

DEPARTMENT: Health

BY: C. B. Mosher, MD, MPH, H.O.
PHONE: 966-3689

RECOMMENDED ACTION AND JUSTIFICATION:

Recommend variance from statutory setback distance of 100 feet between well and septic leachfield for APN 006-160-003, Dan Eisenstein, based upon uniqueness of property regarding geology and hydrology.

The setback distance from well and septic referred to above is found in County Code Section 13.08.090, Rules and Regulations Section .070. The rationale behind the codified setback is to maintain protection of drinking water from contamination resulting from the sewage leachfield. The 100 foot setback is a safe distance and in many cases could safely be reduced but that would depend on geological circumstances. Mr. Eisenstein has submitted a geologic report (Attachment A) addressing the issue of the local geology, concluding that a setback of 70 feet or more on this particular parcel is adequate for protection of public health issues. See attached memo for more details.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

Similar variance requests have been made by six (6) owners of parcels located in the same geologic area. All six requests were entertained and relevant geological data were reviewed by the Health Department at that time. All six requests were recommended to the Board of Supervisors with certain protective conditions and time has proven the safety of this process. (See Resolutions 93-603, 96-0604, 01-82, 01-235, 01-236 and 03-94).

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Do not approve variance, owner will be required to destroy the existing well and continue hauling water into the property utilizing a licensed potable water hauler.

Financial Impact? () Yes (x) No	Current FY Cost: \$	Annual Recurring Cost: \$
Budgeted In Current FY? () Yes () No () Partially Funded		
Amount in Budget: \$		List Attachments, number pages consecutively
Additional Funding Needed: \$		MEMO TO BOARD OF SUPERVISORS
Source:		"A"
Internal Transfer		Attachment Geological Report
Unanticipated Revenue	_____ 4/5's vote	
Transfer Between Funds	_____ 4/5's vote	
Contingency	_____ 4/5's vote	
() General () Other		

CLERK'S USE ONLY:

Res. No.: 07-123 Ord. No. _____
Vote - Ayes: 4 Noes: _____
Absent: Imp'n
WJ Approved
() Minute Order Attached () No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.

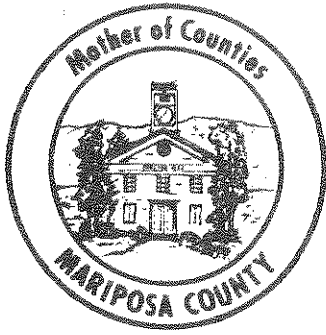
Date: _____
Attest: MARGIE WILLIAMS, Clerk of the Board
County of Mariposa, State of California

By: _____
Deputy

COUNTY ADMINISTRATIVE OFFICER:

Requested Action Recommended
 No Opinion
Comments:

CAO: RJB



Mariposa County Public Health Department

Charles B. Mosher, MD, MPH, County Health Officer

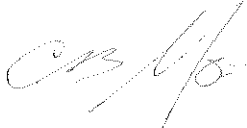
Personal Health Section
4988 11th St. P.O. Box 5
Mariposa, CA 95338
209-966-3689 or 1-800-459-4466
FAX 209-966-4929

health@mariposacounty.org

Environmental Health Section
5100 Bullion St. P.O. Box 5
Mariposa, CA 95338
209-966-2220 or 1-888-777-0377
Fax 209-966-8248

March 19, 2007

TO: Members, Board of Supervisors

FROM: Charles B. Mosher, M.D., MPH, Health Officer 

SUBJECT: Variance Request on Dan Eisenstein Property, APN 006-160-003

BACKGROUND:

This property is located in Foresta on a small lot measuring 50 by 100 feet. The owner's desire to rebuild on this property after the Foresta Fire presents the now familiar challenge of maintaining setbacks required by County Code applicable to both planning issues and public health issues. In August of 1967, Mr. Eisenstein received a permit to install a sewage disposal system and well on this lot. The well location was shown on the plot map submitted at the time to be less than 100 feet from the septic leach area and was approved by both the County and National Park Service at that time.

On August 24, 1990, the County of Mariposa and Yosemite National Park agreed on a process to allow victims of the Arch Rock Fire to begin rebuilding their homes. Part of that agreed upon process included an evaluation of each property based on "current" standards. Since the existing well and septic system on Mr. Eisenstein's property did not conform to the "current" setback standard of 100 feet Mr. Eisenstein's request to connect back to what he previously was allowed to construct was denied. Mr. Eisenstein was subsequently allowed to rebuild his home by agreeing to install a water storage tank which is serviced by a potable water hauler.

On 10/30/06, Mr. Eisenstein submitted a geological report prepared by Todd Miller, Professional Geologist which supports, on the basis of the underground geology on the lot and water tests conducted on the existing well, the reduction of the setback distance between well and septic below the 100 feet in Mariposa County Code. (See Attachment A).

Other issues with this property have intervened between October and the date of this memo.

Review by staff of the geologic report shows it to be consistent with geologic reports submitted on the previous six (similar) requests for variance from 100-foot setback submitted by owners of other lots in Foresta. Applying the same standards as those applied to previous cases, with the exception of not requiring the owner to fund an outside hydro-geologist to review the geologic report (which was accomplished on the first such case, but which the Health Department has been able to do in house since then) leads to the conclusion that the Health Department can recommend the requested variance to the Board of Supervisors without undue concern about negative public health impacts to the drinking water. The specifics are as follows:

- I. Applicable codes:
 - A. County Code Section 13.08.090 Rules and Regulations Section .070 "minimum setbacks"
 - B. County Well Ordinance 13.16.090, "required setbacks", referring to the Department of Water Resources Bulletin 74-90.
 - C. State of California Water Well Standards AKA Bulletin 74-90.
 - D. Regional Water Quality Control Board guidelines for on-site sewage disposal.
- II. Analysis of request:

Health Department staff analysis of the geologist's report indicates the following findings:

- A. Reasonable evidence that water inflow into the site of the proposed well will come from the opposite direction of the site of the current leach field.
- B. Previous experience in the area with wells indicating a first recharge of water at a depth between 70 and 90 feet below the surface.
- C. The geological report indicates that there is a solid granite shelf located between the proposed well and the approved sewage disposal area, which slopes away from the proposed well.

- D. Water samples taken in 1991 and again in 2006 do not indicate contamination from the on-site sewage disposal system that has been present for almost 30 years.

RECOMMENDATION:

Staff finds that the geological conditions on this lot are unique and sufficient to reasonably allow a closer encroachment between leach field and well than the 100-foot minimum established by County Code. We recommend granting the variance with the following conditions:

1. Setback encroachment is for existing non-conforming components only; no new construction is to be conducted using this variance.
2. Quarterly bacteriological testing to be performed by the property owner on water from the private well on said APN to include coliform count and heterotrophic plate count. Copy of results to be sent to the Health Department. (This condition may be waived after two years of monitoring).
3. In the case of any bacteriological tests of water demonstrating presence of coliform organisms or significant increase in the heterotrophic plate count, the County Health Department will be immediately notified and the drinking of raw water from that well will be immediately suspended.
4. In the event that the water from said well should demonstrate bacteriological contamination and that standard and reasonable attempts to decontaminate the well fail, after three such attempts the landowner will destroy the well.