

Exhibit 4

San Luis Obispo County's CDP decision to amend condition #97 of previously issued CDP (File Number DRC2008-00103)

Staff Note: The Final Local Action Notice received for the County's CDP decision to amend condition #97 of the previously issued CDP is identical to Exhibit 3 except for the cover letter received December 7, 2009, Resolution 2009-385, and condition #97. Please see attached.



SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

**FINAL LOCAL
ACTION NOTICE**
REFERENCE # 3-SLO-09-321
APPEAL PERIOD 12/8 - 12/21/2009

RECEIVED

DEC 07 2009

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

December 3, 2009

CA Coastal Commission
ATTN: Jonathan Bishop
725 Front St. # 300
Santa Cruz, CA 95060

NOTICE OF FINAL COUNTY ACTION

HEARING DATE: November 24, 2009

SUBJECT: Action by the **COUNTY OF SAN LUIS OBISPO** to modify condition of approval #97 imposed on the previously issued Development Plan / Coastal Development Permit DRC2008-00103 (Los Osos Wastewater Project) pursuant to Coastal Zone Land Use Ordinance Section 23.02.034c(2)(iii). / COUNTY FILE NUMBER: DRC2008-00103

LOCATED WITHIN COASTAL ZONE: YES

The application for the Los Osos Wastewater Project (DRC2008-00103) was approved by the San Luis Obispo County Board of Supervisors on September 29, 2009. The project was subsequently appealed by the California Coastal Commission and twenty-one other individuals and groups within the statutory protest period. The San Luis Obispo County Board of Supervisors then modified condition of approval #97 for the above referenced application on November 24, 2009. A copy of the original Resolution of approval, with final findings and conditions has been sent as part of the previously issued Notice of Final County Action dated October 1, 2009 and is attached for your reference. The conditions of approval related to the Los Osos Wastewater Project (DRC2008-00103) must be carried out as set forth in Resolution No. 2009-313 as modified in Resolution No. 2009-385 (attached) which is specific to condition of approval #97.

This action to modify condition of approval #97 imposed on the previously issued Development Plan / Coastal Development Permit may be appealable to the California Coastal Commission pursuant to regulations contained in Coastal Act Section 30603 and the County Coastal Zone Land Use Ordinance 23.01.043. These regulations contain specific time limits to appeal, criteria, and procedures that must be followed to appeal this action. The regulations provide the California Coastal Commission 10 working days following final action by the County to appeal the decision. This means

that no construction permits can be issued until the Coastal Commission appeal period has expired without an appeal being filed.

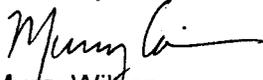
Exhaustion of remedies at the county level is required prior to appealing the matter to the California Coastal Commission. This appeal must be made directly to the California Coastal Commission Office. Contact the Commission's Santa Cruz Office at (831) 427-4863 for further information on their appeal procedures.

If the use authorized by this Permit approval has not been established or if substantial work on the property towards the establishment of the use is not in progress after a period of twenty-four (24) months from the date of this approval or such other time period as may be designated through conditions of approval of this Permit, this approval shall expire and become void unless an extension of time has been granted pursuant to the provisions of Section 23.02.050 of the Land Use Ordinance.

If the use authorized by this Permit approval, once established, is or has been unused, abandoned, discontinued, or has ceased for a period of six (6) months or conditions have not been complied with, such Permit approval shall become void.

If you have any questions regarding these procedures, please contact me at (805) 788-2352 or email me at mwilson@co.slo.ca.us.

Sincerely,



Murry Wilson
Environmental Resource Specialist

Attachments:

1. Resolution No. 2009-313
2. Resolution No. 2009-385

CC. Department of Public Works (Internal)

RECEIVED

DEC 07 2009

BOARD OF SUPERVISORS
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Tuesday, November 24, 2009

PRESENT: Supervisors Frank Mecham, Adam Hill, K.H. 'Katcho' Achadjian, James R. Patterson and
Chairperson Bruce S. Gibson
ABSENT: None

In the matter of the Los Osos Wastewater Project Development Plan/Coastal Development Permit:

This is the time set for a hearing to consider a resolution by the County to modify, supersede, or replace conditions of approval imposed on the previously issued Development Plan/Coastal Development Permit (DRC2008-00103/Los Osos Wastewater Project) pursuant to Coastal Zone Land Use Ordinance Section 23.02.034c(2)(iii).

Chairperson Gibson: requests an update on the Los Osos Wastewater project funding, with Mr. John Dioditi, Public Works responding.

Chairperson Gibson: opens the floor to public comment.

Mr. Marshall Ochylski (Los Osos Community Services District Vice-President), Ms. Piper Reilly, Mr. Al Barrow (Coalition for Low Income Housing), Ms. Julie Tacker, Mr. Keith Wimer (Los Osos Sustainability Group), Mr. Robert Wetzel, Mr. Jeff Edwards, Ms. Gewynn Taylor, Ms. Linde Owen, Mr. Ben DiFatta, Mr. Chuck Cesena, Mr. Richard Margetson, and Mr. Alon Perlman: speak.

Board Members: comment on Coastal Commission communications, the modification of the condition and question the appeal process, with Mr. Murry Wilson, Planning, and Mr. Tim McNulty, Deputy County Counsel responding.

Thereafter, on motion of Chairperson Bruce S. Gibson, seconded by Supervisor James R. Patterson, and on the following roll call vote:

AYES: Chairperson Bruce S. Gibson, Supervisors: James R. Patterson, Frank Mecham, Adam Hill, K.H. 'Katcho' Achadjian
NOES: None
ABSENT: None

RESOLUTION NO. 2009-385, a resolution modifying condition of approval #97 of the Los Osos Wastewater Project Development Plan / Coastal Development Permit DRC2008-00103, Adopted as amended.

STATE OF CALIFORNIA)
) ss. 12/03/09 ar
County of San Luis Obispo) cc: Planning (2)

I, **JULIE L. RODEWALD**, County Clerk and ex-officio Clerk of the Board of Supervisors, in and for the County of San Luis Obispo, State of California, do hereby certify the foregoing to be a full, true and correct copy of an order made by the Board of Supervisors, as the same appears spread upon their minute book.

WITNESS my hand and the seal of the said Board of Supervisors, affixed this 3rd day of December, 2009.

(SEAL)

JULIE L. RODEWALD
County Clerk and Ex-Officio Clerk of the Board of Supervisors

By: 
Deputy Clerk

IN THE BOARD OF SUPERVISORS
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

Tuesday, November 24, 2009

PRESENT: Supervisors Frank Mecham, Adam Hill, K.H. 'Katcho' Achadjian, James R. Patterson, and Chairperson Bruce S. Gibson

ABSENT: None

RESOLUTION NO. 2009-385

**RESOLUTION MODIFYING CONDITION OF APPROVAL #97
OF THE LOS OSOS WASTEWATER PROJECT
DEVELOPMENT PLAN / COASTAL DEVELOPMENT PERMIT DRC2008-00103**

The following resolution is now offered and read:

WHEREAS, on August 13, 2009, the Planning Commission of the County of San Luis Obispo (hereinafter referred to as the "Planning Commission") duly considered and conditionally approved the application of the County of San Luis Obispo for the Los Osos Wastewater Project Development Plan / Coastal Development Permit DRC2008-00103; and

WHEREAS, Don Bearden, Steven Paige, Vivian & Barry Branin, Bruce Corelitz, Los Osos Valley Memorial Park, J.H. Edwards Company, Piper Reilly, Linde Owen, Los Osos Sustainability Group, Martha Goldin, Elaine Watson, Citizens For Affordable & Safe Environment & Coalition for Low Income Housing, Surfrider Foundation – San Luis Bay Chapter, Los Osos Legal Defense Fund, Sierra Club, and Chuck Cesena appealed the Planning Commission's decision to the Board of Supervisors of the County of San Luis Obispo (hereinafter referred to as the "Board of Supervisors") pursuant to the applicable provisions of Title 23 of the San Luis Obispo County Code; and

WHEREAS, a public hearing was duly noticed and conducted by the Board of Supervisors on September 29, 2009, and a determination and decision was made to deny the appeals and partially uphold the decision of the Planning Commission with modifications as set forth in Resolution No. 2009-313; and

WHEREAS, a subsequent public hearing was duly noticed and conducted by the Board of Supervisors pursuant to the provisions of Coastal Zone Land Use Ordinance Section 23.02.034c(2)(iii) on November 24, 2009; and

WHEREAS, the Board of Supervisors has considered a staff report and oral and written testimony and has duly considered the proposed modification of Condition of Approval #97 as set forth herein, consistent with Coastal Zone Land Use Ordinance Section 23.02.034c(2)(iii).

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of San Luis Obispo, State of California, as follows:

1. That the recitals set forth hereinabove are true, correct and valid.

2. That Condition of Approval #97 of Development Plan / Coastal Development Permit DRC2008-00103 is hereby modified to read as follows:

Disposal of treated effluent shall be reserved for the following sites/uses in the Los Osos Groundwater Basin:

- a) Broderson (not to exceed 448 AFY on an average annual basis),
- b) Urban re-use within the urban reserve line (as identified in the Effluent Re-Use and Disposal Tech Memo, July 2008),
- c) Agricultural re-use overlying the Los Osos Groundwater Basin, and
- d) Environmental reservations (not less than 10% of the total volume of treated effluent).

Total agricultural re-use shall not be less than 10% of the total treated effluent. Disposal shall be prioritized to reduce seawater intrusion and return/retain water to/in the Los Osos groundwater basin. Highest priority shall be given to replacing potable water uses with tertiary treated effluent consistent with Water Code Section 13550.

No amount of treated effluent may be used to satisfy or offset water needs that result from non-agricultural development outside the Urban Reserve Line of the community of Los Osos.

3. The Board finds that the above modification to Condition of Approval #97 is consistent with the previously certified Final Environmental Impact Report prepared for this project which was prepared in accordance with the provisions of the California Environmental Quality Act and the Board relies on that Final EIR in making this modification. The modification does not require preparation of a subsequent or supplemental EIR because:

- a) the modification to Condition of Approval #97 is not substantial,
- b) the modification will not lead to new significant impacts and no previously considered impacts will be made more severe, and
- c) the modification requires no change to the previously certified Final EIR because that document adequately considered requirements like those imposed by the modification.

4. That the modification to Condition of Approval #97 as set forth above does not affect any other Findings or Conditions of Approval previously made for Resolution No. 2009-313 or any other aspect of Final EIR certification or the approval granted to Development Plan / Coastal Development Permit DRC2008-00103. If, however, this modification to Condition of Approval #97 is stricken or further modified by a court of qualified jurisdiction, following all available appeals or appeal periods, then, while the Final EIR will remain certified, the Board's prior approval of Development Plan / Coastal Development Permit DRC2008-00103 shall become null and void.

Upon motion of Chairperson Gibson, seconded by Supervisor Patterson, and on the following roll call vote, to wit:

AYES: Chairperson Bruce S. Gibson, Supervisors: James R. Patterson, Frank Mecham, Adam Hill, K.H. 'Katcho' Achadjian.

NOES: None

ABSENT: None

ABSTAINING: None

the foregoing resolution is hereby adopted.

Bruce S. Gibson
Chairperson of the Board of Supervisors

ATTEST:

Julie L. Rodewald
Clerk of the Board of Supervisors

By: Annette Ramirez
Deputy Clerk

[SEAL]

APPROVED AS TO FORM AND LEGAL EFFECT:

WARREN R. JENSEN
County Counsel

By: /s/ Timothy McNulty
Chief Deputy County Counsel

Dated: November 23, 2009

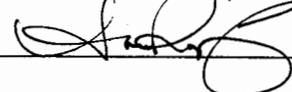
STATE OF CALIFORNIA,)
) ss
County of San Luis Obispo)

I, JULIE L. RODEWALD, County Clerk and ex-officio Clerk of the Board of Supervisors, in and for the County of San Luis Obispo, State of California, do hereby certify the foregoing to be a full, true and correct copy of an order made by the Board of Supervisors, as the same appears spread upon their minute book.

WITNESS my hand and the seal of said Board of Supervisors, affixed this 3rd day of December, 2009.

JULIE L. RODEWALD
County Clerk and Ex-Officio Clerk of the
Board of Supervisors

(SEAL)

By: 
Deputy Clerk

- (b) Prevention and management actions to avoid the proliferation of weeds and noxious plants that are incompatible with adjacent agricultural practices.
- (c) Management of all on-site water features, including springs, streams, and ponds in a manner that does not result in erosion or sedimentation impacts on downstream properties.

The Site management will be reviewed and approved by the Director of Planning and Building in consultation with the Agricultural Commissioner prior to implementation.

97. Nothing in this condition shall preclude disposal of treated effluent in accordance with a court judgment arising from the current groundwater litigation involving the Los Osos Groundwater Basin.

Disposal of treated effluent shall be reserved for the following sites/uses:

- a. Broderson (not to exceed 448 AFY on an average annual basis),
- b. Urban re-use within the urban reserve line (as identified in the Effluent Re-Use and Disposal Tech Memo, July 2008),
- c. Agricultural re-use overlying the Los Osos Groundwater Basin,
- d. Environmental reservations (not less than 10% of the total volume of treated effluent), and
- e. Other agricultural re-use within Los Osos Valley.

Total agricultural re-use shall not be less than 10% of the total treated effluent. Disposal shall be prioritized to reduce seawater intrusion and return/retain water to/in the Los Osos groundwater basin. Highest priority shall be given to replacing potable water uses with tertiary treated effluent consistent with Water Code Section 13550.

No amount of treated effluent may be used to satisfy or offset water needs that result from non-agricultural development outside the Urban Reserve Line of the community of Los Osos.

98. Where the collection system pipes will be located in areas of high groundwater, or areas subject to future 5 foot sea level rise, as shown on the June 29 and 30, 2009 PC Memo – page: 1-16 (see Attachment 3), and as identified in the field during construction; the applicant shall utilize fusion welded pipes or chemically sealed pipes. In areas of high groundwater, additional inspections to ensure proper installation shall be completed prior to backfilling the trenches. All laterals to individual residences shall utilize fusion welded pipes or chemically sealed pipes. Lateral connections at the property line shall utilize fusion welded pipes, chemically sealed pipes, or collars.
99. Within one year of adoption of a due diligence resolution by the Board of Supervisors, electing to proceed with a wastewater project, a water conservation program shall be developed by the applicant in consultation with the local water purveyors within the prohibition zone for the community of Los Osos, that meets the goal of 50 gallons per day / per person for indoor use. The applicant shall provide 5 (five) million dollars of funding towards a water conservation program for indoor water conservation. Incentives shall be provided to homeowners and other property owners who install conservation measures within the first year.