X	
	b)	Exceed, either individually or cumulatively, a level of service standard established by the County Congestion Management Agency for designated roads or highways?			X
	c)	Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?			X
	d)	Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?			X
	e)	Result in inadequate emergency access?			X
	f)	Result in inadequate parking capacity?			X
	g)	Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?			X
XVI. UTILITIES AND SERVICE SYSTEMS - Would the project:					
	a)	Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?			X
	b)	Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?			X
	c)	Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?			X
	d)	Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?			X
	e)	Result in a determination by the wastewater treatment provider, which serves or may serve the project, that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?			X
	f)	Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?			X
	g)	Comply with federal, state, and local statutes and regulations related to solid waste?			X

		Potential Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
XVII. MANDATORY FINDINGS OF SIGNIFICANCE					
a)	Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?				X
b)	Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)				X
c)	Does the project have environmental effects, which will cause substantial adverse effects on human beings either directly or indirectly?				X

XVIII. DISCUSSION OF WAYS TO MITIGATE SIGNIFICANT EFFECTS

Section 15041 (a) of the State California Environmental Quality Act guidelines states that a lead agency for a project has authority to require changes in any or all activities involved in the project in order to lessen or avoid significant effects on the environment. No significant effects have been identified. However, the following mitigation measures have been included:

Air Quality

- Control dust by appropriate means, such as watering and/or sweeping.
- Compliance with applicable air pollution control regulations.

Geology and Soils

- Proper removal and disposal of excess soils and excavated materials.

Hazards and Hazardous Materials

- Proper maintenance of all construction equipment.
- Compliance with all applicable laws and ordinances regarding chemical cleanup.

Hydrology and Water Quality

- Compliance with all applicable Best Management Practices as required by the National Pollutant Discharge Elimination System permit issued to the County by the Regional Water Quality Control Board.

Noise

- Compliance with all applicable noise and ordinances during construction.
- Construction activities would be restricted to the County appointed construction times.

Transportation/Traffic

- Advance notification of all street and/or lane closures and detours to all emergency service agencies.
- Clear delineations and barricades to designate through traffic lanes.
- Compliance with all applicable laws and ordinances regarding the transportation routes for the haul of material.

ATTACHMENT A
DISCUSSION OF ENVIRONMENTAL FACTORS
LOWER BUSCH TANK

I. AESTHETICS - Would the project:

a) *Have a substantial adverse effect on a scenic vista?*

No impact. The proposed tank will not be constructed in or near designated scenic vistas or scenic highways within the project area. Therefore, the project will not result in adverse impacts on scenic vistas.

b) *Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?*

No impact. The proposed project will not affect scenic resources, trees, rock outcroppings, or historical buildings within a state scenic highway. Thus, the project will have no impact on a state scenic highway.

c) *Substantially degrade the existing visual character or quality of the site and its surroundings?*

Less than significant impact. The proposed steel tank will replace and increase the capacity of an existing 50-year-old concrete tank by 80,000 gallons. The aboveground dimensions of the proposed tank will be roughly the same as the existing tank but the diameter will increase 7 feet. The proposed tank is not expected to have a significant visual effect on the surrounding properties due to the existing tree screening and limited dimensional increase. Therefore, the proposed project will have a less than significant visual impact on the site and its surroundings. The tank will be coated with a non reflective natural beige-colored epoxy.

d) *Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?*

No impact. The proposed project will not include additional lighting systems or propose structures that could result in glare. Therefore, the proposed project will have no impact on day or nighttime views in the area.

II. **AGRICULTURE RESOURCES** - *In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:*

- a) ***Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland) as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to nonagricultural use?***

No impact. The proposed project location is not used for agricultural purposes or as farmland. Therefore, the project will not convert any farmland to nonagricultural use. Thus, the project will have no impact on farmland.

- b) ***Conflict with existing zoning for agricultural use or a Williamson Act contract?***

No impact. There is no active agriculture and no Williamson Act in the project area. Thus, the proposed project will not impact any existing zoning for agricultural uses or cancellation of Williamson Act contracts.

- c) ***Involve other changes in the existing environment, which, due to their location or nature, could result in conversion of Farmland to nonagricultural use?***

No impact. The proposed project does not involve changes in the existing environment that could result in the conversion of farmland to nonagricultural use.

III. **AIR QUALITY** - *Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:*

- a) ***Conflict with or obstruct implementation of the applicable air quality plan?***

No impact. The County of Los Angeles Department of Public Works currently complies with dust control measures enforced by the South Coast Air Quality Management District and the Air Quality Management Plan. The proposed project will not conflict with current implementation of the applicable air quality plan.

- b) ***Violate any air quality standard or contribute substantially to an existing or projected air quality violation?***

No impact. Aside from temporary, short-term impacts during construction activities, which are anticipated to occur from 7 a.m. to 5:30 p.m., Monday through Friday, the proposed project will have no effect upon air quality. In addition, the Los Angeles County Department of Public Works' standard contract documents require construction contractors to equip all machinery and equipment with suitable air pollution control devices, and to use dust control measures such as sweeping and/or watering to control dust emissions created by construction activity, thereby further limiting potential impacts. When transporting excess excavated material, the contractor will be required to cover material with a tarp to reduce dust emissions and prevent falling debris.

- c) ***Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is nonattainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?***

No impact. Project specifications will require the contractor to comply with all federal and state emission control regulations. The proposed project construction will not lead to emissions, which exceed thresholds for ozone precursors. Therefore, the proposed project will have no impact on ambient air quality standards.

- d) ***Expose sensitive receptors to substantial pollutant concentrations?***

Less than significant impact. Sensitive receptors in the area may be subjected to dust and construction equipment emission during project construction. Project specifications would require the contractor to control dust by appropriate means such as sweeping and/or watering and comply with all applicable air pollution control regulations. The impact is considered to be less than significant since the exposure would be temporary and precautions will be taken to mitigate exposure to pollutants.

- e) ***Create objectionable odors affecting a substantial number of people?***

Less than significant impact. Objectionable odors may be generated from various equipment during construction activities. These types of odors would be short-term and temporary. Thus, the impact of creating objectionable odor is considered less than significant.

IV. BIOLOGICAL RESOURCES - Would the project:

- a) *Have a substantial adverse effect either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?*

No impact. No sensitive or special status species as identified by the California Department of Fish and Game or the U.S. Fish and Wildlife Service are known to exist at the project site. Thus, the proposed project will have no impact on sensitive or special status species or their respective habitat.

- b) *Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?*

No impact. Construction activities will be performed within the existing tank site right-of-way. Therefore, there will be no adverse impact on riparian habitat or other sensitive natural community.

- c) *Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?*

No impact. The proposed project does not involve any federally protected wetland habitat. Therefore, the proposed project will not impact wetland habitat.

- d) *Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?*

No impact. The site does not provide important corridors for wildlife movement or nursery opportunities. Therefore, there will be no impact on resident or migratory fish or wildlife nursery sites.

- e) ***Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?***

No impact. No known locally protected biological resources exist at the project site. Therefore, the proposed project will not conflict with any local policies or ordinances protecting biological resources.

- f) ***Conflict with the provisions of an adopted Habitat Conservation Plan; Natural Community Conservation Plan; or other approved local, regional, or state Habitat Conservation Plan?***

No impact. No known adopted habitat conservation plan or natural community conservation plan exists within the project site. Therefore, the proposed project will have no impact on any of these plans.

V. **CULTURAL RESOURCES - Would the project:**

- a-d) ***Cause a substantial adverse change in the significance of a historical or archaeological resource as defined in Section 15064.5; directly or indirectly destroy a unique paleontological resource, site, or unique geologic feature; or disturb any human remains, including those interred outside formal cemeteries?***

No impact. No known paleontological, archaeological, and historical resources exist in the project area. However, if any cultural resources, including human remains, are discovered during construction, the contractor shall cease excavation and contact a specialist to examine the project sites as required by project specifications. Thus, the effects of the proposed project on these resources are not considered significant.

VI. GEOLOGY AND SOILS - Would the project:

a) ***Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:***

- i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the state geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.

No impact. The closest fault to the project site is the Malibu Coast fault, which is located at 1.1 miles. Therefore, we do not anticipate a fault rupture occurring at the project site. Also, the tank is not located within the Alquist-Priolo Earthquake Fault Zoning Map. Thus, the location of the project site has no potential substantial adverse effects.

ii) ***Strong seismic ground shaking?***

Less than significant impact. Although the project area has not been the epicenter of any known earthquake, the Malibu Coast fault is capable of causing an earthquake of magnitude 6.7. The proposed steel tank will be supported by a cast-in-place concrete pile foundation that will be designed to sustain this seismic activity. Therefore, the proposed project will have a less than significant impact related to seismic ground shaking.

iii) ***Seismic-related ground failure, including liquefaction?***

Less than significant impact. According to the geotechnical investigation conducted in May 2003, by the Los Angeles County Department of Public Works, Geotechnical & Materials Engineering Division, there is a potential for liquefaction to occur at the project site area. The proposed tank will be supported on a cast-in-place concrete pile foundation as recommended by the geotechnical report to mitigate the potential liquefaction condition. Therefore, the project will have a less than significant impact on seismic-related ground failure.

iv) Landslides?

No impact. According to the geotechnical investigation conducted in May 2003, the building site for the proposed structure is free of hazards from landslides. The proposed tank is located on a rather flat terrain. There does not appear to be any deep-seated, active landsliding within the project area. Therefore, there is no impact from landslides.

b Result in substantial soil erosion or the loss of topsoil?

No impact. The proposed project consists of replacing the existing water tank on the same general location. Therefore, the proposed project will have no impact on the loss of topsoil or soil erosion.

c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?

Less than significant impact. See Section VI.a (ii-iv)

d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?

Less than significant impact. According to the geotechnical investigation conducted in May 2003, there is a 5- to 7-foot layer of clay that has a potential of being expansive. The weight of the tank combined with a 12-inch thick reinforced concrete pile cap will resist any significant structural damage from a potential expansive soil. Therefore, soil expansion will have a less than significant impact on the proposed tank.

e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of waste water?

No impact. All existing wastewater disposal systems will remain intact and there are no new septic facilities proposed at the project site. Therefore, the project will have no impact on the use of septic tanks or alternative wastewater disposal systems.

VII. HAZARDS AND HAZARDOUS MATERIALS - Would the project:

- a) ***Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?***

No impact. The proposed project does not involve the routine transport, use, or disposal of hazardous materials. Therefore, the project will have no impact on the transport, use, or disposal of hazardous materials.

- b-c) ***Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment or emit hazardous emissions or handle hazardous materials, substances, or wastes within one-quarter mile of an existing or proposed school?***

No impact. The proposed new tank will not involve potential explosives, waste or any hazardous substances. Los Angeles County Department of Public Works' standard contract documents require that construction contractors comply with safety standards specified in Title 8, California Code of Regulations, as enforced by Cal/OSHA, thereby limiting potential impacts during construction.

- d) ***Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code, Section 65962.5, and as a result, would it create a significant hazard to the public or the environment?***

No impact. The project site is not known to be a hazardous materials site. Therefore, the proposed project would not create a significant hazard to the public or the environment.

- e) ***For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?***

No impact. The proposed project area is not within an airport land use plan and is not within a two-mile radius of a public airport or public use airport. Therefore, the proposed project will not result in safety hazards for people residing or working in the project area.

- f) ***For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?***

No impact. The proposed project is not located within the vicinity of a private airstrip. Thus, the proposed project will have no impact relating to a safety hazard for people residing or working in the project area.

- g) ***Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?***

No impact. The proposed project will result in a short-term increase in the number of vehicle trips over the course of construction as a result of construction traffic; however, the impact upon traffic congestion will not be significant. In addition, the construction contractor(s) will be required by Los Angeles County Department of Public Works' standard contract documents to provide adequate and safe traffic control measures, including adequate access to adjacent properties, that will both accommodate local traffic and ensure the safety of travelers within the project area, thereby further limiting potential impacts.

- h) ***Expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?***

No impact. The proposed project would not expose people or structures to any significant risks involving wildland fires. Therefore, the proposed project is not expected to result in adverse impacts related to risks associated with wildland fires.

VIII. HYDROLOGY AND WATER QUALITY - Would the project:

- a) ***Violate any water quality standards or waste discharge requirements?***

No impact. The contractor is required to implement Best Management Practices as required by the National Pollutant Discharge Elimination System permit issued to the County by the Regional Water Quality Control Board to minimize construction impacts on water quality. Therefore, the project will have no impact on the water quality standards or waste discharge requirements.

- b) ***Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of preexisting nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?***

No impact. The proposed project would not result in the use of any water that would result in a net deficit in aquifer volume or a lowering of the groundwater table. As a result, the project would not deplete groundwater supplies. Therefore, no impacts to groundwater supplies or groundwater recharge are anticipated to occur.

- c-d) ***Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?***

No impact. The construction of the water tank will not alter the present flow patterns. Therefore, the proposed project will have no impact on erosion, siltation, or on the rate or amount of surface runoff.

- e) ***Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?***

No impact. The construction of the project will not result in additional surface water runoff. Thus, the impact of the proposed project on the existing or planned stormwater drainage systems are not expected to have adverse affects.

- f) ***Otherwise substantially degrade water quality?***

No impact. The contractor will adhere to applicable Best Management Practices to minimize any degradation to water quality during construction. Therefore, the proposed project will not impact or degrade water quality.

- g) ***Place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?***

No impact. The proposed project will not place any housing within a 100-year flood hazard area.

- h) Place within a 100-year flood hazard area structures, which would impede or redirect flood flows?**

No impact. The proposed project will not place any structures within a 100-year flood hazard area, which may impede or redirect flood flows.

- i) Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam?**

No impact. The proposed project will not expose people or structures to a significant risk of loss, injury, or death involving flooding.

- j) Inundation by seiche, tsunami, or mudflow?**

No impact. The project site is in hilly terrain with no water body in its proximity. Therefore, project will not cause any inundation by seiche, tsunami, or mudflow.

IX. LAND USE AND PLANNING - Would the project:

- a) Physically divide an established community?**

No impact. The proposed tank will be constructed in the same general location as the existing tank and will not physically divide the community. Therefore, the project will have no impact on physically dividing an established community.

- b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?**

No impact. The proposed project does not conflict with any applicable land use plan, policy, or regulation of any of the agencies with jurisdiction.

- c) Conflict with any applicable habitat conservation plan or natural community conservation plan?**

No impact. The proposed project will not conflict with any habitat conservation plan or natural community conservation plan adopted by any agency or community.

X. **MINERAL RESOURCES - Would the project :**

- a) ***Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?***

No impact. The construction of the proposed project would not deplete any known mineral resources. Therefore, no impact is anticipated.

- b) ***Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?***

No impact. The project site is not identified as a mineral resource recovery site in the local general plan, specific plan, or other land use plan. Therefore, the proposed project will have no impact on locally important mineral resource recovery site.

XI. **NOISE - Would the project result in:**

- a) ***Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?***

Less than significant impact. Noise levels within the proposed project site may increase during construction. However, the impact is temporary and will be subject to existing noise ordinances and standards set by U.S. Occupational Safety and Health Administration. The contractor will be required to comply with the construction hours specified in the County noise control ordinances. Overall, since the construction period will last for a short period, the project would not expose people to a permanent impact resulting from increased noise levels. Thus, the impact to severe noise levels is considered less than significant.

- b) ***Exposure of persons to or generation of excessive ground-borne vibration or ground-borne noise levels?***

Less than significant impact. There are no existing or planned uses on or in the immediate vicinity of the project site that would result in the generation of excessive ground-borne vibrations. Although some ground-borne vibrations are expected to be generated from the equipment that may be used during demolition of the existing tank or the construction of the new tank, the impact associated with this vibration will be short term and below a level of significance. Therefore, the proposed project will not result in significant adverse impacts related to exposure of persons to excessive ground-borne vibrations or noise levels.

- c-d) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project or a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?**

Less than significant impact. During the construction phase of the project, there will be some increase in existing noise levels. However, the proposed project contains no noise-generating features that will result in a permanent increase in ambient noise level. Due to the short-term nature of the project, the impact will be less than significant.

- e-f) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels or for a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?**

No impact. The proposed project is not located within two miles of a public airport. Therefore, the proposed project will not expose people residing or working in the area to excessive noise levels.

XII. POPULATION AND HOUSING - Would the project:

- a) Induce substantial population growth in an area either directly (e.g., by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure)?**

No impact. Construction of the proposed project is not expected to result in population growth in the area directly or indirectly.

- b-c) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere, or displace substantial numbers of people necessitating the construction of replacement housing elsewhere?**

No impact. The proposed project will not displace any residents or houses, which would create a demand for additional housing elsewhere.

XIII. PUBLIC SERVICE

- a) **Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services: Fire protection, police protection, schools, parks, other public facilities?**

No impact. The proposed project will not affect public service and will not result in a need for new or altered governmental services in fire protection, police protection, schools, parks, or other public facilities.

XIV. RECREATION

- a) ***Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?***

No impact. The proposed project would not increase the use of existing neighborhood or regional parks.

- b) ***Does the project include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?***

No impact. The proposed project does not include nor require the construction or expansion of any recreational facilities.

XV. TRANSPORTATION/TRAFFIC - Would the project:

- a) ***Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?***

Less than significant impact. The proposed project will result in a short-term increase in the number of vehicle trips over the course of construction as a result of construction traffic; however, the impact upon traffic congestion will not be significant.

- b) ***Exceed, either individually or cumulatively, a level of service standard established by the County Congestion Management Agency for designated roads or highways?***

No impact. The minor increase in traffic in the project area due to construction vehicles is temporary. Overall, the proposed project will not directly or indirectly cause traffic to exceed a level of service standard established by the County Congestion Management Agency for roads or highways in the project area.

- c) ***Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?***

No impact. The proposed project will have no impact on air traffic patterns.

- d) ***Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?***

No impact. The proposed project does not involve any design features that are known to constitute safety hazards. Therefore, the project will have no impact on hazards due to design features.

- e) ***Result in inadequate emergency access?***

No impact. The construction of this project will not result in inadequate emergency access. Therefore, the project would have no impact on hazards due to design features.

- f) ***Result in inadequate parking capacity?***

No impact. No impact to parking capacity is expected.

- g) ***Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?***

No impact. The proposed project will not conflict with adopted policies, plans, or programs supporting alternative transportation.

XVI. UTILITIES AND SERVICE SYSTEMS - Would the project:

- a) ***Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?***

No impact. The project will not result in contamination or an increase in discharge of wastewater that might affect wastewater treatment. Thus, the proposed project will have no impact on the wastewater treatment requirements of the Regional Water Quality Control Board.

- b) ***Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?***

No impact. The proposed project will not result in the construction of new water or wastewater treatment facilities. Therefore, no impact is anticipated.

- c) ***Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?***

Less than significant impact. In order to provide adequate site drainage and to accommodate tank overflow discharge, the project will include the construction of a short section of 24-inch-diameter drain pipe to control the on-site drainage. This drain will outlet to the improved street. The proposed on-site drainage will not cause any significant environmental effect. Therefore, the impact upon the environment will not be significant.

- d) ***Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?***

No impact. The proposed project will not result in a need for additional water supplies. Therefore, the project will have no impact on existing water supply entitlements and resources.

- e) ***Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?***

No impact. No increase in the number of wastewater discharge facilities will occur as a result of the proposed project. Therefore, the proposed project will have no impact on wastewater treatment.

- f-g) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs and comply with federal, state, and local statutes and regulations related to solid waste?**

No impact. Construction of the proposed project may result in excess excavated materials and construction debris. However, the amount of solid waste generated will be minimal. Project specifications will require the contractor to dispose of these materials in accordance to all applicable federal, state, or local regulations related to solid waste. The proposed project will not result in a facility that would generate solid waste. Therefore, there will be no impact on landfill capacity.

XVII. MANDATORY FINDINGS OF SIGNIFICANCE

- a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?**

No impact. Based on findings in this environmental review, the proposed project does not have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish and wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, or eliminate important examples of the major periods of California history or prehistory. Therefore, the impact of the proposed project on plant community is not expected to cause an adverse impact to the environment.

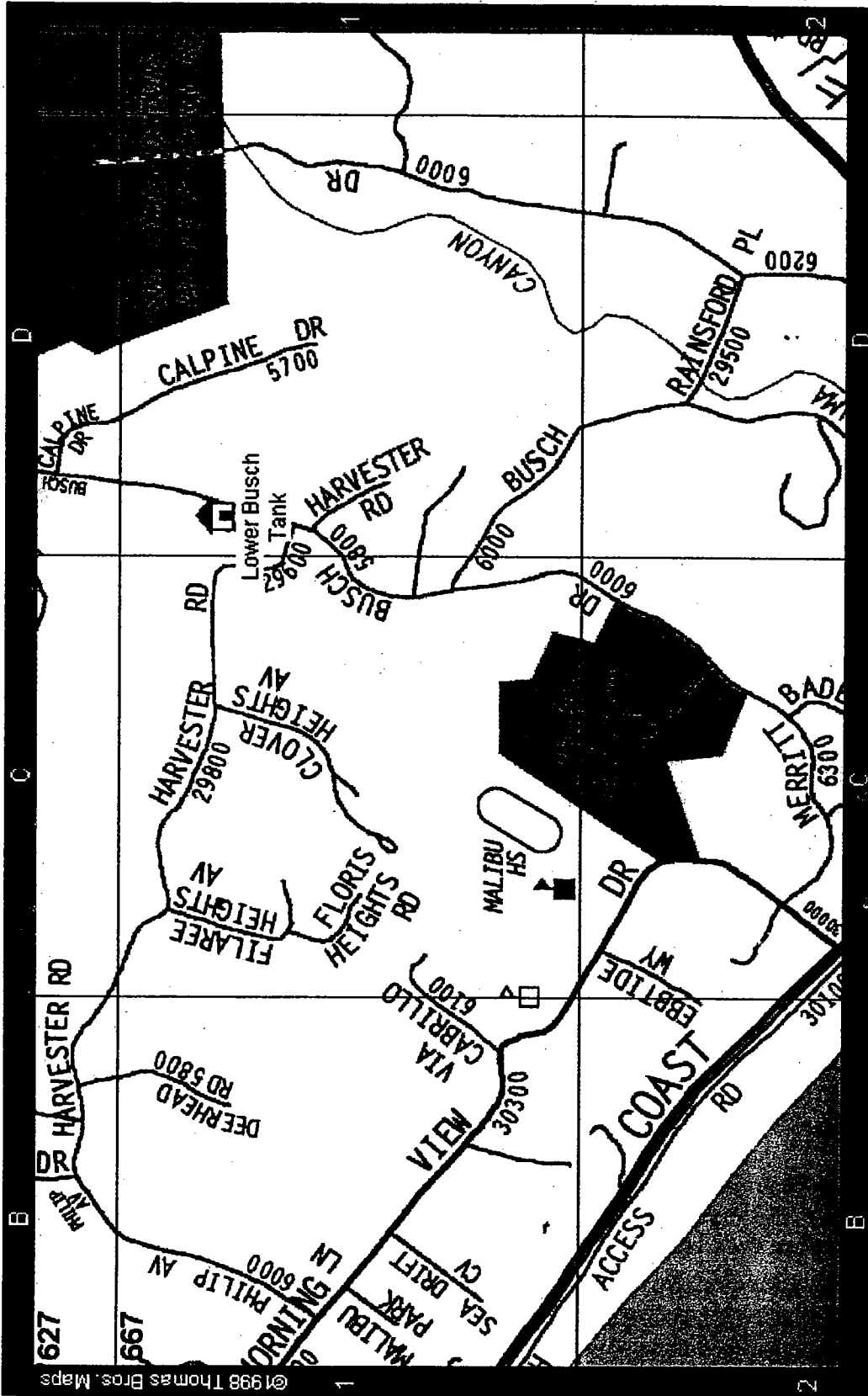
- b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects?)**

No impact. The purpose of the proposed project is to replace the aging water tank and to maintain current water service for the residents. The proposed project would not have impacts that are individually limited but cumulatively considerable.

c) ***Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?***

No impact. The proposed project would not have a direct or indirect detrimental environmental impact on human beings.

EXHIBIT A



©1998 Thomas Bros. Maps

VICINITY MAP
LOWER BUSCH TANK
5731 South Busch Drive, Malibu

Enclosure A

List of Agencies that reviewed draft Negative Declaration

State Clearinghouse – State of California Governor's Office of Planning and Research

Resources Agency

California Coastal Commission

Department of Fish and Game, Region 5

Department of Parks and Recreation

Department of Water Resources

Caltrans, District 7

State Water Resources Control Board, Division of Water Quality

Regional Water Quality Control Board, Region 4

Native American Heritage Commission

State Lands Commission

Supervisor, Third District

City of Malibu

County of Los Angeles Department of Regional Planning



Gray Davis
Governor

STATE OF CALIFORNIA
Governor's Office of Planning and Research
State Clearinghouse



Tal Finney
Interim Director

September 23, 2003

Mondher Saied
Los Angeles County Department of Public Works
1000 South Fremont Avenue
Bldg A-9 East, 4th Floor
Alhambra, CA 91803

Subject: Lower Busch Tank Replacement
SCH#: 2003081124

Dear Mondher Saied:

The State Clearinghouse submitted the above named Negative Declaration to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on September 22, 2003, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Terry Roberts
Director, State Clearinghouse

Enclosures

cc: Resources Agency

**Document Details Report
State Clearinghouse Data Base**

SCH# 2003081124
Project Title Lower Busch Tank Replacement
Lead Agency Los Angeles County Department of Public Works

Type Neg Negative Declaration
Description The existing cylindrical 300,000 gallon tank is over 50 years old and serves approximately 300 service connections in the surrounding area. To meet current domestic and fire protection standards, the District proposes to increase the new tank volume to 380,000-gallon. The proposed steel tank will also be approximately 24 feet high above ground with an outside diameter of 59 feet.

Lead Agency Contact

Name Mondher Saied
Agency Los Angeles County Department of Public Works
Phone 626 300-3337 **Fax**
email
Address 1000 South Fremont Avenue
Bldg A-9 East, 4th Floor
City Alhambra **State** CA **Zip** 91803

Project Location

County Los Angeles
City Malibu
Region
Cross Streets Busch Drive, off Pacific Coast Highway
Parcel No.
Township **Range** 19W **Section** **Base** SB

Proximity to:

Highways 1
Airports
Railways
Waterways Pacific Ocean, La Chusa, Los Alisos, San Nicholas, Encinal & Steep Hill Creeks
Schools Malibu High School
Land Use Single-Family Residential/RR2 (Rural Residential)

Project Issues Aesthetic/Visual; Agricultural Land; Air Quality; Archaeologic-Historic; Drainage/Absorption; Forest Land/Fire Hazard; Geologic/Seismic; Minerals; Noise; Population/Housing Balance; Public Services; Recreation/Parks; Schools/Universities; Septic System; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Water Quality; Water Supply; Wetland/Riparian; Wildlife; Landuse; Cumulative Effects

Reviewing Agencies Resources Agency; California Coastal Commission; Department of Fish and Game, Region 5; Department of Parks and Recreation; Department of Water Resources; Caltrans, District 7; State Water Resources Control Board, Division of Water Quality; Regional Water Quality Control Board, Region 4; Native American Heritage Commission; State Lands Commission

Date Received 08/22/2003 **Start of Review** 08/22/2003 **End of Review** 09/22/2003

Enclosure B



COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

"To Enrich Lives Through Effective and Caring Service"

JAMES A. NOYES, Director

900 SOUTH FREMONT AVENUE
ALHAMBRA, CALIFORNIA 91803-1331
Telephone: (626) 458-5100
www.ladpw.org

ADDRESS ALL CORRESPONDENCE TO:
P.O. BOX 1460
ALHAMBRA, CALIFORNIA 91802-1460

March 11, 2004

IN REPLY PLEASE

REFER TO FILE: **W-0**

Mr. Stephen J. Buswell, IGR/CEQA Branch Chief
California Department of Transportation
District 7, Regional Planning
120 South Spring Street
Los Angeles, CA 90012

dc: **WWD 29- READING
MI, MS, SPINDLE**

Dear Mr. Buswell:

**LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 29, MALIBU
LOWER BUSCH TANK REPLACEMENT
RESPONSE TO COMMENTS ON DRAFT NEGATIVE DECLARATION
IGR/CEQA NO. 030894AL, ND**

This is in response to your September 4, 2003, comment letter (copy enclosed), on our draft Negative Declaration and Initial Study for the proposed Lower Busch Tank Replacement project.

Per your recommendation, our contract documents will limit large-size truck trips to off-peak commute hours and require the contractor to obtain a Caltrans permit if any oversized-transport vehicles are to be used for the project.

If you have any questions, please contact Mr. Mondher Saïed at (626) 300-3337.

Very truly yours,

JAMES A. NOYES
Director of Public Works

MANUEL DEL REAL
Assistant Deputy Director
Waterworks and Sewer Maintenance Division

MS:lb
WW3669

Enc.



COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

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ALHAMBRA, CALIFORNIA 91803-1331
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JAMES A. NOYES, Director

ADDRESS ALL CORRESPONDENCE TO:
P.O. BOX 1460
ALHAMBRA, CALIFORNIA 91802-1460

March 11, 2004

IN REPLY PLEASE
REFER TO FILE: **W-0**

Mr. Stephen J. Buswell, IGR/CEQA Branch Chief
California Department of Transportation
District 7, Regional Planning
120 South Spring Street
Los Angeles, CA 90012

Dear Mr. Buswell:

**LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 29, MALIBU
LOWER BUSCH TANK REPLACEMENT
RESPONSE TO COMMENTS ON DRAFT NEGATIVE DECLARATION
IGR/CEQA NO. 030894AL, ND**

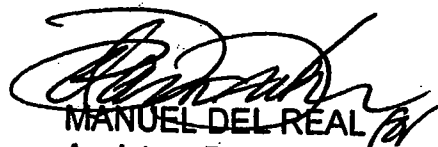
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If you have any questions, please contact Mr. Mondher Saïed at (626) 300-3337.

Very truly yours,

JAMES A. NOYES
Director of Public Works



MANUEL DEL REAL

Assistant Deputy Director
Waterworks and Sewer Maintenance Division

MS:lb
WW3869

Enc.

DEPARTMENT OF TRANSPORTATION
DISTRICT 7, REGIONAL PLANNING
IGR/CEQA BRANCH
120 SO. SPRING ST.
LOS ANGELES, CA 90012
PHONE: (213) 897-4429
FAX: (213) 897-1337



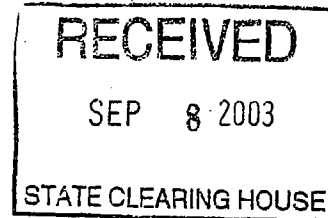
*Flex your power!
Be energy efficient!*

IGR/CEQA No. 030894AL, ND
Lower Busch Tank Replacement
Vic. LA-01 / PM 55.65
SCH #: 2003081124

September 4, 2003

*Clear
9/22/03
Q*

Mr. Mondher Saied
Waterworks Districts
Department of Public Works
County of Los Angeles Department
1000 South Fremont Ave, Bldg. A-9 East, 4th Floor
Alhambra, CA 91803



Dear Mr. Saied:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the above referenced project. The proposed project consists of replacing the existing concrete water tank with a new steel tank.

Any transportation of heavy construction equipment and/or materials which requires the use of oversized-transport vehicles on State highways will require a Caltrans transportation permit. We recommend that large size truck trips be limited to off-peak commute periods. Thank you for the opportunity to have reviewed this project.

If you have any questions, please feel free to contact me at (213) 897-4429 or Alan Lin the project coordinator at (213) 897-8391 and refer to IGR/CEQA No. 030894AL.

Sincerely,

STEPHEN J. BUSWELL
IGR/CEQA Branch Chief

cc: Scott Morgan, State Clearinghouse
Steve Buswell/AL

Enclosure C



JAMES A. NOYES, Director

COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

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P.O. BOX 1460
ALHAMBRA, CALIFORNIA 91802-1460

IN REPLY PLEASE
REFER TO FILE: **W-0**

March 15, 2004

Ms. Katie Lichtig, City Manager
City of Malibu
23815 Stuart Ranch Road
Malibu, CA 90265-4804

Dear Ms. Lichtig:

**LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 29, MALIBU
LOWER BUSCH TANK REPLACEMENT
RESPONSE TO COMMENTS ON DRAFT NEGATIVE DECLARATION**

This is in response to your September 26, 2003, letter (copy enclosed), providing comments on our draft Negative Declaration and Initial Study for the subject project.

The existing tank will not be in service during the construction of the replacement tank. We will rely on our existing Upper Busch Tank and our 30-inch-diameter water main on Pacific Coast Highway to maintain uninterrupted domestic water service and fire protection during construction. We also plan to construct the proposed tank during the winter months, when domestic water demand is low, to minimize any potential impact.

As agreed during the telephone conversation between Mr. Mondher Saïed of my staff, and Mr. Masa Alkire of your Planning Division, the Los Angeles County Waterworks Districts are exempt from local zoning ordinances and building codes for the construction of water facilities. A copy of Section 53091 of the Government Code is enclosed for your reference.

Ms. Katie Lichtig
March 15, 2004
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If you have any questions, please contact Mr. Saied at (626) 300-3337.

Very truly yours,

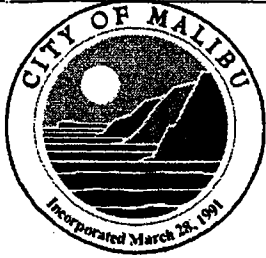
JAMES A. NOYES
Director of Public Works

A handwritten signature in black ink, appearing to read 'Manuel Del Real', written over the printed name.

MANUEL DEL REAL
Assistant Deputy Director
Waterworks and Sewer Maintenance Division

MS:lb
WW3670

Enc.



City of Malibu

23815 Stuart Ranch Road • Malibu, California • 90265-4804
(310) 456-2489 • fax (310) 456-3356

September 26, 2003

Mr. Mondher Saied
County of Los Angeles
Department of Public Works
900 South Fremont Avenue
Alhambra, CA 91803-1331

Reference: L.A. County Waterworks District No. 29
Lower Busch Tank Replacement
Comments on Draft Negative Declaration

Dear Mr. Saied:

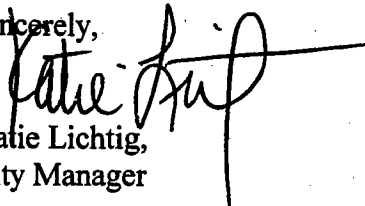
The City of Malibu was in receipt of the Draft Negative Declaration and Initial Study for the proposed tank project in the City of Malibu on August 29, 2003. Staff from the City Planning Division and Public Works Department have reviewed the document and have the following comments:

Public Works: Will the existing tank remain in service during construction of the replacement tank? If not, what are the impacts to domestic water service and fire protection?

Planning: According to the submitted documentation the proposed project is located on a parcel within the City's jurisdiction. Please contact Masa Alkire, Assistant Planner, of the City Planning Division at (310) 456-2489 ext. 339, regarding any possible regulatory permitting requirements.

Thank you for the opportunity to comment on the proposed project.

Sincerely,



Katie Lichtig,
City Manager



§ 53088.7

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(b)¹ A collection fee which is not in excess of ten dollars (\$10) and is in addition to the delinquency fee shall also be valid in a cable television consumer service transaction if the service provider sends an employee or contractor to the customer's residence in order to collect payment or disconnect service and the fee is imposed in accordance with the procedures set forth in Section 53088.6.

(Added by Stats.1996, c. 666 (S.B.610), § 1.)

¹ Subdivision (b) is the only designated subdivision in the enrolled copy.

§ 53088.8. Application of article

This article shall apply to the sale or lease of cable television services on or after January 1, 1997. This article shall not apply to late fee practices reflected in cable television service contracts that are specified in or subject to a court order or judgment entered on or before that date unless expressly provided to the contrary in that order or judgment.

(Added by Stats.1996, c. 666 (S.B.610), § 1.)

Article 5

**REGULATION OF LOCAL AGENCIES
BY COUNTIES AND CITIES**

Section

- 53090. Definitions.
- 53091. Compliance of local agency with county or city building and zoning ordinances.
- 53092. Inspection of school buildings; delegation of authority to county or city.
- 53093. Repealed.
- 53094. Authority to render zoning ordinance inapplicable to use of school district property; review by city or county.
- 53095. Provisions of article as prevailing.
- 53096. Inapplicability of city or county zoning ordinance to use of local agency property; procedure; judicial review.
- 53097. School districts; compliance with ordinances relating to onsite facilities and improvements; city and county immunity; district noncompliance relating to offsite improvements.
- 53097.5. Inspection of school buildings by county or city; guidelines; results to state architect.

Article 5 was added by Stats.1959, c. 2110, p. 4907, § 1.

§ 53090. Definitions

As used in this article:

(a) "Local agency" means an agency of the state for the local performance of governmental or proprietary function within limited boundaries. "Local agency" does not include the state, a city, a county, a rapid transit district whose board of directors is appointed by public bodies or officers or elected from

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election districts within the area comprising the district, or a district organized pursuant to Part 3 (commencing with Section 27000) of Division 16 of the Streets and Highways Code.

(b) "Building ordinances" means ordinances of a county or city regulating building and construction and removal of buildings, including ordinances relating to the matters set forth in Section 38660 and similar matters, and including ordinances relating to building permits and building inspection.

(Added by Stats.1959, c. 2110, p. 4907, § 1. Amended by Stats.1961, c. 1967, p. 4154, § 20; Stats.1972, c. 1381, p. 2868, § 1; Stats.1975, c. 601, p. 1323, § 1; Stats.1977, c. 579, p. 1863, § 77.)

Law Review and Journal Commentaries

California preemption doctrine: Expanding regulatory power of local governments. 8 U.S.F.L.Rev. 728 (1974).
Land use planning in the Bay area. 55 Cal. L.Rev. 836 (1967).

Notes of Decisions

Dual offices 2
Exemptions 3
Local agency 1

2. Dual offices

Same individual may not simultaneously serve as county planning commissioner and as member of board of directors of either the Redbud hospital district or the Clear Lake water district. 58 Ops.Atty.Gen. 323, 5-29-75.

Serving as member of El Rancho unified school district board and personnel board for city of Pico Rivera does not violate conflict of interest or common law doctrine as to incompatibility of offices. 58 Ops.Atty.Gen. 109, 2-19-75.

1. Local agency

Municipal redevelopment agency was a "local agency," within definition of local agency. Redevelopment Agency of City of Berkeley v. City of Berkeley (App. 1 Dist. 1978) 143 Cal.Rptr. 633, 80 Cal.App.3d 158.

A statewide agency with plenary constitutionally granted powers, such as the regents of the University of California, is not a "local agency" for purpose of § 53091 which requires "local agencies" to comply with applicable building and zoning ordinances of municipality in which the property is located. Regents of University of California v. City of Santa Monica (App. 2 Dist. 1978) 143 Cal.Rptr. 276, 77 Cal.App.3d 130.

3. Exemptions

County-owned property was exempt from city ordinances. Akins v. Sonoma County (1967) 60 Cal.Rptr. 499, 67 Cal.2d 185, 430 P.2d 57.

A private developer leasing county property, under § 25536, is exempt, under § 53090 et seq., from a city's building and zoning ordinances if he uses the property for the public purposes for which it was granted to the county. 57 Ops.Atty.Gen. 124, 3-12-74.

§ 53091. Compliance of local agency with county or city building and zoning ordinances

Each local agency shall comply with all applicable building ordinances and zoning ordinances of the county or city in which the territory of the local agency is situated. On projects for which state school building aid is requested by a local agency for construction of school facilities the county or city planning commission in which said agency is located shall consider in its review for approval information relating to attendance area enrollment, adequacy of the site upon which the construction is proposed, safety features of the site and proposed construction, and present and future land utilization, and report thereon to the State Allocation Board. If the local agency is situated in more than one city or county or partly in a city and partly in a county, the local

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agency shall comply with such ordinances of each county or city with respect to the territory of the local agency which is situated in the particular county or city and the ordinances of a county or city shall not be applied to any portion of the territory of the local agency which is situated outside the boundaries of the county or city. Notwithstanding the preceding provisions of this section, this section does not require a school district or the state when acting under the State Contract Act to comply with the building ordinances of a county or city. Notwithstanding the preceding provisions of this section, this section does not require a school district to comply with the zoning ordinances of a county or city unless such zoning ordinance makes provision for the location of public schools and unless the city or county planning commission has adopted a master plan.

Each local agency required to comply with building ordinances and zoning ordinances pursuant to this section and each school district whose school buildings are inspected by a county or city pursuant to Section 53092 shall be subject to the provisions of the applicable ordinances of a county or city requiring the payment of fees but the amount of such fees charged a local agency or school district shall not exceed the amount charged under the ordinance to nongovernmental agencies for the same services or permits. Building ordinances of a county or city shall not apply to the location or construction of facilities for the production, generation, storage, or transmission of water, waste water, or electrical energy by a local agency.

Zoning ordinances of a county or city shall not apply to the location or construction of facilities for the production, generation, storage, or transmission of water, or for the production or generation of electrical energy, nor to facilities which are subject to Section 12808.5 of the Public Utilities Code, nor to electrical substations in an electrical transmission system which receives electricity at less than 100,000 volts. Zoning ordinances of a county or city shall apply to the location or construction of facilities for the storage or transmission of electrical energy by a local agency; provided, that such zoning ordinances make provision for such facilities.

(Added by Stats.1959, c. 2110, p. 4907, § 1. Amended by Stats.1977, c. 435, p. 1467, § 1; Stats.1984, c. 976, § 1.)

Historical and Statutory Notes

Section 3 of Stats.1977, c. 435, p. 1469, provided:

"The provisions of this act shall not apply to any facilities for which onsite construction has begun at the time this act becomes effective."

Cross References

- Sale, lease or mortgage of land by transit district to school district, effect on zoning and permit powers, see Public Utilities Code § 29010.5.
- State allocation board, see Government Code § 15490.
- State Contract Act, see Public Contracts Code § 10100 et seq.

Law Review and Journal Commentaries

- California preemption doctrine: Expanding regulatory power of local governments. 8 U.S.F.L.Rev. 728 (1974).
- Is a school district subject to municipal zoning regulations? 16 Santa Clara L.Rev. 5 (1976).

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Library References

Counties \approx 21½.
Municipal Corporations \approx 601.1.
Zoning and Planning \approx 21.
WESTLAW Topic Nos. 104, 268, 414.

C.J.S. Counties § 40.
C.J.S. Municipal Corporations §§ 224, 225.
C.J.S. Zoning and Land Planning §§ 18, 19, 37.

Notes of Decisions

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Irrigation districts 11
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Public school districts 9
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3. Applicable ordinance

Local building code or zoning ordinances which conflict with state statutes governing community redevelopment agencies are not "applicable" ordinances, within provision of this section providing that each local agency shall comply with all applicable building ordinances of county or city in which territory of local agency is situated. *Redevelopment Agency of City of Berkeley v. City of Berkeley* (App. 1 Dist. 1978) 143 Cal.Rptr. 633, 80 Cal.App.3d 158.

Section of neighborhood preservation ordinance containing regulations restricting issuance of building and demolition permits was not an applicable "building ordinance" within meaning of this section providing that "all local agencies are required to comply" with all applicable city or county building ordinances. *Kehoe v. City of Berkeley* (App. 1 Dist. 1977) 135 Cal.Rptr. 700, 67 Cal.App.3d 666.

Local ordinances establishing demolition permit requirements are "building ordinance" and are, thus, included within this section providing that "all local agencies are required to comply" with all applicable city or county building ordinances. *Kehoe v. City of Berkeley* (App. 1 Dist. 1977) 135 Cal.Rptr. 700, 67 Cal.App.3d 666.

4. Leased property, generally

Whether Cal Expo land which is leased to private party for term exceeding 50 years for private development would be subject to local building and zoning regulations depends on purpose of private development; if use furthers purpose of conducting state fair, private development would be exempt from local regulations, but if private development is solely for private purposes of developer, local regulations would apply. 68 Ops.Atty.Gen. 114, 5-23-85.

A private developer leasing county property, under § 25536, is exempt, under § 53090 et seq., from a city's building and zoning ordinances if he uses the property for the public purposes for which it was granted to the county. 57 Ops.Atty.Gen. 124, 3-12-74.

5. Counties

County-owned property was exempt from city ordinances. *Akins v. Sonoma County* (1967) 60 Cal.Rptr. 499, 67 Cal.2d 185, 430 P.2d 57.

County, in constructing buildings on county land inside city, was not subject to city's build-

1. Construction and application

If statute dealing with application of county's general plan to municipal building is construed as mandating city compliance with general plans, it is inconsistent with intergovernmental immunity and the inconsistency would be resolved in favor of the immunity provisions. *Lawler v. City of Redding* (App. 3 Dist. 1992) 9 Cal.Rptr.2d 392, 7 Cal.App.4th 778, modified.

Under § 53090 et seq., cities and counties are mutually exempt from each other's building and zoning ordinances, whether they are acting in a governmental or proprietary capacity. 40 Ops.Atty.Gen. 243 (1962).

2. Local agency

A statewide agency with plenary constitutionally granted powers, such as the regents of the University of California, is not a "local agency" for purpose of this section which requires "local agencies" to comply with applicable building ordinances or municipality in which the property is located. *Regents of University of California v. City of Santa Monica* (App. 2 Dist. 1978) 143 Cal.Rptr. 276, 77 Cal.App.3d 130.

Urban renewal district created under the State Community Redevelopment Law was a "local agency" within the meaning of this section providing that "all local agencies are required to comply" with all applicable city or county building ordinances. *Kehoe v. City of Berkeley* (App. 1 Dist. 1977) 135 Cal.Rptr. 700, 67 Cal.App.3d 666.

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ing and zoning ordinances, in view of county's status as subdivision of state. *Los Angeles County v. City of Los Angeles* (App. 2 Dist. 1963) 28 Cal.Rptr. 32, 212 Cal.App.2d 160.

6. Redevelopment agencies

Initiative ordinance designed to preserve residential character of portion of industrial park area, to require rezoning from special industrial and manufacturing uses to restricted multiple-family residential uses, to require that redevelopment agency preserve and rehabilitate existing repairable housing and to encourage construction of low and moderate income housing within project area was invalid as in direct conflict with redevelopment ordinance prohibiting residential use in the industrial park area and with the community redevelopment law. *Redevelopment Agency of City of Berkeley v. City of Berkeley* (App. 1 Dist. 1978) 143 Cal. Rptr. 633, 80 Cal.App.3d 158.

Where urban renewal district was created under provisions of the State Community Redevelopment Law and agency subsequently developed an industrial park plan providing for demolition of residential buildings in area, where no objection to nonresidential nature of plan was made within 60 days after adoption of plan by ordinance, Berkeley neighborhood preservation ordinance which contained regulations restricting issuance of building and demolition permits and which was in conflict with state law would not be applicable to demolition of buildings within the redevelopment agency's project area and, thus, action of city manager in issuing demolition permits was wholly proper, despite his alleged noncompliance with provisions of neighborhood preservation ordinance. *Kehoe v. City of Berkeley* (App. 1 Dist. 1977) 135 Cal.Rptr. 700, 67 Cal.App.3d 666.

7. Rapid transit districts

County and city were not authorized to apply local zoning restrictions to Southern California Rapid Transportation District, which was state agency, where legislature had removed transit districts from definition of "local agency," thereby exempting District from local zoning and building restrictions. *Rapid Transit Advocates, Inc. v. Southern California Rapid Transit Dist.* (App. 2 Dist. 1986) 230 Cal.Rptr. 225, 185 Cal.App.3d 996, review denied.

8. Hospital districts

Local hospital districts must comply with zoning and building ordinances enacted by a general law city. 55 Ops.Atty.Gen. 375, 10-11-72.

9. Public school districts

This section did not exempt public school district from requirement of city zoning ordinance that use permit be obtained before a

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public school may be constructed in a residential zone, on theory that zoning ordinance did not provide for location of public schools. *City of Santa Clara v. Santa Clara Unified School Dist.* (App. 1 Dist. 1971) 99 Cal.Rptr. 212, 22 Cal.App.3d 152.

10. District agricultural association

A district agricultural association is not subject to the building and zoning ordinances of a city in the course of improvements to the association's real property and the lessees under a proposed ground lease agreement are also exempt from municipal building and zoning ordinances. 56 Ops.Atty.Gen. 210, 5-17-73.

11. Irrigation districts

An irrigation district, in constructing canals and pipelines, must submit plans for construction of such canals and pipelines to county and city planning commissions for approval, but disapproval of district's proposals for canals and pipelines is merely advisory in nature and may be overruled by governing body of district. 37 Ops.Atty.Gen. 89 (1961).

12. Water districts

Unless exempted by statute, water districts must abide by local planning decisions of cities and counties. *City of Lafayette v. East Bay Mun. Utility Dist.* (App. 1 Dist. 1993) 20 Cal. Rptr.2d 658, 16 Cal.App.4th 1005.

Water district's proposed service center was not entitled to statutory absolute exemption from local zoning and building ordinances as facility "for the production, generation, storage, or transmission of water" where service center was built for storage of materials and equipment necessary for maintenance and repair of aqueducts, pipelines, filter plants, and reservoirs, and would not actually perform function of generating, transmitting, or storing water; only those indispensable facilities which directly and immediately produce, generate, store, or transmit water may be geographically located at unfettered discretion of water district. *City of Lafayette v. East Bay Mun. Utility Dist.* (App. 1 Dist. 1993) 20 Cal.Rptr.2d 658, 16 Cal.App.4th 1005.

A California water district is exempt from compliance with those building and zoning ordinances of the county or city in which it is located which regulate the location or construction of facilities directly and immediately used for the production, generation, storage, or transmission of water, and is conditionally exempt from county or city zoning ordinances with respect to facilities related and integral to the proper operation of particular water storage or transmission functions of the district. 78 Op.Atty.Gen. 31, Jan. 27, 1995.

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Titles
City or county may regulate the location or position of electrical substations of 100,000 or more capacity under the provisions of this section and § 53096. Op.Leg.Counsel, 1/14/351.

Deiver of immunity
Immunity of state from local regulation of certain activities may not be waived by any act of the state, but only by express statute.

City of Orange v. Valenti (App. 4 Dist. 1974) 112 Cal.Rptr. 379, 37 Cal.App.3d 240.

15. Fact questions

Whether ordinance requiring irrigation district, engaged in transmission and sale of electricity, to place its overhead utilities in rear lot and side lot easements was unreasonable was question for trier of fact. Modesto Irr. Dist. v. City of Modesto (App. 5 Dist. 1962) 27 Cal.Rptr. 90, 210 Cal.App.2d 652.

92. Inspection of school buildings; delegation of authority to county or city

State Director of Public Works, upon recommendation of the Division of Architecture, may delegate to any county or city all or part of the powers and duties of the Division of Architecture relating to the inspection of construction of school buildings of school districts within the county or city if, as determined by the Division of Architecture, the county or city has an adequate building inspection program. No delegation under this section shall become effective without the consent of the legislative body of the county or city to which the delegation is made.

(Added by Stats.1959, c. 2110, p. 4908, § 1.)

Library References

Stats. 1968, 72.
TLAW Topic No. 360.
Cal. States §§ 120, 123, 130 et seq., 139.

93. Repealed by Stats.1970, c. 172, p. 418, § 23

Historical and Statutory Notes

Repealed section, added by Stats.1959, c. 2110, p. 4908, § 1, amended by Stats.1967, c. 2286, § 1, related to appeals by local agencies aggrieved by the application of any zoning ordinance.

94. Authority to render zoning ordinance inapplicable to use of school district property; review by city or county

Notwithstanding any other provisions of this article except Section 53097, the governing board of a school district, by vote of two-thirds of its members, may render a city or county zoning ordinance inapplicable to a proposed use of property by such school district except when the proposed use of the property within such school district is for nonclassroom facilities, including, but not limited to, warehouses, administrative buildings, automotive storage and repair buildings.

The board shall, within 10 days, notify the city or county concerned of such action. If such governing board has taken such action the city or county may commence an action in the superior court of the county whose zoning ordinance is involved or in which is situated the city whose zoning ordinance is involved, seeking a review of such action of the governing board of the school district to determine whether it was arbitrary and capricious. The city or

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county shall cause a copy of the complaint to be served on the board. If the court determines that such action was arbitrary and capricious, it shall declare it to be of no force and effect, and the zoning ordinance in question shall be applicable to the use of the property by such school district.

(Added by Stats.1959, c. 2110, p. 4909, § 1. Amended by Stats.1965, c. 1538, p. 3629, § 1; Stats.1976, c. 760, p. 1797, § 1; Stats.1984, c. 657, § 1; Stats.1990, c. 275 (A.B.2781), § 1.)

Cross References

Sale, lease or mortgage of land by transit district to school district, effect on zoning and permit powers, see Public Utilities Code § 29010.5.

Law Review and Journal Commentaries

Is a school district subject to municipal zoning regulations? 16 Santa Clara L.Rev. 597 (1976).

Library References

Zoning and Planning ⇔581.
WESTLAW Topic No. 414.
C.J.S. Zoning and Land Planning §§ 299, 313.

Notes of Decisions

Nonclassroom facilities 1 Review 2

1. Nonclassroom facilities

"Swap meet" operated by unaffiliated organization on community college's parking lot was a use of property for "nonclassroom facilities" that could not be exempted from city zoning ordinance under this section. *People ex rel. Cooper v. Rancho Santiago College* (App. 4 Dist. 1990) 277 Cal.Rptr. 69, 226 Cal.App.3d 1281.

"Nonclassroom facilities," within meaning of this section allowing school district to render zoning ordinance inapplicable to proposed use of property except when use is for "nonclassroom facilities," means those facilities not directly used for or related to student instruction. *City of Santa Cruz v. Santa Cruz Schools Bd. of Educ.* (App. 6 Dist. 1989) 258 Cal.Rptr. 101, 210 Cal.App.3d 1, modified.

Evidence was sufficient to support finding that high school's playing field, including its lights, was not a "nonclassroom facility," and thus school board could exempt lighting renovation for playing field from city's zoning ordinance, pursuant to this section allowing school

district to render city zoning ordinance inapplicable to proposed use of property except when use is for "nonclassroom facilities." *City of Santa Cruz v. Santa Cruz Schools Bd. of Educ.* (App. 6 Dist. 1989) 258 Cal.Rptr. 101, 210 Cal.App.3d 1, modified.

2. Review

Where school district selected site for continuation high school only after it had evaluated several alternative sites and had considered location, traffic conditions, etc., representatives of district had met with city's architectural control committee and reached an amicable compromise with regard to conditions imposed by planning commission, following city's denial of use permit district held meeting for purpose of hearing from those opposed to construction and city council's flat prohibition on construction was not shown to have been based on anything other than a blanket disapproval of concept of continuation high school, the district's adoption of resolution to exempt itself from zoning ordinance requirement of use permit to construct public school in residential area could not be found to be either arbitrary or capricious. *City of Santa Clara v. Santa Clara Unified School Dist.* (App. 1 Dist. 1971) 99 Cal.Rptr. 212, 22 Cal.App.3d 152.

§ 53095. Provisions of article as prevailing

The provisions of this article shall prevail over Sections 39004 and 81035 of the Education Code and over Section 65402 of the Government Code.

(Added by Stats.1959, c. 2110, p. 4909, § 1. Amended by Stats.1968, c. 449, p. 1068, § 60; Stats.1978, c. 380, p. 1146, § 62.)