

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE
725 FRONT STREET, STE. 300
SANTA CRUZ, CA 95060
(408) 427-4863
HEARING IMPAIRED: (415) 904-5200

W8d

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Commission Action:

STAFF REPORT: APPEAL
SUBSTANTIAL ISSUE DETERMINATION

APPEAL NUMBER: A-3-SLO-97-40

APPLICANT: **County of San Luis Obispo Engineering Department**

LOCAL GOVERNMENT: San Luis Obispo County

DECISION: approval with conditions

APPELLANTS: Taxpayers Against Percolation Ponds (TAPPS); G.W. Gurley, Agent

PROJECT DESCRIPTION: Coastal development permit for a wastewater treatment plant, rapid infiltration ponds, and collection system including pump/lift stations, force main, and gravity main pipes.

PROJECT LOCATION: Majority of developed area within San Luis County Service Area 9 (wastewater lines buried in virtually all of the streets in the communities of Baywood, Los Osos, and Cuesta-By-The-Sea). The proposed Wastewater Treatment Plant would be located at the southeast intersection of South Bay Boulevard and Pismo Street, and the Rapid Infiltration Ponds for effluent disposal would be located approximately 500 feet south of Highland Drive between the extensions of Broderson Drive and Doris Drive, within the Estero Planning Area of the South Bay Urban area, San Luis Obispo County. (See Exhibit 1, attached).

FILE DOCUMENTS: San Luis Obispo County certified LCP; San Luis Obispo County Development Plan/Coastal Development Permit D950245D; Final Supplemental Environmental Impact Report for the CSA 9 Wastewater Treatment Facilities, February 1997; San Luis Obispo County Local Coastal Program Amendment File No. 1-90; Final Supplemental Environmental Impact Report - CSA 9 Wastewater

Treatment Facilities, September 1989; Second Addendum Environmental Impact Report - CSA 9 Wastewater Treatment Facilities, October 1989; Addendum Environmental Impact Report - County Service Area No. 9 Wastewater Treatment Facilities, December 2, 1987; and, Final Environmental Impact Report - County Service Area No. 9 Wastewater Treatment Facilities, August 1987.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission, after public hearing, determine that no substantial issue exists with respect to the grounds on which the appeal has been filed for the reasons discussed below.

Although the appellants have raised valid concerns regarding project impacts on environmentally sensitive habitats which support rare and endangered plants and animals, the San Luis Obispo County LCP does not require protection of these areas unless they are mapped as Sensitive Resource Areas. Because the sensitive habitat areas adversely impacted by the project are not mapped as a Sensitive Resource Area by the LCP, the policies and ordinances designed to protect such resources can not be applied. The County intends to address sensitive habitat issues through future consultations with the U.S. Fish and Wildlife Service and California Department of Fish and Game.

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EXHIBITS

1. TAPPS Appeal
 2. San Luis Obispo County Findings and Conditions of Approval
 3. Location Map
 4. Vicinity Map
 5. Service Area
 6. Facility Locations
 7. South Bay Combining Designations Map
 8. Portions of the LCP referenced by the appellants
 9. Addendum to Appeal
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I. APPELLANT'S CONTENTIONS

(Please see Exhibit 1 for the complete text of the appeal).

- The proposed Rapid Infiltration Ponds will have significant unavoidable negative impacts on sensitive species and habitats, inconsistent with the basic goals of the Coastal Act and San Luis Obispo County LCP, particularly with Land Use Ordinances 23.07.170, 23.07.176, Coastal Plan Policy 27, and Coastal Act Sections 30231 and 30240.
- Alternative site locations and effluent disposal techniques to minimize project impacts are available and have not been adequately pursued.
- The selected alternative will not effectively recharge the Los Osos Groundwater Basin or lower the water table in low-lying areas of the area.
- Measures to mitigate for project impacts have not been appropriately identified and are not supported by scientific data.
- The growth inducing aspects of the project will increase cumulative adverse impacts to sensitive species and reduce the availability of appropriate mitigation sites.
- The proposed development may adversely affect the integrity of Morro Bay, adjacent tidelands, and estuary.
- As approved by the County, the project fails to meet requirements of the California Environmental Quality Act.
- Property and safety downslope of the project will be threatened.

II. LOCAL GOVERNMENT ACTION

The subject project was approved by the San Luis Obispo County Planning Department on March 13, 1997 (Findings and Conditions of Approval attached as Exhibit 2). This decision was appealed to the San Luis Obispo County Board of Supervisors, where, on May 6, 1997, the appeal was denied and the Planning Commission's approval upheld (Resolution No. 97-200). In its approval though, the Board of Supervisors directed County staff to further analyze, and report back to the Board of Supervisor's, on the following:

- a) the feasibility and cost of infiltration wells (gravity or pressurized) in place of or in conjunction with the approved rapid infiltration ponds;
- b) the feasibility and cost of lowering the rapid infiltration ponds so that the design operational level of the water will not be higher than the existing natural grade; and,
- c) the cost of adding disinfection in addition to the required secondary treatment process for the effluent pumped into the rapid infiltration ponds.

III. APPEAL PROCEDURES

After certification of Local Coastal Programs (LCPs), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits. Developments approved by cities or counties may be appealed if they are located within the mapped appealable areas, such as those located between the sea and the first public road paralleling the sea. Furthermore, developments approved by counties may be appealed if they are not the designated "principal permitted use" under the certified LCP. Finally developments which constitute major public works or major energy facilities may be appealed, whether approved or denied by a city or county (Coastal Act Section 30603(a)).

This project has been appealed as a major public works facility. In addition, portions of the project, including the proposed rapid infiltration ponds, are located between the sea and the first public road paralleling the sea. As a result, the grounds for an appeal to the Coastal Commission may include both allegations that the development does not conform to the standards set forth in the certified local coastal program, and allegations that the development does not conform to the public access policies of the Coastal Act. In this instance, the appellants have not raised a contention that the project is inconsistent with the public access policies of the Coastal Act.

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue is raised by the appeal. If the staff recommends "substantial issue," and no Commissioner objects, the substantial issue question will be considered moot, and the Commission will proceed directly to a de novo public hearing on the merits of the project.

If the staff recommends "no substantial issue" or the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have 3 minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. If substantial issue is found, the Commission will proceed to a full public hearing on the merits of the project. If the Commission conducts a de novo hearing on the permit application, the applicable test for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program.

In addition, for projects located between the sea and the first public road paralleling the sea, Section 30604(c) of the Coastal Act requires that a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal, that the development is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act.

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 stage of an appeal.

IV. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

Staff recommends that the Commission, after public hearing, determine that no substantial issue exists with respect to the grounds on which the appeal has been filed, because the County has approved the proposal in a manner that is consistent with the certified Local Coastal Program, as described in the following findings.

MOTION

Staff recommends a YES vote on the following motion:

*I move that the Commission determine that Appeal No. A-3-SLO-97-040 raises **no substantial issue** with respect to the grounds on which the appeal has been filed.*

A majority of the Commissioners present is required to pass the motion.

V. RECOMMENDED FINDINGS AND DECLARATIONS

A. Project Information

1. Background

In 1983, the Regional Water Quality Control Board (RWQCB) determined that the ground water in the Los Osos water basin was being degraded by the use of individual septic systems. In 1988, the RWQCB established a discharge moratorium in the area that effectively halted new construction or major expansion of existing buildings until the County provided a solution to the groundwater degradation problem. The subject wastewater treatment project is intended to respond to this requirement. Additionally, the proposed project seeks to utilize the treated wastewater to recharge the groundwater basin, which provides water to the South Bay communities of San Luis Obispo County.

2. Description

The proposed project includes a wastewater collection system throughout County Service Area 9, consisting of approximately 50 miles of gravity flow sewer pipe, 23,000 linear feet of low pressure sewer pipe, and 17,000 linear feet of sewer force main. Six below ground "lift stations" will distribute collected wastewater to collection basins, where it will flow by gravity either to another lift station, or to a pump station that will pump wastewater to the treatment plant. The two pump stations required for the project include on-site generators to provide emergency power.

3. Location

The proposed project is located approximately 2 miles south of the City of Morro Bay, in the Los Osos Valley of western San Luis Obispo County, which is bounded by Morro Bay to the west and northwest, Park Ridge to the northeast, and the Irish Hills to the south. The

project area (County Service Area 9) includes the unincorporated communities of Los Osos, Baywood Park, and Cuesta-by-the-Sea, and is adjacent to Morro Bay State Park and Montana de Oro State Park. (See Exhibits 3 and 4 for Location and Vicinity Maps). It is noted that since the release of the 1987 EIR for the project, the area to be served has been revised from all the lands within Service Area 9 to only those lands that are within the prohibition area defined by Regional Water Quality Board Resolution 83-13 (attached as Exhibit 5).

Primary land uses in the area include residential, limited commercial, open space and agricultural uses. The locations of particular project components are illustrated by Exhibit 5 (attached), and are more specifically described below.

a. Wastewater Treatment Plant:

The wastewater treatment plant is proposed to be constructed on an undeveloped 10 acre site at the eastern terminus of Pismo Street, east of South Bay Boulevard, bordered by Los Osos Junior High School to the north, undeveloped land to the east, and residential neighborhoods west of South Bay Boulevard. This area is currently designated "Residential Suburban" by the Estero Plan portion of the San Luis Obispo certified LCP, intended to provide for suburban scale residential development on 1 to 5 acre parcels. Other non-residential uses, including wastewater treatment plants, are also allowed within this designation. Areas northeast of the proposed treatment plant site are designated as Sensitive Resource areas as a result of the riparian habitat values associated with Los Osos Creek.

As described by the 1997 SEIR, the site on which the treatment plant would be located supports three primary ecological communities considered sensitive by the California Department of Fish and Game (DFG): Coastal Scrub, Chaparral, and Coast Live Oak Woodland. The coastal scrub community is the most dominant plant community on the site, with Dune Lupine Scrub occupying approximately the central one-third of the site, blending with Heather Goldenbush Coastal Scrub to the South. Live Oak woodland, along with Monterey Cypress and Monterey Pine trees, are located within the east and northeast portion of the site. Morro Manzanita, listed as federally threatened, occupies the eastern edge of the site; other chaparral communities represented by Chamise - Wedgeleaf Ceanothus are located within the southwestern portion of the site. Non-native Veldt Grass forms a grassland within a western portion of the site.

The SEIR identifies that the native plant communities on the site provide suitable habitat for numerous special status plant and animal species. Morro Manzanita and Monterey spineflower (federally listed as threatened), as well as Sand Almond and rare non-vascular plants (lichens) have been found on the site, while other special status plant species are expected to occur. The Morro Bay Kangaroo Rat (federally and state endangered), Morro Shoulderband Dune Snail (federally endangered), Black legless lizard (proposed as federally endangered), Monarch Butterfly (habitat considered sensitive by DFG), and Morro Blue Butterfly are also expected to utilize the site.

The specific acreage loss for each habitat type associated with treatment plant construction has not been determined.

b. Rapid Infiltration Ponds:

Disposal of the secondarily treated wastewater will take place in Rapid Infiltration Ponds located approximately 500 feet south of Highland Drive between the extensions of Broderson Drive and Doris Drive (referred to as the "Broderson Site"), south of a residential area. This area is currently designated for residential single family use, although public facilities such as the proposed infiltration ponds are allowed.

Approximately 10 acres of this 240 acre site will be used for the Rapid Infiltration Ponds; the use of the remaining portion of the site has not been identified. Approximately 30 acres of the affected area were surveyed as a component of the 1997 SEIR, and found to support sensitive habitats including various Chaparral, Coastal Scrub, and Live Oak Woodland habitats. These support numerous special status plant and animal species on the site, including: Blochman Leafy Daisy, Indian Knob Mountainbalm, San Luis Obispo Wallflower, Morro Manzanita, and Sand Almond; and, Morro Bay Kangaroo Rat, Morro Shoulderband Dune Snail, Morro Blue Butterfly, Monarch Butterfly, Black Legless Lizard, and California Spotted Owl (which may use the area for foraging due to the presence of its primary prey, the Dusky-Footed Woodrat). Specific quantification of the impacts to these particular species have not been provided in the local record, which relies on future consultations with the U.S. Fish and Wildlife Service and California Department of Fish and Game to address this issue.

It is noted that original project plans included effluent discharge via an outfall on Los Osos Creek during dry weather, and use of percolation ponds during wet weather only. It has recently been determined that the currently proposed rapid infiltration ponds can adequately accommodate disposal needs associated with the first two phases of the project, and, as a result, an outfall on Los Osos creek is not proposed as an element of the current project. However, use of the outfall is considered reasonably foreseeable, as such a disposal method may be used to increase ground water recharge to the lower aquifer. Implementation of such an outfall would be subject to additional CEQA review and discretionary approvals by the County, and may require a 1601 Streambed Alteration Agreement from the California Department of Fish and Game.

4. Capacity and Phasing

According to the Supplemental Environmental Impact Report adopted by the County on May 6, 1997 (SEIR, p. 2-1), the treatment plant will be implemented in two stages. The first stage would provide an average dry weather flow of 1.32 million gallons per day (mgd) of average dry weather flow (ADWF), and Stage II, representing facility buildout, would provide for an ADWF of 2.03 mgd. As explained on page 6-2 of the SEIR, the treatment plant capacity has been designed to serve the population growth allowed by the Estero Area Plan, a component of the San Luis Obispo County certified Local Coastal Program.

The collection system would be implemented in three phases. Phase 1 encompasses the majority of the prohibition area, generally defined as those areas with ground water levels of less than 30 feet below ground surface. Phase 2 of the collection system includes those areas with ground water levels 30 feet or more below ground surface, and would be implemented two years after successful operation of the effluent percolation pond facilities.

Phase 3 includes areas of development with relatively large lots that currently comply with Regional Water Quality Control Board guidelines for on site septic systems. Sewering of these properties is deferred until a later undefined date (SEIR, pages 3-3 - 3-5).

B. Substantial Issue Determination

As described in Section III of this report, the grounds for an appeal of this locally issued permit are limited to allegations that the project does not conform with the provisions of the certified LCP, or is inconsistent with the Coastal Act policies regarding access and recreation. As a result, allegations made by the appellants which assert that the project is inconsistent with Coastal Act Sections 30231 and 30240, and fails to meet the requirements of the California Environmental Quality Act, are not valid grounds for an appeal.

The appellants' allegations which question the subject project's conformance with LCP standards are summarized below (complete text of appeal attached as Exhibit 1), and followed by an analysis of whether or not the project, as approved by the County, conforms with these standards. Based upon this analysis, a conclusion as to whether or not these allegations raise a substantial issue is then provided.

1. Sensitive Habitats/Endangered Species

Allegations:

- The proposed project will have significant unavoidable negative impacts on sensitive species and habitats, inconsistent with the basic goals of the LCP to "protect, maintain, and where feasible, enhance and restore the overall quality of the coastal zone environment and its natural or man made resources" (Coastal Plan Policies p. 6-1), as well as with Land Use Ordinances 23.07.170, 23.07.176, and Coastal Plan Policy 27.
- Alternative site locations and effluent disposal techniques to minimize project impacts are available and have not been adequately pursued.
- Measures to mitigate for project impacts have not been appropriately identified and are not supported by scientific data.
- The growth inducing aspects of the project will increase cumulative adverse impacts to sensitive species and reduce the availability of appropriate mitigation sites.

LCP Requirements:

The appellants' identify the portions of the LCP identified below as grounds for their appeal, alleging that the project approved by the County does not conform with these standards. The following portions of the staff report analyze the applicability of these standards to the subject project, and whether or not the allegations raise a substantial issue of project conformance.

- a. Coastal Plan Policies, p. 6-1:

The introduction to Chapter 6: Environmentally Sensitive Habitats states in part:

"A basic goal of the California Coastal Act of 1976 is to 'protect, maintain, and where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and man-made resources.' To achieve this goal, the Local Coastal Program identifies and protects sensitive habitat areas through the designation of appropriate land uses and management techniques. ..."

Applicability: The above referenced portion of the San Luis Obispo County LCP is an introduction to the policies regarding the protection of the environmentally sensitive habitats contained in the LCP. As stated on p. 1-5 of the Coastal Plan Policies portion of the certified LCP, "Only the numbered policies shall be used. Other text is for background purposes only."

The numbered policies addressing Environmentally Sensitive Habitats following this introduction are implemented according to ordinances identified by the policies. These ordinances are located in the "Combining Designation" portion of the Implementation Plan (otherwise referred to as the Coastal Zone Land Use Ordinance or CZLUO), and only applicable to projects within mapped Sensitive Resources Areas by the LCP's Land Use Element. As stated by Section 23.07.012 of the CZLUO, "The standards of this chapter apply to all projects for which a land use permit is required, when a project is in a combining designation *shown on the official maps* ...[emphasis added]" (the Combining Designation map for the project area is attached as Exhibit 7).

While it can be argued that the Environmentally Sensitive Habitat policies should apply to all rare and endangered habitats regardless of whether they have been previously mapped, Page 5 of the Coastal Plan Policies document specifically provides that when a policy is implemented by an ordinance, the ordinance shall prevail in case of conflict with the policy. Therefore, the ordinances limiting application of Environmentally Sensitive Habitat protection to only those areas that are mapped as such by the LCP prevents a broader application of Environmentally Sensitive Habitat policies contained in the LCP.

Conclusion: The introductory statements to LCP Environmentally Sensitive Habitat Policies referenced by the appellants are considered background information only, and can not be applied as a regulation. Further, the policies contained in this chapter must be implemented according to referenced ordinances, which limit the application of policies intended to protect environmentally sensitive habitat areas to those areas mapped by the LCP. The subject project is not within a mapped Sensitive Resource Area. Therefore, the appellants' contention does not raise a substantial issue of project conformance with the certified LCP.

b. Coastal Plan Policy 27: Protection of Terrestrial Habitats

Policy 27 states in part (complete text attached as Exhibit 8):

"Designated plant and wildlife habitats are environmentally sensitive habitat areas and emphasis for protection should be placed on the

entire ecological community. Only uses dependent on the resource shall be permitted within the identified sensitive habitat portion of the site."

Applicability: Application of the above policy is limited to areas designated as Terrestrial Habitats by the LCP. Although the environmental review of the project identified the presence of numerous sensitive plant and wildlife habitats on both the Treatment Plant and Percolation Pond sites, these areas are not designated Terrestrial Habitat areas by the applicable LCP map (attached as Exhibit 7) and thus are not subject to the protections provided by the habitat policies.

Conclusion: Coastal Plan Policy 27 does not apply to the subject project because it is not within a designated Terrestrial Habitat Area. Therefore, the appellants' contention that the project is inconsistent with this policy does not raise a substantial issue.

c. CZLUO Section 23.07.170: Environmentally Sensitive Habitats:

Relevant portions of this Ordinance state in part (full text attached as Exhibit 7):

"The provisions of this section apply to development proposed within or adjacent to (within 100 feet of the boundary of) an Environmentally Sensitive Habitat as defined by Chapter 23.11 of this title, and as mapped by the Land Use Element combining designation maps.

a. Application content. A land use permit application for a project within or adjacent to an Environmentally Sensitive Habitat shall also include a report by a biologist

b. Required findings: Approval of a land use permit for a project within or adjacent to an Environmentally Sensitive Habitat shall not occur unless the applicable review body first finds that:

(1) There will be no significant negative impact on the identified sensitive habitat and the proposed use will be consistent with the biological continuance of the habitat....

d. Development standards for environmentally sensitive habitats:

(1) New development within or adjacent to the habitat shall not significantly disrupt the resource....

(4) Development shall be consistent with the biological continuance of the habitat....

(5) Grading adjacent to Environmentally Sensitive Habitats shall conform to the provisions of Section 23.05.034c (Grading Standards.)"

Applicability: None of the proposed facilities are located within Environmentally Sensitive Habitat areas designated by the Land Use Element combining designation maps, even though the proposed wastewater treatment plant and percolation ponds would be located in areas that support rare and endangered plants and animals.

However, some of the proposed pipelines, and one of the lift stations, appear to be located within 100 feet of areas designated as wetlands by the Land Use Element combining designation maps, which are also considered Environmentally Sensitive Habitats. Therefore, these portions of the project are subject to sections a., b., and d. of the above ordinance.

Project Consistency: The applicable portions of the above ordinance require: a biological report; particular findings to be made by the approving body; and, compliance with specific development standards.

The biological review required by Section 23.07.170 of the CZLUO is contained in the various documents prepared throughout the history of this project pursuant to the California Environmental Quality Act. The Supplemental Environmental Impact Report recently adopted by the County for the subject project identifies that the installation of pump stations, lift stations, and force mains could result in erosional impacts associated with construction and excavation activities, and water quality impacts if dewatering is needed. Lift stations 2 and 4 are located in the vicinity of the Morro Bay tidal area, and construction activities in these areas are identified as having the potential to affect water quality if adequate construction measures are not implemented (SEIR, p. 5.2-8).

In order to address the potential negative impacts to adjacent sensitive habitat areas associated with pipeline and lift station installation, and ensure consistency with the development standards contained in part d., of CZLUO Section 23.07.170, the County's conditions of approval (attached as Exhibit 2) require:

- grading and drainage plans designed to minimize erosion, sedimentation, and flooding potential during and after construction, in a manner consistent with Sections 23.05.034 - 036 of the CZLUO (Condition 5);
- a plan for disposal of any excess soil in consultation with the Planning Director, the County Environmental Coordinator, the U.S. Fish and Wildlife Service, and the State Department of Fish and Game (Condition 7);
- implementation of best management practices to reduce non-point source pollution as called for by the NPDES Construction Stormwater Permit and Pollution Prevention Plan required for the project (Condition 8);
- a "good-houskeeping plan" including information such as material and equipment storage locations and schedule for debris removal (Condition 18);
- a revegetation plan using native materials (condition 20);

- that Lift station number 1, including construction buffers and fences, be a minimum of 50 feet from the upland edge of the riparian zone (condition 63);
- that all pipeline routes in areas of natural vegetation be restored using native plants (Condition 68); and,
- an Emergency Response Plan to address emergency situations that may arise from spills, system failures and other emergencies (Condition 74).

The County did not, however, adopt the specific findings required by part c. of CZLUO Section 23.07.170, as it applies to projects adjacent to LCP designated Environmentally Sensitive Habitats.

Conclusion: The County of San Luis Obispo has appropriately evaluated, through the CEQA process, project impacts on the LCP designated Environmentally Sensitive Habitat areas located within 100 feet of project pipelines, lift stations and pump stations (i.e., the Morro Bay Estuary). The conditions of approval adopted by the County ensure that the portions of the project adjacent to designated Environmentally Sensitive Habitat areas comply with the development standards of CZLUO Section 23.07.170.

Although the County failed to make the specific findings required for projects adjacent to Environmentally Sensitive Habitat areas designated by the LCP, this does not raise a substantial issue due to the fact that it represents a procedural oversight as opposed to a significant departure from the substantive requirements of the certified LCP. The conditions of approval adopted by the County identified above adequately ensure that there will be no significant negative impact on the Morro Bay estuary, and the wastewater facilities adjacent to the Bay will not significantly disrupt the biological continuance of this habitat. The Commission's finding that the absence of the findings required by the LCP does not raise a substantial issue in this circumstance should not be construed to imply that such findings are not an important part of the coastal development process, or that the absence of such findings is not an appropriate grounds to determine that a substantial issue exists. The Commission strongly encourages the County to ensure that all necessary findings for coastal development permit approval are provided in future projects.

The impacts to the habitats of rare and endangered species at the proposed treatment plant and infiltration pond sites are not regulated by CZLUO Section 23.07.170, as they are not designated as Environmentally Sensitive Habitats by the LCP. These issues must be resolved through consultations with the U.S. Fish and Wildlife Service and California Department of Fish and Game, as called for by the mitigation measures of the Supplemental EIR and required by State and Federal endangered species laws.

d. Coastal Zone Land Use Ordinance (CZLUO) 23.07.176 - Terrestrial Habitat Protection

This ordinance states in part (full text attached as Exhibit 8):

"The provisions of this section are intended to preserve and protect rare and endangered species of terrestrial plants and animals by preserving their habitats....

- a. ... Vegetation that is rare or endangered, or that serves as habitat for rare or endangered species shall be protected.
- b. Terrestrial habitat development standards:
 - (1) ... Native plants shall be used where vegetation is removed. ..."

Applicability: As discussed on page 9 of this staff report, Section 23.07.012 of the CZLUO limits the application of the above ordinance to projects located "in a combining designation shown on the official maps". The Combining Designation map for the project area is attached as Exhibit 6, and illustrates that the project will not be located in an area designated as a Terrestrial Habitat by the LCP.

Conclusion: Even though the proposed treatment plant and infiltration pond sites are in areas that provides terrestrial habitat rare and endangered plants and animals, CZLUO Section 23.07.176 is not applicable to the subject project because the project is not located in an area designated as Terrestrial Habitat by the LCP official maps. Therefore, the appellants' contention that the project approved by the County of San Luis Obispo is not consistent with this ordinance does not raise a substantial issue. The County intends to address the habitat issues associated with the treatment plant and infiltration pond sites through future consultations with the U.S. Fish and Wildlife Service and the California Department of Fish and Game.

Other allegations made by the appellants' regarding project impacts to sensitive habitats are not based upon requirements of the San Luis Obispo County LCP. Contentions that available alternatives, adequate mitigation, and cumulative impacts have not been adequately analyzed are not supported by applicable LCP policies, primarily due to the fact that the proposed project is not located in an areas that have been mapped as Environmentally Sensitive Habitats by the LCP. As a result, the Commission concludes that the appeal does not raise a substantial issue regarding project conformance with the San Luis Obispo County certified LCP.

2. Morro Bay Water Quality and Groundwater Recharge

Allegations: The appellants' contend that the proposed development may adversely affect the integrity of Morro Bay, adjacent tidelands, and estuary. In particular, they assert that "it is likely that layer continuity or shingling of clay layers down slope from the proposed pond site would provide lateral flow of secondary treated wastewater into Morro Bay estuary".

In addition to the concern that lateral flow of treated wastewater will adversely impact the water quality of the Morro Bay Estuary, the appellants' allege that such a flow will not result in the recharge of the Los Osos groundwater basin. No reference to LCP requirements regarding water quality protection and groundwater recharge is provided by the appeal.

LCP Requirements: The San Luis Obispo LCP (CZLUO Section 23.07.170: Environmentally Sensitive Habitats) requires that projects adjacent to Environmentally Sensitive Habitats (in this case, the Morro Bay Estuary) not significantly disrupt the resource. As analyzed on pages 11-12 of this staff report, the County has conditioned the project in a manner which ensures that construction of the project will not impair the water quality of Morro Bay.

With respect to groundwater, LCP Policy 1 for Coastal Watersheds states:

"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."

Policy 2 for Coastal Watersheds states, in relevant part:

"Groundwater levels and surface flows shall be maintained to ensure that the quality of coastal waters, wetlands and streams is sufficient to provide for optimum populations of marine organisms, and for the protection of human health."

County Action: First it must be recognized that the proposed project has been initiated by the County, under the directives of the Regional Water Quality Control Board, in order to protect the water quality of the Los Osos groundwater basin. In order to maintain the safe yield of this basin, the project proposes Rapid Infiltration Ponds as a means of providing groundwater recharge. The Board of Supervisor's resolution of approval also directed County Engineering staff to further investigate the potential use of injection wells as opposed to infiltration ponds in order to increase the amount of groundwater recharge provided by the project.

The material contained in the local record for this project indicates discrepancies between the appellants' contentions and the County Engineers and Engineering consultants. The primary discrepancy has to do with the fate of the effluent that will be discharged into the proposed Rapid Infiltration Ponds.

In responding to the appellants' allegations regarding the potential for resurfacing of effluent, an April 3, 1997 letter from Metcalf and Eddy (Consulting Engineers) to George Gibson of the San Luis Obispo County Engineering Department states: "Our testing and evaluation indicates that sufficient capacity within the soils to accept the proposed discharge into the basins. Resurfacing of Effluent is not expected to occur.... The proposed project ... will eliminate health hazards that currently are caused by surfacing groundwater that contains discharge from septic systems and groundwater containing high concentrations of nitrate". While the letter acknowledges that percolated effluent could eventually reach the bay (as is presently occurring in the upper aquifer), the travel time for water released in the infiltration basin to the bay is on the order of 60 years or more. Any pathogens in the effluent will be absorbed by the soils beneath the infiltration basins.

With respect to maintaining a safe yield for the Los Osos groundwater basin as required by Policy 1, and maintaining groundwater levels as required by Policy 2, the hydrogeologic studies prepared for the County indicate that the disposed effluent will primarily go into the upper aquifer and produce a net basin balance. It was further identified that some of this water will likely reach the lower aquifer.

Substantial Issue Conclusion: The subject project, as approved by the County of San Luis Obispo, is supported by the Regional Water Quality Control Board as a major step towards protecting and improving the water quality of the Los Osos groundwater basin and Morro Bay estuary. The hydrogeologic information contained in the local record of approval indicates that the treated effluent will be returned to the basin in a manner which is more protective of human health and surface water quality when compared to the existing situation.

3. Hazards

Allegations: The appellants' contend that the subject project threatens property and safety in the residential areas downslope and adjacent of the proposed effluent pond site. They do not believe that the County has adequately addressed concerns of Los Osos residents regarding flooding resulting from pond failure and/or soil liquefaction resulting from an earthquake. No reference to LCP requirements regarding this issue is contained in the appeal.

LCP Requirements: The applicable portions of LCP Policy 1 for Hazards state:

"All new development proposed within areas subject to natural hazards from geologic or flood conditions ... shall be located and designed to minimize risks to human life and property ..."

Policy 2 requires that:

"New development shall ensure structural stability while not creating or contributing to erosion or geologic instability."

County Action: The County has incorporated the following elements into the project design in order to minimize hazards posed to adjacent residential areas from pond failure:

- berms required to contain the effluent will be designed to prevent leakage caused by burrowing animals;
- alarms, automatic shut-off devices, remote monitoring systems, and overflow provisions including discharge from one pond to the next and capture of any emergency flows from the lowest basin within the on-site stormwater retention basin, to prevent uncontrolled discharge of effluent.

With respect to seismic concerns, the April 3, 1997 letter from Metcalf and Eddy states that "changes in groundwater elevation levels will not result in increased liquefaction potential within the urbanized area of the community. There are areas where liquefaction risks

currently exist because of high groundwater levels, and these area will continue to have such risk. New or expanded areas with such risk will not occur."

The letter continues "the design of the berms is being supported by a geologic investigation and set of design requirements that will result in a design, which could accommodate a maximum credible seismic event (M 7.0). The berms will be designed to withstand such a seismic event and still retain water that may be ponding within the berms. It should be noted that because of the high rates of infiltration, it is not expected that all of the basins will be full at any one time and it is likely that only one or two basins will contain water at any point in time."

The project CEQA findings do acknowledge that system failure in a catastrophic event could occur and cause significant adverse impacts. While the County has attempted to plan for and mitigate all potential impacts and failures, it is recognized that the presence of the proposed infrastructure system could result in significant unavoidable impact. In approving this project, the Board of Supervisors found that the overall benefits of the project outweigh these detrimental effects.

Substantial Issue Conclusion: The subject project, as approved by the County of San Luis Obispo, is consistent with the LCP hazards policies identified above, as the project has been designed to minimize risks to human life and property, and will not create or contribute to erosion or geologic instability. As a result, the Commission finds that this element of the appeal does not raise a substantial issue.

4. Growth Inducement

Allegations: On June 24, 1997, one day prior to the release of this staff report, the Commission staff received an addendum to the originally submitted appeal of this project (attached as Exhibit 9). A new allegation included in this addendum is that the proposed facilities are sized beyond the communities actual needs (i.e., they are sized to serve areas which are not required to connect to a sewer treatment plant), and are therefore growth inducing.

LCP Requirements: LCP Policy 2 for Public Works states in part:

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

Policy 9 for Public Works requires that permits for treatment works address:

- " ... 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."

County Action: As required by the above policies, the project service area is appropriately defined within the urban reserve lines established by the Estero Area Plan.

With respect to the sizing of the treatment works, the SEIR describes on pages 6-1 through 6-4 that the project has been designed to service the existing and buildout population of the South Bay Urban Area based upon the growth allowed by the Estero Area Plan, which is a component of the San Luis Obispo certified LCP.

The treatment capacities were calculated by Metcalf and Eddy in 1996, based upon land use designations for the service area contained in the Estero Area Plan. 7,224 existing dwelling units were identified, and assumed to produce a flow rate of 200 gallons per day. Based upon these calculations, a 1.31 mgd (million gallons per day) capacity is needed to service the area under existing land conditions, and is proposed as the first stage of treatment plant construction.

Residential buildout of the area under existing land use designations has been calculated by the County to be 24,200. Thus, Stage II of the proposed treatment plant will expand the capacity to the 2.03 mgd needed to accommodate the projected long-term growth currently allowed by the Estero Area Plan.

Substantial Issue Conclusion: The subject project, as approved by the County of San Luis Obispo has been designed to serve the buildout allowed by the San Luis County certified LCP, and is therefore consistent with applicable LCP policies. As a result, this element of the appeal does not raise a substantial issue.

EXHIBIT "B"
APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

The County of San Luis Obispo has approved a development plan/Coastal Development Permit D950245D - CSA 9/County Engineering for a Community Wastewater Treatment System for the South Bay Community. The proposed 20 acre site for the sewer treatment plant is at the east end of Pismo Street, south of the existing middle school, and west of Los Osos creek. Separate effluent disposal facilities are to be located south of Los Osos adjacent to existing residential areas at the 80-acre Broderson site. It is a basic goal of the California Coastal Act of 1976 to "protect, maintain, and where feasible, enhance and restore the overall quality of the coastal zone environment and its natural or man made resources." (LCP/Coastal Plan Policies, p6-1). The location options chosen by the County for the proposed sewer treatment plant and Rapid Infiltration Ponds (RIP) will have serious unavoidable negative impacts to 5 State and Federally listed species. The loss of $\pm 16\%$ of this sensitive habitat will not be consistent with the biological continuance of these species. In addition, it is likely that layer continuity or shingling of clay layers down slope from the proposed pond site would provide lateral flow of secondary treated wastewater into Morro Bay estuary.

It is the opinion of the appellants that additional site options and/or effluent disposal techniques exist that will minimize impacts to the species of concern and the waters of Morro Bay. Appellant believes the Los Osos sewer project, as proposed, does not comply with the certified LCP/LUE (LUO 23.07.170, 23.07.176, Coastal Act Sections 303231 and 30240, and Coastal Plan Policy 27 especially)

1. The proposed development is located in an environmentally sensitive area. Coastal Act Section 30240 states:
 - (a) *Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.*
 - (b) *Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.*

As proposed in the FSEIR-97, construction of the Pismo site treatment plant and the Broderson site RIPs will result in a permanent loss of 10-20 acres of habitat at each site and threatens the integrity of remaining large contiguous tracts of suitable habitat for the following state and federally listed species:

EXHIBIT NO. 1
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APPEAL

Morro Shoulderband Dune Snail (*Helminthoglypta walkeriana*)
Morro Bay Kangaroo Rat (*Dipodomys hermanni morroensis*)
Indian Knob mountainbalm (*Eriodictyon altissimum*)
Morro manzanita (*Arctostaphylos morroensis*)
Monterey spineflower (*Chorizanthe pungens* var. *pungens*)

Also, numerous species of concern, including the Morro blue butterfly (*Icaricia icariodes* ssp. *moroensis*) may also be affected.

Current mitigation measures, as outlined in FSEIR-97, are inadequate to conserve the ecosystems these species depend on as required under the Federal Endangered Species Act and the California Endangered Species Act.

As outlined in the FSEIR, the amount of replacement property offered to compensate for the estimated 16-20 acres of habitat proposed for development is 10-20 acres. To date, no technique has been demonstrated to be effective management of the listed wildlife species affected and SLO County has provide no clear explanation of conditions where the reduction of critical acres of habitat would be likely to reduce the threat of extinction facing these species.

2. The FSEIR fails to adequately identify and discuss species specific mitigation measures. Discussion provided does not distinguish between measures that are proposed from measures that are adopted as project conditions of approval [CEQA Guidelines Sec. 15126 & 15364].

To be considered adequate, mitigation measures should be specific, feasible actions that will actually change adverse environmental conditions. The proposed biological mitigation measures will have no positive affect on preventing the extinction of any of the 5 listed species that will be directly affected by development at the Broderson and Pismo Sites. Staff provides no scientific data to support mitigation recommendations as adequate.

The inadequacy and inappropriateness of proposed mitigation measures P-BIO-1; P-BIO-4; C-BIO-1; C-BIO-4; C-BIO-5; C-BIO-6; RIP-BIO-1; RIP-BIO-4; RIP-BIO-5; RIP-BIO-6; and RIP-BIO-7 are discussed in Comment Letter, 1/3/97, California Department of Fish and Game; 12/3096, California Native Plant Society; and 7/16/96 and 1/7/96 US Fish and Wildlife Service (See Exhibit "C" attached). The proposed mitigation measures cited above rely on acquisition of parcels or groups of parcels containing 10 to 20 acres of appropriately suitable habit. Staff has provided no analysis of the feasibility, suitability, possible location, or cost of purchase of proposed parcels as described.

The DSEIR states that construction of a wastewater treatment plant would remove a substantial obstacle to growth in Los Osos and would result in a short-term increase in the growth rate. Since the properties available for such growth are the same as those available for the mitigation proposed in the FSEIR, the extinction of one or more of the federally listed species identified in #1-A seems inevitable.

Maintaining the biodiversity surrounding our unique community is a major issue facing Los Osos. As an example, a key factor in the continued existence, or successful reintroduction of MBKR is the availability of large tracts of preferred habitat. In the 1971 MBKR study done by Congdon, the area designated in the FSEIR-97 as the Pismo site and the Broderson Site, were the two most active sites for live trapping MBKR. In 1986, Dr. Gambs report, contained in the FEIR-87, said the property south of Highland Drive "is the only known locality within the historic range of Morro Bay kangaroo rats where a viable population of these animals still exists." As part of the FSEIR-97, a Fugro Biologist has observed signs/tracts of Morro Bay Kangaroo Rat adjacent to the Broderson site. These findings are a definite indication that the areas under discussion are suitable and attractive to this species.

The FSEIR-87 states that "since the completion of the Final Program EIR, the County has begun development of a Morro Bay Kangaroo Rat Habitat Conservation Plan" (page VI). The Response to Comments, page 10-11, of the SEIR-97 further indicates "the Land Conservancy will be consulted during the development of a Habitat Conservation Plan for the project." However, Staff response to our initial Appeal indicates "no HCP is or will be required." It is the opinion of the appellant that a Habitat Conservation Plan for Morro Bay Kangaroo Rat, and Morro Shoulderband Dune Snail should be completed prior to initiation of a community sewer project.

3. The Broderson site was rejected in 1987 and is not clearly identified as the environmentally superior alternative in the FSEIR-97. No explanation of why other alternatives were rejected, as required in CEQA Guidelines Sec. 15126(d) is given.

No analysis of the biological impact resulting from year round disposal of Secondary treated effluent at this site is provided and no explanation of why other alternatives were rejected is provided in FSEIR-97. The last detailed biological evaluation of Broderson was 1986, but during 1997 study, Fugro Biologist notes observation of signs (tracts) of Morro Bay Kangaroo Rat adjacent to the Broderson site. In addition no discussion of the potential impact to the surrounding habitat regarding the conversion of a relatively dry (xeric) habitat to wetland or "lake side" habitat is provided.

However, the most significant environmental finding of this site has been ignored in the 1997 document. As part of the 1987 Final Program EIR, the Broderson Site was examined as an alternative treatment plant and/or infiltration pond location and rejected.

During the course of this analysis the majority of the site was identified as "essential habitat" for the Morro Bay Kangaroo Rat. Results of the 1996 Sites Constraints Study identified a high potential for biological constraints at the Broderson site, primarily associated with its location adjacent to the delineated essential habitat for Morro Bay Kangaroo Rat. (FSEIR-97, pp 7-2)

The Broderson Site was removed from further consideration as a treatment plant site due to

biological constraints at that location. Yet, in direct contradiction of that rationale, SLO County staff selected the Broderson Site for placement of approximately 20 acres of sewer ponds. From an environmental perspective, both the treatment plant and infiltration ponds will result in the permanent destruction of equivalent amounts of habitat. Since the Broderson site has been rejected as a treatment plant site, it should be rejected as an infiltration plant site.

We request that the same test of suitability be applied to the Broderson site for ponds as was used for a treatment plant. The Broderson site should be rejected as a possible location for RIP technology.

4. We believe that substantial changes in the original project design and operation since certification of the FEIR in 1987 make a new Project EIR prudent.

County has prepared a Supplemental EIR citing "Substantial changes are proposed in the project which will require revision of the previous EIR..." as the findings for preparation of the supplement (Exhibit C, page 7, of February 27, 1997 Staff Report). Many of the changes are summarized in table 1, p B-5.

Since the completion of the Final EIR in 1987, two addenda, and 2 Supplemental EIR (1987 & 1997) have been prepared. Over the 10 years since certification, substantial changes have been proposed and in general, the circumstances of the project have changed enough to justify repeating a substantial portion of the process. In addition, "the water resources of the community are now under review, and significant increases in this resource could be identified" (February 27, 1997 Staff Report of County Department of Planning and Building presented to the Planning Commission, the Department, page 56 of Exhibit C). This report is due in October 1997, and may provide mitigation measures or alternatives not previously considered. Were it not that the County is both project proponent and lead agency, clearly a new Project EIR would have been required.

5. The proposed development may adversely affect the integrity and quality of the waters of Morro Bay, adjacent tidelands, and estuary. It is appellant's belief that the assumptions used by County Engineering Staff in the projected water flow model inaccurately describe the fate of discharge at the Broderson site.

Section 30231 of the California Coastal Act states: *The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, minimizing alteration of natural streams.*

TABLE 1. SUMMARY OF CHANGES IN PROPOSED PROJECT 1987 - 1997

ORIGINAL PROPOSAL 1987

FROM SUMMARY, FINAL EIR, THE MORRO GROUP

1. Service Area: all lands within CSA 9
Cost: \$39 Million + Fees = @\$49.1 Million
2. Treatment Plant on Turri Road (p II-1);
Level of treatment = Tertiary treated wastewater (p II-1)
3. Treated wastewater disposed of by 2 methods: DRY season tertiary treated wastewater released to upper LO Creek to augment natural flow and recharge the lower aquifer of the groundwater basin. Releases limited to amounts that would infiltrate, continuous flow to bay prohibited; WET season, and excess disposal facilities in southerly portion of community (p II-1)
4. Effluent discharge ponds in southerly portion of community; 40 acre site; Ponds installed below grade, parallel to existing slope (p II-1)
5. DRY weather facilities on upper Los Osos Creek (p II-1)
6. Collection system includes 5 pump stations (p II-1).
7. Proposed treatment = sequencing batch reactors. Design of treatment plant is for an average DRY weather flow of 1.6 mgd and a peak WET weather flow of 3.9 mgd (p II-1)

FINAL PROPOSAL 1997

FROM STAFF REPORT TO SLO CO PLANNING COMMISSION & FSEIR

1. Service Area: Only Lands within the prohibition area defined by RWQCB
Cost: \$59 Million + Fees = @ \$71.5 Million
2. Plant on Pismo Street;
Level of treatment = Secondary treated wastewater
3. Secondary treated wastewater disposed of at Broderson RIP only. Wet/dry season discharge options eliminated (p 3-11, 3-12); Recharge of lower aquifer not part of design (Matt Tibbits May 6, 1997); NOTE: FSEIR assumes WET Weather, Tertiary treated water delivered to effluent ponds (p. 3-11 & Fig.3.6-1).
4. Effluent discharge ponds constructed above grade (Staff recommendation)
5. Option Eliminated (p 3-12)
6. Collection system includes 7 pump stations
7. Proposed treatment = Modified Ludzig Ettinger process. Design of treatment plant for Stage I is for an Average Dry Weather Flow of 1.32 MGD, with a Peak Wet Weather Flow of 4.18 MGD. Stage II would provide for ADWF of 2.03MGD, with a PWWF of 5.23 MGD. (p. 3-11)

One of the stated goals of the County is to use a wastewater discharge design that will provide for recharge of the Los Osos groundwater basin. However, in testimony before the Board of Supervisors (May 6, 1997), Mr. Matt Tibbits, representing Metcalf and Eddy, consultants to SLO County, stated that the design provided is an "indirect recharge project". He further explained that the project as proposed is not, in fact, a recharge of Los Osos drinking water. Rather, discharge at the proposed Brodersen RIPs only provide for the future possibility of pumping in the upper aquifer, should the County ever wish to harvest that resource. However SLO County staff has ignored the results of 2 major studies that indicate the probability of a horizontal flow of effluent from the RIP, as currently planned (L.E. Moody and R.C. Graham, 1994. Pedonic Processes in Thick Sand Deposits on a Marine Terrace, Central California. PP 41-55, in Whole Region Pedology, SSSA Special Publication #34, Soil Science Society of America; and L.E. Moody and R.C. Graham, 1995. Geomorphic and Pedogenic Evolution in Coastal Sediments, Central California. Geoderma 67: 181-201).

It is the opinion of the appellants that this horizontal flow of water will not result in the recharge of the Los Osos groundwater basin. Instead, it will probably emerge near or at the soil surface further down slope, running into the Bay and/or may appear as springs that emerge below the high water line of the Bay. Additional explanation is provided in the attached expert testimony, previously submitted to San Luis Obispo County Board of Supervisors on this subject (please see Exhibit "D", attached).

In addition Coastal Act Section 30253 requires that new development minimize risks to life and property in areas of high geologic and flood hazard. Neither can a new development create or contribute to such risks. Concern by Los Osos residents of flooding resulting from pond failure and/or soil liquefaction resulting from an earthquake have not been adequately addressed by SLO County.

Summary

Appellant believes the Los Osos sewer project, as proposed by the County of San Luis Obispo:

1. does not comply with the certified LCP/LUE (LUO 23.07.170, 23.07.176, Coastal Act Sections 303231 and 30240, and Coastal Plan Policy 27);
2. is not in compliance with CEQA guidelines, offering inadequate and inappropriate biological mitigation;
3. poses a threat to the integrity and quality of the waters of Morro Bay, adjacent tidelands, and estuary;
4. will fail to meet the stated objective of recharge of Los Osos drinking water resources;
5. will fail to meet the stated goal of lowering the water table in the low lying areas of our community; and
6. threatens property and safety in the residential areas down slope and adjacent of the proposed effluent pond site.

Los Osos has endured a 10-year building moratorium as plans to resolve issues relating to the management of our ground water resources were formulated. Unfortunately, the sewer project proposed does not resolve our most pressing problems. It is simply not acceptable to attempt to resolve one environmental problem by creating another.

We realize this project has been in the planning stages for years. However, we believe the County has not done an adequate assessment of alternative sites and/or techniques for the Treatment Plant and Effluent Discharge Ponds so that adverse effects could be avoided or reduced. Currently, the 3 water purveyors have contracted a comprehensive evaluation of the Los Osos groundwater basin. This report, due in October, may identify significant mitigation measures or alternatives not previously considered. In addition the County has undertaken a study to determine the feasibility of injection wells as a discharge method. It seems obvious that more time is needed to study alternatives and evaluate new information and additional options resulting from the on going studies.

Appellant respectfully requests denial of a Coastal Development Permit for this project at this time.

EXHIBIT C

LETTERS OF COMMENT

SUBMITTED TO

COUNTY OF SAN LUIS OBISPO

AS PART OF

FINAL SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT

FOR THE

CSA 9 WASTEWATER TREATMENT FACILITIES

FEBRUARY 1997

- | | |
|---|-------------------|
| 1. US Fish and Wildlife Service | April 14, 1997 |
| 2. US Fish and Wildlife Service | January 7, 1997 |
| 3. US Fish and Wildlife Service | July 16, 1997 |
| 4. California Department of Fish & Game | January 3, 1997 |
| 5. California Native Plant Society | December 30, 1996 |



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ventura Fish and Wildlife Office
2493 Portola Road, Suite B
Ventura, California 93003

April 14, 1997

Ruth Brackett, Chairperson
Board of Supervisors
County of San Luis Obispo
County Government Center, Room 370
San Luis Obispo, California 93408

Subject: Time Extension Requested on Deadline for Construction of Proposed Wastewater Facilities, Los Osos, San Luis Obispo County, California

Dear Ms. Brackett:

The U.S. Fish and Wildlife Service (Service) provided comments to the County of San Luis Obispo (County) on the Notice of Preparation and the draft supplemental environmental impact report (SEIR), and an additional letter, dated January 28, 1997, regarding the effects of the proposed wastewater treatment and disposal facilities on biological resources in Los Osos, San Luis Obispo County. In our letter to the County, dated January 7, 1997, we stated the proposed wastewater facilities would result in loss and degradation of habitat for several federally listed species found nowhere else in the world, including the endangered Morro shoulderband snail (*Helminthoglypta walkeriana*), Morro Bay kangaroo rat (*Dipodomys heermanni morroensis*), Indian Knob mountainbalm (*Eriodictyon altissimum*), and the threatened Morro manzanita (*Arctostaphylos morroensis*).

Although this project has been in the planning stages for several years, we believe the County has not done an adequate assessment of alternative sites for its wastewater facilities so that effects to sensitive biological resources could be avoided or reduced. In our comments on the draft SEIR, dated January 7, 1997, we recommended the County select project sites that have few or no listed species. In our letter to the County, dated January 28, 1997, we suggested a potential site for the wastewater disposal facility on vacant land adjacent to the western boundary of the proposed wastewater disposal site (Broderson site) and north of Travis Drive. Because of its proximity to developed areas on several sides, and possible degraded condition, we believe this site may have fewer or no listed species than the Broderson site, yet may contain geological features similar to the wastewater disposal site. During discussions with County staff, we were informed that because no geological work had been conducted on the site west of the Broderson site, it would not be possible to consider changing the location of the site.

A-3-SLO-97-040
Exhibit 1, p. 9

We also provided another recommendation to further reduce effects of habitat loss on listed species. In our letter to the County, dated January 28, 1997, we recommended the County explore alternative technologies which would require a smaller impact area for wastewater disposal. We have not received clear feedback from the County regarding this request.

The County has selected the Pismo site for its treatment facility which contains the Morro shoulderband snail and the Morro manzanita. The Turri alternative site contains no listed species and was identified in the final SEIR as the least environmentally damaging alternative site. The Turri site was rejected apparently because of the increase in operation costs associated with pumping the sewage over a longer distance than would occur at the Pismo site. Some biological impacts would occur with the construction of the force mains under Los Osos Creek for the Turri site. However, such effects would be temporary and could be minimized largely through directional boring or project timing. Although the Turri site was rejected, we believe that other sites likely exist within Los Osos that meet not only the County's concern for keeping operational costs down but also avoid or minimize the effects to listed species.

We are concerned that the County, in an effort to meet the Regional Water Quality Control Board's (RWQCB) deadline, continues to move forward despite substantial environmental impacts which appear to be largely avoidable through alternative sitings of the wastewater treatment and disposal facilities and the potential use of alternative technologies which reduce the project footprint for the wastewater disposal facility. The Service believes the County could reduce its project costs associated with mitigation of biological resources if sites or technologies are selected which are less environmentally damaging than those proposed in the final SEIR. Therefore, we strongly recommend the County request a time extension from the RWQCB to develop this information so these issues can be adequately addressed.

We look forward to your response on this matter. Should you have questions on this issue, please contact Kate Symonds or my staff at (805) 644-1766.

Sincerely,



Diane K. Noda
Field Supervisor



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
Ventura Field Office
2493 Portola Road, Suite B
Ventura, California 93003

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JAN 10 1997

S.L.O. COUNTY
PLANNING DEPT.

January 7, 1997

Mark Hutchinson, Environmental Specialist
Department of Planning and Building
County of San Luis Obispo
County Government Center
San Luis Obispo, California 93408

Subject: Draft Supplemental Environmental Impact Report for the CSA 9 Wastewater Treatment Facilities, Los Osos, San Luis Obispo County, California SCH #96061033

Dear Mr. Hutchinson:

The U.S. Fish and Wildlife Service (Service) has reviewed the sections of the subject document which pertain to biological resources. The County of San Luis Obispo (County) proposes to provide a centralized sewage treatment facility and use treated wastewater to recharge the groundwater basin in the Los Osos area, San Luis Obispo County, California. The proposed project has four components: (1) a collection system; (2) a wastewater treatment plant; (3) wastewater disposal and ground water recharge facilities; and (4) the influent and effluent force mains to and from the treatment plant.

The project was first proposed in 1987 in response to the issuance of an order from the Regional Water Quality Control Board to alleviate human health concerns from degradation of ground water supplies from septic tank systems in the Los Osos area. The subject document has been prepared to address several alterations including design changes in the project, alternative treatment facility sites, and revised information pertaining to the Turri site.

The proposed project would result in the permanent loss of 8 to 10 acres of habitat, depending on the site selected. Listed species that may be directly or indirectly affected by project implementation include the endangered Morro shoulderband snail (*Helminthoglypta walkeriana*), Morro Bay kangaroo rat (*Dipodomys heermanni morroensis*), tidewater goby (*Eucyclogobius newberryi*), Indian Knob mountainbalm (*Eriodictyon altissimum*), and the threatened California red-legged frog (*Rana aurora draytonii*), Morro manzanita (*Arctostaphylos morroensis*), and Monterey spineflower (*Chorizanthe pungens* var. *pungens*). Numerous species

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Exhibit 1, p. 11

of concern, including the Morro blue butterfly (*Icaricia icariodes ssp. moroensis*), may also be affected by the proposed action, as described in the draft supplemental environmental impact report (DSEIR). To reduce effects of permanent habitat loss for all affected upland species, the County has proposed to permanently protect and enhance 10 to 20 acres of habitat similar to the project site. However, no mitigation site was identified in the DSEIR.

The DSEIR identifies and evaluates development of the project at the Pismo, Cordoniz, and Turri sites. Only the Broderson site is identified for the wastewater disposal facility due to geologic constraints. The collection system would consist of 50 miles of a gravity flow sewer pipe, 23,000 linear feet of low pressure sewer pipe, and between 17,000 to 20,000 feet of sewer force mains. The Service's main concerns regarding the proposed project are permanent loss and fragmentation of habitat, particularly that of listed species, degradation of habitat adjacent to project sites from increased run-off, erosion, and encroachment of non-native species, described in further detail below, and cumulative effects of the proposed project development which would result in an increase in development, and therefore, habitat loss in Los Osos.

M1 The proposed action could result in the loss of individuals and habitat of several species which are federally listed as threatened or endangered. Section 9 of the Endangered Species Act of 1973, as amended (Act), prohibits the "take" of any listed animals. The definition of "take" includes to harass, harm, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct. "'Harm' in the definition of 'take' in the Act means an act which actually kills or injures wildlife. Such act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavior patterns, including breeding, feeding, or sheltering" (50 CFR 17.3). If any project activities may result in take of a listed species, appropriate exemption from the prohibitions against take would be necessary prior to project implementation. Such taking may occur only under the authority of the Service pursuant to section 7 (if the action is funded, permitted or implemented by a Federal agency) or through a section 10(a)(1)(B) permit, as mandated in the Act. As a non-federal entity, the County would apply for an incidental take permit, pursuant to section 10(a)(1)(B) of the Act. Such a permit requires the development and implementation of a conservation plan.

M2 Take of listed plants on non-federal lands is not prohibited except when it occurs in violation of State or local laws. However, prior to the issuance of a permit for the incidental take of a listed animal under section 10(a)(1)(B) of the Act, the Service conducts an internal review of the effect of actions resulting from the issuance of the permit on other species, such as plants. If the Service determines that issuance of the permit will jeopardize the continued existence of a listed plant, the permit would not likely be issued until the conservation plan incorporates measures that would prevent jeopardy to that species.

The Service offers the following specific comments on the DSEIR for the CSA 9 Wastewater Treatment Facilities:

M3 We recommend updating the document to reflect the federal status of the following species: Morro manzanita and the Monterey spineflower are listed as threatened; the California sea-blite (*Suaeda californica*) is listed as endangered; the black legless lizard (*Anniella pulchra* ssp. *nigra*) is proposed as endangered; and the black rail (*Laterallus jamaicensis* ssp. *coturniculus*) is a species of concern. Category 1 candidates are now referred to as "candidates" and category 2 candidate species are now referred to as "species of concern".

M4 Recent survey data for the Morro Bay kangaroo rat and the Morro shoulderband snail were not available during the time the subject document was prepared. Additionally, surveys for sensitive plant species were not conducted during the optimal seasons in which to detect such species. As stated in the DSEIR, sensitive plant species may not have been identified during the botanical survey because surveys were conducted during late summer, a time of year when most plant species are not easily detected. Because the Service was previously unaware of the presence of the Monterey spineflower in this area, we recommend confirmation of the presence of this species by a recognized expert of this taxon. The Service also recommends that thorough surveys be conducted during the appropriate season(s) to determine whether such species are present within the proposed project sites. Without such a survey, the County cannot fully document the potential biological impacts of the proposed action nor design appropriate mitigation.

M5 The DSEIR states that prior to construction, surveys would be conducted for the Morro Bay kangaroo rat and the Morro shoulderband snail to determine if habitats are occupied and to determine the type of protective measures which should be implemented prior to construction. We highly recommend that surveys be conducted to determine the presence of listed species as soon as practicable. If listed species are present and take could occur, we recommend the County apply for authorization for incidental take under the appropriate section of the Act. Any measures to avoid or reduce take of listed species would be developed by the County in consultation with the Service. In lieu of conducting surveys, the County could assume the presence of listed species in a given project area and move forward with a request for take authorization. However, we would anticipate that mitigation strategies would need to incorporate the needs of species assumed to be present in the vicinity of a given site.

M6 We remind the County that the use of a recovery permit, pursuant to section 10(a)(1)(A) of the Act, to conduct rescue operations of listed species, as described on page 2-32, is an inappropriate use of this type of permit. The rescue and salvage of listed species that are imperiled as a result of a development project are subject to the approval by the Service and would only be authorized through formal consultation, pursuant to section 7 or an incidental take permit, pursuant to section 10(a)(1)(B) of the Act.

M7 To facilitate our review pertaining to the amount of habitat to be lost or degraded as a result of the proposed project, information pertaining to methods to reduce fire hazards, if any, would be useful. Vegetation clearing or thinning in the vicinity of structures would further reduce or degrade habitat. To reduce this effect, we recommend that a minimal area be cleared for firebreaks and that the facility be constructed of materials with low flammability.

M8 Storm water runoff, sedimentation, erosion, and project-related hazardous material spills have the potential to degrade habitat of sensitive species located adjacent to any of the project sites. Because the DSEIR states the National Pollutant Discharge Elimination System (NPDES) construction activity permit would address such concerns by prescribing "best management practices" (BMPs) the Service is unable to adequately comment on the proposed methods. However, we believe that BMPs, as prescribed in other projects, may not adequately prevent erosion and run-off into adjacent habitat, especially during moderate to large storm events, which have occurred rather frequently in the past few years. To reduce such on-site and off-site effects, we recommend the County adopt measures to better control erosion and run-off during the construction and operation of the facility and to design such measures to anticipate large storm events (e.g., such as 50 to 100 year storm events). We also recommend that the County incorporate design features to reduce the amount of impervious surfaces in the project area. Such features could include constructing access roads, parking areas, and walkways with materials through which water percolates.

M9 The proposed project would result in the introduction or increased numbers of exotic plants and animals that are likely to out compete native species. The Service supports the County's proposed measures to conduct on-going eradication of non-native plants within and adjacent to the project area, and to restore any areas damaged from construction activities with a mix of native plants in approximate proportions which existed on the site prior to construction. However, in the vicinity of Morro shoulderband snail habitat, we recommend incorporating measures to control the spread of the non-native brown garden snail (*Helix aspersa*), because of the brown garden snail's potential role as a competitor of the Morro shoulderband snail. We also recommend that habitats damaged during installation of the collection system should also be subject to restoration and eradication of non-native species. Measures to control non-native species should be conducted in a manner that does not cause take of listed species. If such take would occur, even if such taking resulted in the long-term benefit to habitat of listed species, such taking would need to be authorized by the Service under the appropriate section of the Act.

M11 Ground water recharge may affect the plant community composition over time in the recharge area, although the hydrogeologic modeling conducted by Metcalf and Eddy predicted no effects to ground water levels within the reach of plant roots. The nature of alterations in plant community composition resulting from a rise in ground water level would be difficult to predict. However, some changes could include the creation of favorable conditions for the establishment or spread of non-native species, an altered distribution of native species, including the Morro shoulderband snail, and possibly the elimination of some native species entirely from the affected area. The Service is not able to evaluate the efficacy of the model for predicting

M11

changes to groundwater elevation. However, we request the rationale for using municipal pumpage and septage recharge data from the period June 1994 to December 1995 and using rainfall recharge and agricultural pumpage from the period June 1985 to December 1986. We recommend using data that would lead to an assessment of the worst case scenario for effects to ground water level. Our review would be facilitated by knowing whether predicted changes in the ground water level would occur at a consistent depth throughout the recharge area or whether some areas would experience a greater elevation in ground water level than other areas.

M12

The DSEIR states the construction of a wastewater treatment plant would remove a substantial obstacle to continued growth in Los Osos and would result in a short-term increase in the growth rate. However, no analysis was offered on the effects of such growth on biological resources. The DSEIR states it is the Estero Area Plan, and not the proposed wastewater facility, that would constrain growth in the Los Osos area. Because such growth is consistent with the Estero Area Plan, the DSEIR states the proposed project would not induce growth that has not already been planned. The Service disagrees with the County's rationale for not addressing all growth inducing effects in this document. Regardless of the amount of development allowable under the Estero Area Plan, the current situation is that such development would not occur but for the implementation of the proposed project. We believe the County should analyze effects of additional development on the area's biological resources that could occur as a result of the issuance of building permits that would have likely been denied under the current moratorium.

M13

The Service believes the growth inducing effects resulting from the construction of a wastewater facility could have a significant, adverse impact on biological resources. Because several listed species are found in the vicinity of Los Osos and nowhere else, effects such as habitat loss and degradation from additional development may result in the extinction of some of these species. Because of the growth inducing effects of the proposed project, the Service recommends that the project be scaled to accommodate sewer needs only for existing development in Los Osos.

M14

The Cordoniz site, located south of Highland Drive, contains habitat for the Morro Bay kangaroo rat, Morro manzanita, and Indian Knob mountainbalm. Sign of the Morro Bay kangaroo rat was found during surveys conducted recently in support of the DSEIR; this site may support the last known Morro Bay kangaroo rats. The Service believes development of the proposed project on this site would reduce the likelihood of recovery and may cause the extinction of the species because of loss and fragmentation of habitat, and degradation of habitat from run-off and erosion from the project site. Therefore, we disagree with the DSEIR's assessment that permanent loss of Morro Bay kangaroo rat habitat at the Cordoniz site is a potentially significant, but mitigable impact (Class II). Morro Bay kangaroo rat habitat is extremely limited and creation or enhancement of its habitat and reintroduction efforts have not been successful; therefore, we believe that such permanent habitat loss is significant and not mitigable.

M15

We request clarification on the assessment that the permanent loss of special status plant species at the Cordoniz site would be considered a potentially significant, but mitigable impact, and that

M15 such a loss at the Pismo site would be considered a significant, unmitigable impact. The Service believes off-site, in-kind mitigation for loss of the Morro manzanita is a dubious possibility based on recent research by Odeon and Tyler who reported that the distribution of Morro manzanita is restricted to specific soil types and soil moisture regimes and that Morro manzanita would not likely become successfully established in sites where it has not been known previously to occur. Because Morro manzanita and most of the other listed plant species are extremely limited in distribution and the success of transplanting such species is speculative at best, we believe that permanent loss of special status plant species at any site should be considered a significant, unmitigable impact.

M16 In general, to reduce on-site effects of habitat loss, fragmentation, and degradation on listed species, we recommend the following measures: selecting a project site that contains few or no listed species; installing the collection system in existing right-of-ways; clustering structures within a given parcel to allow maximum contiguous protected open space on-site next to any adjacent open space parcels; siting development to avoid direct and indirect effects to sensitive species; minimizing the width of firebreaks; retaining pervious surfaces on-site; controlling run-off from and erosion of the site; and controlling non-native species.

M17 To compensate for residual effects to biological resources as a result of project implementation, the County has proposed to permanently protect 10 to 20 acres of undeveloped land within the Los Osos area and manage it in perpetuity for the benefit of sensitive biological resources. Because no details were provided in the DSEIR and no sites were proposed for protection, the Service is unable to adequately evaluate the suitability of this measure to provide compensation for loss of biological resources. However, the Service supports measures that would lead to permanent protection and management of the area's unique biological resources and is willing to work with the County to develop a conservation strategy for these resources.

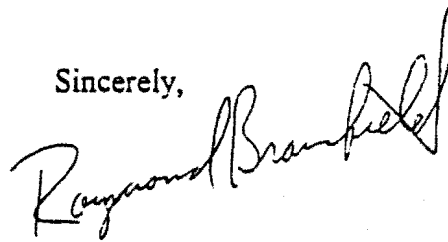
M18 Based on the information provided in the DSEIR, only the Turri site would not result in direct loss of listed species, provided directional boring is used to install the force mains under Los Osos Creek and an adequate setback exists from the riparian areas for siting the boring holes. Therefore, the Service concurs with the assessment that the Turri site is the least environmentally damaging site. However, we remain highly concerned with the growth inducing effects of the project, described previously, and the potential for hazardous material spills, storm water run-off, sedimentation, and erosion during the construction and operation of the facility at the Turri site to result in adverse effects to habitat of the California red-legged frog and the tidewater goby.

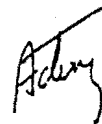
Mark Hutchinson, Environmental Specialist

7

M19 We strongly recommend the County consider the development of a habitat conservation plan to address the potential impacts of the proposed project and its growth inducing effects on biological resources in Los Osos. Should you have questions on this matter, please contact Kate Symonds of my staff at 805/644-1766.

Sincerely,



 Diane K. Noda
Field Supervisor

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Exhibit 1, p. 17



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
Ventura Field Office
2493 Portola Road, Suite B
Ventura, California 93003

July 16, 1996

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JUL 19 1996

S.L.O. COUNTY
PLANNING DEPT.

Mark Hutchinson, Environmental Specialist
Department of Planning and Building
County Government Center
County of San Luis Obispo
San Luis Obispo, California 93408-2040

Subject: Notice of Preparation of a Supplemental Environmental Impact Report for the
County Service Area Number 9 Wastewater Treatment Plant, Los Osos, San Luis
Obispo County, California

Dear Mr. Hutchinson:

The Fish and Wildlife Service (Service) has reviewed the referenced document, dated June 7, 1996, which requests information that the Service believes necessary for inclusion in a draft supplemental environmental impact report (DSEIR). A Final EIR was prepared for the project in 1987. Two addendums and a supplement to the Final EIR have since been prepared. The County of San Luis Obispo (County) is preparing a second supplement to evaluate alternatives for wastewater treatment plant locations, treatment processes, and respond to any changes in the environmental setting which may have occurred since the completion and the certification the Final EIR, and subsequent documents. We offer the following information and recommendations to aid you in planning for the conservation of sensitive wildlife habitats and federally listed species within the Los Osos/Baywood area, San Luis Obispo County and as a means to assist you in complying with pertinent Federal statutes. The following comments are prepared in accordance with the Fish and Wildlife Act of 1956, as amended, and other authorities mandating Department of the Interior concern for environmental values.

The primary concern of the Service is the protection of fish and wildlife resources. The Fish and Wildlife Coordination Act, as amended, mandates that we provide comments on any public notice issued for a Federal permit or license affecting the Nation's waters, in particular, permits administered by the U. S. Army Corps of Engineers (Corps) pursuant to section 404 of the Federal Water Pollution Control Act of 1977, as amended, and section 10 of the Rivers and Harbors Appropriation Act of 1899. In our review of section 404 permits, we recommend avoidance of impacts to waters and wetlands as the primary means of protecting these sensitive habitats. In the regulations pertaining to the section 404 permitting process, projects which do

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not require proximity to waters or special aquatic sites are considered non "water-dependent" (40 CFR §230.10). If the project is not water-dependent, the Service will recommend denial of the permit.

In addition, the Service is responsible for implementing the Endangered Species Act of 1973, as amended (Act). Section 7 of the Act requires all Federal agencies to use their authorities in furtherance of the purposes of the Act by carrying out programs for the conservation of endangered and threatened species, and to review proposed activities and determine whether listed species will be affected.

Section 9 of the Act prohibits the "take" of any listed species. The definition of "take" includes to harass, harm, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct. "'Harm' in the definition of 'take' in the Act means an act which actually kills or injures wildlife. Such acts may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavior patterns, including breeding, feeding, or sheltering (50 CFR 17.3)." Anyone who engages in a take would be subject to prosecution under section 9 of the Act. Such taking may occur only under the authority of the Service through authorizations pursuant to sections 7, for Federal actions, or 10(a)(1)(B), for actions without a Federal nexus, as mandated in the Act. Only listed species receive protection under the Act. However, candidate species should be considered in the planning process in the event they become listed or proposed for listing prior to project completion. If early evaluation of the project indicates that it is likely to adversely affect a candidate species, you may wish to request technical assistance from this office.

The proposed project may require a permit from the Corps, if the project involves fill of drainages, and possible consultation under section 7 of the Act, if any federally listed species may be affected by the project. We recommend that details of the project be provided to the Corps as soon as possible.

The Service believes the following issues should be thoroughly addressed in the DSEIR:

1. A complete discussion of the purpose and need for the project.
2. A description of the proposed project, including all feasible alternatives and the no action alternative. This alternatives analysis is important to the Service's evaluation of the project as feasible alternatives often reduce effects to biological resources.
3. Specific acreages and detailed descriptions of the amount and types of habitat that may be affected by the proposed project or project alternatives. Of particular concern will be the acreage of wetland and riparian habitats to be affected. This number should be verified by the Corps or Environmental Protection Agency. Maps and tables should be included to assist in evaluation of project-related effects.

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4. Quantitative and qualitative information concerning fish and wildlife resources associated with each habitat type.

5. A list of Federal candidate, proposed or listed threatened and endangered species, State listed species, and locally declining or sensitive species that are found at or near the project site. A detailed discussion of these species, focusing on their site-related distribution and abundance and the anticipated effects of the project on these species, should be included. The Service is particularly interested in analysis of impacts to Federally listed and candidate species.

Federally listed species that may occur in the vicinity of the proposed project are the Morro Bay kangaroo rat (*Dipodomys heermanni morroensis*), Morro shoulderband snail (*Helminthoglypta walkeriana*), California red-legged frog (*Rana aurora draytonii*), tidewater goby (*Eucyclogobius newberryi*), Morro manzanita (*Arctostaphylos morroensis*), Pismo clarkia (*Clarkia speciosa* ssp. *immaculata*), Indian knob mountainbalm (*Eriodictyon altissimum*), salt marsh bird's-beak (*Cordylanthus maritimus* ssp. *maritimus*), and California sea-blite (*Suaeda californica*). A species that is a candidate for listing that may occur in the vicinity of the project is the California tiger salamander (*Ambystoma californiense*). Enclosed for your records are the survey protocol for the Morro Bay kangaroo rat and the draft survey protocol for the California red-legged frog. Please note these protocols require more than one season to complete. However, surveying may cease once presence has been established during the surveys.

6. An assessment of the effects on biological resources, including those which are direct, indirect, and cumulative. All aspects of the project should be included in this assessment.

7. An analysis of the effects of the project on the hydrology of associated drainages, and any other riparian or wetland communities within the sphere of influence of the project. The effects of alteration of natural flows within the affected creeks and rivers should be thoroughly examined. Alterations in hydrology may affect the ability of predators and competitors of the California red-legged frog to exist, such as bullfrogs (*Rana catesbeiana*) and exotic crayfish (*Cambarus* spp.).

8. A thorough discussion of the planned disposition of the large volume of waste water which will result from implementation of the proposed project.

9. An analysis of the expected changes in groundwater depths and volumes resulting from groundwater pumping as part of the proposed project. The effects of groundwater fluctuations should be related to the viability of potentially affected riparian and wetland habitats.

10. Specific mitigation plans to offset project-related effects, including cumulative habitat loss, degradation, and modification resulting from the direct, indirect, and cumulative consequences of the action. If necessary, adverse project-related effects should be mitigated on-site through re-creation or revegetation of affected habitat types. The objective of the mitigation plan should be to offset qualitative and quantitative project-induced loss of fish and wildlife habitat values.

Avoidance of the effects through project modification is considered mitigation. In particular, the Service recommends that impacts to listed plant species and vegetation in the riparian corridor, which provide important habitat to many species of wildlife, be avoided. The DSEIR should also identify measures to preclude or diminish the ability of bullfrogs to become established in areas affected by the project. Potential measures may include the complete drying of any ponds for at least a few days between September (after California red-legged frogs have metamorphosed) and the start of the rainy season. This action is expected to break the life cycle of bullfrogs because bullfrog tadpoles require 2 years to metamorphose into adults, whereas California red-legged frog tadpoles metamorphose in 1 season.

Mitigation plans should be prepared by persons or firms with specific expertise in the particular communities or habitats that are being affected and with state-of-the-art native plant revegetation techniques. Each plan should include, at a minimum: a) the location of the mitigation site, b) the species, actual number, and size of the plants to be used, c) a schematic layout depicting the arrangement of the plants within the compensation area, d) time of year that planting will occur, e) identification of the irrigation methodology to be employed, f) measures to be taken to control exotic vegetation on site, g) a detailed monitoring program that includes provisions for replanting areas where planted materials have not survived, and h) identification of the agency that will guarantee the successful creation of the mitigation habitat and provide for the protection and perpetual conservation of the restoration site. In this regard, measures should be proposed (and subsequently implemented) to control access to the site, to curtail illegal dumping, to restrict nearby lighting, and to manage for sensitive species in the mitigation area.

11. Identification of construction methods to be employed to prevent soil erosion, along with specific erosion and sedimentation control plans to be carried out throughout the life of the project.

We look forward to reviewing the DSEIR. Should you have any questions regarding these comments, please contact Kate Symonds of my staff at (805) 644-1766.

Sincerely,



for Diane K. Noda
Field Supervisor

Enclosures

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DEPARTMENT OF FISH AND GAME

POST OFFICE BOX 47
YOUNTVILLE, CALIFORNIA 94599
(707) 944-5500



January 3, 1997

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S.L.O. COUNTY
PLANNING DEPT.

Mr. Mark Hutchinson
Environmental Division
Department of Planning and Building
County of San Luis Obispo
County Government Center
San Luis Obispo, California 93408

Dear Mr. Hutchinson:

CSA 9 Wastewater Treatment Facilities Project
Draft Supplemental Environmental Impact Report (DSEIR)
SCH No. 96061033

Department of Fish and Game personnel have reviewed the Draft SEIR for the above project, a proposed wastewater treatment facility to serve the Community of Los Osos, San Luis Obispo County. We offer the following comments.

Several of the impacts listed for the various alternatives are Class I impacts and remain Class I even after mitigation. Many of the impacts are listed as Class II both before and after mitigation, while in some cases, the Class II impact drops to Class III after mitigation. Specifically, we believe that the proposed mitigation measures associated with impacts P-BIO-1, page 2-18 and 2-19, P-BIO-4, page 2-22, C-BIO-1, page 2-23, C-BIO-4, page 2-24, C-BIO-5, page 2-24, C-BIO-6, page 2-25, RIP-BIO-1, page 2-32, RIP-BIO-4, page 2-33, RIP-BIO-5, page 2-33, RIP-BIO-6, page 2-34 and RIP-BIO-7, page 2-34 are inadequate for several reasons.

31 Mitigation measures listed for impacts P-BIO-1, and the other impacts that reference the mitigation measures associated with this impact, call for acquisition of parcels or groups of parcels containing approximately 10 to 20 acres of appropriate and suitably degraded habitat and then completing restoration on these sites. In several instances, this mitigation measure is listed as reducing the impacts to Class II from Class I, and in other instances, the impacts remain at Class I. There is no analysis in the DSEIR of the feasibility, suitability or the possibility of even finding parcels that meet the criteria set forth in the mitigation measure. We believe that these parcels may not be available, and that to attempt to use them as mitigation measures is inappropriate. At the very least, the SLO

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Mr. Mark Hutchinson
January 3, 1997
Page Two

B1 | Land Conservancy, working on the Los Osos Greenbelt with the Department, the U. S. Fish and Wildlife Service (USFWS), and the Coastal Conservancy, should be consulted to determine if they have identified parcels that meet these criteria. Because the feasibility of acquiring these parcels is essential to successful mitigation as proposed, the SDEIR should provide a thorough analysis of acquisition feasibility and effectiveness in meeting CEQA mitigation goals.

B2 | The Department normally recommends that sensitive habitats be permanently protected at a 3:1 ratio and that restoration of appropriate habitat should take place at a 1:1 ratio. In this instance, there is inadequate treatment of this possibility. In addition, there is no mention of a funding source for the mitigation measures, nor is there adequate discussion of the length of time that may be needed to restore identified sites. We don't believe that the normal five-year maintenance period is adequate, and that mitigation may need to be for a much longer time, perhaps "in perpetuity."

B3 | We strongly recommend that the Environmentally Superior Alternative, the Turri Road site, be selected.

B4 | Impacts caused by this project to the habitat of the Morro Bay kangaroo rat, listed by both the USFWS and the Department as endangered, the Indian Knob mountain balm (State-and-Federally-endangered), and the salt marsh bird's beak (State-and-Federally-endangered), require consultation with the Department pursuant to the California Endangered Species Act (CESA). If development activities associated with this project result in "take" of these species, a Memorandum of Understanding (MOU) and Management Authorization (MA) pursuant to Section 2050 et seq. of the California Fish and Game Code must be developed between the County of San Luis Obispo and the Department. If the Morro Manzanita, under consideration for listing as endangered by the California Fish and Game Commission, is listed, this species will also have to be included in the MOU/MA noted above. The USFWS will also need to be consulted on their requirements pursuant to the Endangered Species Act for Federally-listed species. The SDEIR should be revised to accurately reflect these requirements.

B5 | Any work within the banks of Los Osos Creek required by the Turri Road site will require a streambed alteration agreement with this Department. The Department has direct jurisdiction under Fish and Game Code sections 1601-03 in regard to any

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Exhibit 1, p.22

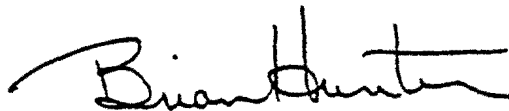
Mr. Mark Hutchinson
January 3, 1997
Page Three

proposed activities that would divert or obstruct the natural flow or change the bed, channel, or bank of any stream. Formal notification pursuant to Fish and Game Code Section 1601 et seq. should be made after all other permits and notifications have been obtained. This notification (with fee), and subsequent agreement, must be completed prior to initiating any such changes.

35 The U. S. Army Corps of Engineers also has jurisdiction over the discharge of fill to streams and wetlands under Section 404 of the Clean Water Act. If work is to be done in a creek, we recommend that the Corps be notified to determine if they have jurisdiction and if they require a permit for the project.

Department personnel are available to discuss our concerns further. Please contact Jim Lidberg, Associate Wildlife Biologist, at (805) 528-0782; Deborah Hillyard, Plant Ecologist, at (408) 726-3847; or Carl Wilcox, Environmental Services Supervisor, at (707) 944-5525.

Sincerely,



Brian Hunter
Regional Manager
Region 3

cc: Ms. Kate Symonds
U. S. Fish and Wildlife Service
Ventura Field Station
2140 Eastman Avenue, Suite 100
Ventura, California 93003

Ms. Tiffany Welch
U. S. Army Corps of Engineers
Los Angeles District
2151 Alessandro Drive, #100
Ventura, California 93001

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JAN - 7 1997

S.L.O. COUNTY
PLANNING DEPT.

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California Native Plant Society

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DEC 31 1996

S.L.O. COUNTY
PLANNING DEPT.

TO: Mark Hutchinson
Environmental Division
Department of Planning and Building
County Government Center
San Luis Obispo, CA 93408

FROM: David Chipping
Vice President for Conservation
California Native Plant Society
1530 Bayview Heights Drive
Los Osos, CA 93402-4412 (home address)
(805) 528-0362 ph/fax

RE: Comments on Draft Supplemental EIR
CSA9 Wastewater Treatment Facilities
State Clearing House No. 96061033

December 30th, 1996

Dear Mr. Hutchison:

The following comments are referenced to the document from Fugro West, November 1996. CNPS finds the document to be thorough but flawed, and finds a particular problem with the number of impacts which are classified as Class II impacts that CNPS considers as Class I impacts.

F1 3.6.2 a The statement that the Calle Cordoniz site "avoids sensitive species habitat" is wrong. The site is occupied by Morro manzanita, and Indian Knob mountain balm occurs along the uphill margin of the site. Even if the plant is not 'taken' in construction, the habitat is taken.

F2 3.6.3 c. As in 1.4.2: The disturbance to Los Osos Creek would be minimized if force mains are suspension-bridged across the wetlands rather than buried beneath them. This will prevent the engineering problems that will be found in trying to work with water saturated sand, and will also enable pipeline to be repaired without pulling out the corridor.

F3 3.7.2 Does the addition of methanol have any effect on the quality of effluent apart from nitrogen control, and if so, is this addressed?

F4 4.2 This is the first of many mentions of coastal scrub, and systematic lack of recognition of Coastal Dune Scrub, which is considered as a distinct community by the Department of Fish and Game (Holland) and by the California Native Plant Society. This omission is probably due to the fact that the Native Plant Society has not yet processed coastal dune scrub plant communities into the new data base was used as the basis of plant community descriptions (Sawyer and Keeler-Wolf). The new system descriptions are species-driven rather than habitat-driven. The consultant and the Lead Agency should be made aware that Jones and Stokes, in studying the area, have submitted quantified plot data on dune scrubs.

F5 The statement that willows are sparse downstream is in error. The abandonment of part of the farmed floodplain on the Martinez Property is resulting in a dense willow woodland that will have 100% canopy cover. Such a woodland already exists just west of the Turri Road site.

F6 Although it is stated that saltwater and brackish habitats are 'a major concern', treatment in the body of the document is superficial. (See comments on 5.2.2.5 below)

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Dedicated to the preservation of California native flora

F7 | 4.3.1a It would appear that the Coastal Dune Scrub sites (Pismo and Cardoniz) are in direct violation of Goal 9d. Not only is there no buffer, the sites are actually taking "environmentally sensitive areas".

F8 | 4.3.1c It appears that the LUE/LCP would prevent construction of the Cardoniz site, and probably the Pismo site on the basis that Treatment plants are not allowed in SRA's or environmentally sensitive areas. Is this discussed? While the map overlay places the edge of the SRA to the south of the Cardoniz site, the logic and definition of the coastal plan should have included any habitat loaded with endangered species within such a zone. This inconsistency between map and policy should be indicated.

4.3.4 Discussion of Policy appears to be uneven. There is inconsistency in the implementation of Policy 2, as quoted, and Policies 27, 28, 33, and 34.

Policy 27: Protection of Terrestrial Habitats

Designated plant and wildlife habitats are environmentally sensitive habitat areas and emphasis for protection should be placed on the entire ecological community. Only uses dependent on the resource shall be permitted within the identified sensitive habitat portion of the site. Development adjacent to environmentally sensitive habitat areas and holdings of the State Department of Parks and Recreation shall be sited and designed to prevent impacts that would significantly degrade such areas and shall be compatible with the continuance of such habitat areas.

Policy 28: Protection of Native Vegetation

F9 | Native trees and plant cover shall be protected wherever possible. Native plants shall be used where vegetation is removed.

Policy 33: Protection of Vegetation

Vegetation which is rare or endangered or serves as cover for endangered wildlife shall be protected against any significant disruption of habitat value. All development shall be designed to disturb the minimum amount possible of wildlife or plant habitat.

Policy 34: Protection of Dune Vegetation

Disturbance or destruction of any dune vegetation shall be limited to those projects which are dependent upon such resources where no feasible alternatives exist and then shall be limited to the smallest area possible. Development activities and uses within dune vegetation shall protect the dune resources and shall be limited to resource dependent, scientific, educational and passive recreational uses. Coastal dependent uses may be permitted if it can be shown that no alternative location is feasible, such development is sited and designed to minimize impacts to dune habitat and adverse environmental impacts are mitigated to the maximum extent feasible.

Revegetation with California native plant species propagated from the disturbed sites or from the same species at adjacent sites shall be necessary for all projects.

F10 | 4.3.7. CNPS takes strong issue with the statement that mitigation for biology can be mitigated at all, let alone mitigated in an adequate manner. This again results in Fugro's lack of recognition of Coastal Dune scrub as a unique community of highly limited area.

F11 | 5.1.9. (bottom) Idriss is cited but reference is not found in section 8

F12 | 5.1.3.3 C-GEO-1 The statement that cut and fill for the Cardoniz site has not been quantified, and that "the amount of grading required for implementation would be greater than the Pismo site" would appear to be a potential for conflict with the habitat of Indian Knob Mountain balm. The exact footprint of disturbance must be defined before impacts can be assessed.

F13 | 5.1.3.4 T-FM-GEO-9 The EIR should identify why suspension bridging is not being considered as an alternative to disturbance of the wetlands. Installation by micro-tunnel may be possible, although will require major drainage control in the jacking pits. Where will mud tainted drainage be dumped? At what season?

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Exhibit 1, p. 25

F14 5.2.2.3 C-WR-3 While addressing the impacts to Calle Cordoniz, the EIR should consider the impacts to areas further downhill. At the present time there are major runoff problems in the vicinity of Los Osos Valley road, and the project will add to these problems, as will any project whose solution is to dump discharge to the street. There appears to be no assessment of this cumulative impact, and no consideration of either delayed release storage on site or in-situ disposal. However these mitigations may aggravate biological impacts.

F15 5.2.2.5 The conclusion that raising the water table by 2 feet along the bay fringe has less than significant impact is unfounded, as there is currently groundwater breakout along Ramona Drive near its western termination. It was by no means proved in the Metcalf and Eddy study that this would not happen. Mitigation would involve selective pumping of the shallow aquifer. The area is also habitat for Salt Marsh Bird's Beak, a plant that has extremely narrow salinity requirements.

F16 5.3.3.1 The dominants list on page 5.3-4 might indicate Morro manzanita, Ceanothus cuneatus, and Prunus fasciculata var. punctata as community dominants in many areas.

F17 5.3.3.2 b. Coastal dune scrub should be defined as a specific plant community. Thus CNPS would like to see the subheadings raised to a higher level than the apparent WHR classification that is used here. This recognition is vital in terms of the recognition of this community as endangered, and would not 'hide' the community amongst the vastly more common Coastal Scrub communities that are not so endangered.

F18 5.3.3.2 d. The document should point out that Veldt Grass Grassland is a recent replacement of the endangered dune communities

F19 5.3.3.3.a. As far as CNPS is aware, Beach Spectaclepod only occurs in foredune complexes along the open shore (not bay shore), and should not be expected in the project area.

CNPS is extremely pleased with the consultant's inventory of non-vascular plants.

F20 5.3.3.4 The botanic studies appear to be thorough. However, in all site descriptions there should indicate the time of year when surveys were made, so that the probability of missing spring annuals can be assessed. There are also late season flowers such as Eriastrum densifolium present, but which could be missed in an early season survey. The sites have a long list of 'Special-status plants', and the sites all lie within an area being considered as an HCP (Los Osos Greenbelt Study, Land Conservancy of San Luis Obispo as project manager). Since the Fugro project was initiated, Jones and Stokes were contracted for a vegetation community survey. The final for this EIR should note any apparent conflicts or 'differences among experts' regarding these studies of the habitat.

F22 Regarding Morro Blue Butterfly, CNPS concurs with the observations of Dennis Sheridan that the butterfly is present. It appears wherever Beach Silver Lupine (*L. chamissonii*) is present. Unfortunately we have no formal validation of this, just observational information from CNPS members that small 'blues' are frequently seen on the bushes. If there is another 'blue' using the habitat, there may be some confusion. CNPS therefore agrees with the position taken by Fugro on page 5.3-14.

F23 Top of page 5.3-21 The sentence at the top of the page is incomplete.

F24 5.3.4.3 The Lead Agency, in considering policy under CZLUC should note that Policy 34 is designed to prevent development on dunes. (see above)

F25 5.3.5.2 CNPS has serious reservations about the quality of this portion of the document, and finds it to be unsatisfactory. The idea that an EIR would consider part of the mitigation to be a quantification of the resource is an apparent violation of the intent of CEQA. CNPS expects specific site impacts to be quantified as part of the impacts analysis, and only then can mitigation be considered. It is critical that the losses are evaluated for each option before the mitigations are defined (as the mitigations are for those losses), and the EIR is the vehicle for the evaluation.

F26 P-BIO-1 CNPS notes that Class II impacts are assigned to the loss of "coastal scrub". As the community is "coastal dune scrub" the only mitigation could be removal of existing development, as there is no more dune sand out there to serve as a mitigation area. Note once more that this dune community is considered one of the

rarest and most threatened plant communities in California (Dr. Todd Keeler-Wolf, Dept. Fish and Game, personal communication). Once the 'dune' is accepted, Policy 34 of CZLUC comes into play.

f27 P-BIO-2 As disturbance usually causes type conversion to Veldt Grass, and the permanent loss of habitat, the mitigation would have to include an on-going and funded exotics removal program. If this is not in place the impacts must be considered Class I.

f28 CW-BIO-1 What is the proof that a change of 2 feet in the water table will not effect Bird's beak habitat? The conclusion of Class III impact is unfounded. In previous studies is that consultants have concluded the impacts are too complicated to model (Morro Group), but there is no guarantee that the impacts are mitigatable. As Bird's Beak has very narrow habitat requirements, migration of the salinity gradient will probably cause extirpation of the populations as all potential 'new' sites will be occupied by other genera.

f29 5.3.6 and the consideration of Class II impacts discussed on pages 5.3-25 through 5.3-30. (This applies to the Pismo and Cordoniz sites, and not to the Turri site). The "single mitigation program that may mitigate most if not all of these impacts" appears to exist only in the imagination of the consultant. See discussion of Tier Three impacts

Tier One Impact Mitigation: The consultant considers limiting the take of habitat in the project area a mitigation against the take of habitat in the project area. In other words, if the project requires 90% take within the project area, and the contractor does not destroy 10%, the extra 10% is mitigation against the 90%. This is not a significant mitigation.

f30 Tier Two Impact Mitigation: The idea of mitigation by undoing damage within the projects by restoration is a good one, except that project design should be set up so that there is no 'wasted' space... to have this space implies an unacceptably large site envelope. Thus optimal site design should reduce the opportunity for Tier Two impacts. In addition, the altered hydrologic regime, constant traffic etc. will render the long term protection of 'native' restoration problematic at best.

f31 Tier Three Impact Mitigation and section 5.3.6.1 P-BIO-1: The identification of so many biological impacts as Class II appears to hinge on the viability of Tier Three Impact Mitigation. While an excellent idea accepted as mitigation under CEQA, there is no part of the EIR Project, that identifies this as a funded option. The project is supported by local taxes paid by most residents under protest that the project is already far too expensive. Thus there is, regrettably, almost no chance that the taxpayers will fund more land for acquisition as a mitigation. Thus the probability is low that this idea would be funded, and even lower that appropriate parcels could be found.

The greatest habitat loss offsets would be found in obtaining conservation easements on pristine lands about to go under the developer's bulldozer. Why is this option not discussed, especially as is a vital component of the Los Osos Greenbelt study.

f32 The EIR should identify the cumulative impacts of the habitat losses with planned development to the buildout of the General Plan. These cumulative impacts would reveal that most of the hypothetical 'additional habitat' is to be developed, and that these developments might also seek their hypothetical mitigation offsets. The only conclusion that CNPS can find is that nearly all impacts on pages 5.3-25 through 5.3-30 should be changed to Class I, unmitigatable.

f33 CNPS stresses that the EIR lacks a cumulative impact analysis, and therefore fails a requirement of CEQA (see 15065 (c) CEQA Guidelines). It is strongly suggested that consultant and Lead Agency examine the General Plan and the cumulative take of Coastal Dune Scrub under that plan.

f34 page 5.3-56 RIP-BIO-5(a) This mitigation (replace habitat) suggestion follows the correct conclusion that the take of habitat is Class I, and therefore cannot be mitigated. The problem is that no-one has been able to define exactly what K-rat habitat is, and certainly no-one has successfully brought back a dune scrub community from another state in the world of windborn Veldt Grass seed. CNPS does not think that revegetation can be achieved without a hands-on management plan (mainly for exotics removal) that would have to be budgeted as part of the sewer project

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Exhibit 1, p. 27

F35 Will the mitigation space be the same space that will be used for replacement of the oak? Another major weakness in the off-site mitigation proposal is that several plant communities will have to be introduced to the same space, and these may or may not be the same as those needed to mitigate against animal loss. There is no mention of the required complexity of the mitigation space, or of the probability of achieving all Class II mitigations in the same space. By park policy, mitigation cannot take place within the State Parks.

F36 page 5.3-57 RIP-BIO-8 Is the site requirement for Morro Blue butterfly going to be the same as for K-rat? At the present time Dune Lupine is about the only plant to successfully compete with Veldt Grass, and occurs in this association at the Pismo site. Surely the consultant does not intend to recreate this assemblage? CNPS could not find P-BIO-1(a) 1(a)... only P-BIO-1. We presume this is a typographic error.

F37 Section 5.10 Reading that these plants are compatible with surrounding land uses negates the fact that the Cardoniz site is 'used' as a key visual backdrop, and is also used by wildlife. We certainly think that "situated across from the sewer plant" will not appear in the Multiple Listing Service lot descriptions, and to that extent the use is not compatible.



David H. Chipping

EXHIBIT D

EXPERT COMMENT

SUBMITTED TO

COUNTY OF SAN LUIS OBISPO

IN RESPONSE TO

FINAL SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT

FOR THE

CSA 9 WASTEWATER TREATMENT FACILITIES

FEBRUARY 1997

- | | |
|------------------------------|-----------------------------|
| 1. Thomas Rhuer, Ph.D. | Submitted March 12, 1997 |
| 2. William C. Bianchi, Ph.D. | Submitted May 6, 1997 |
| 3. Wade D. Brim, P.E. | Submitted February 20, 1997 |
| 4. Wade D. Brim, P.E. | Submitted March 10, 1997 |

A-3-SLO-97-040
Exhibit 1, p.29

L.E. Moody report
R.C. Graham 1994

March 12, 1997
San Luis Obispo County Board of Supervisors

Dear Honorable Supervisors:

Once again I find it necessary to draw to your attention facts which should have been discovered by the firm Metcalf & Eddy, Inc. during their work in preparation of the report "Hydrogeologic evaluation of the proposed Broderson recharge site Los Osos, California." It is truly sad when the citizens have to do the technical research for a firm that can not understand the geology, stratigraphy and soil vadose zone relationships which they are PAID to do and we citizens receive nothing except the continuing ridicule of our scientific expertise by County Engineering and by the Regional Water Quality Control Board staff simply because the scientific information provided does NOT fit their preconceived paradigm. *agenda agenda*

The report completely ignores two major geologic studies which bear directly upon an understanding of the nature of the problems of waste water disposal on the dune sands of Los Osos, CA. These two studies are cited below and copies are provided. *MO solid green light*
L.E. Moody and R.C. Graham, 1994. Pedogenic processes in thick sand deposits on a marine terrace, Central California. pages 41-55. in Whole regolith pedology. SSSA Special Publication number 34, Soil Science Society of America, 677 S. Segoe Road, Madison, WI 53711 and L.E. Moody and R.C. Graham. 1995. Geomorphic and pedogenic evolution in coastal sediments, Central California. Geoderma 67:181-201.

These two reports clearly indicate that the most probable explanation for interpreting the information presented in Figure 4.4 is the presence of old marine terraces. Three of these terraces correspond to the three layers which are drawn by M&E as discontinuous. These terraces are discontinuities in the depositional nature of the surficial deposits of the Los Osos area. They serve as zones for predominantly HORIZONTAL rather than primarily vertical flow of water in this area. Dr. Moody immediately recognized this fact when she saw Figure 4-4. This horizontal flow of water means that most of the applied waste water will NOT recharge the ground water basin of Los Osos. Instead, it will flow horizontally and probably emerge near or at the soil surface further down the slope below the Broderson site. *116 3
Fig 4-4
solid
is a
is
possible*

In addition to the predominant horizontal flow of water along these only surfaces, Dr. Moody pointed out that at low tide it is a common observation to find clear fresh water flowing directly into Morro Bay from springs which emerge below the normal high water line of the Bay. The two reports cited above explain that this water originates as water which has infiltrated the soil, moved into naturally formed water conduits that emerge in the Bay. These naturally formed conduits are often surrounded with indurated sand and are a result of oxidation and reduction of the small amount of iron in the sand dune sediments over a long time period. These natural conduits are common in the area of the Broderson site as well as the other areas along the coast on the dune sands. The presence of these natural conduits will result in direct flow of recharge water into Morro Bay rather than downward to recharge the ground water basin of Los Osos. *direct route to Bay
natural conduit*

Morro Bay flow low tide

saltwater intrusion

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Exhibit 1, p. 31

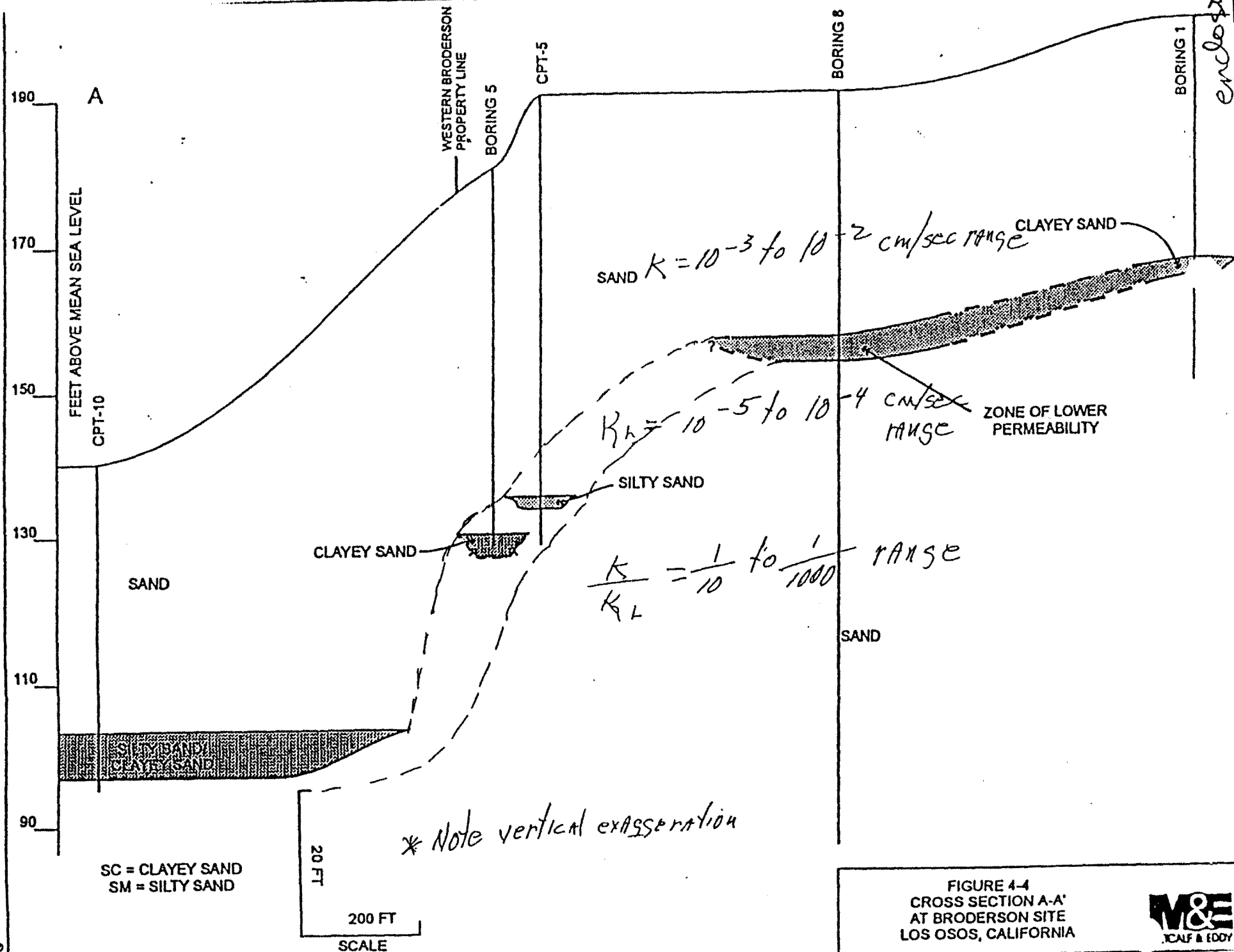


FIGURE 4-4
CROSS SECTION A-A'
AT BRODERSON SITE
LOS OSOS, CALIFORNIA



enclosure

ask what it means

The report covers its base in the sentence "The overall effect of numerous local confining beds is equivalent to that of an aquifer system which is homogeneous but has vertically anisotropic hydraulic conductivity (USGS, 1988)." from the bottom of page 11. This is really a technical engineering legalese to say what I have stated on the previous page.

The final result of the data from the M&E report leaves one obvious conclusion NOT stated. The waste water recharge at the Broderson site will act very much like a toilet when it has been flushed and the chain has caught in the tank. The water will continue to run. Eventually, the toilet bowl will fill up to the brim. If no one stops the water flow in the tank, the water will continue to overflow the toilet onto the bathroom floor. The waste water applied at the Broderson site will NOT recharge the lower ground water basin of Los Osos, CA. Instead, the applied waste water will fill up and mound within in the community. This water saturation of the sand sediments below the Los Osos community will serve as a fluid medium for greatly exacerbating any adverse effects from earthquake activity in the area. This will greatly increase the potential damage from any seismic activity in the future. The result will be the liquefaction of a portion of the community down gradient of the Broderson site and to the sides of this area as well. Are you willing to make the County legally responsible for causing this effect? Is the Regional Water Quality Control Board going to assume legal responsibility for the harm resulting from waste water recharge resulting in liquefaction of these sediments and destruction of homes in the Los Osos community just for the simple expedient of recharging the waste water at the Broderson location? Horizontal movement of water will increase the overall area which will be affected by liquefaction.

The report "...predicted a maximum mounding of 145 feet at the site with the height of the mounding decreasing radially away from the site to approximately 2 ft along the shore of Morro Bay." (page iv in center). This conclusion supports the idea of an overflowing toilet bowl for the community. Also, it is a good example where engineers become so wedded to their computer models that they can not recognize the reality. M&E's models ASSUME completely uniform sediments. They ignore horizontal flow of water. This horizontal flow will mound the water further down slope with possible outcropping of the water at the surface of the old marine terraces. The report does acknowledge the potential for part of the potential damage due to liquefaction by stating "...the projected rise in ground water levels as a result of mounding are estimated to be below soil zones found to be subject to liquefaction, except in the low lying areas near Morro Bay, where soil zones may already be potentially liquefiable under current groundwater conditions." (page iv 2/3 down the page). Will the County allow more homes to be built in these liquefaction prone areas of the community when a new sewer discharges waste water to the Broderson site? If so, is the County willing to be legally responsible for future damage when this report clearly warns that existing homes in the current liquefaction zone are already prone to considerable damage?

The higher projected waste water recharge rate is "marginally suitable". This is hardly a glowing recommendation for an engineering firm that is so certain that all of the sands are equally permeable. Why are ~~the~~ having to hedge their statements so carefully?

They

"Diversion of the effluent to Los Osos Creek during dry periods when all such diverted flow percolates into the ground water basin (thereby avoiding direct discharge into Morro Bay) will reduce flows reaching the Broderson infiltration basins and provide added operational flexibility." (page iv and v last sentence of the executive summary). This ASSUMES that water applied at the Los Osos Creek will flow vertically downward to fill and recharge the lower groundwater basin. Water infiltrating into Los Osos creek in all probability is flowing horizontally along old terrace surfaces or in natural conduits and may emerge directly as springs within Morro Bay. Nothing in the report would negate this conclusion. This would mean NO recharge of the lower aquifer.

"A design infiltration rate of 2 ft/day was determined for recharge operations at the site." (page iv near top). Since sands commonly have about 50 % pore space which can be filled with water, this means that when the soil is full of water, the 2 feet of waste water will completely wet 4 feet of sandy material each day. In 100 days (slightly over 3 months) this water if it moved entirely in a vertical direction would move 400 feet downward. In 6 months (about 200 days) the waste water would move 800 feet vertically downward if there were no horizontal flow. By their own data this situation can NOT meet the criteria set by the Regional Water Quality Control Board (RWQCB) for waste water recharge and reuse of water. The RWQCB requires a 6 months retention of water before it can be reused. This water will contact the existing ground water long before 3 months of retention in the vadose zone above the ground water.

The report focused so clearly on near surface infiltration that it ignored the more serious question for Los Osos. Will any of the waste water discharge at the Broderson site actually recharge any of the lower aquifer? Since the report indicates "marginally suitable" conditions for infiltration, it is very intriguing why no mention is made of the rate of water movement into the deep aquifer for actual recharge. The lower aquifer is covered with silts and clays which will prevent movement of water through it at the rate of 2 feet per day. If ANY water actually moves through this cap on the lower aquifer, it is hardly likely to be more than 0.2 feet of water per day. What happens to the other 1.8 feet of water per day? This is the water which will overflow the toilet bowl and serve to mound within the community. This water according to the RWQCB's own criteria is NOT suitable for domestic reuse. Where will we obtain our water supply?

"However, anomalous pore pressure readings were encountered in each site CPT sounding. These readings possibly indicated zones of high soil moisture content having a potential to perch groundwater." (Page 16 near the center). These direct observations substantiate the research of Moody and Graham which points out the existence of buried marine terraces which serve as horizontal surfaces for lateral flow of water, rather than for vertical flow of water.

Unfortunately, the methods employed for testing of these sites has not precluded any of the water from moving laterally rather than vertically during the infiltration testing. Measured infiltration rates were as low as 0.1 inches/hour or 2.4 inches/day. This rate is hardly suitable for

handling waste water discharge rates of 2 feet or 24 inches per day. "Liquid transmission through the vadose zone will generally occur at a rate significantly slower than the hydraulic conductivity of those materials at saturation." (Page 38 near the center). This is true. Consequently, for greater confidence, they have estimated a rate of only 1/2 the measured rate. Unfortunately, there is an intentional effort at obfuscation by not reporting all water movement in direct units of feet per day. This allows the information in the report to be hidden under various units of centimeters per second, inches per hour, feet per day and gallons per day per foot squared. Why was this done? What are they trying to hide?

"The 100 foot sample from Boring 8 was logged in the field as a well indurated sand (SP)." (Page 45 near the center). This observation supports the water conduits found by Moody and Graham (papers cited previously). The indurated or hard nature of the sand is due to the oxidation and reduction changes of the iron which has in essence created a weakly cemented iron coating of sand grains which serve as a pipe to conduct this water. The water flowing through these preferential channels would not have time to react to assure the removal of viruses from the sewage treatment water discharge.

"...soil zones that are considered susceptible to liquefaction were encountered within about 5 to 6 feet of the bottom of 7 of the 17 CPTs. Three of those zones were 50 feet or greater in depth." (Page 4 next to the last paragraph of the Appendix A from the Fugro West, Inc. report). "Based on the available data and M&E's estimates that the recharged ground water levels are likely to be at least 20 feet below the deepest CPT, the potential for liquefaction below the bottom of the CPTs probably is not a significant hazard to near-surface structures." (Page 4 and 5 of Appendix A). "If the rate of infiltration locally exceeds the soil permeability, then localized perched-water conditions could result. If that perched-water condition occurs at depth that is susceptible to liquefaction, there may be an associated hazard for structures positioned above that location. It may be possible to mitigate that potential hazard through engineering design or setback of the spreading ponds away from existing or proposed structures." (Page 5 of Appendix A in the middle of the page). They go on to emphasize that the hazards probably increase during phase 2. These quoted comments support the suggestions made above regarding the increased potential for seismic hazard at the Broderson recharge site.

All of the nice graphs and fancy computer programs and displays of information do NOT answer the questions posed above. It would be appropriate to heed the suggestion made by Fugro West, Inc. to mitigate the potential hazard through set back of the spreading ponds away from existing or proposed structures. In fact, the best thing to do would be to locate these much higher on the hillside (poor choice due to higher pumping costs to drag water up hill), or to move the location of the recharge site to a more suitable location away from high housing density where the liquefaction problem will be must less likely to impact residential structures.

Thank you for this opportunity to share my scientific and technical expertise with you. As you are hopefully aware, I served your board as a member of the two previous Technical Advisory Committees on waste water alternatives to the Los Osos community. My service to your board

has been a part of my professional activity as a member of the Soil Science Department at Cal Poly State University, San Luis Obispo, CA. Although I reside within the community of Los Osos, my expertise has been stated in a careful manner not to contain my own biases. I will make a personal observation below.

I have always indicated that something needs to be done with the low lying areas of our community with high ground water. This does not mean that all parts of the community must be treated in the same manner, because not all parts of the community have the same problem, nor do they have the same soil, vadose zone or ground water conditions throughout. A recharge site closer to the newly cited treatment plant would be a much more reasonable location with much less cost to pump water up hill. Such a location would greatly reduce the problems of residential structural damage due to possible liquefaction down gradient of the Broderson site. The community of Los Osos has to live with what ever you decide to impose upon us. Let it be a wise and carefully considered imposition which will work long into the future.

Thank you again,



Thomas A Ruehr, Ph. D.
Professor
Soil Science Department
Cal Poly State University
San Luis Obispo, CA 93407

Residence: 2276 Palisades Avenue, Los Osos, CA 93402.

William C. Bianchi, PhD
4375 San Simeon Creek Road
Cambria, CA 93428
V/805-927-8006
F/805-927-1669
e-mail: villabianchi@thegrid.net

5/6/97

To: County Board of Supervisors

From: *W.C. Bianchi*

The following comments on the selection of the Broderson site for secondary effluent percolation ponds are re-submitted on this date as I understand my statement at the April 15th Board meeting was not taped and therefore deleted from the record.

First, the figure that Metcalf & Eddy projected for the Board's review and interpreted as showing that the clay layering was discontinuous was biased by drawing the vertical scale 10X that of the horizontal. If plotted 1 to 1 the continuity is much more evident. The fine textured layer found at 35 feet beneath the site has it's origin of deposition associated with an old sea level high above the current level. This layer could easily have sufficient hydraulic resistance and areal continuity to allow a perched water table to develop under the ponds and prove to control the pond percolation rate well below that of the surface rates estimated by M&E.

More important, were perching to occur, down slope lateral saturated flow would be the primary escape for the percolated water. This could lead to the possibility of water surfacing in the neighborhood of homes and streets and also could affect seismic stability of the slope.

The only valid way of determining the performance of this site would be to establish a pilot pond of sufficient scale in order to test the hydraulic characteristics and pond design as close to operational conditions as practical.

Second, layer continuity or shingling of clay layers down slope would provide shallow preferred lateral paths for water to flow toward the Morro Bay estuary. This would not only augment the bay front high water table but also accelerate nutrient entry into the bay.

Third, the original project's intent for sewerage had an objective of supplementing the basin water resource with disposal of tertiary treated effluent. Recharge of secondary effluent does not meet the State guide lines for potable re-use. Also, there is sufficient hydrogeologic information to believe that only a fraction of this recharge would ever reach the lower aquifer from which most of the community's water supply comes.

Fourth, the County Water Advisory Committee is currently reviewing RFP's for the County Master Water Plan, and waste water reuse and recharge is a significant element of future water availability for the County. The possibility that polished tertiary treated water could be injected through wells into the lower production aquifer should be investigated from both a resource enhancement standpoint but also as a way of mitigating the problems present in the current ponding project.

A-3-520-97-040
Exhibit 1, p. 36

To: San Luis County Planning Commission
Reference:: County Service Area 9 County File # D950245D Los Osos Sewer
Broderson Discharge/recharge site.

The development of the communities in the Urban Reserve area overlying the Los Osos ground water basin from the early 1920s has been very much a 'laissez faire' situation on the part of the county. Developers have been permitted to create small lot subdivisions without concern for overall integrated community development or adequate construction, utility or sanitary standards. There is every evidence that this trend will continue in spite of efforts of concerned citizen groups who have worked tirelessly to achieve and maintain more orderly development.

The appropriate concerns of the Regional Water Quality Control Board that this trend would eventually lead to a threat to the "Waters of the State" led to the Resolution 83-13. Unfortunately that board has inappropriately treated this as a mandate for sewerage the entire community, even though no proven current threat exists.

As a result of this action a number of "studies" have been done to prove the threat and avoid or meet the mandate. All have been limited in scope and none has been adequately funded. The principle that "there is never enough time or money to do the job right, but always enough of both to do the job over" is certainly at work here. As a registered Civil Engineer I have been a member of a number of Citizens' advisory groups and County Technical Advisory Committees and carefully reviewed all of the reports on these studies as well as the latest work.

Since all water used in the community is returned to the ground water through the current septic systems; one of the primary requirements of any community sewerage system is that the collected wastes must be returned to the ground water basin in a safe and efficient manner to protect the drinking water supply. A sewer can only be considered a solution to waste disposal in this community if this condition can be met

Two sites are currently under consideration for discharging the treated waste water to the ground water basin. The Los Osos Creek site can only handle about 12% of the flow and only during the driest period of the year.

The Broderson Site is proposed as a location to discharge all of the waste water collected over 2000 acres of the "Prohibition Zone" onto a 40 acre installation at the wettest period of the year. Concentration of flows at a rate of 50 to 1 can be expected to lead to severe problems of:

1. Erosion due to overtopping,
2. Erosion due to piping and down hill surfacing
3. Rising water due to increased hydraulic head below the spreading grounds,
4. Slippage of ground surface due to lubrication of subsurface clay layers.
5. Liquefaction of soils in the lower lying areas in the event of earth movement
6. Potential health hazards from flies Mosquitoes and body contact with effluent
7. Nuisance from the unpleasant sights, sounds and smells from this facility.

Surface and subsurface inflow into the recharge basins can be expected to aggravate all of the above conditions.

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Exhibit 1, p. 37
enclosure #

The voluminous Metcalf and Eddy report "Hydrogeologic evaluation of the proposed Broderson Recharge Site Los Osos, California" (Draft report Feb. 16, 1996) does nothing to alleviate the concerns listed above. A computer model does not assure accurate prediction of the way a system will function without adequate real time measurement of parameters. This is especially true where initial assumptions are questionable.

- This report states that surface runoff is minimal due to deep percolation through the "excessively drained sandy soils" In view of the massive erosion rills above Highland at Ravenna, Broderson, and Alexander; the deep flow channels below Los Osos Valley Road North of the ends of these streets, and annual flooding at El Moro and Cuesta this does not appear to be a valid statement.
- No mention is made of the effect of the Eucalyptus grove on the infiltration potential of the site.
- Although the area (I) directly below the proposed site is not included in segment 1; no mention is made of the effect of the discharge basins on the septic systems in this area.
- This report states that 124,000 square feet is adequate to handle the ultimate 1.85MGD anticipated. This is approximately 3 acres not the 40 acres of the site. This is a concentration of nearly 700 to 1 over current percolation rates. Even with a Nitrate reduction at the treatment plant of 90%, this constitutes a point discharge of about 25,000 pounds of nitrogen per year which soil bacteria can not be expected to handle because of the large flow rates.
- The report states that areas subject to liquefaction do exist. Since the tests were limited in number and areal extent, the degree of hazard is unknown.

Potential liability to property owners from use of this site for the purposes is very great; including such real and potential hazards as well as class action related to loss in property value.

Dated: 20 February, 1997

Wade D. Brim P.E.

A-3-SLO-97-040
Exhibit 1, p. 38

~~enclosure~~ #3

To: San Luis Obispo County Planning Commission.
Reference: County Service Area 9, County File #D950245D Los Osos Sewer
Broderson Discharge/Recharge Site
Honorable Members,

In my presentation to your board on February 27, I mentioned that my qualifications to speak included extensive association with this project as a member of the duly appointed citizens Technical advisory Committee (TAC). Although in my presentation I limited my remarks to evaluation of the Broderson recharge site, I feel I must make a statement regarding the TAC's findings regarding the entire project under consideration. The TAC found unanimously that there was: 1) no correlation between population and Nitrate concentrations within this ground water basin, 2) no foundation for the Metcalf and Eddy (M&E) finding of more than 60% of the nitrates coming from on-site septic systems, 3) no generalized condition of high nitrates throughout the ground water basin (no production well, deep or shallow is producing water with excess nitrates) and 4) that the costs reported by M&E were unrealistic, in that they did not include all of the costs to the property owner. Of the few observation wells which have shown higher than permissible nitrates none extend more than ten (10) feet into ground water.

Clearly this does not apply to the specific site evaluations stated in the agenda but does speak to ground water conditions and the care used in justification of the entire project.

However two remarks made by the representative of M&E at the Feb. 27 meeting refer to objections I made and need clarification.

To understand the first one, it is necessary to understand the definition of nitrate concentration. The original Federal Drinking Water Standards defined the upper limit of nitrate (NO_3) as 45mg/l (milligrams per liter). Current references set the limit of nitrate as 10mg/l as (N). These terms mean the same thing and are often used interchangeably even in the same document and often erroneously.

The explanation is simple the atomic weight of nitrogen (N) is 14. The atomic weight of Oxygen (O) is 16.

Therefore the molecular weight of nitrate (NO_3) = $\text{N}(14) + 3\text{XO}(48) = 62$. Thus a molecule of nitrate weighs 4.5 times as much as an atom of Nitrogen.

The Regional Water Quality Control Board (RWQCB) in resolution # 83-12 defined permissible discharge of nitrate-nitrogen as 80 grams per acre per day. This is therefore the current legal standard.

For the 12 acres proposed in this project this is 960 grams per day. This is based on no discharge exceeding drinking water maximums of 10mg/l.

The M&E representative stated that the discharge of nitrate-nitrogen will be 7mg/l or 7ppm (parts per million)

One million gallons per day = 8,330,000 #/d of water or 3,782,000,000g/d

therefor the planned discharge is $7 \times 3,782 = 26,500$ grams of Nitrate-nitrogen per MGD

Therefore, for the 12 acre proposed site this is 2,210 grams per acre for each MGD. For the ultimate anticipated discharge of 1.85 MGD the loading per acre becomes 4,080 grams per acre.

This is more than four times the maximum allowed by resolution 83-12.

This is also 40,000# of nitrate nitrogen per year concentrated on 12 acres or 3,300 #/acre/year.

My second point has to do with the remark by the representative of M&E that the rate of vertical movement through the soil are 200 times as great as are horizontal rates. This is a serious error from someone charged with the responsibility of a task of this impact on the community.

The generally accepted figure is that the horizontal transmissability is about 200 times the vertical. This is one of the reasons why we now have flooding in the low lying areas discharge of fresh water at the margins of the bay and rising fresh water in the bay.

Thank you for allowing me to make this additional presentation.

3/10/97

Wade D. Brim

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EXHIBIT A

COUNTY SERVICE AREA NO. 9 WASTEWATER TREATMENT FACILITIES COASTAL DEVELOPMENT PERMIT/DEVELOPMENT PLAN; ED96-002 (D950245D) FINDINGS

- A. The proposed project or use is consistent with the San Luis Obispo County General Plan and Local Coastal Plan because Public Utility Facilities are allowed under Table O of Framework for Planning in all the land use categories being considered as well as in the Estero area plan.
- B. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.
- C. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use.
- D. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because a wastewater treatment system is a public facility normally provided and expected in developed communities.
- E. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because South Bay Boulevard that serves the daily employee traffic for the wastewater treatment plant is a principal arterial, capable of handling all operational traffic generated by this use. Construction traffic through the community will temporary inconveniences but have been shown in the traffic studies prepared for the EIR to not create significant impacts.
- F. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act, because there are existing coastal access easements within the community that provide for access to coastal waters and recreation areas. In addition, the project itself will not interfere with coastal access and, to the extent that the project will enable the RWQCB to lift the discharge prohibition so that development may resume in the community, it will have the effect of increasing access to reasonably affordable housing in the coastal zone.

EXHIBIT NO. 2
APPLICATION NO. A-3-SLO-97-040
SLO Co. Findings
& Conditions

EXHIBIT M

COUNTY SERVICE AREA NO. 9 WASTEWATER TREATMENT FACILITIES COASTAL DEVELOPMENT PERMIT/DEVELOPMENT PLAN; ED96-002 (D950245D) CONDITIONS OF APPROVAL & MITIGATION MEASURES

APPROVED DEVELOPMENT

1. This approval authorizes a community wastewater treatment plant located at the south east corner of South Bay Boulevard and Pismo Avenue, rapid infiltration ponds for treated effluent disposal located south of Highland Drive near Broderson Drive, and the collection system of pump/lift stations and force main and gravity main pipe.
2. All development shall be consistent with the approved site plans, landscape plans, floor plans, and architectural elevations.

PROJECT WIDE

3. Mitigation Monitoring and Reporting. Mitigation monitoring shall be accomplished using a coordinated team approach. The team shall consist of the Environmental Coordinator, the Planning Director, and the County Engineer. Mitigation monitoring shall be accomplished in a manner that ensures oversight of all phases of the project, in order to guarantee the implementation and success of all required project mitigation measures. As required by Article 9 of the County of San Luis Obispo Environmental Quality Act Guidelines, mitigation monitoring shall be at the direction of the Environmental Coordinator, who shall take the lead in coordinating the efforts of the County Engineer and the Planning Director.

The County shall contract with an outside environmental monitoring consultant, whose functions will be to:

1. Provide persons with expertise and experience in each of the following disciplines:
 - a. Biological Resources
 - b. Air Quality
 - c. Drainage, Sedimentation and Erosion Control
 - d. Cultural Resources
 - e. Traffic
2. Depending on the discipline, act as an independent and objective preparer, reviewer, and/or implementor of mitigation plans.
3. Conduct in the field monitoring (including the preparation of required written reports) during and after the construction of the project.

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At the discretion of the Environmental Coordinator, the County may contract with certain individuals (e.g. archaeologist, biologist, erosion control specialist) to act as environmental monitoring team members, in lieu of including those disciplines in the contract with the outside environmental monitoring consultant.

4. At approximately twelve months prior to the availability of sewer hookups, the project proponent shall apply for Community Development Block Grant (CDBG) funding to assist with the cost of the individual sewer hookup for eligible, low income families.
5. [PEIR V-6] Prior to commencement of construction, a qualified soils engineer shall prepare grading and drainage plans designed to minimize erosion, sedimentation, and flooding potential during and after construction, in a manner consistent with Sections 23.05.034 - 036 of the Coastal Zone Land Use Ordinance, for review and approval by the Planning Director.
6. [PEIR V-6] Prior to commencement of construction, the County Engineer shall develop a plan for disposal of any excess excavated soil from the project as a part of final project design. The plan shall include the identification of a site or sites for placement of excess soil if it is not possible to otherwise use the material for fill on the project. Prior to placement of any excess soils, the County Engineer shall obtain all necessary permits for placement of excess soil at selected sites and shall consult with the Planning Director, the County Environmental Coordinator, the U.S. Fish and Wildlife Service, and the State Department of Fish and Game prior to final disposal site(s) selection.
7. [PEIR V-6] During project construction, all grading activities shall be consistent with the approved grading and drainage plans, and consistent with the requirements of Sections 23.05.034 - 036 of the Coastal Zone Land Use Ordinance.
8. [GEO-1] NPDES Construction Activity Storm Water Permit During project construction, appropriate Best Management Practices, as established in the project's NPDES Construction Storm Water Permit, shall be employed. Such measures may include, but are not limited to, temporary sand bagging, construction of berms, installation of geofabric, and revegetation of areas by hydroseeding and mulching. The NPDES permit shall apply to all proposed facilities. The Pollution Prevention Plan portion of the NPDES permit shall be reviewed and approved by the County Engineer and the RWQCB.
9. [GEO-2] UBC Seismic Zone 4 Design Requirements As a part of project final design, proposed facilities shall comply with UBC Seismic Zone 4 regulations, which provide for design of structures to withstand the maximum credible earthquake (M 7.0) within the project area.
10. [GEO-4][PEIR V-5] Erosion and Sedimentation Control Plan As a part of project final design, the County Engineer shall develop a long-term Erosion Control Plan. The plan shall include the treatment plant site, the pump station and force main locations, and the location of the rapid infiltration ponds. Additionally, the 1987 Final Program EIR identified the need for long-term erosion control measures to be implemented at sewer lines not installed within roadways. The Erosion Control Plan shall identify erosion

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control practices to be utilized for typical facility design scenarios. These may include recompaction of soils, revegetation of disturbed areas, utilization of soil binding, or other methods for reducing long-term erosion. The Plan shall be reviewed and approved by the Planning Director in consultation with the Natural Resources Conservation Service, and shall be included in contractor bid and contract documents.

11. [WR-1] RWQCB Authorization During project construction, any discharges associated with dewatering activities shall be authorized by the Regional Water Quality Control Board through issuance of Waste Discharge requirements and individual permit, or under a general NPDES permit for construction activity.
12. [AQ-1(a)] Equipment Emission Control Measures. During project construction, the applicant shall fully implement California Best Available Construction Technology (CBACT) for the highest emitting piece of diesel-fired heavy equipment used to construct each major component of the proposed project. It is expected that tandem scrapers or tracked tractors would be the highest emitters. CBACT includes:
 - a. Fuel injection timing shall be retarded two degrees from the manufacturer's recommendation.
 - b. High pressure fuel injectors shall be installed in all engines.
 - c. Reformulated diesel fuel shall be used on the project site.
 - d. Ceramic coating of the combustion chamber
 - e. Installation of catalytic converters

In addition, Caterpillar pre-chamber, diesel-fired engines (or equivalent low NO_x engine design) shall be used in heavy equipment used to construct the project to further reduce NO_x emissions. These requirements shall be noted on the grading plan and listed in the contractor and subcontractor contracts. If implementation of such measures is not feasible within the time frame mandated for the proposed project, other vehicle fleets would be considered as alternatives, subject to APCD approval. At a minimum, if the above CBACT or an equivalent are not feasible for mitigation, all heavy equipment operation onsite should have the timing retarded 4 degrees.

13. [AQ-1(b)] Dust Control Measures. During project construction, dust generated by construction activities shall be kept to a minimum by full implementation of the following measures.
 - a. During clearing, grading, earth moving, excavation, or transportation of cut or fill materials, water trucks or sprinkler systems are to be used to prevent dust from leaving the site and to create a crust after each day's activities cease.
 - b. During construction, water trucks or sprinkler systems shall be used to keep all areas of vehicle movement damp enough to prevent dust from leaving the site. At a minimum, this would include wetting down such areas in the morning and after

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work is completed for the day and whenever wind speed exceeds 15 mph.

- c. Stockpiled earth material shall be sprayed as needed to minimize dust generation.
 - d. During construction, the amount of disturbed area shall be minimized, and onsite vehicle speeds should be reduced to 15 mph or less.
 - e. Exposed ground areas that are planned to be reworked at dates more than one month after initial grading should be sown with fast germinating native grass seed and watered until vegetation is established.
 - f. After clearing, grading, earth moving, or excavation is completed, the entire area of disturbed soil shall be treated immediately by watering or revegetating or spreading soil binders to minimize dust generation until the area is paved or otherwise developed so that dust generation will not occur.
 - g. Grading and scraping operations shall be suspended when wind speeds exceed 20 mph (one hour average).
 - h. All new roadways, driveways, and sidewalks associated with construction activities should be paved as soon as possible. In addition, building and other pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
14. [N-1(a)] Construction Hours. During project construction, and in accordance with the recommendations of the County's Noise Ordinance, construction activities shall be limited to 7 a.m. to 9 p.m. on weekdays, and 8 a.m. to 5 p.m. on weekends.
15. [N-1(c)] Equipment Use Procedures. During project construction, the following procedures shall be adhered to by the construction contractor: 1) all equipment powered by internal combustion engines shall be properly maintained and fitted with appropriate mufflers; 2) the contractor should use electric-powered (as opposed to diesel-powered) construction equipment whenever feasible; and 3) portable noise barriers shall be used around equipment areas and stationary noise sources.
16. [T-2(a)] [PEIR V-72] Traffic Control Plan. Prior to the commencement of construction, the County Engineer shall develop a Traffic Control Plan to identify appropriate construction scheduling and detour plans, including provision for alternative access routes to critical land uses (schools, fire stations, etc.) where necessary. Development and implementation of the plan shall include community representatives (appointed by the District 2 Supervisor), emergency service representatives, County staff and contractor representatives. The draft plan shall be presented to the community for review and comment. As part of this plan, the construction manager shall name and be responsible for a traffic control coordinator, whose job it will be to notify transit operators, emergency service providers, schools, and other agencies of road closures and delays. The coordinator shall ensure that adequate transportation routes for such services would be maintained during construction periods. The final Traffic Control Plan shall be reviewed and approved by the County Engineer prior to project implementation.

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17. [T-2(b)] Public Notice of Construction. **During project construction**, the County Engineer shall notify the public of potential obstructions and alternative access provisions. This notification may be accomplished by posting signs near the construction area at least one week in advance of the commencement of construction. In addition, information signs shall be posted on Los Osos Valley Road and South Bay Boulevard, with a phone numbers to call with questions. Phone numbers should include the construction manager's office, County Engineering, and an emergency number where inquiries can be answered 24 hours a day. Alternative access provisions and parking shall be provided where necessary, with guide signs to inform the public. The project shall also provide alternative pedestrian facilities to avoid obstruction to pedestrian circulation.
18. [VR-1] Good Housekeeping. **Prior to commencement of grading activities** the County Engineer shall prepare a "good-housekeeping plan" for the project, to be reviewed and approved by the Planning Director. The plan shall include such information as designation of onsite locations for materials and equipment storage, schedule for debris removal, and proposed screening mechanisms.
19. [VR-2(a)] Project Design. **As part of project final design**, the project shall include elements (architectural treatments, graded berms, exterior materials, exterior color selection) that help the facility blend into the existing environment and provide as much compatibility with surrounding structures as possible. **Prior to commencement of grading activities** the final project design shall be reviewed and approved by the Planning Director in consultation with the community advisory committee.
20. [VR-5] Revegetation Plan. **Prior to the commencement of any site disturbance**, the County Engineer shall submit a Revegetation Plan using native materials for the pump and lift station sites to be reviewed and approved by the Planning Director. The plan shall include specific revegetation details (e.g. plant palette, number and size of plants to be used, etc.) for each of the lift and pump station sites. For pump station number 2, the Revegetation Plan shall include vegetative measure to provide screening of the generator. The generators shall also be screened and protected through structural means.
21. [PEIR V-58] **During all phases of construction**, a Cultural Resources Mitigation Program shall be implemented for the project. The program shall be reviewed and approved by the Environmental Coordinator and managed by a qualified archaeologist approved by the Environmental Coordinator. The program shall consist of measures to coordinate the management of cultural resources mitigation measures and applicable statutes with the construction of the project. The program shall include the following elements:
 - a. Education: Instruction and training of construction supervisors and other personnel in the recognition of cultural resources, including training of field supervisors and construction personnel. May also extend into realm of public education (see #4 below).
 - b. Scientific Investigations: Includes both archaeological and paleoenvironmental studies of archaeological deposits impacted by the project. Also includes

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monitoring and mitigation/rescue work conducted during installation and construction of the system.

- c. Documentation: Development of a more complete set of data for all impacted sites, including compilation of existing documents and coordination of scientific studies and educational projects.
- d. Resource Protection and Public Enjoyment: Recognition and enhancement of the cultural resources through management policies and goals such as cultural and educational fairs, museums, tours, and popular publications.
- e. [CR-1 (a)] Monitoring. Based upon the results of the Phase II Excavation and Data Recovery Program, all ground disturbance activities shall be monitored by a qualified archaeologist and Chumash Native American representative. All monitoring shall be detailed in monitoring reports filed with the Environmental Coordinator.
- f. [CR-2(a)] Monitoring. In areas determined to be of high archaeological sensitivity, based on Phase I survey and/or Phase II findings and recommendations, implement CR-1(a) as necessary.
- g. [CR-2(b)] Halt Work Order. Section 23.05.140 of the Coastal Zone Land Use Ordinance requires that: "In the event archaeological resources are unearthed or discovered during any construction activities, the following standards apply:
 - i Construction activities shall cease, and the Environmental Coordinator and Planning Department shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, and disposition of artifacts may be accomplished in accordance with state and federal law.
 - ii In the event archaeological resources are found to include human remains, or in any other case when human remains are discovered during construction, the County Coroner is to be notified in addition to the Planning Department and Environmental Coordinator so proper disposition may be accomplished."
- h. [CR-3(a)] Phase I Archaeological Investigation. Prior to any ground disturbing activities, a Phase I investigation shall be conducted by an archaeologist approved by the Environmental Coordinator for any construction location not subject to previous reconnaissance. The Phase I investigation shall include an archival records search at UC Santa Barbara. If the records search determines that the project site has not been subject to previous field reconnaissance or that the previous field reconnaissance is unacceptable by current professional standards, then the project site shall be surveyed by a qualified archaeologist. Based upon results of the Phase I Archaeological Investigation, implement measures CR-2(a) and CR-2(b) as necessary.

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If results of the Phase I Investigation indicate that proposed facilities would impact known archaeological sites, then the following mitigation measures shall also be implemented:

- i. [CR-3(b)] Avoidance of Impact. Redesign the facilities to avoid identified archaeological sites within the proposed disturbance area. Subsurface testing to determine the boundaries of these sites may be necessary to ensure that the impacts are avoided.
 - j. [CR-3(c)] Phase II Investigation. If avoidance is not feasible, then a Phase II investigation will be necessary to determine if the archaeological sites are significant as defined by CEQA. If a site is determined significant, a data recovery program should be implemented to recover a sample large enough to adequately characterize that portion of the site that will be destroyed by project implementation. A local Native American representative should be involved in any data recovery program. Any additional mitigation measures, including monitoring, will be based on the Phase II findings and recommendations.
22. [P-LU-2] Proposed High School and Park Planning. Treatment plant development on the Pismo site would remove the location for a possible high school and park shown in the Estero Area Plan. The school district indicated that they would not be building a high school in Los Osos because it is impractical to duplicate the facility in Morro Bay. During the area plan update, alternative school and park sites should be identified that meet the community's needs and the location criteria specified in the LCP Framework for Planning.

TREATMENT PLANT SITE

23. As a part of project final design, the primary structural elements of the buildings shall be no higher than 35 feet above average natural grade.
24. [PEIR V-53] As a part of project final design, and in consultation with the Regional Water Quality Control Board, the treatment plant shall provide for emergency storage of treated effluent in order to respond to potential seismic or other failure of the effluent force mains.
25. [GEO-3] Geotechnical Investigation As a part of project final design, a geotechnical investigation shall be completed by a qualified engineer. This geotechnical investigation shall include analysis of proposed treatment plant, pump station, and force main facilities, as determined necessary by the design team. The geotechnical investigation shall address the following issues:
- a. Design of facility foundations such that potential impact associated with onsite fault rupture would be reduced to the extent feasible. Design measures for rapid repair of facilities shall be identified as necessary.
 - b. The potential for liquefaction impacts at the Pismo Street site. The investigation should determine onsite ground water levels, and identify soil layers that could be

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subject to liquefaction during a seismic event. The report should take into account existing ground water conditions, as well as increased ground water levels associated with project implementation. Specific measures, such as excavation/recompaction of foundation areas, long-term dewatering, or utilization of foundation piles should be identified as necessary to reduce potential impacts to a less than significant level.

- c. The potential for settlement or lurching associated with seismic events. Specific measures, such as excavation/recompaction, should be identified as necessary to reduce potential impacts to a less than significant level.
- d. [SEIR89 IV-10] The potential for disruption of force mains associated with fault rupture. Design measures for rapid repair of facilities shall be identified, as necessary.

The County Engineer shall review and approve the scope and findings of the geotechnical investigation, and shall review final project design to ensure incorporation of recommended measures.

- 26. [WR-3] Drainage Control and Sedimentation Plan As a part of project final design, a Drainage Control and Sedimentation Plan shall be developed, and shall include infrastructure to adequately control and convey flows generated by impervious surface areas onsite. The Plan shall be subject to review and approval by the Planning Director and County Engineer prior to implementation.
- 27. [WR-4] Non-Point Source Pollution The Drainage Control and Sedimentation Plan shall take into account non-point source pollution associated with proposed facilities, and shall include, to the extent feasible, design measures to control the quality of storm runoff generated onsite. These measures may include, but are not limited to, oil and grease traps, sediment traps, and bar screens. Additionally, sludge storage and loading areas should be provided with containment such that stockpiled materials are not subject to entrainment and discharge offsite during rains.
- 28. [P-BIO-1(a)] Agency Consulting/Permitting. Prior to project construction, the County Engineer shall secure authorization for the disturbance or take of sensitive species from both the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG), consistent with the following:
 - a. Authorization for take by USFWS will require either a formal consultation with USFWS pursuant to Section 7 of the Federal Endangered Species Act (16 USC 1531 et seq.), or issuance of a Section 10(a)(1)(B) permit. Such a permit requires the development and implementation of a Habitat Conservation Plan (HCP). A framework for development of either a Section 10 HCP or Section 7 consultation & mitigation program is outlined in Mitigation Measure BIO-2.
 - b. Authorization for take by CDFG would require a Memorandum of Understanding (MOU) and Management Authorization (MA) pursuant to Section 2050 et seq. of the California Fish and Game Code. Development of a MOU/MA would be

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based upon the Section 7 or Section 10 USFWS consultations discussed above.

29. [P-BIO-1(b)] Additional Habitat Restored Pursuant to the requirements of the USFWS and CDFG permits, the County Engineer shall undertake the restoration of additional land, beyond that disturbed by project construction, into suitable habitat for the local species of concern identified in the 1997 Final Supplemental EIR. This will require securing land that has been disturbed and/or where exotic species have invaded to the exclusion of native species.

Acquisition. The land acquired should have the following qualities:

- a. The land should be a parcel or group of parcels containing approximately 10 to 20 acres.
- b. The land should be disturbed, but not developed, or otherwise in a state that is *not* a pristine native habitat; alternatively, the land could be in good condition relative to native habitats, but otherwise destined for development that would destroy the existing habitat. This may include land that is already owned or controlled by a resource agency such as California Department of Parks and Recreation.
- c. The land should be capable of restoration to a native habitat. This would mean that the soils have not been removed or fill placed on the site that is unsuitable for the native plantings (other than small amounts). The land should be free of structures or debris, or capable of being cleared of any structures.
- d. The land should have primarily aeolian sand deposits; be in a stabilized condition (not mobile); have an open canopy; and be of the appropriate aspect and other meteorological conditions.
- e. The land should be held by the County or appropriate conservation organization in perpetuity with deeded guarantees of non-development or transfer (unless to another like organization). The protection of the land may allow for some passive public activities, such as hiking, scientific investigation, and low-impact educational activities.

Restoration. After securing the land, the County should restore the land so that it functions as suitable habitat for many of the local species of plants and wildlife whose existence is endangered or of concern. One of the benefits of this mitigation approach is that a single program will mitigate the impacts to all or most of the species described in the environmental setting section of the 1997 Final Supplemental EIR. Restoration of the land should include the following:

- f. Removal of invasive exotic plant species. This may mean removal of all plants by grading, or a program of hand labor, depending upon the condition of the land. If the amount of invasives is relatively small, the work should be performed by hand so as to leave as much of the existing native vegetation intact as possible.
- g. Removal of structures or debris.

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- h. Regrading of any unnatural mounds, holes or berms previously created on the site.
- i. A planting program of a mixture of indigenous plant species that serve to restore the site and serve multiple species' needs, especially the Morro Blue Butterfly, Black Legless Lizard, and potential future re-introduction of the Morro Bay Kangaroo Rat. This will include Dune Lupin for the Morro Blue Butterfly. The final planting program should be developed in consultation with the CDFG and USFWS.
- j. An ongoing maintenance and observation program. Ideally this would be established as part of the Morro Bay Estuary Program and/or in conjunction with Cal Poly (especially the Biology and Forestry and Natural Resources Departments).

30. [P-BIO-2(a)] Minimize Disturbance of Coastal Scrub, Chaparral, and Coast Live Oak Woodland Habitats Located Around the Perimeter of the Treatment Plant Site. **During project construction**, to the extent feasible, the amount of disturbance of land beyond the actual area of development shall be minimized. This can be accomplished by identifying minimum activity area required, and establishing a physical construction limit beyond which equipment and storage of material would not extend. **Prior to any site disturbance**, the County Engineer shall:

- a. Clearly identify and mark the perimeter of the proposed treatment plant facility construction zone prior to and during construction onsite with highly visible temporary fencing.
- b. Restrict the use of all heavy equipment, vehicles, and materials storage to areas located inside of the identified construction zone throughout the duration of construction.
- c. Clearly identify and mark the proposed access route to the construction zone of the treatment plant facility, and limit all construction traffic to areas located within the identified access route.

31. [P-BIO-2(b)] Treatment Plant Buffer Area. **At the conclusion of construction of the proposed treatment plant**, the County Engineer shall direct the immediate revegetation of all areas located within or around the perimeter of the treatment plant facility that previously contained native vegetation and that were disturbed during construction. Revegetate only with appropriate indigenous native vegetation approved by the Environmental Coordinator. At a minimum, the structure and composition of habitats restored should reflect pre-project site conditions or better. Use only native vegetation for landscaping in areas located inside of the treatment plant facility. All exotics that escape cultivation should be removed on a regular basis. All plantings shall be grown from native parent stock collected onsite, and will be propagated by a native plant nursery specialist. In addition, the health and maintenance of all replacement vegetation shall be monitored by a qualified botanist for a period of not less than five years or until the new vegetation has been successfully establishment, whichever is greater.

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32. [P-BIO-2(c)] Treatment Plant Site Additional Land. At the conclusion of project construction, the additional land around the treatment plant site (that beyond the area disturbed) shall be enhanced in its ability to provide habitat for the native species of plants and wildlife that occur or may occur in the area, in a manner consistent with USFWS and CDFG permits..
33. [P-BIO-2(d)] Control Introduction of Invasive Exotic Plants. As a part of final project design and during project construction, the County Engineer shall implement the following measures to control the introduction of invasive exotic plants on site:
- a. Use only clean fill material (free of weed seeds) within the construction zone of the proposed project.
 - b. Thoroughly clean all construction equipment prior to being moved onto and used at the site.
 - c. Prohibit planting or seeding of disturbed areas with nonnative plant species;.
 - d. Control the establishment of invasive exotic weeds in all disturbed areas.
34. [P-BIO-3(a)] Avoid or Minimize Disturbance of Special-Status Plants Located Within and Adjacent to the Perimeter of the Project Site Construction Zone. Prior to and during construction, the County Engineer shall implement the following measures to avoid or minimize unnecessary disturbance of special-status plants occupying the vicinity of the project site.
- a. Retain a qualified botanist approved by the Environmental Coordinator to conduct focused surveys for special-status plant species during the appropriate flowering periods for the various species that are known to occur or have potential to occur within the construction zone of the project site, based on the presence of suitable habitat.
 - b. Clearly map and identify each individual or groups of special- status plants observed during the focused survey with highly visible flagging. Morro Manzanita located in the southern portion of the site should be marked with highly visible flagging and fencing and completely avoided.
 - c. Provide instruction to construction personnel on avoiding unnecessary disturbance of areas marked with flagging and fencing and identify the locations of all groups of special-status plants.
35. [P-BIO-3(b)] Transplant Individual Special-Status Plants Located Within the Construction Zone of the Treatment Plant Facility. Following implementation of BIO-3(a), individual special-status plants that are identified as occurring within the proposed construction zone for the treatment plant facility shall be identified. If it is determined by the botanist that avoidance or disturbance of the identified plants is not feasible, implement transplanting operations for the identified species. It should be noted that the success of transplanting is highly dependent on the specific taxon. Transplanting of some

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species currently occupying the site may not be as successful as for others, or may fail entirely. Therefore, prior to implementing these operations, previous case studies should be researched to determine which plants are expected to have reasonable opportunities for survival following transplantation, and determine which techniques have been successful previously. If transplanting is then determined by a qualified botanist to be a viable option for some identified special-status plants, implement the following measures under the supervision of the botanist:

- a. Avoid disturbance of the root system of each plant during transplanting.
 - b. A plant should only be moved to a habitat that contains site conditions similar to the location previously occupied by each plant.
 - c. As specified by the botanist and required by the Environmental Coordinator, closely monitor the success of each transplanted species.
36. [P-BIO-4(a)] Replace Suitable Morro Shoulderband Dune Snail Habitat. At the conclusion of project construction, and in a time frame and manner consistent with USFWS and CDFG permits, implement P-BIO-1(b), with a percentage of habitats created consisting of Coastal Scrub dominated by Heather Goldenbush. This percentage should be equivalent to the percentage of habitat disturbed. Implementation of this measure would replace habitats dominated by Heather Goldenbush, the host plant for the Morro Shoulderband Dune Snail, with habitats exhibiting similar species composition. Additionally, the non-native brown garden snail shall be controlled within mitigation areas due to its role as a potential competitor. Currently, there is not sufficient information available on the habitat requirements of the dune snail to ensure successful creation of suitable habitat for this species. Therefore, creating Coastal Scrub habitat with Heather Goldenbush as a dominant, is considered to only partially mitigate for loss of potential Morro Shoulderband Dune Snail habitat.
37. [P-BIO-5(a)] Replace Suitable Morro Blue Butterfly Habitat. At the conclusion of project construction, and in a time frame and manner consistent with USFWS and CDFG permits, implement P-BIO-1(b), with a percentage of habitats created consisting of Coastal Scrub dominated by Dune Lupine. This percentage should be equivalent to the percentage of habitat disturbed. Implementation of this measure would replace habitats dominated by Dune Lupine, the host plant for the Morro Blue Butterfly. To be successful, replacement habitat should be located adjacent to or within 1,000 feet of occupied habitat. It may be possible to use the same property for this and the prior mitigation measure provided the habitat meets the USFWS and CDFG standards.
38. [P-BIO-6(a)] Avoid unnecessary disturbance of Windrow Habitats Located Around the Perimeter of the Construction Zone. Implement the following measures identified for protecting Windrow Habitat in the vicinity of the project site:
- a. Prior to commencement of project construction, place highly visible temporary fencing around the perimeters of the driplines of windrow areas near the treatment plant construction zone.

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Exhibit 2, p. 13

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- b. **During project construction**, avoid all soil disturbance, compaction, and grading activities within and adjacent to the associated dripline of windrow areas.
39. [AQ-2] Best Available Technology. **During project final design**, the project shall be designed to conform with energy efficiency requirements outlined in Title 24 of the California Code. To the extent feasible, design of the proposed project should incorporate best available technology for energy efficiency. Additionally, the project shall include:
- a. Provide an on-site employee lunch room with refrigeration and food preparation (i.e., microwave) appliances to reduce daily trips to and from the treatment plant.
 - b. Use double pane windows in office areas where interior heating/air conditioning will occur.
 - c. Use energy efficient lighting where applicable.
40. [N-1(b)] Treatment Plant Location. **During project final design**, the treatment plant should be located as close to the center of the project site as possible. Special attention should be given to locating the plant away from the nearest residences, which are about 600 feet south and 800 feet west of the site's center. This would minimize potential impacts associated with project construction and site preparation.
41. [T-1(a)] Construction Routes. **During project construction**, construction vehicles at the treatment plant site shall avoid residential areas to the extent possible. Trucks shall access the site from the west, via Pismo Avenue, and not from the south, via Sage Avenue. The access route shall be clearly and continuously marked throughout the construction time frame.
42. [VR-2(b)] Landscaping Plan. **Prior to the commencement of construction**, submit a landscaping plan in conformance with section 23.04.186 that provides native, drought tolerant, vegetative screening (particularly for views from South Bay Boulevard and the adjacent school facility for the Pismo Site). Vegetative screening need not create a complete visual block, but provide a softening of the overall project design. The landscaping plan shall be reviewed and approved by the Planning Director in consultation with Los Osos Citizen's Advisory Committee and CSA-9.
- a. The applicant shall provide parking for general use by the public on the northern portion of the site to the maximum extent possible consistent with conservation of archeological and biological resources as elsewhere conditioned in this report.
43. [VR-3] Lighting Plan. **Prior to the commencement of construction**, submit a lighting plan in conformance with section 23.04.320 that includes specific elements designed to reduce glare and the spillage of light from the treatment plant site. At a minimum, the plan shall identify shielding measures for all lights to avoid glare and light spill-over onto adjacent properties and roadways. The Lighting Plan shall be reviewed and approved by the Planning Director prior to the commencement of grading activities.

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RAPID INFILTRATION BASIN SITE

44. As a part of final project design, provision shall be made for a pedestrian and equestrian trail in conformance with county trail standards. Access for wheeled vehicles are restricted to that needed for facility maintenance.
45. This permit authorizes interpretive displays for sensitive site features that may be installed at a future time by a community organization.
46. As a part of final project design, site fencing shall provide for the required safety fencing immediately around the infiltration basins with perimeter fencing kept to the least visually intrusive designs available to control access.
47. As a part of final project design and during project construction, grading design shall use rounding and slope transition curves along with native vegetation to give the site a more natural appearance.
48. On-site lighting shall be limited to emergency use only and any such lighting shall meet the requirements of section 23.04.320 of the CZLUO.
49. [WR-6] [CW-1] Supplemental Analysis - Los Osos Creek Outfall Should utilization of Los Osos Creek as means of effluent disposal be proposed in the future, analysis to meet the requirements of CEQA shall be conducted as a Supplement under the Project Program, as provided for in Section 15168 of the State CEQA Guidelines. Quantification of impacts associated with implementation of this effluent disposal scenario would require assessment of water quality and flow regime alteration associated with the discharge of effluent to Los Osos Creek. Additionally, specific species surveys to identify the presence of sensitive species and potential secondary impacts would be required.
50. [RIP-BIO-1(a)] Agency Consulting/Permitting. Prior to beginning construction on the rapid infiltration pond site, implement P-BIO-1(a) and complete appropriate consultation and authorization with USFWS and CDFG.
51. [RIP-BIO-2(a)] Minimize Disturbance of Coastal Scrub, Chaparral, and Oak Woodland Habitats Located Around the Perimeter of the Infiltration Basin Site. During project construction, implement measures identified in P-BIO-2(a), along with the following measures identified for protecting Coast Live Oaks in the vicinity of the project site:
 - a. Prior to commencement of project construction, place highly visible temporary fencing around the perimeters of the driplines of all Coast Live Oaks located near the treatment plant construction zone.
 - b. During project construction, avoid all soil disturbance, compaction, and grading activities within and adjacent to the associated dripline of each individual Coast Live Oak.
52. [RIP-BIO-4(a)] Avoid or Minimize Disturbance of Special-Status Plants Located Within

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and Adjacent to the Perimeter of the Rapid Infiltration Pond Site Construction Zone.
Implement measures identified in P-BIO-3(a).

53. [RIP-BIO-4(b)] Transplant Individual Special-Status Plants Located With the Construction Zone of the Rapid Infiltration Pond Site. Implement measures identified in P-BIO-3(b).
54. [RIP-BIO-5(a)] Replace Suitable Morro Bay Kangaroo Rat Habitat at the Rapid Infiltration Pond Site. Implement measures identified in P-BIO-1(a), and replace with habitats similar to those existing on site prior to project implementation. The substrate, topography, and plant species composition should be similar to those habitats that currently exist at the project site and areas that are known to provide suitable habitat for Morro Bay Kangaroo Rat, such as in portion of the Essential Habitat area.
55. [RIP-BIO-5(b)] Conduct Pre-Construction Surveys For Morro Bay Kangaroo Rat at the Rapid Infiltration Pond Site. **Immediately prior to construction**, conduct surveys for Morro Bay Kangaroo Rat within the vicinity of the proposed rapid infiltration pond site, to determine if habitats are currently occupied and identify what protective measures, if any, should be implemented prior to construction.
56. [RIP-BIO-7] Replace Suitable Black Legless Lizard Habitat at the Rapid Infiltration Pond Site. Implement measures identified in P-BIO-1(a).
57. [RIP-BIO-8] Replace Suitable Morro Blue Butterfly Habitat at the Rapid Infiltration Pond Site. Implement P-BIO-1(a) 1(a), with a percentage of habitats created consisting of Coastal Scrub dominated by Dune Lupine. This percentage should be equivalent to the percentage of habitat disturbed. Implementation of this measure would replace habitats dominated by Dune Lupine, the host plant for the Morro Blue Butterfly.
58. [RIP-BIO-9(a)] Avoid unnecessary disturbance of Windrow Habitats Located Around the Perimeter of the Rapid Infiltration Pond Construction Zone. Implement the following measures identified for protecting Windrow Habitat in the vicinity of the rapid infiltration ponds:
 - a. **Prior to commencement of project construction**, place highly visible temporary fencing around the perimeters of the driplines of windrow areas near the treatment plant construction zone.
 - b. **During project construction**, avoid all soil disturbance, compaction, and grading activities within and adjacent to the associated dripline of windrow areas.
59. [PEIR V-69] **As part of project final design**, the percolation ponds shall be set back from the Bayview Heights Drive and Redfield Woods subdivisions a minimum of 200 feet.
60. [VR-6] [PEIR V-69] The rapid infiltration ponds shall be included within the Landscape Plan prepared for the proposed project. A low (10-15 foot) landscape screen shall be planted around the rapid infiltration ponds. The screen shall be planted with native

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materials. Additionally, the earth berms around the ponds shall be vegetated with drought-resistant, native ground cover. The Landscape Plan shall include specific revegetation details (e.g. plant palette, number and size of plants to be used, etc.), and shall be reviewed and approved by the Planning Director prior to the commencement of grading activities.

61. [RIP-LU-2] Rapid Infiltration Pond Safety. The proposed rapid infiltration pond facility could present an attractive nuisance to nearby residents, particularly neighborhood children. Adequate safety measures must be incorporated into the development of this facility. Such measures could include fencing and alarms, as well as onsite emergency lifesaving equipment. Lighting, if it is used, should be designed to meet the requirements of CZLUO Section 23.04.320 so as not to result in visual impacts to adjacent residential development.

PUMP STATIONS

62. [P-PS-LU-3] Pump Station #2 Fuel Storage. Bulk fuel storage at pump station #2 shall be placed underground, or shall be provided by portable fuel tank(s). Portable fuel tanks, if used, shall be moved to the site only during actual emergency situations and exercises, and shall be removed within 24 hours after the conclusion of the emergency power need.

LIFT STATIONS

63. Lift station number 1. As part of project final design, the County Engineer shall ensure that all components of the lift station, including the construction buffers and fences will be a minimum of 50 feet from the upland edge of the riparian zone. The final design plans shall be reviewed and approved by the Environmental Coordinator.
64. Lift station number 3. As part of project final design, the County Engineer shall ensure that all components of the lift station, including fencing are located in such a way as to not preclude future development of a community park/coastal access. The final design plans shall be reviewed and approved by the Planning Director.
65. Lift station number 7. As part of project final design, the County Engineer shall ensure that all components of the lift station, including the construction buffers and fences will be outside the driplines of adjacent oak trees. The final design plans shall be reviewed and approved by the Environmental Coordinator.

COLLECTION SYSTEM AND FORCE MAINS

66. [SEIR89 IV-11] During project construction, a qualified geologist shall observe the trenching for the effluent force main in the vicinity of strand "B" of the Los Osos fault to verify that the rapid repair facilities are properly located, and shall accurately map and appropriately record the location of the fault. Such information shall also be kept on file at the County Engineering Department and made available to the public for review.
67. [T-2(c)] [PEIR V-72] Safe Trench Crossings. During project construction, safe, temporary pedestrian crossing of all excavations shall be provided for school children and

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other pedestrians as necessary. All excavations shall be made safe for pedestrians when work is not being conducted in the immediate area.

68. [PEIR V-67] **Prior to the completion of construction**, all pipeline routes in areas of natural vegetation shall be restored using native plants in order to return the corridor to its original appearance. Restoration of pipeline routes shall occur in a manner consistent with revegetation efforts applied to the treatment plant and rapid infiltration pond sites as regards species composition, monitoring, use of qualified botanists, and compliance with State and Federal permitting requirements.

OPERATIONAL REQUIREMENTS

69. [GEO-7] Ground Water Monitoring **Post project implementation** monitoring of ground water levels shall continue for a minimum 2-year period following implementation of Phase I to ensure that basin response is consistent with the results of ground water modeling conducted for the proposed project. In the event that ground water levels exceed modeled parameters, and or intersect with soils zones identified as potentially liquefiable, discharge parameters shall be altered, in consultation with the Regional Water Quality Control Board, to ensure that ground water levels do not increase the potential for liquefaction within the Los Osos Area.
70. [PEIR V-27] **For the life of the proposed project**, and in the event that sludge from the treatment plant is sold, delivered, or disposed of to users or locations within the limits of the Los Osos ground water basin, the County Engineer shall advise the recipient that this use should replace existing nutrient sources (i.e., commercial fertilizers).
71. [WR-5] [PEIR V-27] Ground Water Monitoring Program **At the time of project implementation**, a Ground Water Monitoring Program shall be initiated to monitor and assess ground water conditions as rapid infiltration pond facilities are brought online and utilized over the long-term. This program shall include sufficient data recovery to determine the areal extent of ground water infiltration and its affect on ground water levels within the Los Osos area. The intent of this program shall be the maintenance of ground water levels to provide adequate effluent disposal, improvement of long-term ground water quality, maintenance of long-term basin yield, and avoidance of potential secondary impacts associated with high ground water levels, particularly within low-lying areas and along the bay fringe. These include potential secondary impacts to salt marsh habitat identified in Section 5.3 of the 1997 Final Supplemental EIR. The Ground Water Monitoring Program shall be developed by the Consulting Engineer, and shall be subject to review and approval by the County Engineer and the Regional Water Quality Control Board **prior to project implementation**.
72. [T-3(a)] Chemical Deliveries. **For the life of the proposed project**, chemical deliveries shall be routed to avoid sensitive receptors to the extent feasible.
73. [PUB-4] Hazardous Materials Management Plan. **Prior to operation of the project**, the County Engineer shall submit a Hazardous Materials Management Plan to the County of San Luis Obispo Health Department for review and approval. The plan shall identify hazardous materials utilized onsite and their characteristics; storage, handling and

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Exhibit 2 212

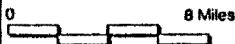
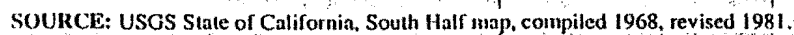
training procedures; and spill contingency procedures. Additionally, the plan should address diesel fuel storage at the pump station sites.

74. [PUB-5] Emergency Response Plan. Prior to operation of the project, an Emergency Response Plan shall be developed for the proposed wastewater treatment plant and pump stations in coordination with the South Bay Fire Department. The plan shall address the following topics.
- a. Hazardous materials handling, storage and application.
 - b. Hazardous material spill response.
 - c. Emergency release of untreated influent from the collection system or treatment facilities.
 - d. Emergency failure of treatment facilities, resulting in a release of untreated or partially treated effluent.
 - e. Personnel training.
 - f. Community notification.
 - g. Impacts on critical community facilities such as schools, public gathering areas, health care facilities, high occupancy structures, etc..

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Exhibit 2, P. 19

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FUGRO

Figure 3.2-1

LEGEND

- | | |
|---------------------------------|----------------------------------|
| 1 LOS OSOS VILLAGE AREA | 5 UPLAND AREA |
| 1A CENTRAL BUSINESS DISTRICT | 5A TRACT NO. 84 |
| 2 EL MORRO AREA | 5B TRACT NO. 122 |
| 2A BAYWOOD PARK COMMERCIAL AREA | 6 HIGHLAND AREA |
| 3 CUESTA AREA | 6A HIGHLAND |
| 3A CUESTA-BY-THE-SEA | 6B MORRO PALISADES HILLSIDE AREA |
| 3B MARTIN TRACT | 6C CABRILLO ESTATES |
| 3C MORRO PALISADES | 7 BAYVIEW HEIGHTS AREA |
| 4 SUNSET AREA | 8 CREEKSIDE AREA |

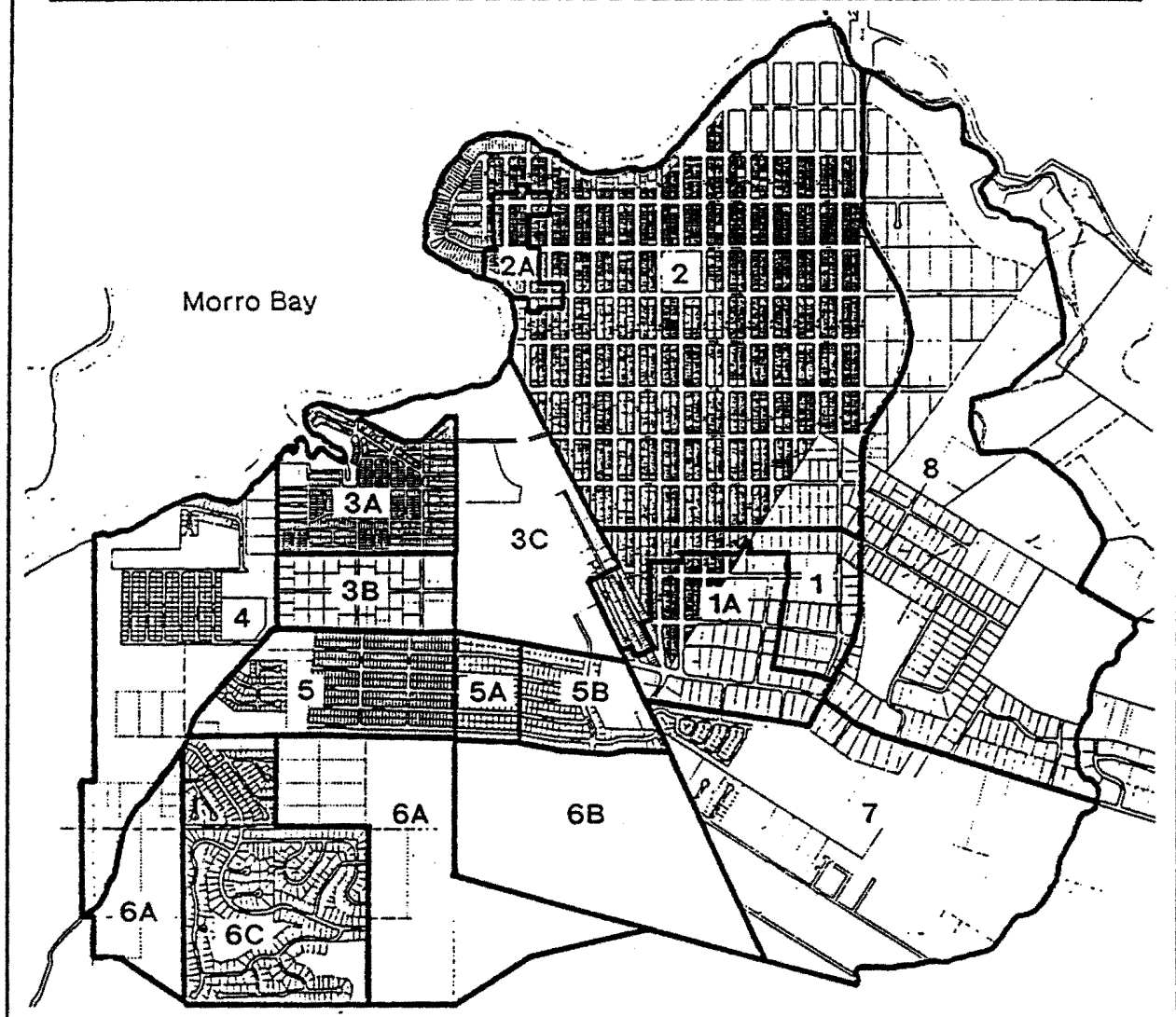


Figure 8-6: South Bay Location Map

EXHIBIT NO. 4

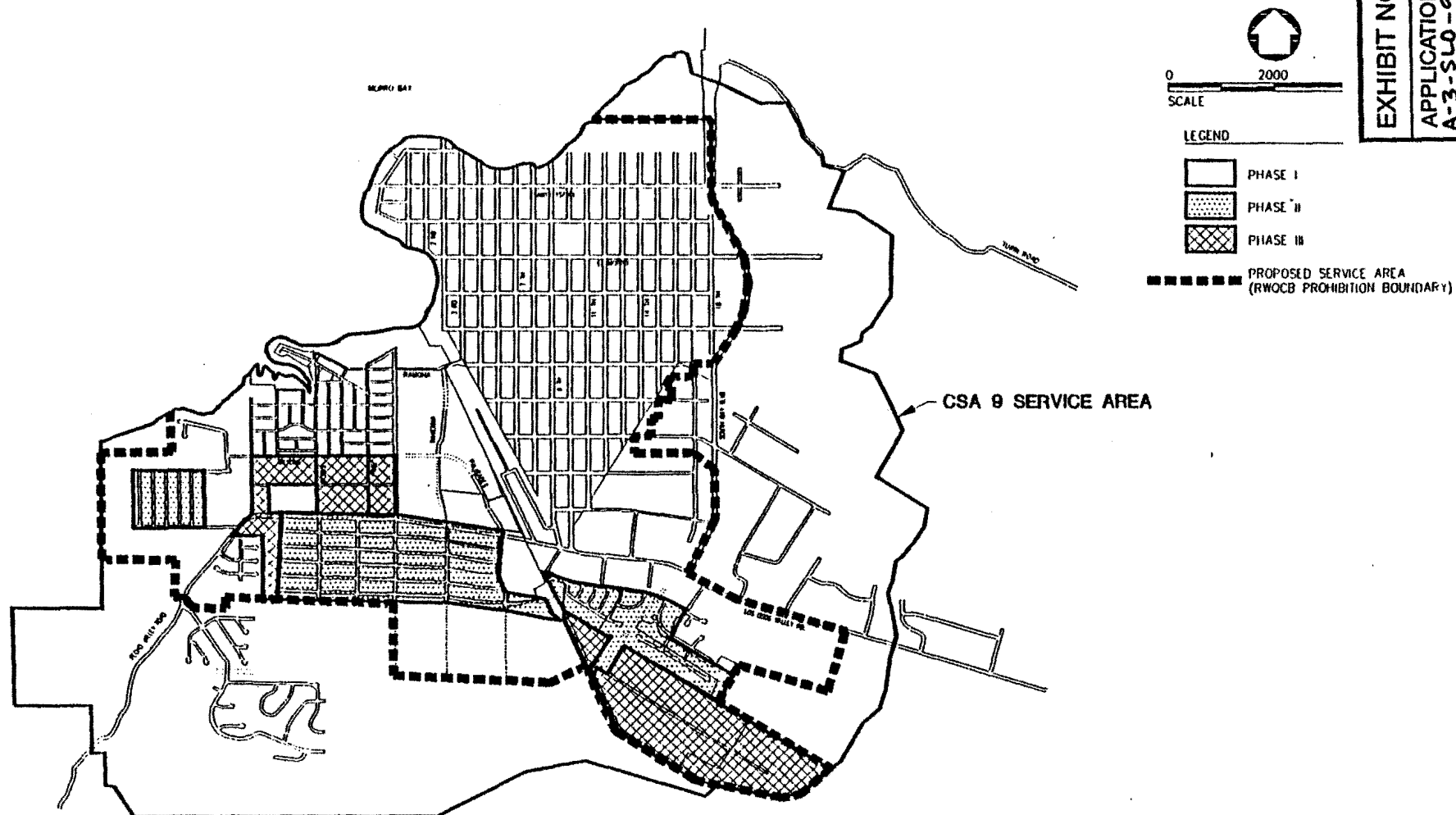
APPLICATION NO.
A-3-SLO-97-040

Vicinity Map

EXHIBIT NO. 5

APPLICATION NO.
A-3-SLO-97-040

Service Area



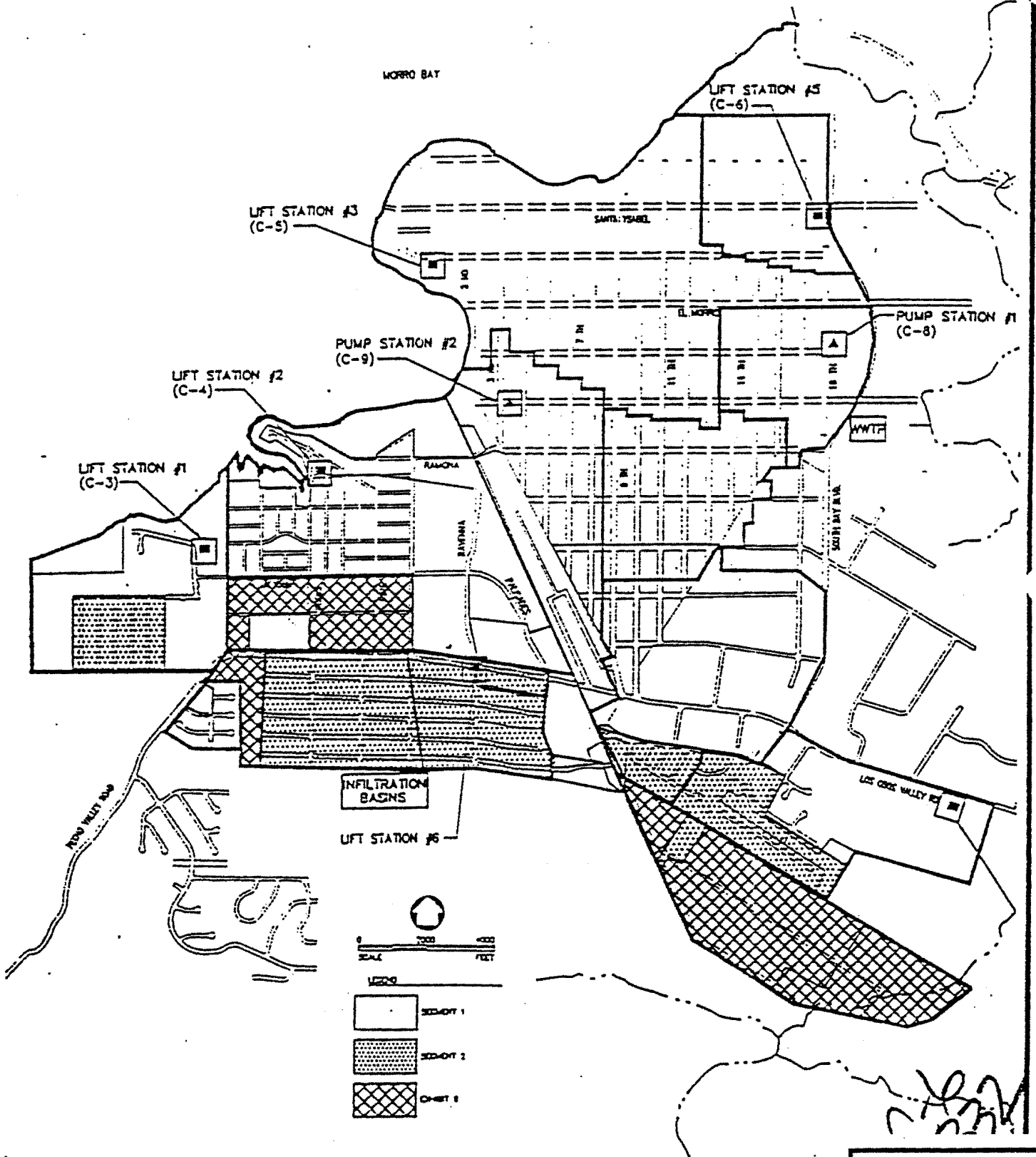
SOURCE: Metcalf and Eddy

PROPOSED SERVICE AREA AND IMPLEMENTATION PHASING

LOS OSOS SEWER
Environmental Review

Figure 3.4-1

fugro



PROJECT
Los Osos Sewer D950245D
Revised 2/27/97



EXHIBIT
Project Location

EXHIBIT NO. 6
APPLICATION NO.
A-3-SLO-97-040
Facility Locations

EXHIBIT NO. 7
 APPLICATION NO.
 A-3-SLO-97-04D
 South Bay
 Combining Designations

LEGEND

COMBINING DESIGNATIONS

	AR	AIRPORT REVIEW
	ARCH-SEN	ARCHAEOLOGICALLY SENSITIVE AREAS
	GS	GEOLOGIC STUDY AREA
	FH	FLOOD HAZARD
	H	HISTORIC
	EX	ENERGY & EXTRACTIVE AREA
	LCP	LOCAL COASTAL PLAN
	V	VISITOR SERVING AREA
	SRA	SENSITIVE RESOURCE AREA

PROPOSED PUBLIC FACILITIES

	HS	HIGH SCHOOL
	JHS	JR. HIGH SCHOOL
	E	ELEMENTARY SCHOOL
	P	PARK
	PS	POLICE OR PUBLIC SAFETY FACILITY STATION
	WT	WATER TREATMENT FACILITIES
	ST	SEWAGE TREATMENT FACILITIES
	SW	SOLID WASTE FACILITIES
	GF	GOVERNMENT FACILITY
	L	LIBRARY

SENSITIVE RESOURCE AREAS THAT ARE ALSO ENVIRONMENTALLY SENSITIVE HABITATS

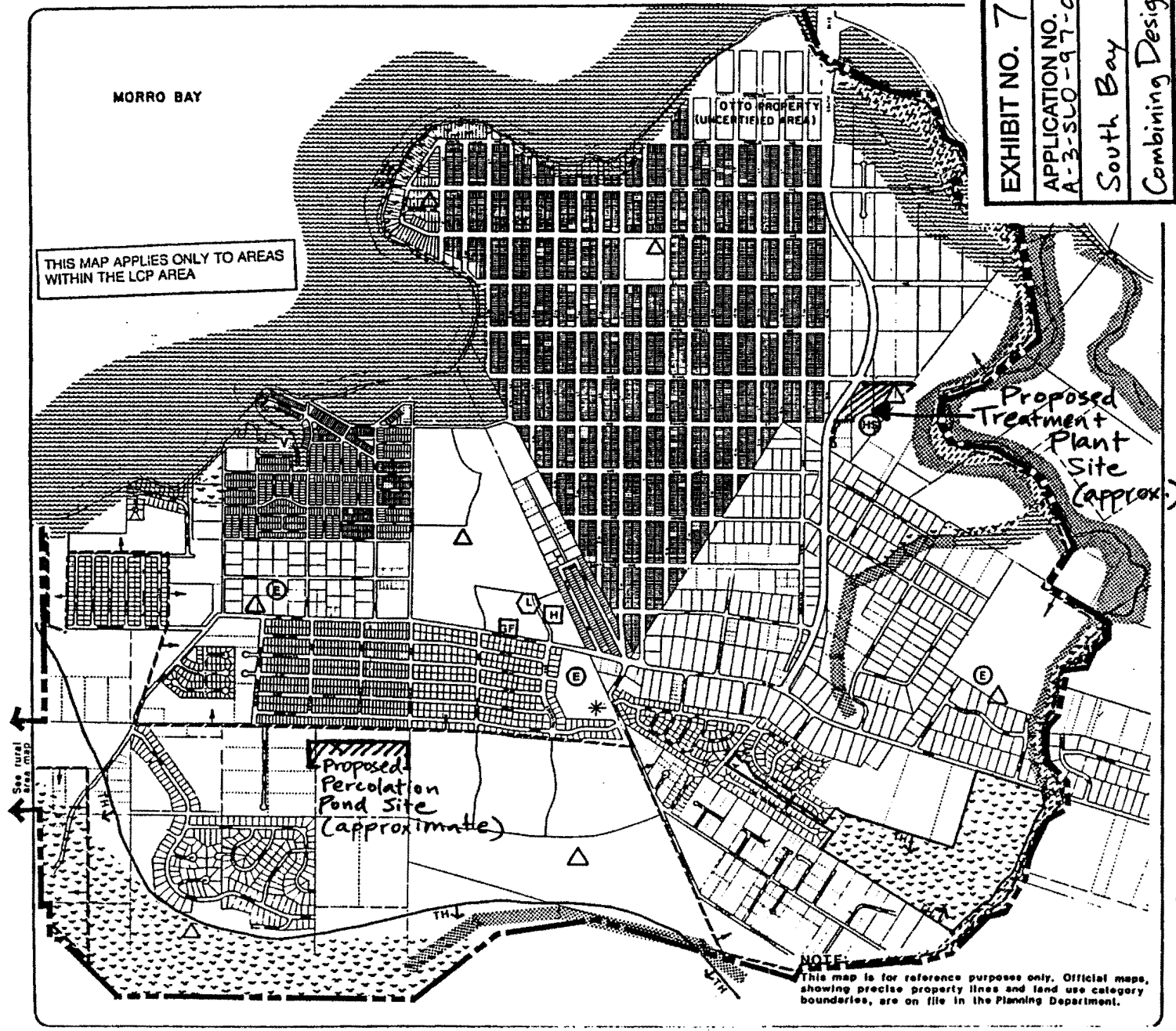
	TH	TERRESTRIAL HABITATS
	CS	COASTAL STREAMS AND RIPARIAN VEGETATION
	W	WETLANDS
	M	MARINE HABITAT

SCALE 0 1450'

NORTH

SOUTH BAY
COMBINING DESIGNATIONS
 San Luis Obispo County Planning Department
 Revised: 1-6-89

THIS MAP APPLIES ONLY TO AREAS WITHIN THE LCP AREA



NOTE:
 This map is for reference purposes only. Official maps, showing precise property lines and land use category boundaries, are on file in the Planning Department.

**EXHIBIT 8:
PORTIONS OF THE LCP
REFERENCED BY THE APPELLANTS**

Coastal Plan Policy 27: Protection of Terrestrial Habitats

Designated plant and wildlife habitats are environmentally sensitive habitat areas and emphasis for protection should be placed on the entire ecological community. Only uses dependent on the resource shall be permitted within the identified sensitive habitat portion of the site.

Development adjacent to environmentally sensitive habitat areas and holdings of the State Department of Parks and Recreation shall be sited and designed to prevent impacts that would significantly degrade such areas and shall be compatible with the continuance of such habitat areas. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.176 OF THE CZLUO.]

CZLUO Section 23.07.170: Environmentally Sensitive Habitats:

The provisions of this section apply to development proposed within or adjacent to (within 100 feet of the boundary of) an Environmentally Sensitive Habitat as defined by Chapter 23.11 of this title, and as mapped by the Land Use Element combining designation maps.

a. Application content. A land use permit application for a project within or adjacent to an Environmentally Sensitive Habitat shall also include a report by a biologist approved by the Environmental Coordinator that:

- (1) Evaluates the impact the development may have on the habitat, and whether the development will be consistent with the biological continuance of the habitat. The report shall identify the maximum feasible mitigation measures to protect the resource and a program for monitoring and evaluating the effectiveness of the mitigation measures.
- (2) Recommends conditions of approval for the restoration of damaged habitats, where feasible.
- (3) Evaluates development proposed adjacent to environmentally sensitive habitats to identify significant negative impacts from noise, sediment and other potential disturbances that may become evident during project review.
- (4) Verifies that applicable setbacks from the habitat area required by Sections 23.07.170 to 23.07.178 are adequate to protect the habitat or recommends greater, more appropriate setbacks.

b. Required findings: Approval of a land use permit for a project within or adjacent to an Environmentally Sensitive Habitat shall not occur unless the applicable review body first finds that:

EXHIBIT NO. 8
APPLICATION NO. A-3-SLO-97-040
LCP References

- (1) There will be no significant negative impact on the identified sensitive habitat and the proposed use will be consistent with the biological continuance of the habitat.
 - (2) The proposed use will not significantly disrupt the habitat.
- c. Land Divisions: No division of a parcel containing an Environmentally Sensitive Habitat shall be permitted unless all proposed building sites are located entirely outside of the applicable minimum setback required by Sections 23.07.172 through 23.07.178. Such building sites shall be designated on the recorded subdivision map.
- d. Development standards for environmentally sensitive habitats:
- (1) New development within or adjacent to the habitat shall not significantly disrupt the resource.
 - (2) New development within the habitat shall be limited to those uses that are dependent upon the resource.
 - (3) Where feasible, damaged habitats shall be restored as a condition of development approval.
 - (4) Development shall be consistent with the biological continuance of the habitat.
 - (5) Grading adjacent to Environmentally Sensitive Habitats shall conform to the provisions of Section 23.05.034c (Grading Standards.)

Coastal Zone Land Use Ordinance (CZLUO) 23.07.176 - Terrestrial Habitat Protection:

The provisions of this section are intended to preserve and protect rare and endangered species of terrestrial plants and animals by preserving their habitats. Emphasis for protection is on the entire ecological community rather than only the identified plant or animal.

- a. Protection of vegetation. Vegetation that is rare or endangered, or that serves as habitat for rare or endangered species shall be protected. Development shall be sited to minimize disruption of habitat.
- b. Terrestrial habitat development standards:
 - (1) Revegetation. Native plants shall be used where vegetation is removed.
 - (2) Area of disturbance. The area to be disturbed by development shall be shown on a site plan. The area in which grading is to occur shall be defined on site by readily-identifiable barriers that will protect the surrounding native habitat areas.

- (3) Trails. Any pedestrian or equestrian trails through the habitat shall be shown on the site plan and marked on the site. The biologist's evaluation required by Section 23.07.170a [Environmentally Sensitive Habitats] shall also include a review of impacts on the habitat that may be associated with trails.

RECEIVED

California Coastal Commission
Central Coast Area Office
725 Front Street, Suite 300
Santa Cruz, CA 95060

JUN 24 1997

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

ATTN: Steve Monowitz

23 June 1997

SUBJECT: ADDENDUM TO APPEAL FROM COASTAL PERMIT DECISION OF LOCAL
GOVERNMENT - Community Wastewater Treatment System for Los Osos.

From: T.A.P.P.S / G.W. Gurley
P.O. Box 7168
Los Osos, CA 93412

Dear Mr. Monowitz,

Recent project changes proposed and adopted by the County of San Luis Obispo at the regular Board of Supervisors meeting of June 17, 1997 have prompted T.A.P.P.S. to request that this addendum be included in our previously submitted appeal. To add further clarification of point 4, pB-4 in our submitted appeal, we believe these changes highlight the inconsistency with certified LCP Policy 2 and Coastal Act Section 30254. This issue, previously discussed by Coastal Commission Staff in a December 10, 1986 comment to Mr. Vince Morici, Environmental Specialist, County of San Luis Obispo, has never been resolved. Please see letter, attachment 1 - especially paragraph 6, comment page 2 and the following still unresolved concerns:

- Biological Resources. P 3
- Service area. P 4
- Groundwater. P 5-6
- Water Quality. P 6
- Growth inducement. P 7

As proposed, the treatment facilities are designed to serve only those areas within the Urban Services Line. however, the County is currently considering a petition from landowners outside the USL (See Attachment 3, Recommendation of SLO County Engineer, Tim Nanason). Design capacity is sized to accommodate a buildout population of 23,125. Since the County and Regional Water Quality Control Board do not anticipate requiring sewer service for this level of population, planning for an excess capacity beyond those required to alleviate degradation of shallow ground water in Los Osos is inconsistent with the LCP policies cited above. (See Attachment 3, Baywood Park/Los Osos Septic Tank Discharge Prohibit Exemptions).

In addition, should such a projected population increase actually occur in Los Osos, the only substantial water supply available to support new development would be provided by groundwater recharge from the proposed sewer project. While such a recharge possibility was a major goal behind the expansive design of the sewer, the project as currently proposed has eliminated the recharge aspect for financial reasons. As explained by Mr. Matt Tibbits, of Metcalf and Eddy, in testimony before the Board of Supervisors (May 6, 1997), the design provided has been changed to a discharge project, and is not a recharge of Los Osos drinking water.

We respectfully submit these comments for inclusion in our appeal.

Sincerely,


G.W. Gurley

Cc: County of San Luis Obispo

EXHIBIT NO. 9
APPLICATION NO. A-3-SLO-97-040
ADDENDUM TO
APPEAL

ADDENDUM TO APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT
Community Wastewater Treatment System for Los Osos.

ATTACHMENT 1

COMMENT LETTER DECEMBER 10, 1986

**FROM CALIFORNIA COASTAL COMMISSION
RE: DRAFT EIR/CSA 9 WASTEWATER TREATMENT
FACILITIES, LOS OSOS, CA**

A-3-SLO-97-040
Exhibit 9, p. 2

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
25 DE LA VINA
SANTA BARBARA, CA 93101
(805) 963-6871



December 10, 1986

Vincent Morici, Environmental Specialist
Office of Environmental Coordinator
County of San Luis Obispo
County Government Center
San Luis Obispo, CA 93408

RE: Draft EIR/CSA 9 Wastewater Treatment Facilities (SCH84121914)
Los Osos, Baywood Park & Cuesta-by-the-Sea, County of San Luis Obispo

Dear Mr. Morici:

Our office has received and reviewed the draft environmental impact report (DEIR) for the proposed construction of a wastewater treatment facility in the Los Osos area. We appreciate the County's efforts to frankly identify the impacts of this complex project. Many elements of the DEIR are excellent and will be very useful to us. However, portions of the DEIR's assessment of the direct and cumulative impacts resulting from the proposed project are inadequate for our use as a responsible agency reviewing coastal development.

Specific comments regarding our primary issues of concern are attached. This discussion also includes identification of inconsistencies with the County's Local Coastal Program (LCP) where they are apparent from the information provided in the DEIR. Comments have been provided which address the project's impacts to wetlands and agricultural lands, biological resources, expansion of the service area, geologic hazards, effects on groundwater and water quality, growth inducement factors and economic analysis.

Please remember that the Commission and the County, following effective certification of its LCP, will have the primary permit authority over major elements of the project. Public Resources Code (PRC) Section 30412(c) states:

"...Any development within the coastal zone or outside the coastal zone which provides service to any area within the coastal zone that constitutes a treatment work shall be reviewed by the Commission and any permit it issues, if any, shall be determinative only with respect to the following aspects of such development: (1) The siting and visual appearance of treatment works within the coastal zone. (2) The geographic limits of service areas within the coastal zone which are to be served by particular treatment works and the timing of the use of capacity of treatment works for such service areas to allow for phasing of development and use of facilities consistent with this division. (3) Development projections which determine the sizing of treatment works for providing service within the coastal zone.

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Exhibit 9, p.3

Vincent Morici
December 10, 1986
Page 2

1 The Commission shall make these determinations in accordance with the policies of this division and shall make its final determination on a permit application for a treatment work prior to the final approval by the State Water Resources Control Board for the funding of such treatment 1
works. Except as specifically provided in this subdivision, the decisions of the State Water Resources Control Board relative to the construction of treatment works shall be final and binding upon the commission and any regional commission...."

1 As a responsible agency, we rely on the EIR to provide the environmental impact assessment necessary to support our permitting and coastal program certification process. Careful attention to our concerns in the preparation 1
1 of the FEIR can reduce potential delays in project review by the Coastal Commission.

1 Thank you for considering these concerns and the opportunity to comment on this important project. Please feel free to contact this office if we can 1
1 provide any further assistance or if our comments raise any additional questions. We would appreciate an opportunity to discuss our concerns with the County prior to finalization of the FEIR.

Sincerely,


Dan Ray
Permit Chief

cc: Glenn Stober, SCH
Ken Jones, RWQCB

MW/mw
3569A

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Exhibit 9, p. 4

Coastal Commission authority. The EIR should be revised to reflect the Coastal Commission's role as a responsible agency. Page I-3 should identify the requirement to obtain a coastal development permit from the Commission for those portions of the development within the Commission's primary permit jurisdiction. The raw sewage force main crossing the estuary of Los Osos Creek is the principal component of the plant within the area where the Commission will retain primary permit jurisdiction after effective certification of San Luis Obispo County's LCP. If a coastal development permit is sought prior to the effective certification of San Luis Obispo County's LCP, a coastal development permit from the Coastal Commission for the entire development will be required. If a coastal development permit is sought after effective certification of the LCP, the County would have permit authority over those elements of the project outside the Commission's retained jurisdiction, but the entire project would be appealable to the Coastal Commission. In addition, amendments of the County's LCP would be required prior to approval of development permits (from either the Commission or the County) for those elements of the project inconsistent with the certified LCP.

We have attempted to identify inconsistencies with the LUP where they are apparent from the information included in the DEIR. Approval from both the Commission and the County would be required to amend the LCP. Please remember that CEQA Guidelines' Appendix G states that a project will normally have a significant environmental effect if it conflicts with adopted local environmental plans. The LCP is such a local environmental plan. For these reasons, the Commission should be listed among the agencies which will utilize the EIR in decision making on the permit. Careful attention to our comments can reduce potential future delays in processing necessary coastal development permits or LCP amendments.

Wetlands. The analysis on p. IV-18 of impacts associated with the proposed raw sewage force main crossing of wetlands at the Los Osos Creek estuary is misleading. Experience with other sewerage pipelines crossing coastal wetlands has shown that repeated disruption of the wetlands may be required for maintenance and repair of the pipelines. A similar pipeline crossing in the City of Eureka ultimately required construction of a new road across a wetland to facilitate maintenance of the pipeline.

The assessment of the project's environmental impacts (V-49) does not address the adverse effects of this crossing on Los Osos Creek estuary's wetland and related fish and wildlife populations. The FEIR should identify the surface area of wetland disturbed by the crossing, together with any related changes in the post project elevation or soils at the crossing site. Mitigation measures, including restoration of wetland habitats disturbed by the project, should be proposed and the cost of these measures considered in evaluating the proposed project in relation to the alternative of relocating this crossing as discussed below. The additional cost of relocating the crossing outside the wetland is not clearly identified, but it appears unlikely it would substantially affect the project's overall cost. Since the alternative crossing is clearly feasible, the DEIR's conclusion should be more forthright in stating that the crossing now proposed is inconsistent with the LCP.

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We concur with the DEIR's recommendation that construction of collectors, to avoid impacts to wetland habitat along the bay fringe from 4th Street to 12th Street, and to other sensitive habitat north of Palomino Drive and east of San Luis Avenue, be relocated in street right-of-ways. 6

The DEIR's analysis of the treatment plant's impacts to Los Osos creek needs to be expanded to consider the effect of increases in peak discharges in the creek resulting from the reduction in the creek's floodplain attributable to the fill and drainage course improvements described on p. IV-14. These effects may include increases in erosion and turbidity and declines in biota adversely affected by increased peak flows. 7

The intent of the LCP's wetland and riparian buffer policies is to provide buffers from the actual boundaries of sensitive habitats as they exist in the field. The LCP's habitat maps, while useful indicators of habitats' general location and extent, do not substitute for careful examination of field conditions. Buffer areas of 100 feet from the true edge of sensitive habitat areas identified in the field should be provided in the project. It is unclear from the discussion on p. IV-19 whether such buffers can be provided. If they can not, then the assessment of alternative treatment plant sites (p. VII-26) should be revised to identify this adverse affect associated with the proposed treatment plant site. 8

We agree that a spoils disposal plan is required to prevent unauthorized spoils disposal in wetlands and other sensitive habitat areas (p. V-4). 9

Additional assessment of the impact on bayshore salt marshes and their vegetation from increased freshwater flows to the bay fringe between the north end of Pine avenue and the north end of Pecho Road should be provided (p. V-51). This area includes good examples of salt marsh habitats, apparently including the salt marsh bird's beak, a plant listed as rare, threatened, or endangered by the US Fish and Wildlife Service. In addition, these wetlands provide valuable foraging areas for shorebirds and other wildlife and provide nursery areas and contribute detritus important to the bay's marine organisms. The shoreline should be surveyed for State or federally listed species, and an assessment provided of the impact of these increased freshwater outflows on any listed species present. The assessment of the impact associated with the conversion of saltmarshes to freshwater habitat could be strengthened by explaining the size of the area affected in proportion to the overall extent of similar habitats (both freshwater and saltmarsh) on the bay, and by demonstrating that any special functions of the salt marsh along this bayshore will not be altered or that any such alteration will not substantially affect the bay's ecology. 10

The assessment of the project's effects on water quality in the bay (V-52) and Los Osos Creek (V-54) is inadequate. While the project is expected to reduce nutrient inflows from septic tanks discharging to the shallow groundwater table, it will also facilitate development which will increase nutrient inflows from runoff of urban fertilizers and other contaminants. As discussed elsewhere, the FEIR needs to include a nitrogen budget for the area with and without the project (including the cumulative additional development made possible by the project) to assess whether the project and the associated cumulative development which it will make possible will result in a net reduction in nutrient inflows to the groundwater and the bay. 11

We are concerned that impacts to wetlands from construction related runoff be adequately mitigated. We do not concur with the recommendation (p. V-6) that special erosion control provisions be determined on a case by case basis as construction proceeds. This mitigation measure should be revised to require preparation of an erosion control plan as part of the Step III design, including the description of typical erosion control practices and typical locations where they will be applied. These erosion control practices should be specified in bid and contract documents. 12

Biological Resources. The DEIR's assessment of potential adverse impacts to biological resources is inadequate, because it is difficult to completely evaluate these impacts until the project design has been finalized. The potentially irreversible commitment of resources which will accompany this project requires that those alternatives which best meet local resource constraints be pursued in the FEIR. The FEIR should describe and map the exact amount of acreage for each habitat type (i.e. riparian wetlands, woodlands, freshwater marsh, oak woodland, chaparral and coastal dune scrub) which may be impacted, dependent upon final project design, and provide specific mitigation measures to compensate for those unavoidable impacts. 13

The DEIR on p. V-43 states that the most significant effect to wildlife will occur within the habitat of the Morro Bay kangaroo rat. This federally listed endangered species will be adversely affected as continued human population growth occurs without adequate habitat protection. In addition, the USFWS has identified a number of candidate plant species which will likely be reduced in numbers as habitat values decline as a result of the proposed project, including Morro manzanita, Monterey spineflower and Indian Knob mountain balm. Therefore, the cumulative impacts to these and other species of concern will increase with continued urban expansion. 14

The DEIR on VI-5 states that while growth-related impacts to biological resources can be mitigated to some degree with conditional approval of small projects, it results in fragmentation not protection of habitat. Therefore, effective mitigation measures must be planned for and part of a longer-range management plan designed to protect and preserve habitat. For this reason, the County needs to complete a Habitat Conservation Plan which provides management objectives for protection of habitat for the Morro Bay kangaroo rat and candidate plant species. Without such a plan, proceeding with a project of this magnitude, threatens the sustainability of existing habitat values and does not guarantee that appropriate mitigation measures will be implemented for potential impacts throughout the community which will result in adequate protection of biological resources. 15

Agriculture. The DEIR should clearly state whether the farm lands affected by the project meet the Coastal Act's definition of prime agricultural land. The effect of the conversion on the regional farm economy should be considered by describing the acreage converted in proportion to the total amount of similar farm land in the area. 16

The DEIR's assessment of alternative treatment plant sites which might avoid impacts to agricultural lands is inadequate. The alternatives (VII-26) appear to be merely straw dogs whose unsuitability for the treatment plants (due to their conflicts with protection of federally protected wildlife) is clear. In addition, the comparison of these alternatives does not include 17 consideration of the cumulative effect of development made possible by the treatment facilities. This development would adversely affect the Morro Bay kangaroo rat habitats which the DEIR purports will be protected by locating the plant at the preferred site.

An alternative location which is not so clearly unsuited for treatment plant development, such as a site north of the high school and west of Los 18a Osos Creek and outside the kangaroo rat habitat areas should be considered. 18a While such a site may ultimately prove infeasible or incompatible with other community objectives, a more careful assessment of an alternative site which 18b would not result in conversion of high quality farm lands should be undertaken. 18b

The County should be aware that Coastal Act Section 30241 prevents the conversion of farm lands around the periphery of urban areas unless the viability of existing uses is already severely limited by conflicts with urban uses or where the conversion would complete a logical and viable neighborhood and contribute to the establishment of a stable urban-rural boundary. Since the treatment plant site is clearly outside Los Osos' anticipated urban limit, 19 the County should consider how it will demonstrate the existence of conflicts 19 with urban uses in seeking an LCP amendment to convert the farm lands on the site. In particular, the County should evaluate the need to prepare the assessment of the viability of these farmlands as required by Coastal Act Section 30241.5. We are available upon request to discuss with the County the need for this evaluation and other factors to be considered in evaluating this proposed conversion.

Service area. The project as proposed would extend wastewater facilities to extensive urban reserve areas outside the urban service line designated in the County's LCP (p. IV-17). These urban reserve areas proposed for service include lands north of Los Osos Valley Road and west of South Bay Boulevard. Permitted development in this area under the County's certified coastal Land Use Ordinance is 1 unit per 1 to 5 acres. The RWQCB's order 83-13 does not 20 prohibit discharge of additional wastewater to septic tanks in this area, nor 20 does the density of development proposed in the LCP indicate the wastewater facilities will be required in the future. Extension of service to these areas seems to be unnecessary and would conflict with the LCP's public works policy 2 that new public works facilities be designed to accommodate but not exceed the needs generated by projected development within the urban limit line. Since the LCP does not anticipate a level of development which would require sewer services in these areas, they are not needed and would be inconsistent with the LCP policies.

The mitigation measures and alternatives proposed in the DEIR (p. IV-24) should include elimination of service to these areas (and related decreases in the treatment works capacity), rather than amendment of the LCP to permit extension of services to areas where they are clearly not required to support 21 the land uses authorized by the LCP. We concur with the recommendation (p. 21 VII-40) that the environmentally superior alternative should delete service to this area.

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Exhibit 9, p. 8

22 Geologic hazards. Potential geologic hazards affecting the proposed collection system, particularly the potential for floating or other damage to the proposed crossing of Los Osos' creeks estuary due to earthquake induced liquefaction, should be considered (p. V-5). EIR's for similar wetland crossings in other regions have identified the potential for floating and subsequent fracture of the pipeline due to earthquake induced liquefaction of the wetland's saturated soils. If this impact is potentially significant, mitigation measures should be described. The FEIR's description of the impacts of the raw sewage force main crossing of the Los Osos Creek estuary should be based on the crossing including any measures necessary to mitigate liquefaction impacts. 22

23 Groundwater. The growth inducing effects of the project, and its relation to the need for future improvement of other services, is strongly influenced by the project's effects on groundwater supplies. For this reason, it is very important that the FEIR provide the strongest possible assessment of the project's effects on groundwater. In this regard, it is not apparent from Table V-7 that changes in water levels in central Los Osos generally follow changes in the amount of rainfall, as asserted on p. V-15. The plots of water levels in central Los Osos shown in Table V-7 show water levels in well 17E4 that follow rainfall, but generally declining levels in well 18F1, as described on p. V-19. It would be helpful if a statistical analysis of the correlation of these well levels with rainfall levels could be carried out to confirm the DEIR's statement, or else to change the statement on p. V-15 so that it is consistent with the conclusion on p. V-19 that central Los Osos well levels are now declining with increased pumping in this portion of the basin. 23

24 It is unclear to us why, if groundwater nitrate levels exceed State standards for nitrates in domestic water supplies, the County and Department of Health Services are permitting new development connecting to the S&T Mutual Water Company system. If the water supply utilized by this company exceeds health standards for domestic use, is it prudent to extend its service to additional households until the water quality problems are solved? 24

25 The rationale for the assumptions used in preparation of the hydrologic budget needs to be more carefully justified. In particular, the hydrologic budget assumes that inflow and outflow from the lower aquifer are approximately in balance, while the discussion and tables of pps. V-15 to V-20 indicate that water levels in the basin are declining, suggesting that inflow and outflow are not balanced. 25

26 We are uncertain that the conclusion on p. V-24 that the improvement of water quality discharged to the upper aquifer will increase the water supply available to the community squares with the County's past treatment of the capacity issue under its growth management system. It is our experience that the County has considered both upper and lower aquifer waters as fully available to serve new development, and has continued to permit new development dependent on water supplies drawn from the upper aquifer in the S&T Mutual Water Company Service area. It would seem that the project's impacts could more accurately be described as preventing a loss of this water supply in the future if water quality were to degrade to the point that the County or Department of Health Services were to prevent new connections to the system or require development of an alternative water supply for existing customers. 26

We agree that development of a water budget for the two aquifers is premature until DWR-USGS studies are completed (p. V-24). However, a useful understanding of the project's growth inducing impacts and its relation to other service improvements needed to support the population for which the system is designed depends on a reliable water budget for the aquifers. The unreliability of the present estimates is obvious from the description of the project's effects on lower aquifer groundwater (p. V-24-25). This element of the DEIR is obviously tentative and couched in such terms as "strongly suggest", "argues that", "approximates", "assuming", "potential", and "appears", none of which permit a useful assessment of the project's effects on groundwater levels in the lower aquifer or related impacts on growth or the need for improvements of other service capacities required to support the population capacity for which the system is designed. For this reason, the DEIR should consider a postponement of final project design (including determination of the systems capacity), until study results are adequate to support a reliable budget. An alternative approach might provide for construction of the treatment plant at the capacity proposed, with phased expansion of the collection system if the DWR-USGS water study identifies additional water supplies or if alternative water supplies are developed (see related comments under Alternatives below.)

The importance of more accurately estimating the project's effects on groundwater recharge is underscored by the large variation in estimates of lower aquifer recharge presented in Sections 2a(1) and 2a(2). Section 2a(1) concludes that recharge from the project estimated from analyses of the groundwater budget included in the DEIR would appear to be 895 AFY, while section 2a(2) states that recharge estimated based on field observations of the recharge rate at the disposal site would be approximately 200 AFY, only 22 percent of the recharge estimated in section 2a(1). These wide variations in estimates of project effect prevent a meaningful analysis of the project's growth inducing effects and the need for other service improvements to support the population which the project is designed to support, as discussed in our comments on growth inducing impacts (see below).

Water quality. The statement on p. V-27 that the long term reduction in upper aquifer groundwater quality cannot be predicted is a cause of serious concern. The project is, after all, intended primarily to remedy existing water quality problems in this aquifer. It seems questionable whether public agencies should be asked to approve a project costing \$37 million and causing substantial unmitigatable impacts on the environment when there is no demonstration that the project will achieve the water quality objectives which it is intended to provide.

A better estimate of cumulative impacts on upper aquifer groundwater quality of the project and the population growth which it will facilitate should be provided. Such an assessment should include a nitrate budget for the aquifer based on the best information now available, and should consider both the decreases in nitrate inflow to the aquifer attributable to elimination of septic tank inflow as well as the increase in nitrate and other contaminants resulting from increased urban runoff, including fertilizers and other contaminants. According to the DEIR, the volume of urban runoff is now 80 % of septic tank return waters. This proportion may increase with effective implementation of onsite stormwater detention policies (p. VI-3.) The adverse

effects of this increase in the discharge of urban runoff to the shallow aquifer needs to be considered in evaluating the benefits to shallow aquifer

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30 Growth inducement. The project's collection system is designed to accommodate a population of 28,200 people (III-4), a population 120 percent above the existing population in the service area and 42 percent above that which can be accommodated by the land use plan for the area. The treatment system's design also accommodates treatment works additions which could serve a population similarly in excess of that now planned for the area. It is unclear to us what basis has been used to determine that a population of 28,200 is the "ultimate development of the study area", as the present County and State land use policy provides for development of only the land uses authorized in the LCP, and any population increase above this level is purely speculative and may involve substantial adverse environmental impacts which are not analyzed in either this document or other assessments. 30

The proposed project's provision of capacity so substantially in excess of that anticipated in the LCP is clearly inconsistent with the policies of the Coastal Act and the County's coastal program. Coastal Act Section 30254 provides:

New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted consistent with the provisions of this division....

31 In addition, as discussed above, San Luis Obispo's certified LCP provides in the LCP's public works policy 2 that new public works facilities be designed to accommodate but not exceed the needs generated by projected development within the urban limit line. Since the LCP does not anticipate a level of development which would require sewer services for this level of population, such excess capacity is not needed and would be inconsistent with the LCP policies. This inconsistency is not recognized on section IV-D, nor is it identified as an adverse effect of the project. 31

32 As noted on p. VII-2, our response to the NOP requested analysis of a project providing a capacity sized in relation to the presently known available potable water supplies. These supplies include the 1800 AFY safe yield estimated by the Brown and Caldwell study, plus the 200 AFY to 895 AFY potentially recharged to the lower aquifer by the project. 32

33 The contention on p. VI-3 that groundwater recharge in the upper aquifer would be increased by the construction of detention facilities does not appear well supported. First, implementation of this local policy is poor. None of the four land divisions approved by the County and submitted as coastal permit applications this year have included any substantial stormwater or runoff detention facilities. Second, substantial increases in groundwater recharge if such facilities were to be provided in the future is not substantiated by the DEIR's information, as p. V-19 suggests that the upper aquifer is largely fully recharged now and will be receiving additional recharge as a result of project implementation. It would seem that additional water recharged to the upper aquifer from on site storm water and runoff detention facilities would not provide substantial additional water supply benefits. Finally, if substantial detention facilities were to be constructed, they would reduce the land area available for other development, reducing the population which would require service from the treatment works. While stormwater detention facilities are desirable in decreasing runoff peaks contributing to drainage and non-point water quality impacts in Morro Bay, they do not appear to provide an important addition to the area's reliable water supply. 33

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Exhibit 9, p. 11

Therefore, it appears that the known potable water supply following project implementation is 2000 AFY, assuming the adverse affects of increases in nitrates from urban return water in the upper aquifer related to increases in development in the community facilitated by the project do not offset the project's beneficial water quality affects to the point where this supply is no longer potable. While additional supplies may be available if recharge from the project approaches the 895 AFY estimated in section VB2(al) or if the DWR-USGS studies conclude that additional groundwater supplies are available, 34 it does not appear prudent to rely upon these supplies, especially in light of the warning on p. V-13 that hydrologic cycles in the past 19 years are the wettest in the County's 116 year history. For these reasons, it seems prudent to consider an alternative "worst case" analysis based upon known existing water supplies and the lower level of groundwater recharge from the project estimated in the DEIR.

Under this alternative worst case scenario, the only substantial water supplies available to support new development would be the 200 AFY increase in groundwater recharge provided by the project. The DEIR concurs (p. VI-3) with the Coastal Commission's findings in permit 4-86-48 (Cabrillo) that the lower aquifer is now at or very near its safe yield. The 200 AFY available to support new development would be sufficient to support an additional population of approximately 1052 persons if Los Osos' per capita water use is equal to that in Morro Bay (.19 AFY per capita). This water supply would be 34 sufficient to support a total population of 13,750, only 76 percent of the design capacity of the Step I facilities and about half of the water supply needed to support a population equal to the collection system's design capacity. New water supplies of up to about 800 AFY would be required to support the additional population needed to reach the design capacity (and repayment projections) of the Step I system. A total of 2700 AFY of additional water would be required to support the "ultimate development" population for which the collection system is designed. 34

For this reason, our NOP comments requested analysis of an alternative with a capacity equal to the known water supplies of the community. Such an alternative represents the last opportunity for the community to develop within the resources known to be available to it. Development of an 34 alternative with substantially greater capacity could set in motion a series of service capacity improvements, first of sewer capacities, then of water supplies, and finally of other services, including drainage, highway, sheriff, fire, and school facilities described in DEIR sections VIB-I, as well as park and recreation services (which are not discussed in the DEIR).

The principal advantage of an alternative with a service capacity as described above would be to avoid the environmental effects and cost of these additional service improvements, as well as reducing the adverse biological effects of buildout of the community. These advantages may be substantial. The potential \$3.5 million savings identified in the treatment works (p. VII-3) would also be accompanied by the savings attributable to a 50% 34 reduction in the capacity of the collection works, which now account for half the project costs (p. VIII-4). Costs reductions from, for example, the use of smaller diameter pipe and smaller pumps in the collection system or a further reduction in the service area (resulting in an ultimate buildout equal to that which could be served by the known water supply) should be identified.

We recognize that this alternative might result in a treatment system with higher costs per connection. It would, however, avoid the need for development of additional water supplies and the improvements of other services which the EIR identifies as needed to serve the population for which the system is now proposed. According to the County's recent water master plan, provision of these additional supplies to Los Osos could cost \$.28 million to \$.5 million annually to serve a population equal to the Phase I capacity, and \$.9 to \$1.6 million annually to serve a population equal to the Phase II capacity. A reduced capacity alternative could also avoid or reduce the cumulative costs of other service improvements which the DEIR identifies as required to serve a population equal to the treatment works capacity, including the cost of widening Los Osos Valley Road and South Bay Boulevard to four lanes, extension of South Bay Boulevard to Pecho Valley Road, extension of Highland Drive to Pecho Road, extension of Skyline Drive to Butte Drive, 34 additional fire and sheriff services, a new elementary school, and additions to the junior high school and high school, as well as park and recreation improvements which are not discussed in the DEIR. These costs would presumably be borne at least in part by the service area residents, and may more than offset any savings per connection projected for treatment works serving the population now used in capacity decisions. For example, the estimated cost of developing the additional water supplies discussed above would be \$32 to \$58 annually per dwelling unit (based on total d.u.'s shown in Table VIII-1). When these cumulative costs of growth are considered, a treatment and collection system serving a population which can be sustained by Los Osos' present water supplies and other infrastructure may appear to be a more economically attractive alternative than the DEIR describes on p. VII-3.

A decision to proceed with a collection and treatment system sized to the population which can be accommodated by the existing LCP's land use designations accompanied with effective implementation of the LCP's Resource Management Program to phase service extensions and development with available 34 service capacities, is clearly consistent with the LCP. However, community residents, County decision makers, and the Coastal Commission deserve an environmental document that more clearly describes the cost and impacts of such an alternative as well as an alternative that avoids these impacts and costs.

a. Traffic and circulation. Appendix G of the CEQA guidelines provides that a project will normally have an adverse environmental effect if it interferes with emergency response plans or emergency evacuation plans. It would therefore seem that the potential needs for community evacuation in a Diablo Canyon emergency, as well as more traditional estimates of ADT and peak hour traffic, should be considered when evaluating traffic impacts of population growth in Los Osos-Baywood Park. It would seem that projections of traffic on South Bay Boulevard and Los Osos Valley Road should consider the 35 potential impacts of evacuation of the community as a result of implementation of the Diablo Canyon emergency plan. The Evacuation Time Assessment for Transient and Permanent Populations from Various Areas within the Plume Exposure Pathway Emergency Planning Zone (Wilbur Smith and Associates. 1986) estimates that evacuation of the present Los Osos-Baywood Park population would require 5-6 hours. Would the additional population induced by the project be able to evacuate in the same period with implementation of the roadway improvements described in DEIR pps. VI 7-8?

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Exhibit 9, p.13

b. Parks, Recreation, and Open Space. The DEIR should include an assessment of increased demand for parks, recreation, and open space to support the increase in population induced by the project. Los Osos presently has very few areas set aside for local recreation. Nor does the County collect Quimby Act fees or carry out other systematic measures to plan for and fund recreation facilities for its residents. Such measures may be needed to provide adequate recreation facilities for the population for which the treatment works are now planned. In the absence of such local recreation planning, local residents may increase recreational use of fragile bayshore areas where conflicts between recreation and habitat protection are already posing problems for habitat managers.

Please remember that Coastal Act Section 30252 provides, in part:

The location and amount of new development should maintain and enhance public access to the coast by ... (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of new development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

Alternatives. As we discussed above, the EIR needs a more complete and useful discussion of an alternative which provides a reduced collection and treatment capacity sized to that which can be sustained with known community water resources.

One way of designing such a reduced capacity would be to phase the construction of the collection system, limiting initial installation of the collection system to an areas which, at buildout under the LCP, would result in a cumulative post project population which can be served by the worst case water supply discussed above, postponing the installation of collectors to other potential service areas until either (a) the DWR-USGS studies confirm that additional water will be available from the groundwater basin or (b) the County determines that development of alternative water supplies is feasible. Such an alternative might, for example, focus the collection system in existing subdivided areas in the prohibition zone which the DEIR states (p. VIII-2) hold 692 single family parcels and 317 multifamily parcels. The existing vacant single family parcels alone would be sufficient to hold a population (at 3.25 persons per du) requiring 200 AFY of water beyond that available under the worst case alternative discussed above. Decisions to extend the collection system to serve largely unsubdivided areas could be postponed until the USGS-DWR water supply studies are completed or the County has determined that development of alternative water supplies is feasible.

An alternative which phased the extension of collectors within the service area so that the initial collection area matched the population which could be served by known water supplies might, for example, postpone installation of service to unsubdivided areas between Pecho Road and Broderon Avenue from Los Osos Valley Road to Skyline Drive, areas north of Los Osos Valley Road from Broderon Avenue to Farrell and Butte Drives, the residential suburban, multifamily residential, and commercial service areas north of Los Osos Valley Road and west of South Bay Boulevard, and the single family residential areas along Bayview Heights Drive. In this way, service would be provided first to developed and subdivided areas, eliminating the preponderance of septic tank inflows to the upper aquifer and providing service for infill development

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while phasing development in unsubdivided areas with the provision of adequate water supplies. Provisions for construction of residences on existing parcels in these deferred service areas, together with establishment of a septic tank maintenance program for areas where collectors are not installed in the initial project phases, might also be helpful. It would seem that this alternative would achieve the bulk of the nitrate reductions from septic tank inflow attributable to the project as proposed while reducing the uncertainty attributable to the project's relation to other service capacities needed to serve its design population. This kind of alternative would seem more consistent with the LCP Resource Management System's provisions for phasing of development to match service capacities and providing for infill development prior to the authorization of development dependent on new land divisions. This alternative could also reduce the linear extent of the proposed 46 miles of pipelines in the collection system and reduce the collection system cost which, according to the DEIR, makes up 50 percent of the overall system cost. 38

The description of the benefits from disposal of treated wastewater to agricultural lands (p. VII-19) does not fully identify the benefits of this disposal alternative. The beneficial effects of this alternative would reduce the impacts of construction of the disposal field included in the project as proposed and would mitigate the potential growth inducing effects of Phase II of the project by committing agricultural lands to long term farm use for wastewater disposal, protecting them from urbanization in future land use changes required to serve the area's projected Phase II population. This alternative would also help reduce the long term cost of providing water for agricultural use, helping to achieve the water use priority policies of the County's LCP and the agriculture policies of Coastal Act section 30241. 39

Economic Analysis. The project's economic analysis suggests a portion of the project costs may be repaid through Benefit of Service assessments against unsubdivided parcels which might be urbanized following implementation of the project. As we discussed above, there may be substantial adverse effects from servicing the entire area now proposed. In addition, other public services necessary to support urban development on unsubdivided lands within the service area may not be available. The County should consider the propriety of assessing unsubdivided lands for benefit in the project if other infrastructure limitations will prevent urbanization of these lands and the subsequent delivery of sewer service to urban development on them. For these reasons, we would suggest the County consider a financing alternative which does not assess areas outside the reduced service area described under Alternatives above, as well as unsubdivided property which contains habitat for the Morro Bay kangaroo rat. 40

ADDENDUM TO APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT
Community Wastewater Treatment System for Los Osos.

ATTACHMENT 2

RECOMMENDATION TO MODIFY ENGINEER'S REPORT

JUNE 17, 1997

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Exhibit 9, p. 16

SAN LUIS OBISPO COUNTY ENGINEERING DEPARTMENT

COUNTY GOVERNMENT CENTER • ROOM 207 • SAN LUIS OBISPO, CALIFORNIA 93408

TIMOTHY P. HANSON
COUNTY ENGINEER
GLEN L. PRIDDY
DEPUTY COUNTY ENGINEER
ENGINEERING SERVICES
HOEL KING
DEPUTY COUNTY ENGINEER
ADMINISTRATION

PHONE (805) 781-5252 • FAX (805) 781-1229



ROADS
SOLID WASTE
FRANCHISE ADMINISTRATION
WATER RESOURCES
COUNTY SURVEYOR
SPECIAL DISTRICTS

June 17, 1997

The Honorable Board of Supervisors
County of San Luis Obispo
San Luis Obispo, CA

Subject: Los Osos Wastewater Facility Assessment District; Property Owner
Requests for Annexation to the District
Supervisory District No. 2

Honorable Board:

Summary

Two property owners, owning property adjacent to the Los Osos Wastewater Facility Assessment District, have petitioned 1) to be included within the Assessment District boundaries; and 2) to be provided wastewater service from the proposed project. Approval of the recommendations will cause a public hearing to be held on July 15, 1997, concerning the formal adoption of these proposed changes and modifications to the Engineer's Report of said District.

Recommendation

It is our recommendation that your Honorable Board:

1. Approve the attached Resolution of Intention to schedule a public hearing for the July 15, 1997 Board of Supervisors meeting to consider a resolution directing a change and modification to the Engineer's Report of the Los Osos/Baywood Park Assessment District.
2. Direct the Clerk to notice said hearing in accordance with Sections 10353 and 10354 of the Streets and Highway Code.

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Exhibit 9, p. 17

Discussion

Two property owners, outside of and adjacent to the boundaries of the Los Osos/Baywood Park Assessment District have petitioned the County to be included in the project and the project's assessment district (reference attached letters). To accomplish their stated goals and use of the property, community sewer service would be required. The proposed sewer project could accommodate this request, and the petition and recommendation for inclusion is supported by the Engineer of Work and the Assessment Engineer.

The hearing allows the petitioners to present their request to the Board for review and approval, and is a mandatory requirement of assessment district proceedings. Final action by the Board will not negate future discretionary approvals on the development of these properties.

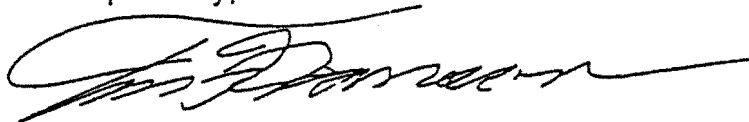
Other Agency Involvement

Engineering Department staff has been coordinating discussions with Bond Counsel and the Assessment Engineer on the procedural requirements of petition for annexation. Hearing date scheduling was confirmed with the Administrative Officer, based on timing considerations associated with the sale of project bonds.

Financial Considerations

Review and consideration of proposed changes and modifications is an anticipated procedural step in assessment district administration, and was included in the project's original cost estimate summary. Minimal staff time has been required to process these petitions. Approval of the recommendations at the hearing will increase the revenue base without increasing project costs. No funding allocation is requested with this item.

Respectfully,



TIMOTHY P. NANSON
County Engineer

Attachments

File: Los Osos Sewer Project: Change Order Hearing

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A-3-SLO-97-040
Exhibit 9, p. 18

ADDENDUM TO APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT
Community Wastewater Treatment System for Los Osos.

ATTACHMENT 3

GUIDELINES FOR GRANTING EXEMPTION TO THE BAYWOOD PARK/LOS OSOS SEPTIC TANK PROHIBITION

DECEMBER 15, 1996

**CENTRAL COAST REGIONAL WATER QUALITY CONTROL
BOARD**

A-3-SLO-97-040
Exhibit 9, p. 19



57

Pete Wilson
GovernorCentral Coast
Regional Water
Quality Control
Board

December 15, 1996

Dear Interested Party:

BAYWOOD PARK/LOS OSOS SEPTIC TANK DISCHARGE PROHIBIT EXEMPTIONS

At its December 6, 1996 public hearing, the Regional Water Quality Control Board approved guidelines for granting exemptions to the Baywood Park/Los Osos septic tank prohibition. What this means is that under certain conditions, the County may be able to issue building permits within the discharge prohibition area.

The guidance criteria are included as Attachment One. This guidance is intended to provide clear direction to Regional Board staff, the County and the public on what is likely to be acceptable for exemption. The guidance also provides criteria for the County's use in evaluating and issuing building permits within the Los Osos prohibition area.

All exemption requests must proceed first to the County and only those projects receiving County approval will be submitted (by the County) for my written approval. I have authority from the Board to approve only those projects which clearly meet the guidance criteria. I will include candidate projects in the Board's agendas. Unless the Board objects to a project, I will send an approval letter after the Board meeting. Please note that exemptions will only be granted if the County continues to proceed satisfactorily with its project.

If you have questions regarding this issue, please contact Sorrel Marks (805/549-3695) or Brad Hagemann (805/549-3697) of my staff.

Sincerely,

Roger W. Briggs
Executive OfficerSJM/p:/wdr/loexempt.gid/p:\cm
task: 401-02
file: SLO CSA 9, Los Osos

Attachments

A-3-SLO-97-040
Exhibit 9, p. 20

Recycled Paper

Our mission is to preserve and enhance the quality of California's water resources, and ensure their proper allocation and efficient use for the benefit of present and future generations.

ATTACHMENT 1
GUIDANCE FOR GRANTING EXEMPTIONS TO THE
BAYWOOD PARK/LOS OSOS DISCHARGE PROHIBITION

The Regional Water Quality Control Board, Central Coast Region will consider granting exemptions to the Baywood Park/Los Osos Discharge Prohibition in accordance with this guidance. Once the Regional Board grants an exemption to the prohibition, the County may issue building permits according to its own requirements.

Such consideration will be based on site and project specific justification including documented nitrogen removal capabilities of on-site treatment systems. All on-site systems must comply with separation criteria specified in the Basin Plan.

New septic systems must comply with the siting and design criteria specific in Resolution No. 83-12 (Basin Plan, pages IV-57 to IV-67). Also applicants for new septic systems in Segments I and II may be required to deposit into escrow or other restricted account funds sufficient to pay the cost of connecting the sewer when it is complete. Projects where site conditions indicate less than 30 feet separation between ground water and the bottom of the leachfield or pit, shall require individual consideration and approval by the District Engineer and the Regional Board Executive Officer. Exemptions under the terms of this guidance will not be authorized after January 1, 2000, unless the Segment I community wastewater system is complete and operational.

Consideration of exemptions under this guidance shall also be based on satisfactory progress demonstrated in the county's quarterly progress reports required by Time Schedule Order No. 95-90.

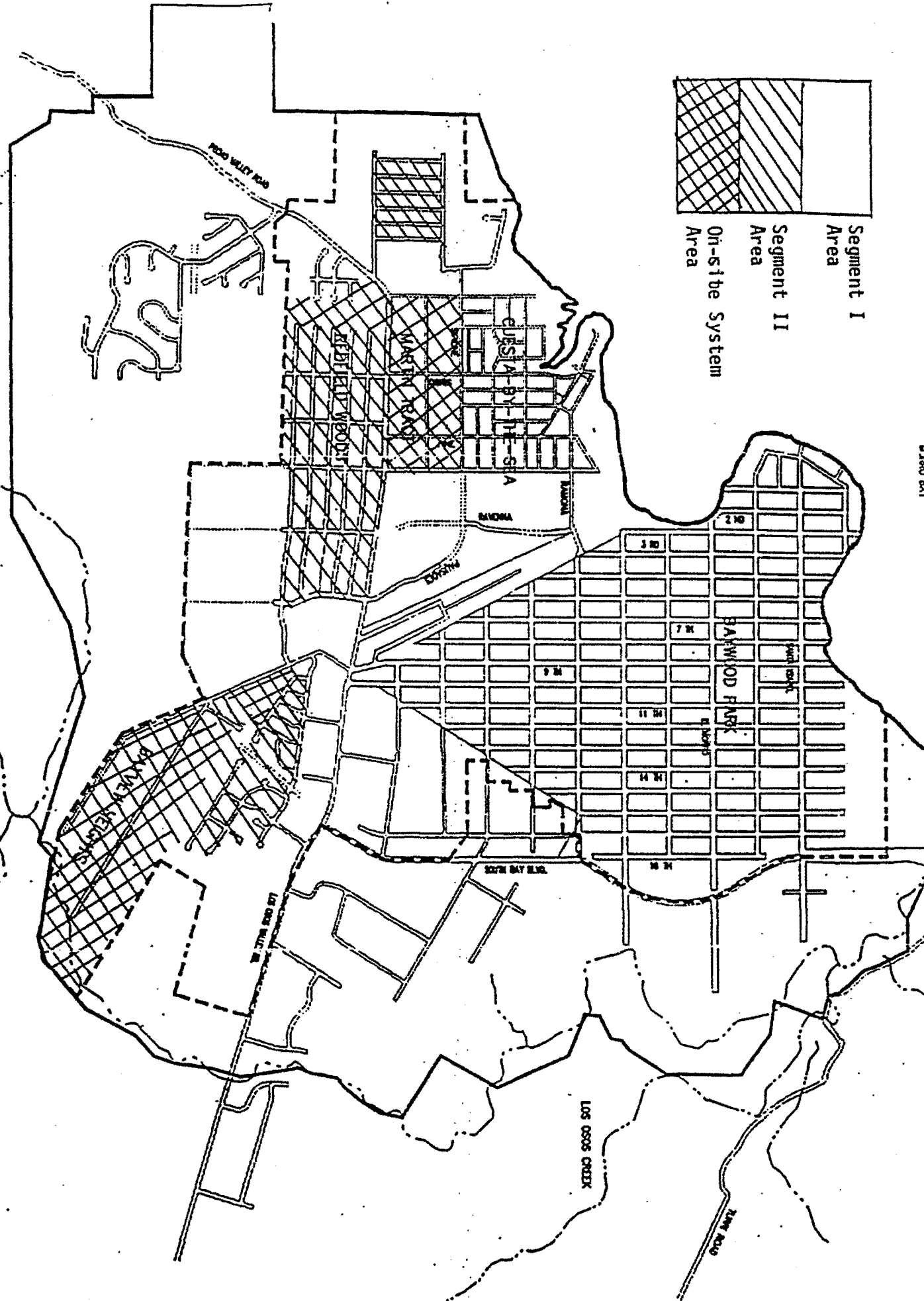
A. After completion of 100% design plans for Segment I collection and treatment system (due July 17, 1997) and formation of an On-Site Wastewater Management District (OWMD), permits may be issued for projects which meet the following criteria:

- i) Construction, expansion and remodels of commercial property (no area restriction) may be allowed where:
 - Project includes OWMD approved conventional septic system with 1/2 acre minimum lot size (comparable density) and greater than 30 feet separation between ground water and the bottom of the leach field or pit;
 - Lot size less than 1/2 acre shall require installation of an OWMD approved engineered on-site treatment system; and
 - Commercial expansion may be allowed if the Discharger can demonstrate no net increase in waste (i.e., treat waste to a level that provides no additional mass loading).
- ii) Within the Bayview Heights and Martin Tract areas (not scheduled to be sewered in Segments I and II and shown on Attachment 2), lot size less than 1/2 acre shall require installation of an OWMD approved engineered on-site treatment system.
- iii) Within the Bayview Heights and Martin Tract areas, project includes OWMD approved conventional septic system with 1/2 acre minimum lot size and greater than 30 feet separation between ground water and the bottom of the leach field or pit.
- iv) Property owner shall grant to OWMD right of entry necessary to access, inspect and/or monitor on-site treatment and disposal system.

ATTACHMENT 1
GUIDANCE FOR GRANTING EXEMPTIONS TO THE
BAYWOOD PARK/LOS OSOS DISCHARGE PROHIBITION

- B. After signing of the construction contract for Segment I project implementation and issuance of the "Notice to Proceed" (due prior to December 17, 1997) permits may be issued for projects which meet the following criteria:
- i) Remodels of existing residential structures may be allowed with OWMD approved on-site conventional septic systems (no area restriction).
 - ii) Property owner shall grant to OWMD right of entry necessary to access, inspect and/or monitor on-site treatment and disposal system.
 - iii) New residential construction may be allowed within the Segment II area, provided projects comply with conditions specified in Aii, iii, and iv above.
 - iv) When the Segment I collection and treatment system is operational, all new construction permitted under this guidance (residential and commercial) within the Segment I area shall be required to connect to the community wastewater system prior to occupancy.
 - v) When Segment II collection system is operational, all new construction permitted under this guidance (residential and commercial) within the Segment II area shall be required to connect to the community wastewater system prior to occupancy.
 - vi) For the consideration to build, all applicants in Segment I and Segment II areas shall agree to connect to the community sewer system as required by County Ordinance.
 - vii) After signing of the construction contract for Segment II project implementation, or July 1, 2003 (whichever occurs first), no exemptions will be authorized.

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