

**BEFORE THE BOARD OF SUPERVISORS  
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF AN EXTENSION OF )  
TIME NO. EOT 18-009 FOR TENTATIVE ) Resolution No. 2018-00676  
SUBDIVISION MAP NO. 758/PSR, RIVER )  
ISLAND EAST, LLC. )

UPON MOTION OF SUPERVISOR VANDER POEL, SECONDED BY SUPERVISOR ENNIS, THE FOLLOWING WAS ADOPTED BY THE BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD AUGUST 14, 2018, BY THE FOLLOWING VOTE:

AYES: SUPERVISORS CROCKER, VANDER POEL, SHUKLIAN, WORTHLEY, AND ENNIS  
NOES: NONE  
ABSTAIN: NONE  
ABSENT: NONE



ATTEST: MICHAEL C. SPATA  
COUNTY ADMINISTRATIVE OFFICER/  
CLERK, BOARD OF SUPERVISORS

BY: Milary Ravello  
Deputy Clerk

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That the Board of Supervisors:  
Approved a Two-Year Extension of Time EOT 18-009 to April 27, 2019, for Tentative Subdivision Map No. TSM 758/PSR, requested by River Island East Homeowners Association, c/o Michael Mahoney, 32903 Riverside Drive, Springville, CA 93265 on property located on the northeast corner of Green Drive and Montgomery Drive, south of State Route 190, west of Springville.



**Resource Management  
Agency  
COUNTY OF TULARE  
AGENDA ITEM**

**BOARD OF SUPERVISORS**

KUYLER CROCKER  
District One

PETE VANDER POEL  
District Two

AMY SHUKLIAN  
District Three

J. STEVEN WORTHLEY  
District Four

MIKE ENNIS  
District Five

**AGENDA DATE:** August 14, 2018

Public Hearing Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Published Notice Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Advertised Published Notice	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
County Counsel Sign-Off	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Meet & Confer Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Electronic file(s) has been sent	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Personnel Resolution attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>

CONTACT PERSON: Celeste Perez    PHONE: (559) 624-7010

**SUBJECT:** Extension of Time No. EOT 18-009 for Tentative Subdivision Map No. 758/PSR, River Island East, LLC.

**REQUEST(S):**  
That the Board of Supervisors:

Approve a Two-Year Extension of Time EOT 18-009 to April 27, 2019, for Tentative Subdivision Map No. TSM 758/PSR, requested by River Island East Homeowners Association, c/o Michael Mahoney, 32903 Riverside Drive, Springville, CA, 93265 on property located on the northeast corner of Green Drive and Montgomery Drive, south of State Route 190, west of Springville.

**SUMMARY:**  
The Tulare County Resource Management Agency (RMA) has received a request from River Island East Homeowners Association for a Two-Year Extension of Time for the filing of the final map for TSM 758/PSR, to September 21, 2019. The Board of Supervisors approved the tentative map on September 21, 2004, by Resolution No. 2004-0708. The Board of Supervisors approved one extension of time to September 21, 2008 for TSM 758/PSR on December 5, 2006 by Resolution No. 2006-0905. In the interim, the State has approved five separate extensions of time for all tentative maps and vesting tentative maps approved after January 1, 2002 and not later than July 11, 2013 (SB 1185, AB 333, AB 208, AB 116, AB 1303); in effect, extending the expiration date of TSM 758/PSR to September 21, 2017. AB 2973, which is pending before the State legislature and has not yet been approved, would have extended the expiration date by another 24 months, to September 21, 2019. However, since AB 2973 is still pending, this extension of time is necessary



**SUBJECT:** Extension of Time No. EOT 18-009 for Tentative Subdivision Map No. 758/PSR, River Island East, LLC.  
**DATE:** August 14, 2018

to prolong the life of the tentative map for an additional 24 months, until September 21, 2019. In addition, the Public Utilities Commission Decision 10-05-004, of May 6, 2010 (Attachment 2), placed a three-year moratorium on new service connections with the Del Oro Water Company.

The Board of Supervisors certified a Negative Declaration for TSM 758/PSR on September 21, 2004, by Resolution No. 2004-0708, indicating the proposed subdivision would not have a significant effect on the environment, in compliance with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines for the Implementation of the California Environmental Quality Act of 1970.

**FISCAL IMPACT/FINANCING:**

There is No Net County Cost to the General Fund. The County is reimbursed by a flat fee of \$659 paid by the applicant to cover all costs associated with processing the request for an extension of time

**LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:**

The County's five-year strategic plan includes the "Economic Well Being Initiative - to promote economic development opportunities, effective growth management and a quality standard of living." The requested extension of time helps encourage growth consistent with the County General Plan.

**ADMINISTRATIVE SIGN-OFF:**



\_\_\_\_\_  
Aaron R. Bock  
Interim Assistant Director  
Economic Development & Planning



\_\_\_\_\_  
Reed Schenke, P.E.  
Director

cc: County Administrative Office

Attachment 1 – Copy of BOS Resolutions No. 2006-0905 and 2004-0708, and  
Planning Commission Resolution No. 8061  
Attachment 2 – CPUC Decision 10-05-004

## Attachment 1

**BEFORE THE BOARD OF SUPERVISORS**  
**COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF EXTENSION OF )  
TIME FOR TENTATIVE SUBDIVISION )      RESOLUTION NO. 2006-0905  
MAP NO. TM 758 )

UPON MOTION OF SUPERVISOR ISHIDA, SECONDED BY SUPERVISOR  
CONWAY, THE FOLLOWING WAS ADOPTED BY THE BOARD OF SUPERVISORS,  
AT AN OFFICIAL MEETING HELD DECEMBER 5, 2006, BY THE FOLLOWING VOTE:

AYES: Supervisors Ishida, Conway, Cox, Worthley and Maples  
NOES: None  
ABSTAIN: None  
ABSENT: None



ATTEST: C. BRIAN HADDIX  
COUNTY ADMINISTRATIVE OFFICER  
CLERK, BOARD OF SUPERVISORS

BY: Wanna K. Bush  
Deputy Clerk

Approved a two-year extension of time to September 21, 2008, for Tentative  
Subdivision Map No. TM 758/PSR.

RMA  
CAO

12/7/06  
WKB

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BEFORE THE BOARD OF SUPERVISORS  
COUNTY OF TULARE, STATE OF CALIFORNIA

In the Matter of Consideration )  
of Tentative Subdivision TM 758/PSR ) RESOLUTION NO. 2004-0708  
for River Island East, LLC )

WHEREAS, by Resolution No. 8061, the Tulare County Planning Commission recommended to this Board of Supervisors that tentative map of Tract No. 758/PSR be approved subject to conditions; and

WHEREAS, this is the time hereby fixed for consideration by this Board:

NOW, THEREFORE, BE IT RESOLVED as follows:

(1) This Board hereby adopts all of the findings of fact set forth in Resolution No. 8061 of the Tulare County Planning Commission, a copy of which is attached hereto and by reference incorporated herein.

(2) This Board hereby finds the proposed subdivision will not have a significant effect on the environment and certifies that a Negative Declaration was prepared for TM 758/PSR in compliance with the California Environmental Quality Act and the State Guidelines for the Implementation of the California Environmental Quality Act of 1970 and that the Board of Supervisors has reviewed and considered the information contained in the initial study prior to approval of the project.

(3) This Board hereby finds that the proposed subdivision, together with the provisions for its design and improvement, is consistent with the Tulare County General Plan, as amended.

(4) The tentative map of Tract No. 758/PSR is hereby approved subject to all of the recommendations and conditions as set forth in Resolution No. 8061, of the Tulare County Planning Commission, a copy of which is attached hereto.

The foregoing resolution was adopted upon motion of Supervisor Maples, seconded by Supervisor Moheno, at a meeting on this 21<sup>st</sup> day of September, 2004, by the following vote:

AYES: Supervisors Sanders, Conway, Moheno, Worthley and Maples

NOES: None

ABSTAIN: None

ABSENT: None



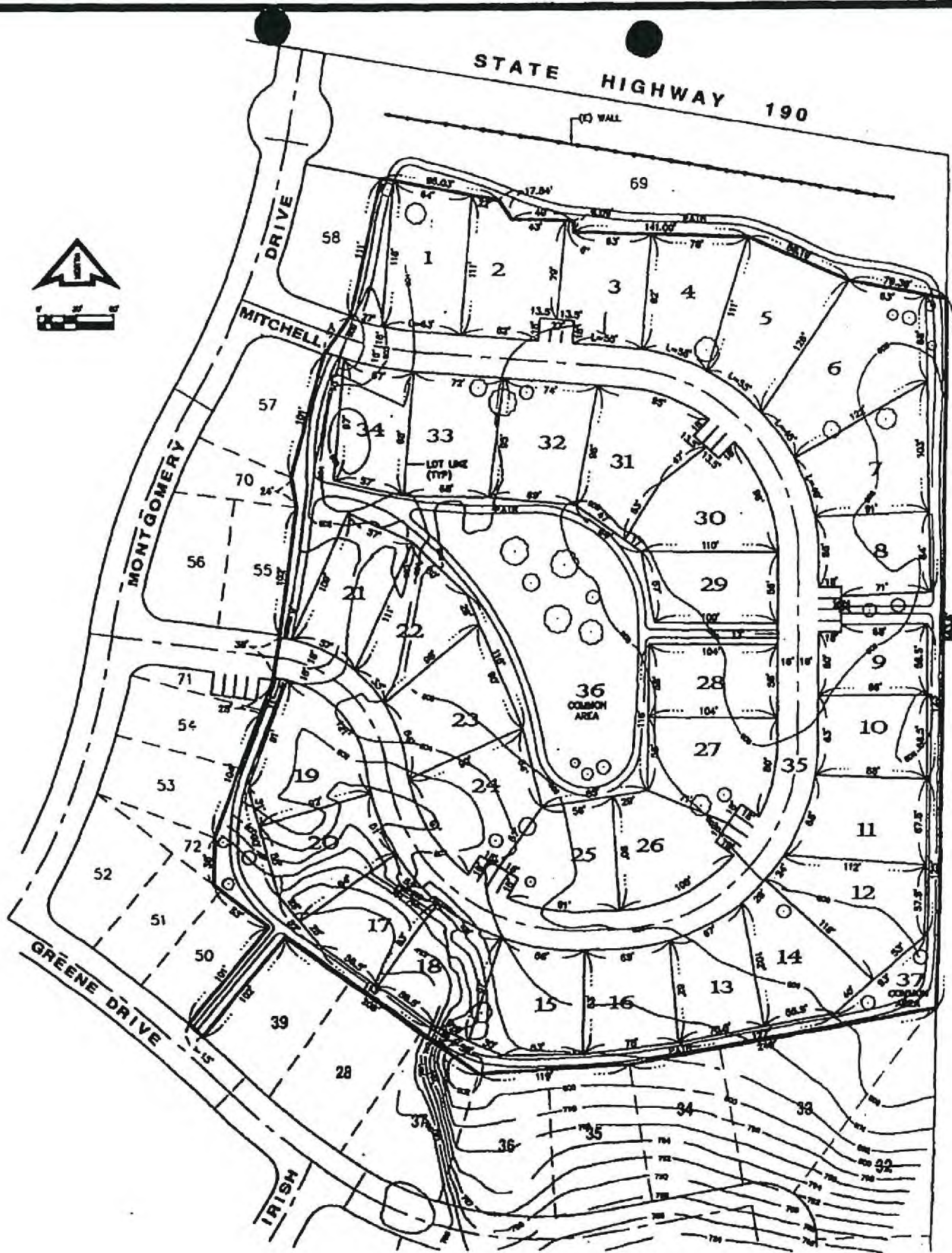
ATTEST: C. BRIAN HADDIX  
County Administrative Officer/  
Clerk of the Board of Supervisors

BY: [Signature]  
Deputy Clerk


:ma  
:ao  
:ud

9/21/04  
id





**LEGEND**

-  CONTOURS
- 50 LOT No's PER TRACT No. 664 - RM 35/71
- 39 LOT No's PER TRACT No. 751 - RM 40/77

**Final Site Plan and  
Tentative Subdivision Map  
TM 758 / PSR  
Sheet 1 of 3**

2. **PUBLIC HEARING:** Request from Resource Management Agency to adopt the findings as set forth in Planning Commission Resolution No. 8061 for the Tentative Subdivision Map No. TM 758/PSR, submitted by River Island East, LLC. Certify the Negative Declaration prepared for TM 758/PSR and find the subdivision will not have a significant effect on the environment. Approve TM 758/PSR subject to the conditions recommended by the Planning Commission in Resolution No. 8061. Direct the Clerk to return the Notice of Determination to the Resource Management Agency for future filing with the County Clerk.

**Resolution No. 2004-0708**



BEFORE THE PLANNING COMMISSION

COUNTY OF TULARE, STATE OF CALIFORNIA

IN THE MATTER OF TENTATIVE )

RESOLUTION NO. 8061

SUBDIVISION TRACT NO. TM 758/PSR )

Resolution of the Planning Commission of the County of Tulare recommending the Board of Supervisors approve Tentative Subdivision Tract No. TM 758/PSR with conditions, the division of 7.7 acres into 36 residential lots in the PD-F-M (Planned Development-Foothill Combining-Special Mobilehome) Zone, submitted by River Island East, LLC, 32281 River View Drive, Springville, CA 93265 (Agent: James Winton and Associates) located on the southerly side of State Highway 190, approximately 100 feet east of Montgomery Drive, southwest of Springville.

WHEREAS, a tentative map was filed pursuant to the regulations contained in Sections 7-01-1000 to 7-01-2850 (formerly Sections 7000-7125) of the Ordinance Code of the County of Tulare pertaining to the subdivision of land, and

WHEREAS, staff has conducted such investigations and surveys of fact bearing upon the proposed subdivision to assure action consistent with the purposes of Sections 7-01-1000 to 7-01-2850 (formerly Sections 7000-7125) of the Ordinance Code of Tulare County and the State Subdivision Map Act, and prepared a written report (made a part hereof), and

WHEREAS, staff recommended approval of this Tentative Subdivision subject to conditions, and

WHEREAS, a public hearing was held and public testimony was received and recorded at a regular meeting of the Planning Commission on August 25, 2004, and

WHEREAS at that meeting of the Planning Commission, public testimony was received and recorded from James Winton, agent, in support of the proposal, and no one spoke in opposition to the proposal, although, Tom Edwards, a neighbor, raised questions about certain development aspects of the project, and a letter of opposition was submitted by Ronald P. Marangi.

NOW, THEREFORE, BE IT RESOLVED as follows:

A. This Planning Commission hereby certifies that the Planning Commission has reviewed and considered the information contained in the Negative Declaration for said subdivision in compliance with the California Environmental Quality Act and the State Guidelines for the Implementation of the California Environmental Quality Act of 1970 prior to taking action on the project, and

B. This Planning Commission, after considering all the evidence presented, determined the following findings were relevant in evaluating this Tentative Subdivision project:

1. The 1981 Tulare County Foothill Growth Management Plan (FGMP) designates the site as being within the Tule River Development Corridor where urban and suburban development is appropriate subject to meeting certain design criteria and development/improvement standards. Residential development is to be encouraged to be in clusters, leaving wide areas of open space lands between more intensively developed areas.
2. The subject site is already zoned for the type of development proposed and no rezoning actions are necessary or anticipated.
3. Specific issues include residential densities, traffic, provisions for sewer and water, drainage, species and habitat, archaeology, the holding capability of the land for the densities involved, and compliance with the PD-F-M (Planned Development-Foothill-Mobilehome) Zone and the 1981 Foothill Growth Management Plan (FGMP).
4. The subject site is zoned PD-F-M (Planned Development-Foothill-Mobilehome) and is currently vacant.
5. Surrounding properties are zoned PD-F-M and contain the River Island Country Club and golf course, forestry station, scattered rural residential development, and a gated-community residential development.
6. This subdivision was reviewed by the Site Plan Review Committee at a public meeting on September 12, 2003 for a Preliminary Site Plan Review and August 20, 2004 regarding the Final Site Plan Review. The Site Plan Review Committee acted in an advisory capacity to the Planning Commission and recommended approval of TM 758/PSR subject to conditions by Resolution No. 04-117.
7. Ronald P. Marangi, a property owner within 300 feet of the site, expressed concerns regarding the capacity of the sewer and water systems, the improvement of the existing gated entrance and homeowners' association fees. James Winton, Registered Civil Engineer, responded on behalf of the applicants, that the River Island East sewage treatment facility was designed for Tract No. TM 664 with a total of 170 lots. The total number of lots that will actually be served, including the additional 34 in this subdivision, has been reduced to 139 lots. The River Island Water Company has recently upgraded its system with two additional wells and a water storage tank. It is a public water system that is regulated by the Public Utilities Commission with regular testing. Since this is part of the area included in the original TM 664, the owner participated in the traffic study and the resulting improvements to the gated entrance and turn lanes were put in place with the first

project. With respect to the concerns regarding homeowner's fees, staff noted that Tulare County does not enforce actions of a homeowners' association. Tom Edwards, an adjoining property owner, asked about the development of the common lot between Lot 50 of TM 664 and Lot 39 of Tract No. 751. This lot is controlled by the homeowners' association for the common use of the residents and is not regulated by Tulare County.

8. Sewage disposal is to be provided by the River Island East Homeowners' Association community sewer system. Domestic water will be provided by an independent water company, River Island Water Company. A Will Serve letter has been received.
9. A Negative Declaration was prepared for the project and approved by the Environmental Assessment Officer indicating that the project will not have a significant effect on the environment.

C. This Planning Commission further determined that the proposed subdivision project, together with the provisions for its design and improvements is consistent with the Tulare County General Plan, as amended, and

D. This Planning Commission, after considering all evidence presented, found that approval of said tentative subdivision map will promote the orderly growth of the County and will assure the health, safety and welfare of the people of the County.

AND, BE IT FURTHER RESOLVED as follows:

A. The Planning Commission hereby recommends that the Board of Supervisors find that said subdivision map will not have a significant effect and certify that a Negative Declaration has been completed in compliance with the California Environmental Quality Act of 1970 and The State Guidelines for the Implementation of the California Environmental Quality Act of 1970, as amended.

B. This Commission hereby recommends that the Board of Supervisors approve Tentative Subdivision Tract No. TM 758/PSR subject to the following conditions:

1. The subdivider shall be responsible for the cost of materials and installation for street name and traffic control signs at locations recommended by the RMA Director or his designee. Installation of street name and traffic control signs will be done by the RMA Engineering Division and the cost for such subsequently reimbursed by the subdivider.
2. The proposed improvements shall be designed to join existing improvements to provide safe and effective transition in accordance with County Standards. The



cost of all utility relocations required by the development shall be the responsibility of the developer.

3. The subdivider shall make all necessary arrangements for the relocation of all overhead and underground public utility facilities that interfere with any improvement work to be performed by the subdivider. The subdivider shall also make necessary arrangements with the public utility company affected for the cost of relocated such facilities, as no portion of relocation costs will be borne by the County. All new and/or relocated utility improvements shall be located underground wherever possible.
4. A detailed master drainage and grading plan and drainage and erosion control plan for driveways and building pads prepared by a Registered Civil Engineer detailing the means of stormwater disposal shall be submitted to and approved by the Tulare County Resource Management Agency Director or his designee prior to recordation of the final map.
5. The final subdivision map shall designate easements for public utilities as determined appropriate for size and location by the serving utilities (River Island Water Company, Southern California Edison, Southern California Gas, Pacific Bell Telephone, the local Cable television provider, and such other utilities as are determined necessary). All utility easements shall be shown on the final map.
6. A letter of service (and statement that the existing and/or proposed easements are sufficient and satisfactory to the utility company or companies) from all interested utilities shall be submitted to the Tulare County Health and Human Services Agency, Environmental Health Services Division and Tulare County Resource Management Agency, Engineering Division.
7. Sewer service shall be obtained from the River Island East Homeowners' Association.
8. Domestic water service for all lots shall be acquired from the River Island Water Company. Service lines shall be stubbed to all lots or all improvements shall be bonded for prior to the recording of the final map for each phase. Inspection of the lines at time of installation shall be by the Tulare County Resource Management Agency, Engineering Division in cooperation with the Tulare County Resource Management Agency-Area Building Inspector.
9. All wells on the site which are proposed to be utilized for domestic and/or fire suppression water for development on this property shall be developed to specifications of the TCHHSA-Environmental Health Services Division, TCRMA-Engineering Division, TC Fire Warden and the River Island Water Company. Said wells shall then be conveyed to River Island Water Company for

operation, maintenance and repair subject to such agreement as determined necessary by the water company.

10. All wells on site shall be identified and shown on the final map, and no new sewage disposal/leach line systems shall be allowed to be installed within 100 feet of the perimeter of any such well. Said setback areas shall be clearly and accurately plotted on the final map as an area where sewage disposal/leach line systems are prohibited.
11. The applicant shall install a fire hydrant system in compliance with the Tulare County Improvement Standards prior to the recording of the final map. New fire hydrants shall be installed at locations and to the specifications of the Tulare County Fire Warden in coordination with the River Island Water Company. Copies of the improvement plans shall be submitted to the Fire Warden's Office (2 copies) and the Tulare County Resource Management Agency-Engineering Division (2 copies) for review and approval prior to construction.
12. Blue raised reflective markers shall be located in the street to identify fire hydrant locations to the specifications of the Tulare County Fire Warden.
13. If street lights are installed, such installation shall coincide with the locations of fire hydrants wherever possible.
14. All new construction shall comply with the County Fire Safe Regulations pertaining to driveways, gate entrances, defensible space, addresses identifying buildings, and fire safe standards for new buildings. All building permit applications on the lots created by this map shall be reviewed and approved by the Tulare County Fire Warden's Office prior to issuance. All required improvements shall be completed prior to occupancy of the structure and prior to the issuance of occupancy permits.
15. If, during construction or additional grading activities on the site, any resources of an historic or prehistoric nature are discovered, all construction or grading shall temporarily cease and the Assistant Director of the Tulare County Resource Management Agency-Current Planning Division shall immediately be notified of the discovery. Further development shall not continue until the Assistant Director certifies that appropriate recovery measures, if deemed necessary, have been completed. This note shall be placed in a prominent location on the final map.
16. The property owner shall comply with all the Land Alteration requirements of the (F) Foothill Combining Zone as set forth in Attachment No.1.
17. The maximum steepness of exposed cuts and fills shall meet the standard established in the Tulare County Improvement Standards, generally as follows:

Fill slope: 1-1/2:1  
Cut slope: 1:1

18. The drainage and erosion control plan referenced in Condition 4 shall be designed to retain as much water as possible on-site and include measures for retaining water-borne sediment on-site such as through the use of sediment basins and sediment traps to prevent sedimentation and flooding and shall be designed to retain all additional storm water runoff cause by the development on the project site. Said plan shall be reviewed and approved by the Tulare County Resource Management Agency-Engineering Division.
19. No building improvements whatsoever, including but not limited to, residences, accessory buildings, fences and septic tank/leach line systems, or any other activity associated with construction, shall be placed within fifty feet (50') of the banks of an intermittent watercourse or one hundred feet (100') of the banks of a perennial watercourse.
20. A soil report (foundation investigation) for the expansive properties of the building pads shall be prepared by a Registered Civil Engineer or Registered Geologist and shall be submitted to and approved by the Planning and Development Department prior to issuance of a building permit for construction of any main buildings. This may be coordinated with the drainage plan required in Condition 4.

The foregoing resolution was adopted upon motion of Commissioner Whitlatch, seconded by Commissioner Kirkpatrick, at a regular meeting of the Planning Commission on the 25th day of August, 2004, by the following roll call vote:

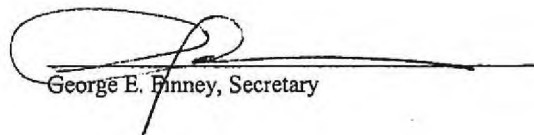
AYES: Kapheim, Whitlatch, Wheeler, Kirkpatrick, Fernandes, Dias

NOES: None

ABSTAIN: None

ABSENT: Millwee

TULARE COUNTY PLANNING COMMISSION

  
George E. Finney, Secretary



Attachment No. /

Land Alteration Requirements of the (F) Foothill Combining Zone as set forth in Tulare County Zoning Ordinance, No 352, as amended, Section 18.7, F-3

**Land Alteration**

3. Where any portion of a development site is proposed to be graded, improved or otherwise disturbed by reason of construction activity, the following standards shall be applicable:
  - a. Grading standards:
    - (1) All disturbed slopes shall be graded so that they are contoured to harmonize and blend with the natural slopes remaining on the site and surrounding the development site.
    - (2) The slope of exposed cuts and fills shall meet the standards established in the Improvement Standards of Tulare County as adopted pursuant to Section 7-01-2025 (formerly Section 7080) of the Ordinance Code of Tulare County and as said improvement standards are amended from time to time.
    - (3) Where soil materials are remaining on any graded slope and stabilization is required on the slope stabilization plan, such soil areas shall be planted with vegetation types sufficient to stabilize slopes and prevent erosion. Plant materials natural to the site and surrounding areas shall be used wherever possible.
    - (4) All slope stabilization and erosion protection activities associated with the development project shall be completed immediately after grading has been concluded and before the first day of December of any calendar year. No grading activities associated with a development project shall be undertaken between December 1 and March 1 unless the applicant can demonstrate that the slope stabilization and erosion prevention methods to be utilized will be effective in eliminating any slope and erosion problems.
    - (5) All lots and parcels shall be designed in a manner that minimizes future grading or land disturbance.
    - (6) Where two or more cut or fill slopes intersect, the area of intersection shall be graded and

shaped to closely resemble natural topography. This requirement is not applicable to cut or fill slopes composed entirely of rock material.

- (7) Where any cut or fill slope intersects with the natural grade of the land, the area of intersection shall be graded and shaped to closely resemble natural topography. This standard is not applicable to cut or fill slopes composed entirely of rock material.
- (8) Fill slopes shall not extend into natural water courses or constructed channels. Excavated materials shall not be stored in water courses.

b. Erosion control requirements:

- (1) Water born sediment shall be retained on the site by means of facilities such as sediment basins and sediment traps. The drainage plan required under paragraph 2 of subsection D of this section shall set forth the proposed facilities for retaining water born sediment on the subject site.
- (2) Immediately following completion of grading or excavation activities, temporary mulching, seeding or other suitable stabilization methods shall be undertaken to protect exposed critical areas.
- (3) Any denuded or exposed slopes caused by construction activities shall be planted with native plant material or similar climatically adapted vegetation which are determined suitable for protecting exposed slopes from erosion.

c. Drainage requirements:

- (1) For projects located on sites containing steep slopes or tight soils, the drainage plan required under paragraph 2 of subsection D of this section shall be designed to detain as much storm water run-off as possible on the site in order to prevent potential sedimentation and flooding off the site.
- (2) Within acute flooding problem areas identified in the Foothill Growth Management Plan, said drainage plan shall be designed to retain all

additional storm water run-off caused by the development within the project site.

d. Vegetation removal requirements:

- (1) Removal or grading around native trees with a trunk of six (6) inches or more in diameter measured at three (3) feet above ground surface shall not be permitted during construction unless the agency which is making the final decision on the development project finds that such tree removal or grading is necessary due to desirable circulation alignments or infrastructure requirements.
- (2) Removal of any native tree as defined in this paragraph which is located within areas restricted to open space under paragraph 2 of this subsection shall not be permitted unless the retention of such native trees would endanger the safety of residents within the development site.
- (3) Any native tree as defined in this paragraph which is proposed for removal must be indicated on or with the Site Plan and a statement shall accompany such site plan explaining why said tree or trees must be removed.



## Attachment 2

Decision 10-05-004 May 6, 2010

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of Del Oro Water Company (U61W) to Impose a Moratorium on New Service Connections in its River Island District.

Application 09-08-016  
(Filed August 21, 2009)

**DECISION GRANTING REQUEST FOR MORATORIUM ON NEW WATER SERVICE CONNECTIONS IN RIVER ISLAND DISTRICT AND REQUIRING PREPARATION OF WATER SUPPLY AUGMENTATION PLAN**

**1. Summary**

This decision grants applicant's request to place a moratorium on new water service connections in its River Island District due to limited water supply. The moratorium is limited to the sooner of three years from the effective date of this decision or the date that sufficient additional water supplies are available. Applicant is also ordered to prepare a plan to augment its water supply and file it with the Commission.

**2. Background**

In Decision (D.) 08-07-034 on July 31, 2008, this Commission authorized Del Oro Water Company (Del Oro) to acquire River Island Water Company, then a Class D investor-owned water utility, with 337 metered water customers and 15 metered irrigation customers located approximately three miles southwest of Springville in Tulare County, California. At the time of acquisition, the water system was comprised of one inactive and 17 hard rock wells ranging from

19 gallons per minute (GPM) to 55 GPM, five storage tanks with a total storage of 492,000 gallons and distribution pipelines consisting of 63,672 feet.

In the current application, Del Oro explains that since acquisition of the River Island system water supplies have deteriorated in the two separate service territories and the number of customers have increased. River Island District Territory 1 now serves 360 connections and two of the 14 wells operating when Del Oro acquired the system have been removed from service due to low capacity and high concentrations of nitrate. Specifically, the water system can reliably produce 414 GPM but the maximum daily demand is 521 GPM, resulting in a capacity deficit of 107 GPM. Consequently, Del Oro states that the Territory 1 supply cannot meet Territory 1's maximum day demand, as required by the California Department of Public Health.<sup>1</sup>

In Territory 2, Del Oro serves 29 customers with water supply from one well with a capacity of 40 GPM. A second well is used only on an emergency basis as it has experienced high nitrate levels. Del Oro calculates the maximum daily demand for Territory 2 at 45 GPM.

Del Oro states that adding additional customers in either Territory would be imprudent until it is able to augment its sources of supply. Accordingly, Del Oro seeks in its application and pursuant to Pub. Util. Code § 2708, an order of the Commission imposing a moratorium on new service connections in the River Island District pending further order of the Commission. Del Oro stated

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<sup>1</sup> 22 CCR § 64554.



that it would be giving its River Island District customers notice of this request and holding a public hearing on the request pursuant to Water Code § 351.<sup>2</sup>

On September 10, 2009, in Resolution ALJ 176-3240, the Commission preliminarily categorized this proceeding as ratesetting, with a hearing required.

On October 15 and 19, 2009, Del Oro submitted amendments to the application. In response to comments received at the public hearing, the first amendment created an exception to the moratorium for developers that have contributed wells to the system in return for will serve agreements from Del Oro. The second amendment slightly modified the first.

Del Oro requests the following text be added to its River Island District service schedules as amended by the sunset clause required by this decision:

Moratorium

No service shall be provided to any premises not previously served within the River Island Service Area as defined on the Service Area Map filed as part of these tariffs for a period of up to three years from {date of decision}. PROVIDED THAT: If a subdivider/customer has contributed a well(s) in order to obtain a will serve letter as a requirement of Del Oro Water Company, River Island, to provide service to a particular subdivision, an exception to the service connection moratorium will be granted only for the number of lots within the subdivision for which the current production from said well(s) during rationing is/are capable of supplying. Data is to be developed from historical records and current production records.

No protests were filed.

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<sup>2</sup> Del Oro held the public hearing on October 13, 2009, and a representative of the Commission's Division of Water and Audits attended.

### **3. Need for Hearing**

No party intervened in this proceeding and no disputed issues of material fact have been identified that would require an evidentiary hearing. Therefore, no hearings are necessary.

### **4. Discussion**

The Commission evaluates requests for service connection moratoria under Public Utilities Code Section 2708, which provides:

Whenever the commission, after a hearing had upon its own motion or upon complaint, finds that any water company which is a public utility operating within this State has reached the limit of its capacity to supply water and that no further consumers of water can be supplied from the system of such utility without injuriously withdrawing the supply wholly or in part from those who have theretofore been supplied by the corporation, the commission may order and require that no such corporation shall furnish water to any new or additional consumers until the order is vacated or modified by the commission. The commission, after hearing upon its own motion or upon complaint, may also require any such water company to allow additional consumers to be served when it appears that service to additional consumers will not injuriously withdraw the supply wholly or in part from those who theretofore had been supplied by such public utility.

Del Oro's uncontested analysis shows that the existing supply for both Territory 1 and 2 in the River Island District does not meet the Department of Public Health's capacity production requirements for existing customers. We will, therefore, order the service connection moratorium Del Oro seeks until Del Oro can augment its water supply.

Del Oro's request is subject to an exception for lots that can be served by the production from contributed wells. We will include that provision as well.

## 5. Lifting the Moratorium

Having decided that the Commission should order a moratorium, the next question must be whether and when it should expire. Del Oro did not specifically request a termination date or event for its proposed moratorium.

The duration of the moratorium should depend on how quickly Del Oro can improve the water supply for the River Island District. In its application, Del Oro noted several impediments to additional wells and surface water supplies. Consistent with D.03-03-037, we will limit the duration of the moratorium to the sooner of three years from the effective date of today's decision or the date that sufficient additional water supplies are available. That should provide sufficient time to make improvements and have the moratorium lifted. However, if needed, Del Oro may file a new application at least one year before the expiration date for an extension of the moratorium. We will also order Del Oro to prepare a plan for augmenting its River Island District supplies and file it as a Tier III advice letter no later than one year from the effective date of this decision.

Also consistent with D.03-03-037, we will order Del Oro to maintain a waiting list procedure for applicants for new service in the River Island District subject to the following waiting list requirements:

- Del Oro must follow a standard procedure for all new service connection applications.
- All future applications for new service connections are to be in writing.
- Approved connections and spots on the waiting list are to be associated with unserved lots, and only a lot owner may apply for a new service connection to that lot.
- A new lot owner may succeed to the former owner's approved connection or rank on the waiting list.

- The waiting list is a public document, available to customers, would-be customers, Commission staff, and the general public on request. Each list must at a minimum identify the applicant, the location to be served, and the date a written application was received.
- Del Oro shall notify all owners of unserved lots within its River Island District of the moratorium, the process for applying for a new connection, and the procedures associated with the waiting list.

## **6. Comments on Proposed Decision**

The proposed decision of the Administrative Law Judge (ALJ) in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. No comments were filed.

## **7. Assignment of Proceeding**

John A. Bohn is the assigned Commissioner and Maribeth A. Bushey is the assigned ALJ in this proceeding.

### **Findings of Fact**

1. Del Oro's River Island District Territories 1 and 2 water systems can not reliably produce sufficient water to meet maximum daily demand, as required by California Department of Public Health regulations.

2. Del Oro's River Island District Territories 1 and 2 water systems have reached their water production capacity limit and are unable to serve more connections without injuriously withdrawing the supply from its current users.

3. No hearing is necessary.

### **Conclusions of Law**

1. Del Oro should augment the water supply for its River Island District in Territories 1 and 2.



2. Del Oro should be authorized to place a moratorium on new service connections in its River Island District.
3. Del Oro should establish and maintain a waiting list for new connections in its River Island District.
4. Del Oro should file a plan for augmenting its water supplies in its River Island District no later than one year from the effective date of this decision.
5. The service connection moratorium authorized by today's decision should expire at the earlier of sufficient new water supplies being available or three years from the effective date of today's decision.
6. For administrative efficiency, this order should be made effective today.

## O R D E R

### IT IS ORDERED that:

1. Del Oro Water Company must impose a moratorium on new water service connections in its River Island District. The moratorium shall expire on the earlier of the date sufficient new water supplies are available or three years from the effective date of this decision.
2. Not later than 30 days after the effective date of this decision, Del Oro Water Company must file and make effective on five days' notice in accordance with General Order 96-B, a Tier I advice letter establishing for up to three years from the effective date of this decision a moratorium on new connections by adding the following special condition in its tariff schedules for public utility water service in its River Island District:

#### Moratorium

No service shall be provided to any premises not previously served within the River Island Service Area as defined on the

Service Area Map filed as part of these tariffs for a period of up to 3 years from {date of decision}. PROVIDED THAT: If a subdivider/customer has contributed a well(s) in order to obtain a will serve letter as a requirement of Del Oro Water Company, River Island, to provide service to a particular subdivision, an exception to the service connection moratorium will be granted only for the number of lots within the subdivision for which the current production from said well(s) during rationing is/are capable of supplying. Data is to be developed from historical records and current production records.

2. Del Oro Water Company must establish a waiting list for customers seeking new connections consistent with these guidelines:
  - a. Del Oro must follow a standard procedure for all new service connection applications.
  - b. All future applications for new service connections must be in writing.
  - c. Approved connections and spots on the waiting list are to be associated with unserved lots, and only a lot owner may apply for a new service connection to that lot, and new lot owner may succeed to the former owner's approved connection or rank on the waiting list.
  - d. The waiting list is a public document, available to customers, would-be customers, Commission staff, and the general public on request. Each list must at a minimum identify the applicant, the location to be served, and the date a written application was received.
3. Del Oro Water Company, in consultation with its customers and prospective customers, must prepare a plan to augment the River Island District water supply, and file the plan with the Commission as a Tier III advice letter no later than one year from the effective date of today's decision.
4. Not later than 60 days after the effective date of this decision, Del Oro Water Company must notify by first class mail all owners of unserved lots

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within its River Island service territories of the moratorium, the process for applying for a new connection, and the procedures for administering the waiting list.

5. Application 09-08-016 is closed.

This order is effective today.

Dated May 6, 2010, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
DIAN M. GRUENEICH  
JOHN A. BOHN  
TIMOTHY ALAN SIMON  
NANCY E. RYAN  
Commissioners