Ann Bell Wilson (107424)
WILSON & WILSON
960 Toro Street
San Luis Obispo, CA 93401
Telephone: 805-546-8098

Attorneys for Petitioners
Roy and Martha Barron

In re:

Roy and Martha Barron
2410 "K" Street
Santa Margarita, CA 93454

_____/

PETITION FOR REVIEW

[California Code of Regs. Title 23 §2050]

1. The Petitioners are:
   Roy and Martha Barron
   Post Office Box 387
   Santa Margarita, CA 93457
   Telephone: 805.438.5111
   Property address: 2410 "K" Street, Santa Margarita, CA 93454

2. A copy of the action by the regional board is attached as Exhibit A.

3. The Board's decision is dated October 9, 2008 (Exhibit A).

4. The Regional Board singled out these particular homeowners to enforce a more stringent wastewater treatment system requirement as compared to other similarly situated owners. Petitioners are a retired couple who built a single family residence in Santa Margarita, California, for their retirement home. Other homes and commercial buildings have been built, remodeled, and added to, most in more sensitive areas which include adjacent to a stream. None of these other homes or businesses were required to build an advanced wastewater treatment system with an alternative disposal design, like

Petitioners. The cost to design and install, with the required 24 hour offsite telemetric monitoring system, is excessive given the value of this single family residence, as well as the existing and new septic systems in the surrounding area.

Further, although the Regional Board claims that the Santa Margarita area is known for having high groundwater, there is no comprehensive approach to address this issue in Santa Margarita, and other project sites were subsequently granted permits with traditional septic systems.

5. Petitioners fully completed their retirement home, including a septic system, and all that remains is a sign-off for final approval of the permit and certificate of occupancy. Of course, without these, the property is useless. Other properties have been built, remodeled and occupied during the time Petitioners have been waiting for the Board's approval. Petitioners continue to pay on two mortgages.

The total cost to build Petitioners' home was $171,000.00. The cost to install the system demanded by the Regional Board is between $34,100.00 and $56,000.00. The total telemetry cost for monitoring is not included. Further, the annual soils testing cost would be $564.00 to $750.00. This is all in addition to the cost of the system already installed. To the best of Petitioners' knowledge, there are no other such systems installed in Santa Margarita, California. The regional board also demanded that the Petitioners sign and record a deed restriction advising future buyers that this required system is experimental, that the certificate of occupancy may be revoked, and that the owners agree to defend and indemnify the County for any future damages. Such a declaration significantly impacts the value of a single family residence.

6. Petitioners request that the Regional Board approve a septic system for their property which is equivalent to other properties in Santa Margarita. This is the system which was already approved and installed.

7. Petitioners' evidentiary hearing has not been held at the time of filing this Petition. Thus, Petitioners reserve the right to amend this Petition to include additional legal issues raised by or at the hearing.

Petitioners' Petition for Review is based their right to equal protection under the law. The Fourteenth Amendment to the United States Constitution requires:

"... persons under like circumstances be given equal protection and security in the enjoyment of personal and civil rights, the acquisition and enjoyment of property, the enforcement of contracts ..." 10 Witkin, *Summary of California Law* §695, p. 69.

In the present situation, the Petitioners were and are the only homeowners in Santa Margarita who are being forced by the Water Quality Control Board to install a highly sophisticated septic system. It is the Ferrari of septic systems. Santa Margarita is an area of modest homes which all share the same water table and soils make up as the Petitioners' property. Yet only the Petitioners are being forced to purchase a Ferrari. Other owners, all included in the same Santa Margarita area, were allowed to install the traditional septic system, the septic system equivalent to a Honda Civic.

8. A copy of this Petition will be sent concurrently to the California Regional Water Quality Control Board, Central Coast Region.

9. A Request for Evidentiary Hearing is being filed concurrently with this Petition. It is respectfully requested that this Petition be held in abeyance while the request for evidentiary hearing is pending.

DATED: November 10, 2008

WILSON & WILSON

Ann Bell Wilson, Attorney for
Petitioners Roy and Martha Barron

California Regional Water Quality Control Board
Central Coast Region

Linda S. Adams
Secretary for Environmental Protection

Internet Address: http://www.waterboards.ca.gov/centralcoast
895 Aerovista Place – Suite 101, San Luis Obispo, CA 93401-7906
Phone (805) 549-3147 • FAX (805) 543-0397

Arnold Schwarzenegger
Governor

October 9, 2008

Ms. Ann Wilson
Wilson & Wilson Attorneys at Law
960 Toro Street
San Luis Obispo, CA 93401

Dear Ms. Wilson:

DISCUSSION OF AN ADVANCED WASTEWATER TREATMENT SYSTEM FOR THE BARRON RESIDENCE, SANTA MARGARITA, SAN LUIS OBISPO COUNTY

During our meeting on July 21, 2008, Central Coast Water Board staff reviewed onsite wastewater treatment system options for the Barron residence. It is our understanding that the disposal site has conditions that are not favorable (e.g., high groundwater and restrictive soils) for conventional onsite wastewater treatment system installation. Central Coast Water Board staff sent you an email on July 25, 2008, discussing possible wastewater treatment options prior to making any determination. Ultimately, disposal of domestic wastewater must comply with prohibitions, siting, and design criteria set forth in the Central Coast Basin Plan. Based on our review of the various options outlined in our July 25, 2008 email, as well as the *June 7, 2007 revised Sanitary Wastewater Treatment Design for the Barron Residence* prepared by Mr. Joseph A Chouinard, we have determined that the proposed advanced wastewater treatment system (Advantex) with alternative disposal (Geoflow) design complies with the Basin Plan requirements and would be acceptable for installation at the Barron residence. Furthermore, we find that the other evaluated wastewater disposal options do not satisfy Basin Plan requirements and could not be approved.

Requesting an Evidentiary Hearing

Any person affected by this action of the Water Board may request an evidentiary hearing before the Central Coast Water Board. The Water Board's Executive Officer may elect to hold an informal hearing or a "paper hearing" in lieu of scheduling a hearing before the Board itself. If you decide to request an evidentiary hearing, send your request to Central Coast Water Board at 895 Aerovista Place, Suite 101, San Luis Obispo, CA 93401 with attention to David LaCaro. Please consider the following

carefully:

1. The Water Board must receive your request within 30 days of the date of this letter.
2. Your request must include all comments, technical analysis, documents, reports, and other evidence that you wish to submit for the evidentiary hearing. However, please note that the administrative record will include all materials the Water Board has previously received regarding this site. You are not required to submit documents that are already in the record.
3. The Executive Officer or Water Board may deny your request for a hearing after reviewing the evidence.
4. If you do not request an evidentiary hearing, the State Water Resources Control Board (State Water Board) may prevent you from submitting new evidence in support of a State Water Board petition.
5. Your request for an evidentiary hearing, if you submit one, does not stay the effective date of a Final Order, whether or not a hearing is scheduled.
6. A request for a hearing does not extend the 30-day period to file a petition with the State Water Board. However, we suggest that you ask the State Water Board to hold the petition in abeyance while your request for a hearing is pending. (See, 23 Cal. Code of Regs. § 2050.5(d).) The Final Order includes additional information about State Water Board petitions.

If you have any questions regarding the above, please contact **David LaCaro at (805) 549-3892** or Burton Chadwick at (805) 542-4786.

Sincerely,

for Roger W. Briggs
Executive Officer

Cc: Barry Tolle, REHS
San Luis Obispo County
Department of Planning and Building
County Government Center
San Luis Obispo, California, 93408

Roy and Martha Barron
P.O. Box 387
Santa Margarita, CA 93453

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WILSON & WILSON
ATTORNEYS AT LAW

960 TORO STREET
SAN LUIS OBISPO, CALIFORNIA 93401
(805) 546-8098
FACSIMILE (805) 781-3427

ANN BELL WILSON

DENTON J. WILSON

November 10, 2008

Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401

Hand-Delivered

COPY

Re: 2410 "K" Street, Santa Margarita

Request for Evidentiary Hearing

Roy and Martha Barron hereby request an Evidentiary Hearing of the decisions outlined in the letter dated October 9, 2008, from the Central Coast Region of the California Regional Water Quality Control Board.

It is our understanding that the Board has copies of all relevant documents, including the two soils reports, the approved permit for the septic system, as built, and the reports by Joseph A. Chouinard. If the Board is missing any documentation that we can provide, please contact either Mr. Chouinard or this office.

Attached are the most complete estimates for the septic system demanded by the Regional Board.

The primary argument by the Barrons is one of equal protection. The Barrons' home is, in all essential elements, no different from the homes surrounding it. It is a three bedroom, two bath house on a relatively small lot, consistent with the neighboring properties. It is not adjacent, or even near, any streams.

The house was built in 2005-2006. It was approved for a traditional septic system, again consistent with the building custom and practice in Santa Margarita. Inexplicably, the project manager called for a building inspection after nearly a week of constant rain and, not surprisingly, there was water standing in the trench. It did not pass inspection. A second inspection was requested, again after a

COPY

significant period of rain, and again it did not pass inspection because of water in the excavated trench.

The fact that there is a high water table in Santa Margarita, and that water quality suffers as a result is not really in dispute. This dispute lies in the fact that Roy and Martha Barron are not treated the same as similarly situated property owners. The State must treat all residents equally. There are other business and individuals building commercial office projects, new homes, and new additions to existing homes, all using traditional septic systems. To the best of our knowledge, no other property owner in Santa Margarita has been required to install the Advantex system with the Geoflow design. The entire cost to construct the Barrons' home was $170,000.00. The partial cost to install the Advantex system was approximately $56,000.00, with annual maintenance costs of over $1,000.00. As stated in the Petition for Review, this is the equivalent of requiring the Barrons to purchase a Ferrari in a neighborhood of Honda Civics.

What is needed is a comprehensive plan, consistently applied, to address a high water table in Santa Margarita. To demand that the Barrons install the highly sophisticated and expensive septic system in this neighborhood of modest homes violates the Barrons' right to equal protection of the law.

Respectfully submitted,

Ann Bell Wilson, Attorney for
Petitioners Roy and Martha Barron

ABW/kms
Enclosure

Al's Septic Pumping Service, Inc.
Septic Tank Locating • Inspection Service
Mud Drill Water
528-0432 • 541-[illegible] • 773-0123 • [illegible]-0887 • 466-4689

MEMORANDUM OF MAINTENANCE AGREEMENT OF ON-SITE WASTEWATER SYTEM

The following Memorandum of Agreement will serve as our understanding between the Owners of the property located at: Owners name:_____
Address:_____
Phone:_____
Alternate phone or contacts:_____

SCOPE OF WORK

Maintenance shall consist of:

- Inspection of system components every six months.
- Physical adjustment of components in need of attention.
- Recommendation of replacement or repair of parts as needed including preventive maintenance.
- Recommendations for and monitoring of, periodic pumping of accumulated solids.

Inspection – Mechanical

Septic Tanks – Inspect all risers in the Primary and Secondary side of each septic tank. Inspection shall include but not be limited to:

- Water levels
- Sludge thickness and consistency
- Scum thickness and consistency
- Plumbing Tee's cleared of obstacles/debris if any

Recirculation Tank

- Proper performance including liquid levels, pumps floats pump amperage, flow rate and water level.
- Clearance of all obstacles/debris if any.

Textile Filter Pod

- Inspect emitters
- Inspect textile filters (clean if necessary)
- Inspect Recirculation system for proper maintenance

May 16 07 12:52p Al's Septic Service 8055280485 p.2

Reports

As required as per call to San Luis County – Planning and Engineering Dept.
To take samples and provide reports quarterly to San Luis Regional Water Control Board Quarterly for next 3 years – every 6 months thereafter.

Sampling

Samples to be pulled and sent to independent lab with results submitted to RWCB as requested. Lab analysis fees to be billed separately. We will ask the client/homeowner to set up own account to be billed directly from laboratory company.
This maintenance agreement covers "Preventive Maintenance" only. Any and all other services will be billed for parts and time costs at the prevailing service rate. (See schedule of rates sheet)

Annual Maintenance cost: $ 350.00 per each maintenance service call/ 750.00 per year. This is for 6 month maintenance plan.
Sampling service calls to pull samples for Lab tests: 85.00 per quarter. This may be a sample the homeowner can pull to avoid extra costs.
This maintenance agreement will be activated following the issuance of Final Approval and inspection of installation.
Maintenance costs will be re-evaluated at the end of each contract period for new rates and costs.

Billing

Invoices will be sent after service maintenance performed. Invoices are due 30 days after receipt. To be paid upon receipt. All invoices not paid within 30 days subject to finance charge of 1.5% monthly or 18% per annum.

Name Title	Name Title
Date	Date

May 16 07 12:52p Al's Septic Service 8055280485 p.3

John Thomson, Jr.
General Engineering Inc.

141 Toro Creek Road
Morro Bay, CA 93442
License# 824644
Phone # 805-995-1668
Fax # 805-995-2178

Proposal

Date
9/13/2007

Name / Address/ Project
Roy and Martha Barron P.O. Box 387 Santa Margarita, Ca 93453 re: 2410 "K" Street Santa Margarita, CA

Description	Qty	Total
Install Advantex septic system as per plans and specs**. Equipment and labor. All utilities that are unable to be located by U.S.A. Dig, contractor is not responsible for. No permits will be provided by contractor. No surveying or staking by contractor. Anything not mentioned, not provided. ** Sand, per specs, is not available. Alternate material shall be used.		56,000.00
Proposal good for 15 days	**Total**	$56,000.00

Clay's Septic & Jetting Inc.

952 Live Oak Ridge Rd.
Nipomo, CA 93444
1-800-928-2529 Contractor's Lic. #674109 Fax 805-929-1192

Proposal Submitted To:
Name: Roy & Martha Barron
Contact:
Street: P.O. Box 387
City: Santa Margarita
State: CA Zip: 93453
Telephone: 438-5111
Fax:
Assessor's Parcel Number (need in order to get permit) 069-151-006

Work To Be Performed At:
Street: 2410 K Street
City: Santa Margarita
State: CA Zip: 93453
Date: 6/27/07
[X] Permits Included up to $200.00
[ ] Permits Not Necessary
[ ] Not Responsible For Permits
Irrigation must be kept off the week before.

Bid to install septic system according to plans.
Bid includes labor, material, spreading excess soil over excavation site, pump & abandon existing septic tank in place and equipment necessary to complete job. We are not responsible for landscaping, sprinklers, sidewalks, driveways, fencing, trees, soil conditions, underground water, animals or the condition of any pipe adjacent to or near by our specified work area or any known, unknown, unmarked, or underground wires, pipes, or drains and the intersection of sewer lines or utility lines where they cross our excavation. This bid is pending all administrative authorities approval. If fiber optic cables or lines are detected or found in work area, this bid is void.
If bid is accepted, please sign and fax or mail back to us. All material is guaranteed to be as specified, and the above work to be performed and completed in a substantial workmanlike manner for the sum of: $34,100.00
Thirty Four Thousand One Hundred dollars.

Method of payment: Cash { } Check { } Credit Card { } Escrow { } - ***Mark One***

Payment is due immediately after services are rendered. Clay's Septic & Jetting, Inc. reserves the right in its sole discretion to modify or alter this payment requirement.
Any alteration or deviation from the above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements are contingent upon strikes, accidents or delays beyond our control.
"Notice to owner" (Section 7019- Contractors License Law) Under the Mechanics' Lien Law, any contractor, subcontractor, laborer, materialman or other person who helps to improve your property and is not paid for his labor, services or material, has a right to enforce his claim against your property. Under the law, you may protect yourself against such claims by filing, before commencing such work or improvement, an original contract for the work of improvement or modification thereof, in the office of a county recorder of the county where the property is situated and requiring that a contractor's payment bond be recorded in such office. Said bond shall be an amount not less than fifty percent (50%) of the contract price and shall, in addition to any conditions for the performance of the contract, be conditioned for the payment in full of the claims of all persons furnishing labor, services, equipment or materials for the work described in said contract.

Respectfully submitted by Pat
Per _____ State License No. 674109 C36 C42

Note- Clay's Septic & Jetting reserves the right to rescind this contract pending the location of utilities or if not accepted with-in 30 days.

Acceptance of Proposal

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work specified. Payment will be made as outlined above.

Accepted by_____**Signature**_____**Date**_____

Contractors are required by law to be licensed and regulated by the Contractor's State License Board. Any questions concerning a contractor may be referred to the Registrar, Contractors State License Board, (3132 Bradshaw Road.) Sacramento, California. (Mailing Address: P O Box 26000, Sacramento, California 95826)

PROPERTIES WHICH RECEIVED BUILDING PERMITS WITHOUT AN ADVANCED WASTEWATER TREATMENT SYSTEM, WITH ALTERNATIVE DISPOSAL

1. 22575 I Street, Santa Margarita
2. 22720 El Camino Real, Santa Margarita
3. 22122 I Street, Santa Margarita
4. 22319 F Street, Santa Margarita
5. 22128 El Camino Real, Santa Margarita