



# California Farm Bureau Federation

Office of the General Counsel

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October 6, 1993

VIA FACSIMILE [209-521-4968]

Russell A. Newman  
Normoyle and Newman  
1700 Stanford Ave., Suite A-340  
Modesto, CA 95350

Re: Diablo Grande Project

Dear Russ:

I enjoyed meeting with you and others last week in Westley. The dialogue was productive and will help us focus our efforts to address your client's needs as well as the farmer's concerns about their groundwater. As you heard at the meeting, our basic position is that your long-term water supply is a concern, but that the real impacts to the local farmers are directly related to the Marshall-Davis wells. We will therefore trust in your assurances that long-term water supplies are available as long as the groundwater near the Marshall-Davis wells is protected.

Enclosed for your review are amendments to the Specific Plan and the Mitigation and Monitoring Plan which we feel will address these concerns. If these amendments are incorporated in the final version of these planning documents, then the California Farm Bureau Federation and Stanislaus County Farm Bureau will not express any opposition to the Planning Commission and Board of Supervisors regarding the Diablo Grande' water supply issues. If you have any questions or comments, please give me a call.

Sincerely yours,

DAVID J. GUY

DJG/gt

DJG/LD/2/93

Enclosures

cc: Ron Freitas, Planning Director (via facsimile)  
Bob Kachel, Senior Planner (via facsimile)  
Stanislaus County Farm Bureau:  
Paul Wenger, President  
Jan Ennenga, Executive Manager (via facsimile)  
Al Brizard (via facsimile)  
Bill Harrison (via facsimile)

Nancy N. McDonough, *General Counsel*

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Carl G. Borden • Steven A. Geringer • Carolyn S. Richardson • Karen Norene Mills • David J. Guy

**Proposed Diablo Grande Draft Specific Plan Amendments, May 1993.**

• **Potable Water System**

The project's water supply system will involve any one or a number of the following: offsite groundwater, water purchases and exchanges; participation in water conservation projects with other water districts in exchange for water saved; utilization of wastewater effluent, both onsite and acquired offsite; development of groundwater storage facilities in Madera County; utilization of the California Aqueduct and Delta-Mendota Canal for exchange deliveries; and playing an active role in the existing trading network among California water districts south of the Delta.

Joint studies are currently underway with Metropolitan Water District of Southern California to develop a groundwater storage facility in Madera County underneath 13,600 acres, which is presently a dewatered aquifer that Diablo Grande has acquired rights to develop. Ability to "put" and "take" purchased water south of the Delta places Diablo Grande in a uniquely strong position to acquire and store water to utilize in exchange for California Aqueduct water from a turnout near Oak Flat Road.

From the turnout, raw water would be pumped up Oak Flat Road to Diablo Grande by the Western Hills Water District (LAFCO and the Board of Supervisors approved the formation of the District in January 1992 and March 1992, with the election passing on April 30, 1992).

The Western Hills Water District ("WHWD") has acquired two agricultural properties encompassing about 310 acres in the Salado Water District (the Marshall-Davis property south of Patterson) within the area included in the Patterson Study. These lands have both surface and ground water supplies. One or more wells would be developed on these properties (the "Well Sites") with a collective capacity not to exceed 1200 af. Pipelines would be constructed from the Well Sites to the project for non-residential use for five years. As needed, water treatment facilities would be constructed to treat groundwater piped from the Well Sites.

~~As the project grows and additional water is required, the groundwater extracted will be replenished with purchased and exchanged water delivered via the California Aqueduct, to the full extent of any usage beyond ordinary and customary agricultural use.~~

The WHWD is currently exploring the alternatives of phasing potable water distribution for Phase 1 development due to the high estimated costs of proposed Entry Road and Phase 1 system of up to \$35,000,000 including potable and irrigation water. The Western Hills Water District will be responsible for financing, developing and operating the entire system.

The pace, sequence and scope of phasing of build out of the Diablo Grande Specific Plan Area will be based primarily on two factors: market demand and the availability of an economic long-term water supply.

Market demand for the Diablo Grande Specific Plan is discussed in detail in the December 1991 "Memorandum Report on Marketing Strategies and Implementation Guidelines" prepared by Economics Research Associates. That report evaluates the 2,000 dwelling units proposed for the Phase 1 Area and 5,000 dwelling units projected for build out of the entire Specific Plan Area over the next 25 years, or more.

As the discussions below explain, ~~pumping from the Marshall-Davis wells will terminate after five years~~. There will be no ~~residential~~ development within the Diablo Grande Specific Plan area without a long-term water service commitment from a California Water District and verification by that District to the County of Stanislaus of a long-term water supply source.

*The Five Year Concept Plan Area (See Figure 28)*

The WHWD has issued both "can serve" and "will serve" letters for 1,200 acre feet of water per year for the Specific Plan area. This supply is sufficient to serve the ~~non-residential part of the Five Year Concept Plan Area for five years~~, which includes the following land uses: an 18 hole Oak Flat Golf Course and clubhouse, a winery and up to 40 acres of vineyards onsite, ~~200 single-family dwelling units~~, a hotel/conference center, a maintenance center and the first phase of the swim & tennis club. ~~The residential part of the Five-year Concept Plan area will include 200 single family dwelling units, which will not use water from the Marshall-Davis wells. These residential dwelling units will not be approved until a long-term water service commitment is approved by the County~~

This ~~non-residential~~ supply will be transported by the WHWD from wells located east of Interstate 5 at the intersection of Marshall Road and Davis Road. The environmental impacts associated with utilizing this 1,200 acre feet per year from the Marshall-Davis site were studied and reported upon in the Diablo Grande Specific Plan Draft Environmental Impact Report. The Diablo Grande Mitigation Monitoring and Reporting Plan (MMRP) includes specific mitigation measures associated with the use of this water source for the ~~non-residential part of the Five-year Development Plan area~~. In keeping with the findings contained in the DEIR and mitigation measures contained in the MMRP, there will be no use of the Marshall-Davis well sites ~~after five years for development outside the Five-Year Concept Plan Area~~ and use of the Marshall-Davis site to serve the ~~non-residential part of the Five Year Concept Plan Area~~ must conform to the provisions of the Diablo Grande MMRP.

***Remainder of Phase I Development Plan Area***

The WHWD has issued a "will serve" letter and thus committed to provide adequate water supply to the remainder of the Phase I Development Plan Area. While the WHWD has many water resource alternatives to supply water to the remainder of the Phase I Area, the ultimate water source for this area has not been selected, and that source is likely to shift from season to season and year to year as the District shops for the best available terms in the marketplace of water resources. Therefore, Final Development Plan approval by the County will be conditioned upon issuance of a "can serve" letter by the District and verification to the satisfaction of the County Department of Environmental Resources that the WHWD's "can serve" letter is supported by a long-term water supply, other than ~~the Marshall-Davis wells or other Stanislaus County groundwater~~, for the area included in the Final Development Plan.

\* \* \*

**SUPPLEMENTAL CONDITION OF APPROVAL/DEVELOPMENT STANDARD**

**DIABLO GRANDE SPECIFIC PLAN (SP 91-1)**

8) Prior to issuance of any building permit for any residential use and prior to any approval of any Site Plan, Final Development Plan or Tentative Map beyond the non-residential part of the Five-year Concept Plan area, and concurrently with submittal of the "can serve" letter (with fully documented CEQA compliance completed), the applicant shall submit for Board of Supervisor's approval a plan which shows, to the County's satisfaction, that adequate real water supplies have been made available. No residential use shall be constructed in Diablo Grande without a long-term water supply from a water source other than Marshall-Davis well water. Groundwater pumping of the Marshall-Davis wells for use at Diablo Grande shall terminate not later than five (5) years following the use of Marshall-Davis well water within Diablo Grande, except that pumping may occur in certain very limited emergency situations. For purposes of this Specific Plan and the above-mentioned plan, shut downs related to physical failures of water conveyance facilities shall constitute an emergency, but in no event shall an emergency include the lack of available water for any other reason.

**7.03 FIVE YEAR CONCEPT PLAN (See Figure 28)**

The Five-year Concept Plan is designed and offered to generally show which development will most likely occur within the initial five year period of the Specific Plan. This plan is not intended to be used as an approved development plan, but is offered to aid the County departments in planning for the first five years of project implementation.

The Five-year Concept Plan includes approximately 500 acres of land within the Phase 1 Preliminary Development Plan that totals 2,000 acres in Oak Flat Village. The Concept Plan schematically accommodates those **non-residential** uses that can be served by the 1,200 acre-feet of water provided by the Western Hills Water District from the Marshall-Davis Well Site, as well as **200 residential units**. The land uses envisioned in the first five years of development include: 200 single family dwelling units; the hotel/conference center; the winery and 40 acres of vineyard; the Oak Flat Golf Club and 18 hole Golf Course; Phase 1 of the Swim and Tennis Club; the Maintenance Center; and, the Water Treatment Plant. The Wastewater Treatment Plant will be developed during this five year period, but outside of the Concept Plan area. The attached single family areas located within the Concept Plan area will be most likely developed after the five year period.

**SUPPLEMENTAL CONDITION OF APPROVAL/DEVELOPMENT STANDARD**

**DIABLO GRANDE SPECIFIC PLAN (SP 91-1)**

8) Groundwater pumping of the Marshall-Davis wells for use at Diablo Grande shall terminate after five years. At that time the pipeline(s) connecting the Marshall-Davis wells to Diablo Grande shall be permanently dismantled. Prior to issuance of any building permit for any residential use and prior to any approval of any Site Plan, Final Development Plan or Tentative Map beyond the non-residential part of the Five-year Concept Plan area, and concurrently with submittal of the "can serve" letter (with fully documented CEQA compliance completed), the applicant shall submit for Board of Supervisor's approval a plan which shows, to the County's satisfaction, that adequate real water supplies have been made available.

**PROPOSED AMENDMENTS TO THE AUGUST 1993  
MITIGATION AND MONITORING PLAN  
for the Diablo Grande Specific Plan and Phase 1  
Preliminary Development Plan**

- 1. [This measure should not be limited to the Yuba River or Madera Ranch, but must include all potential water supplies.]**



Mitigation Measure:  
(Revised by FEIR 268;18)

The applicant shall establish system of monitoring wells adequate to determine if the project would affect nearby wells. These could consist of existing wells. These wells shall be monitored as determined by the County Department of Environmental Resources, but not less than once a month, and any correlation with pumping by Western Hills Water District for Diablo Grande shall be noted. Monitoring wells shall be established prior to operation of Western Hills Water District wells. Monitoring results shall be provided monthly to the County Department of Environmental Resources.

(Revised by FEIR 179;31)

3. If groundwater levels at wells near the Marshall-Davis Western Hills Water District well sites decline by 10 percent or greater, and that decline can be reasonably correlated with increased pumping from the Marshall-Davis Western Hills Water District wells, Western Hills shall offset increased pumping needs by allocating portions of their Salado Water District water allocations to the impacted neighboring owners. Should this immediately upon drawdown occurring, the applicant shall fund the County's retaining of a hydrologic engineer to calculate the amount of surface water required annually to replace lost groundwater supplies and, if that quantity exceeds 275 AFY, the availability of additional replacement water shall be demonstrated to the County's satisfaction. But in no event shall Western Hills pump groundwater in excess of 1200 af, and such pumping shall remain subject to California law.

3a. Groundwater pumping at the Marshall-Davis wells for use at Diablo Grande shall terminate after five years. At that time, the pipeline(s) connecting the Marshall-Davis wells to Diablo Grande shall be permanently dismantled.

Impact to be  
Mitigated:

There is a possibility that neighboring wells in the vicinity of the Marshall-Davis well site may be impacted by a drawdown of the aquifer due to the use of the Marshall-Davis well. All following discussion is for the purpose of addressing the impacts of concern associated with both of the mitigation measures above, as amended in the FEIR.

Agency/Individual  
Responsible for  
Implementation:

Western Hills Water District

Implementation  
Timing:

Monitoring shall commence a minimum of three (3) months prior to the delivery of water to the Oak Flat Valley floor, or sooner if determined necessary by the Department of Environmental Resources, as part of its review of the Monitoring Plan.

**Mitigation  
Specifications:**

The Western Hills Water District shall prepare a Monitoring Plan for neighboring wells. This Monitoring Plan will include:

1. A method for the establishment of an area groundwater baseline condition;
2. A monitoring program which includes: the wells to be monitored; the associated well logs; monitoring protocols; a monitoring schedule; agreements with the owners of the wells to be monitored; and, who will perform the monitoring;
3. A reporting program which specifies how the information from the monitoring program will be submitted to the Department of Environmental Resources;
4. An evaluation section which will generally discuss how the information submitted will be evaluated; and,
5. A mitigation program which will list mitigation methods available if groundwater impacts to neighboring properties do occur, which could include; passing off of allocated surface water; lowering of the affected well; payment of fees for increased pumping costs; or, other methods determined appropriate.

This Monitoring Plan will be submitted to, and approved by, the County Department of Environmental Resources a minimum of six (6) months prior to the delivery of water to the Oak Flat Valley floor. Copies of this Monitoring Plan will be made available to all interested parties by the Department upon receipt.

The Monitoring Plan will be implemented by the submission of all data required by the plan to the County Department of Environmental Resources. The County Department of Environmental Resources will evaluate the reports to determine if an impact has occurred on neighboring wells. If an impact occurs, it shall be mitigated as per the provisions in the approved monitoring plan and Mitigation Measures 3 and 3a. above. The Monitoring Plan will continue to be implemented during the five years as long as the Marshall-Davis well site is in service.

In addition, the Monitoring Plan may contain an agreement between the Western Hills Water District and surrounding owners regarding how surface water transfers, well reconstruction or other mitigation to impacted wells will be implemented.

**Agency/Individual  
Responsible for  
Monitoring:**

Western Hills Water District and the Stanislaus County Department of Environmental Resources.

**Action by  
Monitor:**

Based upon the Department of Environmental Resources review of the monthly monitoring reports, if the pumping of the Marshall-Davis appears to cause a drawdown in the neighboring wells, the County Planning Department Environmental Coordinator shall be immediately notified. A meeting between the Department of Environmental Resources, the Environmental Coordinator and the Western Hills Water District will then occur. Levels of mitigation will be determined based upon these meetings, as spelled out in the Monitoring Plan, which could include an independent evaluation of the impact as specified in Mitigation Measures 3 and 3a above. The Western Hills Water District will be responsible for satisfying any individual agreements with neighboring property owners. The final determination as to the appropriate mitigation shall be made by the County Department of Environmental Resources.

**Monitoring  
Timing:**

The Monitoring Plan will be reviewed and approved prior to operation of the Marshall-Davis well as specified above.

The monitoring reports will be continuously reviewed as long as the Marshall-Davis well is being used for the provision of water to the Diablo Grande site.

**Mitigation Measure:**

4. Because long-term water supplies beyond the five-year buildout have not been assured, residential development requiring over 1,200 acre-feet per year of water shall not be permitted unless the applicant can show to the County's satisfaction that adequate real water supplies have been made available, and that environmental impacts of those sources have been studied and mitigated per CEQA requirements.

**Impact to be Mitigated:**

A proven long-term water supply has not been found for the project beyond the initial 1200 acre-foot per year. In addition, other environmental impacts may occur, based upon which water sources the Western Hills Water District uses for this supply.

**Agency/Individual Responsible for Implementation:**

Western Hills Water District

**Implementation Timing:**

Prior to issuance of any building permit for any residential use and prior to approval of any Site Plan, Final Development Plan or Tentative Map beyond the non-residential part of the Five-year Concept Plan area, which would require a provision of water beyond 1200 acre-foot per year.

**Mitigation Specifications:**

The existing 1200 acre-feet, as spelled out in the previous Mitigation Measures 2 and 3 above, is sufficient to serve the non-residential part of the Five-year Development Plan area during the first five years of the Project.

Prior to the approval of any development beyond the non-residential part of the Five-year Development Concept Plan area (which includes the following land uses: an 18 hole Oak Flat golf course and clubhouse; a winery and up to 40 acres of vineyards on-site; 200 single-family dwelling units; a hotel/conference center; a maintenance center; and, the first phase of the swim & tennis club), the Western Hills Water District will issue a "can serve" letter and thus commit to provide adequate water supply to the remainder of the Phase 1 Preliminary Development Plan Area beyond the non-residential part of the Five-year Concept Plan area that which can be serviced by 1200 acre-foot per year. This "can serve" letter will be accompanied by all necessary environmental documentation, as required by CEQA, and needed to satisfy the Stanislaus County Department of Environmental Resources that the District's provision of water is supported by a long-term water supply, other than Stanislaus County groundwater.

**Agency/Individual  
Responsible for  
Monitoring:**

County Planning Department, Department of Environmental Resources  
and WHWD.

**Action by Monitor:**

The County Department of Environmental Resources will monitor all development within the project to ensure compliance with the use of the Marshall-Davis well site for a maximum of 1200 acre-feet per year of water ~~for the non-residential part of the Five-year Concept Plan.~~ ~~Once a requested development plan will require water usage beyond 1200 acre feet per year, or beyond the uses listed above, the A residential development request will not be approved allowed to proceed until such time as the mitigation specifications stated above are complied with and a firm water supply is assured by the Western Hills Water District to the satisfaction of both County Agencies.~~

**Monitoring  
Timing:**

Prior to approval of any ~~residential development requests beyond the Five-year Development Plan area, or that which would require the Marshall-Davis well site to be used for greater than 1200 acre feet per year.~~