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San Bernardino County Government Center  
Supervisor Neil Derry  
385 N Arrowhead Ave, Fifth Floor  
San Bernardino, CA 92415-0110

October 19, 2009

Dear Supervisor Neil Derry,

Earlier this year we began hearing from area residents about difficulties in obtaining building permits for properties that rely on hauled water. As you know, Homestead Valley is very rural, with a significant number of properties that do not have access to a piped water distribution infrastructure.

After looking into these matters, we have discovered that in fact, property owners in San Bernardino County who rely on hauled water as their primary potable water source, are being denied building permits based solely on the lack of connection to a pressurized system or well on the premises. Explanations for these denials by the Planning Department are vague, conflicting, and highly questionable.

The Homestead Valley Community Council was stunned by this revelation, and immediately began work on locating the County Development Code that authorizes these denials. As a result, we were even more stunned to learn that while property owners on hauled water were being denied building permits, no such county code specifically written to authorize these actions exists.

San Bernardino County Planning code 84.21 addresses the infrastructure requirements for obtaining a building permit. Hauled water is listed as one of the three accepted water sources, but will only be allowed by approval of the Division of Environmental Health Services. There is however, no legislated, written language that defines the criteria for such a decision by Environmental Health Services.

Obtaining potable water through hauling, either privately or commercially, is legal under the California Health and Safety Code and The Sherman Food, Drug, and Cosmetic Law. In fact, section 11120 of the California Health and Safety Code outlines the procedure for water haulers to obtain a Water Hauler License, issued by the Department of Public Health's Food and Drug Branch. It is unlikely that the County EHS is unaware of these State laws permitting licensed hauled water, so what is the basis for their refusal to allow property owners fair access to a building permit? To this date, they have failed to adequately answer that question.

HVCC believes this discretionary action is unlawful, and exposes the County to significant litigation. Denying building permits to property owners relying on hauled water has profound environmental affects related to the CEQA issues of environmental impacts on "Population and Housing". Prior to taking this action, the Department should have gone through an environmental review process that would have included Public Notification, a Public Meeting of the "Affected Communities" and a Public Comment Period.

Under the Population and Housing Provisions of CEQA, such a discretionary action needs to be evaluated under the Standards of Significance. As such this action has the effect of:

Displacement of People  
Displacement of Existing Housing  
Impacts on Existing Land Use  
Limitations on Existing Land Use

Each of these categories of impacts under CEQA needs to be addressed. HVCC contends that until a full CEQA review that addresses these issues is completed, The San Bernardino County Planning Department should suspend this controversial and unconstitutional policy of denying building permits over hauled water.

Please intervene on behalf of the property owners who have been denied building permits on the basis of hauled water, as legally licensed by the State of California. We ask that County Counsel be made aware of this issue. We believe that County Counsel will concur with our assessment, and hope the County Division of Environmental Services reverses its policy immediately.

Thank you for your consideration in these matters.

A handwritten signature in black ink that reads "Jim Harvey". The signature is written in a cursive, flowing style.

Jim Harvey  
President, Homestead Valley Community Council