



Midpeninsula Regional  
Open Space District

R-14-75  
Meeting 14-12  
May 14, 2014

## AGENDA ITEM 3

### AGENDA ITEM

Approval of Grant of Access Easement and Quitclaim Deed between James F. Wickett et al. (San Mateo County Assessor's Parcel Numbers 081-120-060 and 081-120-070) and Midpeninsula Regional Open Space District across Tunitas Creek Open Space Preserve (Preserve) (San Mateo County Assessor's Parcel Number 081-090-020), and Authorize the General Manager to issue a permit for drilling an agricultural well on the Preserve at Mr. Wickett's expense.

### GENERAL MANAGER'S RECOMMENDATIONS

A handwritten signature in black ink, appearing to be "GMA".

1. Determine that the recommended actions are categorically exempt from the California Environmental Quality Act, as set out in this report.
2. Adopt a Resolution authorizing the Grant of Access Easement and Acceptance of Quitclaim Deed between the District and James F. Wickett et al.
3. Authorize the General Manager to issue a permit to drill an agricultural well on the Preserve to benefit the District's conservation grazing program.

### SUMMARY

The Midpeninsula Regional Open Space District (District) has the opportunity to replace an existing 1949 private access easement that passes through Tunitas Creek Open Space Preserve (Preserve) to access two private parcels owned by James F. Wickett et al (Wickett). Wickett proposes to quitclaim his rights to this access easement to the District in exchange for a more limited access easement from the District over the same road that prohibits access for residential or commercial development of the Wickett properties, and protects the natural open space condition of the Preserve. This is in lieu of a conservation easement that the District had hoped to obtain, but will have a similarly protective effect. Similarly, the District had hoped to secure spring water rights on the Wickett property to support our mutual grazing tenant. In lieu of that, Mr. Wickett is willing to drill a well on District property for this purpose at his cost with the District paying for permit fees, water lines, troughs, and other associated infrastructure. In total, initial transactional costs for the District are estimated at \$2,000 and would be covered by the Real Property New Land Budget.

### DISCUSSION

#### Background

In 2007, the District purchased the 707.48-acre Tunitas Creek property from Peninsula Open Space Trust establishing the Tunitas Creek Open Space Preserve (Preserve) (R-07-19). A ranch road travels from Tunitas Creek Road, across the interior of the Preserve, and into the

pastureland at the eastern Preserve boundary. The District uses this road for patrol, and the District's grazing tenant uses the ranch road to manage his livestock operation. This ranch road also serves as the only deeded access to two undeveloped parcels totaling 100 acres located beyond the eastern boundary of the Preserve (see attached map). The access easement was established prior to the District's acquisition of the property by a 1949 Court Judgment recorded in 1985 and rerecorded in January 2011. The Preserve is located to the west of the 100 acre property and the Wickett family ranch is located to the east. The Wickett family ranch is accessed separately using upper Native Sons Road via Star Hill Road. Given shared property lines, Wickett also has the ability to access the two undeveloped parcels via his adjoining ranch.

In 2011, the 100 acre property was listed for sale by a Coastside real estate agent. At that time, the District and Wickett shared concerns about the potential for development of these properties and discussed partnership opportunities, including a potential conservation easement to protect this property from future development. The 100 acre property was taken off the open real estate market in early 2012. Wickett purchased these properties together with the appurtenant access easement in November 2012. During winter of 2013, the District was approached by Wickett about using the deeded access road and leasing his 100 acre property for grazing in conjunction with the grazing on the Preserve. Mr. Wickett reiterated his intention to keep the property undeveloped, but was not interested in granting a conservation easement to the District. The District met with Mr. Wickett to look at the road, and negotiated the proposed Quitclaim Deed and replacement Grant of Access Easement to prevent the access easement from being used in the future to develop the Wickett parcels by subsequent owners. Staff and Wickett also discussed ways to improve livestock water distribution on the Preserve.

#### **Quitclaim Deed of 1949 Access Easement**

The Preserve is subject to a 1949 Court Judgment establishing an access easement, which was recorded in 1985 and subsequently re-recorded with "Notice of Intent to Preserve Easement" in January 2011 by the real estate agent representing the former owner. Wickett has agreed to convey a Quitclaim Deed to the District releasing all rights to this easement and to replace it with a new access easement preventing access for the development of his parcels.

#### **Description of Grant of Access Easement**

In exchange for the Quitclaim Deed, the District proposes to convey a replacement Grant of Access Easement to Wickett for the access road quitclaimed to the District. The location of the access road is unchanged and the road alignment has been accurately surveyed by a licensed land surveyor. Key business terms of the access easement are as follows:

1. The easement shall be non-exclusive to access the 100 acre Wickett property.
2. The easement shall not be used to access or develop any residential or commercial development on the 100 acre Wickett property.
3. Wickett will be responsible for repairing and maintaining the access road to a dirt and gravel standard consistent with the District's "Policies for Road Maintenance Agreements".
4. Vehicle use shall be limited to 4-wheel drive vehicles, All Terrain Vehicles (ATVs), and agricultural equipment.
5. The maximum speed limit shall not exceed 15 miles per hour.
6. Wickett is responsible for paying all survey, escrow, and recording fees.
7. The road may be rerouted to minimize steep grades, erosion, and sedimentation impacts.

**Proposed Stock Water Improvements at Tunitas Creek Open Space Preserve**

On the 100 acre property, Wickett has removed extensive brush, opening up approximately 80 acres of grassland for cattle grazing, which he is leasing to Doug Edwards who is also the District's grazing tenant on the Preserve. The Wickett property and the adjacent Preserve are currently leased for contiguous conservation grazing, concurrently improving the rangeland connectivity and the viability of grazing in this area.

Mr. Wickett has also developed an existing spring on his property for livestock water, which has also been extended to the Preserve boundary and is currently being utilized by the District's grazing tenant. In 2009, the District unsuccessfully attempted to drill an agricultural well on a lower area of the Preserve to improve livestock water for the grazing tenancy (R-09-77). Given the viability of the spring on Mr. Wickett's adjacent parcel, the District asked Mr. Wickett to formalize the District's use of this spring system with a spring water easement. Instead, Wickett offered to hire a contractor to drill a well on the Preserve. To facilitate this water improvement proposal, the District has entered into a letter of intent with Mr. Wickett, which provides that the District will issue a permit to Mr. Wickett's well contractor to drill a well on the upper eastern boundary of the Preserve. Mr. Wickett would pay the contractor to drill the well. If well drilling is successful, the District's well use would be for livestock, fire protection and road maintenance of the Preserve. The District would allow Wickett to use the well in emergency situations, such as for fire protection. Staff believes that the new proposed well location has a greater probability of providing water because it is located at a higher elevation on the Preserve than the location of the unsuccessful drilling in 2009. Therefore, the General Manager recommends authorizing the issuance of a permit to allow the well contractor to drill an agricultural well on the Preserve to support conservation grazing.

The District would be responsible for obtaining a new agricultural well permit from San Mateo County at an estimated cost of \$1,500. If well drilling is successful, the District would install a solar pump, two 5,000 gallon water tanks, approximately one mile of water lines, and three 60 gallon troughs to enhance resource grazing on the Preserve as contemplated in the 2009 well drilling project. These costs for installation are estimated not to exceed \$50,000 and this project would return to the Board for award of a construction contract for the well-related infrastructure at a future meeting.

If the well drilling is not successful, Mr. Wickett has expressed a willingness to reconsider granting a spring water easement to the District to serve the resource grazing, fire protection and maintenance needs on the Preserve. In the event this alternative is needed and agreeable to Mr. Wickett, staff would return to the Board for acceptance of an agricultural spring easement.

**CEQA COMPLIANCE****Project Description**

The project consists of replacing an existing private road access easement through the execution of a new access easement and acceptance of a quitclaim deed. The roadbed would continue to be maintained in a rural manner and access limited to standard four wheel drive utility vehicles or ATVs. The project also includes the drilling of a well and installation of future stock water infrastructure on the Preserve.

**CEQA Determination**

The District concludes that this project will not have a significant effect on the environment. The project is categorically exempt from CEQA under Article 19, Sections 15301, 15303 and 15304 of the CEQA Guidelines as follows:

Access easement and quitclaim

Section 15301 exempts operation, repair, restoration, maintenance, permitting, leasing, licensing or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The access easement replacement includes no anticipated expansion of the easement use. Any future minor grading of the road to be performed by Wickett for maintenance purposes is also exempt under Section 15301.

Water facilities

Section 15303 exempts construction of new, small structures such as the water facilities proposed.

Section 15304 exempts minor alterations to land, including the minor and temporary alterations of the proposed project.

The proposed small water delivery structures (solar pump, water tanks, lines and troughs) are consistent with the agricultural character of the existing landscape. The water storage tank will be low-profile to minimize adverse aesthetic effects.

Approximately 1 mile of pipeline will be installed along existing ranch roads, and bare soil will be reseeded to control erosion. The project site is located on a grassy ridge top away from creeks and springs. Tunitas Creek is located 1 mile down slope from the well site. The work area does not contain sensitive plant or animal species or known cultural resources. The proposed depth of the well is at an elevation which is not prone to salt water intrusion, not in a polluted aquifer or hard rock formation, and is not under the direct influence of a stream or lake.

For the well project, a Certificate of Exemption from Requirements for a Coastal Development Permit would be obtained by the District. The District has discussed the project with the County of San Mateo, and would apply for an Agricultural Water Well Permit to allow the contractor to drill the proposed well on the Preserve. The project is in a non-adjudicated watershed.

**FISCAL IMPACTS**

The recording and surveying costs associated with the Quitclaim Deed and Grant of Access Easement would be paid by Wickett. The District would pay for reissuing the District's policy of title insurance, which is estimated at \$500. Wickett would pay the costs for drilling an agricultural well on the Preserve. The District would pay the agricultural well permit to the County estimated at \$1,500. District costs would be covered under the FY2014-15 Real Property New Land Budget.

**BOARD COMMITTEE RECOMMENDATIONS**

There was no Committee review for this agenda item.

**PUBLIC NOTICE**

Public notice was provided as required by the Brown Act. Adjoining property owners and interested parties have also been mailed a copy of the agenda for this public meeting.

**NEXT STEPS**

Upon approval by the Board of Directors, staff would work to record the easement agreement and quitclaim deed and would issue a permit to the well contractor and oversee the well drilling project. If well drilling is successful, Natural Resources staff would return to the Board with award of a construction contract for stock water infrastructure distribution improvements at a future meeting.

## Attachments:

1. Resolution Approving and Authorizing the President of the Board, General Manager or Other Officer to Execute Easement Deed with James F. Wickett et al. and Certificate of Acceptance for the Quitclaim Deed to District, and Authorizing General Manager to Execute any and all Other Documents Necessary or Appropriate to Closing of the Transaction (Tunitas Creek Open Space Preserve - Lands of Wickett)
2. Location Map

## Prepared by

Michael Williams, Real Property Manager

## Graphics prepared by:

Jon Montgomery, GIS Technician

**RESOLUTION 14-\_\_\_\_**

**RESOLUTION OF THE BOARD OF DIRECTORS OF MIDPENINSULA REGIONAL OPEN SPACE DISTRICT APPROVING AND AUTHORIZING THE PRESIDENT OF THE BOARD, GENERAL MANAGER OR OTHER OFFICER TO EXECUTE EASEMENT DEED WITH JAMES F. WICKETT ET AL AND CERTIFICATE OF ACCEPTANCE FOR THE QUITCLAIM DEED TO DISTRICT, AND AUTHORIZING GENERAL MANAGER TO EXECUTE ANY AND ALL OTHER DOCUMENTS NECESSARY OR APPROPRIATE TO CLOSING OF THE TRANSACTION (TUNITAS CREEK OPEN SPACE PRESERVE - LANDS OF WICKETT)**

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**THE BOARD OF DIRECTORS OF THE MIDPENINSULA REGIONAL OPEN SPACE DISTRICT DOES RESOLVE AS FOLLOWS:**

SECTION ONE. The Board of Directors of the Midpeninsula Regional Open Space District does hereby accept the Quitclaim Deed from James F. Wickett et al. and authorizes the General Manager, President of the Board of Directors, or other appropriate officer to execute the certificate of acceptance on behalf of the District.

SECTION TWO. The General Manager, President of the Board or other appropriate officer is authorized to execute the Grant of Access Easement to James F. Wickett et al.

SECTION THREE. The General Manager and General Counsel are authorized to execute any and all other documents necessary or appropriate to the closing of the transaction approved in this Resolution. The General Manager and General Counsel are further authorized to approve minor, or technical revisions to the Grant of Access Easement and Quitclaim Deed that do not involve any substantial change to any terms of these transactional documents, and which are necessary or appropriate to the closing or implementation of this transaction.

\* \* \* \* \*

**PASSED AND ADOPTED** by the Board of Directors of the Midpeninsula Regional Open Space District on \_\_\_\_\_, 2014, at a Regular Meeting thereof, by the following vote:

**AYES:**

**NOES:**

**ABSTAIN:**

**ABSENT:**

**ATTEST:**

**APPROVED:**

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Secretary  
Board of Directors

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President  
Board of Directors

**APPROVED AS TO FORM:**

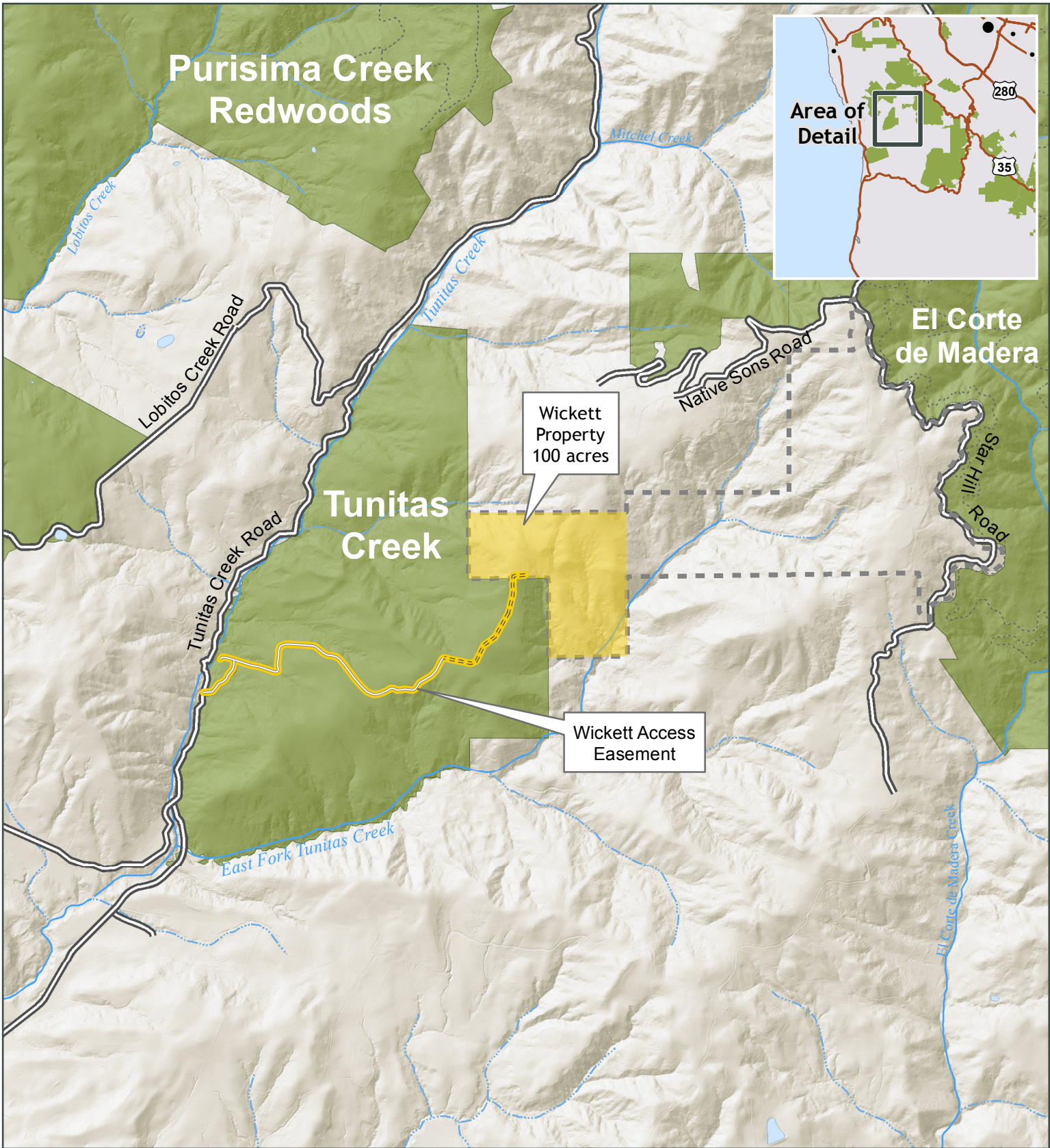
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General Counsel

I, the District Clerk of the Midpeninsula Regional Open Space District, hereby certify that the above is a true and correct copy of a resolution duly adopted by the Board of Directors of the Midpeninsula Regional Open Space District by the above vote at a meeting thereof duly held and called on the above day.






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District Clerk



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### Wickett Access Easement, Tunitas Creek Open Space Preserve

-  Access Portion of Wickett Property
-  Entire Wickett Property
-  MROSD Preserves
-  Private Property
-  Road

Midpeninsula Regional Open Space District (MROSD)



April, 2014

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While the District strives to use the best available digital data, this data does not represent a legal survey and is merely a graphic illustration of geographic features.