

BOLINAS COMMUNITY PUBLIC UTILITY DISTRICT

BCPUD

BOX 390 270 ELM ROAD BOLINAS CALIFORNIA 94924

415 868 1224



MEMORANDUM

TO: Board of Directors

FROM: Jennifer Blackman *JMB*

RE: Limited Water Use Permit Applications, Bolinas Community Land Trust, water meters serving 130 Mesa Road (APN 193-020-38) and 160 Mesa Road (APN 188-170-11); request to “stack” the resulting water use allocations temporarily on the meter serving 130 Mesa Road (to serve a temporary RV trailer campground).

DATE: May 31, 2023

Background:

The Bolinas Community Land Trust (“BCLT”) has submitted applications to the BCPUD Board of Directors for limited water use permits for the meter serving 130 Mesa Road (APN 193-020-38) and for the meter serving 160 Mesa Road (APN 188-170-11). The BCLT also seeks permission to “stack” the resulting water allocations temporarily on the meter serving 130 Mesa Road to serve a temporary private trailer campground. The BCLT is the owner of record of the property at 130 Mesa Road (APN 193-020-38); the owners of record of the property at 160 Mesa Road (APN 188-170-11) are James and Susan Tacherra.

On May 9, 2023, the County of Marin issued an emergency coastal permit (P4047) to the BCLT, which is applicable to its property at 130 Mesa Road.¹ This permit authorizes the establishment of a temporary private RV trailer campground on the property, subject to certain conditions of project approval, including but not limited to the additional permits or approvals as may be required by “water . . . providers”, hence the BCLT’s limited water use permit applications. The County found that the issuance of the emergency coastal permit conforms with the Marin County Local Coastal Program as “worker Agricultural Dwelling Unit accessory uses and structures. . . “. The emergency coastal permit states that “[t]his planning permit is an entitlement to apply for construction permits, not a guarantee that they can be obtained . . .”. The emergency permit is further conditioned on the BCLT’s submittal of a (non-emergency) coastal permit application within 30 days of the issuance of the emergency coastal permit, which is June 8, 2023. The emergency coastal permit will expire ninety (90) days after issuance unless extended for good cause. “All emergency development pursuant to this section is considered temporary and must be removed and the affected area restored if it is not recognized by a regular Coastal Permit within six months of permit issuance” (unless an extension is authorized for good cause).

Applicable BCPUD resolutions:

The BCPUD resolutions applicable to the BCLT’s limited water use permit applications are Resolutions 173 and 655; Resolution 671 (which amends BCPUD Ordinance 38) is applicable to the BCLT’s request to “stack” water use allocations.

¹ Note that the Emergency Coastal Permit inaccurately refers to the BCLT parcel at 130 Mesa Road as “APN 193-020-55” when, in fact, it is APN 193-020-38.

BCPUD Resolution 173

Resolution 173, also known as “the moratorium resolution”, paragraph 6, established a requirement that a limited water use permit² must be obtained from the BCPUD for continued water delivery to an existing customer where there is a proposed expansion or modification at the property that would require a county permit. This resolution states:

“[w]ater will not be provided to any expansion or modification of an existing service which would require a county building and/or use permit and which, the judgment of the Board of Directors, could result in any increase in demand for District water of more than 50% of the service’s average consumption over the prior 12-month period, or by 500 cubic feet per month, whichever is less.”

The Board thereafter applied this formula to determine the resulting water use allocations (i.e., limits, or caps) when customers submitted applications for approval in connection with the County permitting process: under Resolution 173, paragraph 6, the applicants’ water use would be capped by the Board at *either* 50% more than the prior 12-month average water consumption *or* at 1,500 cubic feet per quarter more than the prior 12-month average water consumption, *whichever was less*.

BCPUD Resolution 655

Resolution 655 amended Resolution 173, paragraph 6³ -- it retained the core requirement of Resolution 173, paragraph 6, which is the requirement for customers to apply for a limited water use permit in connection with any proposed expansion or modification at their property, but revised the formula to determine the water use allocation (i.e., limit, or cap) as follows:

“Permits are conditionally granted and subject to revocation if average water use in any one Quarter exceeds the permit limit granted, which shall be the highest of:

- a. 50% more than the annually averaged District-wide water consumption of 1,800 cubic feet per Quarter per service, as determined by the General Manager as of January 1st of 2017; or
- b. the service’s average Quarterly water consumption over the prior 12 Quarters; or
- c. an amount determined by the Board of Directors to be appropriate, but not exceeding an additional 50% or 1500 cubic feet per Quarter, whichever is less, over the service’s average consumption over the prior 12 Quarters, when the customer has documented, to the Board’s satisfaction, that the allocation available to the customer under provisions (a) or (b) above, whichever is higher, would indeed result in a hardship to the customer or a reduction of services provided to the Bolinas community.

If the subject service’s average Quarterly consumption over the prior 12-Quarter period exceeds 3,600 cubic feet, a permit will be granted only after District staff surveys such usage with the customer at the service site and makes written recommendations to the customer for water-saving measures. This limitation does not apply to permits granted under provision (c) above.”

² The original language of Resolution 173 referred to “expanded” rather than “limited” water use permits. The BCPUD Board eventually enacted Resolution 663 to formally change all references in the BCPUD’s rules and regulations from “expanded water use permits” to “limited water use permit” to “more clearly indicate to customers and other members of the public that permits issues pursuant to Resolution 173, paragraph 6, *restrict* water use by imposing a strict quarterly *limit* on the amount of water that can be used.

³ Resolution 655 also rescinded Resolution 627.

Resolution 655 provides that “[p]ermits will be granted upon a determination that the expansion or modification will not exceed the above limits. Permits are conditionally granted and subject to revocation of average water use in any one Quarter exceeds the permit limit granted”.

BCPUD Resolution 671

Resolution 671 amended BCPUD Ordinance 38 (pertaining to water meter transfers), Section 3.e to include a new subsection v. as follows:

- v. Affordable Housing Projects. For affordable housing projects (as defined in BCPUD Ordinance 38, Section 3(c)⁴ and where affordable housing is the sole purpose of said projects, except for such additional requirements as may be imposed by another federal, state or local entity with permitting jurisdiction over such projects), BCPUD shall have the authority to allow the swapping of water use allocations between properties owned by the same entity or person. In general, the swap shall not result in an overall increase in water use allocation and shall accord with the rules set forth in Resolution 173, although the BCPUD Board of Directors may make reasonable increased water use allocations if deemed appropriate.

Affordable housing projects may also utilize additional water meter allocations to “stack” allowed use allocations on a property (meaning such projects may transfer the water use allocation(s) assigned to one or more additional water service connection(s) owned by the project proponent to a single property). The decision to allow a water allocation “swap” or “stack” shall be in the discretion of the BCPUD Board, and shall take in to account all relevant factors.

Where water allocations are swapped between properties, the provisions of BCPUD Ordinance 38, Section e.ii. shall not apply.”

Historic Water Use Consumption Data at 130 Mesa Road and at 160 Mesa Road:

The past four years of water use for the meters serving 130 Mesa Road and 160 Mesa Road are attached as Exhibits A and B to this memorandum.

130 Mesa Road

The prior twelve quarters of water use for the meter serving 130 Mesa Road are:

$$0 + 0 + 0 + 0 + 0 + 0 + 0 + 0 + 3,500 + 4,500 + 4,200 + 2,700 + 2,600 = 17,500 \text{ cubic feet}$$

The average quarterly water use over the prior twelve quarters therefore is 17,500 divided by 12, or 1,458 cubic feet.

160 Mesa Road

The prior twelve quarters of water use for the meter serving 160 Mesa Road are:

⁴ Note: Ordinance 38, Section 3(c) defines affordable housing projects per the following criteria: “the property is 1) managed as affordable housing by the Bolinas local nonprofit affordable-housing agency, the Bolinas Community Land Trust (“BCLT”), whether owned by BCLT or managed under contract between BCLT and the private owner; or 2) under a recorded deed restriction guaranteeing its ongoing use as affordable housing. The definition of “affordable” shall be that used by the BCLT.”

$$14,500 + 17,000 + 20,100 + 21,800 + 15,600 + 12,600 + 17,600 + 13,200 + 12,300 + 13,000 + 16,900 + 26,200 = 200,800 \text{ cubic feet}$$

The average quarterly water use over the prior twelve quarters therefore is 200,800 divided by 12, or 16,733 cubic feet.

BCLT's LWUP Applications:

130 Mesa Road: the BCLT notes in its letter to the Board that the average quarterly water use at this meter over the prior 12 quarters is less than "50% more than the annually averaged District-wide water consumption of 1,800 cubic feet per Quarter per service, as determined by the General Manager as of January 1st of 2017", or 2,700 cubic feet per quarter. (This is accurate because, as noted above, the average quarterly water use over the prior twelve quarters for this meter is 1,458 cubic feet.) Accordingly, the BCLT requests that the Board approve the 2,700 cubic feet per quarter water use limit for this meter.

The BCLT additionally requests that the Board use its discretion under Resolution 655 (section c) to grant an additional 1,500 cubic feet per quarter. However, Resolution 655 section (c) does not apply *in addition to* sections (a) and/or (b) – rather, the Board is directed per Resolution 655 to determine a limit that is *the higher of* the resulting calculation under *either section (a) or (b) or (c)*. Moreover, if the Board calculates that the limit on section (c) is the highest, the Board also must be satisfied that the customer has documented "that the allocation available to the customer under provisions (a) or (b) . . . whichever is higher, would indeed result in a hardship to the customer or a reduction of services provided to the Bolinas community."

As noted above, the resulting limit as calculated pursuant to **section (a)** of Resolution 655 is **2,700 cubic feet**.

As noted above, the resulting limit as calculated pursuant to **section (b)** of Resolution 655 is **1,458 cubic feet**.

The resulting limit as calculated pursuant to **section (c)** of Resolution would be the *lesser of*:

$$1,458 \text{ (average quarterly usage over prior 12 quarters)} + 729 \text{ (50\% of the average quarterly usage over prior 12 quarters)} = \mathbf{2,187 \text{ cubic feet}}$$

OR

$$1,458 \text{ (average quarterly usage over prior 12 quarters)} + 1500 = \mathbf{2,958 \text{ cubic feet}}$$

As such, pursuant to Resolution 655, the Board must determine a permit limit for the meter serving 130 Mesa Road which is the highest of 2,700 cubic feet, or 1,458 cubic feet or 2,187 cubic feet.

160 Mesa Road: the BCLT notes in its letter to the Board that the average quarterly water use at this meter over the prior 12 quarters is 16,733 cubic feet. Accordingly, the BCLT requests that the Board approve the 16,733 cubic feet per quarter water use limit for this meter.

As noted above, Resolution 655 authorizes the Board to determine a limit that is *the higher of* the resulting calculation under *either section (a) or (b) or (c)*.

The resulting quarterly water use limit as calculated pursuant to **section (a)** of Resolution 655 is **2,700 cubic feet**.

The resulting quarterly water use limit as calculated pursuant to **section (b)** of Resolution 655 is **16,733 cubic feet**.

The resulting quarterly water use limit as calculated pursuant to **section (c)** of Resolution would be the *lesser of*:

16,733 (average quarterly usage over prior 12 quarters) + 8,367 (50% of the average quarterly usage over prior 12 quarters) = **25,100 cubic feet**

OR

16,733 (average quarterly usage over prior 12 quarters) + 1500 = **18,233 cubic feet**.

Accordingly, pursuant to Resolution 655, the Board must determine a permit limit for the meter serving 160 Mesa Road which is the highest of 2,700 cubic feet, or 16,733 cubic feet or 18,233 cubic feet, *provided, however, that* if the Board determines that the limit on section (c) is the highest, the Board *also* must be satisfied that the customer has documented “that the allocation available to the customer under provisions (a) or (b) . . . whichever is higher, would indeed result in *a hardship to the customer or a reduction of services provided to the Bolinas community.*” (emphasis added)

BCLT’s Request to “Stack” the Resulting Water Use Allocations for 130 and 160 Mesa Road:

As noted above, Resolution 671 applies to the BCLT’s request to “stack” the resulting water use allocations determined above at 130 Mesa Road to serve the temporary private RV trailer campground approved by the County of Marin via the emergency coastal permit. This resolution provides the Board the discretion to allow such “stacking” for affordable housing projects where affordable housing is the sole purpose of the project (except for such additional requirements as may be imposed by another federal, state or local entity with permitting jurisdiction over such projects) as follows:

“Affordable housing projects may also utilize additional water meter allocations to “stack” allowed use allocations on a property (meaning such projects may transfer the water use allocation(s) assigned to one or more additional water service connection(s) owned by the project proponent to a single property). The decision to allow a water allocation “swap” or “stack” shall be in the discretion of the BCPUD Board, and shall take in to account all relevant factors.”

The Board therefore has the discretion to allow the stacking of the water use allocations it approves for the limited water use permits pertaining to 130 and 160 Mesa Road to serve the temporary RV trailer campground at 130 Mesa Road if it finds that:

- (1) affordable housing is the sole purpose of the project (except for such additional requirements as may be imposed by another federal, state or local entity with permitting jurisdiction over such projects); and
- (2) the water service connections at issue are both owned by the project proponent (i.e., the BCLT).

Exhibit A

Jennifer Blackman

From: Belle Wood
Sent: Wednesday, May 31, 2023 11:40 AM
To: Jennifer Blackman
Subject: 4 year water use at 130 Mesa
Attachments: 130 Mesa 4 Year.pdf

Hi Jennifer,

I have attached the 4 year customer history document for 130 Mesa Road to this email.

Please note that due to an error while entering the quarterly water use for March 31, 2021 (I entered 2017 instead of 2021), the system did not capture the usage numbers on the customer history report. The last page of the attached document shows the pre-billing report that states usage numbers for the March 31, 2021 quarter. I have highlighted the usage for 130 Mesa on this page and hand entered the usage information into the Customer History document.

Let me know if you have any questions.

--belle

Belle Wood
Bolinas Community PUD
P.O. Box 390
Bolinas, CA 94924
415-868-1224
bwood@bcpud.org
www.bcpud.org

BOLINAS COMMUNITY PUD
Customer History

9:09:03 AM

5/19/2023

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Account Number: 10107010
Customer Name: BOLINAS COMM. LAND TRST
Service Address: 130 MESA

Detail Section 1

Date	Cur Mtr Reading	Date	Prv Mtr Rdg	Date	Cons.	Prev. Bal.	Returned Cks. (Info ONLY)	Water	Sewer	Sanit.
130 MESA										
04/2023					0					
03/2023	790400	R	03/31/2023		0					
02/2023					0					
01/2023					0					
					0					
<hr/>										
12/2022	790400	R	12/31/2022		0					
11/2022					0					
10/2022					0					
09/2022	790400	R	09/30/2022		0					
08/2022					0					
07/2022					0					
06/2022	790400	R	06/30/2022		0					
05/2022					0					
04/2022					0					
03/2022	790400	R	03/31/2022		0					
02/2022					0					
01/2022					0					
					0					
<hr/>										
12/2021	790400	R	12/31/2021		0					
11/2021					0					
10/2021					0					
09/2021	790400	R	09/30/2021		0					
08/2021					0					
07/2021					0					
06/2021	790400	R	06/30/2021		3,500					
05/2021					0					
04/2021	782400	R	03/31/21		0					
03/21					450					
02/2021					0					
01/2021					0					
					3,500					
<hr/>										
12/2020	782400	R	12/31/2020		4,200					
11/2020					0					
10/2020					0					
09/2020	778200	R	09/30/2020		2,700					
08/2020					0					
07/2020					0					
06/2020	775500	R	06/30/2020		2,600					
05/2020					0					
04/2020					0					
03/2020	772900	R	03/31/2020		1,200					
02/2020					0					
01/2020					0					

Exhibit B

BOLINAS COMMUNITY PUD

Customer History

9:07:52 AM

5/19/2023

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Account Number: 20342000
 Customer Name: TACHERRA, JAMES
 Service Address: 160 MESA

Detail Section 1

Date	Cur Mtr Reading		Date	Prv Mtr Rdg	Date	Cons.	Prev. Bal.	Returned Cks. (Info ONLY)	Water	Sewer	Sanit.
160 MESA											
04/2023	363400	R	04/30/2023			14,500					
03/2023						0					
02/2023						0					
01/2023	348900	R	01/31/2023			17,000					
						31,500					
<hr/>											
12/2022						0					
11/2022						0					
10/2022	331900	R	10/31/2022			20,100					
09/2022						0					
08/2022						0					
07/2022	311800	R	07/31/2022			21,800					
06/2022						0					
05/2022						0					
04/2022	290000	R	04/30/2022			15,600					
03/2022						0					
02/2022						0					
01/2022	274400	R	01/31/2022			12,600					
						70,100					
<hr/>											
12/2021						0					
11/2021						0					
10/2021	261800	R	10/31/2021			17,600					
09/2021						0					
08/2021						0					
07/2021	244200	R	07/31/2021			13,200					
06/2021						0					
05/2021						0					
04/2021	231000	R	04/30/2021			12,300					
02/2021						0					
01/2021	218700	R	01/31/2021			13,000					
						56,100					
<hr/>											
12/2020						0					
11/2020						0					
10/2020	205700	R	10/31/2020			16,900					
09/2020						0					
08/2020						0					
07/2020	188800	R	07/31/2020			26,200					
06/2020						0					
05/2020						0					
04/2020	162600	R	04/30/2020			16,400					
03/2020						0					
02/2020						0					
01/2020	146200	R	01/31/2020			12,700					