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Staff report prepared by:	J.Bishop
Staff report approved by:	D.Carl
Hearing date:	1/14/2010

APPEAL STAFF REPORT (COMBINED)
SUBSTANTIAL ISSUE DETERMINATION

Appeal number.....**A-3-SLO-09-055 and A-3-SLO-09-069, Los Osos Wastewater Project (LOWWP)**

Applicant.....San Luis Obispo County Public Works Department

Appellants.....Chris Allebe; Sandra Bean; Don Bearden; Barry and Vivian Branin; California Coastal Commissioners Sara Wan and Mark Stone; Chuck Cesena; Citizens for Affordable and Safe Environment; Coalition for Low Income Housing; Fair Allocation of Important Resources (FAIR); Martha Goldin; Joan Harlem; J.H. Edwards Company; Los Osos Legal Defense Fund; Alfred and Lourdes Magallanes; Richard Nyznyk; Linde Owen; Steven Paige; Alon Perlman; Bruce Payne; Piper Reilly; Sierra Club, Santa Lucia Chapter; Surfrider Foundation, San Luis Bay Chapter; Julie Tacker; Elaine Watson; Linda Ward; and Keith Wimer.

Local government .....San Luis Obispo County

Local decision .....Approved by the County Board of Supervisors on September 29, 2009 and November 24, 2009 (County Coastal Development Permit (CDP) Number DRC2008-00103).

Project location .....The wastewater treatment plant would be located 2198 Los Osos Valley Road, approximately ½ mile inland of Los Osos (the Giacomazzi site). The intake and discharge infrastructure would be located throughout Los Osos adjacent to Morro Bay, in the Estero Planning Area, San Luis Obispo County.

Project description.....Construction and operation of a sewer system to serve Los Osos, including a sewer treatment plant facility, collection system, effluent disposal and reuse, a water conservation program, and all associated appurtenant infrastructure.

File documents.....Administrative record for San Luis Obispo County CDP Number DRC2008-00103; San Luis Obispo County certified Local Coastal Program (LCP).

Staff recommendation ...**No Substantial Issue**

A.Staff Recommendation

1. Summary of Staff Recommendation

San Luis Obispo County approved a CDP for the construction and operation of a sewer system to serve the community of Los Osos in San Luis Obispo County. Since 1983, Los Osos has been subject to a Central Coast Regional Water Quality Control Board (RWQCB) waste discharge moratorium to address the problem of septic tank effluent contaminating local groundwater and other resource areas, including the Morro Bay estuary. The Commission previously approved a CDP for a different wastewater treatment project in Los Osos in 2004, but that CDP expired and the project was never built.

The County-approved Los Osos Wastewater Project (LOWWP) includes a gravity collection system, a sewer treatment plant, effluent disposal and reuse, water conservation, and all associated appurtenant infrastructure. The proposed treatment plant site (the Giacomazzi site) is located at 2198 Los Osos Valley Road, approximately one-half mile east (inland) of the community of Los Osos, and the associated infrastructure would be located throughout the community of Los Osos.

The County's CDP action was appealed to the Coastal Commission by appellants questioning the project's conformance with LCP and Coastal Act requirements in a number of issue areas, including primarily with respect to the protection of agricultural, environmentally sensitive habitat area (ESHA), water quality, visual, archaeological, and coastal watershed resources. The appeal contentions raise questions with all project elements (collection, treatment, and effluent disposal/reuse).

Staff has evaluated the appeal contentions and recommends that the Commission find that no substantial issues are raised by the County's approval. The County has gone to great lengths to address coastal resource issues and LCP requirements through a long and inclusive public process, including working closely with Commission staff to address various issues. The approved project provides a critically needed wastewater treatment facility in an area with significant coastal resources, such as the Morro Bay National Estuary, that are currently being damaged due to inadequate wastewater treatment and disposal in Los Osos. Although the numerous appellants raise valid contentions regarding treatment plant siting, collection system approaches (e.g. STEP[1] versus gravity flow), effluent disposal and reuse options, water supply, preservation of groundwater basins, agriculture, and the protection of other sensitive coastal resources, these concerns do not raise any substantial issues with respect to the project's consistency with the certified LCP.

The County considered the issues raised by the appeals, and the project has been sited and designed to best address the significant water quality issues in Los Osos, while minimizing coastal resource impacts, consistent with the LCP. Of particular note, the County significantly changed and refined their project in response to public comments, including those of Commission staff, by moving the treatment plant to the Giacomazzi site and increasing the level of wastewater treatment to a tertiary level to avoid significant resource impacts, and to maximize beneficial reuse opportunities including through groundwater

[1] STEP is an acronym that stands for Septic Tank Effluent Pumps.

augmentation. There is no feasible, less-environmentally damaging site for the treatment plant or certain groundwater recharge components. All impacts of the project have been avoided to the maximum extent feasible and mitigated appropriately where they cannot be avoided. With the required tertiary treatment, the effluent will be recycled for beneficial use within the Los Osos groundwater basin. In short, the County-approved project is an extremely beneficial project of statewide importance that should drastically reduce ongoing and significant coastal resource degradation (to Morro Bay, the Los Osos Groundwater Basin, etc.) and that should lead to increased coastal resource protection and improvement, including in terms of water quality and groundwater supply.

Finally, significant local, state, and federal resources have been dedicated over the last 20 years towards addressing the statewide need for a wastewater treatment plant in Los Osos, and the current project approved by the County adequately addresses the LCP and Coastal Act requirements to protect coastal resources, including through comprehensive evaluation of various alternative project designs. **Staff recommends that the Commission find that the appeals raise no substantial issue**. The motion to do so is found directly below.

2. Staff Recommendation on Substantial Issue

Staff recommends that the Commission determine that **no substantial issue** exists with respect to the grounds on which appeals A-3-SLO-09-055 and A-3-SLO-09-069 were filed. Staff recommends a **YES** vote on the following motion and resolution:

> ***Motion and Resolution***. *I move that the Commission determine and resolve that Appeal Numbers A-3-SLO-09-055 and A-3-SLO-09-069 do not present a substantial issue with respect to the grounds on which the appeals have been filed under Coastal Act Section 30603 regarding consistency with the certified Local Coastal Program and/or the public access policies of the Coastal Act.*

Passage of this motion and resolution will result in a finding of no substantial issue and adoption of the following findings. By such action, the Coastal Commission declines to take jurisdiction over the CDP for this project, San Luis Obispo County's action becomes final and effective, and any terms and conditions of the County decision remain unchanged. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

Report Contents

Click on the links below to go to the exhibits.

B.Findings and Declarations

The Commission finds and declares as follows:

1. Background

Beginning in the early 1970's, the Central Coast Regional Water Quality Control Board (RWQCB) and other health agencies became concerned with the use of individual disposal systems (i.e., septic systems) in Los Osos when it was identified that the depth to groundwater is shallow enough in some areas to flood leach fields in wet weather, posing adverse impacts to Morro Bay associated with surface flow and lateral seepage of inadequately treated wastewater. Significant concern was also raised regarding the impacts of septic systems on groundwater resources. Groundwater contamination issues were compounded by the fact that the Los Osos area obtains its potable water supply from local groundwater aquifers. In the Baywood Park area for example, few of the septic systems can meet the RWQCB's

criteria for separation between the bottom of a leach field and groundwater. In addition, many of the smaller lots in Los Osos are too small for leach fields, and as a result, they utilize deeper seepage pits which may discharge directly to groundwater. To address these concerns, an interim Basin Plan adopted by the RWQCB in June 1971 contained a provision prohibiting septic system discharges in much of the urban area of Los Osos after 1974.

The RWQCB determined in 1983 that contamination in excess of State standards had occurred in the groundwater basin (upper aquifer) at least partially due to the use of septic systems throughout the community. In September 1983, the RWQCB adopted Resolution 83-13, approving a discharge moratorium for a portion of the Los Osos area known as the RWQCB Prohibition Zone (see Exhibit 1 for a map of the prohibition zone area).

Since these actions by the RWQCB, there have been many attempts to address the pollution of Morro Bay and the groundwater basin through construction and operation of a wastewater project. In the late 1980's, the County developed a wastewater collection and treatment project and prepared an Environmental Impact Report (EIR) (1987). After preparing a Supplemental EIR (1988), the County began a detailed design process. In 1990, the Coastal Commission approved an amendment to the Estero Area Plan allowing a wastewater treatment plant proposed by the County on rural agricultural land off Turri Road. The County later abandoned this site in favor of an alternative site, located at South Bay Boulevard and Pismo Avenue. The County approved a wastewater treatment plant at that site in 1997. The locally approved CDP authorizing the County project was appealed to the Coastal Commission, and the Commission conducted four public hearings on the project between 1997 and 1998. The Commission continued action on the County project at least in part to provide the community with an opportunity to pursue alternatives.

A November 1998 local ballot measure formed the Los Osos Community Services District (LOCSD). At that time, the project favored by the elected district members was a ponding system at the downtown Tri-W site (now referred to as the Mid-town site) located at Ravenna Avenue and Los Osos Valley Road. The ponding system was later rejected. On March 1, 2001, the LOCSD certified a Final EIR for an alternative project involving a conventional treatment system at the Tri-W site. In August 2002, the Commission approved an LCP amendment (SLO-MAJ-3-01) that authorized wastewater treatment and associated facilities as allowable uses on the Tri-W site. After approval of a CDP from the Coastal Commission on appeal (CDP number A-3-SLO-03-113) project construction commenced in 2005. In the fall of 2005, however, voters recalled a majority of the LOCSD board members in a special election and the new board immediately suspended construction on the wastewater project.[2] In August 2006, the LOCSD rescinded certification of the 2001 FEIR and filed for federal bankruptcy protection due to default on State grants and loans.

On September 20, 2006, Governor Arnold Schwarzenegger signed Assembly Bill (AB) 2701, which authorized transfer of wastewater authority from the LOCSD to the County. The County has since

[2] To this date, the Tri-W site continues to show the effects of early and since abandoned LOCSD site preparation activities, and is subject of ongoing enforcement monitoring at both the Commission and County levels.

embarked on a process to develop a community wastewater project in Los Osos. The process included numerous actions; detailed engineering of various options and sites for wastewater treatment and processes; creation of a community Technical Advisory Committee; creation of an inter-disciplinary team of County staff; and creation of a team of consultants familiar with conditions in Los Osos. The process produced a Rough Screening Report and a Fine Screening Report that identified various options for treatment technologies, sites for treatment plants, and other options that may be pursued by the County (see summary of these efforts below in Section 4 on page 8 of this report).

The County's early process and the screening reports focused on identifying a set of viable project alternatives that were the basis for cost estimates to be used in later stages of the project development, including a Proposition 218 vote as required by AB 2701.[3] The County anticipated funding the project with bond funds paid by a property assessment on the properties that would receive benefit of the wastewater improvements (the focus is on the properties in the designated Prohibition Zone). AB 2701 mandated adherence with the provisions of Proposition 218 whereby a simple majority of the property owners had to approve the property assessment. The Proposition 218 vote was held in October 2007 and was approved by the voters authorizing $127 million in LOWWP funding, with 80% in favor of the assessment of approximately $24,941.19 per single-family residence in the Prohibition Zone. These assessments may be paid in full now (and some property owners have) or may be paid over 20-40 years (depending on the funding source) on property tax bills.

Since that time, the County has been exploring other funding possibilities to reduce local costs, and at least three potential funding opportunities show promise. The USDA has announced that the project is eligible to apply for funding through their Rural Utilities Program, and has invited the County to apply for an $80 million funding package (a $16 million grant and a $64 million low interest loan on a 40-year term), which represents nearly half of the estimated project costs. The extraordinary size of this package is made possible by ARRA (federal stimulus) funds. The Project's eligibility to apply was made possible by a Congressional waiver secured by federal legislators (Representatives Capps and McCarthy, and Senator Feinstein). Due to the source of this funding, the project is under considerable time pressure: USDA will allocate these ARRA-based funds on a first-come first-served and competitive basis. To date just over half of the original $3 billion dollars have been committed. The County is also anticipating participation in the State Water Resource Control Board's (SWRCB's) State Revolving Fund (SRF) Program, and may receive additional Federal funds through the Water Resources Development Act. Altogether, these funding sources could significantly reduce local costs.[4]

2. Project Location

Los Osos is an unincorporated coastal community of about 15,000 residents located in San Luis Obispo County at the south end of Morro Bay. Los Osos extends to the south and east of Morro Bay into the

[3] Proposition 218 amended the California Constitution in 1996 to require local government to have a vote of the affected property owners for any proposed new or increased assessment before it could be levied, such as for the subject project.

[4] The County indicates that the homeowner assessment for the project could be reduced by 50% if all three funding sources are obtained.

lower foothills of the Irish Hills. Physical development of Los Osos began with subdivisions in the late nineteenth century, leading to a community of vacation homes by the early 1960's. The physical development pattern in much of Los Osos consists of long and narrow (generally 25 to 50 feet by 125 feet) residential lots located on wide (generally 40 to 80 feet) streets arranged in a general grid pattern. The majority of the community was constructed on an ancient dune system formed by centuries of wind-blown beach sand deposited along the south end of Morro Bay. As a result, the terrain consists of gently rolling hills and sandy soils. The sandy soils and marine climate combine to produce a unique coastal ecosystem that is home to several plant and animal species, some of which are found nowhere else in the world. Current wastewater treatment for the community for the most part consists of individual septic systems serving each developed property, or in some cases multiple properties. See Exhibit 1 for project location maps.

3. Project Description

The LOWWP consists of three main components: 1) wastewater collection; 2) wastewater treatment (which includes biosolids processing and disposal); and 3) effluent disposal/reuse. The project also includes a water conservation program. County condition number 1[5] describes the scope of the project and approved development, as follows:

a. A wastewater treatment facility, including all appurtenant structures, landscaping and site access to be located on the Giacomazzi site (APN 067-011-022);

b. A wastewater collection system, including lateral lines from individual structures to the street, connection lines at each property, sewer mains, back-up power facilities and pump stations;

c. Construction staging areas;

d. Wastewater disposal facilities, distribution lines for urban and agricultural re-use, and monitoring wells;

e. Wastewater sludge handling facilities at the wastewater treatment plant to enable the hauling of sludge to a disposal, recycling facility or co-generation facility;

f. Primary staging areas at East Paso Robles Street including minor and temporary staging areas in the project area including the Giacomazzi site;

g. Construction activities associated with the installation of approved facilities, including dewatering operations;

h. A program for the mitigation of direct impacts to habitat for endangered species and agricultural resources;

[5] See County findings and conditions in Exhibit 3; County condition number 1 is on page 13.

i. Construction of an underground pump station located at 3rd Street and the intersection of Paso Robles Avenue (unimproved), within 75' of a coastal wetland;

j. Construction of harvesting wells and their associated piping and facilities are NOT authorized by this approval; and

k. A water conservation program allowing a maximum water usage of 50 gallons per day/person for indoor water usage.

See Exhibit 2 for LOWWP plans.

4. San Luis Obispo County CDP Approval

San Luis Obispo County held a series of local public meetings on the project beginning in 2006. The Board of Supervisors agendized the project on a weekly basis for all of 2007, monthly through 2008; the project's Technical Advisory Committee held 35 community meetings from January to December 2007 to review project issues ranging from greenhouse gas emissions to alternative treatment systems. Two CEQA scoping meetings were held in the community in 2007, with additional updates presented at the Los Osos CSD and Los Osos Citizens' Advisory Committee meetings. The majority of these meetings were recorded and repeated on the local public television station. The County also held three Town Hall meetings (two evenings and one Saturday) on December 18, 2006, June 19, 2007, and November 19, 2008. In addition, five project information brochures were developed for various aspects of the project and mailed to the community, and two separate public opinion surveys were conducted.

These local meetings (approximately 100) culminated in a series of ten County Planning Commission hearings (including two field trips) beginning in February 2009 with a Planning Commission Study Session and ending in July of 2009, when the project underwent significant final refinement and change in response to comments, including moving the treatment plant facility closer to town and upgrading the proposed facility to provide for tertiary treatment and associated beneficial reuse. The Planning Commission approved the CDP for the project on July 24, 2009. That approval was appealed by 17 parties (including all of the parties currently appealing to the Coastal Commission) to the County Board of Supervisors. On September 29, 2009 the County Board of Supervisors upheld the Planning Commission decision and approved a CDP to construct and operate a sewer system to serve the community of Los Osos (see Exhibit 3 for the notice of County's final CDP decision that was received by the Coastal Commission). The Board's CDP decision was appealed to the Commission by 24 different parties. Subsequently, the Board approved an amendment to their original CDP decision to modify condition number 97 (see Exhibit 4 for the notice of County's final CDP amendment decision that was received by the Coastal Commission). The amendment decision was appealed by 18 different parties. In short, the County has taken a final CDP action, that action includes the amendment to condition 97, and that action has been appealed to the Commission (see also below).

5. Appeal Procedures

Coastal Act Section 30603 provides for the appeal to the Coastal Commission of certain CDP decisions in jurisdictions with certified LCPs. The following categories of local CDP decisions are appealable: (a) approval of CDPs for development that is located (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance, (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff, and (3) in a sensitive coastal resource area; or (b) for counties, approval of CDPs for development that is not designated as the principal permitted use under the LCP. In addition, any local action (approval or denial) on a CDP for a major public works project (including a publicly financed recreational facility and/or a special district development) or an energy facility is appealable to the Commission. This project is appealable because it involves development that is located between the first public road and the sea, within 100 feet of a wetland, estuary, and stream, and in a sensitive coastal resource area, and it involves development that is not designated as the principal permitted use, and development that is a major public works project.

The grounds for appeal under Section 30603 are limited to allegations that the development does not conform to the certified LCP or to the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a de novo CDP hearing on an appealed project unless a majority of the Commission finds that "no substantial issue" is raised by such allegations. Under Section 30604(b), if the Commission conducts a de novo hearing and ultimately approves a CDP for a project, the Commission must find that the proposed development is in conformity with the certified LCP. If a CDP is approved for a project that is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone, Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act. This project is located between the nearest public road and the sea, and thus this additional finding would need to be made if the Commission approves the project following a de novo hearing.

The only persons qualified to testify before the Commission on the substantial issue question are the Applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing. Any person may testify during the de novo CDP determination stage of an appeal.

6. Summary of Appeal Contentions

The Appellants contend that the County-approved project raises issues with respect to the project's conformance with LCP and Coastal Act requirements in a number of issue areas, including protection of agricultural, environmentally sensitive habitat area (ESHA), water quality, visual, archaeological, and coastal watershed resources. The appeal contentions cover all primary project elements (collection, treatment, and effluent disposal/reuse), including with respect to the water conservation program. The majority of the appeals relate to the County's approval of a gravity collection system over a Septic Tank

Effluent Pump (STEP)[6] collection system. The common thread running through all of these appeals is an assertion that a STEP collection system avoids coastal resource impacts to the maximum extent feasible, while a gravity collection system does not. Some of the appeals raise issues with the type and location of the wastewater treatment plant facility. Other appeals relate to the method of effluent disposal. Numerous other appeal contentions do not relate to LCP conformance issues and are only briefly discussed in this report.

Please see Exhibit 5 for the complete appeal documents and Exhibit 6 for a complete list of LCP policies cited in the appeals.

7. Substantial Issue Determination

A. Treatment Plant Facility

The location for the wastewater treatment plant facility is known locally as the Giacomazzi site (see Exhibit 1). The Giacomazzi site is a rectangular 38.2-acre portion of a larger 100-acre parcel north of Los Osos Valley Road and west of Clark Valley Road. All of the 100-acre parcel is prime soils, including soils of statewide importance and it is located in the LCP's Agriculture (AG) land use category. The lower 62 acres of the parcel has a long history of production agriculture (irrigated row crops), and is currently contract farmed with a mix of high value vegetable crops, and is not part of the current proposal. The upper 38.2 acres is not currently farmed and this portion of the parcel slopes gently downward toward the north and east toward an ephemeral drainage that extends along the easterly portion of the site to Warden Lake supporting a small oak woodland along its northerly reaches. The former farmhouse complex stands at the western side of the upper 38.2 acres bordered by a number of tall eucalyptus and cypress trees. All of the original farm buildings have been removed and replaced with a modular residence. The Giacomazzi site was historically cultivated, however, crop production ceased sometime in the last 20 years. Cultivation occurs regularly for weed control, but no crop has been produced. According to the County record, farming of the site is unattractive due to a combination of soil pests and difficult irrigation requirements because of the underlying clay layers. The site is separated from Los Osos Valley Road by the Los Osos Mortuary and Memorial Park (Cemetery property).

The County-approved project would create a 30-acre rectangular lot on which the treatment plant facility would be located, leaving the existing modular residence at the old farmhouse site as part of the larger 70-acre remainder parcel with all of the currently farmed area. This would allow the row crop operation to continue in private ownership on the 70-acre remainder.

The wastewater treatment plant facility would occupy about 22 acres of the new 30-acre site, with the balance of the site left undeveloped as open space. The chosen location is outside of the urban core, roughly one-half mile east of the Urban Reserve Line (URL).[7,8] The treatment facility would consist of

[6] Id (STEP is an acronym that stands for Septic Tank Effluent Pumps).

[7] The URL is an LCP planning line that serves to define appropriate boundaries separating urban/suburban land uses and rural land uses.

an extended aeration wastewater treatment plant which relies primarily on the acceleration of natural waste biodegradation by aerobic bacteria to treat collected wastewater. Extended aeration with denitrification is a proven wastewater treatment technology employed in hundreds of locations worldwide. These types of treatment plants have demonstrated the ability to remove nitrate from wastewater effluent to the levels required by the RWQCB for the community of Los Osos.

The treatment plant facility would be designed with a capacity to treat a maximum average annual dry weather flow of approximately 1.1 million gallons per day (mgd) that takes into account the implementation of a water conservation program that is expected to conserve between 150,000 and 330,000 gallons per day for the County-estimated build out population of 18,428 residents within the collection zone.[9] At current indoor water use rates, the 14,428 persons in the Prohibition Zone currently would generate wastewater flows of 1.25 mgd; the project has a goal of reducing indoor water use to below 50 gallons per day per person which would equate to 0.92 mgd wastewater flows at buildout. If this goal is met or exceeded and/or if buildout is less, the project will operate at a higher level of redundancy.

Appeal Contentions

The primary appeal contentions regarding County-approved treatment plant siting are:[10]

- The treatment plant is not allowed at the Giacomazzi site.
- The treatment plant is inconsistent with Section 23.08.288(d) of the CZLUO because site constraints render the County's decision infeasible, when potentially feasible alternatives exist.
- The project has not addressed growth-inducing impacts from the treatment plant being located outside the URL.
- The treatment plant will unnecessarily impact agricultural resources.
- The treatment plant will impact cultural sites.
- Wetlands are not adequately delineated on the Giacomazzi parcel.
- The treatment plant will likely make pollution of Morro Bay more probable due to spills at the plant

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[8] The remainder parcel abuts the URL on its west end.

[9] The County has estimated buildout by 2020. However, potential buildout under the LCP is significantly constrained, including due to public service constraints, habitat, and rural/agricultural protection. Although the project itself will not affect such constraints, it is not clear at the current time that buildout of that degree is possible, nor whether it could be found consistent with the LCP. The County has committed to rectifying buildout issues through an LCP amendment following the LOWWP. Specifically special condition #86, states: *(Consistent with condition of approval #34 from CDP A-3-SLO-03-113). To prevent wastewater treatment system from inducing growth that cannot be safely sustained by available water supplies, the sewer authority is prohibited from providing service to existing undeveloped parcels within the service area, unless and until the Estero Area Plan is amended to incorporate a sustainable buildout target that indicates that there is water available to support such development without impacts to wetlands and habitats.*

[10] See full appeal contentions in Exhibit 5.

site flowing directly into Warden Lake and then to Morro Bay.

- Siting the treatment plant away from town leads to the need to cross creeks with pipeline infrastructure.
- The treatment plant would impact the foreground of the Morro's Scenic Corridor.
- The treatment plant would be incompatible with the neighborhood character.

Analysis

Allowable Use/Treatment Plant Siting

As a threshold issue, certain Appellants assert that the wastewater treatment plant facility is not allowed at the Giacomazzi site, which is designated for Agriculture (AG) and contains prime soils. LCP Coastal Plan Agriculture Policy 1 requires that prime agricultural lands be maintained (see Exhibit 6). However, Policy 1 also states:

> *Permitted uses on Prime Agricultural Lands. Principal permitted and allowable uses on prime agricultural lands are designated on Coastal Table O – Allowable Use Chart in Framework for Planning Document. These uses may be permitted where it can be demonstrated that no alternative building site exists except on the prime agricultural soils, that the least amount of prime soil possible is converted and that the use will not conflict with surrounding agricultural land and uses.*

Consistent with the Coastal Act, the LCP also generally limits new development in environmentally sensitive habitat areas to resource dependent uses (see, Coastal Plan ESHA Policy 1, Exhibit 6), restricts new development in wetlands (ESHA Policy 13, Exhibit 6); protects visual resources (Visual Policies 1-4, Exhibit 6 (see also below)), and requires avoidance of cultural resources where feasible and mitigation of unavoidable impacts (Archeology Policy 1, Exhibit 6).

Under the LCP, the wastewater treatment plant is an allowable use in the Agriculture (AG) land use category. A wastewater treatment plant facility is considered a "Public Utility Facility". Under the CZLUO, Public Utility Facilities are allowed in all land use categories except Recreation (REC) and Open Space (OS).

Agriculture Policy 1 and other LCP resource protection policies are further implemented by Coastal Zone Land Use Ordinance (CZLUO) Section 23.08.288(d), which specifically addresses siting public utility facilities in sensitive areas, such as on prime agricultural soils, Sensitive Resource Areas, and in environmentally sensitive habitats. Section 23.08.288(d) states:

> ***Limitation on use, sensitive environmental areas****. Uses shall not be allowed in sensitive areas such as on prime agricultural soils, Sensitive Resource Areas, Environmentally Sensitive Habitats, or Hazard Areas, unless a finding is made by the applicable approval body that there*

is no other feasible location on or off-site the property. Applications for Public Utility Facilities in the above sensitive areas shall include a feasibility study, prepared by a qualified professional approved by the Environmental Coordinator. The feasibility study shall include a constraints analysis, and analyze alternative locations.

CZLUO Section 23.08.288(d) allows public utility facilities within sensitive areas only where there is no other feasible location. To address this requirement, applications must include a feasibility study analyzing constraints and alternative locations. Certain Appellants assert that the project is inconsistent with these requirements because various constraints (agricultural soils, archaeological resources, visual impacts, and ESHA's, etc.) at the Giacomazzi site render it infeasible, and that feasible alternatives exist. In this case, the County found that it was feasible to site the treatment facility on the Giacomazzi property. Although it is true that there are other sites that could be used to site a facility, it is also true that all of these sites present similar and more difficult issues with respect to development on sensitive areas as that term is understood for purposes of Section 23.08.288(d). This LCP requirement must be understood to require the *avoidance* of sensitive resources if it is feasible to do so on alternative sites. However, if all other feasible alternative sites considered also raise these coastal resource issues, then the LCP allows the use of a site with such sensitive resources. Thus the County found that there is no feasible alternative site that can avoid such sensitive areas. As such, the County's finding that the use is allowed at the site is appropriate, particularly because the section 23.08.288(d) analysis in this case has identified the least environmentally damaging feasible site. In addition, the County did not identify any ESHAs on the Giacomazzi site; as discussed below, no wetlands are impacted by the project. Overall, the County determined that the Giacomazzi site was the most feasible location for the treatment plant after taking into account economics, environmental, social, and technological factors (see County Finding B.1). A detailed constraints and alternatives analysis was used to select the site and to locate the treatment plant at the Giacomazzi site, and the finding supporting selection of the subject site are sound.[11] The County's selection of the Giacomazzi site, therefore, does not raise a substantial issue of compliance with the Agriculture, ESHA, or wetlands policies of the LCP.

Growth Inducement

Certain Appellants contend that the project fails to adequately address growth inducement potential and that other sites (e.g., the Gorby site) are better positioned adjacent to the URL to deal with growth inducement concerns. Contrary to the Appellants's contentions, the County approved project does address growth inducing impacts in a number of ways. The directly relevant Public Works LCP policy states:

Policy 2: New or Expanded Public Works Facilities

New or expanded public works facilities shall be designed to accommodate but not exceed the needs generated by projected development within the designated urban reserve lines. …

[11] See Viable Project Alternatives (VPAs) *Rough Screening Report* (March 2007) and *Fine Screening Report* (August 2007).

First, the project has been sized only to serve build-out populations for the community of Los Osos.[12] Second, the County approval includes a number of conditions that deal directly with the issue of growth inducement. For example, County condition 4 only allows wastewater service to the defined Service Area, and requires an LCP amendment approved by the Coastal Commission and an appealable CDP for any expansion of that service area (see Exhibit 3). In addition, and consistent with terms of previous CDP A-3-SLO-03-113, County condition 86 requires an amendment to the Estero Area Plan, approved by the Coastal Commission, before wastewater service can be provided to any undeveloped parcels. While some Appellants argue that additional measures are necessary to prevent the possibility of growth inducement outside of urban areas (e.g., establishment of a utility prohibition easement), the County conditions are adequate in this regard. In short, the County conditions of approval will ensure that only appropriate development within the service area boundary will be served by the project. Therefore no substantial issue is raised with LCP Public Works Policy 2 and related requirements.

Agricultural Conversion

As indicated above, the LCP requires that prime agricultural land be maintained, but does allow the siting of public works facilities on such land if there is no feasible less-environmentally damaging alternative. The County considered a range of alternative treatment plant siting locations. Each of the alternative sites for locating the treatment plant facilities includes some degree of agricultural conversion. The County found that the chosen site minimizes agricultural land conversion in relation to other sites/impacts, and these findings are sound (see County Findings B.4 and B.12). For example, the Tonini site that preceded the Giacomazzi site had significantly more agricultural impacts associated with its use than does the Giacomazzi site, some 175 acres of direct impacts as opposed to 30 at Giacomazzi.[13] In addition, mitigation measures are provided in the County approval which will require the conservation of similar agricultural land at a 1:1 ratio along with appropriate funds for administrative costs (condition 95). Additionally, if the County acquires more land than necessary to site the treatment facilities, an affirmative agricultural easement will be required over the remaining portions of the site (condition 16). Overall, agricultural land impacts will be mitigated, consistent with LCP Agriculture Policy 1 and CZLUO 23.08.288(d) and thus, no substantial issue is raised.

Cultural Sites Impacted

The Giacomazzi site contains known cultural resources. The LCP requires that such resources be protected, including through a mitigation plan if a project might significantly effect existing, known or suspected archaeological resources (see Exhibit 6, Archeology Policy 1, 4, and CZLUO 23.07.104). From review of the approved site plan for the treatment plant, it appears clear that the treatment plant could be located on the site and avoid cultural resources (see Exhibit 5).

The County findings state that the "identification and preservation of archaeological resources will be

[12] Id.

[13] Direct impacts at the Tonini site included agricultural land that would have been used for effluent spray fields, whereas the Giacomazzi site would not use sprayfields. Direct impacts at the Giacomazzi site includes the area needed for the treatment plant facility.

met by implementation of the required Cultural Resource Treatment Plan and other conditions associated with the protection and preservation of cultural resources" (see County Finding B.10, Exhibit 3). As approved by the County, additional cultural resource investigations will be required to determine the more exact boundaries of the site and significance of the cultural resources on the Giacomazzi site. If the resources are determined to be significant (per the Office of Historic Preservation criteria) then impacts to the identified resource would only be allowed when accompanied by project specific mitigation in compliance with applicable state laws (see County conditions 28 through 31). Thus, the County action does not raise a substantial issue with respect to the above cited policies and ordinance.

Wetlands Not Delineated

The LCP requires that wetlands be delineated, identifies a limited subset of development that is allowed in wetlands (e.g., restoration, nature study, incidental public services, flood control, etc.), and otherwise requires that wetland areas be avoided and buffered (minimum of 100 feet) appropriately (see Exhibit 6, ESHA Policies 13, 16, 17, 19, CZLUO 23.07.172). The LCP definition of wetlands is adapted from and equivalent to that of the Coastal Act (see CZLUO 23.11.030). Except for incidental public services, the LCP does not identify a public utility facility as an allowable use within a wetland.

In this case, the County's wetland delineations were completed using LCP and thus the Coastal Act definition of a wetland. There are wetlands on the northeast portion of the site. The plant is sited to avoid and buffer these wetlands with a 100 foot buffer, consistent with the LCP. Thus, no wetlands would impacted by the proposed plant. Therefore, no substantial issue is raised by this claim concerning wetlands on the Giacomazzi site.

Spills/Pollution Prevention

Certain Appellants suggest that pollution of Morro Bay is more likely at the Giacomazzi site than at the Mid-town site because spills could flow directly into Warden Lake and then into Morro Bay. While the Giacomazzi site is located closer to a surface water body than the Mid-town site, the site will be designed to contain any potential spills and site runoff within the boundaries of the treatment facility. According to the County, any spill/runoff from the site would be designed to flow back through the treatment process as opposed to being discharged offsite, thereby minimizing any potential for contamination of Warden Lake and/or Morro Bay. Additionally, plant operations will be monitored 24 hours per day to ensure proper operations of the facility. The facility will be equipped with a backup generator in case of a power failure and procedures identifying manpower and equipment for an efficient response in the event of an accidental release of chemicals or effluent from the facility or collection system pipelines (see County conditions 25 and 46, Exhibit 3). Therefore, these issues do not raise a substantial issue with respect to the LCP requirements to protect coastal resources such as Morro Bay (see Exhibit 6 for relevant policies).

Visual Impacts

Certain Appellants allege that the County approved project violates LCP Visual and Scenic Resource protection standards because the treatment plant is in the foreground of the Morros Scenic Corridor (the

LCP labels it the Los Osos Valley Road Scenic Corridor). LCP visual policies protect public views, including through limiting landform alteration, ensuring development is subordinate to its setting, requiring screening for development unavoidably sited in public view corridors, and requiring a minimum 100-foot setback from the right-of-way of designated scenic corridors, like the designated Los Osos Valley Road Scenic Corridor near the site (see Exhibit 6, Visual Policies 1,2, 4, 5; CZLUO 23.04.210) .

The Los Osos Valley Road Scenic Corridor consists of important views of scenic backdrops, background vistas, and foreground areas from Los Osos Valley Road, including unique plant and animal habitats and watershed resources. Indeed, although it is located further away than the required 100-foot LCP minimum for a scenic corridor (and is in fact approximately 1,600 feet away from the road itself, with the cemetery in between), the treatment plant site can be seen from Los Osos Valley Road. Westbound travelers have a view of the site from approximately 4,000 feet away at 45 degrees, but because the site is at a slightly lower elevation than the road from this perspective (with about 20 feet of topography change and intervening vegetation) only the tops of the higher treatment plant buildings would be visible. Eastbound travelers would not be able to see the facility until at a right angle to the site where it is closest to the road (again, approximately 1,600 feet away as seen looking through the cemetery. This same view would be available to westbound travelers as well.

The County found that the proposed location of the treatment plant "will not hinder views of the scenic Morros and other vistas as seen from public views (County Finding B.7, Exhibit 3)." In addition the County found that "the project would protect scenic view as seen from Los Osos Valley Road (County Finding B.13, Exhibit 3)" Moreover, the County approved project has been conditioned to include numerous measures related to the design of structures and the screening of structures intended to ensure that the wastewater treatment facility does not adversely impact public views (see County conditions 49, 50, 51, 52, 53, and 55, Exhibit 3). For example, County condition 49 requires building to be constructed in colors and tones compatible with the surrounding environment. Under County condition 52, buildings are to be designed to appear as barns or other farm related structures. County condition 55 requires the landscaping plan for the site to include sufficient planting to screen views of the project from nearby roads and residential developments, with an emphasis on the use of native plant materials.

Finally, it is worth noting the County moved the treatment plant site from the Tonini site to the Giacomazzi site in order to, among other reasons, avoid the significant visual impacts that would have occurred at that initially-proposed location.[14] Overall, the Los Osos wastewater treatment project has been sited and designed to avoid impacts on coastal views, and to minimize those that are unavoidable. As conditioned by the County, the project will provide landscaping, habitat restoration, visual screening of the treatment facility, it will be sited and designed to emulate agricultural buildings as much as possible, and other visual resource protection measures that will preserve views of scenic coastal areas consistent with the LCP. The County's approval does not raise substantial issues with respect to visual resource policies and ordinance requirements, including those concerning the Los Osos Valley Road

[14] During the project review process, Commission staff advised the County that the visual impacts of the proposed siting at the Tonini site did not appear consistent with the LCP, particularly given the feasible alternative of the Giacomazzi site.

Scenic Corridor.

Setback Adjustments Necessary for Creek Crossing

The LCP protects stream and creek corridors, and generally limits development allowable in and adjacent to them (see Exhibit 6, Policies 20, 26, 27, 28, CZLUO 23.07.174). Necessary utility lines are specifically allowed in such riparian areas provided resources are protected as much as possible, including avoiding surface streambed alteration (e.g., directional drilling, etc.). Locating the treatment plant site on the Giacomazzi property does require a creek crossing. However, creek crossings are required for all project alternatives that were analyzed because all of the alternative treatment plant sites are located east of Los Osos Creek. It should be noted, that even if the treatment plant site was located at the Mid-town site (as some Appellants suggest), pipeline creek crossings would be required in order to implement an agricultural/urban water re-use program as required by the County approval. Thus, pipeline creek crossings are necessary with any project. That said, it is equally true that untreated effluent would not cross the creek if the treatment plant were at the Mid-town site. However, there is little to suggest that a creek crossing would result in adverse impacts to the creeks. On the contrary, standard methods to cross creeks (e.g., bridge hangars, directional bores, etc.) have generally proven themselves adequate to address and avoid impacts. Thus, no substantial issue with respect to LCP requirements is raised by the appeals.

Neighborhood Compatibility

Some of the Appellants contend that the treatment plant is incompatible with the character of the neighborhood, though no specific LCP policy is cited. The County found that the project/use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because there are a variety of land uses (public facilities, agriculture, suburban and rural residential uses) and existing industrial development (the project would be located adjacent to an existing utility corridor with high voltage transmission lines) in the immediate vicinity. The treatment plant would also be screened from public views and will incorporate rural agrarian features into its design. Additionally, the project includes a number of design elements aimed to address the concerns of neighborhood compatibility. Onsite storage ponds will be located so as to screen the treatment facility from surrounding uses and to provide additional buffer area from these uses. Requirements for landscape screening, building design, and nighttime lighting are addressed through County conditions (see, for example, County conditions 49, 50, 52, and 55 in Exhibit 3). With regard to odors associated with the treatment plant site, County condition 40 requires approval of an Odor Control Plan by the Air Pollution Control District (APCD) prior to commencement of grading activities. Condition 89 also requires the operator to comply with Health and Safety Code Section 41700 related to nuisance odors.

Conclusion

The County's decision to locate the treatment plant facility on the Giacomazzi site was made with careful consideration of feasible alternatives, and its finding that this is the least environmentally damaging feasible site is adequately supported by the evidence in the record. Potential impacts from such siting have been adequately addressed by the County, including through specific County

conditions. As described in the various sections listed above, the proposed project is consistent with the cited LCP policies and the appeals, therefore, do not establish that there is a substantial issue with respect to the project's conformity with the certified LCP. The County performed a thoughtful and thorough analysis of alternative sites in an area where there is little land that is not constrained by some coastal resource, and it chose the site with the least potential impacts and highest potential benefits (e.g. for limiting conveyance requirements, etc.).

Thus, appeal contentions related to treatment plant facility siting do not raise a substantial issue.

B. Collection System

The County approved collection system consists of the installation of about 235,000 feet of sewer pipe (195,000 feet of gravity pipe, 26,000 feet of force mains, 14,000 feet of conveyance line to Giacomazzi from Mid-town). Within the collection area (equivalent to the RWQCB Prohibition Area minus areas dedicated to open space) all of the septic tanks would be abandoned or repurposed for rainwater storage and all sewage would be collected through a series of gravity and pressurized (pumped) sewer lines that would convey waste to the treatment plant site. The collection system would serve a buildout population of 18,428 within the collection area.[15] Collection system components include main lines, piping connections to the property line, laterals to connect the building to the system, pumps, force mains, and back-up power generators.

Nine pump stations and 13 pocket pump stations would be needed. Pump stations provide continuous pressure in the force mains to enable the transfer of wastewater to the treatment plant from areas that cannot be served by gravity. Pump stations would be located on vacant lots purchased by the project or within public rights-of-way.[16] These stations will generally be required in low-lying areas and where sewer depths approach 11 feet in depth. The stations will use electrically driven submersible pumps set in precast concrete vaults with two to four pumps per station controlled by weatherproof and vandal-resistant electrical control panel. A dedicated standby power facility would be located at the Lupine, East Ysabel, East Paso, Sunny Oaks, and Mid-town pump stations. The standby power facility for the Mountain View pump station would be located at the nearby LOCSD well site at Southbay Boulevard at Nipomo Avenue. A single standby power facility located at the Los Osos Community Services district's Eighth and El Moro Avenue Water Operations Maintenance Yard would serve both the West Paso and Baywood pump stations.

Appellant's Contentions

The primary appeal contentions regarding the County-approved collection system are:[17]

- A STEP (septic tank effluent pump) system is less environmentally-damaging than a gravity collection system

[15] Id.

[16] Five of six parcels needed for off-street pump stations have already been obtained by the LOCSD.

[17] See full appeal contentions in Exhibit 5.

- Areas of high groundwater should be expanded to account for seasonal high water and the use of fusion welded pipes should be expanded.
- Pump stations are located in wetland buffer areas.
- Nitrates are good for agriculture and should not be removed because they are a benefit to farmers and will reduce the amount of nitrogen-based fertilizers used by area growers.

Analysis

As described, the majority of the appeals relate to the County's approval of a gravity collection system over a STEP collection system (see Exhibit 5). The common thread running through all of these appeals is an assertion that a STEP collection system avoids coastal resource impacts to the maximum extent feasible, while a gravity collection system does not. As described above, the LCP has policies and ordinances that generally require the protection of ESHA, wetlands, and cultural resources (see also Exhibit 6).

Both Commission planning and water quality staff reviewed the County's analysis with respect to the appeal claims. Coastal Commission water quality staff members have also discussed the potential water quality impacts and benefits of this project with staff of the Central Coast RWQCB and are in agreement with that agency's recommended alternatives.

STEP vs. Gravity collection system

Numerous issues have been raised by certain Appellants related to the County choosing a gravity collection system for the project. In short, these Appellants argue that a STEP system is more protective of coastal resources than is a gravity system. General issues raised include: ESHA and cultural resource avoidance, infiltration and inflow ("I/I"), sludge production and biosolids hauling, system flows, salt water intrusion (SWI), high groundwater, and system costs.

A STEP collection system utilizes a sealed STEP tank with effluent filter that is installed in the front yard at each connection. For this system, most existing septic tanks would be abandoned and new STEP tanks installed. With STEP, most of the biosolids settle out in the onsite STEP tank. Lateral pipes would be installed to convey the STEP tank effluent to the street collection system sewer main. The wastewater would flow to the raw wastewater conveyance system and then to the treatment plant. Because the wastewater would already be under pressure created by the individual pumping stations for each STEP connection, a separate main pumping station would not be required to pump the collected wastewater to the treatment facility. Telemetry would be provided to monitor and manage collection operations, including to ensure that the STEP tanks are functioning properly. About every five years, tank trucks would be used to pump out the solids and effluent from the STEP tanks and haul it to the wastewater treatment plant for treatment and disposal.

Certain appellants suggest that STEP better avoids impacts to ESHA and cultural resources. While a STEP collection system may allow utilization of some existing septic tanks, the County found that installation of new STEP tanks on both developed and undeveloped properties has the potential to result

in additional impacts to ESHA and cultural resources, with little possibility of avoiding such resources on relatively small lots throughout the community. Studies conducted by the LOCSD for the previous wastewater project indicated that approximately 90% of the existing septic tanks would have to be replaced or upgraded. The County notes that the costs associated with testing and retrofitting of an existing septic tank would likely exceed the cost of replacement and would likely result in greater impacts to surrounding resources.

The project EIR includes a detailed analysis of both STEP and gravity systems with regards to cultural impacts. The analysis concluded that the difference in ground disturbance quantities associated with STEP and a gravity system would not be significant. Certain Appellants allege that a STEP system can be directionally drilled, thereby avoiding the impacts associated with trenching, or "deep" excavation. Indeed, a STEP system may be constructed using primarily directional drilling, however, even that technique involves large amounts of ground disturbance. For example, directional drilling requires bore pits at both ends, receiving pits, and lateral service connections (most will need to be trenched). The installation of new STEP tanks also requires excavations (roughly 8 feet deep) that match the majority of the gravity system depth. Excavations for new STEP tanks would likely require substantial excavation areas confined to small front yard areas. Therefore, the STEP alternative provides minimal opportunity to avoid cultural resources if they are located within these areas.

A cost comparison between a STEP collection system and a gravity system is included in the Fine Screening Report for the wastewater project. The report found that the cost associated with construction of both collection systems were substantially the same.

It is also fair to note a number of issues raised by the County related to feasibility of construction and operations. For instance, the County notes that STEP likely has higher in-lot costs (borne by the individual without benefit of public financing opportunities) for electrical hookups and yard restoration. Right-of-way issues can also be problematic, including because the RWQCB will require the County to own and operate all STEP tanks. To do that, the tanks must be accessible in the front yard and within a County-owned easement. Securing such easements may be difficult, and according to the County may result in substantial additional costs and delays. While every home currently has some sort of septic tank, there are areas where installing new tanks, even in the same spot as the existing tank, could be problematic from a space/size perspective. While it may be simple to install a STEP tank on a vacant, undeveloped property, doing so in a space already developed with a house can be much more difficult, especially with infrastructure present (other underground lines, overhead lines, fences, garages, concrete walks and patio space, etc.). In short, the County concluded that the process of the County managing and handling waste from over 4,000 individual STEP tanks, along with a wastewater treatment plant and disposal system, was fraught with potential operational and maintenance issues, and would not result in significant reduction of environmental impacts. The record supports the County's conclusion and it does not appear that there would be a significant difference in terms of coastal resource protection by switching to a STEP based collection system. The STEP appeal contentions do not raise a substantial issue.

Inflow and Infiltration (I/I)

The LCP protects the underlying Los Osos Groundwater Basin. Indeed, a major reason for the proposed project is to resolve longstanding impacts associated with septic seepage into the groundwater basin. Specifically, the LCP states:

> ***Policy 1: Preservation of Groundwater Basins***
>
> *The long-term integrity of groundwater basins within the coastal zone shall be protected. The safe yield of the groundwater basin, including return and retained water, shall not be exceeded except as part of a conjunctive use or resource management program which assures that the biological productivity of aquatic habitats are not significantly adversely impacted. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]*

A common cause of sewer system overflows is due to the infiltration of groundwater and rainwater into sewer pipes, commonly referred to as inflow and infiltration (I/I). To address this issue, the County selected a "sealed system" which is not anticipated to leak under appropriate installation practices. According to the County, the materials used are subject to standards which specify zero leakage. The County will use fusion welded or chemically sealed pipes and will do additional inspections in the field during construction to ensure proper installation in areas of high groundwater to further reduce I/I (see County condition 98, Exhibit 3). In other words, the County-approve project includes appropriate safeguards to address I/I. That said, it should be noted that any system, including pressurized systems, constructed in the field and subjected to various environmental factors, over time has some potential for failures of various kinds. According to the County, conservative design parameters for wastewater treatment plants include designing for infiltration, even when the potential for such flows to occur is low, and with modern operational requirements applied, will be insignificant. In short, the County approval recognizes I/I and takes appropriate precautions to protect coastal resources, including the Los Osos Groundwater Basin and Morro Bay, from potential I/I and sewer overflow impacts. As such, the I/I contentions do not raise a substantial issue.

Sludge Production and Biosolids Hauling

The issue of sludge production and biosolids hauling is also raised in some appeals, though no specific LCP policies are cited. There is a difference in the volume of sludge produced between the two systems. The studies performed by the County estimate the gravity system will produce about 4,000 lbs of sludge per day (at buildout), whereas a STEP system would produce about 1,000 lbs per day (at buildout). For the gravity system this means there would be four truck trips per week (two loaded, two empty) hauling dewatered sludge to the landfill from the treatment plant. For the STEP system, sludge would be pumped from individual tanks at the rate of about 20 tanks per week, or 4 per day, trucked to the treatment plant, and then run through the full treatment system, dewatered, and then hauled to the landfill once or twice per week (but in smaller loads than with a gravity system). The timing of the hauling is established at once or twice per week, regardless of volume, because the sludge is still biologically active and has the capability to produce odors if not disposed of or treated further. Therefore, STEP would generate 2-4 trips per week to the landfill, and 20 in town trips per day to collect sludge from STEP tanks in town.

In addition, although there is a reduction in sludge volume using a STEP collection system, there is also an increase in greenhouse gas emission. The reduction of sludge generation with the STEP system comes from the fact that at a pumping rate of once per five years, each tank will generate a bacterial colony that, after about year 3, breaks down some of the solids producing methane gas (a greenhouse gas), and releasing it to the atmosphere. Therefore, although there is an overall reduction in sludge volume, there is an increase in greenhouse gas emissions at each tank, and the sludge that is delivered to the treatment facility is relatively low in carbon relative to the nitrogen in the sludge. This is problematic because carbon is an important element in the de-nitrification process, and the County would need to add carbon to the sludge from the STEP tanks (likely in the form of methanol) to complete the de-nitrification treatment process, resulting in an additional increase in the carbon footprint from trucking in a carbon source (see finding regarding issues raised by certain appellants regarding de-nitrification in the treatment process). The County estimated the carbon footprint for these two project alternatives (assuming methanol was used as the additional carbon source to treat STEP (and storage pond) effluent) and found that a STEP system would produce greater amounts of greenhouse gas than a gravity system. The sludge production/biosolids hauling contentions do not raise a substantial issue.

System Flows

Some appellants contend that additional increases in water conservation approved by the County (a roughly 25% reduction from current usage) would reduce the flows needed for proper gravity system function and may undermine efforts to balance the groundwater basin. However, the project is conditioned to appropriately mitigate impacts related to reduced septic flows (see County conditions 88, 97, 101, and 103).

Some appellants also contend that the use of treated effluent or potable water for system flushing is an unnecessary waste of water. This assertion does not appear on point because all water that is sent through the wastewater system will be re-used as required by the project conditions of approval. In addition, County condition 111 requires the use of recycled water for typical routine flushing.

These system flow issues do not raise a substantial issue.

High Groundwater

Some Appellants suggest that areas of high groundwater have not been adequately addressed and should be expanded to account for areas of seasonal high groundwater. They also contend that the use of fusion welded pipes should be expanded to account for the expanded seasonal high groundwater areas. According to the County, elastomeric/bell and spigot pipes are a “sealed system” and are not anticipated to leak under appropriate installation practices. Furthermore, the areas of high groundwater are based on nearby monitoring wells, and according to the County reflect the best available information related to groundwater conditions. County condition 98 also includes provisions for sea level rise and areas of groundwater as identified in the field during construction. Concerns were also raised with regards to dewatering activities and the resulting placement of the water. According to the County, all dewatering activities will be authorized in accordance with the RWQCB standards, as required by County condition 14. Appeal contentions related to high groundwater conditions have been appropriately resolved by the

County's approval and do not raise a substantial issue.

18th and Moro Pump Station

The LCP's Los Osos Urban Area Plan Standards for small lots require a minimum 75 foot setback for wetlands. Appellants allege that the 18th Avenue and Moro pump station is within the LCP required wetland setback (75 feet at this location). The wetland in question is a Willow stand on the west side of 18th Avenue in a low area where groundwater is likely close to the surface. The pump station would be located on the east side of 18th Avenue. In the years since the wetland delineation was done for the previous LOCSD project, the willows have gotten larger. Using current aerial photographs, the County calculated that the previous pump station layout would not meet the 75-foot wetland setback. However, according to the County the property for the pump station has enough room to move the pump station eastward (roughly 6 feet) to meet the setback requirement. Under these circumstances, an LCP setback adjustment does not appear to be needed. In addition, County condition has specific language in it to address this issue by requiring a 75 foot wetland setback at this location. Therefore, no substantial issue is raised by this claim.

Nitrates

The project includes nitrate removal as part of the effluent treatment process. As noted by the some appellants, nitrate rich effluent can be beneficial to growers. This has been shown to be the case in other effluent reuse programs, such as in Monterey County. However, as described by the County, the amount of nitrates that would be authorized in the treated effluent will be dictated by the RWQCB through their discharge permit. The County notes in their approval that municipal wastewater effluent typically contains approximately twice the nitrate concentration than what can be efficiently taken on by plants. Therefore, even if all of the effluent were used for urban and agricultural irrigation, nitrate removal would still be necessary. This contention does not raise a substantial issue.

Conclusion

The County's decision to select a gravity collection system over a STEP system was made with careful consideration of feasible alternatives. In addition, potential resource impacts were appropriately and adequately addressed through the County's conditions of approval, and this system was found to be consistent with all applicable LCP policies. Although a STEP collection system would also be feasible, the County-approved gravity collection system was determined by the County to be a less environmentally damaging feasible alternative, and this conclusion is supported by the County's record. **Thus, appeal contentions related to the collection system do not raise a substantial issue.**

C. Effluent Reuse

The County approved project includes tertiary treatment as a means of maximizing appropriate reuse opportunities and potential beneficial reuse regimes in the Los Osos area. Such reuse is particularly appropriate in an area where water supplies are constrained. The approved project will reuse treated effluent/reclaimed water in a number of ways. Reclaimed water would be returned directly to the upper aquifer at two leach field sites: the Broderson property and at the existing Bayridge leach field. The

Broderson property consists of an approximately 81-acre rectangular shaped parcel located south of Highland Drive. Approximately 8 acres of the site would be used to construct a conventional leach field; the remainder of the site would be placed in permanent open space and added to the greenbelt surrounding the community. The existing Bayridge leach field currently serves the Bayridge neighborhood with common septic tanks and a leachfield. The tanks would be abandoned or repurposed to collect rainwater and the leachfield would be used for reclaimed water instead of septic tank leachate.

In addition, the County approved a suite of reuse options aimed at optimizing sea water intrusion mitigation for the groundwater basin. These reuse options include agriculture and urban re-use, as well as environmental reservations to handle the remainder of the effluent depending on the season. Because of its key role in reducing seawater intrusion, the Broderson site is the primary reclaimed water reuse element. Approximately 1/3 of the reclaimed water (up to 448 acre feet on an average annual basis) would be placed at the Broderson site, primarily during the wet winter. During the summer, the majority of reclaimed water would be directed to urban and agricultural reuse (irrigation). Urban reuse is focused on existing turf areas at four schools, the community park, and the golf course. Agricultural reuse is focused on existing irrigated lands that draw from the Los Osos groundwater aquifer. The Bayridge leachfield would provide subsurface flows to Willow Creek to support existing willow riparian stands. Although Willow Creek is outside of the wastewater service area, so existing septic tanks and leachfields would remain, the Bayridge leachfield would offset any losses of underflow from nearby sewered areas. A system of new monitoring wells would be installed below the Broderson site. These, along with other existing wells in the community, would be used to track the movement and behavior of percolated water to maximize the efficiency of the site. Finally, condition 97 explicitly requires effluent reuse to be confined to the Los Osos groundwater basin.

Appellant's Contentions

The primary appeal contentions regarding the County-approved effluent reuse regime are:[18]

- The County approved project does not adequately protect the long term integrity of the Los Osos Groundwater Basin.
- Seawater Intrusion (SWI) is not adequately addressed.
- The project includes inappropriate ESHA impacts at the Broderson site.
- Disposal at the Broderson site would be hazardous and would endanger people.
- Decommissioning of septic tanks would adversely impact ESHA and wetlands.

[18] See full appeal contentions in Exhibit 5.

Analysis

Maximizing Protection of the Los Osos Groundwater Basin

The SLO County LCP is structured so that the County may work in tandem with the RWQCB to protect the beneficial use of coastal streams. Through various policies and ordinances, the LCP focuses on measures to "improve land and water use, alleviate flooding, and reduce erosion and sedimentation (see Exhibit 6). In addition, as cited herein, LCP Coastal Watershed policies require that the integrity of groundwater basins be protected, and groundwater levels and surface flows be maintained. Such requirements are particularly important in Los Osos where water availability has long been a serious concern, including with respect to sustainability of the groundwater basin.

Certain Appellants raise concerns about the protection of the Los Osos Groundwater Basin, citing County condition 97 as problematic because it allows for the possible export of treated effluent outside of the Los Osos Groundwater Basin and makes the disposal of treated effluent subject to an unknown outcome of legal adjudication. Accordingly, the appeal asserts that a project that does not fully return tertiary effluent to the Los Osos groundwater basin would be inconsistent with applicable LCP Policies (Coastal Watershed Policies 1, 2 5, and 11).

In response to these appeal concerns, the County amended its approved project by deleting reference to future legal decisions and modifying the condition language in County condition 97 to require all treated effluent to be kept within the Los Osos Groundwater Basin. Thus, the County approval, including the modifications to County condition 97, have effectively resolved issues related to effluent reuse and its connection to maximizing protection of the Los Osos Groundwater Basin, and thus do not raise a substantial issue.

Seawater Intrusion

The County approved project was determined to be the best method for effluent disposal because it provides seawater intrusion mitigation, wetland mitigation, reclaimed water for urban uses over the basin, and an agricultural re-use program. The disposal options are prioritized based on which option provides the highest level of seawater intrusion mitigation (see County condition 103). As such, the County approval has appropriately addressed seawater intrusion issues, including with respect to the changes to County condition 97 designed to retain all treated effluent within the Los Osos Groundwater Basin. Hazards at the Broderson Site

The LCP requires that development be sited and designed to minimize hazards and attendant risks to life and property, and to ensure long term stability (see Exhibit 6). In this respect, certain appellants contend that the County approved project does not adequately address the impact of subsurface disposal of treated wastewater on geologic stability (e.g., increased liquefaction potential) and could thus threaten project utility as well as nearby homes. However, the County completed substantial geotechnical site work and there are no indications in the project record to suggest that use of the Broderson site as approved by the County would threaten nearby homes or lead to project implementation problems in this

respect.[19] Therefore no substantial issue is raised with respect to appeal contentions related to lack of appropriate hazard avoidance and mitigation at the Broderson site.

ESHA Impacts at the Broderson Site

As cited above, the LCP protects ESHA and limits new development to resource-dependent development. In addition, Section 23.08.288(d), as previously sited, states:

> *Limitation on use, sensitive environmental areas. Uses shall not be allowed in sensitive areas such as on prime agricultural soils, Sensitive Resource Areas, Environmentally Sensitive Habitats, or Hazard Areas, unless a finding is made by the applicable approval body that there is no other feasible location on or off-site the property. Applications for Public Utility Facilities in the above sensitive areas shall include a feasibility study, prepared by a qualified professional approved by the Environmental Coordinator. The feasibility study shall include a constraints analysis, and analyze alternative locations.*

Certain Appellants allege that leachfield construction and maintenance at the Broderson site will interfere with habitat protection and enhancement at the site. The use of Broderson for wastewater disposal was a component of the project previously approved by the Los Osos CSD and the Coastal Commission on appeal. The site is an important component for groundwater recharge in the basin. The County approved project includes a suite of conditions aimed at addressing potential ESHA impacts at Broderson (see County conditions 57 through 70, Exhibit 6) For example, 73 acres of the Broderson property not used for the proposed leachfields are to be preserved in perpetuity and granted to an appropriate management and monitoring entity (County condition 60). Prior to construction, pre-construction surveys will be conducted to assess and minimize any potential impacts to sensitive resources in the area (condition 57). Immediately following construction of the leachfield, the disturbance area and all unaffected habitat within the property is to be restored, enhanced, and maintained to promote the land's functional value as suitable habitat for sensitive plants and animals that are local or endemic to the area. Restoration activities must be conducted according to a Restoration Plan specifically prepared for the effort and approved by the U.S. Fish and Wildlife Service (USFWS), California Department of Fish and Game (CDFG), and the California Native Plant Society (CNPS) (County condition 61). Thus, as conditioned by the County, leachfield maintenance will not interfere with habitat restoration and protection objectives. Further, although not directly raised by appellants, no substantial issue is raised with respect to the use of the Broderson site for wastewater disposal and groundwater recharge because, as provided by CZLUO 23.08.288, there are no feasible, less environmentally-damaging alternative locations for this project component.

Changes in groundwater levels due to septic decommissioning

Certain appellant contend that septic decommissioning will lead to impacts to wetland and riparian systems inconsistent with the LCP. Regarding such potential impacts to wetlands and riparian habitats,

[19] See, for example, EIR Appendix F: Expanded Geology Analysis and Viable Project Alternatives Fine Screening Analysis, August 2007.

the County evaluated potential impacts associated with changes in groundwater levels due to the decommissioning of septic systems. The County's EIR concluded that although localized alterations of habitats may occur, no net loss of wetland habitat is anticipated. The project includes monitoring of groundwater levels throughout the community, including the levels near wetlands. The monitoring system will provide sufficient coverage to evaluate groundwater levels, not only to help ensure wetland protection, but to guard against groundwater from disposal operations making its way to the surface. Moreover, the wastewater treatment project will help protect and restore the water quality on which the biological productivity of wetland and riparian habitats depend, and thereby have an overall beneficial impact on these habitats. Indeed, the objective of the project is to address longstanding environmental degradation of the Morro Bay estuary associated with septic tank effluent. Finally, localized areas that have become unnaturally wet due to surfacing septic system discharges are not necessarily biologically productive wetlands that should be protected. The contention that the decommissioning of septic tanks may adversely impact wetland resources therefore does not raise a substantial issue regarding LCP compliance.

Conclusion

The County's effluent reuse program was designed to include a suite of effluent reuse options aimed at optimizing groundwater basin recharge and sea water intrusion mitigation with careful consideration of feasible alternatives. Highest priority will be given to those options that provide the greatest level of seawater intrusion mitigation and return treated effluent to the Los Osos groundwater basin. Potential impacts have been adequately addressed through County conditions of approval, and the project is consistent with applicable LCP policies. It is clear that the County approved project includes sound reuse parameters that are designed to maximize potential beneficial reuse of the tertiary-treated effluent in a manner that addresses not only longstanding wastewater treatment problems but also longstanding groundwater problems. There is nothing in the record to suggest that the County's approval will not result in positive environmental impacts in this respect, and the record shows that the reuse program does not raise a substantial issue with the LCP.

The effluent reuse program was determined by the County to be a feasible alternative and there is no appropriate basis for pursuing an alternative type of effluent disposal and reuse program. **Thus, appeal contentions related to effluent reuse do not raise a substantial issue.**

D. Commission's Jurisdiction

At least one appellant asserts that the project is inconsistent with LCP Public Works Policy 9. This policy states:

> ***Policy 9: Review of Treatment Works***
>
> *For any development that constitutes a treatment works (PRC 30120), issuance of a permit shall be consistent with the certified LCP and PRC 30412 and shall address the following aspects of such development:*
>
> *a. The siting and visual appearance of treatment works within the coastal zone.*

b. The geographic limits of the service area within the coastal zone which is to be served by the treatment works and the timing of the extension of services to allow for phasing of development consistent with the certified LCP.

c. Projected growth rates used to determine the sizing of treatment works. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

As described herein, the project does not raise a substantial issue with respect to consistency with the LCP and thus, no substantial issue is raised with Policy 9 inasmuch as this policy requires consistency of treatment works with the LCP. Concerning the reference to Coastal Act section 30412, the Commission notes that this section of the Act limits the scope of the Commission's review of treatment works, such as the proposed project. If the Commission were to find that the subject appeals raised a substantial issue and were it to review this project de novo, its review would need to be consistent with the constraints identified in section 30412. The issue before the Commission at this time, however, is whether the project raises a substantial issue with respect to conformity with the certified LCP, so it is not making a determination on a permit for a treatment work at this time. Thus, this section is not implicated by this substantial issue review of the filed appeals, and this assertion therefore raises no substantial issue.

E. Other

In addition to the primary appeal contentions described and discussed in the preceding findings, the appeals include a number of other contentions as follows:

County-Approved Project Will Lead to Harmful Discharge

Certain Appellants contend that: the project will result in harmful discharges to Morro Bay and the Los Osos groundwater basins due to incomplete removal of harmful substances; the disposal system will adversely impact drinking water supplies; the project will not adequately remove salts, carcinogens, pharmaceuticals, endocrine disruptors, and other pollutants and will therefore not achieve a safe or sustainable source of potable water; the project poses human health risks. However, concerns regarding the plant's ability to effectively remove harmful substances from wastewater, and dispose of the treated effluent and sludge in a manner that protects human health and safety, are issues addressed by RWQCB waste discharge requirements and Department of Health Services regulations, and are outside of the scope of the Commission's review. Further, the primary reason for the project is to reduce harmful discharges to Morro Bay and the Los Osos groundwater basins. In fact, the RWQCB has determined that construction and operation of the proposed facility is necessary to protect and restore the water quality of the Los Osos groundwater basin and the Morro Bay National Estuary.

Certain appellants are also concerned in this respect regarding hazards associated with sludge hauling and disposal. According to the County's analysis, there is nothing inherent in the sludge produced from the wastewater treatment process that would result in it being classified as a hazardous material (i.e., a substance that has an excessively low or high pH, heavy metals, of toxic chemical above thresholds established by the EPA). Since Los Osos is a primarily residential community with some commercial

establishments and virtually no industry, the County concluded that it is extremely unlikely that hazardous materials will be found within the wastewater or sludge. In the unlikely instance there were such materials, the hazards associated with the trucking of sludge would be no different than the ongoing hazards associated with the transportation and disposal of septage from septic tanks.

County-Approved Project Will Unfairly Burden Residents Economically

Certain Appellants contend that the cost of the project and its economic impact on residents and property owners has not been adequately addressed or equitably distributed, and that the cost of the project conflicts with environmental justice laws. Project costs for the increased service of urban wastewater treatment has long been a significant issue of concern for Los Osos. Three things should be noted in this issue. Most important, the cost and economic impact of the project is generally outside of the scope of issues that are relevant to the Commission's review of this appeal except to the extent that cost relates to feasibility of various project alternatives. It is clear that the County in its approval, and in its subsequent actions to pursue funding to defray local costs, has taken steps to ensure the project is feasible from a cost standpoint, and the record supports their findings in this respect. Thus, to the extent that project costs in relation to project feasibility raise LCP concerns, they do not raise substantial issues. Second, , as previously discussed, it should observed that 80% of the affected residents voted to pursue a project and assess themselves to pay for it, indicating wide support for a wastewater project that necessarily will result in increased costs. Finally, the County is currently pursuing additional funding sources and indicates that potential local resident costs could be cut in half if they are obtained, including federal stimulus funds.

County-Approved Project Will Unfairly Burden Owners of Undeveloped Property

Certain Appellants contend that the owners of undeveloped parcels have been forced to pay for the County-approved project but will not receive benefit and this is not fair. However, the project has been sized to serve build-out populations for the community of Los Osos, including currently undeveloped sites. County condition 86 does not prohibit service to undeveloped parcels, but rather requires an LCP amendment prior to providing service. This contention does not raise a substantial issue with respect to any LCP requirements.

County-Approved Project Will Adversely Impact Wildlife due to Nighttime Construction

Certain Appellants contend that construction during daylight hours is optimal for the environment, that wildlife can be confused by unfamiliar lighting; and that the County's approval does not include mitigation measures to adequately protect wildlife in this respect. However, County condition 78 requires construction contractors to adhere to a variety of requirements including those related to noise attenuation, construction timing, and heavy equipment staging. Hours of construction are limited to between the hours of 7 a.m. to 9 p.m. during weekdays, and between the hours of 8:00 a.m. to 5:00 p.m. on weekends. While not directly addressed in the condition, potential wildlife impacts as a result of limited nighttime construction lighting will be temporary and of limited duration (because they would predominantly occur during daylight hours), and are not considered to be substantial.

County-Approved Project Includes Inappropriate Construction Staging Areas

Certain Appellants contend that construction County approved staging areas are inconsistent with County conditions, including staging areas allowed in the SouthBay Boulevard "Scenic Highway". It is true that certain construction equipment and activities will be visible from important public viewsheds. Given the scope and scale of the project affecting essentially all of Los Osos, such construction cannot be hidden. While no specific LCP policies are cited with this appeal contention, construction staging impacts are considered temporary and of limited duration. County condition 54 appropriately addresses the visibility of construction staging areas. This contention does not raise a substantial issue.

County-Approved Project Includes Inappropriate Potable Water Use

Certain Appellants contend that the County-approved treatment facility will use potable water for some operations (employee break room, restroom, showers, etc.), this amount has not been quantified, and retrofitting should be required to offset such use on a 2:1 basis. It is true that a limited amount of potable water would be necessary to serve the completed project. However, it is equally true that the LOWWP is largely premised on water conservation and water supply protection. In fact, programs included in the LOWWP are expected to result in a 25% reduction in overall current water use. Such savings provided by implementation of the project far outweigh any impacts due to limited increase in water use at the treatment plant facility. This contention does not raise a substantial issue.

County-Approved Project Does Not Appropriately Address Low Impact Design (LID) Techniques

Certain Appellants assert that more LID should be included in the proposed project, while others assert that the impacts of LID have not been adequately addressed. While no specific LCP policies are cited in the appeals, it is fair to say that the LCP does encourage implementation of such techniques during and after construction when feasible. County condition #88 indicates that LID will be incorporated into the project where appropriate by using existing septic systems to filter and percolate stormwater runoff from individual properties. In addition, the County has indicated in their approval that they intend to redesign the pump stations to include LID (i.e. reduction in hardscapes and impervious areas) and will design the treatment plant to include LID. In this case, incorporating LID into all project elements, including rehabilitation of all streets with LID as some appellants suggest, would not be feasible or reasonable absent some communitywide plan for complete LID implementation in streets that is of broader scope than the pipeline components of this project. This contention does not raise a substantial issue.

County-Approved Project Not Consistent with CEQA

Numerous appeal contentions raise issue with elements of the project that are allegedly not adequately addressed in the EIR and are in violation of the California Environmental Quality Act (CEQA). The County is the lead agency for the environmental review required by CEQA, and has certified a final Environmental Impact Report (EIR) for the project. This information was used by the County during its review and approval of the CDP for the project. Whether the County's actions comply with CEQA is outside of the scope of issues relevant to the Commission's review of this appeal.

County-Approved Project Not Consistent with Coastal Act

Numerous appeal contentions raise issue with elements of the project that are allegedly inconsistent with various provisions of the Coastal Act (e.g., Coastal Act Sections 30001, 30001.5, 30006.5, 30007.5, 30101, 30003, 30230, 30231, 30232, 30233, 30244, 30240(a), 30250, 30251, 30253, 30254, 30254.5, 30255, 30412, 30253, and 30604). The standard of review for the project is the San Luis Obispo County LCP and the public access and recreation policies of the Coastal Act. Appeal contentions related to project conformance with various sections of the Coastal Act other than public recreational access policies (none of which are cited) is outside of the scope of issues relevant to the Commission's review of this appeal.

8. Substantial Issue Determination Conclusion

Public Resources Code Section 30625(b) states that the Commission shall hear an appeal unless it determines:

> *With respect to appeals to the commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.*

The term substantial issue is not defined in the Coastal Act. The Commission's regulations simply indicate that the Commission will hear an appeal unless it "finds that the appeal raises no significant question".[20] In previous decisions on appeals, the Commission has been guided by the following factors:

- The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP and with the public access policies of the Coastal Act;
- The extent and scope of the development as approved or denied by the local government;
- The significance of the coastal resources affected by the decision;
- The precedential value of the local government's decision for future interpretation of its LCP; and,
- Whether the appeal raises only local issues, or those of regional or statewide significance.

The submitted appeals have raised a large number of concerns, which have been responded to in the preceding findings and exhibits of this report. As described above, the proposed project is consistent with all applicable policies of the certified LCP. Thus, the appeals do not raise a substantial issue regarding the County-approved project's conformance with the certified LCP, including under the factors that have frequently been used to help guide the Commission in making substantial issue determinations.

In terms of the degree of factual and legal support for their action, San Luis Obispo County's determination that the LOWWP is consistent with the certified LCP and with the public access policies

[20] CCR Title 14 Section 13115(b).

of the Coastal Act is supported by adequate information and analyses. The County's process in putting forward the LOWWP has been inclusive and thorough, and has been supported at each juncture by development of significant information on the various components of the project.[21] It is clear that their decision was made with a thorough understanding of the relevant facts and data. In addition, the relevant facts and data have been correlated to the specific LCP/Coastal Act requirements applicable to the project, and the project has been shaped and guided by the applicable requirements in that regard. The County has appropriately and adequately approved the project based on facts and data that support its finding that the LOWWP is consistent with the certified LCP and the Coastal Acts access policies.

In terms of project scope, the LOWWP is a major public works facility that involves the entire south Morro Bay urban area, and is thus of significant scope and extent, both in terms of the geographic area affected and the range of issues associated with its development and operation. More importantly, perhaps, the project is intended to address and resolve a significant and longstanding environmental degradation issue, and its scope in this respect cannot be underestimated. While the importance of the project might typically weigh in favor of a finding of substantial issue, the fact that the project is of significant scope is not of itself sufficient to find a substantial issue. Where, as here, the proposed project is consistent with all applicable policies of the LCP, then a finding of substantial issue is not warranted, even when the project is of significant scope and magnitude.

In terms of the significance of the resources affected by the County's decision, there is no doubt that the project affects significant coastal resources, but the project is designed to protect such resources and to improve the status quo. In fact, as described, the project is a large scale environmental remediation and improvement effort that has been critically necessary for many years, and its implementation should result in significant resource enhancement and protection for a particularly sensitive series of resources, including the Morro Bay Estuary itself. Clearly, there are also some negative resource impacts as well (e.g., loss of agriculturally designated land to accommodate a treatment plant), but these impacts have been minimized through project siting and design, and unavoidable impacts have been appropriately mitigated as required by the LCP. Thus, although the significance of the resources affected might also support a finding of substantial issue, here, the most significant resources affected are those that will be benefited as the result of the approval of the project. This factor therefore does not weigh in favor of a finding of substantial issue.

In terms of LCP precedence, the County's action does not establish or promote a significant adverse precedent for future LCP interpretation. The proposed project is consistent with the LCP and does not raise any novel issues related to interpretation of specific LCP policies. Thus, there will be no adverse precedents created with respect to future interpretation of the LCP because there are no new LCP interpretation issues raised here.

In terms of whether the appeals raise only local issues, or those of regional or statewide significance, it is clear that the project is of local, regional, and statewide significance and importance. As indicated, the project will rectify longstanding degradation of the Morro Bay Estuary and affects protection of this

[21] Including through the preliminary fine screening reports up to and including the EIR for the project.

resource, the Los Osos Groundwater Basin, and the unique habitats of Los Osos. As such, it is clear that the project is an important one on many different levels. While this factor does weigh in favor of a finding of substantial issue, when taken together with the fact that the other substantial issue factors are not met here and that the project is consistent with all applicable provisions of the certified LCP, this factor, alone, does not support a finding of substantial issue.

Thus, there is nothing specific to the five factors often consulted by the Commission that would necessitate a substantial issue conclusion. In fact, taken together, the five factors argue for a finding of no substantial issue inasmuch as the issues engendered by the factors have been appropriately addressed by the County-approved project.

In short, the County-approved project is a much needed and well-conceived beneficial coastal resource project that is essential to protect the Morro Bay National Estuary and related habitats and resources. It also provides an essential public service to this urban area, consistent with Coastal Act section 30250. Tremendous amounts of local and state resources have been dedicated towards addressing this need, over a period of more than 30 years, and environmental impacts and project alternatives have been thoroughly considered. Valid appeals of the project have been filed, but these appeals do not raise a substantial issue of LCP compliance. The County has developed a feasible project that appropriately addresses the LCP and Coastal Act recreational access issues, and their approval is supported by the facts and evidence in the record. The County has approved an important environmental enhancement project that will greatly improve habitat protection. It is clear that the project itself includes certain impacts, but it is hard to conceive of a treatment project at this scale for this area that would not have such impacts. The County has appropriately avoided such impacts where feasible, and has appropriately mitigated for unavoidable impacts. As such, and for the specific reasons detailed in the preceding findings of this report, the appeals of the County's approval do not raise a substantial issue, and the Commission declines to assert jurisdiction over the CDP application for the LOWWP.