



Belted Kingfisher
(*Megasceryle alcyon*)

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News Continued

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VANISHED! - THE CEQA'L

by Lynne Harkins

Coastal Commission Approves Cambria DeSal Test Wells 8—1 Despite 400 Petitioning for More Environmental Review

After the Coastal Commission's recent approval—with conditions—of the Army Corps' proposal for test well drilling and pumping on the beach areas adjacent to Santa Rosa Creek and Shamel Park/playground, Cambrian Mary Webb wrote [a trenchant summary of recent events and on-going concerns about the issues.](#)

Highlighted by a backdrop of 400 signatures, gathered on short notice, which affirmed that many Cambria residents take the position of "opposing drilling on the beach in front of Shamel Park and the Santa Rosa Creek Natural Preserve without full environmental review," Webb's piece acknowledges that "Citizens were successful in reducing potentially significant environmental impacts of this project. Several new restrictions and timelines were applied to the drilling project, including monitoring Santa Rosa Creek levels while the pumping occurs."

The [staff report for item 7a of the May 13th Coastal Commission meeting](#) did include significant conditions. One was that all work be performed within the months of September and October only. The other mandated that tests for mercury contamination occur before the test well pumping of water began—to see if there might be mercury present which would prevent pumping from even commencing. The Coastal Commission approved that condition along with another which instructed that, after test pumping was concluded, there be a second test for mercury to determine if any of it had been disturbed and drawn in by the pumping. This would be pertinent to the long-term suitability of the site for a desalination intake.

These conditions, imposed by the Coastal Commission before approving the Army Corps' Coastal Consistency Determination, are designed to reduce the possibility of harm to these coastal ecosystems at the mouth of Santa Rosa Creek. However, in the eyes of Mary Webb and others in Cambria, they do not change the fact that "Concerns and questions remain regarding negative impacts to endangered species, county and state permits for park and beach access, air quality impacts and cultural heritage site disturbance." Fundamentally, Webb posits that "By withdrawing from the California Environmental Quality Act (CEQA) process, the district avoided answering citizen and agency comments, evading full environmental review under CEQA." What happened to that CEQA process?

Previously, the Cambria CSD had sought to declare a categorical exemption from CEQA for the test wells. In that January 5, 2010 "special" meeting, the community raised sufficient objections to lead the CCSD Board to step back and to begin an Initial Study (IS) in keeping with state law and the CEQA process. CCSD subsequently received, by a deadline they set of February 16, 2010, about a hundred pages of comments directed at their Initial Study for a Negative Declaration (Neg Dec or ND), in the CEQA process. Many took issue with the Neg Dec, which claimed that insignificant or no environmental impacts would/could result from drilling and pumping the test wells which were proposed as a means of carrying out the geotechnical study. Rather than responding to those comments or approving or amending their study for the [Negative Declaration](#), CCSD postponed the



Without rain, Santa Rosa Creek doesn't reach the nearshore and it has become a wading pond.



The lagoon is critically important habitat for endangered tidewater gobies which are spawning at this time of year. Red-legged frogs and Steelhead, both endangered, also rely on this habitat year-round.



One test wells site will be in front of the

issue at their February and March meetings.

Finally, in a jurisdictional disappearing act, the Cambria CSD board, by a 4-0 vote, [approved a resolution](#) on April 22nd, which stated in part: "The CCSD acknowledges that the U.S. Army Corps of Engineers has sole responsibility for conducting the Geotechnical Study."

This served to morph the geotech study, with its test wells, into a federal project. As the "sole responsibility" of the Corps, the project was no longer subject to the state level CEQA. Therefore, as per CCSD Resolution 18-2010: ". . . BE IT RESOLVED . . . as follows: The CCSD shall immediately cease its environmental review related to the geotechnical study."

The Cambria CSD did say that they would forward information obtained from the abandoned CEQA process to the Army Corps, but that was scant consolation for those troubled by the lack of environmental review for the sensitive riparian / lagoon habitats. The Army Corps had already asserted that no environmental analysis was needed. The Corps, in fact, deemed that the test wells qualified for a "Categorical Exclusion" from their federal National Environmental Protection Act (NEPA) process because, according to them, they are simply doing a study on the beach.

Yes . . . that's a "Categorical Exclusion" just like the one that was granted to BP to do exploratory oil well drilling in the Gulf of Mexico.

HOW DEEP DOES THE ARMY CORPS RESPONSIBILITY GO?

Cambrians have not been told of any side agreement covering the test wells, so it's to be assumed that the wells are covered by the original [Project Cooperative Agreement](#) (PCA) between the Corps of Engineers and the Cambria CSD for a desalination facility. That being the case, the Corps pretty clearly does not accept responsibility for some things that could conceivably come up during drilling and pumping of test wells. As one rate payer remarked, "Easy for the Corps to wave aside concerns about the environment when we're the one's who'll probably be left holding the bag if something goes wrong!"

This seems especially true with regard to contamination. As per Article XV Paragraph C, "in any case where hazardous substances regulated under CERCLA are found to exist in, on or under any lands . . . required for the construction, operation and maintenance of the Project. Should the Government and the Non-Federal Sponsor (CCSD) determine to initiate construction or continue with construction after considering any liability that may arise under [CERCLA](#), the Non-Federal Sponsor (CCSD) shall be responsible, as between the Government and the Non-Federal Sponsor, for the cost of clean-up and response, to include the cost of any studies and investigations necessary to determine an appropriate response to the contamination. Such costs shall not be considered a part of total project costs."

Both mercury and MtBE are contaminants which would likely fall into this area of responsibility which is defined as resting with the Non-Federal Sponsor; that is to say, with the Cambria Community Services District and its rate payers.

This is an issue which acts to underscore [Landwatch of San Luis Obispo's](#) raised objections about the alleged deficits in the CCSD's public decision-making process. From their letter: "If your Board does want to consider giving the entire project to the Army Corps, LandWatch asks that you direct staff to provide a report on all effects of relinquishing District authority over this project including financial and environmental impacts so the District Board can decide whether this is the best course of action for the District's interests."

The non-profit also asked that the public be provided with the "research" which led to the CCSD Resolution—a resolution which, based on the language of the Project Cooperative Agreement, could potentially prove to be a decidedly one-sided "acknowledging" of U.S. Army Corps of Engineers' sole responsibility.

POSSIBILITY OF IMPACTS/CONTAMINATION?

Individual members of the public who committed time to the now abandoned CEQA process were not alone in raising concerns about the possible environmental impacts of the proposed test wells. The California Department of Fish and Game (CDFG) submitted comments stating that the proposed project "does not qualify for a no effect determination."

stairs. Another will be about in the center of the photo just beyond the blue umbrella. There doesn't appear to be much room on the beach for people to share access with big, heavy drilling equipment.



Shamel Park playground equipment and picnic tables are widely used, especially on weekends while ball games are in progress.



Steelhead are protected announces this sign. Cambrians who are calling for full environmental review of the test wells want to ensure that that is truly the case . . . and for other species, as well, including humans.

"**CEQA Compliance (No Effect Determination):** The **Initial Study** (IS) states that the Project will not have any potential effects on fish and wildlife resources or the habitat upon which the wildlife depends and therefore qualifies for a "no effect" determination. Based on the Department's review of the Project Description contained within the IS and ND prepared for this Project, this Project does not qualify for the no effect determination. In order for the Department: to make a no effect determination, the project has to have no potential impacts to wildlife resources, not just a de minimus or "insignificant" impact as per CEQA. "

The Department also expressed its concern that no alternative sites were considered for the proposed study. Considering alternative sites seems prudent given the MtBE and mercury issues in the watershed. DFG recommended that the "document be revised to address potential impacts related to site contamination"

"**Site Contamination:** The IS does not properly identify potential impacts from mercury and MTBE contamination in the sediment and ground water associated with the Project location. Santa Rosa Creek is known to contain mercury contamination from previous upstream mine operations as well as potential MTBE contamination within the Santa Rosa Creek aquifer. The Project is proposing to discharge ground water from test pump wells to the ocean as described in the IS impact discussion 8.f. Therefore, the CEQA document should address potential impacts to fish and wildlife habitat, including surface waters from this activity. The Department understands that the Project will be subject to Regional Water Quality Control Board National Pollution Discharge Elimination System (NPDES) permit conditions; however, this does not alleviate the District from evaluating potential impacts from such activities. The Department recommends that the CEQA document be revised to address potential impacts related to site contamination, accompanied with appropriate mitigation measures."

Below is a map which indicates where sediment sampling has been positive for mercury in five locations along Santa Rosa Creek. Specialized testing is required to find out if the highly soluble organic form of mercury-methylmercury- is present. It is a potent neurotoxin which bio-magnifies as it moves through the food web.



Mercury Sediment Sampling Map

MtBE is also something to further consider if Cambria rate payers, not the Army Corps of Engineers, bear responsibility for any missteps with contaminants during test well drilling and pumping and thereafter. At the April 22nd CCSD meeting, Board President Sanders said that MtBE is still a concern in the Santa Rosa Creek aquifer and that there is a possibility "there is still MtBE in the fractures and fissures of the bedrock and that " . . . the more you cause agitation in the aquifer the greater the chance of the MtBE coming out into the water supply." It doesn't appear that any provision has been made for MtBE testing during the test wells project which could be considered an "agitation" of the aquifer.

MtBE is highly soluble and is very mobile in water. It has been central to the case being made for federal funding of the desalination project and it has been portrayed as actually being in drinking water production wells by Sanders and others.

2 MtBE or Not 2 MtBE WELLS? THAT IS THE QUESTION...

According to the [Regional Water Quality Control Board's \(RWQCB\) December 2009 report](#), the answer is . . . that initially the MtBE "discharge threatened groundwater in Cambria Community Service district ((CCSD) Wells No. 1 and 3." But "[t]he Santa Rosa Creek wells have NOT been impacted with MtBE" (p.1),

Based on that simple declaration in the RWQCB report , much of what rate payers have been told about an urgent need for desalination because MtBE has made water from Santa Rosa Creek wells unavailable appears to require modification, at minimum. Likewise, Congresswoman Lois Capps who's seeking federal funds for Cambria's desal, apparently hasn't been given an accurate picture of the MtBE situation. In the April 9, 2009 Cambrian, there was this dire description which is not supported by the RWQCB report.

From that Cambrian: " . . . said CCSD Board President Greg Sanders. "We exist in Cambria on a razor-thin margin of water. Three of our wells in Santa Rosa Creek are tainted with MTBE." [See page 4 of the April 9, 2009 Cambrian under "What to do if we run out of water?"]

No correction of misinformation about the town's water supply was made in the October 2009 report by the citizen's emergency water committee on which Director DeMicco served .

Likewise, District Engineer Bob Gresens, in a late [January 2010 New Times interview with Colin Rigley](#) did not correct the record about MtBE. Instead, his comments to reporter Rigley reinforced that the Santa Rosa Creek water was still unavailable because of contamination from MtBE. Yet now, Cambrians are asked to swallow the idea that the test wells for a potential desalination intake at the mouth of this creek-without environmental review-is a prudent idea.

Meanwhile, according to another RWQCB report, [MTBE Report for Public Water System Operators](#), MtBE is closer to the site of these test wells than has been generally known. In an RWQCB listing by county and town of MtBE sites; a 2009 document lists the Cambria General Store.

Cambria is fortunate, indeed, to have a local expert opinion available from an advocate for good water policy and practice. With 30 years' work experience in geophysics, engineering geology, hydrogeology, environmental cleanup and assessment and disaster preparedness and response" former CCSD director [Lou Blanck](#) responded to the following question about the MtBE:

Question: "CCC staff recommends that they test for Hg etc in NPDES low threat permit before and after 72 hour continuous pumping, but that doesn't appear to include any MtBE testing, if I read permit correctly. After the rains we've had, shouldn't they test for it?"

From Blanck: Yes, they should test for MtBE because . . . stations in town leaked it! They should also test for BTEX (benzene, toluene, ethylbenzene, & xylene) and tetraethyl lead (old gas additive).

Earlier, Blanck confirmed that in looking to a future desal plant . . . "The desal membranes are extremely susceptible to fouling from any petrochemicals and particularly MtBE."

So, this matter of contamination certainly seems to warrant greater scrutiny because, as the CCSD turns over responsibility for the test wells project, it appears that Cambrians are potentially faced with retaining responsibility for anything that might happen regarding contaminants. There has been no information provided to the public about whether a separate agreement exists for the test wells or whether any alterations to the existing Project Cooperative Agreement (PCA) between the CCSD and the Army Corps have been made to include the test wells.

This leaves the question of responsibility for contaminants open and may prompt more Cambrians to sign on to the petition circulated by Mary Webb and others, which calls for a full environmental review of the test wells as a sensible precaution. Whether called an exemption or an exclusion, any category which circumvents environmental evaluation—

which includes planning for problems that might come up—is not looking either rational or cost-effective in these days of environmental disaster.

An additional thought: What responsibility, if any, might the county have to inform/warn Shamel Park and playground users of the dangers of diesel pollution which will be a part of the "fallout" from the test wells project's heavy equipment/drilling rig that will be located so very close to the county park and Cambria's only public playground? [Map of the sites proposed for test wells.](#)

Belted Kingfisher image on banner by [Cleve Nash](#)

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