

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL COAST REGION  
895 AEROVISTA PLACE, SUITE 101  
SAN LUIS OBISPO, CALIFORNIA**

**RESOLUTION NO. R3-2008-0020 (DRAFT)**

**Waiver of Waste Discharge Requirements**

**For**

**ENGINEERED ONSITE DISPOSAL SYSTEM  
KASHFI RESIDENCE, 74 CORONA ROAD  
CARMEL HIGHLANDS  
CARMEL  
(APN 241-052-001)  
Monterey County**

The California Regional Water Quality Control Board, Central Coast Region (hereinafter Water Board) finds that:

1. California Water Code Section 13260(a) requires that any person discharging waste, or proposing to discharge waste within any region that could affect the quality of the waters of the state, other than into a community sewer system, shall file with the appropriate Regional Water Board a report of the discharge ("report of waste discharge" or "ROWD") or other report containing such information and data as may be required by the Regional Board.
2. The Water Board prescribes waste discharge requirements except where the Water Board finds that a waiver of waste discharge requirements is consistent with applicable water quality control plans and is in the public interest pursuant to California Water Code Section 13269.
3. California Water Code Section 13269 provides that all waivers of waste discharge requirements must be conditional, may not exceed five years in duration, and may be terminated at any time by the Water Board.
4. The Monterey County Board of Supervisors adopted Ordinance No. 5093 on November 17, 2007. Ordinance No. 5093 extends Interim Ordinance No. 5086, adopted on October 2, 2007, which temporarily limits new development in the Carmel Highlands that has the potential to generate wastewater and temporarily limits the construction of new wells pending an area-wide study and consideration of an Onsite Wastewater Management Plan by the County. Ordinance No. 5093 also contains an exemption to allow a limited number of pending applications to be processed subject to specified standards as outlined in Ordinance No. 5093. Interim Ordinance No. 5086 and Ordinance No. 5093 are attached hereto as Exhibits 1 and 2, respectively, and incorporated herein by reference.
5. The subject site consists of a 0.80-acre residential property located in the Carmel

Highlands. The property is within an unincorporated portion of Monterey County and is not within a sewer services district and requires an onsite wastewater disposal system. The property owner, Rick Kashfi (hereafter Discharger), applied for a permit with the Monterey County Division of Environmental Health (County) to install an engineered onsite wastewater disposal system. The proposed onsite disposal system consists of an advanced treatment system with ultraviolet disinfection and subsurface drip irrigation as the primary mode of disposal with shallow pressurized leachfields as secondary disposal.

6. The Water Board's Water Quality Control Plan (Basin Plan) and July 1979 Memorandum of Understanding between the Central Coast Water Board and County specifically prohibit the County from approving engineered onsite disposal systems for sites unsuitable for standard systems. The Basin Plan allows that the Water Board or Executive Officer may grant exemptions for engineered onsite disposal systems given sufficient justification that the continued operation of such systems in a particular area will not individually or collectively, directly or indirectly, result in pollution or nuisance, or affect water quality adversely.
7. An application package containing a Report of Waste Discharge: Supplemental Form for Regional Board Subsurface Disposal Exemption Submittal and associated design documents for the proposed engineered system was submitted to the Water Board by the County on behalf of the Discharger on December 20, 2007. The Monterey County Department of Health certified the Supplemental Form on December 20, 2007. The onsite disposal system design was prepared by Andrew Brownstone, BioSphere Consulting, and is dated November 5, 2007.
8. The proposed onsite disposal system meets the requirements of County Ordinance Nos. 5086 and 5093. The proposed system will also be subject to nonstandard permit conditions applied by the County prior to issuing a building permit. The nonstandard permit conditions require an operations and maintenance contract and deed notification. The nonstandard permit conditions and deed notification (June 27, 2007 template) are attached hereto as Exhibits 3 and 4, respectively, and incorporated herein by reference.
9. The Executive Officer approved the Basin Plan exemption and notified the Discharger of the proposed Waiver on January 18, 2008.
10. The Water Board has considered the design information provided in the application package and has required the Discharger, as a condition of this waiver, to comply with all Monterey County Ordinances and permit requirements.
11. Individual subsurface disposal systems for domestic residences are categorically exempt from CEQA under California Code of Regulations, Title 14, Section 15303.
12. Relevant factors in determining whether a waiver is in the public interest include the following:

- a) Whether the discharge is already regulated by another governmental entity;
  - b) Whether the discharger will observe reasonable practices to minimize the deleterious effects of the discharge;
  - c) Whether a feasible treatment method exists to control the pollutants in the discharge; and
  - d) Whether conditionally waiving ROWDs and/or waste discharge requirements will adequately protect beneficial uses while allowing the Water Board to utilize more of its resources to conduct field oversight, public outreach and, where necessary, enforcement.
13. The proposed onsite disposal system is regulated by Monterey County, which requires the Discharger to implement design and operational controls, maintenance activities, regular monitoring and reporting, and deed restrictions to prevent water quality impacts.
14. The conditions of this waiver protect beneficial uses by:
- a) Prohibiting pollution, contamination or nuisance;
  - b) Requiring monitoring and compliance with applicable water quality control plans and Monterey County Ordinances and permit requirements; and
  - c) Requiring the Discharger to grant access to Water Board and Monterey County staff to perform inspections.
15. If the proposed onsite disposal system is properly operated and maintained in accordance with Monterey County Ordinances and permit conditions and the conditions of this Resolution, a waiver of waste discharge requirements is in the public interest and is consistent with applicable water quality control plans, including the Water Quality Control Plan, Central Coast Region.
16. Pursuant to California Water Code Section 13269, this action waiving the issuance of waste discharge requirements for this on-site domestic wastewater disposal system: (a) is conditional, (b) may be terminated at any time, (c) does not permit an illegal activity, (d) does not preclude the need for permits which may be required by other local or governmental agencies, and (e) does not preclude the Water Board from administering enforcement remedies (including civil liability) pursuant to the California Water Code.
17. Operation of the proposed onsite disposal system consistent with this Resolution is not anticipated to degrade groundwater and is consistent with State Water Resources Control Board Resolution 68-16. Resolution 68-16 provides if there is degradation of water quality it must not "unreasonably affect present and anticipated beneficial use of such water and will not result in water quality less than that prescribed [by the water quality control] policies." In short, the degradation may not violate water quality objectives or in the absence of objectives, must not unreasonably affect existing and designated beneficial uses. Also, if there is

degradation the Board must determine that it has been demonstrated the change "will be consistent with the maximum benefit to the people of the State."

18. The monitoring and reporting requirements of this Resolution are imposed pursuant to CWC Section 13267. The monitoring and reporting are necessary to ensure compliance with the conditions of this Resolution and to verify the adequacy and effectiveness of the conditions.
19. The Regional Board provided an opportunity for a public hearing on March 21, 2008, in Salinas, California, and considered all evidence concerning this matter.

**THEREFORE BE IT RESOLVED:**

1. In accordance with California Water Code Sections 13267 and 13269, waste discharge requirements for the proposed on-site domestic wastewater disposal system are hereby waived subject to the following conditions:
  - a) The onsite disposal system shall be installed under the oversight of Monterey County and the designer per the November 5, 2007 Alternative Onsite Wastewater System Design by Andrew Brownstone, BioSphere Consulting, and be operated and maintained in accordance with Monterey County Ordinances and permit conditions and manufacturer specifications.
  - b) Monterey County will regularly inspect the system and visually monitor the system after all rainfall events resulting in greater than one inch of precipitation.
  - c) The Discharger shall comply with all Monterey County Ordinances and Permit Conditions [with an emphasis on Section 2 of County Ordinance No. 5093 and nonstandard permit conditions].
  - d) The Discharger and future property owners shall be subject to the requirements of the County's pending Onsite Wastewater Management Plan.
  - e) The sewage disposal system shall be inspected every two years for solids buildup and be pumped as required by a licensed septic tank contractor.
  - f) Peak daily flow shall not exceed 900 gallons per day.
  - g) Use of the individual sewage disposal system shall not create a condition of pollution, contamination, or condition of nuisance, as defined by CWC Section 13050.
  - h) Only domestic wastewater shall be discharged to the individual sewage disposal system.
  - i) The Water Board and Monterey County shall be immediately notified of any proposed change(s) in discharge volume, nature, or location.
  - j) The Water Board and Monterey County shall be immediately notified of any discharges threatening water quality or public health.

- k) The Water Board and Monterey County may inspect the onsite disposal system at any time to evaluate compliance with applicable requirements.\*
  - l) Operation of the sewage disposal system shall not result in the daylighting (surfacing) of effluent from the disposal area or other portions of the system.
  - m) The Discharger and future property owners shall also provide copies of all monitoring data per County requirements to the Water Board.
2. This Waiver shall not create a vested right and all such discharges shall be considered a privilege, as provided for in CWC Section 13263.
  3. The Executive Officer or Water Board may terminate the applicability of the Waiver described herein at any time if the Discharger or future property owner violates the conditions of this Waiver, if such termination is in the public interest, or if the disposal system could adversely affect the quality or beneficial uses of the waters of the State.
  4. This Waiver shall become effective on **March 21, 2008**, and shall expire on **March 21, 2013**.
  5. As provided by CWC Section 13350(a), any person may be civilly liable if that person is in violation of a waiver condition or waste discharge requirements, intentionally or negligently discharges waste, or causes waste to be deposited where it is discharged, into the waters of the State and creates a condition of pollution or nuisance.
  6. Any person affected by this action of the Regional Board may petition the State Water Resources Control Board (State Board) to review the action in accordance with section 13320 of the California Water Code and Title 23, California Code of Regulations, Section 2050. The State Board must receive the petition within 30 days of the date of this Resolution. Copies of the law and regulations applicable to filing petitions will be provided upon request.

I, Roger W. Briggs, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Central Coast Region, on March 21, 2008.

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Roger W. Briggs  
Executive Officer